

VOLUME I OF III

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lancaster County

Honorable Donald B. Hocker, Circuit Court Judge

RECEIVED

Jun 17 2026

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAVID DEMIAS WHITE,

APPELLANT

APPELLATE CASE NO. 2024-001528

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBITS #193-198 (AUTOPSY PHOTOGRAPHS);
STATE'S EXHIBITS #231-233 (PHOTOGRAPHS); STATE'S
EXHIBITS #236-246 (PHOTOGRAPHS)**

WITNESSES

J. Burns
J. Burns (LPD)

ARREST WARRANT NUMBER

2021A2920300310 (DOA 05-13-2021)

ACTION OF GRAND JURY

TRUE BILL

Paul Turner
Foreperson of Grand Jury

Date: **AUG 08 2024**

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS2902056

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

AUGUST 2024 TERM

THE STATE

VS.

DAVID DEMIAS WHITE

AMENDED INDICTMENT FOR

UNLAWFUL NEGLECT OF A CHILD

SC Code: § 63-05-0070

CDR Code: 2481

Class: Felony E

FILED
OFFICE OF
CLERK OF COURT

2024 AUG -8 P 4: 05

CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

AMENDED INDICTMENT

At a Court of General Sessions, convened on August 8, 2024, the Grand Jurors of Lancaster County present upon their oath:

UNLAWFUL NEGLECT OF A CHILD

The defendant, David Demias White, in Lancaster County, South Carolina, having charge or custody of a child, or being responsible for the welfare of the child, as defined by Section 63-7-20, *Code of Laws of South Carolina*, did in Lancaster County on or about or between October 15, 2020 and March 4, 2021, willfully and unlawfully place the minor victim, Child 6 at unreasonable risk of harm affecting the child's life, physical or mental health or safety and/or did unlawfully and maliciously cause bodily harm to the child so that the life or the health of the child was endangered or likely to be endangered all in violation of Section 63-05-0070, *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.

Randy E. Newman, Jr., SOLICITOR

WITNESSES

DSM

J. Burns (LPD)

ARREST WARRANT NUMBER

2021A2920300311 (DOA 05-13-2021)

ACTION OF GRAND JURY

TRUE BILL

P. Smith

Foreperson of Grand Jury

Date: AUG 08 2024

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS2902057

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

AUGUST 2024 TERM

THE STATE

VS.

DAVID DEMIAS WHITE

AMENDED INDICTMENT FOR

UNLAWFUL NEGLECT OF A CHILD

SC Code: § 63-05-0070

CDR Code: 2481

Class: Felony E

FILED
OFFICE OF
CLERK OF COURT
2024 AUG -8 P 4:05
CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

AMENDED INDICTMENT

At a Court of General Sessions, convened on August 8, 2024, the Grand Jurors of Lancaster County present upon their oath:

UNLAWFUL NEGLECT OF A CHILD

The defendant, David Demias White, in Lancaster County, South Carolina, having charge or custody of a child, or being responsible for the welfare of the child, as defined by Section 63-7-20, *Code of Laws of South Carolina*, did in Lancaster County on or about or between October 15, 2020, and March 4, 2021, willfully and unlawfully place the minor victim, Child 5 at unreasonable risk of harm affecting the child's life, physical or mental health or safety and/or did unlawfully and maliciously cause bodily harm to the child so that the life or the health of the child was endangered or likely to be endangered, all in violation of Section 63-05-0070, *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.

Randy E. Newman, Jr., SOLICITOR

WITNESSES

J. Burns

J. Burns (LPD)

ARREST WARRANT NUMBER

2021A2920300312 (DOA 05-13-2021)

ACTION OF GRAND JURY

TRUE BILL

P. Carl Perkinson

Foreperson of Grand Jury

Date: **AUG 08 2024**

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS2902058

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

AUGUST 2024 TERM

THE STATE

VS.

DAVID DEMIAS WHITE

AMENDED INDICTMENT FOR

UNLAWFUL NEGLECT OF A CHILD

SC Code: § 63-05-0070

CDR Code: 2481

Class: Felony E

FILED
OFFICE OF
CLERK OF COURT
2024 AUG -8 P 4:05
CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

AMENDED INDICTMENT

At a Court of General Sessions, convened on August 8, 2024, the Grand Jurors of Lancaster County present upon their oath:

UNLAWFUL NEGLECT OF A CHILD

The defendant, David Demias White, in Lancaster County, South Carolina, having charge or custody of a child, or being responsible for the welfare of the child, as defined by Section 63-7-20, *Code of Laws of South Carolina*, did in Lancaster County on or about or between December 22, 2019 and March 4, 2021, willfully and unlawfully place the minor victim, Child 3 [REDACTED], at unreasonable risk of harm affecting the child's life, physical or mental health or safety and/or did unlawfully and maliciously cause bodily harm to the child so that the life or the health of the child was endangered or likely to be endangered, all in violation of Section 63-05-0070, *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.

Randy E. Newman, Jr., SOLICITOR

WITNESSES

J. Burns (LPD)

ARREST WARRANT NUMBER

2021A2920300313 (DOA 05-13-2021)

ACTION OF GRAND JURY

TRUE BILL

Paul Thompson

Foreperson of Grand Jury

Date: AUG 08 2024

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS2902059

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

AUGUST 2024 TERM

THE STATE

VS.

DAVID DEMIAS WHITE

AMENDED INDICTMENT FOR

UNLAWFUL NEGLECT OF A CHILD

SC Code: § 63-05-007C

CDR Code: 2481

Class: Felony E



STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

AMENDED INDICTMENT

At a Court of General Sessions, convened on August 8, 2024, the Grand Jurors of Lancaster County present upon their oath:

UNLAWFUL NEGLECT OF A CHILD

The defendant, David Demias White, in Lancaster County, South Carolina, having charge or custody of a child, or being responsible for the welfare of the child, as defined by Section 63-7-20, *Code of Laws of South Carolina*, did in Lancaster County on or about or between December 22, 2019 and March 4, 2021, willfully and unlawfully place the minor victim, Child 4 at unreasonable risk of harm affecting the child's life, physical or mental health or safety and/or did unlawfully and maliciously cause bodily harm to the child so that the life or the health of the child was endangered or likely to be endangered, all in violation of Section 63-05-0070, *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.

Randy E. Newman, Jr., SOLICITOR

WITNESSES

J. Burns

J. Burns (LPD)

ARREST WARRANT NUMBER

2021A2920300314 (DOA 05-13-2021)

ACTION OF GRAND JURY

TRUE BILL

Paul Thompson

Foreperson of Grand Jury

Date: AUG 08 2024

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS2902060

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

AUGUST 2024 TERM

THE STATE

VS.

DAVID DEMIAS WHITE

AMENDED INDICTMENT FOR

UNLAWFUL NEGLECT OF A CHILD

SC Code: § 63-05-0070

CDR Code: 2481

Class: Felony E

FILED
OFFICE OF
CLERK OF COURT

2024 AUG -8 P 4: 01

CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

AMENDED INDICTMENT

At a Court of General Sessions, convened on August 26, 2024, the Grand Jurors of Lancaster County present upon their oath:

UNLAWFUL NEGLECT OF A CHILD

The defendant, David Demias White, in Lancaster County, South Carolina, having charge or custody of a child, or being responsible for the welfare of the child, as defined by Section 63-7-20, *Code of Laws of South Carolina*, did in Lancaster County on or about or between December 22, 2019 and March 4, 2021, willfully and unlawfully place the minor victim, **Child 2** at unreasonable risk of harm affecting the child's life, physical or mental health or safety and/or did unlawfully and maliciously cause bodily harm to the child so that the life or the health of the child was endangered or likely to be endangered, all in violation of Section 63-05-0070, *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.

Randy E. Newman, Jr., SOLICITOR

WITNESSES

PSM

J. Burns (LPD)

ARREST WARRANT NUMBER

2021A2920300315 (DOA 05-13-2021)

ACTION OF GRAND JURY

TRUE BILL

Paul Morgan

Foreperson of Grand Jury

Date: **AUG 08 2024**

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS2902061

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

AUGUST 2024 TERM

THE STATE

VS.

DAVID DEMIAS WHITE

AMENDED INDICTMENT FOR

UNLAWFUL NEGLECT OF A CHILD

SC Code: § 63-05-0070

CDR Code: 2481

Class: Felony E

FILED
OFFICE OF
CLERK OF COURT

2024 AUG -8 P 4:01

CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

AMENDED INDICTMENT

At a Court of General Sessions, convened on August 8, 2024, the Grand Jurors of Lancaster County present upon their oath:

UNLAWFUL NEGLECT OF A CHILD

The defendant, David Demias White, in Lancaster County, South Carolina, having charge or custody of a child, or being responsible for the welfare of the child, as defined by Section 63-7-20, *Code of Laws of South Carolina*, did in Lancaster County on or about or between December 22, 2019 and March 4, 2021, willfully and unlawfully place the minor victim, **Child 1** at unreasonable risk of harm affecting the child's life, physical or mental health or safety and/or did unlawfully and maliciously cause bodily harm to the child so that the life or the health of the child was endangered or likely to be endangered, all in violation of Section 63-05-0070, *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.

Randy E. Newman, Jr., SOLICITOR

WITNESSES

J. Burns (LPD)

ARREST WARRANT NUMBER

2021A2920300322 (DOA 05-13-2021)

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: AUG 08 2024

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021GS2902062

The State of South Carolina

County of Lancaster

COURT OF GENERAL SESSIONS

AUGUST 2024 TERM

THE STATE

VS.

DAVID DEMIAS WHITE

AMENDED INDICTMENT FOR

HOMICIDE BY CHILD ABUSE

SC Code: § 16-03-0085(A)(1)(B)(1)

CDR Code: 2356

Class: Felony X

FILED
OFFICE OF
CLERK OF COURT

2024 AUG -8 P 4:05

CLERK OF COURT
LANCASTER, SC

STATE OF SOUTH CAROLINA
COUNTY OF LANCASTER

AMENDED INDICTMENT

At a Court of General Sessions, convened on August 8, 2024, the Grand Jurors of Lancaster County present upon their oath:

HOMICIDE BY CHILD ABUSE

The defendant, David Demias White, did on or about or between December 19, 2022 and February 22, 2021, in Lancaster County, South Carolina, commit the crime of Homicide by Child Abuse or Neglect in that the Defendant did cause the death of A.W. [REDACTED] a child who was under the age of eleven (11) at the time of her death. The Defendant caused the death of the child while committing child abuse or neglect, and the death occurred under circumstances manifesting an extreme indifference to human life. The crime occurred at [REDACTED] Pardue Street. All in violation of 16-03-0085(A)(1)(B)(1), *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.

Randy E. Newman, Jr., SOLICITOR

STATE OF SOUTH CAROLINA * GENERAL SESSIONS
 *
 COUNTY OF LANCASTER * TRANSCRIPT OF RECORD

-----X
 STATE OF SOUTH CAROLINA *
 *
 VS. * Case No. 2021-GS-29-02057,
 * et al.
 DAVID D. WHITE, *
 *
 *
 *
 *
 *
 *
 Defendant. *
 -----X

August 21, 2024

B E F O R E:

The Honorable Donald B. Hocker, Presiding Judge

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

Melissa McGinnis, Esq.

Nicole Wine, Esq.

Assistant Solicitors for the State

William Frick, Esq.

Attorney for the Defendant

Recorded by: WebEx Recording

Court Reporter: Bobbi Fisher, RPR
 SC Official Court Reporter III

I N D E X

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E X H I B I T S

(None.)

COURT REPORTER/TRANSCRIBER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[sic]	Indicates the word is written as said
(Indiscernible)	Indicates word(s) is not known due to poor audio recording quality

P R O C E E D I N G S

1
2 THE COURT: All right, let's -- let's talk about David
3 White. We got, I guess, two issues at least for this
4 afternoon. One, Defense's Motion to Sever the unlawful
5 neglect charges from the homicide charge, and then your issue,
6 Melissa, concerning the -- I guess, looking at, once again,
7 the two blood analysis folks testifying virtually and -- as
8 opposed to coming down.

9 So let's deal with the Motion to Sever. I have -- I've
10 read the two cases that the defense provided. We even came
11 across another case that I think is somewhat helpful; that's
12 State v. Tallent -- T-a-l-l-e-n-t. And so I'm certainly aware
13 of what the issue is.

14 So, Mr. Frick, hear from you first.

15 MR. FRICK: Thank you.

16 THE COURT: And then I'll hear from the State.

17 MR. FRICK: Judge, I'll be perfectly honest: I don't
18 think I have any argument on the first three prongs that's
19 laid out in the Tucker case. I'm simply arguing prejudicial
20 versus probative in this. And I feel like I'm channeling Jim
21 Carrey in "Liar, Liar" when he said, "But it's really, really
22 bad for my case" in his argument. That's kind of what I'm
23 saying here.

24 Judge, I've got a homicide by child abuse.
25 Unfortunately, there were several other children in the home,

1 and he's charged with neglect on those children as well. You
2 know, I'm -- I certainly understand the State would introduce
3 the same evidence except for one key witness who did a -- I
4 guess a forensic examination of the children essentially
5 afterwards. That's why we're doing this hearing today
6 virtually because I've got to fly that witness in.

7 But I just think it is extremely prejudicial to try
8 several neglect cases along with the homicide by child abuse
9 case. I just -- I just remember my days back at the AG's
10 office. We had a dog fight case. Guy got charged with 40
11 counts because the prosecutor -- me -- decided to charge him
12 for each dog. And as we called the case for trial, I remember
13 we had several jurors that came up and said, "Well, he's got
14 that many charges, he must be guilty of something."

15 THE COURT: Yeah.

16 MR. FRICK: And I just know it is prejudicial. I think
17 it is more prejudicial -- more unfairly prejudicial than
18 probative in this particular matter just because of the sheer
19 number of cases and the jury saying, "Well, all these children
20 are neglected. You know, we're just going to punish him
21 because -- because we don't like the way the case looks."
22 That's my concern. That's really what my motion is about.

23 THE COURT: Sure.

24 MR. FRICK: And that's it. I mean, I could drag it out,
25 but that's what it is.

1 THE COURT: Right, Right. Well, I mean, I appreciate
2 your candor and your brevity on this issue.

3 All right, State. Basically, I'm hearing the defense say
4 that the unfair prejudice far outweighs probative value as far
5 as keeping the neglect charges in. So what says the State?

6 MS. MCGINNIS: I mean, Judge, the way we're kind of
7 looking at it is akin to that McQuiller (ph) case that we
8 resolved a couple weeks ago where there was a count of
9 unlawful neglect for each child in the home. Had this case
10 been reported to law enforcement even the day before and the
11 deceased child could have been saved, we would have been
12 looking at a case where we had a charge for unlawful neglect
13 on each of the children in the home, and there would be no
14 reasonable argument to sever.

15 In this case, unfortunately, law enforcement didn't
16 become involved until it was too late for A.W. But
17 everything arises out of the same set of circumstances. It's
18 the same witnesses that would be presented.

19 I don't believe we are calling a single additional
20 witness for the neglect charges that we would not be calling
21 on the homicide charge. I think it's important that they're
22 all presented together to show that this is not a mistake.
23 This is -- you know, all of these children are neglected in
24 the same manner that led to A.W.'S death, the reason that she
25 died, and none of the other ones -- you know, I don't really

1 know.

2 But I think as far as, you know, going forward, the cases
3 that we provided, I sent to Carson and sent a copy to William
4 as well. But looking at, like, State v. Simmons, it's two
5 burglaries: one burglary, one attempted burglary. They said
6 that that was not prejudicial.

7 State v. Russell Rice is a trafficking cocaine and a
8 murder charge. They held that that was not -- there was no
9 prejudice to the defendant in trying those two things
10 together.

11 State v. Cutrow, I think, is, you know, factually, very,
12 very on point here. This is the daycare case where there's,
13 between January and September of one year, two children die.
14 There's one in the middle that has severe injuries. And,
15 ultimately, the Supreme Court upheld trying all three of those
16 together, held there was no prejudice, even though it doesn't,
17 you know, fall into as many of those first three prongs that
18 William has basically conceded on this case.

19 So, you know, Judge, I just -- I think, in this case, the
20 pattern of the appellate courts and the Supreme Court is that
21 they're allowing these cases, if they meet the first three
22 prongs, to be tried together. They're really not looking
23 at -- you know, I don't have anything that determines or that
24 says what the prejudice -- what they're looking at for that.
25 And I think this pattern of cases that they have upheld trying

1 together shows that this case there -- I mean, there's just no
2 significant prejudice.

3 THE COURT: Okay. All right. Well, I'm not --

4 MR. FRICK: Judge, if I could real quick.

5 THE COURT: Sure.

6 MR. FRICK: I would -- and I would ask, if I'm incorrect
7 on this -- I do think the State intends to call one additional
8 witness, and it would be an expert witness, and that's
9 Dr. Lamb, that they would not use if it was just the homicide
10 case because she did not evaluate that case.

11 And I see Luck shaking her head, but...

12 MS. MCGINNIS: No. Dr. Lamb --

13 MR. FRICK: Are you calling her anyway?

14 MS. MCGINNIS: Yes, sir.

15 MR. FRICK: What's she going to testify about in the
16 homicide case then?

17 MS. MCGINNIS: You're muted, Luck.

18 MR. FRICK: She's still muted.

19 MS. WINE: Can you hear me?

20 MS. MCGINNIS: Yes.

21 THE COURT: We can hear you now. You're good.

22 MS. WINE: Okay. Sorry. The same thing that she would
23 have testified -- that she did testify to in Kayla Cook.
24 Basically, she reviewed things.

25 She's a forensic pediatrician, Judge. She's frequently

1 consulted in both live and death cases. She was initially
2 consulted in this case.

3 And, additionally, I mean, we're assuming she's going to
4 be able to give some insight. And like the State v. Kayla
5 Cook, which was just upheld, we had both a forensic
6 pediatrician as well as a pathologist testify in that case.
7 It just happens it was also Dr. Lamb in that case as well.

8 Your Honor, the other thing I would note, just as far as
9 talking about -- you know, William talks about the prejudice
10 from the sheer number. The only reason there's the sheer
11 number of unlawful neglects is because of the number of
12 children these people chose to have and then to neglect. It's
13 not like we went out and stacked charges or anything. There's
14 merely one neglect charge for every child that's in the house
15 during the time period leading up their entire life in the
16 same place, as set by case law. They're all in the same
17 house.

18 So it's not like we went out and, you know, just started
19 dreaming up charges. Those are the children they chose to
20 have, the children they chose to neglect along with **A.W.** is.
21 It's just that her neglect was, I guess, more advanced at the
22 time than theirs was.

23 And, unfortunately, as Melissa said, in the weeks or
24 months prior to this, no one reported the neglect, which would
25 have been just, you know, perhaps prevented **A.W.'s** death, and

1 we could have just been going on the multiple unlawful neglect
2 charges.

3 THE COURT: Okay.

4 MS. WINE: I just wanted to put that on the record.

5 MR. FRICK: And just to be clear, if we were simply
6 trying the neglect charges, I would not be asking for a
7 severance. I'm just simply asking to sever the homicide
8 charge from the neglect charges.

9 THE COURT: Okay. All right. Well --

10 MR. FRICK: Is Dr. -- do we know what -- I mean, I'm
11 confused now. Is Dr. Lamb rendering an opinion on the
12 homicide case? Because I haven't seen anything on that.

13 MS. WINE: I don't know that she has a report, but we
14 would be inquiring from her very possibly as to her opinion on
15 the neglect in that case.

16 MR. FRICK: Okay. Well, I'll deal with that on Monday.
17 But -- okay.

18 THE COURT: Let me do this. I'm unaware that the State
19 submitted some cases. I haven't read those. Let me read
20 those and then I'll give you my ruling.

21 William, you indicated that you might would be -- have to
22 fly somebody in. That would be dependent upon whether or not
23 the neglect charges stay in.

24 MR. FRICK: The State.

25 THE COURT: Oh, the State.

1 MR. FRICK: They have to get Dr. Lamb in --

2 THE COURT: But I'm hearing the same --

3 MR. FRICK: They're bringing her in anyway, so...

4 THE COURT: They're coming in anyways. Okay. All right.

5 So I'll try to get -- hopefully get you a decision by
6 tomorrow. I just want to read the cases that the State has
7 sent. So hopefully I can get y'all something tomorrow. Okay?

8 MS. MCGINNIS: Yes, sir.

9 THE COURT: Thank you.

10 Now, jumping over to the -- let me look at your email.
11 Well...

12 MR. FRICK: I think we can sum it up, Judge. As I
13 understand it, the analyst says that all they do is put the
14 stuff in the machine and it spits out a report.

15 Is that a fair summation, Melissa?

16 MS. MCGINNIS: Right. They -- I mean, it's the way
17 NMS (ph) does it is it's a production-style lab. The person
18 who's performing the test is not the person who's interpreting
19 the results. So that two analysts on the two tests that
20 William has asked me to get in person, their testimony would
21 be that, based on the paperwork that they're going to
22 review -- because of course this is, you know, 3-1/2 years
23 ago. They don't remember factually each and every test they
24 run, that they received the slide. They put it into the
25 machine, told the machine to run the test. When the machine

1 was finished, they looked at the results. They input those
2 results into the NMS computer system. They were compiled by
3 somebody else, and then they were interpreted by another
4 somebody else, a toxicologist, who we will have in person.

5 So their testimony would be limited to, "I got the slide,
6 put it in the machine. This is what the results said. I put
7 it in the system. I don't know what it means. I don't know
8 what effect that has on a human body."

9 So, additionally, neither one of them still works at NMS.
10 One works for a medical examiner's office. One works for a
11 private company. They both would have to get time off from
12 jobs, arrange coverage, you know, the inconvenience of travel.

13 If they need to be here in person, they can be, but it
14 would pose more than just a cost and, you know, inconvenience
15 to the State. It's two additional companies that would have
16 to arrange coverage. So that would just be the State's
17 request.

18 MR. FRICK: And, Judge, I would say I'm not conceding the
19 issue, but I would say this is more akin to where I agreed to
20 let the ER doctor testify because, I mean, he didn't really
21 make any diagnosis. He's just the ER doctor.

22 THE COURT: Right.

23 MR. FRICK: I'm not in any way doubting anything.
24 Melissa has told me what these analysts have told them. I
25 find it hard to believe that they don't have any credentials,

1 but that's the company. I got nothing to do with that.

2 But Judge, if they don't really have anything to
3 contribute, I don't -- again, I'm not going to concede.

4 THE COURT: Right. And I know you're not.

5 MR. FRICK: That puts it in a different light.

6 THE COURT: It does. I mean, if they were -- if it was a
7 crucial expert rendering opinions certainly detrimental to the
8 defense case, yeah, that's a different situation. But this is
9 almost like, "Yeah, well, I'm going to put up this witness
10 just because they're a chain witness," and, you know, really
11 nothing more to that. So, again, you're not conceding it,
12 but --

13 MR. FRICK: If you want to look at a -- if you want to
14 look at a case, there's State v. Brewer. I'm sorry I didn't
15 send it to y'all. It came out in '22. It is 438 S.C. 37.
16 It, in fact, was an analyst from NMS. And I think there was a
17 subsequent case after that one that said it wasn't necessarily
18 testimonial, so they didn't need to be present. And I know
19 that's not what we're talking about. We're talking about
20 virtual versus being in person.

21 THE COURT: Right, yeah.

22 MR. FRICK: But if you want to take a look at that
23 case...

24 THE COURT: Yeah. And give me that cite again, William.

25 MR. FRICK: Sure. I think I just closed it, but I'm --

1 hold on.

2 MS. MCGINNIS: 438 S.C. 37.

3 MR. FRICK: Yep, that's it.

4 THE COURT: All right. I'll take a look at -- right now,
5 I think -- I think it certainly would be permissible to -- to
6 have them testify virtually just because the nature of their
7 testimony and the -- their involvement in this analysis.

8 So unless you hear from me by the end of the day,
9 Melissa, we'll plan on allowing them to testify virtually.
10 And then -- and then hopefully by tomorrow I can get you --
11 get y'all an opinion on the severance. Okay?

12 MS. MCGINNIS: Okay.

13 THE COURT: All right. Anything else before we log off?

14 MS. MCGINNIS: And, William, we're not at a point where
15 we need to discuss any sort of plea or anything? Your
16 guy's --

17 MR. FRICK: No. I asked him what would be a number the
18 other day, and I mean, it ain't no use talking about it.

19 THE COURT: Okay. Listen, I appreciate your hard work,
20 all of you. And -- oh, just FYI on something else, Melissa.
21 We used that list, that group, the cases by solicitor, the old
22 cases. That's the list we used. What I've asked the lawyers
23 to do on that first list that you gave me, to go through and
24 pull out those cases we did not talk about. And sometime next
25 week, early in the morning, we're going to status those.

1 That's all with respect to the old cases, and so they're going
2 to do that. So just FYI. All right?

3 MS. MCGINNIS: Okay.

4 THE COURT: All right. Thank you.

5 MS. MCGINNIS: And, Judge, as far as scheduling is
6 concerned, I was going to have the jury come in at 10 on
7 Monday and just get rolling with this case, and any non-jury
8 stuff, we can handle at the end of the week.

9 THE COURT: Sure. Yeah, that's fine.

10 [Cross-talk]

11 MS. MCGINNIS: (Indiscernible) as well Monday and
12 Tuesday, so...

13 MR. FRICK: Okay. Yeah, I was working on some additional
14 pre-trial that I'll get you before the end of the week.

15 THE COURT: That'd be fine. That'd be fine.

16 MR. FRICK: And I say "end of the week." I'll probably
17 get it to you on Friday.

18 THE COURT: Okay. That's fine. That's fine.

19 And if you have any voir dire that you can put together
20 before Monday, get it to me. If not -- I mean, that's fine.
21 Get it to me Monday. But if you have it before Monday, that
22 would be appreciated so I can take a look at it.

23 MS. MCGINNIS: Very good. Yes, sir.

24 THE COURT: Okay. All right. Thank you. All right.
25 You guys have a good rest of your day.

1 MS. MCGINNIS: You too.

2 MR. FRICK: Thanks.

3 (The above hearing concluded.)
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Certificate of Transcriber

CASE NAME: State v. David D. White

DATE OF HEARING: 8/21/2024

RECORDING METHOD: WebEx Recording

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that I was not present for the live proceeding; and that said proceedings were transcribed to the best of my ability from the audio and/or video recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case; and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

/s/ Bobbi Fisher

Bobbi Fisher, SC Official Court Reporter III, RPR

Transcript Prepared: 10/12/25

NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT (FORM 800) FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO THIS REPORTER AT BFISHER@SCCOURTS.ORG.

STATE OF SOUTH CAROLINA)
COUNTY OF LANCASTER)
STATE OF SOUTH CAROLINA,)
vs.)
David Demias White)
Defendant.)

IN THE COURT OF GENERAL SESSIONS

NOTICE OF MOTION AND MOTION FOR

SEVERANCE OF CHARGES

WARRANTS

2021A2920300310-315 & 322

2024 AUG 23 A 10:54

CLERK OF COURT
LANCASTER, SC

TO: Melissa McGinnis, Deputy Solicitor

YOU WILL PLEASE TAKE NOTICE that the Defendant will move before the Presiding Judge, at a time to be determined by the court, for an order severing the trial of charges against the defendant in above referenced indictments.

The defendant is informed and believes the State intends to call for trial at the above reference cases charging the defendant with Homicide by Child Abuse and several charges of Unlawful Neglect of a Child.

The defendant believes that the trial of these indictments concurrently, indictments which the defendant contends are separate and distinct incidents, is unfairly prejudicial pursuant to Rule 403 of the South Carolina Rules of Evidence and does not meet the test for joinder of charges. The "test" is that the charges must "(1) arise out of a single chain of circumstances, (2) be proved by the same evidence, and (3) be of the same general nature and (4) no real right of the defendant is prejudiced State v. Beekman, 416 S.C. 632 citing State v. Tucker, 324 S.C. 155. In order for a charges to be combined and tried together all four of the above referenced prongs must be met. Ibid 640. Here the fourth prong, no real right of the defendant is prejudiced, is not met. The trial of the defendant on Homicide by Child Abuse and several Unlawful Neglect charges substantial risks his right to a fair trial. Because of the number of charges and the allegations in these separate incidences, the jury is likely to render a verdict on an improper basis. As the joinder of the trial of these separate incidences is unfairly prejudicial and any probative value doe not outweigh that unfairly prejudicial effect the defendant's request to severe the charges for trial should be granted.

Respectfully submitted,

/s/ William P. Frick

William P. Frick
Attorney for Defendant

August 16, 2024
Lancaster, South Carolina

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF LANCASTER)

STATE OF SOUTH CAROLINA,)

vs.)

David Demias White)

Defendant.)

FILED
OFFICE OF
CLERK OF COURT
NOTICE OF MOTION AND MOTION TO
EXCLUDE VICTIM/AUTOPSY
PHOTOGRAPHS

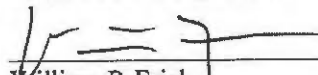
2024 AUG 23 A 10:34

WARRANTS
2021A2920300310-315 & 322
CLERK OF COURT
LANCASTER

TO: Melissa McGinnis, Deputy Solicitor, Sixth Judicial Circuit

YOU WILL PLEASE TAKE NOTICE that the Defendant will move before the Presiding Judge for General Sessions for the Sixth Judicial Circuit, on or about August 26, 2024 at 9:00 a.m., or whenever the court shall direct, for an order excluding introduction of photographs of the decedent and/or autopsy photographs in this case as being unfairly prejudicial under 403 SCRE and State v. Gray, 408 S.C. 601, 759 S.E.2d 160. Additionally, the photographs are not necessary for a full presentation of the State's case nor are they necessary for the State to prove the elements of their case.

Respectfully submitted,



William P. Frick
Attorney for Defendant

August 23, 2024
Lancaster, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LANCASTER) Court of General Sessions
) Sixth Judicial Circuit
) 2021-GS-29-02057; 02061;
) 02058; 02062; 02059; 02056
) 02060

THE STATE,)
)
 Plaintiff,)
)
 vs.)
) Transcript of Record
 DAVID D. WHITE,)
)
 Defendant.)
)
)
 _____)

Lancaster, South Carolina
 August 26, 2024

B E F O R E:

The Honorable Donald B. Hocker

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

Ms. Melissa McInnis, Esquire
 Ms. Luck Campbell, Esquire
 Attorneys for the Plaintiff

Mr. William Frick, Esquire
 Attorney for the Defendant

Lisa Carter
 Circuit Court Reporter

1	I N D E X	
2	<u>WITNESSES</u>	<u>PAGE</u>
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4	(NO WITNESSES WERE INTRODUCED DURING HEARING)	
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1	<u>EXHIBITS</u>		
2			
3	<u>NO.</u>	<u>DESCRIPTION</u>	<u>EV.</u>
4	C-1	Photos (55)	107
5	C-2	Photos (6)	107
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1 P-R-O-C-E-E-D-I-N-G-S

2 **Monday, August 26, 2024**

3 (WHEREAS, this matter was scheduled for a trial,
4 the plaintiff appeared along with their attorney of
5 record. The defendant appeared a long with his
6 attorney, William Frick. The proceedings began at
7 10:10 a.m.)

8 THE COURT: Okay. I got a couple. All right.
9 If you need to take a break, go and then come right
10 back in the courtroom. If you don't need a break
11 just keep your seat. If you need to stand and
12 stretch that's fine, okay. We'll take a short little
13 break.

14 (Whereupon, the Court takes a short recess)

15 THE COURT: All right. Ladies and gentlemen,
16 before we continue with this process I want to
17 explain one thing to you, how important it is for
18 jury service. We have the greatest justice system
19 anywhere in the world and juries play a very vital
20 and important role in our judicial system. Without a
21 jury our system could not function. So your presence
22 here today while maybe somewhat of a hardship to some
23 of you, your presence here today is extremely
24 important. Some people say that serving on a jury is

1 the second highest civic responsibility that we have,
2 second only to serving in the military. So while it
3 may be a little inconvenient for some of you, your
4 presence here today is very, very important.

5 The first case that we're calling for trial is
6 the case of State of South Carolina versus David
7 Demias, D-e-m-i-a-s, White. Mr. White, would you
8 just stand very briefly and just face the jury panel
9 so they can just see your face. That's all you need
10 to do.

11 (Whereupon, the defendant faces the jury panel)

12 THE COURT: That's fine. Have a seat. Thank
13 you, sir.

14 Now, Mr White has been charged and indicted with
15 seven criminal offenses. Six are the same. One is
16 different. And I'll explain what those charges are
17 in just a minute. But the fact that he has been
18 charged and indicted in this case is not proof of any
19 guilt on his part. The indictments, and I'm holding
20 one indictment in my hand right now, the indictments
21 serve two purposes and two purposes only. One, it
22 puts the defendant and his attorneys on notice of the
23 charge or charges that the State intends to try him
24 on; and, secondly, it's the mechanism to get us into
25 court where we are today. The indictment serve no

1 other purpose. Once again, they are not proof of any
2 guilt on his part. The State of South Carolina has
3 the burden of proving beyond a reasonable doubt the
4 allegations contained in the indictments. So again,
5 just please understand the purpose for the
6 indictment. But I'm going to read them to you or
7 explain them to you so you can have some idea of what
8 these charges are about.

9 The first indictment, I'm going to give the last
10 four numbers of the indictment, 2062, indicts and
11 charges the defendant with homicide by child abuse.
12 And it reads as follows, and again these are all
13 allegations that the State has the burden of proving:
14 The defendant, David Demias White did on or about
15 between December 19, 2022 and February 22, 2021 in
16 Lancaster County South Carolina, did commit the crime
17 of homicide by child abuse or neglect and that the
18 defendant did cause the death of A.W. [REDACTED] that's [REDACTED]
19 [REDACTED] [REDACTED], a child who was under the age of 11 at
20 the time of her death. The defendant caused the
21 death of the child while committing child abuse or
22 neglect and the death occurred under circumstances
23 manifesting an extreme endeavors to human life. The
24 crime occurred at [REDACTED] Pardue Street. All in
25 violation of Section 16-3-85 § A(1) B(1) Code of Laws

1 for South Carolina.

2 Now, there are six other children siblings of
3 A.W. [REDACTED] who are also involved in this case and
4 Mr. White has been indicted and charged with six
5 counts of unlawful neglect of a child. One charge
6 for each of the remaining children and I'mma tell you
7 who these are, the names, Child 5 that's [REDACTED],
8 [REDACTED] Child 6 [REDACTED] Child 3 [REDACTED] [REDACTED],
9 [REDACTED] [REDACTED] [REDACTED] Child 4 [REDACTED] [REDACTED]; Child 2
10 [REDACTED] and, [REDACTED], Child 1 [REDACTED] And
11 I'm not going to read each -- I'm going to read one
12 indictment because it contains basically the same
13 information and language. There's two different age
14 range dates.

15 The defendant, David Demias White, in Lancaster
16 County, South Carolina having charge or custody of a
17 child or being responsible for the welfare of the
18 child as defined in Section 63-7-20 Code of Laws for
19 South Carolina, did in Lancaster County on or about
20 or between December 22, 2019 and March 4 2021, did
21 willfully and unlawfully placed a minor victim, A.W. [REDACTED]
22 [REDACTED] at a reasonable risk of harm affecting the
23 child's life, physical or mental health or safety;
24 and, or did unlawfully maliciously cause bodily harm
25 to the child so that the life or the health of the

1 child was endangered or likely to be endangered all
2 in violation of Section 63-5-70 Code of Laws for
3 South Carolina.

4 Now, three other indictments with the same date
5 range involved David White, Jr., Child 4 [REDACTED]
6 [REDACTED], and Child 3 and I know I'm not pronouncing
7 these names right and I apologize, [REDACTED]

8 Two other indictments have a different age date
9 range October 15 2020, ah, March 4, 2021. That
10 involves Child 5 [REDACTED] [REDACTED] and Child 6 s [REDACTED]
11 [REDACTED]. So I've got one indictment for homicide by
12 child abuse or neglect. Six indictments for unlawful
13 neglect of the child.

14 Any member of the jury panel related by blood or
15 marriage either now or formally to either the
16 defendant, David Demias White or the seven alleged
17 victims in this case? I'm not going to repeat their
18 names. If so, please stand?

19 (Whereupon, no one is standing)

20 THE COURT: Okay. Let me explain one thing to
21 you, same rules apply, if you need to speak me
22 privately about answering a question, I'll give you
23 the same opportunity as we did before and there will
24 actually be some questions that I ask you that I will
25 instruct you that if you need to respond you need to

1 do so privately down at the court reporter station.

2 Any member of the jury panel have or have had a
3 past close personal or social relationship with
4 either the defendant, David Demias White or the seven
5 children as previously named, if so, please stand?

6 (Whereupon, no one is standing)

7 THE COURT: Next, I'm going to read off the names
8 of potential witnesses in this case. If I were to
9 read a name twice there's no significance whatsoever.
10 I have two lists and there may be some duplication, I
11 don't know. So if I read a name twice there's no
12 significance to that. And when I read the names then
13 I will ask you a couple questions. And I'll probably
14 break them up in several groups because there's a
15 good many names that I will read: Shaquanda Page;
16 Dr. Susan Lamb; Jessica Knight with DSS; Anna Henson
17 with DSS; Kimberly Funderburk with DSS; Deloris
18 Crocket with DSS; Quanita Clyburn with Children's
19 Clinic; Dr. Carmina Cruise with Children's Clinic;
20 Janesa Campbell; Dr. Erin Presnell with MUSC;
21 Jennifer Collins, Lancaster County Coroner's Office;
22 Dr. Alexander Vinuya, V-i-n-u-y-a, with MUSC; Deputy
23 Paul Blas, B-l-a-s, Lancaster County Sheriff's
24 Office; Thomas Hagwood, Lancaster County Fire
25 Department or Lancaster Fire Department; Andrew Port,

1 P-o-r-t-e, Lancaster Fire Department. So I'll stop
2 it there. Any member of the jury panel related by
3 blood or marriage either now or formally, any of
4 those people I've just named or any member of the
5 jury panel have or had in the past, a close personal
6 or social relationship with any of those people I've
7 just named, if so, please stand?

8 (Whereupon, a juror stands)

9 THE COURT: Okay. I've got one. Your number,
10 ma'am?

11 POTENTIAL JUROR #174: One, seventy-four.

12 THE COURT: And ---

13 POTENTIAL JUROR #174: My children's ---

14 THE COURT: Are you related by blood or marriage
15 or a close personal relationship?

16 POTENTIAL JUROR #174: They been my children's
17 doctors like ---

18 THE COURT: Which -- which -- which doctor?

19 POTENTIAL JUROR #174: Dr. Cruz.

20 THE COURT: Dr. Cruz, okay. That -- that is your
21 doctor?

22 POTENTIAL JUROR #174: That's my children's
23 doctor.

24 THE COURT: Your children's doctor, okay. Would
25 you consider by virtue of Dr. Cruz being your

1 children's doctor, would you consider having a close
2 personal or social relationship with Dr. Cruz?

3 POTENTIAL JUROR #174: I mean, I've been going to
4 her for
5 almost 15 years.

6 THE COURT: All right. Almost 16 years?

7 POTENTIAL JUROR #174: Fifteen.

8 THE COURT: Fifteen years, okay. All right. All
9 right. Let's do this, when, when we have some private
10 communication get in that line and we'll talk about a
11 little further, okay.

12 All right. Continuing with the potential
13 witnesses; Khol Whitfield, Lancaster Fire Department;
14 David Demby, Lancaster EMS; Brian Collins, Lancaster
15 EMS; Wayne Willis, Lancaster EMS; Ross Graves,
16 Lancaster Police Department; Vernon Mills, Lancaster
17 Police Department; Agent Britney May with SLED; Brian
18 Small with Lancaster Police Department; Joseph Burns
19 Whitaker, Lancaster Police Department; Margo Dixon;
20 Robert Purser, Lancaster 911;
21 Lori Dechard, D-e-c-h-a-r-d, RN with MUSC; Stacy
22 Davis;
23 Allison Dinwoodie, Dr. Demi Garvin, Forensic Science
24 Network; Alex Clark, York County Sheriff's Office;
25 Investigator Matthew Snoddy or Snoddy, rather,

1 Lancaster County Sheriff's Office; and, we'll stop it
2 right there with that group. Any member of the jury
3 panel related by blood or marriage either now or
4 formally to any of those names in the second group
5 I've just named out or any member of the jury panel
6 have or had in the past a close personal or social
7 relationship with any of those names I've just given,
8 if so, please stand?

9 (Whereupon, no one is standing)

10 THE COURT: Okay. Shontessa Wiley; Keith
11 Williams; Ashika, A-s-h-i-k-a, Weekes; Evelyn
12 McGyver; Almonzo C-h-a-m-e-s; and, this is not a
13 particular name but it's a custodian of records at
14 MUSC Lancaster; Karen Chapman; DeGarcia Walls;
15 Sakeena Howze; Tori Kennedy; Ruth Hayden; Cynthia
16 Lowery; Mitch Lowery; David White, Sr., and Veronica
17 Williams with the Lancaster Housing Authority. Any
18 member of the jury panel related by blood or marriage
19 to any of those I've just named in the third group?
20 Any member of the jury panel have or have had in the
21 past a close personal or social relationship with any
22 of those people I've just named, if so, please stand?
23 (Whereupon, no one is standing)

24 THE COURT: Okay. All right. Now, I'm going to
25 give the the attorneys involved in this case an

1 opportunity to introduce themselves. And I can tell
2 you I know, I know these attorneys very well and I
3 can tell you and I don't say this about every lawyer
4 that appears in my courtroom but I can say about
5 these lawyers they're excellent lawyers and I'm sure
6 we'll do a very fine job for their respective sides
7 in this case. I'll allow the State to go first.

8 MS. McINNIS: Thank you, Judge. My name is
9 Melissa McInnis and I'm deputy solicitor here in
10 Lancaster County. Trying this case with me will be
11 Luck Campbell. She's a special prosecutor here.
12 Seated beside her is Britney May. She's a former
13 Special Agent with SLED currently with the Rock Hill
14 Police Department. To her left is your elected
15 solicitor, Randy Newman. Seated at the table behind
16 us is Mike Burch, our other Deputy Solicitor. Also
17 with us is Brian Small and Donnie Sims both of the
18 Lancaster Police Department.

19 THE COURT: Okay. All right. Defense?

20 MR. FRICK: Thank you, Your Honor. Good almost
21 afternoon. My name is William Frick. I practice
22 criminal law here in Lancaster County. Seated with
23 me today is attorney Bill Nowicki for purposes of
24 jury selection.

25 THE COURT: All right. Any member of the jury

1 panel ever been represented by any of the attorneys
2 involved in this case or anyone in their respective
3 offices, if so, please stand?

4 (Whereupon, no one is standing)

5 THE COURT: Any member of the jury panel related
6 by blood of marriage either now or formally or any
7 member of the jury panel have or have had in the past
8 a close personal or social relationship with any of
9 the attorneys involved in this case or anyone in
10 their respective offices, if so, please stand?

11 (Whereupon, no one is standing)

12 THE COURT: I know you know very little about
13 this case but I must ask, any member of the jury
14 panel already formed or expressed any opinion about
15 any issue or matter involved in this case, if so,
16 please stand?

17 (Whereupon, no one is standing)

18 THE COURT: Any member of the jury panel aware of
19 any bias or prejudice towards either the State or the
20 defendant in this case, if so, please stand?

21 (Whereupon, no one is standing)

22 THE COURT: Any member of the jury panel who is a
23 member of or a contributor to any group which has as
24 its primary concern the promotion of law enforcement
25 or victims rights, these groups would include

1 certainly not limited to, MADD, SADD, CAVE, or the
2 Innocence Project, if so, please stand?
3 (Whereupon, no one is standing)

4 THE COURT: Okay. This next question, if you
5 need to respond to it all you have to do is stand and
6 give us your jury number. Any member of the jury
7 panel who has a child or children under the age of
8 eight years old? You don't have to give us any
9 information. It's just -- you just stand and
10 identify yourself by number and if we go through this
11 too fast, lawyers, just tell me and we'll slow it
12 down because I know you're trying to go through the
13 list and make yourself notes, okay. So we're going
14 to start on this side first and all you have to tell
15 me is your jury number, okay. Ma'am?

16 POTENTIAL JUROR #40: Number 40.

17 THE COURT: Okay. And you can have a seat once
18 you give me the number. Sir?

19 POTENTIAL JUROR #121: One, twenty-one.

20 THE COURT: Okay. Ma'am?

21 POTENTIAL JUROR #81: Eighty-one.

22 THE COURT: Okay. Sir?

23 POTENTIAL JUROR #62: Sixty-two.

24 THE COURT: In the back? Yeah.

25 POTENTIAL JUROR #143: One, forty-three.

1 THE COURT: Okay. All right. Sir?

2 POTENTIAL JUROR #53: Fifty-three.

3 POTENTIAL JUROR #2: Two.

4 POTENTIAL JUROR #197: One, ninety-seven.

5 THE COURT: Okay. All right. Sir?

6 POTENTIAL JUROR #180: One, eighty.

7 THE COURT: Okay.

8 POTENTIAL JUROR #49: Forty-nine.

9 THE COURT: In the green shirt?

10 POTENTIAL JUROR #119: One, nineteen.

11 THE COURT: Okay.

12 POTENTIAL JUROR #105: One, zero five.

13 THE COURT: Okay. All right.

14 POTENTIAL JUROR #159: One, fifty-nine.

15 POTENTIAL JUROR #59: Fifty-nine.

16 THE COURT: Thank you. Any member of the jury

17 panel has worked for or served as a volunteer or

18 served on the board of directors or any other, in any

19 other capacity associate, associated with any

20 organization that advocates for defendants or

21 prisoner rights, ever worked for or served as a

22 volunteer in any capacity for any such organization,

23 if so, please stand?

24 (Whereupon, no one is standing)

25 THE COURT: Any member of the jury panel who has

1 previously served on a jury in a criminal trial, and
2 this can be in any magistrate's court or State or
3 Federal court and, if so, what we need to know is the
4 nature of the case and what the verdict was, whether
5 it was guilty or not guilty. You don't need to give
6 us any other information. So if you have previously
7 served on a jury in a criminal trial, then we need to
8 know the nature of the case and what the, what the
9 verdict was, okay. Anybody?

10 (Whereupon, no one is standing)

11 THE COURT: Okay. All right. Any member of the
12 jury panel or any of your immediate family members
13 ever served or sought employment in law enforcement
14 in any capacity such as a sheriff's department,
15 police department, South Carolina Highway Patrol,
16 military police, border patrol, probation office
17 officer, any of those type of positions ever served
18 or sought employment with such, if so, please stand?

19 (Whereupon, jurors respond)

20 THE COURT: Okay. All right. Okay. All right.
21 Number?

22 POTENTIAL JUROR #171: One, seventy-one?

23 THE COURT: Yes?

24 POTENTIAL JUROR #171: He's a friend of my brother
25 who is a prison guard.

1 THE COURT: All right. Your brother sought
2 employment where?

3 POTENTIAL JUROR #171: I don't know specifically.
4 All I know it was in South Carolina.

5 THE COURT: Okay. All right. Okay. In the blue
6 shirt?

7 POTENTIAL JUROR #143: One, forty-three.

8 THE COURT: Okay.

9 POTENTIAL JUROR #143: Grandfather was a New
10 Jersey State Trooper for 35 years, retired. My wife
11 has multiple family members in SLED and at Newberry
12 PD.

13 THE COURT: Okay. All right. Thank you. Ma'am?

14 POTENTIAL JUROR #118: One-eighteen. My father's
15 a retired detective. And a law enforcement officer
16 ---

17 THE COURT: Okay. All right. Ma'am, number?

18 POTENTIAL JUROR #184: I couldn't here that
19 questions, though, but I retired from the FBI. I
20 served ---

21 THE COURT: You retired from the FBI?

22 POTENTIAL JUROR #184: Yes.

23 THE COURT: Okay. And how long have you been
24 retired?

25 POTENTIAL JUROR #184: Six years.

1 THE COURT: Okay. The fact that you, yourself,
2 worked for the FBI can you still be fair and
3 impartial to both sides in this case?

4 POTENTIAL JUROR #184: Probably in the
5 professional level but maybe not in a personal level.

6 THE COURT: Okay. Give me that answer again.

7 POTENTIAL JUROR #184: I can probably do it at a
8 professional level but not at a personal level.

9 THE COURT: Okay.

10 POTENTIAL JUROR #184: Personal -- personal
11 experiences.

12 THE COURT: Okay. Well, if, if, if for whatever
13 reason you believe that you cannot be fair and
14 impartial to both sides in this case, and that's what
15 I'm hearing you say then, I'm going to excuse you
16 from the trial of this case, but stay with us,
17 though, okay.

18 COURT REPORTER: What's your number?

19 THE COURT: What's your number?

20 POTENTIAL JUROR #184: What did you say, I stay?
21 Okay. One, eighty-four.

22 THE COURT: Okay. I'm excusing you from the trial
23 of this case because what I'm hearing you say that
24 for whatever reason you do not believe you can be
25 fair and impartial to both sides. Am I hearing you

1 correctly?

2 POTENTIAL JUROR #184: Correct.

3 THE COURT: Okay. You're excused. But stay with
4 us.

5 Okay. Sir?

6 POTENTIAL JUROR #119: One, nineteen. Brother-in-
7 law is NYPD and my wife's uncle is FBI.

8 THE COURT: Okay. All right. Okay. Thank you.
9 Any member of the jury panel ever worked for or
10 sought employment with any prosecutor's office in
11 South Carolina, they call the solicitor's office, but
12 ever worked for or sought employment with any
13 prosecutor or solicitor's office, if so, please
14 stand?

15 (Whereupon, no one is standing)

16 THE COURT: Any member of the jury panel ever
17 worked for or sought employment as a security guard
18 or any position in the field of security, if so,
19 please stand?

20 (Whereupon, no one is standing)

21 THE COURT: Any member of the jury panel ever
22 received any law enforcement or legal training, law
23 enforcement or legal training, if so, please stand?
24 (Whereupon, no one is standing)

25 THE COURT: Any member of the jury panel or any of

1 your immediate family members work for an attorney or
2 in an attorney's office, if so, please stand?

3 (Whereupon, a juror stands)

4 THE COURT: Okay. Yes, ma'am, number?

5 POTENTIAL JUROR #47: Forty-seven. My daughter
6 works for an attorney in Dallas, North Carolina.

7 THE COURT: Okay. All right. Thank you, ma'am.
8 Any member of the jury panel read or seen any media
9 coverage whether it's through the internet,
10 newspaper, television, news, anything whatsoever
11 about this case either recently or in the past? Any,
12 any media coverage on the internet, radio,
13 television, any, any source about this case, if so,
14 please stand?

15 (Whereupon, no one is standing)

16 THE COURT: Any member of the jury panel read or
17 posted anything about this case on the internet,
18 social media, such as Facebook, Twitter, Snapchat,
19 recently or in the past, if so, please stand?

20 (Whereupon, no one is standing)

21 THE COURT: I touched on this next point a little
22 bit in my earlier questions, the defendant, Mr.
23 White, is presumed innocent as he is sitting here
24 right now. And that legal presumption of innocence
25 will remain with him unless the State of South

1 Carolina proves to the trial jury beyond the
2 reasonable doubt the allegations contained in the
3 indictment. Any member of the jury panel feel like
4 it would be difficult for you to not follow what I
5 just told you, the legal presumption of innocence and
6 the burden of proof on the State to prove the
7 allegations beyond a reasonable doubt standard. If
8 you feel like you cannot follow that then I need to
9 know that and stand at this time.
10 (Whereupon, no one is standing)

11 THE COURT: Okay. All right. Ladies and
12 gentlemen, I have nine questions that if you, and I'm
13 gonna break them up and I'll ask three at a time, and
14 if you need to respond to any of these questions then
15 I need for you to do so privately at the court
16 reporter station. And so to make a little bit more
17 easier for you to follow along, I'mma ask the
18 questions in a group of three, okay.

19 First group, any member of the jury panel or any
20 of your immediate family members ever been accused of
21 or charged with a serious crime or a victim of a
22 serious crime?

23 Two, any member of the jury panel or any of your
24 immediate family members ever been accused of or
25 reported for child abuse?

1 And three, any member of the jury panel or any of
2 your immediate family members had any contact or
3 involvement with DSS or lost custody of a child for
4 any reason? Okay. Those three questions. I'll be
5 glad to repeat them again if you need to. Anybody
6 need for me to repeat any of those three questions?
7 (Whereupon, no one is standing)

8 THE COURT: Okay. Now, anybody need to respond
9 to any of those three questions? Okay. I've got
10 one. All right. If you'll just -- oh, I got two. I
11 got three. They keep popping up. All right. Just
12 get in line and I'll go ---

13 MR. BAILIFF: Juror number 171.

14 THE COURT: Juror 171, yes, what would you like to
15 tell me?

16 POTENTIAL JUROR #171: Number one. Number three.
17 Number one my brother was a security guard. He had
18 sex with a prisoner and he was charged with it.

19 THE COURT: This is your brother?

20 POTENTIAL JUROR #171: Yes.

21 THE COURT: Okay. And was charged with some sort
22 of offense, okay. And then number 3, my brother in
23 New York, he lost custody of his child because he
24 just ---

25 THE COURT: Okay. All right. So you had one

1 brother that was charged for having sex with
2 somebody. You have another brother who lost custody
3 of the child, okay.

4 POTENTIAL JUROR #171: Right.

5 THE COURT: The fact that your two brothers have
6 been involved in that, would that prevent you from
7 being fair and impartial to both sides?

8 POTENTIAL JUROR #171: No. I don't think so, no.

9 THE COURT: You sure now?

10 POTENTIAL JUROR #171: Positive.

11 THE COURT: All right. All right. Thank you.
12 Just go back and have a seat. This juror stays with
13 us.

14 MR. BAILIFF: Juror number 66.

15 THE COURT: Juror number 66, yes, ma'am?

16 POTENTIAL JUROR #66: Back in 2012, I was in ,my
17 parents were in a DSS custody battle.

18 THE COURT: Okay.

19 POTENTIAL JUROR #66: My grandfather actually
20 relayed to the Court and got my mother to lose
21 custody of me and my ---

22 THE COURT: Okay.

23 POTENTIAL JUROR #66: I didn't know if that's what
24 ---

25 THE COURT: Would that prevent you in any way from

1 being fair and impartial ---

2 POTENTIAL JUROR #66: No, sir.

3 THE COURT: --- to both sides?

4 POTENTIAL JUROR #66: No, sir.

5 THE COURT: Thank you, ma'am. Stay with us.

6 MR. BAILIFF: Juror number 174.

7 THE COURT: Yes, ma'am, 174? Yes, ma'am?

8 POTENTIAL JUROR #174: My ex-boyfriend was just
9 recently arrested on pornography charges. Me and my
10 children live in the household and so I had to go
11 through DSS for that.

12 THE COURT: Okay. Your ex-boyfriend was charged
13 with pornography, okay.

14 POTENTIAL JUROR #174: And then before that he
15 also accused me of having a weapon at his house with
16 him and I had to go through DSS to get clear for that
17 as well.

18 THE COURT: Okay. All right. With those two
19 experiences, that in any way, prevent you from being
20 fair and impartial to both sides?

21 POTENTIAL JUROR #174: Maybe.

22 THE COURT: Okay. And in what way?

23 POTENTIAL JUROR #174: Just the way we had to deal
24 with everything and go through everything for months
25 and....

1 THE COURT: All right. So you don't think you
2 could be fair and impartial to both sides?

3 POTENTIAL JUROR #174: I don't know.

4 THE COURT: Okay. All right. I'll excuse you.
5 Stay with us. But I'll excuse you from the trial of
6 this case. This juror is excused.

7 MR. BAILIFF: Juror number 96.

8 THE COURT: Yes, ma'am, 96?

9 POTENTIAL JUROR #96: Yes. I was the translator
10 for the Department of Social Services.

11 THE COURT: You work for DSS?

12 POTENTIAL JUROR #96: I used to. I did, yes.

13 THE COURT: Use to. And in what capacity?

14 POTENTIAL JUROR #96: I was the translator.

15 THE COURT: Oh, you were a translator, okay.

16 POTENTIAL JUROR #66: Yes.

17 THE COURT: All right. The fact that you were a
18 translator or used to be a translator for DSS would
19 that, in any way, affect your ability to be fair and
20 impartial?

21 POTENTIAL JUROR #66: No.

22 THE COURT: Thank you, ma'am. Stay with us.
23 This juror stays with us.

24 MR. BAILIFF: Juror number 105.

25 THE COURT: What's your number?

1 POTENTIAL JUROR #105: One, zero five.

2 THE COURT: Okay. All right. What would you like
3 to tell me?

4 POTENTIAL JUROR #105: Just the DSS question, my
5 family has dealt with them before.

6 THE COURT: Okay.

7 POTENTIAL JUROR #105: Just accusations against my
8 mother but none of it were really true.

9 THE COURT: Okay. All right. How long ago was
10 that, roughly?

11 POTENTIAL JUROR #105: Roughly, ten, ten years.

12 THE COURT: Okay. Would that prevent you, in any
13 way, from being fair and impartial to both sides?

14 POTENTIAL JUROR #105: I don't think so. No, sir.

15 THE COURT: Okay. All right. Stay with us.

16 Thank you. This jurors stays with us.

17 MR. BAILIFF: Juror number 119.

18 THE COURT: Yes, sir?

19 POTENTIAL JUROR #119: So my uncle took his kids
20 at one time, he was on the run. He went to court
21 with child engagement and the courts actually gave
22 him full custody ---

23 THE COURT: Okay.

24 POTENTIAL JUROR #115: --- of the kids.

25 THE COURT: All right. Would that prevent you, in

1 any way, from being fair and impartial to both sides?

2 POTENTIAL JUROR #115: I guess, not. I mean ---

3 THE COURT: Well, I need for you to be pretty
4 confident that you can be fair and impartial to both
5 sides.

6 POTENTIAL JUROR #115: Well, I mean, I've seen DSS
7 goes both ways.

8 THE COURT: Okay.

9 POTENTIAL JUROR #115: If I had a renter and DSS
10 was called ---

11 THE COURT: All right.

12 POTENTIAL JUROR #115: --- it would take them a
13 while then they'd take the kids with them.

14 THE COURT: Okay. All right. Okay. So I'll ask
15 it again, do you believe you can be fair and
16 impartial to both sides?

17 POTENTIAL JUROR #115: Yeah.

18 THE COURT: Thank you, sir. Stay with us.

19 POTENTIAL JUROR #115: All right.

20 MR. BAILIFF: Juror number 198.

21 THE COURT: Yes, ma'am, 198. Yes, ma'am?

22 POTENTIAL JUROR #198: My husband was a victim of
23 a hit-and-run last year ---

24 THE COURT: Okay. All right. Would that prevent
25 you from being fair and impartial to both sides?

1 POTENTIAL JUROR #198: No, sir.

2 THE COURT: Okay. Thank you. Is he doing okay?

3 POTENTIAL JUROR #198: Yes, sir. He's recovered.

4 THE COURT: Good. Glad to hear it. You stay
5 with us. Thank you, ma'am. This juror stays with
6 us.

7 MR. BAILIFF: Juror number 2.

8 THE COURT: Number 2, yes, sir?

9 POTENTIAL JUROR #2: My sister had some kind of
10 DSS thing she dealt with I believe a year or two ago.
11 Just throwing that out there to let you know.

12 THE COURT: Okay. Okay. That wouldn't prevent
13 you from being fair and impartial?

14 POTENTIAL JUROR #2: No, sir.

15 THE COURT: Thank you, sir. Stay with us. This
16 juror stays with us.

17 MR. BAILIFF: Juror number 129.

18 THE COURT: One, twenty-nine, yes, ma'am?

19 POTENTIAL JUROR #129: My husband's ex-wife, they
20 were -- they had domestic violence issues ---

21 THE COURT: Okay.

22 POTENTIAL JUROR #129: --- involving the
23 children.

24 THE COURT: Your husband and his ex-wife ---

25 POTENTIAL JUROR #129: I was with him at the time.

1 THE COURT: Okay. And how long ago was that?

2 POTENTIAL JUROR #129: Ten year.

3 THE COURT: Okay. And there's domestic violence
4 issues?

5 POTENTIAL JUROR #129: Mmm, hmm.

6 THE COURT: Would that prevent you from being fair
7 and impartial to both sides?

8 POTENTIAL JUROR #129: I don't know so....

9 THE COURT: You're uncertain. How do you think it
10 would influence you?

11 POTENTIAL JUROR #129: Like because a lot of, um,
12 his ex-wife's statements were false.

13 THE COURT: Okay. Okay. All right. Well, if
14 you don't think you can be fair and impartial, I'll
15 excuse you. Stay with us, tough.

16 POTENTIAL JUROR #129: Okay. Thank you.

17 THE COURT: This juror is excused.

18 MR. BAILIFF: Juror number 22.

19 THE COURT: Yes, ma'am, 22? Yes?

20 POTENTIAL JUROR #22: My first cousin was
21 convicted of murdering his 2 year old daughter.

22 THE COURT: Okay. All right.

23 POTENTIAL JUROR #22: I have another cousin who
24 was murdered. She was pushed off her building after
25 she was raped.

1 THE COURT: Okay.

2 POTENTIAL JUROR #22: This is in New York City.

3 And I wanted to tell you I did not answer the
4 question which is why I didn't stand I believe my
5 brother is a former military police ---

6 THE COURT: Okay.

7 POTENTIAL JUROR #22: --- in Montana.

8 THE COURT: Okay. All right.

9 POTENTIAL JUROR #22: And just being a little
10 sensitive
11 to the details of children being abused. I believe I
12 can be impartial.

13 THE COURT: Okay. Well, that's what I need to,
14 need to know if you believe setting aside all those
15 experiences in your life, if you feel like you can
16 still be fair and impartial to both sides in this
17 case, you need to tell me yes or no?

18 POTENTIAL JUROR #22: I believe I can, but I
19 might get emotional.

20 THE COURT: Okay.

21 POTENTIAL JUROR #22: Okay.

22 THE COURT: Thank you, ma'am. Stay with us.

23 POTENTIAL JUROR #22: Okay.

24 THE COURT: This juror stays with us.

25 MR. BAILIFF: Juror number 5.

1 THE COURT: Yes, ma'am, number 5?

2 POTENTIAL JUROR #5: I think it was number one.

3 THE COURT: You need to speak up.

4 POTENTIAL JUROR #5: I think it was question
5 number one.

6 THE COURT: About any member of the jury panel,
7 any immediate family members ever been accused or
8 charged with serious crime or a victim of a serious
9 crime?

10 POTENTIAL JUROR #5: Yes, sir. My sister was
11 beaten half to death by her boyfriend at the time and
12 was hospitalized.

13 THE COURT: Okay.

14 POTENTIAL JUROR #5: We had to get a restraining
15 order about two years ago.

16 THE COURT: Okay. All right. The fact that your
17 sister went through that, would that prevents you
18 from being fair and impartial to both sides in this
19 case?

20 POTENTIAL JUROR #5: No, sir. I don't believe.

21 THE COURT: Okay. Thank you. This juror stays
22 with us.

23 MR. BAILIFF: Juror number 62.

24 THE COURT: Sixty two, yes, sir?

25 POTENTIAL JUROR #62: My son was adopted through

1 DSS.

2 THE COURT: Okay. All right.

3 POTENTIAL JUROR #62: This happened a year and a
4 half. Just to inform you.

5 THE COURT: Okay. Thank you. You can be fair
6 and impartial, right?

7 POTENTIAL JUROR #5: Yes, sir.

8 THE COURT: Okay. Thank you.

9 POTENTIAL JUROR #5: Thank you.

10 THE COURT: This juror stays with us.

11 MR. BAILIFF: Fifty-nine.

12 THE COURT: Fifty-nine, okay. Yes, ma'am?

13 POTENTIAL JUROR #59: I'm not sure if this -- my
14 daughter who is my husband's daughter, biologically -
15 --

16 THE COURT: Okay.

17 POTENTIAL JUROR #59: --- she -- we went through
18 the DSS system because of her biological mother's
19 husband molested her cousin and she was a part of the
20 case. So she had a medical ---

21 THE COURT: Okay.

22 POTENTIAL JUROR #59: She had a forensic
23 interview. We came here to do it.

24 THE COURT: Okay.

25 POTENTIAL JUROR #59: I just didn't know about ---

1 THE COURT: Okay. Well, can you still be fair and
2 impartial to both sides?

3 POTENTIAL JUROR #59: Yes. Yes.

4 THE COURT: Okay. Stay with us, ma'am. Thank
5 you.

6 POTENTIAL JUROR #59: Thank you.

7 THE COURT: All right. All right. The next
8 three questions, any member of the jury panel ever
9 lost a child or had a child pass away? That's
10 question one. Next question, any member of the jury
11 panel ever received services from a Victim's Advocate
12 Program such as Palmetto Citizens Against Sexual
13 Assault, Sister Care, State Office of Victim's
14 Assistance? And the third question is -- well, I'mma
15 leave it at those two questions and then the last
16 group will have four questions, okay. So anybody
17 need to speak with me privately?

18 (Whereupon, a juror stands)

19 THE COURT: I got one, okay.

20 MR. BAILIFF: One, two, six please.

21 THE COURT: One, twenty-six, yes, ma'am?

22 POTENTIAL JUROR #126: For the loss of a child,
23 um, I lost a child ---

24 THE COURT: You lost a through ---

25 POTENTIAL JUROR #126: --- Yeah. Death.

1 THE COURT: Death. How long ago was that?

2 POTENTIAL JUROR #126: It's going on six years.

3 THE COURT: How long?

4 POTENTIAL JUROR #126: Six years.

5 THE COURT: Six years.

6 POTENTIAL JUROR #126: And I had one run away four
7 years ago.

8 THE COURT: Okay. So you lost -- a child died
9 six years ago. Then you had one run away four years
10 ago?

11 POTENTIAL JUROR #126: Yes.

12 THE COURT: The fact that you've -- I'm sorry.
13 Please accept my condolences. The fact you've
14 experienced those two situations, can you still be
15 fair and impartial to both sides?

16 POTENTIAL JUROR #126: I think so.

17 THE COURT: Well, you certain of that? I need --
18 I need for you to feel pretty comfortable in saying
19 you can. I'm not trying to put words in your mouth.

20 POTENTIAL JUROR #126: Mmm, hmm. Yeah.

21 THE COURT: Okay. Thank you, ma'am. Stay with
22 us.

23 As I previously stated to you when I published
24 the indictments this case involves allegations of
25 child neglect and or abuse as well as neglect and or

1 abuse resulting in the death of child. Any member of
2 the jury panel believe that due to the subject matter
3 of these allegations that it would make it difficult
4 for you to be fair and impartial in this case, if
5 that applies to anyone, that's question one?

6 Next question, kind of related to some extent,
7 any member of the jury panel who has any reservations
8 or problems whatsoever, no matter how small they
9 seem, with sitting as a juror in this case?

10 Three, any member of the jury panel who suffers
11 from any condition or situation that would make it
12 difficult to give the parties your full attention and
13 fair consideration if you were selected as a juror in
14 this case?

15 And lastly, any member of the jury panel who has
16 philosophical religious, moral, or other beliefs that
17 would prevent you from serving as a juror in this
18 case and from sitting and passing judgment on another
19 person?

20 All right. Those four questions, does anybody
21 need for me to read those four questions again?

22 Raise your hand.

23 (Whereupon, no one raises their hand)

24 THE COURT: All right. Now, does anybody need to
25 respond to any of the four questions I've just read,

1 if so, please stand?

2 (Whereupon, several jurors stand)

3 THE COURT: All right. I've got one. Okay. All
4 right.

5 MR. BAILIFF: Juror number 121.

6 THE COURT: One, twenty-one, yes, sir?

7 POTENTIAL JUROR #121: Just full disclosure, I was
8 a pastor for 20 years.

9 THE COURT: Okay.

10 POTENTIAL JUROR #121: And I realized I should
11 have said it earlier but I have volunteered
12 extensively and donated to an organization called a
13 Agape International Commission ---

14 COURT REPORTER: I'm sorry, what was that again?

15 POTENTIAL JUROR #121: Agape International
16 Commission.

17 THE COURT: Agape International, okay. What do
18 they do?

19 POTENTIAL JUROR #121: They fight in child sex
20 trafficking.

21 THE COURT: Okay.

22 POTENTIAL JUROR #121: I don't -- It's still
23 close my heart and I have made a donation this
24 calendar here but I'm going to serve.

25 THE COURT: Okay. And you can be fair and

1 impartial to both sides?

2 POTENTIAL JUROR #121: I believe so.

3 THE COURT: Okay. All right. Thank you. Stay
4 with us, sir.

5 POTENTIAL JUROR #121: Yes, sir.

6 MR. BAILIFF: Juror number 17.

7 THE COURT: Seventeen, yes, sir? If you can lower
8 your mask if you don't mind just so I can hear you
9 better.

10 POTENTIAL JUROR #17: Oh, yeah. No, that's fine.
11 I have anxiety attacks and I don't know that sitting
12 here if I can give my full attention. Sometimes it's
13 good and sometimes it's not so....right now, I'm at
14 about a ten.

15 THE COURT: A ten being high anxiety?

16 POTENTIAL JUROR #17: Yeah. Yeah. I got it
17 pretty bad.

18 THE COURT: Okay. All right. I'm gonna excuse
19 you. You're free to go. This juror is excused and
20 free to go.

21 MR. BAILIFF: Juror number 58.

22 THE COURT: Yes, ma'am, 58?

23 POTENTIAL JUROR #58: I'm sure this pertains to
24 what, but you asked the attorney question, my
25 daughter is related to Mark Greer and Rachel ---

1 THE COURT: Like Mark Greer the attorney?

2 POTENTIAL JUROR #58: Yeah.

3 THE COURT: Okay.

4 POTENTIAL JUROR #58: Okay. And years ago me and
5 my husband weren't happy with each other and got a
6 divorce for about a year and we got back together. I
7 think Newman might have been my attorney. I can't
8 remember.

9 THE COURT: Now, before I became a judge I
10 practiced law in Laurens.

11 POTENTIAL JUROR #58: Yeah.

12 THE COURT: Not Lancaster.

13 POTENTIAL JUROR #58: No. Mr. Newman ---

14 THE COURT: Oh.

15 POTENTIAL JUROR #58: I think he might have been
16 my attorney. I can remember the secretary but I
17 can't remember him.

18 THE COURT: Okay.

19 POTENTIAL JUROR #58: But I don't know.

20 THE COURT: Well, if he did represent you, would
21 that -- can you still be fair and impartial to both
22 sides in this case?

23 POTENTIAL JUROR #58: Of course, yes.

24 THE COURT: Okay. Thank you. Stay with us,
25 ma'am.

1 MR. BAILIFF: Juror 105.

2 THE COURT: All right. What you going tell me
3 this time?

4 POTENTIAL JUROR #105: I do have attention
5 deficit disorder. It does make me hard to me pay
6 attention.

7 THE COURT: Oh, now, we -- okay. Well, you've
8 been up here about five times, okay.

9 POTENTIAL JUROR #105: Yes, sir.

10 THE COURT: You gonna stay with us, okay.

11 POTENTIAL JUROR #105: I'm not trying to get out
12 of it if that's what you're trying to say.

13 THE COURT: Thank you.

14 POTENTIAL JUROR #105: Yes, sir.

15 (Whereupon, there is an outburst from one of the
16 jurors)

17 THE COURT: All right. Ladies and gentlemen,
18 I'mma ask the question about being fair and
19 impartial. If I've already asked you that and you've
20 already responded either way you don't need to
21 respond again. But, you know, the key to any jury is
22 for every member of that jury being completely fair
23 and impartial to both sides. We want -- we want both
24 sides to receive a fair trial and -- but if there's
25 something that you have not presented to me that you

1 believe would cause you to have some difficulty in
2 being fair and impartial to both sides in this case
3 then I need to know that. Again, if you've already
4 responded to that question you don't need to again.
5 Is there any member of the jury panel who feels like
6 they cannot be fair and impartial to both sides in
7 this case, if so, please stand?

8 (Whereupon, no one is standing)

9 THE COURT: Now, does the State have any
10 additional voir dire or any exceptions to the Court's
11 voir dire?

12 MS. McINNIS: No, Your Honor.

13 THE COURT: And how about the defense, Mr. Frick?

14 MR. FRICK: No, sir.

15 THE COURT: Okay. Thank you. All right. We
16 have a few minutes of down time here. We have --
17 what we have is what we call a strike list and your
18 names will be pulled at random by the computer and it
19 will be based upon that list that, that the jury
20 trial jury will be picked, and the lawyers will have
21 an opportunity to review the strike list. And it'll
22 take them a few minutes to do that. And once we're
23 ready, if your name is called out, do the lawyers
24 prefer for them to come down to the front or can they
25 just stand at their seat?

1 MR. FRICK: Stand -- standing where they are is
2 fine.

3 MS. McINNIS: Yes, sir.

4 THE COURT: The State good with that? Okay. So
5 if your name is called out just stand and you'll hear
6 words such as, swear the jury, juror for the trial of
7 this case. We accept the juror, words to that
8 effect. Or you may hear, please excuse the juror
9 from the trial of this case. If you are not selected
10 after your name is called out don't take it
11 personally. These lawyers -- these lawyers have
12 certain reasons for certain people being on a jury
13 and reasons for wanting others not to be on a jury.
14 So -- but it take a few minutes so just be at ease
15 and we'll get started as soon as we can.

16 So Madam, Clerk, once the strike list is
17 prepared, if you'd provide copies to the lawyers,
18 please.

19 THE CLERK: Yes, sir.

20 THE COURT: Of course, the strikes, ten for the
21 defense; five for the State. And let's go with,
22 let's see if we have enough -- let's go with three
23 alternates. So two for the defense; one for the
24 State as far as each alternate.

25 MR. FRICK: Judge, can we clarify what you said

1 the strikes were? I didn't hear you.

2 THE COURT: Ten for the defense; five for the --
3 yeah ---

4 MS. McINNIS: Your Honor, may we approach?

5 THE COURT: Yeah.

6 (Whereupon, a bench conference was held off the
7 record)

8 THE COURT: If anybody needs a break take the
9 break and come right back in, okay. If you don't
10 need a break then just keep your, your seat.

11 (Whereupon, the Court takes a short recess)

12 THE COURT: Okay. All right. Five and five
13 strikes on the first go around. Madam Clerk, you may
14 proceed.

15 THE CLERK: Please stand if I call your number
16 out. Juror Number 61.

17 (Whereupon, a white male stands)

18 THE CLERK: What say the State?

19 MS. McINNIS: Please present this juror.

20 THE CLERK: What say the defense?

21 MR. FRICK: Please seat the juror.

22 THE COURT: All right. Come around please.

23 THE CLERK: Juror Number 62.

24 (Whereupon, a white male stands)

25 THE CLERK: What say the State?

1 MS. McINNIS: Please present the juror.
2 THE CLERK: What say the defense?
3 MR. FRICK: Please excuse the juror from the trial
4 of this case.
5 THE CLERK: Juror Number 93.
6 (Whereupon, a white male stands)
7 THE CLERK: What say the State?
8 MS. McINNIS: Please present this juror.
9 THE CLERK: What say the defense?
10 MR. FRICK: Please seat this juror.
11 THE CLERK: Please come forward.
12 THE COURT: When they say seat that means a seat
13 in the box here, not your seat, okay.
14 THE CLERK: Please come forward. Juror Number 26.
15 (Whereupon, a black male stands)
16 THE CLERK: What say the State?
17 MS. McINNIS: Please excuse this juror.
18 THE CLERK: Juror Number 23.
19 (Whereupon, a white female stands)
20 THE CLERK: What say the State?
21 MS. McINNIS: Please present the juror.
22 THE CLERK: What say the defense?
23 MR. FRICK: Please seat the juror.
24 THE CLERK: Please come forward. Juror Number
25 188.

1 (Whereupon, a white female stands)

2 THE CLERK: What say the State?

3 MS. McINNIS: Please present the juror.

4 THE CLERK: What say the defense?

5 MR. FRICK: Please excuse the juror from the trial
6 of this case.

7 THE CLERK: Juror Number 2.

8 (Whereupon, a white male stands)

9 THE CLERK: What say the State?

10 MS. McINNIS: Please present the juror.

11 THE CLERK: What say the defense?

12 MR. FRICK: Please seat the juror.

13 THE CLERK: Please come forward. Juror Number
14 196.

15 (Whereupon, a white male stands)

16 THE CLERK: What say the State?

17 MS. McINNIS: Please excuse this juror.

18 THE CLERK: Juror 47.

19 (Whereupon, a white female stands)

20 THE CLERK: What say the State?

21 MS. McINNIS: Please present this juror.

22 THE CLERK: What say the defense?

23 MR. FRICK: Please excuse the juror from the trial
24 of this case.

25 THE CLERK: Juror Number 5.

1 (Whereupon, a white female stands)

2 THE CLERK: What say the State?

3 MS. McINNIS: Please present this juror.

4 THE CLERK: What say the defense?

5 MR. FRICK: Please excuse the juror from the trial
6 of this case.

7 THE CLERK: Juror Number 58.

8 (Whereupon, a white female stands)

9 THE CLERK: What say the State?

10 MS. McINNIS: Please present the juror.

11 THE CLERK: What say the defense?

12 MR. FRICK: Please excuse the juror from the
13 trial.

14 THE CLERK: Juror Number 147.

15 (Whereupon, a black female stands)

16 THE CLERK: What say the State?

17 MS. McINNIS: Please present this juror.

18 THE CLERK: Any challenge for cause?

19 MR. FRICK: No challenge for cause.

20 THE CLERK: Please come forward. Juror Number
21 102.

22 (Whereupon, a white female stands)

23 THE CLERK: What say the State?

24 MS. McINNIS: Please present this juror.

25 THE CLERK: Any challenge for cause from defense?

1 MR. FRICK: No challenge for cause.

2 THE CLERK: Please come forward. Juror Number 79.

3 (Whereupon, a white male stands)

4 THE CLERK: What say the State?

5 MS. McINNIS: Please present this juror.

6 THE CLERK: Any challenge for cause from defense?

7 MR. FRICK: No challenge for cause.

8 THE CLERK: Please come forward. Juror 95.

9 (Whereupon, a white female stands)

10 THE CLERK: What say the State?

11 MS. McINNIS: Please present the juror.

12 THE CLERK: Any challenge for cause from defense?

13 MR. FRICK: No challenge for cause.

14 THE CLERK: Please come forward. Juror 171.

15 (Whereupon, a black male stands)

16 THE CLERK: What say the State?

17 MS. McINNIS: Please excuse this juror.

18 THE CLERK: Juror 151.

19 (Whereupon, a white stands)

20 THE CLERK: What say the State?

21 MS. McINNIS: Please present the juror.

22 THE CLERK: Any challenge for cause from defense?

23 MR. FRICK: No challenge for cause.

24 THE CLERK: Please come forward. Juror 41.

25 (Whereupon, a white female stands)

1 THE CLERK: What say the State?

2 MS. McINNIS: Please present this juror.

3

4 THE CLERK: Any challenge for cause from defense?

5 MR. FRICK: I'm sorry, which number is this?

6 THE CLERK: Juror 41.

7 MR. FRICK: Okay. No challenge for cause.

8 THE CLERK: Please come forward. Juror 117.

9 (Whereupon, a white male stands)

10 THE CLERK: What say the State?

11 MS. McINNIS: Please present this juror.

12 THE CLERK: Any challenge for cause from defense?

13 MR. FRICK: No challenge for cause.

14 THE CLERK: Juror 180.

15 (Whereupon, a black male stands)

16 THE CLERK: What say the State?

17 MS. McINNIS: Please excuse this juror.

18 THE CLERK: Juror 59.

19 (Whereupon, a white female stands)

20 THE CLERK: What say the State?

21 MS. McINNIS: Please present this juror.

22 THE CLERK: Any challenge for cause from defense?

23 MR. FRICK: No challenge for cause.

24 THE CLERK: Please come forward.

25 THE COURT: Okay. We'll have three alternates.

1 Two for the defense; one for the State as far as
2 strikes.

3 THE CLERK: Juror 51 please stand.

4 (Whereupon, a white male stands)

5 THE CLERK: What say the State?

6 MS. McINNIS: Please excuse this juror.

7 THE CLERK: What say the defense?

8 MR. FRICK: It's a strike.

9 MS. McINNIS: She's just struck.

10 THE CLERK: Oh, sorry. Juror 118.

11 (Whereupon, a white female stands)

12 THE CLERK: Any challenge for cause?

13 MR. FRICK: I think we started over ---

14 THE COURT: Challenge, yeah, as far as the State.

15 THE CLERK: What say the defense?

16 MR. FRICK: Please excuse the juror for the trial
17 of this case.

18 THE CLERK: Juror 159.

19 (Whereupon, a white female stands)

20 THE CLERK: Any challenge from the State?

21 MS. McINNIS: Please present the juror.

22 THE CLERK: The defense?

23 MR. FRICK: Please excuse the juror from the trial
24 of this case.

25 THE CLERK: Juror 167.

1 (Whereupon, a white female stands)

2 THE CLERK: Any challenge from the State?

3 MS. McINNIS: Please present the juror.

4 MR. FRICK: No challenge.

5 THE CLERK: Come forward please. One, eighty-two,
6 please stand.

7 (Whereupon, a black male stands)

8 THE CLERK: What say the State?

9 MS. McINNIS: Please present the juror.

10 THE CLERK: What say the defense?

11 MR. FRICK: Please the juror.

12 THE CLERK: Come forward, please. Juror 81 please
13 stand.

14 (Whereupon, a black female stands)

15 THE CLERK: What say the State?

16 MS. McINNIS: Please present the juror.

17 THE CLERK: What say the defense?

18 MR. FRICK: Please seat the juror.

19 THE CLERK: Come forward please.

20 THE COURT: Okay. Thank you, Madam Clerk.

21 Congratulations, ladies and gentlemen, you have been
22 selected as the trial jury in this case. What I want
23 you to do is go back to the jury room for just a few
24 minutes. I want to talk with the lawyers about
25 scheduling. I don't think we're going to start this

1 case until in the morning, but I want to talk with
2 them about scheduling so if you'll go back to the
3 jury room. One thing I'm going to tell you right
4 now, and you're gonna hear me tell you this along
5 with some other things, you cannot begin any
6 discussion about anything related to this case. Talk
7 about anything else just don't talk about this case.
8 And those discussions among yourself will not begin
9 until at the end of the case. Once I give you the
10 case, you begin your deliberations. So talk about
11 anything else just don't talk about anything related
12 to the case, okay.

13 All right. Go back to the jury room please.
14 (Whereupon, the jury exits the courtroom at 1:04
15 p.m.)

16 THE COURT: Any exception to jury selection from
17 the State?

18 MS. McINNIS: Not from the State, Your Honor.

19 THE COURT: And from the defense?

20 MR. FRICK: Yes, sir.

21 THE COURT: Okay. All right. All right. Ladies
22 and gentlemen, the remaining jury panel, I need for
23 you to exit the courtroom and I need to go over some
24 things with lawyers. Hopefully, we won't keep you out
25 there too long, but just go back out there for just,

1 just a minute, okay.

2 (Whereupon, the jury panel exits the courtroom at
3 1:05 p.m.)

4 THE COURT: Okay. Mr. Frick ---

5 MR. FRICK: Thank you, Your Honor.

6 THE COURT: --- I'll be glad to hear from you?

7 MR. FRICK: Judge, of the five strikes, the State
8 let four of them, this is the main jury of those four
9 that were exercised, three, were African American:
10 Number 26; Number 171; Number 180. Going through my
11 notes on these jurors I noted nothing that would've
12 indicated what I would've thought would have been a
13 typical State strike. So I do not know any other
14 basis than race for why they were stricken from the
15 main jury.

16 THE COURT: Okay.

17 MR. FRICK: And so that's why I'm requesting --
18 that's why I'm having a Batson Motion.

19 THE COURT: Okay. All right. Now, the ball is
20 in your court, solicitor, for each juror, if you can
21 provide a racially neutral reason for the strikes?
22 And then certainly the defense can be heard on that.

23 MS. McINNIS: Thank you, judge. Juror Number 26,
24 who is number four on the list, has a criminal record
25 for assault and battery as well as a malicious injury

1 of property.

2 The next one, Juror Number 196, who is jury
3 number eight on the strike list, also had an arrest -
4 --

5 THE COURT: Wait a minute! What number,
6 solicitor?

7 MS. McINNIS: He was Juror Number 196. He was
8 number eight on the strike ---

9 THE COURT: Okay. One, ninety-six is not an
10 issue.

11 MS. McINNIS: Okay. Number 180 ---

12 THE COURT: What I've got is 171 and 180 are the,
13 ah, 26, 171, 180 are the three jurors that the
14 defense is basing its Batson Motion on. Correct, Mr.
15 Frick?

16 THE COURT: Okay.

17 MR. FRICK: That's correct, Your Honor.

18 THE COURT: All right.

19 MS. McINNIS: Yes, sir. I merely want to put on
20 the record his reasons for striking was that he had a
21 criminal record the same as Number 26. He also had
22 convictions for assault and malicious injury to
23 property.

24 THE COURT: Okay. All right. That was 196?

25 MS. McINNIS: That's correct, Your Honor.

1 THE COURT: Okay.

2 MS. McINNIS: Juror Number 171, when he came up
3 and spoke with us he indicated that he had a brother
4 that was convicted of sexual assault on an inmate
5 here in South Carolina, as well as the fact that he
6 indicated he had another brother who had lost custody
7 of a child. Didn't really get a reason as to why, he
8 kind of did a hand gesture. So those would be the
9 reasons that the State struck him. And Juror Number
10 180, also had an encounter with law enforcement. He
11 did not have a criminal conviction, but he does have
12 an arrest on his record. So that would be the
13 reasons for ---

14 THE COURT: What was the arrest for?

15 MS. McINNIS: It was with, ah, for driving under
16 suspension, Your Honor. It was with the Great Falls
17 Police Department. And to be honest, judge, we have
18 yet to meet a person who has a positive opinion of
19 law enforcement after an encounter with the Great
20 Falls Police Department so....those are the reasons
21 for the strikes.

22 THE COURT: Okay. All right. Mr. Frick, you
23 want to address each ---

24 MR. FRICK: Yes, sir, judge. I certainly
25 understand what the State is saying in regards to 196

1 and that put them in a similar situation. However,
2 I don't have the strike sheet. I'm not saying they
3 withheld them from me. But I haven't looked at all
4 the rap sheets. I don't know whether any of these
5 other jurors that they've seated have criminal
6 records or not. But if they do, I would say that
7 would put them in the same situation as the ones that
8 they did strike and, therefore, it is not a race
9 neutral basis.

10 THE COURT: Okay. All right. Well, I mean, I
11 haven't seen anything -- and as an officer of the
12 Court, Solicitor McInnis, would there be any - and
13 we're only talking about Juror Number 26, I think,
14 correct, at this stage. Are there any jurors that
15 have a criminal record that were selected by the
16 State?

17 MS. McINNIS: No, Your Honor. We have their
18 criminal records here if Mr. Frick would like to look
19 through those.

20 THE COURT: Do you want to take a look at them?

21 MR. FRICK: If you just give me a couple minutes
22 to go through ---

23 THE COURT: Okay.

24 MR. FRICK: --- them.

25 THE COURT: All right.

1 MR. FRICK: Judge, what I'm doing is they, they
2 compile it all over ---

3 THE COURT: Sure ---

4 MR. FRICK: --- on one document. So rather than
5 going through all that ---

6 THE COURT: Yeah.

7 MR. FRICK: --- I'm gonna take a look at that.

8 THE COURT: Sure. And take your time. I'm just -
9 - I'm kind of sorting through my mind, we've got,
10 we've got a jury panel that's just standing out in
11 the hallway. And, of course, I want to give y'all as
12 much time as we possibly can.

13 All right. Y'all -- y'all come up here just a
14 minute real quick.

15 (Whereupon, a bench conference was held off the
16 record)

17 MR. FRICK: Judge, I've reviewed the document that
18 I know the solicitor compiles by their investigator
19 and they get everybody's NCIC rap sheet and she
20 writes down everybody's charges. I've seen that.
21 I've gotten it before. I did not request it this
22 time. The solicitor let me review it this go around.
23 I do not see where any other jurors has had any other
24 convictions on ---

25 THE COURT: Okay.

1 MR. FRICK: --- the record. However, I do want
2 to go back on the other juror who had his brother
3 situation ---

4 THE COURT: Yeah. That -- that would be 171,
5 brother was convicted of assault on an inmate.

6 MR. FRICK: Yes, sir.

7 THE COURT: And then a brother in New York maybe
8 lost custody of a child. But, yeah, be glad to hear
9 ---

10 MR. FRICK: Yes, sir.

11 THE COURT: --- from you on that?

12 MR. FRICK: I would just ---

13 THE COURT: Well, let me -- before I hear from
14 you ---

15 MR. FRICK: Sure.

16 THE COURT: --- let, let the State respond to the
17 other two to put up what they believe to be a
18 racially neutral reason for striking and then I'll
19 turn it back to you. Solicitor, you want to go to
20 171, anything else on that, on that juror?

21 MS. McINNIS: No, sir, judge.

22 THE COURT: Okay.

23 MS. McINNIS: I mean, like I said it was the
24 criminal conviction for what I would determine a
25 serious offense on the

1 brother. And the other brother who lost custody of
2 the child, I the way that he, he didn't really give a
3 reason for that. Just gave me some concern based on
4 the, you know, the facts in this case that Mr. White
5 and his wife, you know, lost a child that died and
6 then lost custody of the other children, that just
7 gave me concern about his ability to be fair and
8 impartial when it comes to those allegations in this
9 case.

10 THE COURT: Okay. All right. Okay. And then
11 180 is the arrest for DUS by Great Falls Police
12 Department?

13 MS. McINNIS: Yes, sir.

14 THE COURT: Okay. All right. Now, Mr. Frick,
15 come back to you?

16 MR. FRICK: Working in a reverse, Number 180,
17 obviously, that is an arrest not a conviction on that
18 circumstance. I'm sure there are other folks who had
19 arrest without conviction, although, I didn't see -
20 it wasn't noted on the sheet that I looked at, you
21 know.

22 Your Honor, I'm also saying on 171, that was his
23 brother. We voir dire him up at the bar and he did
24 say he could be fair and impartial in that
25 circumstance. I think that would be the final part

1 of my motion, judge.

2 THE COURT: Okay. All right. Solicitor McInnis,
3 anybody selected on the jury that had an arrest,
4 arrest no conviction?

5 MS. McINNIS: No, sir.

6 THE COURT: Okay. Mr. Frick, I'mma deny your
7 Batson Motion. I believe that the reasons for the
8 State using its peremptory challenges or strikes
9 rather concerning the three jurors they have provided
10 a racially neutral reason for those strikes of those
11 three jurors so I'm going to deny your motion.

12 MR. FRICK: Understood, Your Honor. Yes, sir.

13 THE COURT: Okay. All right. Now, just while
14 everybody's out, bring the panel in just a second,
15 and then bring the jury in, and have them report
16 back in the morning. We need to take a little short
17 lunch break. If y'all are good with a short lunch
18 break because I want to do what pre-trial we need to
19 do but giving Mr. Frick enough time to review this
20 cell phone too. So, so I'll try to accomplish all
21 that and, and over lunch I will look at the flash
22 drive with - I think I just need to look at the
23 interview with, ah, at the hospital and not the
24 interview after the arrest. Is that correct?

25 MS. McINNIS: That's my understanding from Mr.

1 Frick's conversation, our conversation in chambers.
2 They are both relatively short, judge, if we took a
3 forty minute lunch break ---

4 THE COURT: Okay. Well, I'll look at both, then.

5 MR. FRICK: And, judge, I'm just gonna -- I
6 emailed this to you Friday, I think, is that correct,
7 my pre-trial motion ---

8 MS. McINNIS: Yes.

9 MR. FRICK: I'm just gonna give you my copy. I
10 didn't send them to you ---

11 THE COURT: Okay.

12 MR. FRICK: These are my pre-trial motions.

13 THE COURT: Okay.

14 MR. FRICK: And it severance that you already
15 ruled upon.

16 THE COURT: Right. Okay. All right. Okay. All
17 right. Let's get the panel back in so we can -- and
18 I'm just gonna have them call in. Do they have the
19 number?

20 THE CLERK: Yes, sir.

21 THE COURT: Okay.

22 (Whereupon, the jury panel enters the courtroom at
23 1:19 p.m.)

24 THE COURT: I got everybody. Okay. Ladies and
25 gentlemen, I know that some of you are probably a

1 little disappointed that you were not selected but
2 I'm sure that there are some of you that are glad
3 that you were not selected. What I'm going to do I
4 don't want to excuse you for the rest of the week. I
5 don't like excusing the remaining jury panel on a
6 Monday. Things happen where we would need to have
7 you brought back in and if I go ahead and excuse you
8 for the rest of the week then you you're gone. I've
9 lost you. And I don't want to lose you quite yet,
10 okay. So you have been provided a call in number and
11 after six o'clock this evening call that number and
12 they'll be a recorded message more than likely. It's
13 going to say call back after Tuesday at six. So
14 don't forget to call that number, okay. And with
15 that said I hope you have a good rest of the day.
16 And for those of you who are a little disappointed
17 you were not selected then, I certainly hope that
18 sometime in the future you'll be summoned to to
19 either this courthouse or another courthouse and have
20 an opportunity to, to sit on a jury whether it's in
21 the criminal arena or in the civil arena. Over the
22 years I've talked with jurors and, and the vast
23 majority have said that the experience of sitting on
24 a jury was a good one in the sense that they learned
25 things that they didn't know before they came into

1 the courtroom even though it's a tough experience in
2 most cases, but....so again, I hope that you'll have
3 an opportunity sometime in the future to sit on a
4 jury. So with that said, have a good rest of your
5 day. Don't forget to call in that number.

6 (Whereupon, the jury panel exits the courtroom at
7 1:22 p.m.)

8 THE COURT: Okay. Let's do this, start back this
9 afternoon at two, will that - a half hour, will that
10 give you an opportunity to get a bite to eat, is that
11 not enough?

12 MR. FRICK: I brought a sandwich, judge.

13 THE COURT: You brought a sandwich, okay.

14 MS. McINNIS: Yes, sir.

15 THE COURT: All right. Okay. All right. We'll
16 start back at two. And then let's have the jury come
17 in, in the morning at 10. So if we have to -- if we
18 have any pre-trial carry over, then that'll give us
19 enough time to deal with that. And then -- okay.
20 All right. Let's bring the jury in.

21 (Whereupon, the jury enters the courtroom at 1:28
22 p.m.)

23 THE COURT: Okay. Let the record reflect the
24 jury is back in. Ladies and gentlemen, here's the
25 plan, I want you back here in the morning at a

1 quarter till ten, okay. And when all 15 of you are
2 in that jury room, I want you to pick your own
3 foreperson and I'll tell what the foreperson does in
4 just a minute. Sometimes I pick the foreperson.
5 Sometimes I get my law clerk to do it. And sometimes
6 I get the jury to pick their own foreperson. So in
7 this case, you pick your own, okay.

8 Now, what does a foreperson do? Wear several
9 hats. One is, need to make sure that the, ah, all my
10 instructions are being followed. I'm gonna give you
11 a couple more in just a minute. That's everybody's
12 responsibility, but primarily the foreperson.

13 Secondly, I need someone to serve as the
14 communicator between the jury and the Court. If at
15 any time during the course of this trial or even when
16 you begin your deliberations, if there's a question,
17 an issue arising then I need the foreperson to write
18 that out, sign it, and then that note can be provided
19 to the to the Court and give to the bailiff and
20 they'll get it to me, okay.

21 And then, thirdly, once I give you the case to
22 begin your deliberations I need someone to get the
23 deliberation started, to keep track of the vote count
24 as far as how many, whatever number of times that you
25 solicit votes from the jury. And so those are the

1 hats that a foreperson wears. And I'm sure all 15 of
2 you would make an excellent foreperson, but we only
3 can have one. If it is a male, we call them a
4 foreman. If it is a female we call that person a
5 forelady. So get here at 10:15, I mean, 9:45, I
6 aware I said 10:15; 9:45, when all 15 are present and
7 elect your foreperson. And the foreperson will
8 always maintain that very first seat on the front
9 row.

10 Now, my alternates, are you the three alternates?
11 The three alternates will maintain those three back
12 seats there, okay. Everybody else can sit wherever
13 you like. It's been my experience that jury is like
14 to kind of sit the same seat throughout the whole
15 trial. And you can do that if you want, but you
16 don't have to, okay. Only the foreperson and three
17 alternates have assigned seats, okay.

18 Now, I've already instructed you don't begin any
19 discussions among yourself about anything related to
20 this case. That prohibition also applies to anybody
21 that you come into contact with this afternoon, this
22 evening, in the morning before you get here whether
23 it's family members, co-workers, neighbors, whomever.
24 You can say I've been picked on a jury, but leave it
25 at that, okay.

1 And also, and I'll explain a little bit more
2 detail tomorrow, don't go on the internet, social
3 media, and try to come up with any information
4 related to this case. Don't do it. I'll explain why
5 in the morning. Why not to do it. So if you feel
6 compelled to do that don't do it, okay. And I'll
7 give you a real life story of what happened several
8 years ago in a case where several jurors violated
9 that instruction. So no communication about the case
10 among yourselves. No communication about the case
11 that you come into contact with and don't go on the
12 internet, social media or anything like that to try
13 to get some information about this case, okay.

14 All right. So we'll do our best to get started
15 at ten. I want you to hear a little earlier than
16 that so you get the foreperson elected. When the
17 foreperson is elected then I need for you write the
18 name down on piece of paper and give it to the
19 bailiff, and then they can give it to, to me, okay.

20 All right. Any questions? Everybody? All
21 right. We'll see you in the morning. Have a good
22 afternoon ---

23 MR. BAILIFF: We have a question.

24 THE COURT: Yes, sir?

25 THE JUROR: In your experience with the amount of

1 witnesses that you, that need to come forward, how
2 long on average would this ---

3 THE COURT: This -- this case will take all week.
4 If that's -- if that's responsive to your question.
5 This case -- this case will take all week. Don't ask
6 me a question about the case. Just asked me about
7 time, scheduling, procedure -- Yes, ma'am?

8 THE JUROR: Do we need to have certain attire or -
9 --

10 THE COURT: No, you're fine. You're fine. Now, I
11 did see somebody in the panel, I don't think they
12 were selected that shorts on, don't wear shorts. But
13 you dress casual. Dress comfortably, okay.

14 THE JUROR: Do we -- where do we go?

15 THE COURT: They'll tell where, how to get back
16 and where to go, okay. They gonna tell you all that.
17 Yes, ma'am?

18 THE JUROR: As an alternate, are we voting as no -
19 --

20 THE COURT: You can -- let me explain to you
21 about the alternates. Your role is very important.
22 It's not unusual that during the course of a trial
23 that one of the 12 has to be excused because of
24 illness, emergency at home, something of that nature.
25 So I need an alternate who has sat through the entire

1 trial up until that point to be able to fill the
2 shoes of the, the excused juror. You certainly don't
3 participate in the deliberations if, if nobody in the
4 12 is excused. You get to participate in the
5 election of foreperson, okay. So the role of
6 alternate is very important, okay.

7 Sir, in the back?

8 THE JUROR: Yeah. Will we be provided with like
9 Notepad, pencil ---

10 THE COURT: No. And I'll explain to you. I
11 don't allow jurors to take notes, and I'll explain
12 why in the morning, okay.

13 Now, if you -- if you go home at night and want
14 to jot down some notes and you leave those notes at
15 home and nobody sees those notes that's fine. But
16 just during the course of the trial just can't take
17 any notes here, okay.

18 THE JUROR: Should we pack a lunch?

19 THE COURT: No. I -- I'll excuse you for lunch
20 and then if, if I give you the case when you
21 deliberating and we're over a meal time whether it's
22 lunch or dinner, we'll provide food. But other than
23 that we'll have lunch breaks, okay. Yes, ma'am?

24 THE JUROR: Documentation for those of us who are
25 working ---

1 THE COURT: Yeah. You can get work excuses. She
2 usually gives them at the end. Now, for some reason
3 you have to have them daily, we can accommodate you.
4 But if you can wait until the end, then we would
5 prefer to do it that way, okay.

6 THE JUROR: Is there like a time of the evening?

7 THE COURT: Well, you know, we, we usually start
8 around 9:30/ 10 o'clock. And, you know, try to break
9 around five. But now, don't hold me to that. You
10 know, sometimes we have to go longer than that to
11 get, say, get finished with a witness who cannot come
12 back the next day. Or if we -- or if we, we're going
13 a little slower than we'd like, we need to kind of
14 speed up a little bit, we may go a little longer in
15 the evenings. But I'm not going to keep you here,
16 you know, to midnight or anything like that, okay.

17 All right. Anybody else?

18 (Whereupon, no one responds)

19 THE COURT: Okay. See you in the morning. Have
20 a good evening. The alternates, the three
21 alternates, cannot be the foreperson. It's got to be
22 put of the 12, okay.

23 (Whereupon, the jury exits the courtroom at 1:32
24 p.m.)

25 THE COURT: All right. Okay. Let's -- let's go

1 about a half hour or so then we'll, we'll start back
2 up, okay.

3 (Whereupon, the Court takes a short lunch)

4 (Whereupon, the Court goes back on the record at 2:18
5 p.m.)

6 THE COURT: All right. Okay. We're back on the
7 record. Let me just cover a couple things that we
8 did prior to today, pre-trial. First of all, the
9 defense agreed to have the ER doctor testify
10 virtually from New Zealand. Mr. Frick, you still
11 consent to that?

12 MR. FRICK: That's correct. It's my
13 understanding he's not going to opine about anything.
14 I know they gave me his CV, but I guess that was
15 just so I knew he was a doctor.

16 MS. McINNIS: Yeah. He's, I mean, he's just --
17 he's a fact witness the last time I had him.

18 THE COURT: Yeah.

19 MS. McINNIS: Qualified as an expert which is why
20 I had the CV sent just out of abundance of caution.

21 THE COURT: Okay.

22 MS. McINNIS: But he's a fact witness, no, no
23 expert opinion.

24 THE COURT: And then secondly, initially, I
25 ordered that the two blood analysis people,

1 Pennsylvania, I think, had to come and testify in
2 person. But then when we got back together after the
3 defense learned of, essentially, their involvement
4 and what they would testify to without actually
5 consenting, but without opposition, the two blood
6 analysis people will testify virtually at some point
7 in time, is that correct?

8 MS. McINNIS: That's correct, judge. And the
9 other thing that played into that, the person who
10 actually did the interpretation, Dr. Demi Garvin, is
11 willing to testify in person.

12 THE COURT: Right.

13 MS. McINNIS: And I think that, I don't want to
14 put words in his mouth, but I think that factored
15 into the decision by all parties that the virtual
16 testimony on behalf of the witnesses that merely
17 completed the testing would be sufficient since the
18 expert will be here in person.

19 THE COURT: Okay. Correct, Mr. Frick?

20 MR. FRICK: Yeah. Let me clarify my position on
21 this, and you correctly stated I'm not conceding the
22 position, however, I understand it's in a different
23 posture given what I'm told the analyst ---

24 THE COURT: Right.

25 MR. FRICK: --- from where the heck they're from,

1 do. It's my understanding that a slide of whatever
2 the specimen is, is produced. They put it into a
3 machine. Press the button. The machine spits out a
4 report. And that's all they do.

5 THE COURT: Right.

6 MR. FRICK: And then the other analyst is the
7 person who interprets the results of whatever that
8 machine said. So....

9 I'm not as strenuously objecting ---

10 THE COURT: Right.

11 MR. FRICK: --- to them not being here because I
12 understand quite honestly I don't know exactly what I
13 would ask them about ---

14 THE COURT: Right.

15 MR. FRICK: --- because I'm not asking him about
16 methodology because apparently they don't know
17 anything about methodology. They just show a report.
18 So that, that is my position. Not conceding it.

19 THE COURT: Right.

20 MR. FRICK: But I do understand it's in a
21 different posture sense that they really just produce
22 a report but don't do anything with it.

23 THE COURT: Right. Right. And back on the 16th
24 when I initially ruled that they had to come testify
25 in person, I think, at least I was kind of unaware of

1 exactly what they would be, what their involvement
2 was and what they'd testified to. So they're going
3 to be allowed to testify virtually at some point in
4 time. And then that leaves what we need to put on
5 the record is the defense filed a motion for
6 severance to sever the six unlawful neglect charges
7 from the homicide by child abuse and
8 whatever you need to put on the record. And, of
9 course, you have filed a written motion ---

10 MR. FRICK: Yes, sir.

11 THE COURT: --- to that effect. But anything you
12 need to put on the record, I'll be glad to let you do
13 that at this time.

14 MR. FRICK: Judge, as I stated in our virtual
15 hearing, I look at State v. Tucker 324 S.C. 155, and
16 I think we had that for the hearing and y'all got it.
17 I'm really just looking at the fourth prong, "no real
18 right of the defendant has been prejudiced" because,
19 obviously, the case comes out of the same children in
20 the same house where this death resulted. It's the
21 same defendants. It's the same allegations. So I
22 don't think I can meet the prongs on the first three.

23 THE COURT: Right.

24 MR. FRICK: My concern and when I filed this
25 motion and requested severance is just the volume of

1 cases I feel like it is prejudicial, overly
2 prejudicial just because we have already a deceased
3 child that is alleged to have died due to neglect and
4 then when we add on top of that six more children,
5 it's just overwhelming. And I'm afraid that the jury
6 would just look at it and say, oh, he's guilty of
7 something because he's got all these charges. So
8 that's, essentially, what my argument on that is,
9 that it does affect a real right of the defendant
10 that it may allow the jury to reach a conclusion on
11 an improper basis just because of the sheer number of
12 charges and the particular allegations.

13 THE COURT: Okay. All right. Thank you, Mr.
14 Frick. Solicitor, you want to put anything on the
15 record on this severance issue?

16 MS. MCINNIS: Judge, we, you know, we relied
17 mostly on the arguments we made the virtual hearing
18 last week, ah, just pointing out that in the vast
19 majority of the cases, both the ones that the defense
20 handed up as well as the ones that the State handed
21 up. There are much cases that have far less, I
22 think, value on the first three prongs where they
23 don't find prejudice to the defendant. So that's
24 kind of the main thing that we, I would rely on going
25 forward in this particular case. Judge, I think the

1 Courts have shown that the first three prongs that
2 they're really hanging their hat on when looking at
3 motions to sever. And again, these are -- we would
4 be calling the same witnesses. There's no additional
5 witnesses that we're calling for the neglect charges
6 versus the homicide charge. And just, I think, the
7 judicial economy as far as keeping them all in the
8 same trial it makes more sense. And we rely on the
9 argument we argued last week.

10 THE COURT: Okay. Well, as I indicated to, to
11 the lawyers in my email of last week denying the
12 severance motion. The, ah, a total of, of nine
13 cases were presented to the Court some of which
14 provided by the State, some by the defense and then
15 we, law clerk came across one case. All nine cases
16 upheld the trial judge is denying a motion for
17 severance and as I stated in the email some of the,
18 some of the cases I thought were weaker basis to deny
19 the motion as compared to this case. I thought that
20 was important. And I thought McGaha, State versus
21 McGaha was important that you can approach it from a
22 viewpoint if the charges that were requested to be
23 severed if they could come in under a 404 Lyle basis,
24 then that would even further support the finding of
25 more probative value than unfair prejudice. And I

1 think it's important that the same witnesses will
2 testify as to all the charges. So based upon that I
3 find that there was no unfair prejudice outweighing
4 probative value and that was the reason for denying
5 the motion.

6 Okay. What we have left is, we have three
7 motions left for the Court's consideration. One, and
8 these are defense motions, to exclude autopsy
9 photographs.

10 Secondly, for a Jackson v. Denno review of the,
11 and I think what's in contention is the interview
12 statement by the defendant done at the hospital as
13 opposed to after the arrest at the police station, if
14 I'm not correct on that I need to be so informed.

15 And then lastly, a motion to suppress evidence
16 due to insufficiency of the subject search warrant.

17 So on the autopsy photographs, of course, what
18 I'm going to need to look at are those photographs
19 that the defense is objecting to.

20 Secondly, I have on the, ah, I have reviewed the
21 interview at the hospital and I'll certainly take
22 arguments on that. And then, of course, I'm going to
23 need to hear from you on the, on the search warrant
24 issue.

25 So Mr. Frick, these are your motions. Which one

1 do you want to address? And again, I want to
2 conclude today at a time that's still going to give
3 you sufficient time to review the cell phone issue
4 that we talked about so....

5 MR. FRICK: Yes, sir. Yes, sir. Let's start
6 with the Denno issue.

7 THE COURT: Okay.

8 MR. FRICK: Judge, as I see it there are three
9 potential statements in this case. The interview at
10 the hospital. The interview in May when they're at
11 the sheriff's department. I think, it's at the
12 sheriff department ---

13 MS. McINNIS: The police department.

14 MR. FRICK: The police department. And then
15 there is a third that's a re-enactment. Now, I think
16 the State says they're not going to show the re-
17 enactment ---

18 THE COURT: Right.

19 MS. McINNIS: That's correct, Your Honor.

20 MR. FRICK: Okay. So that will resolve that
21 issue. The one at the police department I can
22 concede my client is Mirandized and does appear to
23 understand everything that's going on. It is -- it
24 is in May. It is well outside of the time frame when
25 he is under the stress of the event, obviously, still

1 weighing over him, but we're much removed unlike his
2 situation at the hospital. So I believe his
3 statement in that particular circumstance is
4 voluntary so I don't know if we necessarily need to
5 have a Denno hearing on that one.

6 THE COURT: Right.

7 MR. FRICK: The one that I do have an issue with
8 and, quite frankly, judge, I don't know whether this
9 is considered a "statement or not". They are at the
10 hospital right after the child had ---

11 THE COURT: What month was that?

12 MR. FRICK: February.

13 THE COURT: Okay.

14 MR. FRICK: It was actually the day of the event.
15 They had taken the child to the hospital. The child
16 had been declared deceased. And then they began
17 interviewing mom and dad. And it was several members
18 of law enforcement. You had SLED there. You had,
19 the police department was there. I think a couple
20 people from police department were there. Coroner
21 was there. DSS was there. If I didn't say SLED,
22 SLED was there. So there's a lot of law enforcement
23 or law enforcement like people all in a room and as
24 you notice my client is sitting against the wall in
25 the room and everybody else is kind of around him at

1 the door so no one read any Miranda. No one told
2 them that they were looking for charges. I mean, it
3 was -- it's -- in my mind it's kind of a unique
4 situation that I just have not seen where you've got
5 all these members of the government who are inquiring
6 with my client what happened and what led up to this
7 event. So I do believe it is a elicited statement.
8 I do not believe that a reasonable person would
9 believe that you could just get up and walk out of
10 the room at that time with all of those officials in
11 there. So I do think any statement that was elicited
12 should have been subject to a Miranda warning
13 because, of course, it's liable to be used in court.
14 So I think that does make it testimonial for whatever
15 that may be worth, and it should have been
16 Mirandized, and since it was not it should be
17 excluded.

18 THE COURT: Okay. All right. Thank you, Mr.
19 Frick. Solicitor?

20 MS. MCINNIS: Your Honor, respectfully, I would
21 disagree with part of this analysis in that I think
22 the trigger impact from Miranda traditionally with
23 the Miranda case, itself, and some progeny, Your
24 Honor. And I just did this research over lunch
25 because I didn't realize that's what he was objecting

1 to, I would note that under State versus Doby, State
2 versus Neely, and State versus Easler, Easler was
3 overruled on other grounds but it has the same
4 principles. It all focuses on, because Miranda is
5 only triggered if the person is in custody or
6 reasonably they should be. Those cases all talk
7 about that if they are in custody then they weren't.
8 The mere fact of the matter is this does not take
9 place as many of the other cases, um, State versus
10 Evans is one, I think from the top of my head, where
11 a young woman was being investigated in an arson
12 case, and I think that actually she had several
13 children that died too, and she was brought down to
14 the police station. She was escorted around the
15 police station. She was not allowed to leave. She
16 didn't have transportation back and forth and things
17 of that nature. And, ultimately, they finally
18 advised of her rights and arrested her that day.

19 In this case this is much different. This took
20 place at the hospital, yeah, shortly after the child
21 died. The timing, Your Honor, I don't think triggers
22 Miranda in any way. It's a matter of whether or not
23 he was in custody or had a reasonable perception, of
24 a reasonable man, not necessarily his, which the
25 cases talk about that he was in custody. He and his

1 wife or fiancée, I guess it would be a better way to
2 put it, the mother of the child, both were able to
3 get the hospital on their own that day. They were
4 there because the child was being worked on. And, of
5 course, the child was pronounced dead. Shortly after
6 that the coroner's office came to the hospital and
7 initiated this conversation with the defendant and
8 his wife. What we did not submit, Your Honor, is
9 there is a prior conversation with the wife that they
10 just talked to them separately. They're in a
11 hospital room at a hospital. Subsequent to talking
12 to him, and him responding to their questions because
13 they're trying to get the timeline about what went on
14 with the child because at this point it's a
15 suspicious death. It's just a 14 month old that died
16 and we don't know the reason. This is a 14 month old
17 that died and she did have a big bruise on her
18 forehead. But at that point, there's no known cause
19 of death. They don't have any of the toxicology back
20 or anything of that nature so they are investigating.
21 However, the key to custody is in all these other
22 cases where there's a dispute over custody is
23 because, ultimately, the person is taken into custody
24 that day or placed under arrest. Neither of those
25 happened in this case. The defendant and his, the

1 mother of the child, left together that day of their
2 own volition. And, in fact, they were in constant
3 contact with the coroner's office who was giving them
4 updates on the condition of the child, what caused
5 the child's death, and all that over the next several
6 months. And it's not until May 13th that they are
7 actually brought back in to respond to some more
8 questions. And at that point, they are advised of
9 their rights because this takes place at the
10 Lancaster Police Department, and they are advised of
11 their rights. But the initial thing, I don't know
12 how anyone could argue that he thought he was in
13 custody or was in custody because very simply, he
14 left. He wasn't under arrest. He understood what
15 they were asking about that they were just
16 preliminary questions that the coroner initiated.
17 And there's no doubt that a member from SLED, from
18 the Tality (sic) Team was there as well as a member
19 of the Lancaster Police Department. But the
20 coroner's office was leading, as they do whenever a
21 death occurs, the questioning in this case just
22 trying to get it back, kind of a time line on what
23 happened with this child over the days leading up to
24 her death. The ultimate issue, Your Honor, in these
25 other cases is they are taken into custody. They are

1 arrested. They are not allowed to leave. That's not
2 an issue here. There is no question and I don't
3 think the defense is going to argue, that he didn't
4 walk out of there that day and he was a free man
5 until he was arrested in May which is two and a half
6 months later.

7 So to say that Miranda should have been given is
8 somewhat disingenuous because in order for Miranda to
9 have to be done it has to be in custody. And there
10 even are cases to talk about even if you just give
11 Miranda that doesn't mean you're in custody should
12 the Miranda be faulty. So I would rely on the case,
13 the cases that I mentioned, Your Honor, and I'm sorry
14 I don't have copies.

15 THE COURT: That's okay.

16 MS. McINNIS: But I can or I can hand up you
17 copies. But very simply, Your Honor, everything was
18 done by the book in this case. They weren't under
19 arrest. They didn't have probable cause at that
20 point. They were just inquiring to try and figure
21 out what happened to this poor child that caused her
22 death. And they left of their own volition that day.
23 They went back to the house. They then met with
24 police at the house but they were never arrested, and
25 I don't think anybody's going to dispute this, for

1 two and a half or three months after this occurred.

2 So very simply, again, if you read the original
3 Miranda case and all its progeny it's got to be a
4 custodial interrogation of sorts.

5 THE COURT: Okay. All right. Thank you. All
6 right. Let's -- you want respond, Mr. Frick?

7 MR. FRICK: Just briefly, Your Honor.

8 THE COURT: Sure.

9 MR. FRICK: Your Honor, I'd certainly concede that
10 they didn't have a warrant in hand that day that they
11 were conducting an investigation into this suspicious
12 death and I think they termed it a suspicious death.
13 But my client did not get up and walk out of the room
14 because he said he was done with the interview. He
15 did not leave until they were done interviewing him,
16 and I think that's what makes it a custodial
17 interrogation.

18 Also, given the fact, judge, I mean, you've seen
19 the video. You've seen the dynamics of the room.
20 They put him at the back of the room. He wasn't at
21 the door. I think that is telling, in and of itself,
22 as to what a reasonable person would have thought
23 their ability to get up and walk out of the room was.

24 THE COURT: Okay. I probably want to look at -- I
25 looked at it, at the -- looked at the interview while

1 I was eating lunch and I probably want to take a look
2 at one more time before I make a ruling on it.

3 MS. McINNIS: And, judge, if you're inclined I
4 can provide the entire interview with the
5 introduction to both the defendant and the fiance as
6 well as the fiance's interview so you have the whole
7 picture rather than just the clip part if you would
8 like to see ---

9 THE COURT: Okay.

10 MS. McINNIS: --- that ---

11 THE COURT: --- what you provided to me is what
12 the State wants to put into evidence.

13 MS. McINNIS: Correct.

14 THE COURT: But you're saying there's some
15 additional prior to that ---

16 MR. FRICK: There's about fifteen minutes ---

17 THE COURT: --- that maybe give, put things in a
18 little more context for me.

19 MS. McINNIS: Correct.

20 THE COURT: Yeah. I probably would like to see
21 that.

22 MS. McINNIS: Yes, Your Honor.

23 THE COURT: And you're familiar with what she's
24 talking?

25 MR. FRICK: I know exactly what she's talking

1 about. Yes, sir.

2 THE COURT: All right. Even though that's not
3 coming in that may or may not help me in putting the
4 short version of the interview in context.

5 MS. McINNIS: One other thing, judge, I did leave
6 out is the reason they are in that room is that's a
7 waiting room that the hospital provides to relatives
8 and more patients are, you know, that are being seen.
9 So it's not that they chose this room. That's where
10 they were waiting ---

11 THE COURT: Certainly.

12 MS. McINNIS: --- to get news for their child and
13 that's why it took place there at the hospital. And
14 if we need to put up any testimony about the fact
15 that -- and I don't think he's contesting they drove
16 there themselves. They left that day. I mean, no
17 one was taken into custody that day.

18 THE COURT: Yeah. Well, I mean from all
19 indications it appears that a statement was
20 voluntarily made. I think the sole issue is whether
21 or not he was in custody and Miranda being required.
22 So I don't think I need to really have a traditional
23 Jackson v. Denno when we get officers to testify and
24 that sort of thing.

25 MS. McINNIS: I agree, Your Honor. And if I

1 could, I could maybe provide you some of these cases
2 later today.

3 THE COURT: Okay.

4 MS. McINNIS: If that's -- okay.

5 THE COURT: Well, as I've mentioned back in
6 chambers and you weren't privy to this, Solicitor
7 Campbell, ah, I mentioned a case State versus
8 Barksdale, wherein this judge got reversed finding
9 that Miranda was required and that the defendant was
10 in custody after being informed, or the officer
11 telling every, every other officer don't let the
12 person go anywhere. And I found based on that he was
13 in custody and, therefore, Miranda required.
14 However, the Court of Appeals differ with me and
15 found that he not withstanding the statement from the
16 arresting officer "don't let the defendant go
17 anywhere" they still found that he was not in
18 custody. So that's a -- that's a really -- that's a
19 pretty strong case for the State, but be that as it
20 may. I'll look at, look at it again.

21 All right. Now, we've got two other issues, the
22 autopsy photographs and the search warrant.

23 MR. FRICK: Let's go and take care of the search
24 warrant, judge. I'mma -- I put snippets but I'm
25 gonna give you a copy of the whole search warrant.

1 Judge, when, when law enforcement responded to this
2 scene initially they, somebody stayed on the scene.
3 They were securing this scene. I understand. But
4 -- but while everybody's at the hospital I think it's
5 after the child had deceased, they procured this
6 search warrant to search it and what I'm looking at
7 is where they're talking about the description of
8 property to be searched and the reason that the
9 property, ah, the property sought on the subject
10 premise. So I understand we didn't have a whole lot
11 of information when this, when we started here. And
12 as you see on there they, basically, say we're
13 looking for anything that would further this
14 investigation. I submit that that is a general
15 warrant. It's not specific enough. They should have
16 put in more details to say exactly what they were
17 looking for and why they were looking for in this
18 apartment. By simply saying a death occurred in this
19 apartment and we just need to look at it and see what
20 we need to find is not sufficient and is what is
21 prohibited by the Constitution of the Fourth
22 Amendment and the cases that come after that I've
23 cited in my brief. Judge, without more specificity I
24 think it's too vague. And what was procured by that
25 search warrant which was collection of a few items

1 but mostly photographs of the scene that those would
2 be fruit of the poisonous tree and should be, should
3 be suppressed.

4 THE COURT: Okay. All right. So this search
5 warrant was obtained in relationship to the hospital
6 interview the same day?

7 MR. FRICK: Yes, sir, it as.

8 THE COURT: Okay.

9 MR. FRICK: Technically, it was after midnight so
10 it was the next morning. But it was subsequent to
11 that interview and subsequent to the child's death.

12 THE COURT: And so what was obtained as a result
13 of the search warrant were photographs and then any
14 tangible evidence? MR. FRICK: They collect some,
15 some bedding and some other items ---

16 MS. McINNIS: Blanket and a bottle.

17 MR. FRICK: Okay.

18 THE COURT: Okay. Beddings, blanket ---

19 MS. McINNIS: No. No, not bedding. Just the
20 blanket and the bottle and the photographs. I've got
21 a copy of the return, judge, I can hand up.

22 THE COURT: There's probably -- is the return with
23 it, Mr. Frick?

24 MR. FRICK: It should be on it. My investigator
25 printed it off ---

1 THE COURT: It is. Photographs, blanket, and a
2 bottle. Gotcha. Okay. All right. Solicitor?

3 MS. McINNIS: Your Honor, luckily the defense in
4 his motion provided, stated a case, State versus
5 Williams which actually addresses this issue
6 beautifully and I would hand up a copy to the Court.

7 THE COURT: Okay. Yeah.

8 MS. McINNIS: About the specificity. And in that
9 case it's a drug case which you know many search
10 warrants are. But it talks about how that it needed
11 to be more specific. And they talk about and they
12 kind of go through a colloquially about the generic
13 search warrants which we've all seen. Kind of those
14 they generate for computer stuff and things of that
15 nature where they have the same language that's used
16 over and over. It's not what happened in this case.
17 In the State versus Williams case ---

18 THE COURT: Hold on just one....

19 (Whereupon, there is chaos in the holding cell)

20 THE COURT: Just hold that thought a minute.
21 Okay. It's calm down a little bit. Solicitor?

22 MS. McINNIS: May it please, the Court?

23 THE COURT: Yeah.

24 MS. McINNIS: Your Honor, in State versus Williams
25 they specifically are complaining about the fact that

1 during the search warrant they're searching for
2 certain items and it says, "illegal drugs", and
3 that's how they did it. They didn't specify what
4 drugs they were looking for, what drug paraphernalia
5 they were looking for. In this case, the search
6 warrant does specify that they're looking for any
7 evidence that has to do with, you know, anything that
8 may have happened to this child. Again, this is in
9 the early stages of the investigation at this point.
10 It's a suspicious death. It has not been confirmed
11 anything else. Your Honor, I think the police
12 department actually went above and beyond where they
13 needed to because I think they had probable cause to
14 go in and search and take photographs without a
15 search warrant, but they did it by the book. They
16 went and they got a search warrant based on the
17 information they had at that point which there's no
18 dispute that this one year old or 14 month old was
19 found dead in that apartment where she resided with
20 her mother and her father and her siblings. At that
21 point, they went and got a search warrant with that
22 information. They specified that they want to look
23 for things that have to do with anything that may be
24 involved in her demise. And it's specified in the
25 description of property sought. And, basically, you

1 know, are specific. It's not like this is just a
2 generic search warrant that says, oh, we're gonna go
3 in and see any evidence of a crime. They're
4 specific. It's any evidence of a crime that may be
5 relating to this one year old including bedding, you
6 know, diaper, things of that nature and that they
7 want to take photographs to preserve the scene and
8 that's the extent of what they did.

9 But ironically, in this case this is a case where
10 they did go the extra step and got a search warrant
11 before going into a crime scene where they would have
12 it perfect right, I think, as long as they had
13 probable cause to go in without a search warrant.
14 But they did do it the right way. So I feel like
15 that his argument just falls short. And the Williams
16 case I didn't look any further for any other cases
17 because it seemed to it kind of addressed that issue
18 just the way I wanted it to.

19 THE COURT: Okay. All right. And when they went
20 in the child had already deceased, is that correct?

21 MR. FRICK: Yes, sir.

22 THE COURT: Okay.

23 MR. FRICK: Yes, sir. I don't -- you've got the
24 search warrant, I think they put a time on it but I
25 think it was after midnight.

1 THE COURT: Yeah, eight -- yeah. It's 12:18.

2 MR. FRICK: Yeah. So -- and the child was
3 declared deceased about 10 o'clock.

4 Judge, the other thing I would add on that is in
5 the Williams case they said "when you go in for a
6 search for illegal drugs." Well, I think that is
7 fairly specific even if they weren't stating
8 specifically which drug they're looking for. But in
9 the last line of the reason for affiant's belief that
10 the property sought is on the premise says "this
11 search warrant is needed to search the residents
12 where the child was to further investigate the
13 child's death." I don't know how that could be
14 declared anything but broad and vague.

15 MS. McINNIS: But he ignores the first five lines
16 before that where they talk about how the child's
17 unresponsive, found dead. Fire personnel, they made
18 efforts to remove, they removed the child from the
19 apartment. Transported to MUSC. And the child was
20 declared deceased at 22:24.

21 THE COURT: Okay.

22 MR. FRICK: And that's just simply stating the
23 facts of the case, judge. That doesn't tell what the
24 probable cause is to get the search warrant but....

25 THE COURT: All right.

1 MR. FRICK: I think I beat this horse.

2 THE COURT: Okay. I'll -- I'll take a look at
3 this and let you know my ruling. And then lastly, we
4 have autopsy photographs. And again, I will need to
5 see those photographs that are in dispute.

6 MR. FRICK: Judge, I don't know which ones they
7 intend on introducing, quite honestly so....that's
8 kind of what part of my issue is.

9 MS. McINNIS: Your Honor, we're very cognitive of
10 the recent cases. Luckily, I believe there have been
11 some recent cases on this, specifically. We handed
12 up to both, you and defense counsel, State versus
13 Hayward and State versus Benton as well as two cases
14 where they talk about how certain photographs should
15 not come in. Specifically, in the Jones case which
16 was death penalty tried down in Orangeburg where
17 there was some children were killed. And then there
18 were photographs, I believe, of a decomposing bodies
19 of the children. They were entered into evidence in
20 that case. And they said, and repeatedly upheld
21 that, you know, just not put in things that don't
22 have anything to do with the case. In this case, the
23 autopsy was performed the next day. There was no
24 decomposition involved. We are not attempting to put
25 in - she was, of course, had a full autopsy done. We

1 aren't intending to put in any photographs of her
2 being cut up or anything of that. However, in this
3 case it is a neglect case. This case is about
4 starvation and dehydration. The appearance of the
5 child is crucial. They, basically, how she appears
6 and how she is photographed just simply there at the
7 autopsy. We would limit it to about three to four
8 pictures ---

9 THE COURT: Okay.

10 MS. McINNIS: --- which we would provide to the
11 Court. And I will be glad to put in the other 20 or
12 30 that we have that we are not going to offer just
13 to show her generalized condition. Because part of
14 the State's theory in this case is that as the
15 father, the fact that this child was starved over a
16 period of time. Her weight was, was, I mean, she was
17 10 pounds underweight. She only made 14 pounds at 14
18 months. Things of that nature and everything. It
19 would have been obvious to anyone that she required
20 some medical assistance let alone not just anyone but
21 her parents. And, therefore, we would, and we'll be
22 glad to show Mr. Frick, we will limit it to ones that
23 don't show any kind of cutting on the child or
24 anything of that nature. But just to show her face
25 and her body both front and back.

1 In addition to that, the only other photos we may
2 want to put in are some that are close ups of her leg
3 and different areas where she had defecated on
4 herself and it had dried up and been on her,
5 obviously, for a while at the hospital. But I'll be
6 glad to show him those. And again, I will tell you
7 we will limit it. We know we cannot put in any
8 cumulative ones and we will limit it just to show,
9 basically, the condition of the child and won't put
10 in duplicates or anything of that nature to make sure
11 that we fall within the confines of Hayward and all
12 these other cases that have recently come out. In
13 these cases such as Martucci and all these homicide
14 by child abuse cases which, unfortunately, they seem
15 to be a plethora of the case law now, they
16 specifically talk about how necessary it is for the
17 jury to understand the types of injuries, and in this
18 case, neglect, that was done to these children so
19 it's kind of a niche. But even more so we will stay
20 within the parameters of Hayward and all those other
21 cases because Hayward was just a straight murder
22 case.

23 THE COURT: Okay.

24 MR. FRICK: So we will be glad to get with Mr.
25 Frick. I don't want to take your time ---

1 THE COURT: Yeah. Well, let's do this, if you
2 can. It may be helpful and I'm not suggesting that
3 once the State shows defense what photographs they
4 intend to put in that the defense is going to change
5 their position. But it may be good if we take a very
6 short break and I want to get you out of here soon so
7 you can start looking at the cell phone stuff. But
8 solicitor, if you would provide Mr. Frick what you
9 intend to put in. And I would like to see the stack
10 of photos that you're not putting in just for ---

11 MS. McINNIS: Yes, sir. We'd like to do that.

12 THE COURT: --- kind of comparison and then,
13 certainly can hear, can hear arguments. Let's take a
14 real short break and show that to defense counsel.
15 (Whereupon, the Court takes a short recess)

16 MS. McINNIS: I'm handing up six photographs.
17 Three are actually of her head area but they're from
18 different angles.

19 THE COURT: Okay.

20 MS. McINNIS: Just to show that even if you would
21 say that this child was clothed and you couldn't see
22 the other extremes you could see the fact that, you
23 know, in her face - one of them is a full on of her
24 face. The other one shows the side view. And then
25 the third one shows the actual bruise on the

1 forehead. And then the other three is one of the
2 back. One a full frontal. And then one from the
3 side just because then you can see how emaciated she
4 is.

5 THE COURT: Okay. Let me just take a quick.

6 MS. McINNIS: And I let the defense counsel review
7 those. Your Honor, I also handing up an additional
8 55 other pictures we are not seeking to introduce
9 from the autopsy.

10 THE COURT: Okay. All right.

11 (Whereupon, the Court takes a moment to look over
12 pictures)

13 THE COURT: Okay. Mr. Frick?

14 MR. FRICK: Your Honor, it has not changed my
15 position. I believe ---

16 THE COURT: I didn't think it would but....

17 MR. FRICK: Sometimes it does. This particular
18 case, judge, I mean, I think it's an understatement
19 to say that these pictures are difficult to look at.

20 THE COURT: Yeah.

21 MR. FRICK: Judge, I just -- I think that they
22 can make a full presentation of their case through
23 the pathologist. They're going to elicit testimony
24 that, that their pathologist opines a 14 month old
25 child starved to death. I have enough difficulty

1 mounting a defense to help my client out against
2 those charges with that alone. With these pictures,
3 I am afraid that they will simply convict him just
4 based on looking at the pictures.

5 Judge, this -- and I understand they've limited
6 them. They were a lot and I've seen all of them.
7 But that's still a large number of pictures to see
8 this very tragic situation. Judge, I would ask and
9 I'm not conceding anything, I'm asking you not to
10 introduce any of these. But if you do allow them in,
11 there are a few on there that have a picture of her
12 pubic area, I would ask that that be cropped so we do
13 not have to see that.

14 THE COURT: Sure.

15 MR. FRICK: I certainly understand that in the
16 pathologist mentions the the Mons pubis was, was,
17 was, was prominent and that was a noted thing so I
18 understand the State would argue, well, that's what
19 the pathologist talked about. And I think they
20 wanted to talk about the feces the child had on her.
21 But, judge, I don't -- I think we can describe that.
22 I don't think we need a visual of that.

23 Further, judge, I would ask that if you do
24 introduce any of these cropped, not cropped, whatever
25 the judge decides that they not be published on these

1 screens. I would prefer they just be handed to the
2 jury, quite frankly, but I certainly don't want to
3 see them up on a '70 inch screen so everybody in this
4 court room, including my client, does not have to be
5 subjected to seeing that.

6 THE COURT: Okay.

7 MR. FRICK: I think it's only appropriate that
8 the jury be the ones that see it in this case. I
9 know they did that in another trial down in the low
10 country where they kept it, only the jury could see
11 the picture. So I think there is precedent to allow
12 for that even though I know this is a public forum.
13 But I think in this particular circumstance that ---

14 THE COURT: Yeah.

15 MR. FRICK: --- it's not appropriate for those to
16 be displayed.

17 THE COURT: And more than likely before I make a
18 ruling I may
19 require some in camera testimony from the, from the
20 pathologist. You know, several things that, that I
21 look at, one, is will the photographs benefit the
22 pathologist in describing his or her work up in this
23 case? Are the photographs necessary for the
24 pathologist to describe what he or she did and found?
25 So that's one thing to look at.

1 Two, I had a murder case in Laurens back in
2 March, I think it was, and the cause of death was not
3 in dispute. What was in dispute that the defendant
4 claimed he didn't do it. But because the cause of
5 death was not in dispute, I did not allow any autopsy
6 pictures to come in because it was really
7 unnecessary. The lady died by strangulation and
8 there were photographs showing the, the, the marks on
9 her neck and that sort of thing. I didn't allow any
10 of those to come in. So there's, there's several,
11 you know, factors that, ah, several issues I need to
12 look at before I make a ruling. So more than likely
13 we're just going to hold - and I probably, before I
14 leave, if you can just make me, I know these are
15 color, just so I can hold on to them - make me a copy
16 of these so I just have these and....but more than
17 likely that's, ah, I won't make a ruling until the
18 pathologist testifies.

19 MS. McINNIS: That's fine, Your Honor. But
20 again, I would just reiterate, one of the -- in this
21 case because it is an unlawful neglect case and the
22 homicide is by neglect, the fact that the parents
23 didn't recognize that this child needed help ---

24 THE COURT: Right.

25 MS. McINNIS: --- is crucial to our case.

1 THE COURT: Sure.

2 MS. McINNIS: So seeing the child as she appeared
3 at death ---

4 THE COURT: Right.

5 MS. McINNIS: --- is very important to our case.

6 THE COURT: Sure. I understand. I understand
7 exactly the State's position. Okay. All right. So,
8 basically, what, what I need to take a look at is
9 what to do with the February interview at the
10 hospital on the sole issue of whether or not Mr.
11 White was in custody. Look at whether or not search
12 warrant was too vague and whether or not suppress
13 what was found. And three, the autopsy photos. So
14 those are three issues that I'm just going to hold on
15 to and make a ruling at the appropriate time.

16 MR. FRICK: Your Honor, I just had a couple other
17 things I wanted to address. I'm not making motions.
18 I'm just trying to figure out where we, where we are
19 on these. There are, and we discussed this earlier
20 this morning, there are not as many body cams as we
21 get in a lot of cases, but there's still some body
22 cams. I would just like to know what they intend to
23 show because a few of these body cams on the scene
24 show law enforcement doing CPR on the child.

25 THE COURT: Okay.

1 MR. FRICK: So that would go along with my issues
2 with the autopsy pictures, and there are some other
3 things on there that are probably prejudicial that
4 I'd like to parse out. But I just don't know what
5 they intend to introduce as far as body cams.

6 THE COURT: Okay. Can you let, I don't know if
7 you can do it now, or....provide Mr. -- Is any of the
8 body cam going to be redacted in some fashion?

9 MS. McINNIS: At this point, we would intend to
10 introduce Paul Blas, who is the I think the first
11 officer on the scene. And there is depiction in that
12 of the child receiving CPR and treatment in the
13 ambulance. And then Brian Smalls body cam in which
14 they search the house and take photographs. I think
15 it does a more complete job of showing the layout of
16 the house, things of that nature, doing photographs
17 alone. And then the, the
18 clipped body cam of the interview at the hospital as
19 well as the interview room from the police
20 department.

21 THE COURT: Okay.

22 MS. McINNIS: I think at this time that's all we
23 intend to introduce. I don't want to be locked into
24 that.

25 THE COURT: Right.

1 MS. McINNIS: But at this time, I believe that's
2 all.

3 MR. FRICK: I'm just asking for a road map so I
4 can know what to be looking for.

5 THE COURT: Okay. All right. Okay. Sure.

6 MS. McINNIS: And again, I can provide if, Your
7 Honor, wants since you'll have some down time this
8 afternoon, I can provide Paul Blas's body cam so you
9 can watch it and make a ruling based on having seen
10 it. It's 17 minutes long. That'll avoid us having
11 to ---

12 THE COURT: Well, yeah, I'm not hearing at this
13 point in time if Mr. Frick is moving to suppress any
14 of that. I think he was just asking just what was
15 intended to be offered.

16 MR. FRICK: I would if they're intending to show
17 Blas's whole body cam because it does portray him
18 standing over the child while workers are performing
19 CPR on her.

20 THE COURT: Yeah. Yeah.

21 MR. FRICK: So I would ask that, that be redacted
22 from that. I don't recall if there's anything else.
23 I mean, we talked about some weed in Brian's but
24 that's -- I would ask for that, but that's between
25 us.

1 THE COURT: Well, I typically, as far as, you
2 know, video of CPR being done on the, on the victim I
3 usually don't allow that in. I'm not saying I'd do
4 the same in this case. But, you know, certainly if
5 an EMS personnel or law enforcement personnel
6 whoever's doing the CPR can say, yeah, I attempted
7 CPR on the, on the child for whatever amount of time
8 and here's what my CPR consisted of, and leave it at
9 that. Usually, I find that a video that's not really
10 necessary. But I'm not shutting the door completely.
11 All cases are different. But that's, that's just
12 generally how I rule on, on body cam videos of CPR.

13 MS. McINNIS: Okay.

14 MR. FRICK: Right. And I would add she is nude in
15 that as well so I think that is an added factor ---

16 THE COURT: Yeah.

17 MR. FRICK: --- to that. It's not just CPR where
18 she's wearing her pajamas.

19 THE COURT: Yeah. Yeah. Well, and again ---

20 MS. McINNIS: Well, she was nude because that's
21 how the defendant and co-defendant left her in her
22 crib alone, you know ---

23 THE COURT: Well, and again, the EMS person say,
24 yeah, when we got there she was nude. I mean, yeah,
25 you could, you could probably accomplish the same

1 thing without, without photographs. I think -- I
2 think autopsy photographs versus body cam showing are
3 really to be treated differently.

4 MS. McINNIS: Mmm, hmm.

5 THE COURT: So -- but now, you know, if the State
6 is opposed to my leaning towards keeping that out,
7 then, certainly I'll, you know, I'll hear you out or
8 take a look at it or whatever you want me to do.

9 MS. McINNIS: If I can provide it for you to look
10 at this afternoon, watch this afternoon ---

11 THE COURT: Sure.

12 MS. McINNIS: --- while Mr. Frick prepares his
13 cell phones and maybe we can address this tomorrow
14 morning before we swear the jury in.

15 THE COURT: Okay. All right. And that would be
16 the body cam video. What's the officer?

17 MS. McINNIS: Paul Blas, B-l-a-s. And as far as
18 -- I know you're holding the autopsy photos in
19 abeyance, but as far as the rest of the motions,
20 should we expect to have rulings on those prior to
21 swearing the jury tomorrow?

22 THE COURT: Yes.

23 MS. McINNIS: Okay. Very good. Thank you,
24 judge.

25 THE COURT: But, yeah, the autopsy I just really

1 want to hold off until we get the pathologist in.

2 MS. McINNIS: Yes, sir.

3 MR. FRICK: Judge, one more thing I wanted to
4 address is there are a couple of forensic interviews
5 with children in this case. I don't know -- we're
6 not playing those?

7 MS. McINNIS: No, sir.

8 THE COURT: Okay. That takes care of that issue.
9 And then Friday I was provided some pictures of the
10 children now.

11 MS. McINNIS: Mmm, hmm.

12 MR. FRICK: Are y'all -- what are you propose to
13 do with that?

14 MS. McINNIS: We don't know. We don't know where
15 you're going.

16 MR. FRICK: I gotcha.

17 MS. McINNIS: It depends on ---

18 MR. FRICK: I understand.

19 MS. McINNIS: I can't ---

20 MR. FRICK: We're playing poker on that one.

21 MS. McINNIS: Yes. Yes.

22 THE COURT: Okay. All right. So I think we know
23 exactly where our game plan is in the immediate
24 future. So if I could just get -- Carol, could you
25 make me a copy of these ---

1 THE CLERK: Oh, certainly.

2 THE COURT: --- and then give these back to --
3 and then ---

4 (Whereupon, the Clerk provides copies to the Court)

5 MS. McINNIS: Judge, can we make those Court's
6 Exhibit?

7 THE COURT: Yeah. Make the Court's -- well, we
8 probably since it's a pre-trial, we probably need to
9 make ---

10 MS. McINNIS: Make them both?

11 THE COURT: --- both Court's exhibit and if those
12 come in, those six come in, then we can put a new
13 sticker on them.

14 MS. McINNIS: Okay.

15 THE COURT: Yeah. Okay. All right.

16 COURT REPORTER: What were we doing? I'm sorry.
17 What am I doing?

18 LAW CLERK: Making two Court's Exhibits.

19 THE COURT: Yeah. Just make -- yeah, two Court's
20 Exhibits.

21 COURT REPORTER: Okay.

22 (Whereupon, the Photos (55) has been marked and
23 entered into evidence as Court's Exhibit No. 1)

24 (Whereupon, the Photos (6) has been marked and
25 entered into evidence as Court's Exhibit No. 2)

1 THE COURT: All right. If there's nothing further
2 at this time, we'll go off the record.

3 MS. McINNIS: Thank you, judge. And do you want
4 to try and reconvene at the end of the day today
5 about the cell phone, whether William needs further
6 time? Or tomorrow morning? Or....

7 THE COURT: Well, I imagine -- well, I don't know
8 how long it's going to take you William to take a
9 look at this. Let's -- I'll plan on getting here
10 about nine or so in the morning and let's just take a
11 look at everything then.

12 MS. McINNIS: Yes, sir.

13 (CONCLUSION OF HEARING HELD ON AUGUST 26, 2024)

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CERTIFICATE

I, the undersigned, Lisa S. Carter, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the in-chambers hearing of the captioned cause, relative to appeal, in the Sixth Circuit for Lancaster County, South Carolina, on the 26th day of August, 2024.

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

s/ Lisa Carter

Lisa Carter

Circuit Court Reporter

May 2, 2025

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
COUNTY OF LANCASTER	)	CASE NO. 2021-GS-29-02056,
	)	-02057, -02058, -02059
	)	-02060, -02061, -02062
The State of South Carolina,	)	
Plaintiff,	)	
vs.	)	Transcript of Record
David Demias White,	)	
Defendant.	)	

August 27, 28, 29, 2024

B E F O R E:

The Honorable Donald B. Hocker, Judge; and a jury.

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

Luc Campbell, Esq.
 Melissa McGinnis, Esq.
 Solicitors for the State

William Frick, Esq.
 Attorney for the Defendant

Cynthia D. Weaver
 Official Court Reporter

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11	S-189	Surveillance Video		116
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19	S-202	A.W. COVID test		340
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1	E-X-H-I-B-I-T-S			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>ADMIT</u>
3	S-209	Child 1 Appointments		366
4	S-210	Map Large Apartments		392
5	S-211	Map Large Apartments		392
6	S-212	Phone		443
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12	C-2	Autopsy Photos		
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14	C-4	Two Photos for Redaction		
15	C-5	Seven Photos Exam		
16	C-6	Transcript Interview Part 1		
17	C-7	Transcript Interview Part 2		
18				
19				
20				
21				
22				
23				
24				
25				

1 P-R-O-C-E-E-D-I-N-G-S

2 (WHEREUPON, the proceedings reconvened on Tuesday,
3 August 27, 2024, 10:40 a.m.)

4 THE COURT: Okay. Let's bring the jury out,
5 please.

6 THE BAILIFF: Jury's coming in.

7 (WHEREUPON, the jury entered the courtroom.)

8 THE COURT: All right. Let the record reflect the
9 jury's back in.

10 Good morning, ladies and gentlemen.

11 THE JURY: Good morning.

12 THE COURT: Before we go any further, I need to
13 ask you a question. There is a possibility that this case
14 could go into next week. I realize Monday is Labor Day. We
15 certainly would not work on the weekend. Does anybody have
16 any sort of scheduling issue if it did go into next week,
17 which would mean starting on next Tuesday? Anybody? Got
18 one. What sort of scheduling issue would you have?

19 Let me just go -- just identify yourself please,
20 ma' am, number is fine.

21 JUROR: Juror 81, I have plans for Friday and so
22 like I'm talking about Friday.

23 THE COURT: Okay. So you're talking about Friday
24 of next week?

25 JUROR: Of this week, actually like Friday.

1 THE COURT: Okay. Why you didn't mention anything
2 to me about that?

3 JUROR: I'm sorry, I just didn't know that I was
4 supposed to.

5 THE COURT: Next week.

6 JUROR: But next week I don't have it anything.

7 THE COURT: Okay. All right. Who else raised
8 their hand? Yes, Sir, your number?

9 JUROR: 179.

10 THE COURT: Okay.

11 JUROR: I have an auditor coming in on Tuesday.

12 THE COURT: Tuesday. And is that something could
13 be rescheduled?

14 JUROR: I can call and try to get it rescheduled.

15 THE COURT: All right. Because what I'm going to
16 do once I hear from you about next week, then I'm going to
17 send you back to the jury room and so maybe you can make a
18 call then, okay? All right. So I got two.

19 Your number, ma' am?

20 JUROR: 147.

21 THE COURT: Okay.

22 JUROR: Next Friday I will be going out of town
23 for that weekend.

24 THE COURT: Okay. So a week from this Friday?

25 JUROR: Yes.

1 THE COURT: Okay. All right. So we'll be okay.

2 Anybody else raise their hand? Okay.

3 Yes, ma'am.

4 JUROR: 151. I'm self-employed, so I do hair, so
5 being here for a week anyway is kind of a stretch because
6 who's paying my bills?

7 THE COURT: All right. Good. All right. So
8 four. So you're going to make a call to see if it can be
9 rescheduled. And then you have an issue for this Friday.
10 Can that be changed or anything?

11 JUROR: I don't -- I don't know, I believe so.

12 THE COURT: Okay. All right. Just go back to the
13 jury room, we'll get you back out shortly.

14 Thank you.

15 (WHEREUPON, the jury exited the courtroom and a
16 brief pause in the proceedings held.)

17 THE COURT: All right. Are we ready for the jury?

18 MS. CAMPBELL: Yes, sir.

19 THE COURT: Okay. Mr. Frick, are you ready?

20 MR. FRICK: Yes, sir.

21 THE COURT: Let's bring the jury out.

22 THE BAILIFF: Yes, sir.

23 MS. CAMPBELL: Your Honor, one matter just before
24 opening.

25 THE COURT: One minute, Nolan.

1 MS. CAMPBELL: We had discussed yesterday that the
2 co-defendant in this case who was charged under Hand of One,
3 Hand of All theory with homicide by child abuse and the
4 other six counts of unlawful conduct was Shaquanda Page.
5 She pled guilty about a year and a half ago and has been
6 sentenced and her case is concluded.

7 I had discussed with Mr. Frick earlier how, this
8 kind of like the elephant in the room, you know, because
9 both of them -- I mean, we're going to mention that both of
10 them were charged.

11 THE COURT: Right.

12 MS. CAMPBELL: And I didn't know how, you know, I
13 asked him how he wanted me to address that. Did you want me
14 to say that she had already been convicted? Did you want me
15 to say, you know, that she has been convicted and sentenced
16 or that she has had her day in court? I just don't want to
17 violate anything and cause a mistrial.

18 THE COURT: Sure. Okay. Mr. Frick, how would you
19 propose Ms. Page being handled?

20 MR. FRICK: Your Honor, I've seen stuff on both
21 sides of this case. I've seen cases that said the State
22 introduced it and that prejudiced the Defendant. But it
23 also gives me someone else to point at.

24 THE COURT: Right.

25 MR. FRICK: So I will tell the Court I have been

1 trying to figure this out. I just inquired of Mr. White of
2 what he thinks and I think we are at the same accord. We
3 would say that she pled guilty.

4 THE COURT: Okay. Don't need to go into the
5 sentencing, but that she did plead guilty a year and a half
6 ago.

7 MR. FRICK: Or however you want to phrase it.

8 MS. CAMPBELL: I think that she's been convicted
9 would be --

10 MR. FRICK: Been convicted.

11 MS. CAMPBELL: -- more -- better than pled guilty,
12 I don't want to make an inference from that.

13 MR. FRICK: That's fine.

14 THE COURT: Yeah, I think the right, Solicitor,
15 convicted is --

16 MR. FRICK: I agree.

17 THE COURT: Okay. All right. Very good.

18 Let's bring the jury out.

19 THE BAILIFF: Yes, sir. Jury's coming in.

20 (WHEREUPON, the jury entered the courtroom.)

21 THE COURT: Okay. Let the record reflect the
22 jury's back in. Ladies and gentlemen, thank you for your
23 patience. We try our very best to avoid keeping the jury
24 back in the jury room for prolonged periods of time, but
25 sometimes it's just absolutely necessary. When you're back

1 there, that doesn't mean we're not working, okay? So thank
2 you for your understanding. Thank you for your patience.
3 And Ms. Gammon, you've been duly elected for lady of the
4 jury. And so we're going to proceed forward.

5 What we're going to do today, we're going to take
6 a short lunch break. We've got snacks back in the jury
7 room, but we're not going to go all day, okay. We're going
8 to break a little earlier than we normally do this
9 afternoon, okay.

10 So that's kind of the plan that we have. And of
11 course, we talked about the possibility of it going into
12 next week. We'll just kind of. We'll deal with that when
13 the time comes about. I appreciate several of you making
14 the calls, I know you made the call and you're good, and so
15 we'll just deal with that when it comes up.

16 All right. The first order of business is I need
17 to have the trial jury sworn in, Madam Clerk.

18 JURY SWORN

19 THE CLERK: Yes, sir.

20 Ladies and gentlemen of the jury, please stand and
21 raise your right hand, and I'll need a response, please.

22 You shall well and truly try and true deliverance
23 make according to the issues now joined between the State
24 and the Defendant and a true verdict rendered, so help you
25 God?

1 THE JURY: I do.

2 THE CLERK: You may be seated.

3 THE COURT: All right. Ladies and gentlemen, I
4 want to make just a few preliminary comments before the
5 lawyers give their opening arguments to you. It's very,
6 very important to be alert and attentive throughout this
7 trial. There's nothing more discouraging to a trial judge
8 to look over at the jury and see some people apparently not
9 paying attention. I've even had some jurors over the years
10 actually fall asleep and so get good rest at night and so
11 when you come in that you can be alert and attentive to what
12 is being presented to you.

13 As I mentioned yesterday, I don't allow jurors to
14 take notes. The reason why I don't allow that is that I
15 have found that when you're taking notes you're paying more
16 attention to the note taking than you are as far as what is
17 being presented from the witness stand. So even though when
18 you get the case to begin your deliberations, whenever that
19 may be, you're not going to remember, individually, you're
20 not going to remember everything, but collectively, you'll
21 have a good memory of everything presented to you. So be
22 alert, be attentive throughout this trial.

23 Secondly, keep an open mind. Don't pass judgment
24 early on. Wait till all of the evidence is presented to
25 you. Lawyers make their closing arguments to you. I charge

1 you -- I will give you the law that you are to use in this
2 case. So wait until all that's been done, you go back to
3 the jury room and begin your deliberations and share your
4 thoughts among yourselves. So keep an open mind as we go
5 through this trial.

6 Keep in mind, and I know lawyers will touch on
7 this in their opening, Mr. White is presumed innocent.
8 That's a legal presumption of innocence that everyone is
9 entitled to and he's entitled to that, certainly. And so as
10 he sits here, he is presumed innocent legally. And that
11 presumption of innocence remains with him throughout this
12 entire trial. And it's the burden on the State to prove him
13 guilty beyond a reasonable doubt. I'll explain all those
14 principles to you at the end of the case.

15 Your role in this case is to determine the facts.
16 Nobody can tell you what the facts are, you make that
17 determination. So you're the fact finder and I'm the Judge
18 of the law. Nobody can tell me what the law is in this
19 case. So you have a separate role from what my role is. So
20 keep that in mind.

21 Now, as I told you, I've given you several
22 instructions for you to follow. One of those instructions I
23 gave you yesterday is don't go on the internet or social
24 media and try to investigate or do any research into this
25 case. The reason for that is that your verdict, whatever

1 that verdict is, must be based 100 percent on what is
2 presented in this courtroom. If you're out doing some
3 research and you're getting certain information, while
4 chances are that information probably will be incorrect,
5 that information is not being presented to the rest of you,
6 it's not being presented in this courtroom. So that's why
7 you can't do any independent research on your own.

8 And I think I mentioned to you, unfortunately, I
9 had a case in Laurens several years ago where I had three
10 jurors, not just one, I had three jurors violate my
11 instruction and they Googled the defendant's name and
12 obtained some information that they shouldn't have. And
13 consequently, we were able to catch that in time. And, of
14 course, unfortunately, there are consequences for violating
15 Court's orders. So don't do it, okay?

16 And if at any time, as I told you yesterday, Madam
17 Forelady, if at any time during the course of this case, if
18 there's an issue arising, a question that needs to be asked,
19 just put it on a note and submit it to me and I'll try to
20 address it the best I can, okay?

21 Now, the lawyers are going to make their opening
22 arguments to you. Their arguments are not evidence in this
23 case. It's just what they believe that the evidence will
24 show and kind of give you an explanation from their
25 perspective from their side of the courtroom.

1 So, State ready for opening?

2 MS. CAMPBELL: State's ready, Your Honor.

3 THE COURT: Okay. You may proceed, Solicitor.

4 MS. CAMPBELL: May please the Court?

5 THE COURT: Yes, ma'am.

6 OPENING STATEMENT ON BEHALF OF THE STATE

7 MS. CAMPBELL: On February 22nd of 2021,
8 firefighters, EMS, police, all responded to [REDACTED] Pardue
9 Street to apartments there and tried desperately to
10 administer life saving procedures to A.W. [REDACTED] But
11 despite everyone's best efforts, this child never took a
12 breath after that 911 call, had no signs of life, and was
13 later pronounced dead.

14 After autopsy, it was determined that 14-year --
15 14-month old, 14-month old A.W. [REDACTED] literally died from
16 starvation, complicated by extreme dehydration. She had
17 literally died because she didn't get enough food and she
18 didn't get enough water to survive. The people responsible
19 for A.W. [REDACTED] and her siblings, I'll talk about them, were
20 her parents, Shaquanda Page and David White.

21 The parents that never took her to a doctor since
22 the day she left the hospital 14 months before when she was
23 born. The parents that never called 911 to get her the help
24 that could have saved her. As she lay obtunded, unable to
25 lift her arm, lift her head, and she struggled just to

1 breathe those last breaths.

2 The parents that neglected all their children,
3 Shaquanda Page and David White. Shaquanda Page has had her
4 day in court. She's been convicted. Today we are here for
5 the State versus David White. David White, A.W. [REDACTED]
6 father, and ladies and gentlemen, this is David White.

7 Now, my name is Luc Campbell and I'm an Assistant
8 Solicitor here in the Sixth Judicial Circuit. And I, along
9 with Melissa McGinnis, who's another Assistant Solicitor,
10 actually a Deputy Solicitor, will be presenting evidence
11 over the next several days, because that's our roles. And
12 the roles in this courtroom are defined and there's a
13 specific reason for that, but listen carefully to the Judge
14 because our role is just to present all the relevant
15 admissible evidence that you can hear as far as what
16 actually happened in the months, actually year, leading up
17 to A.W.'s death.

18 And the Defense role is very simple too, ladies
19 and gentlemen, he's to defend his client to the best of his
20 ability. And the Judge's role, one of the most important in
21 the court, he determines what evidence is actually
22 admissible that you can consider. And he rules on
23 objections and things like that which you will hear as this
24 trial goes on. But, ladies and gentlemen, the most
25 important role in this courtroom, no one will argue, is

1 yours. Each of you individually, and then once you get back
2 there, after you've heard all the evidence and heard what
3 the law is, you're to apply, that is your role. You must
4 determine what the facts are. What happened leading up to
5 A.W. [REDACTED] death on February the 22nd?

6 Now, in this case, the Judge will tell you, or has
7 already told you, that there are multiple indictments. And
8 you must consider each of these indictments separately, the
9 proof as to each indictment separately. That's what the law
10 says, and that's the way it should be. Because the burden
11 of proof is on the State of South Carolina to prove each and
12 every element of these offenses beyond a reasonable doubt,
13 as it should be. And ladies and gentlemen, in this
14 courtroom, in this case, with this evidence, I submit that
15 is a burden the State welcomes.

16 Now, what are the indictments that are before you?
17 The first indictment is one count of what we call homicide
18 by child abuse. It's a statute that was enacted under the
19 Code Section 16-3-85. And very simply, ladies and
20 gentlemen, I'll actually read it to you to make sure I don't
21 mess up anything, but very simply, in this case, as we go
22 along, you take the law as the Judge gives it to you in the
23 end, he's going to address you. So if anybody, either side
24 says anything different about the law, you remember to take
25 it exactly as the Judge charges you. And in that same vein,

1 as we go along, if either side argues facts, you are the
2 sole decider of the facts.

3 Now, homicide by child abuse. A person is guilty
4 of homicide by child abuse if he causes the death of a child
5 under the age of 11 while committing child abuse or neglect.
6 And again, child abuse or neglect, not both. It can be one
7 or the other. And the death occurs under circumstances
8 manifesting an extreme indifference to human life. And,
9 ladies and gentlemen, starving your child to death, I don't
10 care if you're the father or you're the mother, is extreme
11 indifference to human life.

12 Definitions, the Judge will tell you what is
13 considered to be child abuse or neglect? It means the act
14 or omission by any person which causes harm to the child's
15 physical health or welfare. So it can be an act or an
16 omission, a failure to act that causes harm to the child's
17 physical health or welfare. Harm to a child's health occurs
18 either when a person inflicts or allows to be inflicted upon
19 the child any type of physical injury or, and this is
20 specific, fails to supply the child with adequate food,
21 clothing, shelter or health care, and the failure to do so
22 causes physical injury or condition resulting in death.
23 That's the definitions that apply to homicide by child
24 abuse.

25 In this case A.W. [REDACTED] had six siblings,

1 brother, sisters. And they are all charged -- he is also
2 charged with unlawful conduct toward a child, we used to
3 call it unlawful neglect, they changed the terminology. And
4 under Code Section 68-5-70, unlawful conduct towards a child
5 basically says it is unlawful for a person who has charge or
6 custody of a child or who is the parent or guardian of the
7 child. And no one's going to get up here and argue that
8 David White's not the parent of all these children. Or
9 person who is responsible for the welfare of the child, to
10 place the child at unreasonable risk of harm affecting the
11 child's life, physical or mental health or safety, or to do
12 or cause to be done unlawfully or maliciously, any bodily
13 harm.

14 Those are some of the definitions I just wanted to
15 put out there so you can kind of be thinking of that as you
16 hear the evidence. Because what we say here today, what I
17 say, what Mr. Frick says, that's not evidence. It's the
18 testimony that's going to be coming before you.

19 Now, I want to talk a little bit about the facts.
20 Because it was February the 22nd of 2021. David White and
21 Shaquanda Page lived at [REDACTED] Pardue Street. They lived
22 there with their seven children, ranging in age from four
23 months, there were twins that were four-months old at the
24 time, to seven years.

25 On that night, around 9:45 p.m. a neighbor

1 actually made the 911 call to which the police and EMS
2 responded. And on that evening, around 9:45, when EMS,
3 firefighters and police got there, they found A.W.
4 lying in the kitchen, David White attempting to do some type
5 of CPR. They immediately rushed in to help. And as they
6 tried to help her, there was no pulse. There were no signs
7 of life. They tried desperately to resuscitate her. They
8 rushed her to the hospital. You will hear how when she got
9 to the emergency room, Dr. Vinuya, who was an emergency room
10 doctor, took over. He made repeated attempts to resuscitate
11 her. But by the time she got there, her limbs were already
12 cool to the touch. She never showed a sign of life. And
13 she was declared dead shortly after getting to the emergency
14 room.

15 At that point, different people became involved.
16 DSS became involved because there's an unexplained death of
17 the child. SLED, who has a special task force, became
18 involved. Law enforcement became involved. And at this
19 point, it's a suspicious death, because when looking at this
20 child it is very apparent and unfortunately you will have to
21 see a few photos depicting her condition that she was
22 extremely thin. It ends up she was over -- she weighed
23 approximately 14 pounds at 14 months, she should have
24 weighed somewhere between 22 and 25 pounds. She was
25 emaciated. She had a bruise on her forehead.

1 So law enforcement became involved, as they're
2 supposed to, to make sure that there could be and always in
3 all these cases, you must rule out any kind of natural
4 cause, because there can be diseases or other causes that
5 may be responsible for her condition. But the investigation
6 has to go on.

7 So they talked to the parents that night.
8 Specifically, you will be able to hear the actual recorded
9 interview with David White taken, done at the hospital
10 shortly after A.W. had been pronounced. And he tells them
11 that night that he was living there. And that over that
12 weekend, this actually occurred on a Monday, the 22nd is a
13 Monday, over that weekend, on Friday and Saturday that he
14 knew A.W. had been sick, but that she had been up and
15 walking like the day before. That actually a sister or
16 someone had come over to the house and she had smiled
17 faintly and taken a few steps, but then would fall down and
18 cry. But that she was fine. That she had a mild fever, but
19 they were treating it with Tylenol. That she was smiling.

20 He will tell you how on that Sunday he had gotten
21 off work. Is what he tells the police officers at that
22 point. And that evening A.W. wasn't eating or drinking.
23 Shaquanda, his fiancée, I believe, is he refer to her, had
24 gone and gotten her some apple juice and some Pedialyte and
25 that A.W. didn't really want it, she kind of threw the cup

1 down. But that they were treating her at home, because
2 again, she'd never been to see a doctor. That they gave her
3 Tylenol that night and they put her to bed.

4 You will hear how the next day he was home all
5 that night and he didn't work the next morning. That Monday
6 morning, it was a school day for their oldest child, she was
7 actually seven-years old, Child 1 that morning, Shaquanda
8 had gotten up with Child 1 had gotten her dressed, walked
9 her to the bus stop or to the school.

10 At that point, Shaquanda came back to the house
11 and everything was good. A.W. was in her crib. He stated
12 that he woke up sometime between 12:00 and 2:00, 12:00 noon
13 and 2:00 and went and checked on her and that she was
14 breathing, lying in her crib. At that point, he went up and
15 fixed the kids breakfast. And they all ate, but not A.W.

16 After breakfast he took another nap. He talked
17 about how he woke up when his oldest daughter walked home
18 from the bus stop and had to actually knock on the door to
19 get into the house and that woke him up. And then he took
20 another nap. He said they all took a nap. That they then
21 woke up again around 8:00 to 9:00 that evening. And, again
22 he got the kids up and fed them, I guess this would be
23 lunch. He said that after he fed the other kids, at that
24 point he went and checked on A.W. And when he went into
25 the room, he saw that she was in her crib, not breathing,

1 her eyes were open and he panicked. He called for
2 Shaquanda.

3 He ran to a neighbor's house, told him his
4 daughter wasn't breathing, he went back into his house, took
5 A.W. from Shaquanda into the kitchen and put her on the
6 floor and tried to do CPR. And that was what he told police
7 were the events of the day before and that night on that
8 weekend.

9 But specifically he went back a little early, a
10 little more detail on some follow-up questions and he talked
11 about how in addition to A.W. being able to walk the day
12 before she died from starvation, malnutrition, and
13 dehydration, that morning around 11:00 a.m. he and Shaquanda
14 both heard her bouncing in her crib in the hours before she
15 breathed for the last time. Those were his words and you
16 will see those.

17 So the police continue to investigate. And in
18 child death cases, and in many death cases, the main thing
19 is to get the autopsy scheduled. In this case, there were
20 six children. They were actually at that point put into a
21 kinship care. Relatives of David actually took the children
22 that night and took them to their home to take care of them.
23 Within two weeks, there were medical appointments scheduled
24 for all the surviving children to do an evaluation on their
25 condition.

1 That night, before they left the scene
2 photographs, they actually searched the whole apartment to
3 try to get information or to try to see if there was
4 anything relevant there that you should be noted. And in
5 the photographs you will see the condition of the house
6 where they were living. That there were risks for all the
7 children. That there was no safe sleeping for the twins.
8 They apparently shared a crib that was filled with bedding
9 and pillows. There was not enough food in the refrigerator
10 for a family of that size. There was feces on the floor in
11 the bedding. Most of the bedding had been taken off the
12 beds. There were electrical wires exposed. The general
13 condition of the house, there were bugs, things of that
14 nature were enough for neglect, so the children were taken
15 out of the home. They photographed those things and you
16 will see the actual photographs of it.

17 In addition, they searched for any evidence, such
18 as things like the Pedialyte that she was allegedly given,
19 the Tylenol that she was allegedly given. You will hear how
20 in early March, the children were scheduled for evaluations
21 and a forensic pediatrician, and that's simply a term for
22 someone who specializes in the evaluation of children for
23 child abuse and things of that nature. And she will talk to
24 you about how she examined **Child 5** and **Child 6** who were the
25 twins, they were four-months old at the time. They had just

1 been born two months premature on [REDACTED].
2 She also was able to get medical records for all the
3 children that actually had medical records.

4 And in reviewing those, she was able to determine
5 that the children were discharged from the NICU on 10/31,
6 some two weeks after they were born, in good shape, that
7 they actually showed up for their pediatrician appointment
8 on December the 15th at their two-month appointment. Their
9 four-month appointment, they never showed up for that. You
10 will hear how both of the children had developmental delays
11 that had never been reported to the pediatrician. Neither
12 one of them could actually hold their head up. But overall,
13 their condition, and I'll get to the others in a minute, was
14 fairly good because they were only four-months old.

15 You will hear how A.W. would have been the next
16 oldest child at 14 months. A.W. who never ever went to
17 see a pediatrician once she was released from the hospital
18 where she was born. Child 4 who was born [REDACTED]
19 [REDACTED]. She would have been two years old when this
20 event occurred. That she had been to see a pediatrician in
21 the first six months of her life, but she had not been to
22 see a pediatrician since 2019. She suffered from
23 developmental delays. She also suffered from plagiocephaly,
24 and I said that wrong, but it's a term meaning asymmetrical
25 distortion of her head, which had never been addressed.

1 The treating doctor who had actually seen them in
2 2019 referred the children -- referred **Child 4** to the
3 pediatric orthopedist due to a delay in her motor
4 milestones. Specifically, she had abnormalities of the
5 knees and hips. They never took her to that appointment.
6 She never had any further medical care for those things.
7 Her height percentage when she was examined in February,
8 excuse me, in March of 2021 she was in the fourth percentile
9 and her weight was in the one percentile. The growth delays
10 they were worried may be permanent and they referred her to
11 a gastroenterologist for her growth failure and failure to
12 thrive once that was completed in March.

13 She also examined **Child 3** White who was born [REDACTED]
14 [REDACTED], she was three years old at this time. She
15 had had no medical care since she was 18 months of age in
16 [REDACTED] She had profound developmental delays
17 when she was examined in March of 2021. Almost no speech.
18 She could not communicate other than gestures. However, she
19 was still affectionate to the staff. So there was somewhat
20 on the line of whether or not she may be autistic at that
21 point. She had only grown three inches in three years,
22 there was a significant growth delay. She was also having
23 to be referred to a pediatric gastroenterologist and
24 developmental pediatrician.

25 You will hear about **Child 2** [REDACTED] **Child 2** is what

1 they called him. He was born [REDACTED]. He was
2 four years old when this occurred. After he had failed his
3 hearing screen at birth he was referred to an ENT, an ear,
4 nose, and throat doctor, appointment was never made. That
5 he did actually go in, in 2017 for his 15-month and his
6 18-month appointment. There was poor weight gain and
7 despite the fact that the doctor prescribed Pediasure and
8 other things for him, he still did not gain weight at the
9 appropriate amount. His height didn't change from when he
10 was 15-months to 18-months old and there were no more
11 pediatrician visits after that. He also suffered from a
12 speech delay. He was told to follow up with the ear, nose,
13 and throat doctors, there was absolutely no follow up. He
14 had profound developmental delays when he was assessed In
15 March of 2021, his weight was in the sixth percentile, his
16 height was in the three percentile. And, again, he was
17 referred to that. He was essentially non verbal when he was
18 taken into care.

19 As a result of all this information -- excuse me,
20 I forgot what more child Child 1 [REDACTED] she was seven-years
21 old. She was the child that was in school and went to
22 school that day and came back from the bus stop. She
23 experienced physical neglect due to conditions in the home.
24 However, Child 1 [REDACTED] the oldest child, the one that was
25 actually in school received routine medical care. So this

1 family, these parents knew how to take their children to the
2 doctor. She was also recommended be assessed for a speech
3 delay that had never been addressed.

4 Those were the conditions of the children. And
5 after all this was done, all the children, because the
6 family members they were given to were apparently in and out
7 of the home all the time, they were ultimately taken into
8 emergency protective care and put into foster care.

9 An autopsy that I mentioned earlier was done on
10 A.W. Some of the autopsy findings done by
11 Dr. Presnell, who's out of MUSC, out of Charleston, will
12 find her cause of death was dehydration and malnourishment
13 with ketosis due to neglect. Her physical findings
14 included, and this is some of what you will hear, forehead
15 contusion, and that's merely a bruise, prominent ribs,
16 sunken orbital area and cheeks, that's the eye and cheek
17 area, skin tenting, that's simply when you pick up the skin
18 and someone's dehydrated, it's what we call tenting. It
19 normally would go back down, but when you're dehydrated, it
20 doesn't.

21 When they did an internal examination, her organs
22 were tacky to the touch because of the level of dehydration.
23 They literally would stick together or to the gloves that
24 touched them. She had pulmonary edema, too much fluid in
25 the lungs. She had fat emboli, fat particles in the

1 pulmonary system or the lungs. And her bone age was
2 considered delayed, meaning that she had not sustained
3 correct nutrition in a very long time.

4 They did toxicology. You will hear from Dr. Demi
5 Garvin as well as the pathologist on this, and toxicology is
6 mainly when they take the blood and do an examination to see
7 what's present. What wasn't present in her blood was
8 Tylenol. There was none. They did find the presence of
9 acetone that was present in her urine. It indicates a
10 person's in ketosis. And the causes for ketosis are simply
11 usually like diabetes or alcoholism, which were ruled out
12 because she didn't suffer from any of those, she was
13 14-months old, or starvation.

14 When the body has used up all the stored
15 carbohydrates and it changes to burning up fat stores,
16 there's a byproduct which is as acetone, which was found.
17 They also found BHB present in her blood, which is another
18 byproduct of ketosis. It was elevated. The toxicology
19 testing showed hypernatremic dehydration and ketosis due to
20 starvation at the time of death. And to reach this
21 condition would have taken a minimum of days, but more
22 likely it was a chronic condition that would have taken
23 weeks, if not months.

24 Once law enforcement had had the children
25 examined, they had gotten the medical records for the

1 children, they had determined what the autopsy finding was,
2 and toxicology came back, and this takes weeks, in this
3 case, it took months, two to three months. On May the 13th
4 they brought the parents back in, at that point, they had
5 already gotten warrants, and they wanted to give them one
6 more chance to explain what they said happened. And at that
7 point, they met with Mr. White, they read him his rights.
8 And once he had been read his Miranda rights, as he should
9 have been at that point, because he was getting ready to be
10 arrested, he agreed to talk to them. And he basically was
11 asked questions about what was going on with these children
12 in the months leading up, what was going on in the days
13 leading up, what happened that day.

14 And this time when they talked to White, and you
15 will see this recorded interview as well, they asked him
16 about how much family support he had. And he acknowledged
17 that he was lucky, he was one of the lucky people who had a
18 good family support system. He had resources available to
19 him if they simply felt overwhelmed with having seven
20 children. He went into and talked about how much he fed his
21 children. He actually worked at Popeyes. He would bring it
22 home for them all the time. Specifically talked about how
23 much A.W. would eat, that she would just eat a lot all the
24 time. And his quote was, Whenever I eat, she eats.

25 He talked about how he and Shaquanda had a rocky

1 relationship. And then he talked specifically again about
2 that day, February the 22nd, when this happened. He said
3 A.W. had been sick for two days, but that weekend,
4 Shaquanda's sister had come over that A.W. had been
5 laughing and walking and eating. And that day, on that
6 Monday, he said this time he got off work and that he
7 checked on A.W. when he got off work that evening and that
8 she was fine, she was breathing. But then he and Shaquanda
9 got into an argument, and after that is when he went
10 upstairs and found her not breathing.

11 And this is some of the evidence you will hear in
12 this case, ladies and gentlemen. All we ask is that you
13 determine what the facts are and you apply the law. Hold
14 him responsible for his actions and his inactions that led
15 to Amina's death, that contributed to the abuse and the
16 developmental delays with his children. Starving a child to
17 death and not seeking help when her condition is obvious,
18 her death preventable. Ladies and gentlemen, if that's not
19 extreme indifference to human life, what is? Thank you.

20 THE COURT: Mr. Frick. Are you ready for your
21 opening, sir?

22 MR. FRICK: Yes, sir.

23 OPENING STATEMENT ON BEHALF OF THE DEFENSE

24 MR. FRICK: Again, Ladies and gentlemen, this is a
25 difficult case. I've been doing this for a long time, and I

1 can tell you this is one of the more difficult ones I've
2 seen. And I'm going to ask you to do one of the most
3 difficult things you can do, and it may be almost impossible
4 task. I'm going to ask you to separate emotion from facts.
5 And I recognize we have small children involved and that
6 already makes it very, very difficult to separate yourself
7 from that. But that is the task you've been sworn to
8 undertake for this trial. And I'm going to ask you to do
9 that. It'll be difficult. I understand. I understand.
10 But it's what you've sworn to do.

11 Now, I remind you that the Solicitor can stand up
12 here and she can portray their interpretation of what they
13 intend to introduce into this case all they want. They can
14 go through every detail of the case and make it as horrific
15 as they want. But none of what is said is evidence in this
16 case. You get to decide what are facts in this case. The
17 way that happens is folks are going to get on this very
18 witness stand and they're going to put their hand on this
19 very Bible and they're going to swear to tell you the truth.

20 Well, ladies and gentlemen, I tell you that just
21 because they do all that, just because they have titles
22 doesn't mean that you have to accept what they said as the
23 truth. You get to weigh it and make the determination of
24 what the facts are. And I submit to you the determination
25 of what happened to A.W. it is a tragedy, I can't tell you

1 that -- I mean, there's no way around that. It is an
2 absolute tragedy and it's a horrible thing that should never
3 have occurred. But the determination of what happened is
4 the opinion of that pathologist, of that doctor who
5 determines death. He does an interpretation of data that's
6 presented to him and renders an opinion and you get to
7 decide whether you agree with that opinion or not.

8 Now, ladies and gentlemen, David White was a hard
9 working man. He was the breadwinner in this house.
10 Shaquanda was the mom, primary caretaker. She stayed home
11 with kids. And you heard that she has been convicted for
12 what she did, for her role in this. However, that does not
13 mean that the burden on the State is any lesser for
14 Mr. White.

15 The State still has to prove to you beyond a
16 reasonable doubt that he did exactly, exactly what they are
17 charging him with doing, and that is this neglect that led
18 to the death of his child and the malnutrition of the other
19 children and the other -- the undergrowth of the other
20 children.

21 And again, ladies and gentlemen, I know, I see you
22 looking at me, it is a difficult task, but you've got to do
23 it. You've got to separate the emotion of the fact that we
24 are dealing with small children and just look at the facts
25 of the case. And here's what I'll ask you to do, at some

1 point when you go to deliberate, because you can't talk
2 about the case before you get all the evidence in the case,
3 but as you go to deliberate, curse the fact that this
4 happened to these children. Curse it all you want. Let
5 that go. Let that emotion go. And then get down to the
6 business of sorting through the facts of this case and
7 determining what's not -- what is and what is not. Because
8 I tell you, as you've heard before and you're going to hear
9 again, the State must prove this beyond a reasonable doubt.
10 Does that mean all doubt? No, it's a reasonable doubt.

11 My interpretation of that is it's not, it looks
12 like he did it. It's not, probably he did it. It's not,
13 maybe he did it. It's that there's no other reasonable
14 explanation. And ladies and gentlemen, I suggest to you
15 that once you've heard everything, once you're able to strip
16 emotion away from this and focus on the facts of the case
17 and make your own conclusion about what is presented to you,
18 tells you, that you will find, David White is not guilty of
19 these charges.

20 In fact, he suffered this tragedy as well. This
21 was his baby. This was his baby. These were his children.
22 It's hard to hear these allegations. But I submit to you,
23 end of the day, day, he is not guilty of these charges and
24 ask you to render verdicts as such. Thank you very much for
25 your time, your attention, and your service.

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

1 THE COURT: Is the State ready to call its first
2 witness.

3 MS. CAMPBELL: It is, Your Honor.

4 The State calls Janessa Campbell.

5 THE CLERK: Put your left hand on the Bible, raise
6 your right, please. Do you swear to tell the truth, the
7 whole truth, and nothing but truth, so help you God?

8 THE WITNESS: Yes, ma'am.

9 JANESSA CAMPBELL, having been duly sworn,
10 testified as follows:

11 THE CLERK: You may be seated.

12 THE COURT: Sit close to the microphone, okay?

13 THE WITNESS: Yes, sir.

14 THE COURT: You may proceed, Solicitor.

15 DIRECT EXAMINATION

16 BY MS. CAMPBELL:

17 Q. Ms. Campbell, where do you currently live? What
18 town?

19 A. Rock Hill, South Carolina.

20 Q. And I'm going to turn your attention back to
21 February of 2021. Where were you living then?

22 A. Pardue Street.

23 Q. If you don't mind speaking up a little, it's just
24 hard to hear in here. Purdue Street?

25 A. Yes, ma'am.

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

1 Q. And is that an apartment complex here in Lancaster
2 County?

3 A. Yes, ma' am.

4 Q. And what was your address at Pardue Street? Do
5 you remember?

6 A. 2406.

7 Q. 2406. And do you remember who was actually living
8 at [REDACTED] Pardue Street back then?

9 A. Yes, ma' am.

10 Q. And who was living there?

11 A. David white and Shay Page -- Shaquanda Page.

12 THE COURT: Ma'am, you need to speak up, I know
13 you're soft spoken, but we all need to hear, even though I'm
14 sitting right next to you, so speak up a little bit.

15 BY MS. CAMPBELL:

16 Q. Let me get it a little bit closer to you so you
17 don't have to lean over you so much, do you mind. Is that
18 better?

19 A. Yes, ma'am.

20 Q. Okay. You just need to speak -- you are very soft
21 spoken.

22 A. Yes, ma'am.

23 Q. You said that it was Shaquanda Page and David
24 White?

25 A. Yes, ma'am.

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

1 Q. And do you remember whether or not they had any
2 children?

3 A. Yes, ma'am.

4 Q. And do you remember how many children they had?

5 A. Seven.

6 Q. And had you been kind of neighborly with them and
7 they've been living there a while?

8 A. Yes, ma'am.

9 Q. And how long had you been living there, do you
10 remember?

11 A. I moved in 2019.

12 Q. Okay. So you've been there for a couple years
13 yourself?

14 A. Yes, ma'am.

15 Q. I want to turn your attention to the evening of
16 February the 22nd. Do you remember that evening?

17 A. Yes, ma'am.

18 Q. And what were you doing that evening?

19 A. I was in my apartment with my husband and his
20 friend and my kids.

21 Q. And did your husband know David White?

22 A. Yes, ma'am.

23 Q. And were they like friends?

24 A. Yes, ma'am.

25 Q. And you said you were there with your kids?

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

1 A. Yes, ma'am.

2 Q. And that evening, around 9:30, 9:45 that evening,
3 can you tell the jury what you remember happening?

4 A. David White knocked on my door. One of my kids
5 opened it, he rushed back into the room that we was in and
6 he grabbed my husband by his collar and told him that his
7 baby wasn't breathing, multiple times.

8 Q. And then what happened?

9 A. I went out the door.

10 Q. You went out the door?

11 A. Yes, ma'am.

12 Q. Where did David White and your husband go?

13 A. On the couch.

14 Q. They were on the couch?

15 A. Yes, ma'am.

16 Q. So you actually went out the door and where were
17 you going?

18 A. I was going to their apartment.

19 Q. And at that point, did you know where Shaquanda
20 was?

21 A. She was coming out the door with the baby.

22 Q. And when you say that the door, was that their
23 door?

24 A. Yes, ma'am.

25 Q. And before I skipped something a little bit, let

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

1 me tell you as far as the proximity, where is your apartment
2 in proximity with [REDACTED]

3 A. I'm on the edge and there's an apartment in
4 between us.

5 Q. Okay. And each apartment building either has two
6 or four apartments in it, right?

7 A. I think so.

8 Q. Okay. And they would have been at [REDACTED] because
9 they were kind of at the end of one building?

10 A. Uh-huh.

11 Q. And then you were in the next building but one
12 apartment over, so there was an apartment between you?

13 A. Yes, ma'am.

14 Q. Is that right?

15 A. Yes, ma'am.

16 Q. And if you're looking at the front of the house,
17 they would have been on the left, and yours would have been
18 one over to the right?

19 A. Yes, ma'am.

20 Q. And is there an actual hill that goes down, that
21 there's some steps that go down in front of your apartment?

22 A. Yes, ma'am.

23 Q. Okay. You said that you went out of the apartment
24 while David was still in there with your husband?

25 A. Yes, ma'am.

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

1 Q. And when you went out, why did you leave your
2 apartment at that point?

3 A. I went to go check on Shay and the babies.

4 Q. And as you came out of your apartment, you said
5 you saw who?

6 A. Shay.

7 Q. And what was she holding?

8 A. A.W.

9 Q. And where was she when you first saw her?

10 A. Outside.

11 Q. Outside?

12 A. Yes, ma'am.

13 Q. And what was she doing?

14 A. She was just holding her.

15 Q. And was David still in your apartment at this
16 point?

17 A. Yes, ma'am.

18 Q. And when you went outside, did you make contact
19 with Shay?

20 A. Yes, ma'am.

21 Q. Shaquanda is Shay, right?

22 A. Uh-huh.

23 Q. Okay. And you said she was holding the child.
24 Was the child moving at all?

25 A. No, ma'am.

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

1 Q. And when you went outside, did you talk -- excuse
2 me, did you talk to Shay?

3 A. Yes, ma'am.

4 Q. Excuse me. What did you say?

5 A. I asked her if they called 911, she told me, no.
6 I said, do you want me to call? She said, yeah, so I
7 called.

8 Q. Okay. So you're the person that actually made the
9 911 call that night?

10 A. Yes, ma'am.

11 Q. And when you got out there, did Shay have her
12 phone at that point?

13 A. No, ma'am.

14 Q. Did you see whether or not David had had his
15 phone?

16 A. No, ma'am.

17 Q. But no one had called 911, so you did it?

18 A. Yes, ma'am.

19 Q. And at that point, where's David when you're
20 starting to make this 911 call, do you know?

21 A. My husband was taking him down the steps.

22 Q. Taking him down the steps?

23 A. Yes, ma'am.

24 Q. And where was you and your husband, where were
25 they going, do you know?

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

1 A. To one of their friend's car.

2 Q. At some point, Shay and A.W. never went down the
3 steps though, right?

4 A. No, ma'am.

5 Q. Did David and your husband come back up the steps?

6 A. Yes, ma'am.

7 Q. And where were they going then?

8 A. I don't remember.

9 Q. Okay. At some point, as you're making the 911
10 call, did you make contact with police or with 911 that
11 night?

12 A. Yes, ma'am.

13 Q. And was that call, have you had an opportunity to
14 review that?

15 A. Uh-huh. Yes, ma'am.

16 Q. And is it fairly inaccurately depict what was said
17 on that call that night?

18 A. Yes, ma'am.

19 Q. Where did Shaquanda end up with the child that was
20 in her arms?

21 A. She took A.W. back to their apartments.

22 Q. And did you follow her inside the apartment?

23 A. Yes, ma'am.

24 Q. And once she was inside the apartment, what did
25 Shay do with A.W. at that point?

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

- 1 A. David White was back inside the apartment, so --
- 2 Q. So at that point he come back inside?
- 3 A. Yes, ma'am.
- 4 Q. And where did A.W. end up? How did she end up
- 5 where?
- 6 A. In the kitchen.
- 7 Q. And where in the kitchen was she?
- 8 A. Right before you get to the kitchen. In between
- 9 the fourth bedroom and the kitchen.
- 10 Q. And where did they put her?
- 11 A. On the floor.
- 12 Q. And who put her there?
- 13 A. David White.
- 14 Q. At that point he got in her back?
- 15 A. Uh-huh.
- 16 Q. And he put her on the floor?
- 17 A. Yes, ma'am.
- 18 Q. And then while you were on the phone with 911, was
- 19 he attempting to do anything with A.W.
- 20 A. Yes, ma'am.
- 21 Q. And what was he attempting to do?
- 22 A. CPR.
- 23 Q. Where was Shay at this point?
- 24 A. Standing next to me.
- 25 Q. Where were all the other children, do you know?

JANESSA CAMPBELL DIRECT BY MS. CAMPBELL

1 A. In the living room on the couch.

2 MS. CAMPBELL: Your Honor, at this time we'd offer
3 State's Exhibit Number 1, the 911 call.

4 MR. FRICK: No objection, Your Honor.

5 THE COURT: All right. Without objection Number 1
6 into evidence for the State.

7 MS. CAMPBELL: Permission to publish?

8 THE COURT: Sure.

9 (WHEREUPON, State's Exhibit Number 1 was admitted
10 into evidenced and published to the jury.)

11 BY MS. CAMPBELL:

12 Q. And that's the call you made that night?

13 A. Yes, ma'am.

14 Q. EMS and firefighters, police all responded?

15 A. Yes, ma'am.

16 Q. And ultimately A.W. was taken away from the
17 residence by ambulance?

18 A. Yes, ma'am.

19 Q. And I believe David White and Shaquanda Page also
20 left to go to the hospital?

21 A. Yes, ma'am.

22 Q. Did you stay with the children that night?

23 A. Yes, ma'am.

24 Q. Okay. And so you were there when SLED showed up
25 later and things of that nature?

JANESSA CAMPBELL - CROSS BY MR. FRICK

1 A. Yes, ma'am.

2 Q. And as far as what happened to A.W. that day, you
3 don't have any knowledge of that?

4 A. No, ma'am.

5 MS. CAMPBELL: Thank you. I don't have anything
6 further.

7 THE COURT: Mr. Frick.

8 CROSS-EXAMINATION

9 BY MR. FRICK:

10 Q. Ms. Campbell, I won't keep you up there too long.
11 Now, you call Shaquanda Shay --

12 A. Yes.

13 Q. -- is that correct? That's what you -- you knew
14 her as?

15 A. Yes, sir.

16 Q. Were y'all fairly close, I know you neighbors, but
17 were you --

18 A. Yes, sir.

19 Q. -- you were friends?

20 A. Uh-huh.

21 Q. Okay. And it sounds like then in that call, and
22 that is you on that call, correct?

23 A. Yes.

24 Q. That you were a little upset?

25 A. Yes, sir.

JANESSA CAMPBELL - CROSS BY MR. FRICK

1 Q. I mean, you knew the children, correct?

2 A. Yes, sir.

3 Q. You stayed with them that night?

4 A. Uh-huh.

5 Q. Okay. Did you often stay with the children?

6 A. No, sir.

7 Q. Okay. So this was the first time?

8 A. Uh-huh.

9 Q. Okay. If you don't mind, answer, Yes, No, she's

10 got to take it down --

11 A. Yes, sir.

12 Q. -- I'm sorry. What was David's demeanor, if you

13 remember, when he came in the house? You said he came

14 running in the house?

15 A. Yes, sir.

16 Q. How was he acting, aside from running?

17 A. Scared, crying, yelling.

18 Q. Kind of distraught, was that fair to say?

19 A. Yes, sir.

20 Q. And he went to go talk to your husband?

21 A. Yes, sir.

22 Q. Okay. And you went out to go see Shay?

23 A. Yes, sir.

24 Q. Okay. And how was her demeanor?

25 A. She was crying.

JANESSA CAMPBELL - CROSS BY MR. FRICK

1 Q. All right. Did you have a phone in your hand?

2 A. Yes, sir.

3 Q. That's why you said you want me to call 911?

4 A. Yes, sir.

5 Q. Okay. Did you see anybody else with a phone?

6 A. No, sir.

7 Q. Okay. And I believe you said you got the baby

8 back into the house, they got her on the floor?

9 A. Yes, sir.

10 Q. They're doing chest compressions while you're on

11 911, correct?

12 A. Yes, sir.

13 Q. Because if I recall from that phone call, 911

14 asked, Do you want me to tell you how to do CPR?

15 A. Yes, sir.

16 Q. And you said, No, they're already doing it.

17 A. Uh-huh.

18 Q. And when we say CPR is the chest compressions?

19 A. Yes, sir.

20 Q. Was he breathing air into her mouth?

21 A. Yes, sir.

22 Q. So regular CPR?

23 A. Yes, sir.

24 Q. And of course, this is a small child, was he

25 pushing down with his fist?

JANESSA CAMPBELL - CROSS BY MR. FRICK

1 A. No, sir.

2 Q. What was he doing?

3 A. He was lightly pushing down on her chest, open
4 palm.

5 Q. Okay. And no one had instructed him how to do
6 that in this call?

7 A. No, sir.

8 Q. Okay. Another thing, you said it sounded like she
9 was gasping for air?

10 A. Yes, sir.

11 Q. Okay. Thank you, ma'am. That's all the questions
12 I have.

13 A. Thank you.

14 THE COURT: State have any recross or any redirect
15 rather? Excuse me.

16 MS. CAMPBELL: No, sir. Can this witness be
17 excused?

18 MR. FRICK: No objection.

19 THE COURT: Okay. You step down, ma'am.

20 THE WITNESS: Thank you.

21 THE COURT: You're free to leave courthouse,
22 you're more than welcome to stay with us.

23 THE WITNESS: Yes, sir.

24 THE COURT: Next witness.

25 MS. CAMPBELL: The State would call Paul Blas.

PAUL BLAS DIRECT BY MS. MCGINNIS

1 THE CLERK: Put your left hand on the Bible and
2 raise your right, please.

3 THE WITNESS: Yes, ma'am.

4 THE CLERK: Do you swear to tell the truth, the
5 whole truth, and nothing but truth, so help you God?

6 THE WITNESS: Yes, ma'am. I do.

7 PAUL BLAS, having been duly sworn, testified as
8 follows:

9 THE BAILIFF: You may be seated.

10 DIRECT EXAMINATION

11 BY MS. MCGINNIS:

12 Q. Good afternoon, Deputy. Can you state your name
13 for the record?

14 A. Yes, ma'am. I'm Deputy Paul Blas.

15 Q. And where do you currently work?

16 A. I am employed with Lancaster County Sheriff's
17 Office. I'm a patrol deputy.

18 Q. And prior to joining the sheriff's office where
19 did you work?

20 A. I was a sergeant at the Lancaster City Police
21 Department.

22 Q. How long total have you been in law enforcement?

23 A. Just a little over five years.

24 Q. Okay. So where were you employed back in February
25 of 2021?

PAUL BLAS DIRECT BY MS. MCGINNIS

1 A. I was a police officer with Lancaster City.

2 Q. Okay. I want to turn your attention back to
3 February 22nd of 2021. Were you working as a police officer
4 with the City Police Department at that time?

5 A. Yes, ma'am.

6 Q. And tell the jury a little bit about what a patrol
7 officer does when you're on shift.

8 A. So just like on TV, we answer calls for service,
9 you know, we go out to, you know, potential crime scenes,
10 you know, all types of crime scenes. We pretty much, you
11 know, investigate cases and, you know, collect evidence and
12 pretty much go from there. A lot of community-based stuff
13 as well.

14 Q. So you were on patrol and tell the jury what shift
15 does a patrol officer typically work?

16 A. So we work 12-hour shifts. When I was at the
17 City, we worked 6:00 a.m. and 6:00 p.m., and night shift
18 6:00 p.m. to 6:00 a.m.

19 Q. And this particular night, were you on the night
20 shift?

21 A. Yes, ma'am, I was.

22 Q. Now, in addition to being a police officer, have
23 you had any other first responder-type training?

24 A. Yes, ma'am. I have been a volunteer firefighter
25 since I was 15. So 12 years ago or 12 years. I have done

PAUL BLAS DIRECT BY MS. MCGINNIS

1 several previous trainings, like medical training,
2 firefighter training. Currently, I am a medical first
3 responder, and we do yearly updates with Lancaster County
4 EMS.

5 Q. And would that be the same back in 2021?

6 A. Yes, ma'am.

7 Q. Okay. So on February 22nd of 2021, you were
8 working the night shift with the Lancaster Police
9 Department, and did you hear a call come out regarding [REDACTED]
10 Pardue Street?

11 A. Yes, ma'am, I did.

12 Q. And where is [REDACTED] Pardue Street?

13 A. So Pardue Street is an apartment complex that's
14 off of -- mainly off of East Arch Street, located within the
15 city limits of Lancaster, South Carolina.

16 Q. Okay.

17 MR. FRICK: Judge, can we approach for just a
18 second?

19 THE COURT: Sure.

20 MR. FRICK: Can we do a sidebar over here?

21 (WHEREUPON, there was a sidebar held off record.)

22 BY MS. MCGINNIS:

23 Q. So the Pardue Street Apartments are in the city
24 limits of Lancaster County?

25 A. Yes, ma'am, that's correct.

PAUL BLAS DIRECT BY MS. MCGINNIS

1 Q. And the call that you responded to, do you recall
2 what came out of the radio?

3 A. So I scanned fire and EMS, just, you know, trying
4 to make sure we all have each other's backs out here. But I
5 overheard an unconscious, not breathing call come out. And
6 whenever I heard dispatch give the call initially to fire an
7 EMS for an infant, that's whenever I, you know, took it upon
8 myself again to respond out there.

9 Q. Okay. So they were calling for fire and EMS, but
10 because you were scanning, you heard it, and because of your
11 training, decided to respond as well?

12 A. That's correct, from what I recall, yes, ma'am.

13 Q. Okay. And when you got to Pardue, were you
14 familiar with kind of the layout, you knew where [REDACTED] was
15 within that apartment complex?

16 A. For the most part, yes, ma'am.

17 Q. Okay. So when you got there to the Pardue Street
18 Apartments, who did you arrive with?

19 A. So upon arrival, we were pretty much flagged down
20 by a bunch of bystanders and stuff at the 2400 block. I
21 pulled in right behind the fire truck, from what I recall,
22 and Firefighter Porte and I entered the apartment complex as
23 we were flagged down on the scene.

24 Q. Okay. So there are some people outside, kind of
25 waving, telling you which apartment to go to?

PAUL BLAS DIRECT BY MS. MCGINNIS

1 A. Yes, ma'am.

2 Q. And did you go into the apartment?

3 A. Yes, ma'am, I did.

4 Q. What did you observe when you got into that
5 apartment?

6 A. So Firefighter Porte and I entered the apartment
7 first. As we go into the apartment, you know, it was pretty
8 chaotic with, you know, all the people being around. As
9 we're approaching the backside, like towards the kitchen
10 area, that's whenever we located A.W. [REDACTED] lying
11 unconscious on her back without any clothing, without a
12 diaper on, that's whenever we located her there.

13 Firefighter Porte then began -- started -- then
14 began CPR just with the environment that was going on, we
15 did some step outside, walked down downstairs, down the
16 concrete stairs to the -- to where the fire truck was, and
17 we, you know, continued on patient assessment.

18 Q. Okay. So you said Firefighter Porte actually
19 picked A.W. [REDACTED] up?

20 A. Yes, ma'am, that's correct.

21 Q. Did you observe him do that?

22 A. I did. It's on my body worn camera.

23 Q. What was her condition when he picked her up?

24 A. Like I said, she just. She did not have any
25 clothes on or, you know, didn't have diaper on. So what I

PAUL BLAS DIRECT BY MS. MCGINNIS

1 recall, her ribs were kind of sunken in. Well, you know,
2 sucking down into her chest. Her eyes as well, kind of
3 sunken out into her head.

4 Q. Okay. Was she responsive at all?

5 A. No, ma'am.

6 Q. Okay. When y'all went out front, you went to the
7 sidewalk near where the fire truck was parked?

8 A. Yes, ma'am.

9 Q. And what did y'all do at that time? Was EMS there
10 yet?

11 A. They arrived shortly after, but we continued, you
12 know, Firefighter Porte continued chest compressions, and we
13 were setting up pediatric bag, valve mask, and went from
14 there shortly after EMS arrived on scene.

15 Q. Okay. Once EMS arrived, what did y'all do?

16 A. So we transferred patient care over to them so
17 they can, you know, begin their life saving measures. You
18 know, they're a little bit more trained than first
19 responders are, so we transferred care over to them. That's
20 whenever they then transported A.W. over to
21 MUSC-Lancaster. Officer Graves and Mills were on scene at
22 the time. They did secure the scene at the apartment
23 complex. At this point I did respond over to the hospital.
24 Q. Okay. When A.W. was taken to the ambulance, did
25 you also enter the ambulance?

PAUL BLAS DIRECT BY MS. MCGINNIS

1 A. I did enter the ambulance, yes, ma'am.

2 Q. And what purpose was that?

3 A. I was also assisting them with, you know, pretty
4 much setting up, you know, all setting up like flushes and
5 stuff like that, so they started IV line and stuff like
6 that.

7 Q. Okay. Once EMS left, you said you also reported
8 to the hospital?

9 A. Yes, ma'am, I did.

10 Q. Were you ultimately informed that A.W. had been
11 pronounced deceased?

12 A. Yes, ma'am. So upon arrival I met with hospital
13 staff out there who advised me that A.W. was in fact,
14 deceased.

15 Q. So at that time, based on the law enforcement
16 training, would it be kind of considered a crime scene there
17 at the hospital as well?

18 A. Yes, ma'am.

19 Q. So was your purpose at the hospital to stand by
20 and just secure that secondary crime scene?

21 A. Yes, ma'am, it was. And I contacted Lieutenant
22 Whitaker, who my Lieutenant Watch Commander at the time. I
23 contacted him, he contacted Special Operations and SLED was
24 contacted.

25 Q. Okay. Ultimately, did SLED and Special Operations

PAUL BLAS CROSS BY MR. FRICK

1 respond to the hospital there?

2 A. Yes, ma'am.

3 Q. And based on that, did you kind of turn everything
4 over to them at that point?

5 A. I did, yes, ma'am.

6 Q. And again, as a patrol deputy, your primary
7 responsibility is responding to calls for service, things
8 like that, not ongoing more involved investigations?

9 A. That's correct. Yes, ma'am.

10 Q. Okay.

11 MS. MCGINNIS: Beg the Court's indulgence.

12 Thank you, Officer -- Deputy Blas, answer
13 anything, Mr. Frick has for you.

14 THE COURT: Okay. Mr. Frick, cross-examination.

15 MR. FRICK: Briefly.

16 CROSS-EXAMINATION

17 BY MR. FRICK:

18 Q. Deputy Blas, so you were what we call the first
19 responding officer on this scene?

20 A. I was, yes, sir.

21 Q. Okay. All right. And you were responding to a
22 call of that came over what, dispatch?

23 A. Yes, sir.

24 Q. Okay. Okay. And you helped render aid in this
25 case?

PAUL BLAS CROSS BY MR. FRICK

1 A. Somewhat. I was there pretty much trying to
2 assist them with, you know, their CPR techniques.

3 Q. Right. And then you went to the hospital?

4 A. Yes, sir.

5 Q. Okay. Did you have any conversation with medical
6 staff?

7 A. I did.

8 Q. Okay. All right. And you found out she was
9 deceased?

10 A. Uh-huh.

11 Q. Did anybody render any thoughts other -- I mean,
12 did they -- did they tell you anything else? Don't
13 specifically tell me what they said.

14 A. I'm not sure --

15 MS. MCGINNIS: Your Honor, I'm going to object.

16 THE COURT: Wait a minute.

17 MS. MCGINNIS: Anything medical staff told him
18 would be hearsay.

19 THE COURT: Well, I think Mr. Frick, in his
20 question, said, Don't tell me what anybody said or something
21 to that effect.

22 MR. FRICK: That's correct.

23 THE COURT: Okay. So, yeah, don't repeat what
24 anybody said, but as a result of your conversation, then you
25 can say what you did.

PAUL BLAS CROSS BY MR. FRICK

1 THE WITNESS: Yes. I mean, a nurse did give me
2 her statement about what she found on child.

3 BY MR. FRICK:

4 Q. Okay. Did you take any action as a result of
5 that?

6 A. I just passed it on over to Special Operations and
7 gave to SLED who came out to the hospital.

8 Q. Okay. Okay. And did you go back to the
9 apartment?

10 A. I did, yes, sir.

11 Q. And essentially you were securing the scene there,
12 is that fair to say?

13 A. Whenever I went back there a second time, yes,
14 sir.

15 Q. Okay. I mean, you didn't collect anything at the
16 scene, you were just there to secure it?

17 A. Yes, sir.

18 Q. Okay. Thank you, sir. That's all the questions I
19 have.

20 A. Yes, sir.

21 THE COURT: Solicitor, any redirect?

22 MS. MCGINNIS: No, Your Honor. Can Deputy Blas be
23 excused?

24 THE COURT: You can step down. You're free to
25 leave the courthouse, you're more than welcome to remain

PAUL BLAS CROSS BY MR. FRICK

1 with us. So let's take about a 15-minute break and grab you
2 some crackers or whatever is back there, and we'll come back
3 out and continue forward. Thank you.

4 (WHEREUPON, the jury exited the courtroom at 12:26
5 p.m.)

6 THE COURT: I failed to put my rulings on the --
7 pretrial matters on the record that I've already shared with
8 the lawyers in chambers, so let's let me go to my notes.
9 Okay. There were three pretrial issues that we took up
10 yesterday and for me to make a ruling. One on Officer, is
11 it Blas or Blas?

12 OFFICER BLAS: Either one. Blas is fine.

13 THE COURT: You go by either one. All right. His
14 body cam video ruled that it would be suppressed.
15 Basically, the body cam video shows pretty much in its
16 entirety the work that EMS and others were doing on A.W.
17 with respect to CPR. And certainly EMS can testify as to
18 what they did, but I'm not allowing the video of that to
19 come into evidence.

20 The second issue, search warrant. Defense argued
21 that the search warrant was too vague and therefore moved to
22 suppress whatever was obtained as a result of the search
23 warrant. The fact that the search warrant does indicate
24 that the child was deceased and further indicated looking
25 for photographs and other items determined that there was

PAUL BLAS CROSS BY MR. FRICK

1 sufficient probable cause for the search warrant to be
2 issued.

3 And thirdly, the interview of the Defendant at the
4 hospital by the various team that they had SLED, law
5 enforcement, coroner, DSS, maybe some other folks, the
6 Defense moved to suppress that interview.

7 In looking at the State vs. Lowry, State vs.
8 Williams, the 13 factors to make a determination whether or
9 not someone is in custody. Let me just go through those
10 factors, but very briefly.

11 Was contact initiated by the police?

12 Was the person questioned as a witness or a
13 suspect?

14 Where the questioning took place?

15 Did the law enforcement say that the person being
16 interviewed, the Defendant in this case, was under arrest or
17 in custody?

18 Was the defendant's movement -- freedom of
19 movement restricted in anyway?

20 Whether the Defendant was told he could leave at
21 any time?

22 How many law enforcement personnel were involved?

23 How long the interrogation took place?

24 Did law enforcement indicate that they believed
25 that the Defendant was culpable in some way?

PAUL BLAS CROSS BY MR. FRICK

1 Did law enforcement dominate the conversation?

2 Were law enforcement aggressive?

3 Were there pressure techniques used in the
4 questioning?

5 Was the Defendant arrested after the
6 interrogation?

7 Those 13 factors I found that the majority would
8 go in favor of ruling that the Defendant was not in custody,
9 therefore, Miranda not being required. I found it important
10 as well, two statements that one of the law enforcement
11 personnel made -- let me find that -- well, both when the
12 mom and dad both were together, they were told that they did
13 not want to overwhelm them by virtue of the number of people
14 that was in this room. And two, that the Defendant was told
15 that no one was being accused of anything at that point in
16 time. I felt that that was somewhat of some significance.

17 So looking at all the factors, I found that he was
18 not in custody, therefore necessitating the Miranda
19 advisement. So those are the three pretrial rulings that I
20 shared with the lawyers back in chambers this morning.

21 Okay. All right, let's take a 15-minute break.

22 Solicitor, how many more witnesses? I know you
23 have a nurse that you need to get up and out of here.

24 MS. MCGINNIS: Yes, sir, Judge. The State intends
25 to call Andrew Porte, who's the firefighter, first

PAUL BLAS CROSS BY MR. FRICK

1 responder, and David Demby, who is the EMS supervisor, who's
2 now a nurse practitioner. And we can conclude with that for
3 the day if that's what the Court orders.

4 THE COURT: Okay.

5 MS. MCGINNIS: We do have several other witnesses
6 here that we can go forward with.

7 THE COURT: Well, I guess probably, Mr. Frick, you
8 just need to kind of give us a general idea of when we need
9 to finish up today because you've got some work to do on
10 some other issues and I want to afford you that opportunity,
11 but you're just going to kind of need to let me know.

12 MR. FRICK: I am emailing them as we are speaking
13 right now, Judge.

14 THE COURT: Okay.

15 MR. FRICK: I'm asking them what's the best way to
16 get this information.

17 THE COURT: Okay. All right. Very good.

18 MS. MCGINNIS: And Judge, if I could just put one
19 other thing on the record that we also discussed pretrial.
20 The State presented amended indictments just to clean up a
21 little bit of language. Those were inadvertently presented
22 without the Solicitor's signature to the Grand Jury. The
23 only case that I found was State vs. Coleman. The cite is,
24 8 SC 237, it's an 1876 case that says, Even assuming the law
25 that the signature of the Solicitor is necessary, it's still

PAUL BLAS CROSS BY MR. FRICK

1 is enough if his name with his official character is
2 subscribed to the bill with his sanction. It's my
3 understanding, William was not contesting that, but I just
4 want to put on the record that that was an issue.

5 MR. FRICK: Judge, I did note when I first saw the
6 indictments that they were not signed. But I recall
7 researching that issue at some point when I was at the
8 Solicitor's office and seeing that there was a case that
9 said that was not a fatal flaw. So I was not claiming
10 planning to raise that issue.

11 THE COURT: Okay. All right. Thank you, very
12 much. So noted on the record.

13 MS. MCGINNIS: Thank you, Judge.

14 THE COURT: All right. We'll take 15-minutes.
15 (WHEREUPON, a recess was taken from 12:33 p.m.
16 until 12:49 p.m.)

17 THE BAILIFF: All rise.

18 THE COURT: Thank you. Have a seat.
19 Are we ready for the jury?

20 MR. FRICK: Yes, sir.

21 THE BAILIFF: Jury coming in.

22 (WHEREUPON, the jury entered the courtroom at
23 12:56 p.m.)

24 THE COURT: All right. Let the record reflect the
25 jury is back in. Is the State ready for their next witness?

ANDREW PORTE DIRECT BY MS. MCGINNIS

1 MS. MCGINNIS: Yes, Your Honor. The State calls
2 Andrew Porte.

3 THE CLERK: Left hand on the Bible, raise your
4 right, please. Do you swear to tell the truth, the whole
5 truth, and nothing but truth, so help you God?

6 THE WITNESS: I do.

7 ANDREW PORTE, having been duly sworn, testified as
8 follows:

9 THE CLERK: You may be seated.

10 DIRECT EXAMINATION

11 BY MS. MCGINNIS:

12 Q. Good morning, Mr. Porte. Can you state your name
13 for the record?

14 A. Andrew Porte.

15 Q. And where are you currently employed?

16 A. I'm a full time firefighter for the City of
17 Lancaster.

18 Q. City of Lancaster at the fire department?

19 A. Yes.

20 Q. And what's your rank there?

21 A. I'm a Firefighter II.

22 Q. Firefighter II. Okay. As a firefighter, you tell
23 the jury a little bit about what kind of training you have
24 as far as first responder?

25 A. Yes. Very intensive training program leading up

ANDREW PORTE DIRECT BY MS. MCGINNIS

1 to this. Fire truck operations, attack, working with
2 building composition, motor vehicle extrications, medical
3 calls, quite a bit, hazmat response.

4 Q. Okay. And then in addition to being a
5 firefighter, do you also have another job?

6 A. Yes, I do. I work part time for Lancaster County
7 EMS. I'm a nationally registered EMT basic.

8 Q. Okay. And was that the same back in 2021?

9 A. Yes, ma'am.

10 Q. Okay. How long have you been a firefighter?

11 A. I got on the department in 2016.

12 Q. Okay. And how about EMT?

13 A. I got my certification prior to, so about 2016 as
14 well.

15 Q. Okay. So I want to turn your attention to
16 February 22nd of 2021. Were you working that night?

17 A. Yes, ma'am.

18 Q. And what kind of shifts do firefighters work? Is
19 it similar to police, you work an overnight shift?

20 A. We do. We have A, B, and C schedules, so three
21 different shifts, and it's 24 on, 48 off.

22 Q. Okay. So that night you were working for the
23 Lancaster City Fire Department. Do you recall getting a
24 call to respond to [REDACTED] Pardue Street?

25 A. Yes, ma'am.

ANDREW PORTE DIRECT BY MS. MCGINNIS

1 Q. And where is that in relation to where the city
2 fire department is?

3 A. I was working at Station 1, which is on East Arch
4 Street, next to the police station as well. And Pardue
5 Street is just east down on Route 9 and then left, there's
6 an apartment complex.

7 Q. Okay. What is the Lancaster city fire
8 jurisdiction, is it within city limits?

9 A. Correct. Yeah, it goes right up to the highway
10 bypass, that's the edge of that city limit response. So the
11 party was within our service call.

12 Q. Within the City of Lancaster?

13 A. Yes, ma'am.

14 Q. Okay. So the call that night to [REDACTED] Pardue, what
15 was that call for?

16 A. Unconscious child.

17 Q. Okay. Tell the jury a little bit about when you
18 get a call like that. What is fire's response? Why does
19 fire respond to that?

20 A. Fire, we -- because of location, we're small fire
21 stations in districts, we have a quicker response time. So
22 EMS is also tagged in on the call. But usually we can get
23 to scene quicker than the following and provide patient care
24 in a faster way and then follow up and transfer care to a
25 paramedic crew.

ANDREW PORTE DIRECT BY MS. MCGINNIS

1 Q. Okay. So part of your firefighter training, as
2 well as your EMT training is to provide that immediate
3 emergency first aid?

4 A. Yes.

5 Q. And in this case, what did you do when you got to
6 that scene at [REDACTED] Pardue Street?

7 A. Well, we were dispatched, out the door immediately
8 take a right, respond emergent light and sirens, show up on
9 scene prior to getting with Officer Hagwood discussed that
10 Porte, get out first, go make patient contact. And he was
11 going to grab the bags, medical first in bags. So I went
12 in, met Officer Blas, walked through the front door, and
13 found the baby unresponsive in the middle of the hallway.

14 Q. Okay. What was the child wearing when you
15 encountered her?

16 A. She had her just a little diaper.

17 Q. Okay. Was she wrapped in a towel?

18 A. No.

19 Q. Okay. When you got there, did you pick her up and
20 take her out of the house?

21 A. I did.

22 Q. And what was the reason for taking her out of the
23 house?

24 A. In the house it was very chaotic, you know, a lot
25 of noise, very emotional and low lighting. It just wasn't a

ANDREW PORTE DIRECT BY MS. MCGINNIS

1 very good place to start working on her. But I just
2 immediately just grabbed her up. And just checked and
3 looked for airway, breathing, circulation, and address those
4 issues as needed. And immediately started working with CPR,
5 getting the heart pumping.

6 Q. Okay. Where did you relocate her to?

7 A. We went out right by Engine 4 where we were parked
8 and the bags were there, so Officer Hagwood is already
9 setting up the bag, we got our pediatric BVM bag valve mask,
10 and we're going to put her on oxygen to start getting oxygen
11 into her little lungs. We got that established, but by the
12 time we were ready to initiate that, the paramedic truck had
13 already gotten on scene. So I picked her up and immediately
14 walked with a purpose, quickly on board to the primary truck
15 and we laid her down in the middle gurney and then to work.

16 Q. Okay. So you carried her into the ambulance when
17 it arrived, did you continuously perform CPR that whole
18 time?

19 A. Yes, ma'am.

20 Q. And once you got her into the ambulance, did you
21 continue to render aid to A.W. [REDACTED]

22 A. Oh, yeah. Yes, absolutely.

23 Q. Okay. What did you continue to do for her?

24 A. Well, I was here to stick on chest compressions
25 with her. Paramedic Collins and Basic Willis were already

ANDREW PORTE DIRECT BY MS. MCGINNIS

1 on scene and they got to work doing what they're doing,
2 patient assessments. And then we're soon joined by
3 Paramedic Demby who came on board, so the four of us were
4 working on her doing everything we possibly could.

5 Q. Okay. Ultimately, EMS performed some other
6 medical procedures and then ultimately took her to the
7 hospital. Did you continue with EMS to the hospital?

8 A. Yes, I drove in back with Paramedic Collins,
9 Paramedic Demby, Mr. Willis and we got one of our
10 firefighters to drive the ambulance and then the officer
11 took the engine to meet us out the ER.

12 Q. Okay. So you continued the CPR --

13 A. Yes.

14 Q. -- that entire time to the hospital?

15 A. Absolutely, yes.

16 Q. And when did you stop doing CPR?

17 A. Well, when we got off the truck there, we were met
18 at the ER bay and just continued on, so just kind of jumped
19 out and kept her going and we wheeled her into the first
20 room on the left of the ER, which is more of like a trauma
21 receiving room.

22 Q. So you didn't stop until she was turned over to
23 hospital staff?

24 A. Correct.

25 Q. Okay. And I want to take you back to when you

ANDREW PORTE DIRECT BY MS. MCGINNIS

1 went in initially to pick A.W. up, she was on the kitchen
2 floor. Do you recall when you picked her up -- did she
3 respond -- was she responsive at all to you?

4 A. No, ma'am.

5 Q. What was her, like, her eyes, her breathing,
6 anything like that?

7 A. No, she -- her eyes were just slightly cracked
8 open. They're glazy, like, had a lot of tears on them, but
9 pupils were not reactive to light, and she has a very floppy
10 physicality to it. And again, looking for it, you check
11 carotid, brachial, radial, and femoral pulse, like her chest
12 rise and fall when breathing, and I just saw none of the
13 above.

14 Q. Okay. And did she ever, during your treatment of
15 her or your assistance with EMS, display any signs of life
16 on her end?

17 A. No, ma'am.

18 Q. Thank you. Answer anything that Mr. Frick has for
19 you.

20 THE COURT: Mr. Frick.

21 MR. FRICK: I don't have any questions for this
22 witness, thank you.

23 THE COURT: All right. You can step down, sir.

24 THE WITNESS: Thank you.

25 THE COURT: You're free to leave the courthouse,

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 you're more than welcome to remain with us if you choose to.

2 All right. Solicitor?

3 MS. MCGINNIS: The State will call David Demby.

4 THE CLERK: Left hand on the Bible, raise your
5 right, please. Do you swear to tell the truth, the whole
6 truth, and nothing but truth, so help you God?

7 THE WITNESS: I do.

8 DAVID DEMBY, having been duly sworn, testified as
9 follows:

10 THE CLERK: You may be seated.

11 THE COURT: State your name for the record, sir.

12 THE WITNESS: David Demby.

13 DIRECT EXAMINATION

14 BY MS. MCGINNIS:

15 Q. Mr. Demby, where are you currently employed?

16 A. Mackey Family Practice.

17 Q. How long have you been with Mackey?

18 A. Three years.

19 Q. In what role?

20 A. I'm a family nurse practitioner.

21 Q. Prior to joining Mackey Family Practice, where did
22 you work?

23 A. I worked for Lancaster County EMS. I was an A
24 Shift supervisor.

25 Q. How long did you work with EMS?

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 A. 24 years.

2 Q. Okay. Tell the jury a little bit about the
3 training that you're required to initially become employed
4 with EMS.

5 A. So EMS has paramedics, EMTs, most of the
6 paramedics, every truck at that time was staffed with at
7 least one paramedic and an EMT for the transport. So the
8 paramedics, they're trained extensively in trauma and
9 advanced life support, both pediatric and adult, as well as
10 medical emergencies.

11 Q. And you are a paramedic?

12 A. Yes, ma'am.

13 Q. Had paramedic training?

14 A. Yes, ma'am.

15 Q. Okay. I want to turn your attention back to
16 February 22nd of 2021. Were you working with EMS that
17 night?

18 A. Yes, ma'am. I was A Shift supervisor that night,
19 and I responded along with EMS 1.

20 Q. Okay. So the call came out for the unresponsive
21 infant?

22 A. Yes, ma'am.

23 Q. Okay. So when you responded, were you on the
24 ambulance or were you in a separate vehicle?

25 A. I was in a QRV, yes, ma'am.

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 Q. Okay.

2 A. The QRV, or rapid response vehicles, as
3 supervisors we have to back up all of the trucks on these
4 type of calls. So they usually will dispatch out us along
5 with the crew members or another unit at that time.

6 Q. Okay. So did you pull up shortly after the actual
7 ambulance?

8 A. I did, yes, ma'am.

9 Q. And what was happening on scene when you got
10 there?

11 A. So EMS, fire, police were on scene. And when I
12 arrived on scene, I immediately got out and went to EMS 1,
13 which was already on scene and started working with them.

14 Q. Was A.W. already in the ambulance?

15 A. Yes, ma'am.

16 Q. Okay. And tell the jury a little bit when you
17 first encounter a patient, what are the initial assessments
18 that you perform on that patient?

19 A. So all medics are trained in pediatric advanced
20 life support. And the first treatment on these kind of
21 calls is looking at airway, breathing, circulation. So
22 they're making sure that the patient's breathing, do they
23 have a pulse, if there's nothing going on, then they're
24 going to open airway, start bagging the patient or
25 ventilating the patient, and then start CPR.

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 Q. Okay. And in this case, you performed that
2 airway, breathing, circulation evaluation on A.W.

3 A. Yes, ma'am.

4 Q. And what did your evaluation show?

5 A. So when I first got in, A.W. was not breathing,
6 she had no pulse, and her eyes were fixing and dilated.

7 Q. Okay. So what's the first step that you did?

8 A. So we opened the airway. We reassessed as
9 paramedics, we start reassessing from the beginning, even
10 though the first responders were there, we take back over
11 and kind of restart the whole process. And so we open their
12 airway, we look for any breathing at the time the patient
13 was not breathing and we checked for pulses. At that time
14 the patient did not have a pulse.

15 Q. And when you say "checked the airway," does that
16 mean check to make sure she's not choking on something,
17 there's not an object impeding her breathing?

18 A. Yes, ma'am.

19 Q. Okay. And did you find anything of that sort?

20 A. No, ma'am.

21 Q. Okay. And she had no pulse, was CPR still being
22 performed by Firefighter Porte?

23 A. Yes, ma'am.

24 Q. Okay. So once you are able to determine there's
25 nothing blocking her breathing, what did you do next?

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 A. So next step would be to put the patient on a
2 monitor to see what the underlying rhythm is and which we
3 did. And A.W. at that time was in asystole, which was no
4 electrical activity.

5 Q. Okay. And the monitor you're talking about, what
6 does that check for?

7 A. So it looks for rhythm any electrical activity in
8 the heart. It's a LifePak 15. And they all -- you can
9 cardiovert patients, shock patients, assess underlying
10 rhythms, that's primarily what you're looking for.

11 Q. Okay. So you put the heart monitor on her, and
12 you said she was in asystole?

13 A. Yes, ma'am.

14 Q. And again, that means what, I'm sorry?

15 A. No electrical activity.

16 Q. Okay. Was there any indication of any activity
17 that her heart was pumping at all?

18 A. No, ma'am.

19 Q. Okay. So once you determine that, what did you do
20 next?

21 A. So we restarted CPR, restarted ventilating the
22 patient, and then we started the next step, which would be
23 try to establish an IV access so we can push medications and
24 try to intubate the child to get a better airway so we can
25 ensure that she's breathing better.

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 Q. Okay. Were you able to get an IV placed on A.W.

2 A. We were not able to get the initial IV placed, so
3 we had to place an IO in her, which is an intraosseous --
4 intraosseous IV where you basically you have to go into the
5 bone in order to push the fluids through.

6 Q. Okay. Where did you initially attempt to place
7 the IV for A.W.

8 A. So I did not attempt to place the first IV that
9 came from Paramedic Collins, he actually attempted that
10 himself.

11 Q. Okay. And would that be like, in her arm or
12 something?

13 A. Yes, ma'am. Yes, ma'am.

14 Q. Okay. And that was unsuccessful?

15 A. Yes, ma'am.

16 Q. Okay. So then you said an intraosseous IV was
17 placed?

18 A. Yes, ma'am.

19 Q. What's the process for doing that?

20 A. So with an intraosseous, we have a little drill
21 and a fairly large bore needle, and basically, you just find
22 the place, the placement, the proper placement for it, and
23 you drill the needle down into the bone and you attach it
24 just like an IV and you can push fluids and medications
25 through it.

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 Q. Was that placement successful?

2 A. Yes, ma'am.

3 Q. Okay. And what, if anything, did you give to

4 A.W. as far as fluids or medications?

5 A. So initially, the first -- to kind of backtrack a
6 little bit there, we have to establish the proper size of
7 the child in order to make sure that she's getting the
8 proper medication. So we utilized a color metric device,
9 which is just a basic kind of a tape. We measured her from
10 her head to her toes, and that allows us to pull off a
11 specific bag out of the bag that has everything that we need
12 for her, based off of her size.

13 Q. Okay.

14 A. And then it also has on the back of the tape, the
15 proper medications, first line cardiac drugs to start giving
16 based off her size.

17 Q. Okay. So that would be the right size of mask or
18 needle or other physical apparatus that you need?

19 A. Right. Everything to include intubation supplies,
20 tubes, needles, everything.

21 Q. Okay. So you did that and determined what color
22 category she fell in?

23 A. Yes, ma'am.

24 Q. Okay. So once you knew what sizes to use on
25 everything, what did you do?

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 A. So the next step was to place the medication. So
2 Paramedic Collins gave the first line epinephrine, which was
3 the first medication to try to restore start the heart back.
4 I gave her a little bit of a fluid bolus, and then while he
5 was working that part of it, I intubated her.

6 Q. Okay. And what's the purpose of a fluid bolus?

7 A. So the fluid bolus is to try to get some more
8 fluid back into the vascular system, to move the medication,
9 and also just to try to rehydrate a little bit.

10 Q. Okay. After you administered the epinephrine and
11 the fluid bolus, did you notice any change in A.W.'s
12 condition?

13 A. So with the epinephrine, the fluid bolus, and the
14 CPR, we stopped every two minutes, every five minutes to
15 reassess, and no electrical activity was started after that.

16 Q. Okay. You said you intubated her, what does that
17 process entail?

18 A. So the next step, once you're bagging a patient,
19 if you're not -- you really need to move to the next piece
20 of it, which is to fully secure the airway and try to
21 ventilate the lungs. So that step, basically, we get a
22 McGill laryngoscope and go into the airway, open it up,
23 visualize the vocal cords, and place a tube through the
24 vocal cords, secure it, and ventilate her through that.

25 Q. Does that go down into her lungs?

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 A. Yes. Yes, ma'am.

2 Q. And the purpose of that is just to more directly
3 deliver air to her lungs?

4 A. Yes, ma'am.

5 Q. Okay. Was that done successfully in the
6 ambulance?

7 A. Yes, ma'am.

8 Q. And you're doing all this while y'all are parked
9 on scene still; is that correct?

10 A. Yes, ma'am.

11 Q. What's the reason for doing that there on scene
12 instead of just putting her in the ambulance and driving to
13 the hospital?

14 A. As a note, all, whether it be ER, emergency, EMS
15 are all trained in pediatric advanced life support, so we do
16 exactly the same thing the ER is going to do as far as the
17 stabilization process. They would have to do that if we
18 didn't do it prior to getting there.

19 Q. So by doing it on scene, is that that allowing you
20 earlier treatment access to the patient?

21 A. Yes, ma'am. Particularly with kids, it allows us
22 to get ahead really fast with them and try to treat them and
23 get her rhythm back.

24 Q. Okay. So when she was successfully intubated and
25 you were administering oxygen via the intubation that you

DAVID DEMBY DIRECT BY MS. MCGINNIS

1 did?

2 A. Yes, ma'am.

3 Q. What else did you do there on scene?

4 A. So once we have -- we've gotten that kind of,
5 everything is stabilized, the next step is to transport the
6 child to the hospital.

7 Q. Okay. And as you transport the child to the
8 hospital, does your treatment continue?

9 A. Yes. CPR continues. They have one group that
10 drives us in, everybody stays in the back and we keep
11 reassessing, keep looking at the monitor, keep bagging the
12 patient, keep pushing the medication.

13 Q. In this case, did you in fact have a firefighter
14 drive you to the hospital?

15 A. Yes, ma'am.

16 Q. And did that allow yourself as well as the EMT and
17 the paramedic to stay hands on with A.W.

18 A. Yes, ma'am.

19 Q. Did you continue the treatment, you said, the
20 entire way to the emergency room?

21 A. Yes, ma'am.

22 Q. At any point, did you get any sort of rhythm on
23 the monitor?

24 A. No, ma'am.

25 Q. Did you ever see any signs that A.W. was

DAVID DEMBY CROSS BY MR. FRICK

1 breathing on her own?

2 A. No, ma'am.

3 Q. Did you ever get any other signs of life in A.W.

4 A. No, ma'am.

5 Q. If you'll answer anything Mr. Frick has for you.

6 THE COURT: Mr. Frick.

7 MR. FRICK: Thank you.

8 CROSS-EXAMINATION

9 BY MR. FRICK:

10 Q. Nurse Demby, if I can call you that now, I'm
11 sorry, I presumed.

12 A. That's okay.

13 Q. So when y'all respond to a scene, do you do kind
14 of an incident report?

15 A. Yes, sir.

16 Q. Okay. I call it run report, is that what it's
17 called?

18 A. Yes, sir.

19 Q. Okay. So EMS run report is kind of a -- it goes
20 through your assessment and everything that y'all did,
21 correct?

22 A. Yes, sir.

23 Q. Okay. Do you have a copy with you?

24 A. I do, sir.

25 Q. Okay. Do you mind referring to it?

DAVID DEMBY CROSS BY MR. FRICK

1 A. Yes, sir.

2 Q. You got it?

3 A. Yes.

4 Q. Okay. I'm going to ask you to look down there at
5 the bottom of Page 1, it looks to me, three epinephrine
6 shots?

7 A. Yes, sir.

8 Q. Okay. And tell me what is epinephrine?

9 A. So epinephrine is a cardiac -- it's an advanced
10 life support cardiac drug. It's designed to restart the
11 heart, to reestablish the electrical activity. It gets the
12 heart moving again.

13 Q. Commonly referred to as adrenaline?

14 A. Yes.

15 Q. Some people do.

16 A. Yes.

17 Q. Lay people do, right?

18 A. Yes.

19 Q. Okay. All right. And you gave her three separate
20 shots, correct?

21 A. Yes, sir.

22 Q. Looks like starting at -- gosh, I gotta do this --
23 is that 11? No, that's 10, 10:07?

24 A. Right, 22, yes, sir, 2207.

25 Q. Okay. And then 10:10?

DAVID DEMBY CROSS BY MR. FRICK

1 A. Uh-huh.

2 Q. And then 10:13?

3 A. Yes, sir.

4 Q. Okay. Did you. Did y'all do any more -- was
5 there any other medication that was given to her?

6 A. No, sir. Based off ACLS or pediatric advanced
7 life support. If they are asystole the only medication that
8 you can really give in that case is epinephrine.

9 Q. Okay. All right. And do you do a defibrillator
10 on an infant?

11 A. You can, yes, sir.

12 Q. Okay.

13 A. But in this case, she was asystole, which is
14 again, falls in the pediatric advanced life support, you
15 don't defibrillate asystole.

16 Q. Gotcha. Okay. All right. But you do have the
17 bag going on. You got still people doing CPR, correct?

18 A. Yes, sir.

19 Q. Look on that second page there at the top, you do
20 kind of -- I'm going to say that's an assessment, a visual
21 assessment of her body?

22 A. Yes, sir.

23 Q. Okay, and then the H-E-N-T, that -- that's head,
24 ears, eyes, nose and throat, correct?

25 A. Yes.

DAVID DEMBY CROSS BY MR. FRICK

1 Q. So you do kind of a -- and I know it's a brief
2 assessment, you just put a couple words there, right?

3 A. Yes, sir.

4 Q. Okay. But other than seeing that her eyes were
5 dilated, you noted no norm -- no abnormalities; is that
6 correct?

7 A. Yes, sir.

8 Q. Okay. And on her abdomen, you said, "In general,
9 no abnormalities," correct?

10 A. Yes, sir.

11 Q. And same on her back, no abnormality.

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

13 Q. I ate my sandwich too fast. Sorry, sir.

14 All right. And then on the extremities, you got,
15 "other," on left and right arm. What do you recall what?

16 A. So this first run report is actually created by
17 the EMS Brian Collins.

18 Q. Okay.

19 A. But I can only assume that when, he says, "other,"
20 maybe he was mentioning the hands being stiff.

21 Q. Okay. Okay. And then the legs, no abnormalities,
22 correct?

23 A. Right. Yes, sir.

24 Q. All right. Look down at the next part -- well,
25 not the next part, not your narrative, but down there in the

DAVID DEMBY CROSS BY MR. FRICK

1 line that says, "cardiac arrest," in that block.

2 A. Yes, sir.

3 Q. Y'all kind of have to make a diagnosis -- I mean,
4 you're not making a diagnosis, but you're making a
5 diagnosis, is that...

6 A. So paramedics don't diagnose, they just treat what
7 they see.

8 Q. Right.

9 A. Yes.

10 Q. Okay. But there was a question of whether this
11 was a cardiac arrest.

12 A. Uh-huh, yes, sir.

13 Q. And it was answered yes?

14 A. Yes, sir.

15 Q. Okay. And what is that line right there, it said,
16 "estimated time of arrest, 8 to 10 minutes." Can you tell
17 me what that means?

18 A. Estimated time of arrest. I, can only assume what
19 they're indicating there is how long that maybe the child
20 was with us when we were working at -- working the arrest
21 with the kit.

22 Q. Okay. Okay. So on scene it's possible --

23 A. Right, yes, sir.

24 Q. -- that while measures were being taken, she could
25 have still been alive while y'all working on her?

DAVID DEMBY CROSS BY MR. FRICK

1 A. No, sir.

2 Q. Okay. Tell me what you said then?

3 A. So eight to 10 minutes, maybe that was the period
4 of time for their arrest, but as we were working it from
5 time start to time end.

6 Q. Okay. All right. And of course, you put in their
7 "arrest, witnessed by," there were no witnesses, correct?

8 A. No.

9 Q. Okay. And y'all worked on her for a while in the
10 ambulance; isn't that correct?

11 A. Yes, sir.

12 Q. I think it's on Page 3; is it fair to say, I'm
13 looking, "at patient," where you got, it's 10:59. When did
14 y'all start working on her? What, in that list of lines
15 right there, when's the one that would tell you?

16 A. So if you look at, "arrived on scene," that's when
17 the EMS crew got on scene.

18 Q. Okay.

19 A. And then there -- I'm sorry, I'm a little hard to
20 see this myself -- on scene was 22, I can't, I'm sorry, I
21 can't read that. At, Patient, if you look down below that,
22 there's a number that says, At patient --

23 Q. Right.

24 A. -- that was the time at the patient.

25 Q. Okay.

DAVID DEMBY CROSS BY MR. FRICK

1 A. Which I think is 2149.

2 Q. 59 is what it looks like to me.

3 A. 59. Okay. And then patient transferred is 2214.

4 Q. Okay.

5 A. That's how long we worked on her from the time at
6 that patient to the time of transfer.

7 Q. Okay. All right. And then you got a part there
8 that says, "departed scene 2208."

9 A. 2208. Yes.

10 Q. And so you -- I guess you had her in the state --
11 you had to work on her at the scene to get her stabilized,
12 correct?

13 A. Yes, sir.

14 Q. Because you can't be driving down the road --

15 A. No, sir.

16 Q. -- without stable patient?

17 A. That's right.

18 Q. All right. So you get her stabilized or in a
19 state that is as good as you're going to get, I guess --

20 A. Yes, sir.

21 Q. -- and that's when you transfer to the hospital?

22 A. Yes, sir.

23 Q. Okay. So that last number there, from 2159 to
24 patient transferred, and I'm seeing it as 2214. Someone's
25 constantly working on her?

DAVID DEMBY CROSS BY MR. FRICK

1 A. Yes, sir.

2 Q. Okay. Now let's go back -- sorry, I needed to
3 cover this, back on Page 1, you were talking about the
4 intraosseous that you did.

5 A. Yes, sir.

6 Q. And it looks like, Put some saline, some fluid.
7 What is E-Z-I-O?

8 A. That's the intraosseous name brand of the
9 intraosseous --

10 Q. Okay.

11 A. -- device.

12 Q. The device?

13 A. Yes, sir.

14 Q. Okay. Okay. All right. And 15 millimeter,
15 that's just the size of the needle, then?

16 A. Yes, sir. The gauge of the needle.

17 Q. Gotcha. All right. And then the saline, is
18 that -- that's just -- is that the normal IV bag?

19 A. Yes, sir. It's just normal isotonic fluid, yes,
20 sir.

21 Q. Okay. All right. All right.

22 MR. FRICK: Beg the Court's indulgence for one.

23 THE COURT: Sure. Take your time.

24 MR. FRICK: Thank you, sir. That's all the
25 questions I have.

DAVID DEMBY REDIRECT BY MS. MCGINNIS

1 THE COURT: Any redirect?

2 MS. MCGINNIS: Beg the Court's indulgence.

3 REDIRECT EXAMINATION

4 BY MS. MCGINNIS:

5 Q. Mr. Demby? Do you also have access to the report,
6 the four-page report that you did from EMS?

7 A. Yes, ma'am.

8 Q. And I want to turn your attention to Page 2 of
9 that, is the on-scene time there slightly different from the
10 on-scene time on the first report that Mr. Frick directed
11 you towards?

12 A. Yes, ma'am. Because the way that the county is
13 set up, the EMS units are dispatched out. If it's a
14 supervisor dispatched out with them, we may or may not
15 arrive on scene either before or after the unit, depending
16 on the circumstance.

17 Q. So what is the on-scene time notated on your
18 report that you authored?

19 A. So my on-scene time there, ma'am, was 2153.

20 Q. Okay. And when you arrived, CPR was already being
21 performed by Andrew Porte and being assisted by other
22 firefighters as well as Deputy Blas; is that right?

23 A. Yes, ma'am.

24 Q. Okay. And do you recall when you got there, your
25 report is not as detailed since you're the supervisor versus

DAVID DEMBY REDIRECT BY MS. MCGINNIS

1 them, do you recall noticing anything about A.W. when you
2 viewed her there in the ambulance?

3 A. Yes, ma'am. When I looked at her, I noticed that
4 again her eyes, she was fixed and dilated. She barely had
5 them open. She looked really emaciated, and when I opened
6 her mouth, when I started to, I noticed that her mouth was
7 very dry.

8 Q. Okay. And that just isn't notated in your report
9 because your report is not quite as thorough.

10 A. Right. Yes, ma'am.

11 Q. Thank you, Mr. Demby.

12 THE COURT: Any redirect?

13 MR. FRICK: No, sir.

14 THE COURT: You can step down, sir. You're free
15 to leave the courthouse. You're more than welcome to remain
16 with us.

17 Solicitor?

18 MS. MCGINNIS: Judge, may we approach?

19 THE COURT: Sure.

20 (WHEREUPON, a bench conference held off record.)

21 THE COURT: All right. Ladies and gentlemen, as I
22 told you earlier, we were going to break early for the day.
23 The lawyers have some matters to attend to. So be back here
24 in the morning at 9:30 and we'll start back up, okay?

25 Remember all my instructions. Have a good

1 afternoon, good evening, get some good rest and we'll see
2 you in the morning.

3 (WHEREUPON, the jury exited the courtroom at 1:25
4 p.m.)

5 THE COURT: All right. We'll be in recess till
6 9:30 in the morning. Have a good afternoon and evening.

7 MR. FRICK: Judge, I need to put something on the
8 record that I hadn't done so far.

9 THE COURT: Sure.

10 MR. FRICK: We had conversations in chambers about
11 my request for a continuance, but I have not put it on the
12 record if you'll allow me to do that.

13 THE COURT: Oh, yeah.

14 MR. FRICK: As we've discussed, the State, late in
15 this case, discovered that there was an additional phone --
16 actually, there were three addition -- there were three
17 phones that were taken that had not been analyzed. Those
18 were download, those were dumped, two of them last week, one
19 of them late in the week. I received copies of two of them
20 Wednesday of last week. The other one was not completed, as
21 I understand, until Sunday.

22 The Solicitor did advise me of that. Made it
23 available to me Sunday evening, of course, that was here in
24 Lancaster. I got it on Monday morning, yesterday morning we
25 had a discussion about that in chambers. Your Honor ruled,

1 would not grant a continuance at that time, but would allow
2 me time to review the phone.

3 I have reviewed the phone and gone back and looked
4 at the other two that I got last week as well, based on what
5 I saw on the last phone, I have requested a continuance so I
6 can have that examined.

7 THE COURT: Right.

8 MR. FRICK: I do have an examiner in place, you've
9 signed the order for that this morning.

10 THE COURT: Right.

11 MR. FRICK: And I've been in contact with them to
12 get that. But I did renew my request for a continuance this
13 morning. That is, I would say, denied, I know you're
14 granting some ability for me to go into next week because I
15 think that's when report would be ready.

16 THE COURT: Right.

17 MR. FRICK: But, Your Honor, I just wanted to put
18 on the record I had made the request for the continuance of
19 the late discovery and just needed to put that on the
20 record.

21 THE COURT: All right. So noted on the record.
22 All right. Now, we will be in recess till 9:30 in the
23 morning. Have a good afternoon and evening.

24 (WHEREUPON, proceedings adjourned for the day at
25 1:28 p.m.)

1 (WHEREUPON, proceedings reconvened Wednesday,
2 August 28, 2024 at 9:45 a.m.)

3 THE BAILIFF: All rise. Court is now in session.

4 THE COURT: Y'all have a seat. Thank you.

5 Lawyers, are we ready to get cranking back up on
6 the trial?

7 MR. FRICK: I think so, Judge.

8 MS. CAMPBELL: Yes, Your Honor.

9 Your Honor, today we're just having to take some
10 witnesses just out of order because of scheduling issues.

11 THE COURT: That's fine. Sure. Do whatever we
12 need to do.

13 MS. CAMPBELL: It may be a little convoluted.

14 THE COURT: Now, the doctor in New Zealand, is
15 that back on this afternoon?

16 MS. CAMPBELL: That's at 2:00 this afternoon.

17 THE COURT: Okay. If you can bring Mr. White back
18 out, please.

19 (WHEREUPON, the Defendant entered the courtroom at
20 9:48 a.m.)

21 THE COURT: Nolan, I'm ready for the jury.

22 THE BAILIFF: Oh, yes, sir. Jury's coming in.

23 (WHEREUPON, the jury entered the courtroom at 9:50
24 a.m.)

25 THE COURT: All right. Let the record reflect the

1 jury's back in. Good morning, ladies and gentlemen.

2 THE JURY: Good morning.

3 THE COURT: Hopefully you got some good rest last
4 night and ready to get back to work.

5 Is the State ready for the first witness of the
6 day?

7 MS. CAMPBELL: May it please the Court?

8 THE COURT: Yes.

9 MS. CAMPBELL: The State would call Cheryl Lewis.

10 THE CLERK: Do you swear to tell the truth, the
11 whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: I do.

13 CHERYL LEWIS, having being duly sworn, testified
14 as follows:

15 THE CLERK: Thank you.

16 THE COURT: You can sit down. Can you state your
17 name for record, please, ma'am?

18 THE WITNESS: My name is Cheryl Lewis.

19 THE COURT: Cheryl Lewis?

20 THE WITNESS: Yes.

21 MS. CAMPBELL: She's the custodian from MUSC, Your
22 Honor.

23 THE COURT: Let me see the lawyers for a minute.

24 (WHEREUPON, a discussion held off the record.)

25 THE COURT: Ladies and gentlemen, if you remember

CHERYL LEWIS DIRECT BY MS. CAMPBELL

1 on Monday when I read out the list of potential witnesses
2 and after I read them out I did them in groups because of
3 the number of witnesses. Then I asked you questions whether
4 or not you were related by blood or marriage or had a close
5 personal or social relationship with those witnesses.

6 At the time on Monday, we did not know the exact
7 name of Ms. Lewis. All I said was a custodian of records at
8 MUSC. We now know her name, so I'm going to ask if any
9 member of the trial jury is related by blood or marriage,
10 either now or formally to Ms. Lewis or any member of the
11 trial jury have or had a past a close personal or social
12 relationship with Ms. Lewis. Would that apply to anybody on
13 my trial jury?

14 Okay. And we're going to have one more witness at
15 some point in time that we did not have the exact name and
16 I'll be asking you the same questions when that witness is
17 on the stand, okay. Thank you, very much.

18 Solicitor, you may proceed.

19 MS. CAMPBELL: Thank you.

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q. Ms. Lewis, where are you employed?

23 A. MUSC Health in Lancaster.

24 Q. In Lancaster?

25 A. Yes.

CHERYL LEWIS DIRECT BY MS. CAMPBELL

1 Q. And what do you do there, ma'am?

2 A. I am the market manager for health information
3 management medical records.

4 Q. For medical records?

5 A. Yes.

6 Q. So you're actually the manager over all the
7 medical records there at MUSC-L, right?

8 A. In Lancaster, yes, that's correct.

9 Q. In Lancaster, that's right.

10 And today I want to show you what's been marked as
11 State's Exhibit 187, and just ask if you had an opportunity
12 to review these records?

13 A. Yes, ma'am.

14 Q. And those records belong to, I believe, were the
15 birth records of Ms. A.W. [REDACTED]

16 A. Yes, that's correct.

17 Q. And are those records ones that were produced by
18 your department and kept in the normal course of business?

19 A. Yes, they are.

20 Q. And have they been altered in any way other than
21 some holes punched in them, as far as those are the actual
22 records produced by MUSC at Lancaster?

23 A. Yes, those are the actual records.

24 MS. CAMPBELL: Your Honor, at this time I'd offer
25 State's Exhibit Number 187 into evidence.

CHERYL LEWIS DIRECT BY MS. CAMPBELL

1 MR. FRICK: I don't think I have an objection, I
2 just wanted to look at them real quick.

3 THE COURT: Sure. Yeah, take quick take a look at
4 them, make sure you're good with that.

5 MR. FRICK: Thank you, Your Honor.

6 MS. CAMPBELL: And those have been provided to the
7 Defense.

8 MR. FRICK: Yes, sir. No objection.

9 THE COURT: All right. Without objection, 187
10 into evidence for the State.

11 (WHEREUPON, State's Exhibit Number 187 was
12 admitted into evidence.)

13 MS. CAMPBELL: Thank you. That's all we have,
14 Your Honor.

15 THE COURT: I assume no cross-examination?

16 MR. FRICK: No, Your Honor.

17 THE COURT: Okay. Thank you, Ms. Lewis. You can
18 step down. You're free to stay with us, but you're
19 certainly free leave.

20 THE WITNESS: Okay. Thank you.

21 THE COURT: Okay. Next witness for the State.

22 MS. MCGINNIS: Judge, the State would call Joe
23 Whitaker.

24 THE CLERK: Raise your right hand. Do you swear
25 to tell the truth, the whole truth, and nothing but truth,

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 so help you God?

2 THE WITNESS: I do.

3 JOSEPH WHITAKER, having being duly sworn,
4 testified as follows:

5 THE CLERK: Thank you.

6 THE COURT: After you take your seat, state your
7 full name for the record, please, sir.

8 THE WITNESS: Joseph Whitaker.

9 THE COURT: Okay.

10 DIRECT EXAMINATION

11 BY MS. MCGINNIS:

12 Q. Good morning, Mr. Whitaker. Your name is now Joe
13 Whitaker, but did you go by another name previously?

14 A. Yes. Joseph Burns.

15 Q. Okay. And is that the name that you went by when
16 you worked here in Lancaster?

17 A. That's correct.

18 Q. Okay. Where did you work when you were here in
19 Lancaster?

20 A. Lancaster Police Department.

21 Q. How long did you work for the police department?

22 A. Three and a half years.

23 Q. Okay. And what role did you have at the PD?

24 A. I was a Detective Sergeant.

25 Q. Detective Sergeant?

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 A. Yes.

2 Q. Will you sit a little closer to that microphone
3 for me?

4 A. Detective Sergeant.

5 Q. Much better, thank you. And what -- how long --
6 what years did you work there?

7 A. 2018 to 2021.

8 Q. Okay. Were you employed as a Detective Sergeant
9 in February of 2021?

10 A. Yes.

11 Q. And what division is that from the police
12 department?

13 A. Special Operations.

14 Q. Can you tell the jury a little bit about what
15 Special Operations does and what your job is as a Detective
16 Sergeant?

17 A. As an investigator for crimes within the city
18 limits on call rotation to respond to incidents that require
19 further investigation.

20 Q. So patrol deputies like Mr. Blas, who testified
21 earlier, would get initial calls for service and then
22 Special Operations would do the follow-up investigations?

23 A. Correct.

24 Q. Okay. I want to turn your attention back to
25 February 22nd of 2021. You were working in the Special

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 Operations Division. Were you on call that evening?

2 A. I was.

3 Q. Can you tell the jury a little bit about what call
4 you responded to and what your first steps were, where you
5 went first?

6 A. Yes. I received a call from the Watch Commander,
7 Lieutenant Whitaker, and he let me know that there was a
8 unresponsive child, that was deceased at the hospital and
9 requested my services to come out and investigate.

10 Q. Okay. So where did you initially report to that
11 night?

12 A. MUSC Hospital.

13 Q. Here in Lancaster?

14 A. Correct.

15 Q. Okay. When you got to the hospital, was there
16 other officers or law enforcement personnel there?

17 A. Deputy Blas was at the hospital in Room 15,
18 outside Room 15.

19 Q. Okay. Without saying what he told you, were you
20 briefed on the situation and kind of the information that
21 the police department had so far?

22 A. Yes.

23 Q. Okay. When there's a child death in the state of
24 South Carolina who all has to be called?

25 A. The coroner's office, the SLED Child Homicide Task

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 Force.

2 Q. As well as law enforcement?

3 A. As well as law enforcement, yes, ma'am.

4 Q. And was DSS also notified?

5 A. Yes, they were.

6 Q. Okay. That night at the hospital, did personnel
7 from each of those agencies respond?

8 A. Yes.

9 Q. Okay. What did you do when everybody was present
10 there at the hospital?

11 A. We went and spoke with the parents after -- well,
12 first, Lieutenant Small responded, he was the head of
13 Special Operations at the time, and we went inside Room 15
14 and did a preliminary review of A.W. and took pictures.
15 Then we -- Lieutenant Small left and Agent May came and we
16 went and spoke with the parents.

17 Q. And Agent May is from SLED?

18 A. Correct.

19 Q. Okay. So you did an interview with both parents
20 that night, right?

21 A. Correct.

22 Q. Was that interview recorded?

23 A. Yes.

24 Q. I think both you and Agent May had body worn
25 cameras on to record that interview; is that right?

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 A. Correct.

2 MS. MCGINNIS: Judge, May I approach the witness?

3 THE COURT: Sure.

4 BY MS. MCGINNIS:

5 Q. Mr. Whitaker, I'm showing you what's been marked
6 for identification as State's Exhibit 186, are you familiar
7 with this?

8 A. Yes.

9 Q. And what does this disk contain on it?

10 A. This disk contains the interview statement of
11 David White from the hospital.

12 Q. From the hospital that night on February 22nd?

13 A. Correct.

14 Q. Have you reviewed that video?

15 A. Yes.

16 Q. And does it fairly and accurately represent the
17 interview that you did that night?

18 A. It does.

19 Q. Has it been altered or changed in any way?

20 A. No, ma'am.

21 MS. MCGINNIS: Judge, at this time we'd move
22 State's 186 into evidence.

23 THE COURT: Subject to what has already been
24 placed on the record previously.

25 MR. FRICK: Thank you, Your Honor.

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 THE COURT: 186 is into evidence for the State.

2 MS. MCGINNIS: Permission to publish at this time?

3 THE COURT: Certainly.

4 (WHEREUPON, State's Exhibit Number 186 was
5 admitted into evidence and published to the jury.)

6 MS. MCGINNIS: We are having some technical
7 difficulties, Judge. I think we got it, Judge, I apologize.

8 (WHEREUPON, the audio/video was played.)

9 THE COURT: Let me ask the jury: Is anybody
10 having any difficulty hearing or understanding what is being
11 said on the video? If so, then Solicitor McGinnis indicates
12 that she might can do a little something to improve that.
13 But I first need to know is anybody having any difficulty
14 hearing or understanding?

15 Okay. What I'm going to do is I'm going to send
16 you to your jury room for just a minute and give Solicitor
17 McGinnis an opportunity to see if she can do whatever she
18 needs to do where it can be presented and you can hear and
19 understand a little bit better, okay. Let's go back to the
20 jury room. It shouldn't take long.

21 (WHEREUPON, the jury exited the courtroom at 10:12
22 a.m.)

23 (WHEREUPON, a pause in the proceedings while
24 working on technical issues.)

25 THE COURT: Would we want to do this, is maybe

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 hold off with this witness, maybe over lunch get IT to come
2 in and see if they can fix it and then are you available to
3 come back at another point in time? Maybe we want to do
4 that and we just go to another witness then over lunch get
5 IT in here. You want to try that maybe?

6 MS. MCGINNIS: I can.

7 THE COURT: Get IT up here over lunchtime?

8 MS. MCGINNIS: Our next witness just went to the
9 restroom, Judge, so can we just have a couple minutes to get
10 let her get back into the courtroom.

11 THE COURT: Yeah. All right. Now, when we do the
12 doctor at 2:00 o'clock.

13 MS. MCGINNIS: Uh-huh.

14 THE COURT: We're going to have maybe the same --
15 I know that's being done virtually but it's going to be the
16 same issue?

17 MR. FRICK: Carson and I talked about doing a test
18 run of it, so I was going to make sure that we did not have
19 that same issue. So I'll spend lunchtime with our IT guy
20 and we'll test run that.

21 THE COURT: All right. Let's take a five-minute
22 break for everybody and then so is that going to be the
23 plan, we'll just let this witness step down and just be
24 recalled?

25 MS. CAMPBELL: That's fine.

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 MS. MCGINNIS: I think that's our only option,
2 Judge.

3 THE COURT: All right. Good. Let's take a
4 five-minute break.

5 MS. MCGINNIS: Thank you.

6 (WHEREUPON, a break was held.)

7 THE COURT: All right. We're back on the record.
8 And what the plan is, is to finish up examination of this
9 witness and so he can get on out and then get IT here over
10 lunch to hopefully fix the equipment. And then it's been
11 agreed that the video of the interview can be played without
12 this officer present because it's already into evidence.

13 And, in addition, we did get a note from the jury
14 saying, do we get a transcript? And it turns out that there
15 is in existence a transcript of this interview. And by
16 consent, normally we don't give transcripts to juries, but
17 by consent, a transcript of this interview at the hospital
18 will be provided to the jury; is that correct, Solicitor?

19 MS. CAMPBELL: Yes, sir. I think Mr. Frick wants
20 to renew his objection to the admission of the actual
21 statement.

22 THE COURT: Mr. Frick.

23 MR. FRICK: Yes, sir. I do not disagree with
24 the -- I would consent to the transcript, but I'm not
25 waiving my objection to the statement.

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 THE COURT: Right. Right. Exactly. And so I'm
2 going -- I will tell the jury that they will, while we
3 normally don't give juries transcripts, in this case, we
4 will give the transcript of this interview, okay. All
5 right.

6 MS. MCGINNIS: Your Honor, and that we will be
7 playing it later.

8 THE COURT: And we're going to play it later once
9 we get the equipment fixed. All right. Let's bring the
10 jury out.

11 MS. MCGINNIS: Hold on, Judge. I'm trying to make
12 sure this last video that I'm putting in with him is going
13 to work.

14 THE COURT: All right. You need a minute before
15 the jury comes in.

16 MS. MCGINNIS: I do. I'm so sorry, Judge.

17 THE COURT: Solicitor, you need another minute?

18 MS. MCGINNIS: Yes, sir, please. I'm sorry.

19 THE COURT: All right. We're off the record.

20 (WHEREUPON, a brief recess was held.)

21 THE COURT: Melissa, can't we just go ahead and
22 you work on that later and we get the jury back out? Is it
23 necessary that we do anything with that equipment right now,
24 or is that needed for another witness?

25 MS. MCGINNIS: There was a third video that we

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 needed to get in through him that does not have audio.

2 THE COURT: Okay.

3 MR. FRICK: That's the surveillance video.

4 MS. CAMPBELL: Yes.

5 MR. FRICK: Judge, I don't have any objection to
6 the surveillance video. If you want to go ahead and admit
7 it and we can play that later.

8 THE COURT: Okay.

9 MR. FRICK: There is no audio. I mean, you can
10 see people running around, which I think was described by
11 another witness yesterday.

12 THE COURT: Okay. So what you're saying,
13 Mr. Frick, then we don't need -- you're going to agree for
14 it to come into evidence, we don't need this witness to
15 authenticate it?

16 MR. FRICK: I don't have a problem with that. I
17 don't know what the State needs.

18 MS. CAMPBELL: Judge, this witness actually knows
19 who all the players were. You know, Ms. Page, the
20 Defendant, Ms. Janessa Campbell, who testified yesterday,
21 who you see, along with a man she referred to as, I think
22 was her fiance or husband. And he can actually identify
23 those and talk through that video as who is doing what at
24 what point on it.

25 THE COURT: Okay. So we need him here for that.

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 MS. MCGINNIS: Okay. So 186 is in evidence.

2 THE COURT: What exhibit number is this video?

3 MS. MCGINNIS: This was that's in here is 189.

4 THE COURT: 189 and that's the surveillance with
5 no audio?

6 MS. MCGINNIS: Yes, sir.

7 THE COURT: All right. So you think we're ready
8 for the jury? Let's bring the jury out.

9 MS. MCGINNIS: I'm very sorry about that, Judge.

10 THE COURT: That's all right. Don't worry about
11 it.

12 THE BAILIFF: Jury's coming in.

13 (WHEREUPON, the jury entered the courtroom at
14 10:50 a.m.)

15 THE COURT: All right. Let the record reflect
16 that the jury's back in.

17 Ladies and gentlemen, they have -- these lawyers
18 and some others have tried to get the equipment operating
19 correctly. They've been unable to. So what the plan is, is
20 they're going to bring the county IT people in over lunch
21 and hopefully they can fix the equipment to where the video
22 of the interview at the hospital is clear to you and it will
23 be played at some point in time without this witness being
24 here because it's already into evidence, okay.

25 Now, you issued a note asking for if you're going

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 to be provided a transcript. Typically, juries don't get
2 transcripts, but in this particular case, there is a
3 transcript of this interview that I just found out from the
4 lawyers that is in existence and by consent, you will be
5 provided a transcript of this interview. Again, typically,
6 transcripts are not provided to the jury. For example, when
7 you begin your deliberations, if you need to listen to a
8 witness's testimony, certainly we can bring you out and we
9 can do that for you. But in this particular case, there is
10 a transcript of the interview, and you will get that. Okay.
11 All right. Solicitor, you want to proceed?

12 MS. MCGINNIS: Yes, sir. Thank you, Your Honor.

13 BY MS. MCGINNIS:

14 Q. So, Mr. Whitaker, after you interviewed the
15 parents at the hospital, what did you do next that evening?

16 A. We then went to the apartment, [REDACTED] Pardue Street.

17 Q. [REDACTED] Pardue Street and that was within your police
18 department jurisdiction?

19 A. Correct.

20 Q. Within the city limits of Lancaster?

21 A. Correct.

22 Q. Okay. When you went back to the house, who went
23 to the house along with you?

24 A. It was Agent Mays and Lieutenant Small.

25 Q. Okay. Did DSS also respond?

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 A. Yes, they also responded.

2 Q. And did the coroner's office also accompany you
3 back to the house?

4 A. I did.

5 Q. Okay. When you got back to the house what did
6 y'all do?

7 A. We went to the residence, which was secured by
8 patrol, and met with the family that was in the living room.
9 And then we had the family exit the residence so then we
10 could initiate the search warrant.

11 Q. Okay. So you did a search of the house?

12 A. Correct.

13 Q. Along with Brian Small and Brittany May from SLED?

14 A. Correct.

15 Q. Was that captured on another officer's body worn
16 camera?

17 A. Yes.

18 Q. As well as photographs were taken?

19 A. Yes.

20 Q. Okay. So after your investigation concluded that
21 night, what are the next steps in an investigation like
22 this?

23 A. You take a look at everything that was collected
24 the night of this particular incident. We needed to get
25 more information as far as the cause of death and so an

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 autopsy was ordered.

2 Q. Okay. Did you also have to wait on toxicology
3 results to come back?

4 A. Correct.

5 Q. Okay. And ultimately, those don't happen
6 overnight; is that fair?

7 A. Fair, yes, ma'am.

8 Q. Okay. So your investigation continued as you
9 waited on those kind of -- that kind of information to come
10 back to you. Did you ultimately do a second interview with
11 Mr. White in this case?

12 A. Correct.

13 Q. And what date was that on? May of 2021?

14 A. That's correct.

15 Q. Okay. I'm going to hand you what's been marked as
16 State's Exhibit 188. Are you familiar with this disk?

17 A. Yes.

18 Q. And what is contained on that disk?

19 A. That is the statement of David White on that date
20 at the police department, Lancaster Police Department.

21 Q. From May 13th of 2021?

22 A. That's correct.

23 Q. And is that a fair and accurate representation of
24 the interview with Mr. White that day?

25 A. Correct.

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 MS. MCGINNIS: Judge, at this time we'd move
2 State's 188 into evidence.

3 MR. FRICK: No, objection, Your Honor.

4 THE COURT: Without objection, 188 into evidence
5 for the State.

6 MS. MCGINNIS: Thank you, Judge.

7 (WHEREUPON, State's Exhibit Number 188 was
8 admitted into evidence.)

9 BY MS. MCGINNIS:

10 Q. Now, also when you were working with the police
11 department and the Pardue Apartments were in your
12 jurisdiction, did you have any special access to security
13 camera from those apartment -- that apartment complex?

14 A. Yes, the apartment complex does provide Lancaster
15 Police Department with the CCTV video for us to review.

16 Q. And are you able to access that there at the
17 police department?

18 A. Yes.

19 Q. Are you able to do any editing to the footage at
20 the police department?

21 A. No, just to review and download.

22 Q. Are you able to go back and look at previous dates
23 as well as watching it live?

24 A. Yes.

25 Q. And did you do that in this case?

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 A. Yes.

2 Q. And you said again, the apartment number in this
3 case?

4 A. [REDACTED]

5 Q. Is there a security camera in Pardue that covers
6 that building?

7 A. Yes.

8 Q. Judge, I'm going to -- or, Mr. Whitaker, I'm going
9 to hand you what's been marked as State's Exhibit 189.
10 You're familiar with what is contained on the disk that goes
11 in that envelope?

12 A. Correct.

13 Q. And what is on that disk?

14 A. It is the Pardue security footage from the 2400
15 block on that night of the incident.

16 Q. Okay. And it's not the entire night; is that
17 correct?

18 A. No.

19 Q. But does it cover the time period in which the 911
20 call was placed and law enforcement responded?

21 A. Correct. It's a few minutes before 911 was taking
22 place and then some time after the incident was over, our
23 investigation that night.

24 Q. And you reviewed that video footage before you put
25 it into evidence?

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 A. Correct.

2 Q. And have you reviewed it again recently?

3 A. Yes.

4 Q. Is it a fair and accurate reflection of what
5 happened that night at the apartment complex?

6 A. It is.

7 Q. It hasn't been edited in any way other than
8 being -- it's not the entire day of that day?

9 A. Right.

10 Q. Otherwise it's...

11 A. It hasn't been edited, just cropped to the
12 specific incident.

13 Q. The time?

14 A. Correct.

15 MS. MCGINNIS: Judge, at this time we move State's
16 189 into evidence.

17 MR. FRICK: No objection, Your Honor.

18 THE COURT: Without objection, 189 into evidence
19 for the State.

20 (WHEREUPON, State's Exhibit Number 189 was
21 admitted into evidence.)

22 BY MS. MCGINNIS:

23 Q. All right. Mr. Whitaker, can you -- I'm going to
24 put it up on the screen, but I want you to kind of walk
25 through what happens with it before we play it.

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 All right. And you can use your finger to mark on
2 that screen up there.

3 A. Okay.

4 Q. Can you circle for the jury where apartment [REDACTED]
5 is on this still image?

6 A. (Complies).

7 Q. Okay. So that is the residence where Mr. White
8 lived with Shaquanda Page and his children?

9 A. Correct.

10 Q. Kind of the center of the screen there.

11 And what is -- walk the journey through what
12 they're going to see on this video.

13 A. So what you'll first see at about 9:43 p.m. is
14 David White is going to run out of apartment [REDACTED] and down
15 the steps to the SUV on the right of those steps here.

16 Q. And you can mark that.

17 A. And he's going to look at the driver's seat,
18 presuming he doesn't see anyone in the vehicle, he runs back
19 up the steps, and you can see a light from his right hand
20 that is about the size and shape of a cell phone as he's
21 running up the steps and then he runs over to apartment 2406
22 and enters apartment 2406.

23 Q. And can you mark 2406 on there?

24 A. Here.

25 Q. Okay.

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 A. And then a few seconds later, you'll see Shaquanda
2 exit [REDACTED] with A.W. holding her and also Janessa exiting
3 2406 at the same time, and they meet in between the two
4 apartments and then they enter 2406 together.

5 Q. Okay. And then do you see them exit 2406 and go
6 back into [REDACTED] at some point?

7 A. First at 9:45, we'll see David White run out of
8 2406, and he will then run into apartment [REDACTED] And then
9 we'll see another person exit 2406. And also David is then
10 exiting [REDACTED] again and running back into 2406. Then that
11 same person who exited 2406 unlocks the SUV and opens the
12 back rear hatch. And then he will run into apartment [REDACTED]
13 while David is still in apartment 2406 along with Shaquanda
14 and A.W.

15 Q. Okay. At some point do you see A.W. return back
16 into apartment [REDACTED]

17 A. At 9:47 we'll see David holding A.W. and exiting
18 apartment 2406 into apartment [REDACTED]

19 Q. Okay. And then after David takes A.W. back into
20 [REDACTED] do you see Janessa outside talking to 911 on the
21 phone?

22 A. Correct.

23 Q. Okay. And then does David spend the entire time
24 in [REDACTED] or is he back and forth until law enforcement
25 arrives?

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 A. He runs back into 2406. And then right before law
2 enforcement arrives, he runs back into [REDACTED]

3 Q. Okay. And then ultimately, do you see the fire
4 engine show up and the police show up and EMS ultimately?

5 A. That's correct.

6 Q. Okay. Is this Mr. White running down the stairs?

7 A. Yes.

8 Q. Peering into the window and then with the cell
9 phone in his hand walking up the stairs?

10 A. Correct. Enters 2406. Shaquanda exits [REDACTED]
11 Janessa exits 2406 and meet and then walk over to 2406.

12 Q. Has anyone gone back into apartment [REDACTED] at this
13 point?

14 A. No. That's David entering with A.W. [REDACTED] Oh, no,
15 sorry, David just entered without A.W. [REDACTED] and then he'll run
16 back.

17 Q. Okay. And what just happened with the SUV?

18 A. The person who came from 2406 opened the back
19 hatch it. Now, here David is taking A.W. [REDACTED] back into [REDACTED]
20 And I believe this is Shaquanda entering [REDACTED] No, I'm
21 sorry, this is Janessa on the phone.

22 Q. Okay.

23 A. This is David running back into 2406. This is the
24 man, the original man from 2406 going back to the vehicle.

25 Q. And it's unknown who just pulls away in that SUV,

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 correct?

2 A. Correct. And this is David running back to [REDACTED]

3 And then these are the first responders running.

4 Q. And then following this there's a flurry of
5 activity with first responders and EMS pulls up and things
6 of that nature?

7 A. That's correct.

8 Q. And there's time codes stamped on this. Were you
9 able to compare the time codes on this to the time from the
10 911 call as well as the time from other officers body worn
11 cameras to confirm that the timing is accurate on this
12 video?

13 A. Correct.

14 Q. And do you recall the time of the 911 call?

15 A. The time of the 911 call was at 2145 or 9:49 p.m.

16 Q. 9:45 p.m. and 17 seconds?

17 A. Correct.

18 Q. And the first responders pull up here about 9:50;
19 is that correct?

20 A. That's correct.

21 Q. Okay. Now, you also when you did an interview
22 with David on May 13th did you collect some cell phones from
23 him?

24 A. I did.

25 MS. MCGINNIS: May I approach?

JOSEPH WHITAKER DIRECT BY MS. MCGINNIS

1 THE COURT: Sure.

2 BY MS. MCGINNIS:

3 Q. I'm going to hand you what's been marked as
4 State's 190 and State's 191. Can you read the description
5 of contents on these two evidence bags and tell the jury
6 what's inside those bags?

7 A. 190, Exhibit 190 is a Motorola phone of David's
8 and 191 is another Motorola phone by David.

9 Q. Does the phone in evidence number 190 have another
10 identifier on it? This is identify cell phone provider in
11 the description?

12 A. Cricket.

13 Q. Cricket.

14 A. Exhibit 190 is identified as Cricket.

15 Q. Okay. And the other is just a Motorola phone?

16 A. Correct.

17 Q. And those are the phones that you took from
18 Mr. White's possession on May 13th of 2021?

19 A. That's correct.

20 Q. And you entered into evidence?

21 A. Correct.

22 MS. MCGINNIS: Judge, at this time we move State's
23 190 and 191 into evidence.

24 MR. FRICK: No objection, Your Honor.

25 THE COURT: Without objection, 190, 191 into

JOSEPH WHITAKER CROSS BY MR. FRICK

1 evidence for the State.

2 (WHEREUPON, State's Exhibit Numbers 190 and 191
3 were admitted into evidence.)

4 MS. MCGINNIS: Beg the Court's indulgence.

5 If you'll answer anything Mr. Frick has for you.

6 THE COURT: Any cross-examination, Mr. Frick?

7 MR. FRICK: Yes, sir. Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. FRICK:

10 Q. So Mr. Whitaker, you were -- you were the lead
11 investigator on this case or?

12 A. I was the on-call investigator.

13 Q. Okay. All right. So you're the one that had the
14 misfortune of being the one on call this night?

15 A. That's correct.

16 Q. Okay. All right. And that kind of makes it your
17 case then; is that fair to say?

18 A. Correct. Yes.

19 Q. At least from the city's perspective?

20 A. Right.

21 Q. Okay. Let's talk about the interview at the
22 hospital.

23 A. Uh-huh.

24 Q. At the time that that interview had been
25 conducted, David was aware that his daughter had passed

JOSEPH WHITAKER CROSS BY MR. FRICK

1 away, correct?

2 A. That's correct.

3 Q. Okay. In fact, that's why y'all had all gathered
4 to talk to them, correct?

5 A. That's correct.

6 Q. Okay. Do you know about what time that interview
7 was?

8 A. It was after midnight.

9 Q. After midnight?

10 A. Yes.

11 Q. Okay. And I think the Solicitor talked about
12 everybody who's in the room. You're in the room. Was there
13 any other city officer in the room?

14 A. I don't believe so.

15 Q. Okay. Coroner's office had people in the room,
16 correct?

17 A. Yes.

18 Q. SLED had people in the room?

19 A. Yes.

20 Q. And DSS was there as well, correct?

21 A. Yes.

22 Q. Okay. And I know this is just a room at the
23 hospital. I'm not saying this is any kind of interrogation
24 room, but it's a room at the hospital, right?

25 A. Correct.

JOSEPH WHITAKER CROSS BY MR. FRICK

1 Q. And particularly where there -- where Mr. White is
2 sitting is at the wall back from the door, correct?

3 A. He is facing the door, yes.

4 Q. Yes. And between him and the door are all these
5 people from government agencies, correct?

6 A. We're on either side of -- we're all against the
7 wall.

8 Q. Right.

9 A. He's got a clear path to the door.

10 Q. But on both sides of the room, right?

11 A. Yes.

12 Q. Okay. And in that interview, and I know we
13 couldn't get played here today, but you've reviewed it,
14 correct?

15 A. Correct.

16 Q. Okay. And we got the transcript, so I'm not going
17 to get to a ton of details, but David goes through that day,
18 correct?

19 A. Correct.

20 Q. And he goes through even a couple days before?

21 A. Correct.

22 Q. Okay. And he talks about fixing breakfast for the
23 kids. He talks about A.W. having a fever for maybe a
24 couple days?

25 A. Correct.

JOSEPH WHITAKER CROSS BY MR. FRICK

1 Q. And that maybe he had seen her that Friday before
2 in good spirits?

3 A. I believe he stated she was good, that she would
4 take a few steps and fall down and kind of cry lightly.

5 Q. Okay. And that was that Thursday or Friday
6 before?

7 A. Correct.

8 Q. Okay. And do you recall he said it was kind of a
9 low grade fever that she had, or that's what he thought it
10 was?

11 A. Something along the lines of that.

12 Q. Okay. Do you recall that he said that Ms. Page
13 had given her Tylenol?

14 A. Correct.

15 Q. Okay. Now, let's see, let's talk about the video
16 we just saw here. When did you obtain that video?

17 A. A few weeks within the incident, after the
18 incident.

19 Q. Okay. So it's fair to say around March of '21?

20 A. Correct.

21 Q. Okay. And then you reviewed it then, correct?

22 A. Correct.

23 Q. Okay. And your testimony today is that you could
24 definitively say that that's David and Shaquanda Page?

25 A. Correct.

JOSEPH WHITAKER CROSS BY MR. FRICK

1 Q. Okay. But there was a guy who got in the car and
2 drove off, but you don't know who he is?

3 A. The one that drove off came out of another
4 apartment, that was not [REDACTED] or 2406.

5 Q. Okay. All right. But the one that was [REDACTED]
6 2406, you could definitively say every one of those people?

7 A. Verifying through body camera, also the clothing.

8 Q. Okay. Okay. And you can do that in that video?

9 A. Correct.

10 Q. Okay. And then just to confirm, the 911 call did
11 happen at 9:45 p.m., correct?

12 A. That's correct.

13 Q. Okay. Now, let's talk about the last interview.
14 Did you have any interview with David White between talking
15 to him at the hospital -- well, you were at the apartment,
16 so presumably you may have chatted with him there; is that
17 fair? I'm not saying you took a statement, I'm just saying.

18 A. I don't believe I spoke with David.

19 Q. Okay. Okay. So from that evening at the hospital
20 till May, when you had the final interview, did you have any
21 more communication with David White?

22 A. I did assist DSS and Lieutenant Small and the
23 removal of the children.

24 Q. Okay. But as far as sitting down and talking to
25 David White about this case, did you do that?

JOSEPH WHITAKER CROSS BY MR. FRICK

1 A. No.

2 Q. Okay. So the next time you saw him was May 13th
3 of '21?

4 A. Correct.

5 Q. Okay. And that's when more information had come
6 back, the autopsy had been finalized; is that fair to say?

7 A. Yes.

8 Q. Okay. And when you talked to him, y'all had
9 warrants in hand, correct?

10 A. Correct.

11 Q. Okay. So he was not leaving that day?

12 A. Correct.

13 Q. Okay. And he was Mirandized, correct? And he
14 voluntarily came in and talked to you, correct?

15 A. Correct.

16 Q. Okay. And again, he went through what the day was
17 like, kind of what he said at the hospital?

18 A. Correct.

19 Q. Okay. All right. So fair to say there wasn't a
20 whole lot of deviation in his statement? I'm not asking for
21 every detail, I'm just saying, did he tell you a completely
22 different story on May 13th?

23 A. It was not a completely different story.

24 Q. Okay. All right. Essentially the same?

25 A. Essentially.

JOSEPH WHITAKER CROSS BY MR. FRICK

1 Q. Okay.

2 MR. FRICK: Beg the Court's indulgence.

3 THE COURT: Sure.

4 MR. FRICK: Thank you, sir. That's all the
5 questions I have for you.

6 THE COURT: Any redirect, Solicitor?

7 MS. MCGINNIS: Nothing further, judge. May this
8 witness be excused from his subpoena?

9 THE COURT: Sure. You're free to leave the court
10 house.

11 THE WITNESS: Thank you, Your honor.

12 THE COURT: All right. Solicitor, next witness.

13 MS. CAMPBELL: The State would call Dr. Susan
14 Lamb. Your Honor, we're having to take some witnesses out
15 of order.

16 THE COURT: Sure.

17 MS. CAMPBELL: I hope you don't mind.

18 MR. FRICK: Judge, can we have a sidebar really,
19 really quick?

20 THE COURT: Sure.

21 (WHEREUPON, a sidebar held off record.)

22 THE COURT: Ladies and gentlemen, I have a legal
23 issue that I need to discuss with the lawyers outside of
24 your presence. I don't think it should take long, but if
25 you go back to the jury room, we'll get you back out and

JOSEPH WHITAKER CROSS BY MR. FRICK

1 we'll proceed forward.

2 (WHEREUPON, the jury exited the courtroom at 11:21
3 a.m.)

4 THE COURT: Okay. The jury is outside courtroom.
5 Mr. Frick, you indicate that you need to put
6 something on the record --

7 MR. FRICK: Yes, sir.

8 THE COURT: -- as it relates to the State's next
9 witness, Dr. Susan Lamb?

10 MR. FRICK: Yes. Yes, sir.

11 Judge, I'm familiar with Dr. Lamb. I'm not
12 questioning any of her credentials. This is about her
13 involvement in the cases. I know she did forensic
14 evaluations, I guess is what we call it, for the children in
15 the neglect cases. I was not aware of that she was
16 rendering any opinion on the homicide by child abuse case.
17 I understand that she's involved in the process, but, Judge,
18 as far as any discovery that I've been provided on her
19 opinion as to what -- what occurred in the homicide case, I
20 have no information on that, I have no idea what she's going
21 to testify to, and I would object to it.

22 THE COURT: Okay. Solicitor.

23 MS. CAMPBELL: May it please the Court, Your
24 Honor?

25 Under the Statute that is 63-11-1950, it is

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1 required by law that certain people participate in the child
2 death reviews. She is mandated by that. In addition to
3 that, she also was under contract with SLED at the time to
4 review each and every one of their child homicides.

5 Additionally, Your Honor, as far as what she's
6 going to testify to, it is noted in the DSS records we
7 turned over as well as the records from Agent Mays from SLED
8 and the coroner files that she was involved in this case and
9 attended a Child Fatality Review on this case and
10 participated. Some of her opinions are in those notes.

11 Additionally, Your Honor, under Section 17-5-541,
12 which is the death reviews mandatory in this state now, as
13 far as child deaths, she is also mandated by that statute as
14 well.

15 Additionally, Your Honor, I would note that last
16 week when and we were having the motion for the severance
17 motion that was heard before you, he indicated that we
18 wouldn't need her, and I indicated, oh, yes, we would, as
19 pursuant -- and I think you recall that, Your Honor --

20 THE COURT: I do.

21 MS. CAMPBELL: -- I said she will have an opinion
22 on A.W. as well. And so he was put on notice in addition
23 to all the other discovery we gave him on that issue. I
24 will say this, that her findings are very similar to that of
25 the pathologist, but she can talk about, you know, all the

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1 children kind of as a whole, but there is nothing new or
2 different from what the pathologists will opine that we
3 needed to turn over.

4 THE COURT: Okay. All right, so there's no
5 actual, quote, report from Dr. Lamb, but that her
6 involvement and findings, et cetera, are in the various
7 records of SLED, coroner, DSS. Is that what I'm hearing you
8 say?

9 MS. CAMPBELL: Basically, her involvement and her
10 findings and everything and as far as, you know, the
11 autopsy, she's going to be using that as the basis as well
12 as the records we just entered and things of that nature.
13 All that her information will come from that which has been
14 provided to the Defense.

15 THE COURT: Okay. Mr. Frick.

16 MR. FRICK: I believe these are the DSS records
17 we're talking about, Your Honor. I have no idea what her
18 opinion is in these cases, but...

19 MS. CAMPBELL: I'm not saying that she fully gives
20 a full opinion. It just that notes that they consulted with
21 her, asked her certain questions, and gave her -- them
22 information. Her opinion is going to be based on the
23 autopsy that was provided, the birth records that have been
24 provided and all the other things. So there's no new
25 information to that, she did not make a report, though.

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1 THE COURT: Okay. All right. Well, I guess what
2 I'm hearing you say, Mr. Frick, you were unaware that she
3 was involved in the homicide case. And I'm hearing the
4 State say, Well, it's in the various records that she had
5 had some involvement. So, I mean, certainly I'm not -- I'm
6 not -- I've not been privy to what's --

7 MR. FRICK: My specific issue is, I think the
8 State is now going to elicit an opinion from her as to that
9 homicide case. She was involved in the investigation as the
10 statute's mandate. However, she was just consulted is what
11 I'm hearing the Solicitor say. Now she's going to render
12 her opinion and I don't have the first clue what she's going
13 to say about it.

14 THE COURT: Okay.

15 MS. CAMPBELL: He's got all the records which
16 she's going to base any opinion on which is going to be in
17 the records: The autopsy, the toxicology --

18 MR. FRICK: I agree, I have all those records.

19 MS. CAMPBELL: -- the pediatric records, the birth
20 records, the DSS records, the SLED records, the coroner's
21 office complete file. All those records have been provided
22 to him. She is not going to have an opinion that doesn't
23 come based off any of that information. I mean, she is
24 relying on the records we have provided to -- that were
25 provided to her and to him. And as far as her involvement,

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1 it's not that we got her involved last week, she's been
2 involved in this case since March.

3 MR. FRICK: Judge, I have a report for each one of
4 the children that she interviewed and that they sought
5 charges for neglect only. I have no report about the
6 homicide by child abuse case, that's my issue.

7 MS. CAMPBELL: That is correct.

8 THE COURT: I mean, oftentimes there are experts
9 involved in cases and a report is not generated and one side
10 is kind of put behind the eight ball, I understand that, but
11 I don't know the fact that she has not generated an actual
12 report on the homicide case would prevent her from
13 testifying. And I do recall, to whatever this matters, I do
14 recall there being some discussion last week when we had the
15 hearing on the severance issue that some mentioned that, Oh,
16 Dr. Lamb's not going to be needed if, you know, if the
17 severance -- the motion is granted. And I think Solicitor
18 Campbell did respond and maybe McGinnis, either one, said,
19 Well, no, she is, which would mean, yeah, involved in the
20 homicide case.

21 MR. FRICK: Correct. And then I said I would
22 litigate that on Monday when we did our pretrial motions.

23 THE COURT: Right.

24 MR. FRICK: But there was no further indication.

25 THE COURT: Well, you know, I don't see a basis

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1 for me to grant your motion and prevent her from testifying
2 as it relates to the homicide case. Her involvement is
3 noted in the records in some fashion. And the fact that she
4 does not have a report, which puts you maybe at a
5 disadvantage, I understand that, but I don't think that
6 would give me justification to prevent her from testifying
7 as it relates to the homicide case.

8 MR. FRICK: Then I would ask for her testimony to
9 be proffered in regard to the homicide by child abuse case.

10 THE COURT: Okay.

11 MR. FRICK: Just in the homicide by child abuse --
12 I'm not objecting to her in the other cases, I got that.

13 THE COURT: Sure, I understand. Okay. All right.

14 While the State would, I know, would not consent
15 to a proffer, I think out -- in fairness to the Defense, to
16 give the Defense some idea what opinion she's going to
17 render, I don't necessarily have a big issue with having --
18 just as it relates to the homicide case, having some of her
19 testimony proffered just so the Defense can have some idea
20 of what she's planning to say.

21 Now, with that said, do we want to take or at
22 least give the jury an early lunch, do that, and then maybe
23 start back at whatever time, 1:00 o'clock or whatever.

24 MS. CAMPBELL: Or even before, Your Honor, because
25 we've also got Dr. Reamer coming this afternoon, who is -- I

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1 mean Presnell, excuse me, the pathologist.

2 THE COURT: You have who?

3 MS. CAMPBELL: Dr. Presnell, who's the pathologist
4 coming this afternoon, that we need to get up as well.

5 THE COURT: Okay. So we got some testimony we
6 would need to proffer because of the issue of autopsy
7 pictures, yeah. All Right. And then we got the doctor
8 testifying virtually from New Zealand.

9 MS. CAMPBELL: Yes.

10 THE COURT: But that's at 2:00, but I don't think
11 that should take too long because he's just going to testify
12 as to facts and not render any expert opinion. What time's
13 the pathologist coming?

14 MS. CAMPBELL: 1:30. I'm sorry, we didn't
15 anticipate that -- I mean, we anticipated having her up.

16 THE COURT: I understand.

17 MS. CAMPBELL: Your Honor, I would just note as
18 you've already noted in the record, you know, if we'd ever
19 been provided reports from any Defense expert ever that's
20 come forward, I mean.

21 THE COURT: I know. Well, I mean the -- it works
22 both ways. I mean, it certainly depends who's hired as an
23 expert, there's not a report generated, and so you kind of,
24 you know, I understand you kind of have to fly a blind.

25 Well, I think probably -- how long do you

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1 anticipate her testifying in camera solely on her opinions
2 related to the homicide? How long we talking about?

3 MS. CAMPBELL: I mean, I would say 15 minutes or
4 less.

5 THE COURT: Okay.

6 MS. CAMPBELL: I mean, basically we have to go
7 through just the records she reviewed which were extensive
8 and basically you know what she says. Now, how that relates
9 to the other children and the dynamics in this family, she's
10 a forensic pediatrician.

11 THE COURT: Right.

12 MS. CAMPBELL: Which is a specialty that is, you
13 know, her specialty is child abuse or child neglect. So she
14 makes assessments as to that and gives opinions as to that
15 as she has done in many, many cases --

16 THE COURT: Right.

17 MS. CAMPBELL: -- across the state and is mandated
18 by law to.

19 THE COURT: Right. Let's go ahead and let's take
20 some proffer testimony as it relates only to the homicide
21 from Dr. Lamb and then we'll kind of see where we are from
22 there. Dr. Lamb, come on up and be sworn in please, ma'am.

23 THE CLERK: Do you swear to tell the truth, the
24 whole truth, and nothing but the truth, so help you God?

25 THE WITNESS: I do.

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 SUSAN LAMB, having been duly sworn, testified as
2 follows:

3 THE CLERK: Thank you.

4 THE COURT: I'll certainly permit --

5 MR. FRICK: And I stipulate to qualifications.

6 THE COURT: Right. Well, as far as the proffer
7 testimony, we don't -- we don't need to go into
8 qualifications. I'll certainly permit some leading and so
9 we can just focus in on what we need to focus in on.

10 MS. CAMPBELL: That will be great.

11 VOIR DIRE

12 BY MS. CAMPBELL:

13 Q. Doctor, what is a forensic pediatrician?

14 A. So it's another name for a child abuse
15 pediatrician. It is a pediatrician who practices child
16 abuse pediatrics. Oftentimes they are board certified in
17 child abuse pediatrics.

18 Q. And is there actually South Carolina -- where are
19 you employed currently?

20 A. I'm currently employed out of Washington State.
21 The children's hospital there is Mary Bridge Children's
22 Hospital as a child abuse pediatrician.

23 Q. And back in 2021, where did you work?

24 A. I worked for Prisma Health, formerly known as
25 Palmetto Health University, South Carolina as their division

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 director for child abuse pediatrics as a child abuse
2 pediatrician.

3 Q. And as far as when child deaths occur, were there
4 laws that mandate your involvement somehow?

5 A. Correct. So the South Carolina Child Abuse
6 Medical Response System divided the state into regions and
7 each child abuse pediatrician was assigned a region as there
8 was a state statute requiring rapid fatality reviews to
9 occur. And it had to be a board certified child abuse
10 pediatrician who attended those reviews.

11 Q. And, of course, you are board certified?

12 A. Yes, I am.

13 Q. And was you -- were you working at -- you were
14 working in Columbia at the time?

15 A. Yes, I was.

16 Q. And were you also on contract with SLED?

17 A. Correct. So SLED Child Fatality Unit, as it's
18 based in Columbia, has a contract with the Child Abuse
19 Department with Prisma Health. And so I would with the
20 agents monthly to review cases. They also had my cell phone
21 and would call me from scenes or autopsies or such. And so
22 we had a very close relationship, particularly on cases.
23 And so I frequently would get called from the scene and then
24 be in communication with the agent throughout the process,
25 there and that we'd formally review it before it went to the

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 Child Fatality State Advisory Committee, which I also
2 chaired for five years.

3 Q. And in this case, did you become involved in
4 reviewing A.W. death?

5 A. Correct. I was involved very early on in this
6 death. Agent May had contacted me. I had seen preliminary
7 autopsy photos and was also provided with information about
8 the scene and such, partially because I needed to see the
9 six surviving siblings in person and in my clinic. And so
10 information was flowing to me in that manner as well.

11 Q. And did you also attend, I believe, what's called
12 a Child Fatality Review in this case on A.W.

13 A. Correct. It was on 3/9.

14 Q. March the 9th?

15 A. March the 9th of 2021.

16 Q. And at that point were there discussions about
17 what had been found at that point as far as the preliminary
18 autopsy and other things from the scene as well?

19 A. Correct. So that had law enforcement, SLED Child
20 Fatality Unit, the coroner's office, DSS, myself, first
21 responders as well. And so at that point it had -- the
22 autopsy had been completed, so what would be pending would
23 have been the toxicology and any of the lab studies like a
24 blood culture, the respiratory panel and such. And so by
25 then we knew the preliminary cause of death.

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 Q. And at that point you met with all those people
2 talking specifically about Amino White's death?

3 A. Yes.

4 Q. And during the course of this time, in addition,
5 you just mentioned you were also seeing her six siblings; is
6 that correct?

7 A. Correct. On March the 4th, the paternal
8 grandmother brought the six surviving siblings -- six out of
9 the seven surviving siblings, the six who had resided in the
10 home to my office for evaluation.

11 Q. And during the course of this investigation as
12 well, were you also provided with autopsy reports as well,
13 eventually, the toxicology reports?

14 A. Correct. I, with my capacity with SLED, I
15 reviewed all of those information and then also reviewed it
16 in preparation for this appearance.

17 Q. Additionally?

18 A. Additionally.

19 Q. And did you also review the birth records that
20 were involved in this case of involving A.W. [REDACTED]

21 A. Correct. So those were present at the initial
22 fatality review because they were asking of me if there were
23 any underlying medical issues any indication of something
24 that would have led to a child being fragile or ill and led
25 to her death. And so that is in my capacity on the fatality

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 review.

2 Q. And I think you've already mentioned this, but you
3 were provided with the birth records as well as pediatric
4 records that were available on A.W.

5 A. Correct. There were no pediatric records
6 available on A.W.

7 Q. But those were looked for and they weren't out
8 there?

9 A. Correct. We found -- well, not we -- law
10 enforcement and DSS had requested records as the parents had
11 provided the name of their pediatrician. And so what
12 records were available were obtained and then asked, sent to
13 me for review.

14 Q. And I believe you already testified you also got
15 photographs from the scene where this occurred, the house?

16 A. Correct. So in this particular case, the
17 photographs of the scene of the house and also the police
18 incident report and the first responders report, because
19 there were certain odors and smells, things that in a
20 photograph are just a brown stain, but were identified in
21 those incident reports and such as to what they were.

22 Q. And so you got the EMS records as well you just
23 mentioned?

24 A. Correct.

25 Q. And any other records that you recall that you got

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 specifically as to A.W.

2 A. So I never -- I got the witness statements, the
3 initial witness statements, initially, those were brought up
4 at the rapid fatality review, the ER records from
5 MUSC-Lancaster where she had been brought, birth records,
6 the initial incident reports there and then subsequently I
7 did not view any of the latter witness statements there, but
8 I did have access to the SLED summary file where they
9 summarize and characterize later statements and what
10 suppliant may have.

11 Q. So basically, you were able to review pretty much
12 all the records involved in this case involving A.W.

13 A. Well, I don't know what all the records are --

14 Q. But everything you've gone through, you reviewed?

15 A. Yes.

16 Q. And when you met with them back in 2021 as well as
17 now, were you able to come up with any type of opinions,
18 especially after doing the autopsy and getting the
19 toxicology back about A.W.'s death?

20 A. Yes.

21 Q. And can you tell the Judge generally --

22 MS. CAMPBELL: Judge, we can talk generalities
23 here?

24 THE COURT: Excuse me?

25 MS. CAMPBELL: We can talk generalities here?

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 THE COURT: Yes. This is really just giving some
2 benefit to the Defense as far as what sort of opinions are
3 going to be testified to in front of the jury as it relates
4 to the homicide case, yes. So we can kind of limit things
5 as far as this in camera hearing.

6 MS. CAMPBELL: And Judge, this is also taken --
7 BY MS. CAMPBELL:

8 Q. Some of these records were in conjunction also
9 with assessing the six other children as well, there were
10 additional records, right?

11 A. Correct. I generated medical reports for the six
12 additional siblings that I had seen. And those records
13 included my observations, my team's observations, our social
14 worker, our child life specialist, and a complete review of
15 their records from the Children's Clinic in Lancaster.

16 Q. After reviewing her birth records and anything,
17 was there anything of concern in there that you think
18 thought may have contributed to A.W.'s death?

19 A. So, regarding her birth records, she was perfectly
20 healthy, proportional, near term, spontaneous vaginal
21 delivery. So she was a healthy baby girl when she was born.

22 Q. And you already mentioned she'd had no medical
23 care since birth?

24 A. Correct. There was no record of her ever going
25 for medical care at the Children's Clinic. And as far as

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 DSS and law enforcement were aware, she hadn't been taken
2 for medical care anywhere else.

3 Q. And did you concur, in the opinion of the
4 pathologist, as to the cause of death?

5 A. Yes, I agreed based on my own expertise and
6 viewing the autopsy photographs and such, I agreed with
7 Dr. Presnell's opinion on the cause of A.W.'s death.

8 Q. And were there any underlying diseases or natural
9 causes that you could see in your review of all these
10 records that contributed to her death?

11 A. No, none that I could see.

12 Q. And what was the cause of death as you saw it to
13 be?

14 A. Dehydration on top of severe chronic malnutrition.

15 Q. And her conditions in the days and weeks leading
16 up to her death, can you describe it to the Judge?

17 A. So when kids are experiencing profound
18 malnutrition, essentially their body shuts down functions to
19 preserve the most necessary functions. So blood to your
20 brain, blood to your heart, pumping blood around your system
21 there. So you may stop eating, you may stop drinking,
22 because your body doesn't have any energy to digest they are
23 to devote to your intestines. So you become increasingly
24 listless, lethargic, unresponsive until then you
25 subsequently die acutely from dehydration.

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 Q. And in this case, in the hours and days leading up
2 to her death, would she have been able to walk, talk, laugh,
3 bounce around, or anything of that nature?

4 A. No, she wouldn't have had any energy to do any of
5 those things.

6 Q. And would it have been apparent, and you've
7 reviewed the photographs, would it have been apparent to
8 anyone that this child required some medical care?

9 A. Correct. In the photographs taken from the ER she
10 was emaciated, her eyes were sunken, her skin didn't have
11 any elasticity to it. So it kind of would pull up and not
12 go back. So if you were changing a diaper, handling her
13 like she would not be well.

14 Q. And her weight at death was what?

15 A. 14 kilos.

16 Q. And can you describe to the Judge kind of where
17 she was?

18 A. So the best way I know how is to use the growth
19 charts that, you know, they start at the 90th percentile and
20 kind of go down to the 5th percentile. So I go back and I
21 take the weight and I just put it on the average. The
22 average size at what age is 14 kilos? And so the average
23 weight at 14 kilos is for a four-month old.

24 Q. When you're saying 14 kilos you mean 14 pounds or
25 14 kilos.

SUSAN LAMB VOIR DIRE BY MS. CAMPBELL

1 A. 14 pounds, I apologize, I switch them all the
2 time. 14 pounds is the average weight of a four-month old
3 baby. And she was 14 months at the time of her death.

4 Q. And in your opinion is this -- would this be the
5 parents were involved -- this is -- the parents would have
6 been responsible -- would this be child abuse?

7 A. So at that age children are still completely
8 dependent on their parents for feeding, care, they're still
9 in diapers, they may still be taking formula and bottles,
10 and so they're still completely dependent on their
11 caregivers for their needs.

12 Q. There was mention that this child was suffering
13 from a low grade fever the days before as well as walking
14 around and bouncing. Would that be typical with this type
15 of starvation death, dehydration death?

16 A. No. I mean they certainly wouldn't have been
17 walking around, smiling, you know, standing up in the crib
18 and bouncing. They wouldn't have the energy to do that.
19 It's unlikely for it to be a fever, usually the body starts
20 dropping the body temperature so that doesn't have to use as
21 much energy to maintain it. It takes more energy to create
22 a fever, to try to fight off an infection or such, so it
23 would just be unusual.

24 Now, I don't know what the environment is. I
25 don't know if the parents hands have been in something

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1 freezing beforehand like those I can't control, but it would
2 be unusual for her to have a fever.

3 MS. CAMPBELL: And, Your Honor, other than a few
4 other details, I mean it's basically what was provided in
5 the autopsy report.

6 THE COURT: Right. I think again the purpose for
7 this in camera testimony was to provide some advanced
8 benefit to the defense as far as what Dr. Lamb would testify
9 to concerning the homicide issue. So I think we've
10 accomplished what we need to accomplish. So my suggestion
11 is let's just bring the jury out. If you don't mind,
12 Dr. Lamb, just have a seat back there so we can call you.

13 MR. FRICK: Judge, can I ask a couple of
14 questions?

15 THE COURT: Well, really the purpose -- I'll allow
16 you if you got just a couple of questions.

17 MR. FRICK: Two questions. Just give me two
18 questions.

19 THE COURT: Okay. All right, I'll allow that.

20 VOIR DIRE

21 BY MR. FRICK:

22 Q. Dr. Lamb, in conducting this whole thing, you
23 reviewed the records that were provided to you, correct?

24 A. Yes. I reviewed the records that investigators
25 provided to me.

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1 Q. Did you consult with the toxicologist or and/or
2 the pathologist in this case?

3 A. I can't recall if I spoke directly to Demi or to
4 Dr. Presnell, I don't recall, it was 2021.

5 Q. Sure, I understand. Thank you.

6 THE COURT: Okay. All right. Dr. Lamb, if you
7 don't mind just having a seat back so you can be officially
8 called to the witness stand, please.

9 You indicate that the pathologist is coming at
10 1:30?

11 MS. CAMPBELL: But she's available all afternoon.

12 THE COURT: Okay. So you may want to just --
13 here's my thinking, and I'm not trying to tell the State how
14 to try their case or when to call witnesses, but it seemed
15 like to me if she could be available later on in the day,
16 maybe. Because after we take Dr. Lamb's full testimony,
17 then we break for lunch. And then if we got the virtual at
18 2:00, it seemed like -- is the pathologist local?

19 MS. CAMPBELL: She's from Charleston.

20 THE COURT: Charleston. Okay.

21 MS. CAMPBELL: So she's coming up, but she would
22 be available all afternoon.

23 THE COURT: Okay. All right.

24 MS. CAMPBELL: So if we did Dr. Vinuya at 2:00, it
25 should not take 15 to 20 minutes, then I think we could roll

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1 with her as well.

2 THE COURT: Okay. All right.

3 MS. MCGINNIS: Judge, another thing we could do if
4 you're worried about a short lunch break, is see if the
5 clerk would provide lunch to the jury and just eat -- have
6 them eat here briefly and start back up. I know we
7 typically only do that during deliberations, but as far as
8 timing is concerned since we did waste some time this
9 morning.

10 THE COURT: Well, Julie, what y'all usually --
11 this is not on record, this wouldn't be on the record
12 talking about lunch.

13 (WHEREUPON, a pause in the proceedings held.)

14 THE COURT: All right. Let's bring the jury out.

15 THE BAILIFF: Jury's coming in.

16 (WHEREUPON, the jury entered the courtroom at
17 11:55 a.m.)

18 THE COURT: Let the record reflect the jury is
19 back in.

20 Ladies and gentlemen, it took a little bit longer
21 than I had anticipated. When you get good lawyers in a case
22 like I have here, they raise a lot of issues that I have to
23 deal with, and that's part of their job.

24 So what the plan is for scheduling purposes with
25 some witnesses this afternoon, we're going to feed you

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1 lunch, so you're not going to leave the courthouse. We've
2 already ordered pizza for you, so hopefully that's good for
3 everybody. And so we'll have a shortened lunch break, but
4 we're going to feed you lunch, okay. Everybody good with
5 that?

6 THE JURY: Thank you.

7 THE COURT: All right. Call your next witness.

8 MS. CAMPBELL: Yes, Your Honor. The State will
9 call Dr. Susan Lamb.

10 THE COURT: Come around, Doctor.

11 THE CLERK: Do you swear to tell the truth, the
12 whole truth, and nothing but the truth, so help you God?

13 THE WITNESS: I do.

14 SUSAN LAMB, having been duly sworn, testified as
15 follows:

16 THE CLERK: Thank you.

17 THE COURT: All right. You may proceed,
18 Solicitor.

19 MS. CAMPBELL: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MS. CAMPBELL:

22 Q. Dr. Lamb, where are you employed currently?

23 A. Currently, I'm employed out in Washington State at
24 Mary Ridge Children's Hospital as a child abuse pediatrician
25 and their medical director.

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1 Q. Okay. You're going to have to speak up just a
2 little bit because for some reason that microphone didn't
3 reach far enough.

4 A. Okay.

5 Q. Okay. You can't hear you.

6 And you said it's a child abuse pediatrician?

7 A. Yes, that's my subspecialty.

8 Q. And it's also been referred to, I think it's a
9 forensic pediatrician; is that correct?

10 A. Correct. That's another name that people call us.

11 Q. Can you tell this jury a little bit about your
12 training and your education in the field of pediatrics
13 specifically, ultimately, as to child abuse?

14 A. Sure. So like all doctors, I did my undergrad at
15 Johns Hopkins. I got a BS in molecular and cellular
16 biology. Then you have to go to medical school. So I went
17 to the University of Virginia for medical school. After
18 that I was a pediatric resident. So I did my residency,
19 became board certified in pediatrics in general. And then I
20 decided I wanted to specialize, so I did three years of
21 training as a child abuse fellow. Completed that and became
22 board certified in child abuse pediatrics specifically. So
23 just like a pedes cardiologist or a pedes nephrologist or
24 something, I'm a child abuse pediatrician.

25 Q. And you mentioned that you were board certified?

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1 A. Correct. So you have to maintain your board
2 certification. It comes with education credits, practical
3 credits, and such, so I just did that last year for both
4 pediatrics and child abuse pediatrics.

5 Q. So you renewed your certifications?

6 A. Yes.

7 Q. Okay. And have you ever testified before as an
8 expert as a child abuse pediatrician?

9 A. Yes. We're called to testify quite frequently.

10 Q. And approximately how many times have you been
11 qualified as a forensic pediatrician or a child abuse
12 pediatrician?

13 A. I stopped counting at 100.

14 MS. CAMPBELL: Your Honor, at this time, we'd
15 offer as an expert in child abuse pediatrics.

16 MR. FRICK: No objection, Your Honor.

17 THE COURT: All right. Without objection,
18 Dr. Lamb is found to be an expert in forensic pediatrics.

19 Ladies and gentlemen, when the Court determines
20 that a witness is an expert, as I've just determined,
21 Dr. Lamb is an expert in the area of forensic pediatrics,
22 that allows the witness to offer opinions about matters that
23 they are an expert in.

24 Normally, witnesses are not, a few exceptions, but
25 witnesses are normally not allowed to offer opinions in

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1 cases, they can only testify as to what they saw, heard,
2 that sort of thing. But the exception to the rule is
3 experts can offer opinions.

4 Now, the fact that I have found Dr. Lamb to be an
5 expert in her field of expertise does not mean that you are
6 to treat her testimony any differently than any other
7 witness. And you give it the weight, whatever weight you
8 want to give her testimony, okay? All right. Thank you,
9 you may proceed.

10 MS. CAMPBELL: Thank you, Your Honor.

11 BY MS. CAMPBELL:

12 Q. Ma'am, I want to turn your attention back to the
13 spring of 2021. Where you were employed at that point?

14 A. So at that point, I was in South Carolina. I was
15 employed by Prisma Health, formerly Palmetto Health
16 University of South Carolina, in the division of child abuse
17 pediatrics. I was their division director and practicing as
18 a child abuse pediatrician here.

19 Q. And in South Carolina, are there certain laws that
20 mandate your involvement in certain investigations?

21 A. Sure. So there is something called a Death
22 Review. So the state determined by law that whenever a
23 child dies and it's not an expected death, so it's
24 unexpected in some way, the law requires that a fatality
25 review be held pretty soon after the death there. And it

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1 requires the attendance of law enforcement, first
2 responders, the coroner's office, a pathologist, DSS, as
3 well as a board certified child abuse pediatrician.

4 So the state divided everything into sections like
5 we often do. There's an Upstate, there's a Midlands,
6 there's the Low Country, and then there's the Pee Dee
7 region. And so I was assigned child abuse pediatrician for
8 fatality reviews in the Midlands Region, which encompasses
9 Lancaster.

10 Q. And was there also, mandated by law, a certain
11 commitment committee that oversaw kind of the entire state
12 and reviewed the decisions?

13 A. Correct. So once an investigation closed, it
14 would go to the State Child Fatality Advisory Committee, and
15 that's much larger, so that involves many, many more people.
16 Departments of Mental Health, the Juvenile Justice System,
17 the Criminal System, Department of Education, the Department
18 of Substance Use and Recovery there. And so they meet and
19 they review everything to try to determine what our kids are
20 dying from and then make a report and recommendations of how
21 we can prevent that in the future.

22 So in my tenure here in South Carolina, I was the
23 chairman for that committee for the last four or five years
24 of my time here. I spent seven years total here.

25 Q. I want to turn your attention back to February of

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1 2021. Did you become aware that a 14-month old child named
2 A.W. [REDACTED] had died under unusual circumstances?

3 A. Yes. So one thing I didn't mention is that I also
4 was a consultant for the SLED Child Fatality Unit, which
5 meant that they had access to me 24/7. So it wouldn't be
6 unusual for me to get a call or a text saying, Hey, we're at
7 a scene, like, we've got this, we've got that, can you
8 please advise us as a child abuse pediatrician there? And
9 so I became very early on that there had been an unexpected
10 death in Lancaster and that Agent May was working it and so
11 we were communicating back and forth.

12 Q. And before I go any further as a child abuse
13 pediatrician, what opinions, what type of evidence do you
14 look at and what opinions can you render?

15 A. So child abuse pediatrics requires us to be pretty
16 well versed in child deaths just because there are a lot of
17 things on the abuse and neglect side that can kill kids
18 there, as tragic as it is. So I was required to do training
19 in autopsies, how to perform them, how to interpret the
20 results, toxicology and such. And so routinely, where I
21 trained every child death, we would attend the autopsy and
22 subsequent.

23 So that that's the training that's required of a
24 child abuse pediatrician. And we, the pathologist and I,
25 you know, we'd like to say that they're the expert at the

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1 tissue and what happens after you die and how things break
2 down and how to do all the slices and the stains, like,
3 don't ask me to remember that. But I'm still a pediatrician
4 and I see live children. I see them when they're severely
5 injured in the hospital. I see them when they're running
6 around my clinic there. And so oftentimes I provide the
7 expertise on normal kids, normal things happening, and then
8 the ways kids get injured, either abusively or not there and
9 so oftentimes we would collaborate and kind of have a
10 better, stronger opinion with us combined.

11 Q. And when you say you're a child abuse
12 pediatrician, does that also, the term "neglect," is that
13 kind of included in the abusive part?

14 A. Sure. So some people the full would be child
15 abuse and neglect there, so we do have training and
16 assessment in that. And so the majority of my patients are
17 alive. I'm meeting them, the vast majority in my clinic,
18 they've been referred to us because someone has a concern,
19 or in the hospital if they're ill enough to need
20 hospitalization.

21 Q. Okay. And is it unusual for an investigation into
22 a child death to take a number of months to ultimately come
23 to any conclusions?

24 A. No.

25 Q. And why is that, ma'am?

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1 A. You want to be really careful, like, it's
2 somebody's child that passed away and you want to be really
3 sure of what went on. Some tests take a long time to come
4 back. You have to wait for things, and certainly in our
5 field, oftentimes our reports won't come out until later
6 because there may be missing information. I need this
7 record, or we're waiting on this test to come back or such,
8 like, these decisions have a lot of weight and a lot of
9 impact on people's lives. And particularly, when someone
10 has died, you want to get it right and you want to make sure
11 you're giving the family the correct information.

12 So it's really hard to have them wait, but it's
13 better than to offer something, well, we think it's this and
14 have them go down that road and then come back and be like,
15 oh, no, no, we were wrong, it's actually this.

16 Q. And regardless of whether the patient you're
17 assessing is alive or is deceased, is it important that you
18 rule out any possible natural causes that could have
19 contributed or caused the death or the injury?

20 A. Absolutely.

21 Q. And when you're saying that, are we looking at
22 things such as disease or conditions, congenital conditions
23 that may have caused, say, the child to have injuries or
24 something?

25 A. Certainly. So when you're dealing with

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1 particularly young kids there you're looking at the birth
2 records, the early pediatric records, looking for signs that
3 there was some illness or something, that they were born
4 with, something underlying that could have led to the death.
5 And so you have a list that you're trying to go through,
6 like, was there anything wrong with them from birth? Could
7 they have gotten any diseases since birth that could have
8 resulted in their death? Was there any accident like that's
9 where witness caregiver statements come in, like, did
10 something happen, you know, leading up to that there? And
11 then that's where the sections on autopsy are also really
12 important, like looking at all the organs, do they look
13 right? Are they found right there and then cutting them,
14 you know, are the muscles in the heart correct or not?

15 And so that's why you go through all of that
16 detail. Because it also has implications, like, say it's a
17 genetic disease, like, are there siblings? Do we need to
18 let them know that they could have this or not? Is it an
19 infectious disease? Do we need to treat the whole family?
20 Because they could have the same disease there. And so you
21 have to go through all of those. It's a very meticulous
22 process.

23 Q. And was that done in this case?

24 A. Yes.

25 Q. And in fact, we've mentioned the word toxicology

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1 over and over, that was done in conjunction with the autopsy
2 on A.W. What is toxicology exactly and what are you
3 looking for?

4 A. So toxicology is looking at the chemicals in the
5 blood. That's what you're looking for. You also will look
6 at electrolytes, like, what was their sodium? What was
7 their chloride? That can give you some picture as to
8 whether there was a poison or a toxin. Electrolytes would
9 get out of whack if your kidneys aren't working, they'll get
10 out of whack. You also want to look for infections, so
11 they'll swab and do viral panels. They'll try to grow
12 bacteria from the blood. And then there are so many
13 toxicology panels because there are so many chemicals out
14 there. And so sometimes you'll do a preliminary and you'll
15 get something, and then you'll have to do subsequent ones.
16 And so it can be anything from illegal substances to normal
17 drugs that may have been in the house, like Tylenol, can be
18 fatal in kids because of their size. And so that's what the
19 toxicology is. And so that often will take more time to
20 come back.

21 Q. In this case, you've mentioned that you had an
22 opportunity to review certain records on A.W. and I'll get
23 back to those in addition, did you also actually do an
24 assignment assessment on the six surviving children in this
25 case that were in the house?

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1 A. Correct. So A.W. passed away on February 22nd.
2 And on March 4th, the paternal grandmother brought the six
3 surviving siblings who had lived in the house to see me at
4 my clinic to assess if they had experienced or had any signs
5 of abuse or neglect.

6 Q. And were you able to actually do a physical
7 examination as well as some interaction with those six
8 surviving siblings?

9 A. Yeah. So we didn't have anyone else in the clinic
10 at that time, six kids is plenty, and so we observed them in
11 the waiting room. We talked to grandmother about, like,
12 what happened, what she had seen there. She was very
13 helpful as far as history, because she would pick up and
14 drop off dad every day for work. And so she was in and out
15 of the house seeing the kids, seeing mom and dad. And then
16 also took them back kind of one at a time to do a physical
17 exam at their height and weight, interact with them, kind of
18 see where they are developmentally there. And so those were
19 kind of, if you think of taking a child for a well-child
20 visit, like the whole exam, like, that's what we recreate.
21 Now, there may be missing pieces, obviously, mom and dad
22 weren't able to be there at the appointment and so my
23 history may be limited, but that's what we did.

24 Q. Because the children had been removed from the
25 mother and dad at that point?

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1 A. Yes. So they were in paternal grandmother's
2 custody at that point.

3 Q. Additionally, in doing your assessment before
4 writing up your reports, did you also get certain records as
5 far as the surviving children that were born?

6 A. Correct. So all of the children had been seen at
7 the Children's Clinic in Lancaster here, that was their
8 pediatrician. And so that's why on my reports, like,
9 there's one date when I saw them and another date when I
10 finished the report, because we had to wait for law
11 enforcement or DSS to appropriately request the records and
12 the records to come in and then come to me for review. And
13 we also, they put inquiries to, like MUSC to see if there
14 had been ER visits, urgent care, you know, something else
15 there. So we tried to make sure that, to the best of our
16 knowledge, we had all the medical records.

17 Q. So basically, you're just trying to get all the
18 available medical records on each child?

19 A. Correct.

20 Q. And I don't believe you actually produced reports
21 on those children, I think, until April the 22nd of that
22 year?

23 A. Correct. It took some time, essentially, to
24 verify that we had everything possible. So I'd seen the
25 children. I talked to the grandmother. I had information

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1 about A.W. and what investigators were concerned about
2 there, but the records and the subsequent completeness of
3 the report was until April.

4 Q. Okay. So you were able to get on the surviving
5 children the medical records from MUSC-Lancaster, the
6 Children's Clinic records, and those were all made available
7 to you during that time period for you to review?

8 A. Correct.

9 Q. And specifically as to A.W. though, did you get
10 quite a bit more as far as records went?

11 A. Correct. So since there was a death, there were,
12 I'm sure, as you've probably already heard, like, incident
13 reports from law enforcement, reports from DSS on
14 involvement with the family, birth records where A.W. was
15 born at MUSC-Lancaster, scene photographs, photographs of
16 A.W. from the ER there. And then all the subsequent, like,
17 preliminary autopsy report, autopsy report, toxicology, the
18 statements given by parents. So all of that was provided to
19 me and I reviewed in my role as the child fatality, child
20 abuse pediatrician.

21 Q. So you got, in addition to the records,
22 photographs of the scene, photographs from the autopsy,
23 photographs from the hospital, pretty much all of law
24 enforcement's file and everything -- you try to get pretty
25 much anything you can?

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1 A. Correct. And so as they were provided,
2 particularly to SLED to the Child Fatality Unit, because
3 we're in the same city in Columbia, I would come over and
4 view things as Agent May kind of let me know they were
5 available.

6 Q. And you also mentioned that you got birth records
7 on --

8 A. Correct.

9 Q. -- on the children?

10 A. So those were present by the time we did the
11 fatality review on March 9th, MUSC had turned those around
12 pretty quickly. And so one of my roles on that review is to
13 look through the medical records and see if there's
14 something we need to be looking for, like an underlying
15 illness, medical condition, some reason this child would
16 have passed.

17 Q. And are there specific screens that are done at
18 birth and that were done in this -- in A.W.'s birth that
19 are important for you to review?

20 A. Sure. So the most important thing is the Newborn
21 Screen. If anyone's had a baby, they have the card and they
22 do the blood spot on it there. So South Carolina has a
23 panel of dangerous medical conditions that you have at birth
24 that can severely cause mental disability, death, physical
25 disability, and such. And so that's what that card is and

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1 that's called the Newborn Screen. And so that was normal
2 for A.W. it had been done at birth and that was completely
3 normal.

4 Q. Okay. And I believe you got the records on pretty
5 much all the children that we've talked about?

6 A. Correct.

7 Q. Okay. So I want to get back to A.W. at the end,
8 but I want to talk about your assessment on the children
9 first and taking them in whatever order is easiest for you,
10 Doctor, if you can basically, we could start with the twins?

11 A. Sure, we'll start with the babies.

12 Q. And how old were the twins when you saw them?

13 A. So they were four-months old when I saw them.

14 Q. And what was their -- you mentioned that you made
15 general observations of them when they first came in?

16 A. Uh-huh.

17 Q. And how did they appear to you?

18 THE COURT: Could you identify by name the --

19 MS. CAMPBELL: Yes, Your Honor, that would be --

20 THE COURT: -- when we go through each one.

21 MS. CAMPBELL: I can identify by name or date of
22 birth.

23 THE COURT: By name.

24 MS. CAMPBELL: Okay.

25 THE COURT: We're starting off with the four-month

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1 old twins, so their names are?

2 MS. CAMPBELL: Child 5 and Child 6

3 THE COURT: Okay.

4 MS. CAMPBELL: Or Child 5 and Child 6

5 THE COURT: All right. Child 5, and Child 6?

6 MS. CAMPBELL: One is spelled Child 5 and the
7 other one's spelled Child 6. One is a girl and one is a
8 boy.

9 THE COURT: Okay. Got it.

10 BY MS. CAMPBELL:

11 Q. And you first did your assessment on the twins at
12 four months of age, right?

13 A. Correct.

14 Q. And can you tell the jury, in whatever way you
15 want, basically what your findings were when you assessed
16 the twins?

17 A. Certainly. So the twins were overall fairly
18 healthy there. They had been born premature and so they
19 had -- as twins often are, so they had spent some time in
20 the NICU there and had kind of the risks that all NICU
21 babies do, bleeding in the brain, lung disease, bleeding in
22 the backs of the eyes, but hadn't had any of those
23 complications.

24 One of them had an abnormal Newborn Screen just
25 because they were premature. And so their body hadn't fully

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1 formed everything in the chemicals and so, but they had seen
2 their pediatrician at two months and hadn't had any concerns
3 then. They were healthy weights by looking at them. I
4 didn't obtain a height and weight on the twins and I can't
5 remember if it was for what reason, I apologize there. But
6 the only thing I noted is they did have some developmental
7 delays. So at four months, when you pull them to sit them
8 up their heads, they're supposed to have a little head
9 control, they are not just hanging off the back, flopping
10 around like a newborn there. And they didn't have any of
11 that head control. And I flipped them over on their tummies
12 to see if they could hold their head up at all for a couple
13 seconds, and they couldn't do that either.

14 And that didn't match with the two-month visit
15 where parents had been at the visit and said that, Oh, no,
16 they have great head control, so I noted that. And then
17 they just had some crusted dirt on them, on the little girl,
18 it was around her belly button, on the boy was in the knee.
19 You know, the kind that even if you scrub them, you can't
20 get all of it out. But they had been with grandma since the
21 22nd to the 4th.

22 Q. Okay. So you mentioned that they were all kind of
23 in the normal weight gain and everything and they seemed to
24 be on track?

25 A. Yes.

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1 Q. And at their two-month visit, do you remember
2 approximately how much they weighed?

3 A. No, I'd have to refer to my report to see their
4 exact weights, but they were hanging out somewhere in the
5 25th, 50th percentile, doing fairly well for premature
6 babies.

7 Q. Okay. And you mentioned though, that there was a
8 problem with them actually being able to have some control
9 over their head movement?

10 A. Yeah. And so that didn't make sense to me because
11 if they were seen at two months of age and had head control
12 there, like, why did they not have head control, they should
13 have continued to develop, they shouldn't have lost
14 anything. And so I just noted it, like, I don't know how
15 the question was asked or such, but it just seemed like
16 maybe inaccurate information was presented by the caregivers
17 to the pediatrician because they assumed that the
18 pediatrician had noted because they didn't have head control
19 when I saw them.

20 Q. And who were the caretakers that reported to the
21 pediatrician at two months?

22 A. So mother and father were the ones who generally
23 brought them to their appointments. I'd have to go through
24 each record to see who was on each one.

25 Q. And that -- and would it help for you to have a

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1 copy of your reports?

2 A. Sure, I can refer to them if that would be
3 helpful.

4 Q. But when you saw them at four months, did you also
5 kind of do a checklist as far as their developmental?

6 A. Correct. So since the concern had been for
7 neglect, kind of with A.W. like that had been brought up
8 by investigators from the very beginning with the kind of
9 how she looked and her size and such, I did developmental
10 checklists just like on your pediatrician's office, like,
11 can child do this, can child do that? And since all six of
12 them were in our waiting room playing with our child life
13 specialist and our social worker, I was able to observe kind
14 of more of their interactions. And so for each child in my
15 report, I just did their normal developmental age, what they
16 should be able to do.

17 And aside from the two-year old, which is, it's
18 Z-A-H-R-A.

19 Q. Child 4

20 A. She screened fairly normal in development there.
21 And the oldest, the seven-year old, Child 1 but all the
22 other children, the other four had developmental delays.

23 Q. Okay. And I'll get back to the other ones. As
24 far as the twins go, there's certain developmental
25 four-month questions at four months that should be

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1 appropriate?

2 A. Correct.

3 Q. And whether or not they could smile or laugh or
4 squeal, and you said, No?

5 A. No, we didn't see that or observe that.

6 Q. If they would gurgle, coo, or babble?

7 A. No, they were nonverbal at that time.

8 Q. If they would reach for or bat at objects?

9 A. No, and we present those during the exam, you
10 know, try to get them to play with us.

11 Q. If they could follow movements and objects by
12 turning heads 180 degrees?

13 A. Yeah. So like I'm moving around the exam table
14 and they're not following me at all.

15 Q. If they were able to roll over from tummy to back?

16 A. That's one of the reasons I put them on their
17 tummy, they weren't rolling at all.

18 Q. And pushed down on legs when feet are on a hard
19 surface?

20 A. That's when you hold them up and see if they'll
21 push their feet down, and they didn't do that either.

22 Q. If they would pull with hands by touching them
23 together?

24 A. Nothing.

25 Q. If they controlled the head well, as you've

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1 already addressed?

2 A. Right. The head control.

3 Q. And when lying on the stomach, if they would try
4 to push up on elbows?

5 A. Yeah. So once you get head control, the next
6 thing is you're pushing up on your chest there. And so
7 those are the kind of three to four-months skills. So I
8 didn't have their exact prematurity date, but assuming like
9 most twins, they came about a month early.

10 Q. And if they were born on [REDACTED]
11 and you saw them on March the 5th, they were well over
12 four-months old?

13 A. Correct.

14 Q. Specifically, in reviewing their birth records,
15 did you see anything that, that stood out that caused
16 concern to you as far as other than they were premature and
17 kept in the NICU for I believe two weeks?

18 A. Correct. They had no medical issues or concerns.
19 And with them being observed in the NICU for two weeks, I
20 felt very confident that had there been something from birth
21 or such, the neonatologist would have noted that.

22 Q. And again, once they got out of the hospital,
23 about two weeks after they were born, so around the 1st of
24 November, they were then seen for their two-month visit.
25 With a newborn is it important to follow up on all doctors

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1 visits?

2 A. Certainly. I mean, for those who have had babies,
3 they're developing and they're very vulnerable, and so we
4 actually, depending on the child, you usually have like a
5 two day, a two week, you may have a one month if they're not
6 growing and doing things, gaining weight appropriately, and
7 then a two month. And then it goes two, four, six months,
8 nine months, a year, 15, 18. And then things start spacing
9 out once they get over two years. So you have pretty
10 frequent doctor's visits because you need to monitor their
11 growth and development and catch things quickly before
12 things go badly there. And then you -- because this is when
13 the brain is developing so much, their heads are growing,
14 they're learning in those, you know, the first year of life,
15 really.

16 Q. Specifically with a premature -- the premature
17 twins, it would be very important to follow up for the
18 reasons you said along with immunizations?

19 A. Correct.

20 MS. MCGINNIS: Your Honor, I would ask the
21 Solicitor to refrain from leading her witness.

22 THE COURT: Okay. Maybe rephrase, Solicitor, if
23 you would, please?

24 BY MS. CAMPBELL:

25 Q. What were the reasons that would be important for

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1 a premature baby to see a doctor regularly?

2 A. So there are complications from coming out early
3 and not having everything formed. And almost all babies who
4 are premature get referred to early intervention. It's the
5 birth to three program. So that someone's monitoring their
6 development, like coming to the home, helping the family,
7 getting them occupational therapy, speech therapy, physical
8 therapy if they need it. And that's a free service to
9 families.

10 Q. And had these children been seen by the -- is it
11 Baby Net?

12 A. Yes, it can go by different names.

13 Q. Okay. But it's a referral for help with newborns
14 that's free and they were referred for that?

15 A. Correct. So it's free for everybody under the age
16 of three. And the reason it stops as three is then you go
17 into preschool and you can start getting the early
18 intervention preschools at that age. And so we referred the
19 younger children to that service from my office when I saw
20 them.

21 Q. When you saw them, but had they been seen by that
22 before?

23 A. No, they hadn't.

24 Q. Did you come to any conclusions, and I'm lumping
25 the twins together, is that okay for purposes of what you

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1 saw?

2 A. Correct.

3 Q. Because all their weights and things were within
4 the 25 to 50th percentile. Did you come to any conclusions
5 as far as the twins?

6 A. So at that time, there was concern that there had
7 been some medical neglect because they hadn't seen birth to
8 three and the parents hadn't talked to their pediatrician,
9 you know, about their development. But nutritionally they
10 were fine, and at that point they'd only missed their four
11 month well-child visit. They hadn't suffered medical
12 neglect, per se.

13 Q. Okay. And were you concerned about their safety
14 and did you review photographs of the home?

15 A. Yes, I did.

16 Q. Were there safety concerns in the home? And we
17 can talk about all these children for this.

18 A. Sure. So going to the scene photographs and the
19 witness statements or incident reports from the individuals
20 who entered the home. So the home had stairs, which is a
21 safety concern for toddlers. There were no gates at the top
22 or the bottom. There were three bedrooms up top. And so in
23 going through kind of starting with the master, there were
24 two cribs there. They both had adult bedding in them. They
25 were urine stained, feces stained. You could smell them

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1 according to law enforcement and responders.

2 MR. FRICK: Your Honor, hearsay. She's saying
3 what law enforcement told her.

4 THE COURT: Yeah. Don't repeat what -- unless
5 now -- unless, if relying on information from law
6 enforcement --

7 MS. CAMPBELL: Medical.

8 THE COURT: -- typically information that this
9 doctor would customarily use and rely on in rendering
10 opinions and doing the workup that she typically does.

11 MR. FRICK: She specifically said all she did was
12 look at the pictures.

13 MS. CAMPBELL: No, she didn't. She said that she
14 also talked to law enforcement.

15 THE COURT: Okay.

16 MR. FRICK: My objection is my objection, Your
17 Honor.

18 THE COURT: Okay, so noted. And you may just want
19 to cover that to make sure.

20 BY MS. CAMPBELL:

21 Q. For purposes of your diagnosis, it is important to
22 get a history from any caretakers that are available to give
23 it to you as well as from law enforcement as to their
24 observations?

25 A. Correct. So they had been in the home and

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1 provided me the incident report as well as the photographs.
2 And then I got verbal reports from Agent May as to the
3 condition of the home. And that was important to assess the
4 children for medical concerns or conditions related to the
5 conditions in the home.

6 Q. In making your ultimate conclusion, you have to
7 consider that?

8 A. Yes.

9 MR. FRICK: Your Honor, may she continue now?

10 THE COURT: Sure.

11 MS. CAMPBELL: Okay. You can talk about it.

12 THE COURT: I mean, objection is noted and
13 overruled. You may proceed.

14 BY MS. CAMPBELL:

15 Q. Thank you.

16 A. So there was an adult bed in that room. Two
17 cribs, adult bedding, which is unsafe for the twins. So
18 they were sharing one crib. And there was an adult pillow
19 and blanket. Both were soaked in urine and feces. One was
20 where A.W. would typically sleep. So there's the king, the
21 large adult bed, a TV, and then the two cribs in that room.

22 In the bathroom and in other places in closets and
23 such, there was adult -- there was human feces and urine
24 where people had been going to the bathroom. In those
25 spaces as well, There were exposed electrical wires where

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1 things have been pulled from the wall, which is really
2 dangerous when you have young toddlers and such for them to
3 get electrocuted as well. And so in the two subsequent
4 bedrooms, There was one bunk bed with a mattress on the
5 bottom, but nothing, just the slats on top. And in the
6 third room, there was a mattress on the floor. And so given
7 that there were seven children residing in the home. There
8 weren't safe sleeping surfaces. And they were exposed to
9 human waste and urine, which can lead to certain diseases,
10 respiratory issues, skin infections, as well as GI illnesses
11 that you get from that. And then we talked about the danger
12 of the stairs with the toddlers for them to fall.

13 Downstairs in the kitchen, there were -- one was
14 like a foot massager with like standing water and insects
15 kind of living in there, which is dangerous for drinking,
16 insects living in the house, there were cockroaches, noted
17 mounds of unclean dishes there. I was also looking for the
18 twins, like, where were the bottles, where were the formula
19 stored? What was the food in the fridge or the freezer to
20 provide for seven children there, and there wasn't enough
21 food, like, in the fridge or freezer for a family of nine to
22 eat. And a lot of it had little to no nutritional value,
23 like the refrigerator cinnamon rolls, there, they taste
24 good, like, they have a lot of sugar, but not going to
25 provide really healthy nutrition for the children there, and

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1 so I noted that. And so that was part of what I was
2 assessing for when I was evaluating them, their nutritional
3 status, their growth and different things there.

4 So that was, as a pediatrician, as a child abuse
5 pediatrician, what I was taking from the scene and what law
6 enforcement told me that were risks to the children in the
7 home.

8 Q. And you mentioned the safe sleeping or the lack of
9 safe sleeping for the twins?

10 A. Correct. So some people believe that twins should
11 share one crib, that's kind of an older belief there as we
12 work on safe sleep, you know, the ABCs are safe sleep,
13 always alone on your back in a completely empty crib. There
14 are no stuffies, no blankets, the risk -- the number one
15 killer of infants in South Carolina is unsafe sleep and has
16 continued to be.

17 Q. So did you come to any conclusion as far as the
18 twins were concerned is whether or not they were exposed to
19 any kind of abuse or neglect?

20 A. So in talking about the scene, they definitely had
21 physical neglect. So from what I could observe, their
22 physical safety and needs were not being met in that home
23 condition.

24 Q. And did you make any recommendations as to any
25 follow-up care that needed to be done with the twins?

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1 A. So specifically for the twins, they needed to be
2 enrolled in Birth -- Baby Net, like the birth to three to
3 monitor their growth and development because they were
4 delayed for me, as well as going back to their pediatrician,
5 having really close follow up, as well as a safe environment
6 and adequate nutrition.

7 Q. Okay. So in your opinion, they had been suffering
8 from abuse or neglect as you described it?

9 A. Correct.

10 Q. And you made the appropriate recommendations to
11 remedy that?

12 A. Yes, we have a social worker in our office. And
13 so we made those recommendations, we made the referrals.
14 And then my reports also go to DSS, since they were in DSS,
15 you know, custody at the time or kind of kinship custody,
16 because DSS could also assist with resources, beds, formula,
17 diapers, anything the family might need.

18 Q. And as part of your assessment in this case, I
19 mean, is how the children do after your assessment, if the
20 problems have been remedied, is that significant?

21 A. Certainly. So if for some reason there was
22 something I missed, like I'm human and there was an
23 underlying medical condition that was affecting them, or
24 they had some infection or such, then just changing
25 environments and providing them with a safe environment and

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1 food, they would not grow and thrive and be on the growth
2 curve and be developing normally there. And so that would
3 mean that something else was going on in addition.

4 Q. Moving on to the -- well, the next oldest child
5 would have been A.W. right?

6 A. The next oldest would have been A.W.

7 MS. CAMPBELL: Moving on to Child 4 and I believe
8 her date of birth was [REDACTED], Judge, for the
9 record.

10 BY MS. CAMPBELL:

11 Q. Can you tell the jury a little bit about your
12 assessment of Child 4

13 A. So with Child 4 her development was okay.
14 Particularly, her motor development, like, she was playing
15 clock, she could move around there, which was great. Her
16 growth parameters were off. She was off the growth -- I
17 think I'll have to refer to my reports for exact
18 percentiles.

19 Q. Why don't I get that for you?

20 A. So specifically with Child 4 her weight was at the
21 fourth percentile and her height was less than the first
22 percentile, so, like off the growth chart there, which was
23 unusual because when she was seen for her last appointment,
24 which was six months, so she hadn't been seen by her
25 pediatrician from six months to over two years.

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1 Q. All right. So she was born in September, so at
2 the time you saw her, she was two-and-a-half?

3 A. Uh-huh.

4 Q. And you mentioned her weight. What was her
5 weight?

6 A. So at six months her weight was 15 pounds, and she
7 was like 25th to 50th percentile. And her height was 26
8 inches, which is 50th to 75th percentile. So she was
9 growing really well at that point. And then fast forward,
10 she's gone from 15 pounds to 23 pounds. So she's only
11 gained eight pounds in two years of weight. And so that put
12 her at the fourth percentile. So, right, she's gone from
13 the 25th, 50th, all the way down to the fourth.

14 And then her height, of course, it doesn't give it
15 to me in inches there. So she was 26 inches, which is two
16 feet two inches. And when I saw her, she was two feet,
17 seven-and-a-half inches. So only about six -- no, less than
18 that, five inches of height over that, that time. And as
19 you know, the growth curve is going like this when they're
20 young, like, they're just growing like weeds. And so that
21 was very concerning to me since she had lost both height and
22 weight, she didn't look amazing emaciated or such, but she
23 was much smaller than she should be at her age there.

24 And the other thing I noted on exam was that she
25 had two kind of parallel linear scars across, like, her

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1 upper arm there. And whenever I see, like, linear any kind
2 of patterned injury, something with that pattern struck the
3 skin. I don't know what it is there and I couldn't talk to
4 the caregivers to see what it was, but that's kind of
5 concerning whenever you see a line. Sometimes it can be
6 caused by switches, you know, cords, like anything kind of
7 with a linear edge there. But so my -- that was one
8 concern.

9 Obviously, she's a two-year-old, so the home
10 conditions, like she could have been very significantly
11 electrocuted, fall down the stairs, broken, something. But
12 the medical neglect for her was profound. To not be seen
13 from six months forward. And, you know, clearly she wasn't
14 doing well because she had gone from very normal growth
15 parameters, height and weight, to the bottom of the curve
16 and off the curve. So something was not going well for her
17 during that time. And you lose weight first, then you lose
18 height. So this was a long standing issue there.

19 And so that's pretty severe medical neglect. And
20 then on top of that, nutritional neglect, where for whatever
21 reason, she wasn't getting the correct nutrition to help her
22 grow.

23 Q. And had she seen a pediatrician in those
24 two years, could they have given her guidance as far as
25 trying to correct the nutrition issues?

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1 A. Absolutely. I mean, this is something
2 pediatricians do all the time. Spitty babies, gassy babies,
3 milk protein, allergy babies, like, we have a lot of things
4 in our arsenal to help families these days. Special
5 formulas, special bottles, special nipples, there's
6 supplements that you can give. And so that's one of the
7 primary roles of a pediatrician, is to watch these things
8 and intervene, give the parents the tools they need or to do
9 a workup. Like if she was vomiting up blood or pooping out
10 something, like most caregivers would seek medical care to
11 try to address those issues for their child.

12 Q. Okay. And this may be a stupid question, but she
13 wasn't up to date on her immunizations?

14 A. No. None of -- aside from **Child 1** and **Child 5** and
15 **Child 6** the twins, none of the rest of the children were up
16 to date on their immunizations.

17 Q. And in summary, as far as your assessment of
18 **Child 4** when you talked about the marks on her back as well
19 as her medical neglect and everything, did you come to an
20 opinion as to whether or not she had suffered from abuse or
21 neglect?

22 A. Yes.

23 Q. What was your opinion?

24 A. Profound medical neglect, profound nutritional
25 neglect, and possible physical abuse.

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1 Q. And did you make any recommendations for some
2 evaluations to be done by other pediatric specialists?

3 A. Certainly. So for her growth, I referred her to
4 the GI, the gastroenterology doctors, because I wanted to
5 see, was there any reason why she couldn't gain weight.
6 Like, did she have any issues there? According to
7 grandmother, she hadn't been sick, you know, no recent
8 illnesses or such. And knowing where she was at six months
9 and knowing where she was now, like this is not a one-week
10 problem, this is a long-term problem. So that's the
11 specialist that I referred her to look at her growth and her
12 feeding and see, you know, what we needed to do to get her
13 back on track.

14 Q. So her neglect, I think you summarized it was from
15 the conditions of in the home, the medical neglect, and the
16 physical neglect, as well.

17 A. Yeah.

18 Q. Moving on to **Child 3** who I believe was a
19 three-year-old born on [REDACTED]

20 A. Correct. So she was just about to turn four, just
21 about to turn four when I saw her.

22 Q. Let me back up one second. As far as any kind of
23 developmental delays on **Child 4** did you note any of those?

24 A. So, we didn't know any developmental delays on
25 **Child 4** We did know that the pediatrician had had concerns

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1 about developmental delays back when she was at six months
2 of age and had made referrals. They were also concerned
3 about like her knees and hips. But none of those referrals,
4 you know, were following up.

5 Q. Can you be a little more specific about that?
6 They made referrals at her six-month visit?

7 A. Yes. So at the six-month visit from the
8 Children's Clinic, they noted developmental delays
9 plagiocephaly, which means that she had laid on one side of
10 her head too much, you know, hadn't been up and moving and
11 so her head had gotten squished on that side and she was
12 also under immunized at that point, so hadn't had all of her
13 shots. So they referred her to pedes orthopedics for the
14 developmental delays and they noted abnormalities to her
15 knees and hips and they asked parents to bring her back in
16 one month for kind of close follow up because they were
17 worried about her and she never followed up.

18 Q. None of that was done?

19 A. None of that was done.

20 Q. And in fact, she hadn't seen a doctor until she
21 saw you since she was six months old?

22 A. Correct.

23 Q. Moving on to **Child 3** who was just turning four, I
24 believe when you met with her.

25 A. Yeah. So she was just about to turn four. So

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1 paternal grandmother said that **Child 3** had been diagnosed
2 with autism there and she had very profound developmental
3 delays. She had no language there, not talking, not there,
4 and you couldn't really tell if she was understanding what
5 you were saying. You know, there's language comprehension
6 and then there's language, you know, speaking it there and
7 couldn't -- but she could follow simple commands. You know,
8 could you come over here, **Child 3** And I questioned the
9 autism diagnosis because she hugged everybody. Like, she
10 wanted to be your best friend. She wanted to hug you. She
11 loved to sing. It was nonsense, but she'd be singing there,
12 just seemed like a really happy little nugget. But for a
13 kid almost turning four, like they're getting ready to go
14 into kindergarten or preschool, like, they should be bossing
15 me around, telling me what they're going to do or not do at
16 that age. And so she was functioning more like a one,
17 two-year-old level there.

18 I thought more intellectual disability than autism
19 just because of her affectionate nature and that she was
20 loving on everyone. Usually autistic kids have sensory
21 issues and they don't really want to hug or do anything
22 there. And, you know, reviewing her medical records.

23 Q. I was going to say, what were her medical records?

24 A. So for her medical records there, she had started
25 when she was six days old, great, like, newborn right out

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1 there. And then she had stopped receiving care at
2 eight months.

3 Q. And you said you saw a doctor when she was six
4 days old. What year was that?

5 A. That was just the newborn.

6 Q. That would have been right after she was born?

7 A. Right after she was born. And then she --

8 Q. In 2017?

9 A. In 2017. And she kept getting pediatric care
10 until 11/29 of 2017. So she was eight-months old at that
11 time. And at that visit, she was 15 pounds, which is low,
12 like 10th percentile, but on the curve. And her height was
13 very tall, 27 and 3/4 inches. So 75th percentile there.
14 And then no medical care. So, normally you get a diagnosis
15 of autism or developmental delays, either from the school,
16 which she's too young to go to school, or by seeing a
17 developmental pediatrician. Those are who kind of do the
18 assessments. You also start screening for autism at 15 to
19 18 months. So had she been coming for those visits, like,
20 it would have been picked up at that time.

21 As far as her weight, her height fell off the
22 growth curve. So she was 2 feet 5 inches. So essentially
23 the same height, 27 and 3/4. So, like, her height hadn't
24 changed.

25 Q. Since when?

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1 A. Since eight months.

2 Q. Since she was eight months old?

3 A. Yeah.

4 Q. So in three years and four months, her height had
5 essentially not changed.

6 A. So two feet is 24 inches. You add five, that's
7 29. So she got an inch and a half. Her weight -- she had
8 continued to gain weight. She was 37 pounds and she was 15
9 pounds, so she had put on weight, but essentially her height
10 hadn't gone up.

11 Q. Are there explanations for that as far as
12 nutrition is involved?

13 A. So it absolutely can be related to nutritional
14 neglect. With her developmental delays, like, it could be
15 related to a genetic syndrome. Like, there are some
16 syndromes that cause kind of developmental delays as well as
17 growth delays. But subsequently, she was seen by genetics
18 as part of her developmental assessment.

19 Q. You mean, subsequently, when?

20 A. That was when she was four years -- no, five, five
21 years of age, so a year or two.

22 Q. So after you were assessment?

23 A. Right.

24 Q. Okay. Sorry. I just want to differentiate from
25 before and after your assessment.

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1 A. So before my assessment, nothing had been done,
2 eight months, that's it.

3 Q. And if she had seen medical personnel, could
4 interventions have taken place as far as helping with her
5 condition?

6 A. Again, the early intervention, as well as a
7 developmental pediatrician would have seen her.

8 Q. Okay. But then after you saw her, once she was
9 placed in foster care --

10 A. Once she was in care, she saw a developmental
11 pediatrician who did diagnose autism, but also kind of
12 developmental delays, intellectual disability. And as part
13 of that, she saw a geneticist who did genetic tests, and her
14 genetics were normal. So there was no underlying genetic
15 reason for her to have failed to thrive. But kids with
16 autism oftentimes will eat odd diets. Like, they'll eat
17 only one color or only one texture or such. And so it would
18 make sense that she would have trouble growing if she had
19 limited nutritional options and then she limited them due to
20 her autism.

21 Q. But even with her potentially limiting them, she
22 was still able to keep her weight up when offered food?

23 A. She did.

24 Q. And as far as assessments, did you also do, what
25 we call the milestone kind of developmental assessments on

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1 her?

2 A. I did.

3 Q. And you did those for what year?

4 A. So I did those for three years of age, because she
5 was three years when I saw her there. I could have done
6 four, but based on her delays, I felt I'd give her as much
7 of a leg up as I could. And so, you know, could she undress
8 or dress herself with minimal assistance? No. Could she
9 play make believe? No, she doesn't have any language to
10 tell you about her imaginary friends. Or could she follow
11 two to three steps, so not just, like, get on the table,
12 but, like, can you get on the table and then lay down so I
13 can feel your belly. Like, she couldn't do that. I could
14 tell her to get on the table, and then I could tell her to
15 lay down, but she couldn't follow multiple steps.

16 Again, the language at four years, like, they
17 should be phrases like talking sentences to you, and she
18 didn't even know. Like, a lot of kids will say their own
19 name. Like, kind of the first basic words refer to a
20 sibling by their name or, you know, a caregiver,
21 grandparent, Gigi, Grandma, Mimi, like, and none of that was
22 observed.

23 Q. And was she able to put on her own shoes?

24 A. No, we had to help her with everything.

25 Q. And in fact, when you're describing her language,

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1 did she -- was she really able to talk?

2 A. No, she didn't talk. She could point and seem to
3 indicate things that she might want. It's one of those
4 where if you've had younger kids, like one to two, like,
5 they're pointing, they want something and you're like, you
6 want this? Do you want this juice? Do you want this
7 sandwich? Do you want this thing? And she could indicate a
8 want like that.

9 Q. Did you make any physical findings on her?

10 A. So aside from the growth delay, there were some
11 short scars on her upper and lower back, but those were just
12 from probably scratch marks. They're where like you dig in
13 your skin.

14 Q. Okay. So nothing significant physically?

15 A. No, nothing significant physically for **Child 3**

16 Q. But did you come to any kind of diagnosis to her
17 as to your assessment?

18 A. Certainly. So, I mean, she had profound
19 developmental delays, like, very obvious there. Parents,
20 you know, by report were concerned about autism, but they
21 had not taken her to her pediatrician since eight months of
22 age. They hadn't sought a specialist. They hadn't worked
23 with birth to three, like Baby Net. So profound medical
24 neglect for this child and then the nutritional neglect,
25 like a kid who's supposed to be 75th percentile for height

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1 going all the way to off the bottom of the percentile.
2 Like, I very much suspect that's due to the nutrition that
3 she was provided in the home. And then with her
4 developmental delays functioning more like a one to two year
5 old. You have all of the dangers that for **Child 4** and **A.W.**
6 like in that age group, the exposed electrical wires, the
7 not safe places to sleep, the insects, the feces, all of
8 that.

9 Q. And we don't have to go back to that, that's
10 across the board for all the children pretty much?

11 A. Yes.

12 Q. Okay. Did you make any recommendations as to
13 evaluations that need to be done for **Child 3**

14 A. So for **Child 3** I sent her also to the GI doctor
15 because of the growth issues, and then also to the
16 developmental pediatrician for like a formal assessment
17 regarding the concerns for autism and developmental delays.
18 And she was too old to refer to Baby Net because they stop
19 at three years of age there.

20 Q. And you also mentioned that you were able to
21 review some records of her later on --

22 A. Correct.

23 Q. -- once she got the actual medical treatment?

24 A. So I had some records from when she was in foster
25 care there. And so she -- with just normal nutrition, she

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1 was back on the growth curve for both height and weight and
2 proportional there, so kind of tracking along the same. She
3 was diagnosed with autism and developmental delays, but
4 doing fairly well. They were considering an IEP in school
5 but hadn't put one in place. And I'm, like, well, that,
6 like, that means a kid is, like, functioning in a normal
7 classroom. So I was impressed that she had made progress
8 there. And then, like I said, they did the genetic testing
9 and didn't find any genetic cause for why she had all these
10 delays and growth failure when I saw her.

11 Q. So despite not getting any intervention in the
12 first three years, pretty much, once she got intervention,
13 she did respond well?

14 A. Yeah, per her foster parents and her pediatrician
15 at that time, she was doing really well.

16 Q. I want to move on to the next child that was in
17 the household, and that's Child 2. And he was born
18 on . So how old was he when you saw him
19 when he was --

20 A. Four years of age.

21 Q. -- four years old? So he would have turned five
22 that May after you saw him in March?

23 A. Correct. So he's four, going on to five there.
24 And he went by Child 2 I guess, to distinguish from dad, since
25 dad was also a David.

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1 So grandmother stated that he had been diagnosed
2 with selective mutism, which is where in certain
3 circumstances kids don't want to talk there. And he didn't
4 talk at all when we saw him in clinic. But he appeared to
5 be taking things in, unlike **Child 3** where I couldn't tell if
6 she was understanding what was going on because he'd point,
7 he'd nod, like, it felt like there was more communication
8 with him at that time.

9 And so, per his records, David didn't have any
10 care when he was a newborn. Parents didn't bring him
11 anytime from birth until 9 months of age to the
12 pediatrician, and then they only brought him from the
13 pediatrician from 9 to 18 months of age there. He had one
14 ER visit to MUSC-Lancaster, where he had a cold that was the
15 RSV bronchiolitis there, which is a cold that babies get.
16 But he wasn't sick enough that he couldn't just be treated
17 at home with that.

18 The unique thing there is that parents told
19 MUSC-Lancaster that he had been to his pediatrician, had
20 normal development, was up to date on all of his shots, but
21 I couldn't find that in the pediatrician's records. So just
22 another kind of discrepancy there. And when he came in at
23 nine months to the pediatrician's office, they were already
24 worried about his weight. So his height was between the
25 25th and 50th percentile but his weight was kind of 5, 10th

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1 percentile there. And so they were working with the family
2 on, you know, how to feed him and such at nine months they
3 can be starting baby foods and you know, oatmeal and
4 different things. And so they were working with the family
5 there.

6 The other point of concern is David, **Child 2** failed
7 his hearing screen at birth. And so if you fail your
8 hearing screen at birth, you're supposed to go to the ear,
9 nose and throat doctor and get another hearing screen.
10 Because if you can't hear, you can't develop language, your
11 brain isn't hearing getting that stimulation. And so it's
12 really serious, like, it's not something that can wait. And
13 the pediatrician's office was re-referring them back to ear,
14 nose and throat. You know, Hey, you need to go, you need to
15 go. And then at 18 months he continued to have issues and
16 parents just stopped coming for care.

17 So never went to the ear, nose and throat, never
18 got his hearing checked. And like they had tried with the
19 family to like put Pediasure, do supplements, like anything
20 to get his weight up, but his height didn't change at all
21 from 15 to 18 months. He didn't grow there. And I'm trying
22 to find -- he was 18 pounds when he was 18 months. So that
23 is off the growth curve. That's the average weight for a
24 six month old there. And so he had already started having
25 failure to thrive, like nutritional neglect, not getting

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1 enough at that -- and that continued on.

2 So when I saw him his -- he had gained some
3 weight, he was 33 pounds, but that's the sixth percentile,
4 so right at the bottom of the growth curve and his height
5 was the third percentile. So he was kind of doing a little
6 bit better than some of his siblings, like, he was clinging
7 to the bottom of the growth curve. So he had some growth in
8 the interim.

9 Q. So the last time he saw a pediatrician was on
10 November 29th of 2017 at an 18-month old evaluation?

11 A. Correct. That's the last time he had any medical
12 care to my knowledge.

13 Q. And all the recommendations as far as his speech,
14 his hearing, and things that those were never followed up
15 on?

16 A. Correct.

17 Q. And did you also do a developmental assessment on
18 him as well?

19 A. I did. So I did three years for him, again --

20 Q. A three year old?

21 A. Three years, yeah.

22 Q. Okay.

23 A. Trying to go where he actually is and not -- I
24 actually did three and four, just trying to see if I could
25 get anything for him. So he had the same ones as **Child 3**

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1 He couldn't follow, like, two commands. He couldn't,
2 obviously, he wasn't talking at all, so he's not using
3 phrases. He's never said his name. He couldn't put on his
4 own shoes. Like we take off clothing and put it on. And so
5 if kids can do it, like at that age, usually it's the, I do
6 it stage, like, No, I do it, I got it. And he wasn't doing
7 that there and so he couldn't do any of the four-year-old
8 ones because those are like telling stories, naming colors,
9 naming numbers. And if he can't talk, then he can't do any
10 of those developmental things. And then on his exam he had
11 some scars. He had circulars, three circular scars on his
12 right inner thigh, like perfect circulars. And then he had
13 two parallel linear scars in kind of the center of his back
14 there.

15 And again, you know, patterns, pattern objects,
16 now, were they burns? Were they lacerations? Like, I don't
17 know because they're healed at this point. But those were
18 concerning for physical abuse, unless there was some weird
19 accidental history, like, you know, a kid falls in a fire on
20 a grate or something there.

21 Q. Okay. Did you -- you mentioned that he wasn't
22 able to talk. Was he able to actually repeat a word if you
23 said it?

24 A. He would echo it.

25 Q. Okay.

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1 A. And so it's called echolalia, like where they just
2 repeat single words after you, like, I couldn't tell if it
3 had any meaning there.

4 Q. Once you had done your assessment of **Child 2** or
5 David, did you come to any kind of conclusion as far as his
6 abuse or neglect?

7 A. Sure. So we have the medical neglect, you know,
8 18-months to three plus almost turning four, is it four
9 turning five?

10 Q. Yes.

11 A. Sorry. Trying to keep everybody straight, four
12 turning five, profound nutritional neglect, not growing
13 appropriately to where he was before there. And a pattern
14 of that from, because the family had been struggling with
15 that from nine months to 18 months with a pediatrician
16 trying to help them. And then, you know, then physical
17 dangers in the home, the conditions as well as then the
18 concern for physical abuse with those pattern scars.

19 Q. Did you make any recommendations as to follow up
20 care David or **Child 2** needed?

21 A. So certainly we referred him back to the ear, nose
22 and throat doctor, like, he needed that hearing checked and
23 he was going to need speech therapy if he actually, you
24 know, was able to hear. He's too old for Baby Net, so
25 getting him into like an early intervention preschool where

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1 they can work with him, he can get services. And then the
2 GI doc for growth and feeding and such.

3 Q. And also I believe the developmental pediatric
4 pediatrician?

5 A. So we made the referral for him because of the
6 lack of language, because that could also be autism as well.
7 And so I decided not to wait since I may not see them again,
8 and just make both referrals at the same time.

9 Q. And as far as his progress, once he was in foster
10 care?

11 A. So I saw -- no, I didn't see any subsequent
12 medical records for David, I believe.

13 Q. Okay. But the foster parents would be able to
14 address that as far as that?

15 A. Yes. So, again, if I had missed something, if
16 there's something underlying, then the child shouldn't
17 thrive when he's in a new environment. He should continue
18 to have issues if it's due to his body, whether he's with
19 parents or some other caregiver.

20 Q. And again, with all these children as we're going
21 through them, there's no indication of any underlying
22 disease or congenital problem or anything of that nature
23 that would cause this -- and you've referred to the term
24 "failure to thrive," what does that mean?

25 A. So failure to thrive is when you don't grow, you

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1 don't gain weight, you don't gain height, you don't -- and
2 that can be from a variety of causes, like, that's the
3 general term, and then I'll call it nutritional neglect,
4 which means that caregivers are not providing nutrition to
5 the children there. And so that's why I referred to the GI
6 specialist, because they knew failure to thrive evaluations.

7 So if they had inflammatory bowel disease or a
8 milk protein allergy or such, there, they would be the ones
9 who could diagnose that. And then it may not be nutritional
10 neglect. Maybe the parents were providing the calories, not
11 the calories I saw in the scene photographs, but maybe there
12 were other things they were being provided and they had some
13 underlying medical diagnosis.

14 Q. But the common theme with the children that we've
15 talked about so far, other than the newborns, is a failure
16 to thrive?

17 A. Correct. And the child we'll talk about next.

18 Q. Okay. And let's talk about **Child 1** She was
19 actually born, I believe, **[REDACTED]**.

20 A. Yes.

21 Q. So she was seven, I believe, when you saw her?

22 A. She was seven when I saw her. And so she's the
23 second oldest, but the oldest in the home there. So there
24 was another child outside the home that I didn't see there.
25 But **Child 1** had been to the same Children's Clinic every

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1 checkup, every single visit, always there. She was in
2 school. She had an individualized education plan, an IEP,
3 based on the records, she had had failure to thrive about
4 15 months.

5 Q. At about 15 months?

6 A. At 15 months.

7 Q. And what were the indicators of her failure to
8 thrive at 15 months?

9 A. It was nutritional there because they educated the
10 family, got them on Pediasure, so those drinks for extra
11 nutrition and she had bounced right back onto the growth
12 curve there. And she tracked at the 90th percentile for her
13 weight and the 50th to 75th -- excuse me, 90th for her
14 height, 50th to 75th for her weight. And she was that in my
15 clinic as well. So, like, she grew perfectly, had all her
16 immunizations, had gone and done everything with the same
17 clinic.

18 Q. And in fact, in the year before, before this
19 happened with A.W. dying, had she been to the pediatrician
20 or to the ER on multiple occasions?

21 A. Yes.

22 Q. And of all the children in the 14 months that
23 A.W. was alive, had the twins also been to see a
24 pediatrician?

25 A. Correct.

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1 Q. But none of the other children had been to see a
2 pediatrician.

3 A. No.

4 Q. And again, Child 1 was the only one in school?

5 A. Yes. She was the only one of age. Child 2 would be,
6 he was just turning five, so unless they did like a
7 preschool, he would have gone, you know, the following year.

8 Q. In the following year.

9 A. And then Child 1 older sibling was in school,
10 but with a different caregiver.

11 Q. But he wasn't in the home or residing with the
12 parents?

13 A. Sorry, if I confused you there.

14 Q. So as far as all the children that were in the
15 home, we've talked about Child 1 Child 2 Child 3 Child 4 and
16 the twins?

17 A. Correct.

18 Q. And in looking at Child 1 she was in great
19 condition?

20 A. Yes. She I didn't -- when I was looking through,
21 her development was normal. She was kind of the little
22 mother. Like she'd be monitoring her younger siblings or
23 such there. No concerns for developmental delays aside from
24 the individualized education plan. So, you know, I think it
25 was more behavioral because we saw her, she might get a

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1 little frustrated with her younger sibling and get angry and
2 so that could be related to the IEP as well.

3 Q. And did you make any diagnosis as far as whether
4 or not she had suffered any abuse or neglect?

5 A. So the only diagnosis I made with her was related
6 to the conditions of the home, they're not having her
7 physical needs met at home.

8 Q. And did you make some recommendations as far as
9 future care for her?

10 A. So I'm trying to -- so just a safe home
11 environment there with her physical needs being met and
12 going back for her routine pediatric care as needed.

13 Q. And I want to talk a little bit about your review
14 with A.W. you said you reviewed her birth --

15 THE COURT: Solicitor, can you just stop right
16 there? Let me just see lawyers over here for just a second,
17 please.

18 (WHEREUPON, a conversation was held off the
19 record.)

20 THE COURT: Ladies and gentlemen, we're going to
21 go ahead and take a break. I understand the pizza is here,
22 so go back to the jury room. Enjoy your lunch and we'll get
23 started back just as soon as we can. Still got to get the
24 county IT guy to come in and try to fix this equipment. And
25 just to give you the heads up, we have a physician who

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1 actually resides in New Zealand, will be testifying
2 virtually. I think the time is around 2:00 o'clock time
3 frame, so we'll have that coming up, of course we need to
4 finish with the testimony this doctor.

5 So anyways, go back, enjoy your lunch, and we'll
6 get you back out as soon as we can.

7 (WHEREUPON, the jury exited the courtroom at 1:11
8 p.m.)

9 THE COURT: Okay. Let's go ahead and just take a
10 break. Kind of keep me informed as far as if the IT is able
11 to get this fixed. And we don't necessarily have an urgency
12 for that to get done because the video interview can come in
13 really at any time. So that's not, that's not a big -- of
14 course we kept -- are you our IT guy, sir?

15 TECHNICIAN: Yes, sir.

16 THE COURT: Okay. We've been keeping you waiting,
17 I apologize for that but so we'll see where, where we go
18 with that, okay.

19 MS. MCGINNIS: And, Judge, I think that typically
20 the Clerk gets extra food for us to eat if we want. We're
21 going to eat upstairs and send Dr. Lamb back to eat back
22 there.

23 THE COURT: Sure. If they could just find her a
24 room to eat. We're off the record.

25 (WHEREUPON, a lunch break was held from 1:12 until

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1 2:04 p.m.)

2 THE COURT: Okay. Let's bring the jury out.

3 Let's go on the record.

4 And this Doctor's testimony virtually is by
5 consent, the manner of his testimony is through the virtual
6 courtroom is by consent, correct, Mr. Frick?

7 MR. FRICK: That is correct, Your Honor.

8 THE COURT: Okay. Thank you.

9 THE BAILIFF: Jury's coming in.

10 (WHEREUPON, the jury entered the courtroom at 2:08
11 p.m.)

12 THE COURT: All right. Let the record reflect the
13 jury is back in.

14 Ladies and gentlemen, did you enjoy your pizza?
15 Was it okay?

16 THE JURY: Very good. Thank you.

17 THE COURT: All right. This next witness, as I
18 told you before, the break is going to be done via virtual
19 courtroom. And so if you're going to go ahead and hit the
20 appropriate button, Solicitor?

21 MS. MCGINNIS: Yes, sir.

22 THE CLERK: I need to swear you in, please.

23 THE WITNESS: Yes.

24 THE CLERK: Raise your right hand. Do you swear
25 to tell the truth, the whole truth, and nothing but truth,

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1 so help you God?

2 THE WITNESS: Yes.

3 ALEXANDER VINUYA, having been duly sworn,
4 testified as follows:

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MS. MCGINNIS:

8 Q. Hey, Dr. Vinuya, good morning.

9 A. Good morning, Melissa.

10 Q. Can you state your full name for the record?

11 A. Alexander Vinuya.

12 Q. And you are a physician; is that correct?

13 A. Yes.

14 Q. Can you tell the jury a little bit about your
15 education and training background?

16 A. I did my medical school in the Philippines and I
17 did my medical training and residency in Detroit, Michigan,
18 and was in family practice residency, and during my last
19 year I started doing a lot of emergency medicine work and
20 transitioned basically to full time emergency medicine from
21 2008 onwards. And since I relocated from Michigan to the
22 Carolinas in 2009, I've been in full time emergency
23 medicine.

24 Q. And when you were in the Carolinas, did you work
25 at MUSC here in Lancaster?

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1 A. I worked at MUSC-Lancaster, which was previously
2 Springs Memorial.

3 Q. Okay. And you were an emergency department
4 physician the entire time you were here at Springs or at
5 MUSC?

6 A. The entire time I was there I was doing the
7 physician emergency department there, yes.

8 Q. Okay. And you've obviously since relocated; is
9 that correct?

10 A. Yes, correct. I finished my work in Lancaster
11 around June of last year, 2023, and relocated to New
12 Zealand, and that's where you're speaking to me right now.

13 Q. And you're still a physician there in New Zealand,
14 correct?

15 A. I'm a physician here in urgent care and the clinic
16 here in New Zealand since August of last year.

17 Q. Very good. I want to turn your attention back to
18 February of 2021. You were working in the emergency room at
19 Springs or at MUSC-Lancaster, February 22nd of 2021?

20 A. Yes. As I can see on the records that you guys
21 have showed me, yes.

22 Q. Okay. And you were working the overnight shift or
23 the evening hours?

24 A. The evening shift, yes.

25 Q. Okay.

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1 A. Usually around that time, I was doing night
2 shifts.

3 Q. Okay. And did you have the opportunity to come in
4 contact with a patient named A.W. [REDACTED]

5 A. From what I can see in the records that you
6 provided me, yes, I encountered A.W. [REDACTED] that evening.

7 Q. And how did A.W. [REDACTED] present in the emergency room?

8 A. She was in cardiac arrest, in asystole, meaning
9 that she had no cardiac activity from the field, her
10 paramedics and EMS until she arrived through --

11 Q. Sorry, let me back you up a little bit. She came
12 in via what method, is how I should have phrased it?

13 A. She came via ambulance with paramedics doing CPR
14 and resuscitation on her even prior to her arrival.

15 Q. Okay. And typically when you have a patient come
16 in via EMS that is in cardiac arrest or having severe
17 medical issues, does the emergency department get advance
18 notice of that?

19 A. Yes, we usually get advanced notice of any of
20 these cases.

21 Q. And did that happen in this case?

22 A. I believe so. Sometimes I think that the notice
23 is variable, sometimes it may be longer, hopefully within
24 minutes. Sometimes it's 10, 15 minutes prior, but I think
25 in this case we had probably notice of about 10, 15 minutes

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1 prior since they had been on the scene for that time.

2 Q. Okay. And what does that notice allow the
3 emergency department to do?

4 A. It's our -- number one, our mind frame, into being
5 the resuscitation mode and getting our nurses and staff and
6 other personnel, respiratory therapists, whatnot, to be
7 available in the emergency department to assist in the
8 resuscitation.

9 Q. Okay. So in this particular case, A.W. came in
10 and you mentioned she was in cardiac arrest and in asystole.
11 Can you describe a little bit about what that means
12 physically?

13 A. Physically, that means she is not having any signs
14 of life and that when that she has not any. Not having
15 spontaneous breathing, no heart activity, no pulse. She's
16 essentially lifeless at that time.

17 Q. And when she was brought in, had EMS already done
18 some measures that would assist you in providing immediate
19 care to A.W.

20 A. Yes, they did a fantastic job. They had already
21 established an airway. They went through the ABCs, they
22 established an airway with endotracheal tube to assist in
23 the breathing. They'd already given us vascular access,
24 meaning, they put what we call IO device into her leg so
25 that they could administer medications to help resuscitate

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1 her and start IV fluids. So that was a very good job on
2 their part.

3 Q. And did they also make you aware or did you use
4 the Pediatric Advanced Life Support System to figure out
5 what dosages of things A.W. would need?

6 A. Yes, we usually use what we call a Broselow tape,
7 since it is very difficult to know on the spot a child's
8 weight and when they cater to the medications dosages, as
9 you mentioned, or giving the appropriate dose, we use what
10 we call Broselow tape. It is a color coded tape we measure
11 from head to toe. And based on the color, we have a general
12 idea of what dosages we should be using based on a height
13 and determined weight on that tape. And it's just a
14 universal, well, at least as far as I know, a fairly
15 universal method of doing that.

16 Q. Okay. So she was brought in, and EMS had already
17 kind of given you a little bit of a head start in what they
18 had done in the field. Can you describe a little bit what
19 the standard resuscitation protocols are that you and your
20 staff at the emergency department performed on A.W.

21 A. Well, we basically continued a lot of what EMS had
22 already initiated through, again, well-known Pediatric
23 Advanced Life Support protocol, which is again, continuing
24 airway, giving breaths through the endotracheal tube that
25 they have established. Continuing chest compressions or CPR

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1 and continuing medication administration.

2 In this case, she was in asystole, meaning that
3 she had no pulses and she had no heart activity on our heart
4 monitor that we attached when she arrives. And in so doing,
5 we give epinephrine through the IO device that they had
6 established. And usually you do a series of basically
7 roughly every three to five minutes, you are administering
8 epinephrine along with CPR. There's not much more you can
9 do, based on the protocols and algorithm in this case. I
10 did administer calcium. Sometimes there is an off chance
11 that when you administer calcium gluconate, that that is a
12 consideration for what we call hyperkalemia, but that is
13 basically a shot in the dark and trying to determine a cause
14 of why this patient is in cardiac arrest in the first place.

15 Q. Okay. How long approximately did you work on

16 **A.W.** there in the emergency department?

17 A. I think from the records I can see here that it
18 was approximately 20 minutes from the time that she arrived
19 to the time that we decided to stop that resuscitation. And
20 I think prior to that she had already received some, again,
21 resuscitation efforts from EMS prior to her arrival.

22 Q. And during the time that you treated her, did her
23 condition change at all as far as did she show any signs of
24 attempting to breathe or have any heart activity on her own?

25 A. No, she did not. And a lot of that is probably

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1 again, the determination of when we stop efforts or when we
2 continue. A lot of times in my experience in the emergency
3 department, if there were any signs of any change in the
4 heart monitor, cardiac activity, anything, I would probably
5 continue resuscitation efforts. But a patient who's fully
6 and asystole with no changes in their cardiac activity on
7 monitors or any changes in their attempting to have any
8 signs of life, then that's a poor prognosis for that they
9 would be able to get them back.

10 Q. Okay. And when you say, "being able to get them
11 back," can you tell the jury a little bit about timing wise,
12 if a body is deprived of oxygen because their heart's not
13 beating or they're not breathing, kind of the timelines that
14 would cause --

15 A. You know, there's a very short time frame for
16 adults and children. You're looking at approximately 8 to
17 10 minutes where your brain is deprived of oxygen, that you
18 will go into brain death. Most likely. There are a lot of
19 cases where you can get heart activity back, but the brain
20 is already brain dead and so those are unfortunate cases
21 that we try to avoid.

22 Q. So in this particular case, you worked on A.W.
23 for 20 minutes, which is well over that 8 to 10-minute range
24 you just described.

25 A. Yes, uh-huh, that's correct. I'm sorry?

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1 Q. I was going say, is that typical in children?

2 A. That is probably typical in when I account for the
3 time of her start of resuscitation by EMS along with the
4 time that we continue resuscitation efforts in the emergency
5 department, that she was probably looking at about half an
6 hour, maybe 40 minutes of full resuscitation time. That's
7 kind of pushing the border of resuscitation.

8 If you're not getting any change in cardiac
9 activity for 20 minutes, maybe half an hour, even half an
10 hour is kind of pushing efforts. If there was no change or
11 unless there were other reasons that we found that could
12 potentially, we could potentially reverse in the emergency
13 department, but with no clear cut idea so why someone is in
14 cardiac arrest, child or adult, then you're looking pretty
15 much at on average about 20 to 30 minutes from time of that
16 or from the time of onset of resuscitation.

17 Q. Okay.

18 A. So, yes, so it was probably a little bit long in
19 the short sense.

20 Q. And in your unfortunate experience in the
21 emergency department working on children, is it normal that
22 you will work longer or try harder with children?

23 A. I give them a little bit more time than adults. I
24 feel that though we mentioned 8 to 10 minutes, there have
25 been offhand reports of children surviving well into an

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1 hour. I don't think -- I think these are major -- major
2 tertiary care centers and I'm not sure of all the exact
3 circumstances of these children who survive prolonged
4 resuscitation efforts. So when I hear some of these stories
5 from various institutions and you kind of think that maybe
6 they have, "they" meaning children, have a longer or
7 stronger reserve and have some more resilience than adults.

8 And also you take into the fact that you hope that
9 children survive, and so we try a little bit more, and
10 probably in the back of my head as a physician, that you
11 hope that because of their stronger resilience and youth
12 that they can survive a cardiac event longer. So that's why
13 we kind of push, at least from my standpoint, go a little
14 bit longer than the standard.

15 Q. Okay. So ultimately you were not getting any
16 signs that your resuscitation attempts were working and you
17 did pronounce A.W. deceased there in the emergency room?

18 A. Yes.

19 Q. And after you pronounced her deceased, were you
20 able to speak with her parents in a consultation room to
21 kind of let them know what happened?

22 A. Yes. I think I did speak -- went through my notes
23 with the mother and the father in this case of basically
24 trying to get an idea of what may have occurred that may
25 have caused her -- her demise. And it sounds like she was

ALEXANDER VINUYA DIRECT BY MS. MCGINNIS

1 generally healthy, but I think that she had some poor
2 feeding, I think the day before or earlier in the day. And
3 then apart from that, no other signs that they were
4 concerned besides the poor feeding, according to the
5 parents.

6 Q. Okay. And when you were doing the resuscitation,
7 did you notice any outward signs of injury on A.W.'s body?

8 A. There was a contusion that was small and I think
9 the left side of her forehead. Apart from that, there were
10 no other indications of any outward injury. And we always
11 consider that fact because, again, through most of PALS
12 training, that we think that most kids who go into cardiac
13 arrest have some respiratory issue that causes their demise.
14 And then secondarily trauma and then this kind of those are
15 the first two things we start thinking about as
16 possibilities in a young child.

17 Q. And again, in you're talking with the parents,
18 they didn't report any sort of trauma or injury or COVID
19 illness or anything that would have --

20 A. Oh, yeah. That was obviously during COVID times.
21 And we want to see if there was an issue with COVID if any,
22 fever, whatnot, and it was, I think, in regards to the
23 contusion on her forehead that occurred a week before when
24 the child had fallen, according to the parents. And then
25 apart from that, not much else. And I was. I think I

ALEXANDER VINUYA CROSS BY MR. FRICK

1 questioned whether there was any signs of, like, vomiting or
2 whatnot. And there was -- I don't think they even mentioned
3 that the child was having any vomiting episodes during the
4 day, so.

5 Q. Very good.

6 MS. MCGINNIS: Beg the Court's indulgence one
7 minute.

8 THE COURT: Sure.

9 MS. MCGINNIS: Thank you, Dr. Vinuya, if you'll
10 answer anything defense counsel may have for you.

11 CROSS-EXAMINATION

12 BY MR. FRICK:

13 Q. Hello, Doctor.

14 A. Hello.

15 Q. Doctor, my name is William Frick. I just want to
16 introduce myself because I don't think we've met before.

17 A. Hi, William. I don't think we met either.

18 Q. No, sir. So when she got there, EMS had already
19 begun some procedures, you continued those, correct?

20 A. Yes.

21 Q. Okay. And she had already been given three shots
22 of epinephrine?

23 A. According to EMS, they had to administer three
24 rounds of epinephrine. So that's why, again, roughly every
25 three to five-minute time frame. So it must have been

ALEXANDER VINUYA CROSS BY MR. FRICK

1 roughly around 10 to 15 minutes that they had initiated
2 resuscitation.

3 Q. Okay. And while you had her in ER, you gave an
4 additional three rounds?

5 A. I believe so, I'd have to look in the records, I
6 think I gave three rounds along with the calcium gluconate.

7 Q. Right. And that is just in case the possibility
8 she had high potassium that could have messed up the
9 electrical system --

10 A. Yeah, sometimes we believe that when someone goes
11 into cardiac arrest that the cells in your body break down
12 and they release potassium. And the potassium can be
13 counteracted by calcium. And so that's why we give that in
14 the hopes that that may be a thing that can help the heart
15 continue to --

16 Q. Okay.

17 A. -- or to resuscitate the heart.

18 Q. Got you. And I know you said when you spoke to
19 the parents that they -- you called it poor feeding. They
20 had attempted to give her some sustenance; is that correct?
21 I think that's in your history a little further --

22 A. Yeah, I think -- yeah -- I'm sorry, I'm going to
23 look at my chart, if you don't mind.

24 Q. No, absolutely.

25 A. Yeah. From what I can see in my chart, after --

ALEXANDER VINUYA CROSS BY MR. FRICK

1 it said, Yesterday the patient was not eating well,
2 according to the patient's mother. And she tried to give
3 the patient some Pedialyte, but patient was not taking much
4 of that. She had no vomiting or diarrhea, according to the
5 patient's mother. And she also tried to give patient
6 Pedialyte and encourage feeds, but the patient came to have
7 lack of appetite. That was basically what I can see. She
8 tried to administer some oral Pedia -- which I guess made
9 sense to help a child at home.

10 Q. Okay. Okay. And as far as any injury -- any
11 injuries on the outside, I believe is what you called it,
12 you had the bruise on the forehead?

13 A. Uh-huh.

14 Q. And nothing --

15 A. I mean, that's all we could -- that I saw in
16 initial glances, it was the bruise on the forehead, yes,
17 sir.

18 Q. I think you termed it as small?

19 A. Yes.

20 Q. Okay. All right. Thank you, sir. That's all the
21 questions I have.

22 THE COURT: Solicitor, any redirect?

23 MS. MCGINNIS: No redirect, Your Honor.

24 THE COURT: Okay. All right. Thank you, Doctor.

25 THE WITNESS: Thank you.

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 MS. MCGINNIS: Thank you, Doctor.

2 THE WITNESS: Thank you, Melissa.

3 THE COURT: All right. Solicitor, you want to
4 finish up with Dr. Lamb?

5 MS. CAMPBELL: Yes, sir.

6 THE COURT: Okay. Come back up, Dr. Lamb.

7 THE WITNESS: Yes, Your Honor.

8 DIRECT EXAMINATION (CONTINUED)

9 BY MS. CAMPBELL:

10 Q. Okay. Doctor, I think we left off and we were
11 just getting ready to talk about -- we had talked about all
12 the six other children that are actually living in the home.
13 And then you also were consulted on A.W. [REDACTED] is that
14 correct?

15 MR. FRICK: Your Honor, I object to this testimony
16 under bolstering.

17 THE COURT: You object to the testimony under
18 what?

19 MR. FRICK: Bolstering, Your Honor. And I know
20 it's a little unusual, because the testimony that I'm
21 suggesting that she's bolstering has not been testified to
22 yet. But the testimony that will come from the pathologist
23 is what I'm saying she's bolstering.

24 THE COURT: Okay. You want to respond to that,
25 Solicitor?

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 MS. CAMPBELL: Your Honor, I think she came to an
2 independent -- she reviewed the records and came to an
3 independent decision as to her diagnosis of child abuse or
4 neglect in this case, on this child, as she has done in the
5 other six children.

6 THE COURT: Okay. So long as she's made an
7 independent assessment related to A.W. I don't think it
8 would necessarily be bolstering. Your objection is so
9 noted, but I'll overrule it.

10 MS. CAMPBELL: And, Your Honor, I would just note
11 that the other doctor would be a pathologist, and she is a
12 pediatric child abuse doctor.

13 THE COURT: Right.

14 MS. CAMPBELL: Thank you, Your Honor.

15 BY MS. CAMPBELL:

16 Q. Okay. We can go ahead now.

17 You also reviewed records on A.W. is that
18 correct?

19 A. Yes, that's correct.

20 Q. As well as photographs and again, the photographs
21 of the home?

22 A. Yes, I did.

23 Q. And back when this first happened I believe you
24 stated earlier that you did consult with SLED, law
25 enforcement, DSS, and other people that were involved in

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 this case?

2 A. Yes, I did.

3 Q. And at that time, were you able to give them some
4 opinions as far as your evaluation of A.W. and her
5 condition that ultimately led to her demise?

6 A. Yes, I did.

7 Q. And can you tell the jury, in reviewing those
8 records, what points were pertinent to you as far as coming
9 to your decisions as far as A.W.'s final days, I guess?

10 A. So kind of as I talked about before A.W. was
11 healthy, when she was born. Mom had not had much prenatal
12 care, but when A.W. was born, she was 37 weeks gestation,
13 which is just slightly underdone. Like, she's essentially a
14 term newborn. She did stay in the hospital, like two days
15 because there hadn't been prenatal care. And they weren't
16 sure when she was due or limited prenatal care. And so they
17 looked for infections, anything there, observed her,
18 examined her, and she was on the growth curve, very
19 appropriate at that time.

20 And so it was important to me that she hadn't been
21 born with any obvious medical issues, medical defects. She
22 hadn't struggled to breathe or eat or do anything in the
23 nursery. Her newborn screen was normal. And then
24 subsequently, she was never taken for medical care during
25 her life.

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 Q. Let me stop you right there. Just back up for a
2 minute. You mentioned that her medical screen at birth was
3 normal. And I'm going to show you what's been marked as
4 State's Exhibit Number 187. Are these a copy of her birth
5 records that have been put into evidence?

6 A. Yes, these are her birth records from
7 MUSC-Lancaster and these are what I reviewed.

8 Q. Okay. And in your review, you mentioned that she
9 had stayed in for a couple days and that they'd done some
10 extra testing to make sure she was good to go?

11 A. Yes.

12 Q. I guess is a good way to put it.

13 A. Yes. So there's a risk of infection, it's called
14 sepsis, when the infection gets in your bloodstream and goes
15 off through your body. And so that's what they were worried
16 about, just with how she presented and the fact that we
17 didn't have data of how she'd been growing and doing like
18 before she was born. So they drew blood from her to look at
19 her white blood cells, red blood cells, all of that, and
20 also to grow a blood culture. So you put blood, give it a
21 little bit of nutrients, warm it up and see if any bacteria
22 grow in it. And so that's kind of standard medical care for
23 babies who are at risk for sepsis or infection. So that's
24 why she had stayed the two days in the nursery as they were
25 waiting to see if any bacteria grew and if she needed

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 antibiotics or other treatment.

2 Q. And they also, I believe, screened for some pretty
3 basic, any kind of underlying conditions that could cause
4 her problems down the road?

5 A. Correct. So every newborn has, if you've seen it
6 done, they like prick the heel and then they put blood spots
7 on a card that's a Newborn Screen. And so the state of
8 South Carolina does every baby that's born. And these are
9 genetic or things you are born with that can lead to brain
10 injury, permanent disability, death, and such and so there
11 are a number of those. And so that card gets sent out and
12 it's called the Newborn Screen and A.W.'s came back
13 negative, normal.

14 Q. She was normal?

15 A. Normal for everything.

16 Q. So she wasn't showing any signs o sepsis or any
17 kind of underlying disease or congenital disposition that
18 would cause her problems down the road?

19 A. No, not that they could tell in the nursery or on
20 the Newborn Screen.

21 Q. And you mentioned that she was born and was she
22 born with a normal birth rate -- birth weight, excuse me?

23 A. Yes, she was.

24 Q. So once she was released from the hospital,
25 two days after she was born, and she was born on what date?

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 A. It looks like [REDACTED].

2 Q. Correct.

3 A. Was the admission to the nursery.

4 Q. When she was released from the hospital, she
5 wasn't suffering from any kind of disease or any other
6 natural phenomenon that could cause her problems?

7 A. Correct. She was discharged on the 24th.

8 Q. Once a child is discharged from the hospital, when
9 is it recommended that the baby first see a pediatrician
10 independent of the one they've seen at the hospital?

11 A. So it's within a few days, you're wanting to make
12 sure that they're peeing, pooping, eating, okay. And then
13 that's also when they do the bilirubin screens to make sure
14 that they don't need lights, because if your bilirubin goes
15 too high, it actually stains the inside parts of your brain
16 and you have brain damage from that level going too high.

17 Q. And you mentioned that you were assisted in
18 getting all the medical records pertaining to A.W. and the
19 Children's Clinic where she was supposedly seen according to
20 her parents?

21 A. Correct. So that's where they said they were
22 subsequently going to take her. That's where their other
23 children had gone and the Children's Clinic didn't have any
24 visits where she had actually come in to be seen.

25 Q. So was anyone ever able to find any evidence that

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 from the time she was released two days after her birth
2 until the day she died that A.W. ever saw a
3 pediatrician or any doctor?

4 A. No, not to my knowledge.

5 Q. You also reviewed, I believe, the autopsy, the
6 toxicology reports, photographs from the autopsy, and things
7 of that nature?

8 A. Yes, I did.

9 Q. And in reviewing that, were you able to make any
10 determinations of your own as far as what had happened to
11 A.W. that led to her death?

12 A. So going off of, like, the photos that were in the
13 ER, you know, her eyes were sunken, she was emaciated. And
14 I use that as a medical term where there's no fat on your
15 body. So, you know, when you look at the places where you
16 store fat, like in the buttocks, on the cheeks, on the
17 abdomen, like you're looking for, did the body have enough
18 nutrition or such to build up some fat stores? It's also
19 cushion for the body. And so there was none of that when
20 you were looking at her body, she didn't have any fat stores
21 there. And so those were kind of the first things when
22 Agent May kind of contacted me, because you could see those
23 from the ER there.

24 And then when we move on to the autopsy, that's
25 when they're able to cut into the skin layers and see, like,

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 is there fat there? Is there any, you know, issue or such?
2 Because at this point, we just know that she's passed. And
3 so looking, are all her organs healthy? Is her heart
4 healthy? Are her lungs healthy? Are her intestines
5 healthy? Does she have kidney disease? Do we open up and
6 there's some massive cancer or something? That's what we're
7 looking for. And they go organ by organ with children
8 looking at everything, weighing it, making sure that it's
9 healthy. And so all of her organs were healthy, you know,
10 because could she have had heart disease, or a GI
11 inflammatory bowel disease, or she didn't absorb things?

12 Well, when you come into the intestines, you'll
13 see the inflammation and the thickening and the things
14 there. And so none of that was present. So we didn't have
15 evidence of a medical disease or something she could have
16 been born with. And then we're waiting on infection. Like,
17 are there bacteria in her blood? Are there respiratory
18 viruses? Like, this was during COVID so, you know, she gets
19 tested for that. Trying to look for some other cause why
20 she would have not grown. Because I think, as I shared with
21 you guys, perhaps I didn't she was 14 pounds at death for a
22 14-month old.

23 If you just go on the growth curve and you're
24 like, okay, at what age is an average child, like 50th
25 percentile, 14 pounds, that's a four-month old child there.

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 And so she's the average weight of a four-month old child.
2 So, you know, that's not something that happens overnight.
3 Like that's a failure to grow, that's been a problem for a
4 while.

5 So those are the things I was looking for. As I'm
6 reviewing the autopsy report, the toxicology report, I'm
7 like, okay, what else could have been the cause of this
8 child passing away, why she was so tiny. And then, you
9 know, looking at her siblings as well, trying to see if
10 there's any pattern, anything that I could see. And so that
11 was my role as the child abuse pediatrician kind of in this
12 investigation scenario.

13 Q. And after reviewing the photographs and the
14 autopsy and the toxicology reports, what were the
15 significant findings to you as far as her condition that led
16 to her death?

17 A. So there was no underlying condition. No illness.
18 Nothing she was born with. Nothing we could point a finger
19 at. She was emaciated, she was the average weight of a
20 four-month old. So she died of malnutrition. And then if
21 you take the history from the caregivers that she hadn't
22 been drinking there, then it probably was a bit of
23 dehydration on top of this long standing malnutrition that
24 she had suffered during her life.

25 Q. And as she led up to the days and weeks leading up

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 to her death with this malnutrition, as you call it, is
2 starvation -- I don't know how those two work together?

3 A. So you can call it starvation as well. The
4 medical term is malnutrition, like not being provided the
5 correct nutrients, but starvation is also not being provided
6 the correct nutrients. It just kind of implies whether you
7 think someone was thinking about what they were doing or
8 not, I think is the difference.

9 Q. And in this she also presented with what was
10 called delayed bone age.

11 A. Correct. So that's -- so if you don't have enough
12 nutrition in your body, like, your body is going to
13 prioritize trying to grow your brain first. Like, you need
14 your brain to function, you need your heart to function, you
15 need your lungs to function, but it won't put nutrients into
16 growing your bones or getting bigger because you don't have
17 enough energy to sustain you getting any bigger. You need
18 to stay small because then your energy requirements are
19 small. And so what you're taking in can try to sustain you
20 there.

21 So when you see that delayed bone age where like
22 the child is 14-months and their bones look much months
23 younger, that's because again, you didn't get nutrition for
24 a very long time. And so your body decided that we're going
25 to grow the essential things and not grow any bigger or

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 anything that's not essential.

2 Q. And when you say for a very long time, what kind
3 of time are we talking about?

4 A. So this is months, like maybe even her entire
5 lifetime. Like, I don't have medical records to say that,
6 but if she's the average weight of a four-month old, and I'd
7 have to look at the specific bone agent on the autopsy
8 report there, like, at least from that age she wasn't
9 getting any nutrition. Because if you say maybe she grew
10 normally up to that age, then whatever happened, happened
11 and she didn't get any nutrition to grow any bigger.

12 So that's how I kind of estimate or use markers
13 for saying when issues might have occurred. Like, weight,
14 you know, you can gain it and you can lose it a little bit
15 with illnesses. Kids always lose a pound or two when
16 they're sick and then they feel better and then they eat
17 you -- they eat everything out of house and home and they
18 gain those two pounds. So every growth chart has little
19 blips down, but the overarching trajectory is always up like
20 this.

21 Q. And hers wasn't?

22 A. Like flatline, I would presume, because maybe
23 like, I don't know how it curved because I don't have -- I
24 have birth and I have death. And so I don't know if it went
25 up and came down. I don't know if it flatlined.

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 Q. It could have been either. But no matter what, in
2 the months leading up to her death, she wasn't receiving
3 proper nutrition of any sort?

4 A. That's correct.

5 Q. And if a person gets some nutrition, they can last
6 a long time?

7 A. Sure. I mean, we have like Holocaust victims,
8 people, prisoners of war, POW camps, like it doesn't have to
9 be great nutrition, like, you can last a long time on just
10 enough to keep the body going.

11 Q. You also mentioned the dehydration factor. Does
12 that come into play as the starvation continues?

13 A. Yes. So we know that from her electrolytes at
14 death. So when you get dehydrated, you know, the doctor
15 draws your blood and your sodium is up, chlorides up there,
16 so you can tell when someone's dehydrated. So they checked
17 her electrolytes and she was showing signs of dehydration.
18 The sunken eyes also is pretty classic for dehydration as
19 well. And so as your body doesn't have enough energy to,
20 like, sustain itself, one of the things that's going to shut
21 down is your intestines there. You got to keep the heart,
22 keep the lungs, you got to keep the brain going. But, you
23 know, your intestines, like, it takes a lot of blood flow to
24 your intestines to process things. And so as you near
25 death, your intestines are going to shut down and you're not

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 going to be able to eat or drink anything there. And so
2 that is, you know, we know this from when kids go on
3 hospice, like those sorts of things. The last thing you die
4 from is dehydration there.

5 Q. And just for the record, was there any evidence of
6 any kind of sepsis or GI problem or any kind of respiratory
7 illness?

8 A. No. So, I mean, as I said at the autopsy, you
9 know, they sectioned all the organs, they looked at
10 everything. They also take smaller sections and look at
11 them under the microscope to look at the cells. They tried
12 to -- they swabbed for all the viruses. You know, this is
13 February, it's winter, like, they looked for every cold
14 virus under the sun. They tried to grow bacteria from her
15 blood to see if there was any sepsis. Like, they looked for
16 everything.

17 Q. And this was actually during COVID. Was a COVID
18 test done on her actually at death to make sure she didn't
19 have it?

20 A. I believe so, because it's also a safety thing.
21 If you're bringing someone who died of COVID into, you know,
22 an autopsy suite or different things. The people who are
23 working on the body have to know that so that they can wear
24 protective gear and such. So it's one of the places where
25 we were testing for COVID earlier there. But I can't recall

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 exactly when she died and whether the tests were available
2 at that point or not.

3 Q. Okay. But that would have been tested by the
4 coroner's office as well?

5 A. That would be the pathologist.

6 Q. Okay. Once in the last -- you mentioned that this
7 malnutrition or starvation would have been going on for
8 months. But in the last weeks and days before she died, you
9 mentioned that certain organs shut down to help the lung and
10 the heart and the brain. What would her state have been?

11 A. So if you think of someone, you know, if you had a
12 family member pass or such, like, you don't move, like
13 you're not jumping, you're not running, you know, you're not
14 moving very much. Your muscles don't have the energy. The
15 energy is going to sustain your life, not to moving around
16 or doing things. This is when people get bed sores, like,
17 they are just laying there kind of listless. Not a lot of
18 smiling, laughing. That takes energy. Anything that takes
19 energy, you can't do because you're just trying to stay
20 alive.

21 Q. In fact, in the last days before her death, would
22 she even be able to do things like lift her arm or lift her
23 head?

24 A. If she was getting dehydrated, meaning that her
25 intestines were shutting down and she wasn't even able to

SUSAN LAMB CONT. DIRECT BY MS. CAMPBELL

1 eat or drink, I wouldn't expect that she'd be moving at all.

2 Q. Would her condition have been apparent to anyone
3 that looked at her?

4 A. I mean, I could see it from photographs that her
5 eyes were sunken, that you could see all her ribs, that she
6 had no fat on her. And I certainly think that a caregiver
7 who has taken care of her, like, parents know their kids
8 better than anyone else. Like, they know when something is
9 wrong there. And so whatever her baseline was, her normal
10 was, this would have been a significant change from that.
11 Whatever she was doing prior, she would, like, progressively
12 lose those skills, get less responsive, do less, be eating
13 less, and it would have just continued.

14 Q. Would she have been walking or bouncing around in
15 her crib the day she died?

16 A. No.

17 Q. Or even the day before?

18 A. No. Like, she was actively dying at that point.

19 Q. And even up to several days before, at the very
20 least?

21 A. No. I mean, maybe if you push it back a couple
22 days where she was still drinking or eating something, like,
23 she could have had some energy to be a little bit more
24 interactive, but without, like, it would have just been a
25 slow decline.

SUSAN LAMB CROSS BY MR. FRICK

1 Q. Did you come up with an opinion as independently
2 opinion as to what caused A.W. death?

3 A. Yes.

4 Q. And what's your opinion, Doctor?

5 A. My opinion is that she died of severe child
6 neglect, medical neglect, nutritional neglect, and that
7 ultimately is what killed her.

8 Q. Thank you.

9 THE COURT: Mr. Frick, any cross-examination?

10 MR. FRICK: Yes, sir, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. FRICK:

13 Q. Dr. Lamb, your review of A.W.'s case, that was
14 through what capacity?

15 A. So that was through the CAPE capacities. So I was
16 the assigned child abuse pediatrician under that death
17 review statute there, and I was also the consultant for the
18 SLED Child Fatality Unit. So those two capacities were how
19 her death flowed to me.

20 Q. Okay. So you were a consultant for law
21 enforcement in this case, correct?

22 A. Yes, in one of my capacities.

23 Q. Okay. All right. Are you on the child fatality,
24 or were you -- I know you're in Washington State now, were
25 you on the State Child Fatality Review Committee?

SUSAN LAMB CROSS BY MR. FRICK

1 A. Yes, I chaired the State Fatality Review
2 Committee.

3 Q. Okay. And they reviewed file -- child fatalities
4 from throughout the state for the year, correct?

5 A. Correct. So any unexpected child death goes to
6 the State Advisory Committee when it's complete.

7 Q. Okay.

8 A. So when an investigation, prosecution, like
9 everything is done.

10 Q. And the members of that are a doctor, such as
11 yourself, and some law enforcement folks and DSS and DAOTIS
12 and what we used to call DHEC, a lot of government agencies?

13 A. Yes, all.

14 Q. All government agencies?

15 A. Yes.

16 Q. Okay. Are you on such a committee in Washington
17 State?

18 A. I'm on our local Pierce County Child Fatality
19 Advisory Committee.

20 Q. Is it fair to say your entire career has been on
21 the government side of this?

22 A. In general, we get referrals from DSS or law
23 enforcement in the course of their agency, but I do
24 consulting work on the defense side as well.

25 Q. Okay. But not terribly often?

SUSAN LAMB CROSS BY MR. FRICK

1 A. No, they don't call me terribly often.

2 Q. Now, let's talk about your findings, how you came
3 to your findings. You said you reviewed the autopsy. You
4 were not present there, correct?

5 A. Correct.

6 Q. So you reviewed the report. Do you recall whether
7 you consulted with the pathologist or not?

8 A. No. In this case, I don't think the pathologist
9 and I had a direct conversation.

10 Q. Okay. And I believe you said you reviewed the
11 toxicology, correct?

12 A. Correct.

13 Q. And that's just looking at the report, correct?

14 A. Correct.

15 Q. Okay. No consult with the toxicologist on...

16 A. No, in this case, I didn't speak directly with the
17 toxicologist.

18 Q. Okay. Have you still got the birth records up
19 there?

20 A. States Exhibit 187?

21 Q. That's it, yes, ma'am. All right. I'm going to
22 point your direction to just a couple things. Now, she --
23 you said she didn't have any issues at birth, is what I
24 recall your testimony, correct?

25 A. Yes.

SUSAN LAMB CROSS BY MR. FRICK

1 Q. Can you tell me on Page 5, Number 3, you see where
2 my finger is there?

3 A. Yes, I do.

4 Q. What did they say an issue was?

5 A. Jaundice, newborn jaundice.

6 Q. Okay. Is that not a complication?

7 A. No, that's not a birth complication. That's a
8 normal finding. That's that slightly elevated bilirubin
9 level. But it didn't require any medical treatment, any
10 lights, anything. So I don't consider it a complication.

11 Q. Okay. All right. And I know we've talked about
12 the weight and you said the birth weight was normal.
13 It's -- what is it there, about six pounds? Six and a half?

14 A. Yes. So three, just under three kilos, six
15 pounds, six ounces.

16 Q. Okay. And that's not -- that's not unhealthy, but
17 it's not a big baby either, is it?

18 A. That's a very healthy weight. Six, seven pounds,
19 like, when you're pushing nine, 10 pounds, those are the
20 large babies. So, like six to eight is a...

21 Q. It's average.

22 A. Is great.

23 Q. Right there on -- okay. All right. And let me
24 see in there one more time. This one I got to dig for a
25 little bit. Excuse me for one second.

SUSAN LAMB CROSS BY MR. FRICK

1 Now, when they -- when a child is first born, they
2 run all kinds of examinations on them, correct? Just to
3 make sure they're okay or see if there's any issues?

4 A. It depends on the risk factor. I mean, they'll
5 have a physical exam done. They'll test their hearing.
6 They'll look at the oxygen level, like their vital signs,
7 make sure there's no signs that they have any issues there.

8 Q. Okay. And they run a blood panel, don't they?

9 A. No. So that was specifically run in A.W.'s case
10 because mom didn't have the prenatal care. And so they had
11 to that -- if there's no prenatal care or limited prenatal
12 care, then it's run due to the risk of sepsis, that
13 infection.

14 Q. Okay. So they did run a blood panel in this case?

15 A. They did a complete blood count.

16 Q. Okay. And I'm going to ask you to look at number
17 page -- that page -- right -- sorry.

18 A. You're good.

19 Q. At the very bottom, they talk about glucose.

20 A. Uh-huh.

21 Q. What's her glucose reading?

22 A. It was 46.

23 Q. And would that be elevated? Not elevated. What
24 is that?

25 A. So it's slightly low, which is why it has an

SUSAN LAMB CROSS BY MR. FRICK

1 asterisk next to it. But that's also normal for babies that
2 you're trying to get them to eat. So the treatment for that
3 would just be to feed the baby or bottle or breastfeed them
4 at that point.

5 Q. And having low blood glucose, there's a term for
6 that called hypoglycemia, correct?

7 A. Correct.

8 Q. And it can be problematic if it's not treated,
9 correct?

10 A. Correct.

11 Q. Okay. Turn over to the next page. Did they
12 document her with hypoglycemia or say it was a -- it needed
13 to be watched?

14 A. No. So they said hypoglycemia management,
15 formula, feeding promoted, so they fed her.

16 Q. Okay. So when they say nutrition interventions,
17 that doesn't mean that that's an issue that needs to be
18 watched?

19 A. No, because they didn't subsequently keep testing
20 her blood glucose there.

21 Q. Uh-huh.

22 A. So they essentially saw it was a little low, fed
23 her, and that resolved the issue.

24 Q. Okay. And that was while she was in the NICU,
25 correct?

SUSAN LAMB CROSS BY MR. FRICK

1 A. That was while she was in the nursery.

2 Q. Okay. Well, it says newborn NICU right there,
3 doesn't it? Beside problem on that Page 10?

4 A. On Page 10, right before, it says, Newborn, comma,
5 NICU there, but she didn't go to the NICU because she
6 didn't -- wasn't on a ventilator, didn't get an IV, didn't
7 have to be on a warmer, didn't have a feeding tube. So she
8 was -- I don't know how it's structured at MUSC-Lancaster,
9 maybe they have them in the same unit, so they just used a
10 comma.

11 Q. Okay. So you don't know why that's there?

12 A. Why they're calling it a NICU?

13 Q. Yeah.

14 A. Correct.

15 Q. Okay.

16 A. Because she didn't receive any ICU care.

17 Q. Okay. All right. And then down at the bottom on
18 that same page they've got, coping interventions, that's
19 where they explain to the family how to deal with these
20 issues. Would that be fair to say?

21 A. So this is done on every child. So coping is
22 essentially because the baby's staying in the nursery an
23 extra day. They come in and bring support like tell the
24 family how, you know, to do the skin to skin, like promote
25 bonding and such there. So these are just standard newborn

SUSAN LAMB CROSS BY MR. FRICK

1 interventions.

2 Q. But that's when they're giving some instruction to
3 the parents, correct?

4 A. Yes, they're giving some support to the parents.

5 Q. Okay. But that doesn't indicate who was present
6 when these instructions were given, does it?

7 A. No, it doesn't note who was present. Obviously,
8 the mother had to be present.

9 Q. Right.

10 A. But any subsequent caregivers, it doesn't know who
11 was there.

12 Q. All right. Thank you. I'm done with those
13 records. You can put them...

14 So -- and I'm not going to go through all the
15 children individually, I'm just going to kind of go through
16 it as a whole. You reviewed a lot of records on these
17 children, correct? What was available?

18 A. Yes, I did.

19 Q. Okay. And then you had them come to, is it your
20 office in Columbia?

21 A. Correct. So it's the Family Services Clinic.

22 Q. Okay.

23 A. Yes.

24 Q. And they were brought by the paternal --

25 A. Yeah.

SUSAN LAMB CROSS BY MR. FRICK

1 Q. -- parents?

2 A. Paternal grandmother.

3 Q. Okay. Paternal grandmother had custody at that
4 time, correct?

5 A. Correct. Her and paternal great grandmother.

6 Q. Okay.

7 A. They were caring for the kids.

8 Q. Okay. And you saw all these children on the same
9 day?

10 A. Yes.

11 Q. Do you know how long your day was that day?

12 A. I mean, we keep normal office hours, so, you know,
13 an eight-to-five kind of day. I believe these visits took
14 like half of the day, like over an hour or two. We saw all
15 of them.

16 Q. Okay. Saw all of them over an hour or two?

17 A. Uh-huh.

18 Q. Okay. And did you see them after that?

19 A. No, I didn't have any follow-up visits with them.
20 They were moved to different -- a different care home after
21 that and I didn't have any follow up with them.

22 Q. Okay. Okay. So I believe you testified when you
23 made your recommendations, you would refer them to
24 specialists, whatever it might be: The GI, the gene
25 specialist, you referred them to the specialist, but I

SUSAN LAMB CROSS BY MR. FRICK

1 believe you just testified there was no followup after that?

2 A. Correct. I didn't bring them back to my office
3 for followup.

4 Q. And I think you said what's your -- what they
5 would do is determine when it was nutritional neglect or
6 not, you were making a finding of that based on your
7 observations, based on the records you had, correct?

8 A. Correct. Based on the scene photographs, based on
9 seeing the children, based on their medical records.

10 Q. But the ultimate determination would be done by
11 whichever specialist you sent them to?

12 A. I wouldn't say ultimate determination. If I was
13 missing something, like if there was some medical disease or
14 some reason from their growth to fail, that's why I was
15 sending them to a specialist, to think of the things that I
16 might not have thought of.

17 Q. And is it fair to say on maybe all but one of
18 these children, you determined that they all failed to
19 thrive?

20 A. So the twins, **Child 6** and **Child 5** had not failed to
21 thrive at their age, the youngest ones.

22 Q. Okay.

23 A. And then the oldest one had not failed to thrive.
24 And then all of the children in the middle including the
25 deceased had failed to thrive.

SUSAN LAMB CROSS BY MR. FRICK

1 Q. Okay. So just the ones in the middle, the oldest
2 and the youngest?

3 A. Correct. Did not have any failure to thrive.

4 Q. Okay. All right. So -- and you mentioned
5 Pediasure. Tell me a little bit about Pediasure. Is
6 that -- Is that the same? If I went and just got regular
7 Similac, is that the same thing?

8 A. No, it's not.

9 Q. Okay.

10 A. So when kids -- it's often hard when you have
11 toddlers there, they push food away, they throw it on the
12 floor, you know, they love chicken nuggets yesterday and
13 today they hate chicken nuggets and refuse to eat
14 everything. And so oftentimes families get into trouble in
15 the toddler phases. It's tough. It's really tough
16 parenting a toddler. And so we get these drinks that are
17 higher calorie. So they're, like, for older adults, it's
18 Boost, like the Boost drinks that you'll see. For young
19 kids it's called Pediasure. And so it has like all your
20 essential vitamins, nutrients, and it's like a chocolate
21 milkshake or a strawberry milkshake or it tastes like juice.

22 And so oftentimes we'll tell parents, like, get
23 what you can in them and then give them a can of Pediasure,
24 you know, after each meal to get in those nutrients that
25 they may have missed and then get some calories into them.

SUSAN LAMB CROSS BY MR. FRICK

1 We also tell parents, like, add tons of fat to everything,
2 like avocados, butter on everything, cook with heavy cream,
3 like anything, that to get those healthy fat nutrients into
4 a kid.

5 Q. Okay. And I think there was some discussion on a
6 couple of the children that you saw either pattern injury,
7 or what you term pattern injuries or even on David **Child 2**
8 possible burns?

9 A. So I couldn't tell if they were -- when things
10 were healed on the skin, I can't tell if it was a burn
11 initially or a cut or something there it's just a scar. And
12 so that's why I specifically said for him that I couldn't
13 tell. And I couldn't speak to the parents to find out if
14 there were any unusual accidents. So I just noted the
15 pattern injuries as concerning for physical abuse.

16 Q. And it was the same with the other ones, too, that
17 you had the pattern injuries. You don't know where it came
18 from, it is concerning to you in your capacity because it is
19 a pattern injury, correct?

20 A. That is correct.

21 Q. But you can't determine in any real way without a
22 history where it came from?

23 A. Correct.

24 Q. You mentioned one of the other children that
25 wasn't in the home?

SUSAN LAMB REDIRECT BY MS. CAMPBELL

1 A. Yes. So that child was in the DSS records.

2 Q. Okay. Did you have any interaction with that
3 child or do you know any of that child's history?

4 A. So I know the DSS history from that child, that's
5 something that I reviewed.

6 Q. Okay. And who is the mother of that child?

7 A. That is, same mother, Shaquanda Page.

8 Q. Okay. Do you recall who the father was?

9 A. I don't recall who the father was.

10 Q. Okay. Well, it was not David White; is that
11 correct?

12 A. I honestly don't recall.

13 Q. Okay.

14 MR. FRICK: Beg the Court's indulgence.

15 THE COURT: Sure. Take your time.

16 MR. FRICK: Thank you, ma'am, that's all the
17 questions I have.

18 THE COURT: Any redirect?

19 MS. CAMPBELL: Very briefly.

20 THE COURT: Sure.

21 REDIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q. Just one thing you talked about when you saw them,
24 the children in between had growth issues and failed to
25 thrive issues, but you said that the youngest ones didn't.

SUSAN LAMB REDIRECT BY MS. CAMPBELL

1 They were only four months old. But Child 1 when she was
2 15-months old, she had had a problem?

3 A. Correct. There had been a problem when she was 15
4 months, and that's where the Pediasure had come in. The
5 pediatrician had worked with her parents and she had
6 recovered from her failure to thrive with the extra
7 supplements and then had grown. So I was just speaking
8 about when I saw them.

9 Q. Got it.

10 A. Who had the current issues, not who had them in
11 the past.

12 Q. And she had been corrected when the parents had
13 been educated?

14 A. Correct.

15 Q. And the parents of Child 1 when they were
16 educated, were David White and Shaquanda Page?

17 A. Yes.

18 MS. CAMPBELL: Okay.

19 THE COURT: Any recross?

20 You can step down, ma'am. Thank you.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: You're free to leave the courtroom
23 you're more than welcome to remain with us if you like.

24 THE WITNESS: Thank you.

25 THE COURT: Ladies and gentlemen, I was informed

SUSAN LAMB REDIRECT BY MS. CAMPBELL

1 that maybe some of you had indicated that you would like a
2 fresh air break okay. All right.

3 Here's what we're going to do, we're going to take
4 an afternoon break. I'm going to ask that one of my
5 bailiffs and one of my security escort you, for those who
6 want a fresh air break, to escort you out and hope you enjoy
7 that. If you don't want to go outside, then just stay back
8 in the jury room, okay? All right.

9 (WHEREUPON, the jury exited the courtroom at 3:08
10 p.m.)

11 THE COURT: One of you guys will go out with them?

12 THE BAILIFF: We got it. They're going to take
13 care it.

14 THE COURT: Okay. Thank you.

15 Okay. Let's take like a five-minute break and
16 then what I want to do is get the pathologist up for some in
17 camera testimony specifically related to the autopsy
18 pictures. I don't think we need any other in camera
19 testimony other than on that limited issue, okay.

20 (WHEREUPON a break was held from 3:08 p.m. until
21 3:20 p.m.)

22 THE COURT: Okay. You have the pathologist here?

23 MS. MCGINNIS: Yes, sir.

24 THE COURT: There she is, okay. All right. Did
25 you explain to her what we're doing right now?

SUSAN LAMB REDIRECT BY MS. CAMPBELL

1 MS. MCGINNIS: Yes, sir.

2 MS. CAMPBELL: Judge, I did on break meet with the
3 pathologist and show her the six pictures we proposed.

4 THE COURT: Okay.

5 MS. CAMPBELL: She said that the sixth picture,
6 she thought that the angle was good, but that since there
7 was so much stuff on her, that this other picture more
8 accurately depicted and would help the jury more. So I
9 would propose to substitute, I'm not adding, I'm just
10 substituting.

11 THE COURT: Just substituting. All right.

12 MS. CAMPBELL: And I've told Mr. Frick.

13 THE COURT: She showed then to you?

14 MR. FRICK: She did.

15 MS. CAMPBELL: So if I could make that
16 substitution at this point with Court's permission?

17 THE COURT: Sure. Yeah.

18 MS. CAMPBELL: Thank you, Your Honor.

19 And then these would still be a Court's Exhibit
20 and I've just substituted.

21 THE COURT: Yeah. And for the right now would be
22 a Court's Exhibit.

23 MS. CAMPBELL: And this one would remain -- the
24 ones we aren't introducing will remain a Court's Exhibit,
25 right?

ERIN PRESNELL VOIR DIRE BY MS. MCGINNIS

1 THE COURT: They will stay as a Court's Exhibit,
2 and then the others, the six, depending on how I rule, they
3 may not remain as Court's Exhibits, okay.

4 MS. CAMPBELL: There's that.

5 MS. MCGINNIS: Judge, at this time the State will
6 Dr. Erin Presnell for purposes of proffer.

7 THE COURT: Okay. Come around, Doctor, and have
8 you sworn in.

9 THE CLERK: If you would raise your right hand and
10 left hand on the Bible. Do you swear to tell the truth, the
11 whole truth, and nothing but the truth, so help you God?

12 THE WITNESS: Yes, ma'am.

13 ERIN PRESNELL, having been duly sworn, testified
14 as follows:

15 THE CLERK: Thank you.

16 THE COURT: Again, Solicitor, let's just -- I
17 think we can dispense for qualifications and just kind of
18 limit it to the issue of the autopsy pics.

19 MS. MCGINNIS: Thank you.

20 VOIR DIRE

21 BY MS. MCGINNIS:

22 Q. Dr. Presnell, you performed the autopsy on A.W.
23 [REDACTED] in this case, you're FA21-221.

24 A. Yes.

25 Q. And ultimately, what was your finding as to cause

ERIN PRESNELL VOIR DIRE BY MS. MCGINNIS

1 of death on A.W.

2 A. I classified her cause of death as dehydration and
3 malnourishment with ketosis due to neglect.

4 Q. And in the process of doing your autopsy, you
5 typically take photos of your entire process, both your
6 external exam as well, as some of the internal examination
7 that you did?

8 A. Yes. Yes.

9 Q. I'm going to hand you what's been marked at this
10 time as Courts Exhibit Number 2, which is six photographs.
11 Could you review those for me?

12 A. Yes. These are copies of the photographs that I
13 took at the time of biopsy.

14 Q. And with regards to your final cause of death
15 diagnosis, was a lot of that information, or a lot of the
16 evidence of that, externally visible on this child?

17 A. Yes.

18 Q. Can you describe.

19 THE COURT: Could you repeat that last question?
20 I was typing I think what?

21 MS. MCGINNIS: As far as her findings or cause of
22 death, was a lot of evidence of that externally visible on
23 the child?

24 THE COURT: Okay.
25

ERIN PRESNELL VOIR DIRE BY MS. MCGINNIS

1 BY MS. MCGINNIS:

2 Q. Can you describe some of the findings externally
3 that you made on A.W. or observations externally?

4 A. Right. And the ones that are visible in these
5 photographs would be the sunken eyes, the sunken cheeks, the
6 prominent ribs that she could see on the front and the back,
7 as well as the backbone protruding.

8 Q. And can you also see in those photos that her
9 belly is concave?

10 A. Well, it's not rotund, it is flat, flattened, and
11 it does go a little bit concave to the ribcage.

12 Q. And these photographs, would they help you in kind
13 of pointing out to the jury these external signs that would
14 have been visible on A.W.

15 A. I think the photographs do better than my
16 description.

17 Q. In your opinion, are these external signs severe
18 such that a ordinary person could view these and see that
19 this child was in distress and needed some medical
20 attention?

21 A. Yes, I think that it would be apparent.

22 Q. And do you think that seeing those photographs
23 would aid the jury more than your words could describe the
24 severity of this child's condition?

25 A. I do believe the photographs would complement the

ERIN PRESNELL VOIR DIRE BY MS. MCGINNIS

1 testimony.

2 Q. Make it easier for the jury to understand
3 ultimately what your findings are?

4 A. Yes.

5 MS. MCGINNIS: Thank you, Dr. Presnell.

6 THE COURT: Okay. Let me just ask a question or
7 two then, Mr. Frick, you can certainly cross.

8 If I understand you correctly, you can better
9 describe the injuries to the jury and the cause of death to
10 the jury better with the photos as opposed to without the
11 photos; is that correct?

12 THE WITNESS: Yes, I think that they can
13 appreciate the extent more than me just saying that the
14 person was very thin and the ribs protruded, so absolutely
15 to be able to see that would be more.

16 THE COURT: Okay. Now, I know that there was one
17 photograph switched, I got copies made the other day and at
18 least the copies I have, have the bottom half of her body,
19 is that necessary to have the -- well, her naked, lower half
20 of her body in the pictures in order to assist you in
21 describing injuries and cause of death?

22 THE WITNESS: No, we do not need the lower half.

23 THE COURT: Okay. All right. Would there be a
24 way then -- because I know in Mr. Frick's argument that he
25 made if I determined that the photographs are admissible,

ERIN PRESNELL VOIR DIRE BY MS. MCGINNIS

1 then he had requested that, I think he used the word "crop"
2 not sure exactly how you would fix these photos, but
3 anyways.

4 Mr. Frick, you have any examination of this
5 doctor?

6 MR. FRICK: Judge, I think you stole my question.

7 THE COURT: Okay. All right. Okay. All right.

8 In doing a 403 analysis as to the autopsy
9 pictures, I find that the probative value of the pictures
10 outweighs any unfair prejudice to the defendant so long as
11 the photos are cropped to take away the bottom half of her
12 naked body. And I think that is consistent, my ruling is
13 consistent with State vs. Hayward, which is one of the cases
14 that the State provided the Court. I think that's the best
15 case to analyze with respect to this issue. And I think
16 it's already been mentioned that there was a case that came
17 out today related to photographs. But I think the Hayward
18 case is really the best case on this issue.

19 So that's my ruling and we'll just have to -- I
20 don't know how you're going to be able to do it timewise
21 with this witness on the stand.

22 MS. MCGINNIS: Judge, we do have another witness I
23 can put up in between. What I've previously done is kind of
24 put a black box over the offending part of the photo. I can
25 do that or I can just try and cut the photo with scissors.

ERIN PRESNELL VOIR DIRE BY MS. MCGINNIS

1 MR. FRICK: I mean, in Chester, we don't have such
2 fancy things, we just use scissors.

3 THE COURT: Yeah. Well, what I'd like is for
4 y'all to get together and come up with an agreement as far
5 as how the photos will be fixed.

6 MS. MCGINNIS: Is it just a pubic area?

7 MR. FRICK: Well, I mean, obviously I object to
8 the whole thing, but yes, but yes, just the pubic area.

9 MS. CAMPBELL: Judge, if I may, I think that his
10 big objection is to the pubic area being exposed.

11 THE COURT: Right.

12 MS. CAMPBELL: And we have done photos before
13 where we've been able to print them with a black marker or
14 mark, big box over that part.

15 THE COURT: Okay. I mean, that's -- that's fine
16 with me. So do we only just need to do one photograph?
17 Because I have one with the buttocks being shown, I don't
18 know if there's an objection or concern with that.

19 MS. CAMPBELL: Not the same objection, Your Honor.

20 MS. MCGINNIS: So, Judge, I think it's visible in
21 this one as well.

22 THE COURT: Okay.

23 MS. MCGINNIS: So I can get these two photos,
24 put essentially a black box over this area. I can do that
25 relatively quickly if you'll give me five minutes to do it.

ERIN PRESNELL VOIR DIRE BY MS. MCGINNIS

1 THE COURT: Sure. Let's do that. Doctor, are you
2 okay with -- these are your photographs and we're offering
3 them in some fashion, but you're okay with that?

4 THE WITNESS: Yes, I don't see it, so that's fine,
5 yeah.

6 THE COURT: Okay. Thank you.

7 MS. MCGINNIS: But, Judge, if you'll give me just
8 a couple minutes, if I can do them to William's
9 satisfaction, then I can get them printed while Ms. Campbell
10 does the next witness.

11 THE COURT: Okay. All right.

12 MS. MCGINNIS: And then they'll be ready for
13 Dr. Presnell.

14 THE COURT: Okay. Doctor if you'll go back to
15 your seat, please.

16 MR. FRICK: Judge, just before she escapes, I just
17 want to address something I addressed before. I'm asking, I
18 know that they will be introduced, I know they're in or will
19 be in evidence, I'm just asking as far as publication, if at
20 the very least we can keep them off the big screens. I
21 would like just the pictures handed to the jury on paper,
22 but that's my request.

23 THE COURT: Okay. Let me ask the Doctor. What
24 would be better for you relaying your findings to the jury,
25 having these photographs up on the screen and you offering

ERIN PRESNELL VOIR DIRE BY MS. MCGINNIS

1 your testimony or standing in front of the jury with the
2 photographs and offering an explanation? What would be
3 better for you to convey your findings to the jury?

4 THE WITNESS: Do they get to hold the photographs?

5 THE COURT: Yeah, they could.

6 THE WITNESS: Either one is fine.

7 THE COURT: Either one. Okay. All right.

8 MS. MCGINNIS: Judge, the only thing I'll say is
9 that with our courtroom technology, if they are up on the
10 screen, Dr. Presnell can annotate on that screen like a
11 previous witness did. She can circle on the screen or put
12 an arrow.

13 THE COURT: Okay. Right.

14 MS. MCGINNIS: I certainly can turn off the two
15 large screens.

16 THE COURT: Okay. Well, let's do that because
17 that so the jury will be able to see --

18 MS. MCGINNIS: It will still be on the jury's.

19 THE COURT: -- with their monitors. Okay.

20 MS. MCGINNIS: -- and on yours, yeah.

21 THE COURT: All right. Let's do that. So we're
22 going to take them off the big screen, but still have it for
23 the Doctor and the jury.

24 Okay. All right. Thank you, Doctor.

25 Okay. Do we want to go ahead and take another

ERIN PRESNELL VOIR DIRE BY MS. MCGINNIS

1 witness?

2 MS. MCGINNIS: Judge, if I can have just -- it'll
3 take me two minutes.

4 THE COURT: That's fine. I'll you a few minutes.

5 (WHEREUPON, a brief pause in the proceedings.)

6 THE COURT: Okay. We're back on the record.

7 MS. CAMPBELL: Your Honor, I think we have one
8 really short witness.

9 THE COURT: Sure.

10 MS. CAMPBELL: It's just one of the foster parents
11 that have the twins now that we can put up while we're
12 waiting for these photos to be brought down.

13 THE COURT: Yeah.

14 MS. MCGINNIS: They're printed and on the way
15 down.

16 THE COURT: That's fine, so if you want to put up
17 that short with us now, we can. Let's bring the jury out.

18 MS. CAMPBELL: Your Honor, just for the record
19 too, she's making Court's Exhibit 3 into the two that we are
20 replacing.

21 THE COURT: Okay.

22 MS. MCGINNIS: The two that we took out that are
23 going to be replaced with the edited ones.

24 MS. CAMPBELL: We turned Court's Exhibit 1 into
25 one of the State's exhibits.

KEITH WILLIAMS DIRECT BY MS. CAMPBELL

1 THE COURT: Okay. Let's bring the jury out.

2 THE BAILIFF: Jury's coming in.

3 (WHEREUPON, the jury entered the courtroom at 3:42
4 p.m.)

5 THE COURT: Let the record reflect the jury is
6 back in, fresh air break. Okay. All right.

7 Solicitor, next witness.

8 MS. CAMPBELL: The State calls Keith Williams.

9 THE CLERK: I need to swear to you, sir.

10 THE WITNESS: Okay.

11 THE CLERK: If you'll raise your right hand and
12 put your left hand on the Bible. Do you swear to tell the
13 truth, the whole truth, and nothing but the truth, so help
14 you God?

15 THE WITNESS: I do.

16 KEITH WILLIAMS, having been duly sworn, testified
17 as follows:

18 THE BAILIFF: Thank you.

19 THE COURT: State your name for the record,
20 please, sir.

21 THE WITNESS: It's Keith Williams.

22 DIRECT EXAMINATION

23 BY MS. CAMPBELL:

24 Q. Mr. Williams, where are you employed?

25 A. At Blue Cross and Blue Shield of South Carolina.

KEITH WILLIAMS DIRECT BY MS. CAMPBELL

1 Q. What do you do there, sir?

2 A. I am a computer programmer.

3 Q. And do you have any children?

4 A. I do.

5 Q. How many children do you have now?

6 A. I have four.

7 Q. Are you familiar with the foster system here in
8 our state?

9 A. I am.

10 Q. And at some point did you become a foster parent?

11 A. I did.

12 Q. And when did you first become a foster parent,
13 sir?

14 A. In 2012.

15 Q. And were there any children that were put into
16 your care around that time?

17 A. There was. I was placed with two girls, ages 5
18 and 7.

19 Q. And at some point during the course of the next
20 several years after 2012, did you have the opportunity to
21 adopt those children?

22 A. I did.

23 Q. And how old are they now?

24 A. They are 20 and 18.

25 Q. I want to turn your attention to this case. Are

KEITH WILLIAMS DIRECT BY MS. CAMPBELL

1 you familiar with -- we refer to them as the twins in this
2 case.

3 A. Uh-huh.

4 Q. And what are their names?

5 A. Child 5 and Child 6

6 Q. Child 5 and Child 6

7 A. Uh-huh.

8 Q. And at some point did you open your home up to
9 them?

10 A. I did.

11 Q. And when did that happen, sir?

12 A. That was in January of 2022.

13 Q. So that was about six or seven months after they
14 were taken into care?

15 A. Yes.

16 Q. And at that time you were the foster parents along
17 with your wife I believe?

18 A. We were both, yes.

19 Q. And over the course of the last couple of years,
20 have the children remained with you?

21 A. They have.

22 Q. And during that time when the children referred to
23 you in January of 2022, did they have -- were they suffering
24 from any medical problems, growth problems, or anything of
25 that sort?

KEITH WILLIAMS DIRECT BY MS. CAMPBELL

1 A. No.

2 Q. And during the time period when they've been with
3 you, they received the appropriate medical care and
4 everything as recommended?

5 A. Yes.

6 Q. And while they've been with you, have they had any
7 type of problems with growth or weight or any of those
8 issues?

9 A. No. They had normal growth, weight, height on the
10 50th percentile the entire time they've been with us.

11 Q. The twins?

12 A. The twins, both of them.

13 Q. And this is one boy and one girl, right?

14 A. One boy, one girl.

15 Q. And in the last few months have you had the
16 opportunity to adopt the two children?

17 A. We have.

18 Q. And are you actually related to one of the
19 defendants in this case?

20 A. Yes, the mother is my cousin.

21 Q. Is a cousin of yours?

22 A. Yes.

23 Q. But you've had the opportunity to adopt them since
24 you've had them in foster care?

25 A. I have.

KEITH WILLIAMS DIRECT BY MS. CAMPBELL

1 Q. And how are the children doing now?

2 A. They are normal, healthy, vibrant three-year olds,
3 almost four-year olds, bouncing, love to play, love to jump
4 and eating well, I've had no issues with them since I've had
5 them.

6 Q. So other than routine pediatrician visits, they've
7 had no doctor's visits, no problems?

8 A. No problems. Just regular, standard, well visits.
9 And they've had colds and I think one of them had RSV, but
10 that was just normal.

11 Q. During the time they've been with you they have
12 thrived?

13 A. Yes.

14 Q. I want to show you what's been marked as State's
15 Exhibit Number 192. Do you recognize this?

16 A. I do.

17 Q. And what is that, sir?

18 A. That is a picture of the twins, **Child 5** and **Child 6**

19 Q. And where was that taken?

20 A. At my home.

21 Q. And approximately how long ago was that taken, do
22 you know?

23 A. Two weeks ago.

24 Q. Two weeks ago?

25 A. Uh-huh.

KEITH WILLIAMS DIRECT BY MS. CAMPBELL

1 Q. And does this fairly and accurately depict their
2 condition currently?

3 A. Yes.

4 MS. CAMPBELL: Your Honor, at this time I would
5 offers State's Exhibit Number 192 into evidence.

6 MR. FRICK: No objection, Your Honor.

7 THE COURT: All right. Without objection, 192
8 into evidence for the State.

9 MS. CAMPBELL: And just for the record, permission
10 to publish it?

11 THE COURT: Sure.

12 (WHEREUPON, State's Exhibit Number 192 was
13 admitted into evidence and published to the jury.)

14 BY MS. CAMPBELL:

15 Q. The little girl, what's her name?

16 A. **Child 5**

17 Q. And the little boy?

18 A. **Child 6**

19 Q. And I know she's a little taller than him.

20 A. She is.

21 Q. But both of them are thriving and are in the 50th
22 percentile, height, weight, whatever it is.

23 A. She's probably a little bit higher now, she's
24 is -- they are both are healthy and happy.

25 Q. Thank you, sir. I don't have anything further.

KEITH WILLIAMS CROSS BY MR. FRICK

1 MR. FRICK: Just briefly.

2 THE COURT: Sure. Take your time.

3 MR. FRICK: I think she answered my question, I
4 just want to clarify.

5 CROSS-EXAMINATION

6 BY MR. FRICK:

7 Q. You were sitting in here for the last couple
8 witnesses?

9 A. I am.

10 Q. Okay. And I think we called them the twins?

11 A. Yes.

12 Q. Okay. And these are the twins?

13 A. They are.

14 Q. Okay. And how old are they now?

15 A. They are -- they are three, they'll be four in
16 October.

17 Q. Okay. Thank you, sir. That's all the questions I
18 have.

19 THE COURT: Okay. You can step down, sir. You're
20 free to leave the courtroom or you can stay with us if you'd
21 like.

22 What I want to do is I want to put something on
23 the record just to clarify what I did. And I need to ask
24 the jury, just give me a second, if you could go back to the
25 jury room. I just want to put something on record just for

KEITH WILLIAMS CROSS BY MR. FRICK

1 clarification purposes, get you back out shortly.

2 (WHEREUPON, the jury exited the courtroom at 3:48
3 p.m.)

4 THE COURT: I just want to be clear as far as the
5 autopsy pictures go in doing my 403 analysis because all six
6 pictures are external of A.W. That is, the pathologist
7 indicated she can better describe the external nature of
8 A.W.'s body as it relates to her findings as to injuries
9 and cause of death. So I just wanted that clarification
10 made. And without the pictures, then she make it harder for
11 her to explain to the jury and for the jury to understand
12 externally the condition of A.W.'s body, okay. I just want
13 that clear on the record, okay.

14 MR. FRICK: I'm just -- I was going to confer with
15 the Solicitor on this.

16 (A brief pause in the proceedings.)

17 THE COURT: Are we ready? All right.

18 Nolan, let's bring the jury back in, sir.

19 THE BAILIFF: Jury is coming in.

20 (WHEREUPON, the jury entered the courtroom at 3:54
21 p.m.)

22 THE COURT: All right. Let the record reflect the
23 jury is back in. State ready for next witness?

24 MS. MCGINNIS: Yes, Your Honor.

25 The State calls Dr. Erin Presnell.

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 THE COURT: Madam Clerk, would you swear the
2 doctor in, please.

3 THE CLERK: Put your left hand on the Bible and
4 raise your right. Do you swear to tell truth, the whole
5 truth, and nothing but the truth, so help you God?

6 THE WITNESS: Yes, ma'am.

7 ERIN PRESNELL, having been duly sworn testified
8 as follows:

9 THE CLERK: Thank you.

10 DIRECT EXAMINATION

11 BY MS. MCGINNIS:

12 Q. Good afternoon, Doctor.

13 A. Hello.

14 Q. Can you introduce yourself to the jury and tell
15 them a little bit about where you work and what you do?

16 A. My name is Susan Erin Presnell. It's,
17 P-R-E-S-N-E-L-L. And I am a forensic pathologist. I work
18 down the road in Charleston at MUSC, at MUSC-Charleston.

19 Q. And what exactly does a forensic pathologist do?

20 A. Well, I think everyone's getting more familiar
21 with the forensic pathology world, but I'll back it up a
22 little bit and just the general field of pathology.
23 Pathology means the study of disease and most pathologists
24 diagnose disease and they do it on live people.

25 So if you go to a doctor and you get a biopsy or

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 you have surgery and something's taken out, that tissue goes
2 to the pathologist, they look at it, look at it under a
3 microscope, say diagnose, do you have cancer, you don't have
4 cancer, or a surgeon got everything out or they didn't. So
5 that's kind of where the channel general pathology is about.

6 So I trained in general pathology, but then I also
7 did subspecialty in forensic pathology where I'm not just
8 looking at a single piece of tissue or a biopsy or an organ.
9 I'm looking at an entire individual, somebody that's passed.
10 The process that I do, the exam, is called the autopsy. And
11 ultimately I'm trying to determine the cause and manner of
12 death. A lot of times it might be due to disease, and I do
13 evaluate disease, but we also evaluate trauma and other
14 unnatural processes that occur.

15 Q. And you talked a little bit about your training in
16 pathology and forensic pathology. Can you walk the jury a
17 little bit through your education where what you had to do
18 to get to where you are?

19 A. Well, so I started my journey in Clemson, South
20 Carolina and I graduated and was a microbiology major. I
21 went from Clemson to Charleston for medical school. I did
22 my four years of medical school there and basically I've
23 stayed at MUSC-Charleston since then. So I did my four
24 years of medical school there. I chose pathology as opposed
25 to like family medicine or pediatrics to do my specialty.

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 So that was a five-year training. And then I did my
2 one-year training in forensic pathology. And during this
3 whole course of time I have taken my licensing exam. So I'm
4 licensed to practice medicine in South Carolina and my board
5 exams in pathology. So I'm board certified in general
6 pathology as well as forensic pathology.

7 Q. And in your career approximately how many
8 autopsies have you performed?

9 A. This would be an estimate, because I've been on
10 faculty at MUSC-Charleston since 1999, so that's like 25
11 years, and a low estimate of 200 a year would be over 5,000.

12 Q. And have you had to testify in court before?

13 A. Yes. And again, an estimate 200-ish.

14 Q. Okay. Have you ever been qualified as an expert?

15 A. I have qualified as an expert in forensic
16 pathology.

17 Q. Approximately how many times?

18 A. The times I testified, so around 200.

19 MS. MCGINNIS: Judge, at this time, we'd offer
20 Dr. Presnell as an expert in the field of forensic
21 pathology.

22 MR. FRICK: No objection, Your Honor.

23 THE COURT: All right. Dr. Presnell is found to
24 be an expert in the area of pathology and forensic
25 pathology.

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 BY MS. CAMPBELL:

2 Q. So, Dr. Presnell, can you just kind of give the
3 jury first a general description of what you do when you get
4 somebody in to do an autopsy on that person? Kind of the
5 steps you walk through.

6 A. I am a forensic pathologic and in our state, the
7 state of South Carolina is a coroner death investigation
8 state, death investigation system. So in our state a
9 coroner will respond to a death and decide, make a decision
10 if an autopsy is needed. If that happens, then they can
11 send them to any forensic pathologist they would like. I
12 work out of MUSC and so we receive cases referred to us by
13 the coroners of South Carolina the day of the autopsy, when
14 the transport arrives and brings the person to us.

15 We typically, or I typically do a lot of
16 photographs. So lots of photographs from beginning to the
17 end. I do the external exam, document how they arrive,
18 document any diseases I see or any injuries that I see.
19 After the external exam, I do the internal part, so of the
20 organs, do biopsies of certain ones if I think it's
21 necessary. And then those biopsies, that's going to come
22 back to me as glass slides that I look at under the
23 microscope to see if there's again any disease going on.

24 We also draw blood for toxicology, looking for
25 drugs and alcohol. Depending on the type of case, we might

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 do X-rays. I might do cultures. It all depends, it just
2 depends on the nature of the case. And then -- so that's
3 really the first bulk part of the autopsy. And then when I
4 wrap it up is when all the findings come back, I get the
5 slides back, look under the microscope, the tox results come
6 back, et cetera, and I'll put that all together in the final
7 autopsy report again with the conclusion of cause and manner
8 of death.

9 Q. So ultimately, when you finish the physical
10 autopsy, you might have an idea as to cause of death, but
11 you wait and render your opinion once you've gotten all
12 these tests back, whether it be the labs you mentioned,
13 X-rays, cultures, so on and so forth, before you issue your
14 final decision or final expert opinion?

15 A. Well, I may have a final, a definitive cause of
16 death statement right at the end of the autopsy, like say
17 for instance in a gunshot wound. However, in a lot of
18 cases, we'll wait till all the information comes back to we
19 clarify specifically what we think the cause of death is.

20 Q. And that can take some time, right? That's not
21 like it happens on TV where you get the results back in an
22 hour.

23 A. Right. Yeah, it usually takes around a month.

24 Q. So now I want to turn your attention to, I believe
25 your autopsy number is FA21-221. Is that your autopsy on

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 A.W. [REDACTED]

2 A. Yes.

3 Q. So when you received A.W.'s [REDACTED] body for autopsy, can
4 you tell the jury a little bit what did you do first with

5 A.W. [REDACTED]

6 A. Well, I did the same things that I was referring
7 to. I had photographs as she arrived to us. And then,
8 like, so she had a lot of medical intervention, so once that
9 came off and I took photographs again, did the external
10 exam, did the diagrams. In a child death case like this, it
11 would be normal first to do what we call skeletal survey.
12 So X-raying each of the bones so the pediatric radiologist
13 can evaluate, and we're looking for fracture, but the
14 pediatric radiologist can see a lot more than I can.

15 So I can picture them on the interpretation of
16 that beyond fractures. Then I do that -- well, also at that
17 time in this case, I did the swabs for the respiratory
18 viruses. I know you heard the pediatrician refer to that
19 earlier. And then I also -- actually I didn't draw the
20 fluid, the coroner had previously drawn the eye fluid, which
21 is an important part of a post mortem exam because of a lot
22 of times we can't really evaluate the blood because the
23 blood is dead blood and it falls apart. And therefore like
24 the levels of certain things like sodium and chloride
25 levels, you can't get a good number off of the blood, so we

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 test what we call the vitreous fluid to get those values.

2 Anyhow, that was drawn by the corner prior to her
3 arriving. And so we did the X-rays, the respiratory swabs,
4 the external and then we'll start with the internals again,
5 all of the organization organs, did the samples, looked
6 under the microscope, drew the blood for toxicology, and
7 that was the end of the first part of the autopsy.

8 Q. As far as your external examination of A.W. what
9 were some of your initial observations when you first took a
10 look at her body?

11 A. Well, you could tell that she is very, very
12 underweight. She has sunken eyes, her cheeks are kind of
13 sunken in, her abdomen is kind of curved in. Her ribs stick
14 out on the front and then also on the back you can see her
15 ribs as well as her backbone. The other thing about A.W.
16 is she had this, we call it tenting, skin tenting, like if
17 you go camping in a tent, it's when you pinch your skin and,
18 you know, normally, if you're normally hydrated, your skin
19 kind of bounces back to lay just flat. But in really
20 dehydrated individuals, when you pinch it, it still remains
21 pointed like that, like a little tent. And so she exhibited
22 a lot of tenting.

23 Q. I'm sorry to interrupt.

24 A. No, I was going to say suggestive of dehydration.

25 Q. And as you previously mentioned, you photograph

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 most steps in your process; is that correct?

2 A. Yes.

3 Q. And that was no different in A.W.'s case?

4 A. Right.

5 Q. I'm going to show you at this time what's been
6 marked State's 193 through 198. If you'll just take a look
7 at these and do these appear to be copies of your
8 photographs from autopsy?

9 A. Yes, these are copies of my autopsy photographs or
10 some of them.

11 Q. And there are a couple in there with some editing.
12 Can you describe what the edit is to those two photos?

13 A. Well, when I do my exam, I make sure that the
14 individual is unclothed so I can see everything. So some of
15 my photographs are pictures of everything. And so the edits
16 have some covering of the genitalia.

17 Q. Are those fair and accurate depictions of A.W.'s
18 body as it presented to you when you performed your autopsy?

19 A. Yes.

20 MS. MCGINNIS: Judge, at this time we'd move
21 State's 193 through 198, excuse me, into evidence.

22 THE COURT: Subject to what has already been
23 placed on the record, Mr. Frick.

24 MR. FRICK: Thank you, Your Honor.

25 THE COURT: Okay. 193 through 198, into evidence

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 for the State.

2 MS. MCGINNIS: Thank you. And permission to
3 publish at this time?

4 THE COURT: Certainly.

5 (WHEREUPON, State's Exhibit Numbers 193 through
6 198 admitted into evidence and published to the
7 jury.)

8 BY MS. MCGINNIS:

9 Q. Dr. Presnell, I'm going to ask you to tell me
10 which photograph you'd like to start with that would aid you
11 in describing to the jury the external findings that you saw
12 on A.W.

13 A. All right. We'll start with 193.

14 Q. Okay. And tell me if that appears okay on your
15 monitor.

16 A. Can you zoom out a little more?

17 Q. Is that good or more?

18 A. More. I don't see this magic erase button.

19 MS. MCGINNIS: May I approach the witness stand,
20 Your Honor? Your Honor, may I approach the witness stand?

21 THE COURT: Sure. Yeah.

22 THE WITNESS: I already messed up the screen.

23 BY MS. MCGINNIS:

24 Q. The "X" on the left.

25 A. All right. So this is just an overall photograph

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 of A.W. Can you turn it so it's right -- she's right
2 side? Yeah. Okay.

3 So you just see our autopsy number, which is just
4 sequential, and then her looking at her face straight on, I
5 think you kind of appreciate her eyes and I think you'll see
6 it even more on the side picture, but they are very sunken
7 in and she has not -- she doesn't really have any fat pad in
8 her cheeks.

9 And then if we could look at 194. Can you turn it
10 on it's side?

11 So this would be how like I'm seeing her in the
12 autopsy room and I don't really want to draw on her too
13 much, but I think that right here you can really see the
14 depth of far in her eyes are sunken. So we're losing some
15 of the periorbital around the eye fat tissue. And she's
16 also very dehydrated, which is exacerbated.

17 All right. And then next we'll do 195. This
18 is -- you can still see her sunken eyes, but this is what I
19 didn't mention earlier, but she does have this purple
20 contusion or bruise on her forehead. There was actually no
21 underlying like no injury inside the head related to that.

22 All right. We'll do 197. Do you want to take
23 them off there?

24 Q. Oh, they're in order?

25 A. Yeah. So this is an overall photograph obviously

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 from up above. And I think on this one and the next one --
2 does it zoom in just a smidge?

3 You can see the sides of the chest plate there as
4 well as -- I didn't know I was going to do that -- as well
5 as her individual, her ribs protruding, her abdomen kind of
6 sinks in.

7 And if you could put the next one, I think -- and
8 zoom in a smidge more -- what we're seeing mostly with the
9 chest cavity again, the ribs that you can see how the
10 abdomen kind of sinks in under the chest cavity there. And,
11 of course, you can appreciate the eyes and cheeks as well.

12 And then the last one. This is her back. Again,
13 these are her ribs along her backbone right there you can
14 see the little individual vertebral bodies are the backbone
15 pieces of your -- of the spine. Showing secondary to
16 basically not enough fat tissue in between her skin and her
17 bones.

18 Q. All right. And you also mentioned the skin
19 tenting. Can you explain a little bit more about why the
20 skin tents, why that indicates dehydration?

21 A. That's a good question. I imagine because of the
22 lack of the fluids in your body that the tissues are very
23 sticky. That's another thing is, once I go inside the body
24 to do the exam of all the different tissues, I describe them
25 as tacky, meaning that on my gloves when I touch something,

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 it sticks to my gloves. So imagine it's the same kind of
2 thing for tenting. But then even -- these are signs of
3 dehydration, but the way that we confirmed it was to test
4 that vitreous fluid or the eye fluid, which, remember I was
5 telling you that it reflects the levels in the blood. And
6 so. So in this case, her vitreous was 100. Sorry, her
7 vitreous sodium, which is the way we're going to measure
8 dehydration, was 160. Usually it's between 135, 145. The
9 other thing is that 160 is a very, very high number. Her
10 chloride is high as well. And also she shows some kidney
11 function changes that are probably related to dehydration.
12 So with that level and those signs, it's consistent with a
13 the very severe dehydration.

14 Q. And taking you back quickly to the external -- the
15 bruise that's over her forehead, you mentioned there's no
16 associated internal injury with that?

17 A. Right. There's nothing inside the head, like no
18 head bleed.

19 Q. So once you finish with your external examination,
20 you move on to your internal examination of all the
21 different organs. And you -- I think you already told the
22 jury about the organs being tacky or sticking to your gloves
23 when you were trying to examine them?

24 A. Right.

25 Q. Nevertheless, you proceed to -- what do you do

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 with the organs as you're taking them out to examine them to
2 determine whether there's any evidence of disease or injury
3 or anything like that in those organs?

4 A. So I do a dissection. So with the heart, I'm
5 going to check all the coronary arteries, and I'm going to
6 check to the four chambers and make sure there's no birth
7 defect or congenital heart disease. So I'll dissect each of
8 the organs like that. And then again, a lot of those
9 organs, I look at them under the microscope as well.

10 Q. And specifically with a child that dies or a
11 person that dies of dehydration or malnutrition, which I
12 think you're going to talk about here shortly, can you talk
13 about some of the things specifically that you could see
14 anatomically that could cause that kind -- the
15 malnourishment, I believe Dr. Lamb mentioned things like
16 inflammatory bowel disease, can you walk with jury a little
17 bit through what else you check to rule out things like
18 that?

19 A. Well, I mean, in my autopsy, I'm looking for --
20 this is the last exam, I'm looking for anything abnormal,
21 anything that might point me somewhere. So that's why, even
22 though all of the tissues look normal grossly, I'm going to
23 look at a lot of them under the microscope. One thing I
24 didn't yet -- that I didn't mention with her external exam,
25 obviously she looked really malnourished, but her weight is

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 14 pounds. Her height is 50th percentile. Her weight is
2 less than one percentile for her age. I heard the
3 pediatrician earlier, but I have looked up what's just kind
4 of an average for her age weight, and that would be 22
5 pounds. So she's at 14 pounds despite her normal,
6 relatively average length.

7 Then looking at the organs, they're all normal,
8 although not surprisingly, most of them are small. But they
9 are -- there's no evidence of birth defects and they're all
10 in the proper order and they're all normally formed. Like I
11 said, despite them looking normal grossly and on the
12 normal -- and looking normally on the dissection, I did take
13 of them a lot of the tissues to look at under the
14 microscope. So I looked at multiple samples of the heart.
15 I looked at both of the kidneys. I looked at both of the
16 lungs, multiple samples from both of the lungs. I looked at
17 pancreas.

18 And you were asking some of the things that could
19 cause malnutrition, things that affect the GI system, are
20 the pancreas, like cystic fibrosis, something that might
21 affect the liver. So I'm sampling these just to see if I
22 can see anything going on. So I just sampled the small
23 bowel. I also did the colon or the large bowel, the
24 pancreas, the thymus is something that can help with your
25 immune system or is part of integral part of your immune

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 system so that. Thyroid gland, brain, even the brain I took
2 a sample of to look at under the microscope. Maybe there's
3 some meningitis or some reason that might have made her
4 vomit. I don't know that she did or didn't, but to
5 exacerbate just her end condition.

6 And I didn't, other than I did -- I'm sorry, I did
7 find some pulmonary edema, which is some fluid in the lungs
8 and some pulmonary fat emboli, which are little pieces of
9 fat that traveled to the lungs. This is most likely a
10 resuscitation injury, something from the extended
11 resuscitation. Other than that, everything was normally
12 formed. I found no evidence of infection. I found no
13 tumors, no cancers, no scarring, nothing like that.

14 Q. So besides the small size, everything appeared to
15 be healthy, both anatomically and under your sections, your
16 slides?

17 A. Yes.

18 Q. So you mentioned that you draw some blood and send
19 that off for toxicology. Where do you send your blood to
20 have the toxicology testing performed?

21 A. Wherever the coroner would like us to. And at
22 Lancaster the blood goes to NMS, or National Medical
23 Services Forensic Laboratory, that specializes in postmortem
24 testing.

25 Q. And how is that blood drawn and sent to them?

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 A. Well, it depends. In this case, we drew the blood
2 at the time of autopsy and packaged it up and sent it to NMS
3 Labs.

4 Q. And this, I'm sure, is a silly question, but it's
5 packaged in a way that preserves the blood; is that right?

6 A. Right. When we draw the blood, they go into what
7 we call a gray top tube that has a preservative in it that
8 stops bacteria from growing and enzymes from working and
9 preserves it, basically.

10 Q. So in this case, you sent that off to NMS, and
11 I'll get to what those results were, but can you also talk a
12 little bit about the X-rays or the skeletal survey that you
13 performed?

14 A. Yes. So, like I said, we did a skeletal survey.
15 There were no fractures, and that could be given any kind of
16 sign to, like, a physical, abusive injury that was present.
17 There was no sign of any skeletal disease. Like, when I say
18 dis disease, like, I mean organic disease, like a skeletal
19 congenital condition.

20 However, the pediatric radiologist who interpreted
21 did use his expertise to estimate that -- well, to say that
22 the bone age was delayed, and he gave an example of
23 nine months based on his valuation and his formulas.

24 Q. Okay. So I want to take you back to the labs,
25 because that's kind of the last thing you got back in this

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 particular case; is that right?

2 A. Yes.

3 Q. Tell the jury a little bit about what tests were
4 performed on the blood that you drew as well as the vitreous
5 fluid and how that helped you in forming your opinion as to
6 A.W.'s cause of death.

7 A. Well, so first, the toxicology for drugs and
8 alcohol is negative. There's no ibuprofen. There's no
9 acetaminophen. There's no alcohol. There's none of that.

10 Q. I'm sorry. You mentioned ibuprofen and
11 acetaminophen, those are generic names for medications?

12 A. Yes.

13 Q. What are the brand names of those?

14 A. Whichever brand you would buy, but acetaminophen
15 is typically Tylenol and then ibuprofen, I don't remember.

16 Q. Okay. But so the lab tested for Tylenol and found
17 no Tylenol present?

18 A. Correct. Well, when I say no Tylenol, it would be
19 below a cutoff limit. I don't know the cutoff limit off the
20 top of my head. Then the other thing that they found in
21 blood was this compound called beta hydroxybutyric acid, or
22 beta hydroxy-butyrate, which was elevated but not extremely
23 elevated. This is not a drug or an alcohol, this is a
24 compound that is produced in somebody's body that is, I
25 don't want to say starving, but who does not have food.

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 When the body runs out of energy or is not receiving any
2 sugars or glucose or foods to sustain or calories to sustain
3 making energy, then the body will start to convert over to
4 what they call ketogenesis. You guys might have heard this
5 term before, and so one of the ketone products that is made
6 is beta hydroxy butyrate. And things like diabetic
7 ketoacidosis that can, the ketoacidosis, the acid part of
8 it, can be fatal, you get really, really, high levels. But
9 in this case, this is not a diabetic ketoacidosis, it's
10 chronic malnourishment. And the presence of ketones is
11 consistent with not having eaten in a while.

12 Q. And you also mentioned the vitreous. I think you
13 talked a little bit about those numbers earlier but can you
14 go through as well what the vitreous fluid resolution?

15 A. Right. So the sodium was 160 and the chloride was
16 140. And both of them are -- those are markedly elevated
17 levels. Not only that, but after death those sodium and
18 chloride levels tend to slowly come down. So that they're
19 still at 160 and 140 is significant and consistent with the
20 severe dehydration. The potassium 17, but that potassium
21 and post mortem vitreous doesn't mean anything. It doesn't
22 reflect what her levels were in her blood before she died,
23 so we can't use that.

24 The urea nitrogen and creatinine are looking at
25 kidney function. The urea nitrogen is really high, but the

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 creatinine is normal, which means to me that supports
2 dehydration, but there's nothing wrong with the kidney
3 itself other than it's not getting enough fluid, as in
4 dehydration.

5 And then the glucose, they do test glucose in the
6 vitreous, that's one that doesn't just slowly come down
7 after death, it usually rapidly drops after death. And in
8 her case it was negative. But the cutoff limit is 35. So
9 it would be a less amount, which in a deceased body is
10 considered normal.

11 And the other, one last thing that was detected,
12 analyzed in the vitreous is acetone. Acetone is another one
13 of the ketone parameters. So there's, for ketosis, you're
14 looking at, there's three potential ketone bodies, Hydroxy
15 butyrate with beta hydroxy butyrate, which is what they
16 tested for in the blood, acetone and acetoacetate. So they
17 usually test for one of those three things. The lab tested
18 for acetone in the vitreous and beta hydroxy butyrate in the
19 blood and that was 6.4. So it was elevated, but again, not
20 the levels you would see in a diabetic type of ketoacidosis
21 or metabolic acidosis.

22 Q. So I want to talk a little bit about the
23 ketoacidosis because you're mentioning the diabetic
24 ketoacidosis. So starvation is not necessarily the only
25 thing that would make things like the acetone and the BHB

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 present in somebody's body. Can you talk about how you
2 ruled out diabetes or diabetic ketoacidosis in Amina's case?

3 A. Okay. So first of all, she does not have
4 ketoacidosis. Her ketone levels are elevated, but they're
5 not at the levels that you would see in diabetic
6 ketoacidosis, which we also know she doesn't have because
7 her glucose is less than 34. If she was diabetic
8 ketoacidosis, it would be 300, 400, 500, easy in the post
9 mortem vitreous. You can also see it in alcoholic
10 ketoacidosis, but I don't think that's a factor here. And
11 she doesn't have ketoacidosis, she has ketosis. So we're
12 not at that level of major derangement by ketones. It's
13 showing that she's not getting sustenance, but we have
14 starvation ketosis doesn't typically turn into ketoacidosis.

15 Q. So by that you're able to kind of rule out some of
16 the other common causes of the elevated ketones and things
17 like that. Is that how you ultimately narrowed your
18 diagnosis to the ongoing malnourishment and the dehydration?

19 A. Yeah, well, that's not the only thing, it's the
20 whole -- all everything. Her appearance, her loss of the
21 fat, the sunken eyes, protruding ribs, the no abnormalities,
22 the less than one percentile weight, the normal histology,
23 and no birth defects, no congenital anomalies, no drugs,
24 high elevated ketones, and markedly elevated sodium and
25 chloride levels.

ERIN PRESNELL DIRECT BY MS. MCGINNIS

1 Q. And so due to all those factors you just listed,
2 what was your ultimate determination as to Amino's cause of
3 death?

4 A. Well, I was a little verbose, so I kind of
5 combined the dehydration, which would have been the last
6 component of it. So I put dehydration and malnourishment
7 with ketosis because I wanted to address the fact that
8 ketones were there, so dehydration and malnourishment with
9 ketosis is due to neglect.

10 Q. And can you talk a little bit about how you came
11 up with the fact that it was due to neglect?

12 A. Well, this is a 14-month child, so she would
13 depend on a caregiver to provide food, sustenance, water
14 with liquids and medical care.

15 Q. And I think as far as timing is concerned, you had
16 told me it would be a little bit difficult for you to
17 determine how long would have taken A.W. to die based on
18 what you saw at autopsy; is that fair?

19 A. Yes.

20 Q. Okay. Can you talk a little bit about at the end,
21 however long it would be, how would the conditions you saw
22 affect her while she was still alive? As far as the
23 dehydration and the malnourishment, what effects would those
24 have had on her in her last weeks to days?

25 A. Well, I just -- I guess the best one for me is or

ERIN PRESNELL CROSS BY MR. FRICK

1 a descriptive word would be lethargy or just real low
2 energy, weak, becoming less and less responsive.

3 MS. MCGINNIS: Beg the Court's indulgence.

4 Thank you, Dr. Presnell. Answer anything
5 Mr. Frick has for you.

6 THE COURT: Okay. Mr. Frick.

7 MR. FRICK: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. FRICK:

10 Q. Good afternoon, Doctor.

11 A. Uh-huh.

12 Q. Okay. Let's -- let's get to the -- skip way ahead
13 to the blood results. I know you looked at what NMS sent
14 you, correct? That's what you utilized to make your final
15 determination, correct?

16 A. Yes, the final.

17 Q. Your final report?

18 A. Yeah, that was part of my final report.

19 Q. Okay.

20 A. Yeah, the toxicology results.

21 Q. Okay. Okay. And you relied on the information
22 that they provided, you didn't conduct any of the
23 toxicology?

24 A. I did not.

25 Q. Okay.

ERIN PRESNELL CROSS BY MR. FRICK

1 A. I did not do the tests.

2 Q. Okay. And as you mentioned in their report, it
3 said that it found no glucose in her blood, correct?

4 A. Right. The cutoff limit for what they test is
5 30 -- no, it's not blood, it's vitreous.

6 Q. Yeah, you're right. Sorry.

7 A. The cutoff limit is 35, so anything less than that
8 would not be -- would be reported as negative.

9 Q. Okay. And then, correct me if I'm wrong, as you
10 did there. The -- the beta hydroxy butyrate was also in
11 that report too, correct?

12 A. Yes. Well, the beta hydroxy butyrate is in the
13 blood and the acetone is in the vitreous. That's just what
14 they tested for. They could have tested for acetone in the
15 blood as well, but they chose to do beta hydroxy butyrate
16 for blood.

17 Q. Okay. Let's say I decided that I need to lose
18 some more weight and I wanted to go on this keto diet. And
19 if I did that and you drew my blood, would you see lower
20 glycogen and higher beta -- beta hydroxy, is what I'm going
21 to call it.

22 A. Well, so I haven't autopsied anybody on the ketone
23 diet yet. So you -- I think the idea is to induce a ketosis
24 and low carbs to stay away from the sugars and so you're
25 trying to induce ketosis. And basically, if you don't eat

ERIN PRESNELL CROSS BY MR. FRICK

1 for 12 hours, you can induce some low level ketosis. It'll
2 get more severe the longer that you don't eat. I don't know
3 what potential ketone levels would be with the ketone diet.

4 Q. Right. But essentially what you're doing, part of
5 what you're doing there is you're trying to cut off the
6 sugar, the glucose, right?

7 A. Yes.

8 Q. So if you were in a situation where you had low
9 glucose, would it be unusual if it dropped further to see
10 the beta hydroxy?

11 A. I think -- so think of it more as sustained. As a
12 sustained condition that's going to convert your body over
13 because your body is still going to use its reserves first.
14 So a sustained condition that will eventually kick your body
15 over into starting to convert to use what they call free
16 fatty acids or fatty acids as a source of energy instead of
17 glucose. So it's going to first use up your extra stores,
18 your liver can make glycogen and they can use that. So
19 again, I don't know what that -- and I lost -- I forgot your
20 question.

21 Q. You did fine. So, all right, just to kind of sum
22 that up, your body normally runs on glucose, that it turns
23 into glycogen or glycogen that it turns into glucose or the
24 other way around?

25 A. Glycogen is the storage product of it.

ERIN PRESNELL CROSS BY MR. FRICK

1 Q. Okay. And it breaks it down to that, but when
2 it's starting to run out of glucose, that's when it starts
3 turning to the fatty acids, correct?

4 A. Yes.

5 Q. And that's when you would expect to see the beta
6 hydroxy?

7 A. Well, yeah. So beta hydroxy is one of the three
8 ketones. So, yes, as you see ketosis, it would be those
9 three that you would see.

10 Q. Okay. And a hypoglycemic person is a person
11 that's already got low glycogen?

12 A. Low, yeah, low glucose.

13 Q. Low glucose. Low glucose.

14 A. Uh-huh.

15 Q. Okay. In your review, particularly in this case,
16 did you get any medical records to review?

17 A. No.

18 Q. Okay. And that's not your practice, is it? I'm
19 not saying you do.

20 A. Oh, yeah, if I get medical records I absolutely
21 read them.

22 Q. Okay. All right. But you did not get any medical
23 records in this case?

24 A. I did not.

25 Q. Okay. And let's go back to one thing, they talked

ERIN PRESNELL CROSS BY MR. FRICK

1 about on the -- I don't know if it was the vitreous, I don't
2 know if it was the blood, but it was one of the tests they
3 were asking about the acetaminophen and you said they have a
4 cutoff level, the lab has a cutoff level?

5 A. Yeah.

6 Q. Okay. And it says it's not in there because it
7 just didn't reach their cutoff level?

8 A. Right.

9 Q. As far as you know?

10 A. Yes.

11 Q. I mean, that's what their report said?

12 A. Right.

13 Q. All right.

14 A. I don't know the cutoff level off top of my head.

15 Q. Gotcha. All right. And just so I'm clear on it,
16 who drew what the vitreous was drawn by the coroner?

17 A. Yes.

18 Q. You drew blood?

19 A. Yes.

20 Q. There was some urine in this case, who took it?

21 A. Coroner.

22 Q. Okay. And you sent the blood off to the lab?

23 A. I did.

24 Q. Okay. How did you package it?

25 A. So the blood is -- we pull draw it and we put it

ERIN PRESNELL CROSS BY MR. FRICK

1 in this tube, gray topped tube of plastic that has a
2 preservative at the bottom. And then that's put into a
3 container that's sealed with plastic, sealed Ziploc, and
4 that's sealed down. And then it's got some kind of
5 preservative -- not preservative absorbent in case there's
6 some kind of fluid that spills in it. And then it's put in
7 another bag. And then the toxicology paperwork is filled
8 out. And that goes in the box and the box is all sealed up.
9 And then it's finally put into a FedEx container and shipped
10 FedEx to Pittsburgh.

11 Q. Okay. All right. Is it cooled?

12 A. No.

13 Q. Okay. All right. Now, I'm going to run you
14 through the -- your report real quick, if you don't mind.
15 Have you got that one up there in front of you?

16 A. I do. I have mine.

17 Q. Cool. All right. So you performed the autopsy on
18 February 24th, correct, of '21?

19 A. Yes.

20 Q. Okay. When did you receive the body?

21 A. Well, probably that day.

22 Q. Okay.

23 A: The coroner would have transported A.W. and the
24 transport would have waited for to do the exam prior to
25 bringing her back.

ERIN PRESNELL CROSS BY MR. FRICK

1 Q. Okay. Okay. And you come up with a preliminary
2 report, an initial report after you've done the autopsy?

3 A. Right. Remember, since it takes like a month, I
4 usually put in my preliminary report the things that I'm
5 seeing at the time of that autopsy before everything else
6 starts to come back.

7 Q. All right. And on your very last page, I see a
8 part that says, Verified 5/12/21. Is that when you came up
9 with your final conclusions that are in this report?

10 A. Yeah. So that's when I signed out the case.

11 Q. Okay. When did you come up with your final
12 conclusions?

13 A. When I signed out the case.

14 Q. When you signed out the case?

15 A. Yeah.

16 Q. Okay. And that was after you got the toxicology,
17 correct?

18 A. Yes.

19 Q. Okay. All right. Down under your diagnosis, the
20 first part there, the forehead contusion, did you determine
21 that had any effect in this case?

22 A. No. So it's a bruise, but has no internal
23 findings associated with it.

24 Q. So that in your medical assessment was -- did not
25 cause any issues in this case?

ERIN PRESNELL CROSS BY MR. FRICK

1 A. Did not contribute to the death, no.

2 Q. Okay. All right. And as you said, the
3 toxicology, there was no, no drugs in this, correct?

4 A. Correct.

5 Q. And I'm not going to make you go through their
6 report, but they ran a lot of drug tests, correct?

7 A. So the standard forensics is comprehensive drug
8 screen. So it's the usual drugs of abuse or illicit drugs,
9 as well as a lot of prescription drugs, a lot of
10 over-the-counter pain medicines and whatnot. So, yeah, I
11 wouldn't be able to come up with a whole list.

12 Q. Sure. Sure. Okay. And then down there where
13 you're talking about case history, at least in this
14 particular case, and I think it may be in most cases you are
15 going by what has been told to you about what has occurred,
16 correct?

17 A. Right. So the information for our case history
18 would come from the coroner.

19 Q. Okay. You don't conduct your own investigation --
20 you're not Quincy out there going to you -- doing your own
21 investigating and then doing the autopsy, right?

22 A. The coroner would be Quincy and I would --

23 Q. Sorry, you're right about that.

24 A. -- I would be half.

25 Q. It's been a long time since I watched Quincy,

ERIN PRESNELL CROSS BY MR. FRICK

1 you're right, but you don't do the investigation?

2 A. I do not.

3 Q. Okay. Let's skip over to Page 3. I'm looking at
4 where you're talking about liver, and you state there's
5 moderate congestion?

6 A. It's just -- so the liver is a very vascular
7 organ. I mean, it filters all your blood to clean it out.
8 So a lot of times during an autopsy, it is not uncommon to
9 be moderately congested, especially with somebody that's got
10 a lot of CPR.

11 Q. Okay. So not significant in this case?

12 A. Correct.

13 Q. Okay. Next one, alimentary tract, is that also
14 called the GI tract?

15 A. Yes.

16 Q. Okay. And I note that you say in there, There are
17 appropriate amounts of yellow sticky fecal material are in
18 the small and large bowel.

19 A. Right. So the fecal material that was in the
20 bowel was yellow and very sticky, a yellow green stickiness.
21 I did see appropriate amounts, so like not over distension,
22 not impacted. I don't know how long it would have been in
23 there, but there's definitely fecal material.

24 Q. I don't see where you talk about the stomach.

25 A. The stomach. That's the second sentence on

ERIN PRESNELL CROSS BY MR. FRICK

1 alimentary tract where it says the gastric mucosus is
2 arranged in the usual rugal folds in the lumen, so that's
3 the inside.

4 Q. Okay.

5 A. Contains scant mucus.

6 Q. Scant mucus. So that's what you found inside the
7 stomach?

8 A. In the stomach, yes.

9 Q. Okay. And then let's go to the next page. I'm
10 looking under the microscopic descriptions. What is
11 autolysation [sic]?

12 A. Autolysis. So your body has lots of enzymes in
13 it, and enzymes convert things and break tissues down.
14 Like, so, example, your pancreas has lots of enzymes, it
15 makes the digestive enzymes and will break down your food
16 that you eat.

17 So autolysis is a process where some of the
18 tissues start to break down because of those enzymes, I'm
19 sorry, after death. So they start to break down after death
20 because of those enzymes. And like, for example, pancreas
21 often breaks down pretty quickly because of all the enzymes
22 in it. So a lot of some of the tissues had some autolysis,
23 which is postmortem change that I would see under the
24 microscope.

25 Q. But essentially that is -- it's starting to decay,

ERIN PRESNELL CROSS BY MR. FRICK

1 correct?

2 A. Yes, it is starting to break down. It is not the
3 bacterial component of decay, but yes, it is starting to
4 break down.

5 Q. Okay. Okay. And you noted several things there.
6 The myocardium, that's got something to do with the heart,
7 doesn't it?

8 A. That is the heart muscle, yes.

9 Q. Okay. Liver, correct?

10 A. Yes.

11 Q. Kidney, skin?

12 A. Yes.

13 Q. Small bowel, colon, thymus, thyroid, pancreas,
14 ovary, cerebrum, all had varying levels of autolysis, right?

15 A. Yes. Well, they showed some more preserved than
16 others, yes.

17 Q. Okay. All right. But that's when the body has
18 been just begun as a function of nature to decompose,
19 correct?

20 A. Well, the decompose is autolysis and the bacterial
21 component. This doesn't have any of the bacterial
22 component, it's just some breakdown from the enzymes.

23 Q. But, I mean, it's not an instantaneous thing, it
24 happens over time, correct?

25 A. Yes.

ERIN PRESNELL REDIRECT BY MS. MCGINNIS

1 Q. Okay. Thank you, ma'am. That's all I got.

2 THE COURT: Solicitor, any redirect?

3 MS. MCGINNIS: Briefly, Your Honor.

4 REDIRECT EXAMINATION

5 BY MS. MCGINNIS:

6 Q. Doctor, you mentioned you did this autopsy on
7 February 24th of 2021?

8 A. I did.

9 Q. And what day was A.W. pronounced dead?

10 A. I believe the 22nd, yes.

11 Q. So you received her body a day and a half or so
12 after she was pronounced deceased?

13 A. Yes.

14 Q. Would that -- some of the changes that Mr. Frick
15 is asking you about be concerned consistent with that timing
16 interval between her being pronounced dead and ultimately
17 being transported for autopsy?

18 A. Yes, absolutely. Especially for something like
19 tissue, like the organ. If everything was affected a lot, I
20 would have said in there that I was having a hard time to
21 doing a histopathological evaluation or looking at what is
22 actually going on, which I did not state.

23 Q. And then also you spoke about the -- let me find
24 it so I say it right -- the rugal folds and the lumen
25 contains scant mucus. So there was nothing in her stomach

1 besides a small amount of mucus?

2 A. Right.

3 Q. Thank you, Doctor.

4 THE COURT: Any recross?

5 MR. FRICK: No, sir.

6 THE COURT: You can step down, Doctor.

7 THE WITNESS: Thank you.

8 THE COURT: You're free to leave the courthouse,
9 you're more than welcome to remain with us if you like.

10 All right. I think this is going to be a good
11 stopping point in the day. So ladies and gentlemen, you've
12 worked very hard today. I appreciate it. Appreciate your
13 patience. And we'll start back at 9:30 in the morning.
14 Have a good -- are you stretching or you got a question?
15 Okay. All right. We'll start back at 9:30 in the morning.
16 Have a good evening, get you some rest, and we'll see you in
17 the morning.

18 (WHEREUPON, the jury exited the courtroom at 4:41
19 p.m.)

20 THE COURT: Anything we need to put on the record
21 before we adjourn for the day from. State?

22 MS. MCGINNIS: No, sir.

23 THE COURT: Defense?

24 MR. FRICK: Nothing I can think of.

25 THE COURT: All right. Y'all have a good

1 afternoon and evening.

2 MS. CAMPBELL: 9:30 tomorrow, Judge?

3 THE COURT: 9:30.

4 (WHEREUPON, the proceedings adjourned for the

5 day.)

6 (WHEREUPON, proceedings reconvened on Thursday

7 August 29, 2024 at 9:39 a.m.)

8 THE COURT: All right. Are we ready for the jury?

9 MS. CAMPBELL: Just one minute please, Judge.

10 THE COURT: You need a few minutes to get

11 organized?

12 MS. CAMPBELL: If you don't mind.

13 THE COURT: Sure.

14 (WHEREUPON, a brief pause held.)

15 THE COURT: Okay. Back on the record.

16 MS. CAMPBELL: We need to take this out before one

17 of the witnesses coming up.

18 THE COURT: Sure. Okay.

19 MS. CAMPBELL: Your Honor, part of the description

20 of the child is that when she was taken in by EMS, she was

21 covered in some feces from her waist down. Additionally,

22 you can see in her hands that her fingernails have already

23 turned blue and that her hands are kind of blue. We have

24 photographs, and I've tried to go over them and met with

25 Mr. Frick, who's been very accommodating about, you know,

1 what are these pictures and how we can narrow it down some.

2 I have been able to eliminate a number of pictures
3 from coming in, but there are some -- and I think he's
4 objecting to everything -- but I can show you what I
5 originally proposed and then how I've already narrowed it
6 down and then we can talk about the other ones.

7 THE COURT: Okay. All right. These were pictures
8 taken by whom?

9 MS. CAMPBELL: They were taken by the coroner's
10 office.

11 THE COURT: Okay.

12 MS. CAMPBELL: At the hospital right after the
13 child was pronounced or shortly after the child was
14 pronounced, I should say.

15 THE COURT: Okay.

16 MS. CAMPBELL: And, Your Honor, may I approach and
17 just show you?

18 THE COURT: Sure. Yeah.

19 MS. CAMPBELL: And I don't have them marked yet,
20 should I mark them first?

21 THE COURT: No, just hand them up then and then we
22 can get them marked in a minute.

23 MS. CAMPBELL: Initially, I had proposed that
24 these three additional pictures that I'm handing up, we'll
25 withdraw these, but these would be the photos that we would

1 be proposing to enter.

2 THE COURT: All right.

3 MS. CAMPBELL: And we've tried to pick ones that
4 don't show her body or her face. So they aren't really
5 duplicative that much of what we've put in from the autopsy.

6 THE COURT: Okay. Solicitor, you've handed me
7 seven photographs, and if I'm looking at them correctly,
8 they either one, show the blue fingernails or some of them
9 show feces on a foot, two on a foot, on the buttocks, two on
10 the buttocks, maybe three on the buttocks. Is that
11 Basically what these show?

12 MS. CAMPBELL: Yes, sir. And there were three
13 additional pictures I'd originally proposed that I've
14 already culled out because they were somewhat duplicative.

15 THE COURT: Okay. All right. Okay.

16 MS. CAMPBELL: And the ones on the foot, I think
17 show the front and then the back where it's on both places.

18 THE COURT: All right. Ms. Frick.

19 MR. FRICK: Judge, I would have the same objection
20 I did with the autopsy photos, essentially, to all the
21 pictures. I will, however, concede that the four that the
22 solicitor showed me, I think of the feet and arms, it
23 doesn't depict a whole lot else other than that. And I
24 understand what the Solicitor's trying to show on that. I
25 would also, in addition to my standard objection to the --

1 they're more prejudicial than probative overall, just
2 because of the nature of the case, that we do have the
3 autopsy photo, so I would suggest they would be cumulative.
4 But as I was saying, the four that the Solicitor had picked
5 out, I think with the feet.

6 MS. CAMPBELL: The two hands and the two feet.

7 MR. FRICK: The two hands, two feet.

8 THE COURT: Arm, hand, feet, two of the feet, and
9 then one, two, three -- three of the buttocks.

10 MR. FRICK: Right. Well, the ones of the buttocks
11 I would have a stronger objection to.

12 THE COURT: Right.

13 MR. FRICK: But the ones with the hands and the
14 feet, while I maintain my objection, I certainly understand
15 that it doesn't depict much more than that. So I certainly
16 understand the Court is likely to rule that they would come
17 in, but I maintain my objection.

18 THE COURT: Okay. All right.

19 Educate me, Solicitor, why we need to have
20 photographs of the nails turning blue. If she has already
21 deceased and these photographs were taken soon after she was
22 pronounced dead, what would be the reason for wanting to
23 show the blue fingernails?

24 MS. CAMPBELL: I think just in showing that, Your
25 Honor, is that she would have been deceased for a period of

1 time more than just the 30 minutes between -- between the
2 two. I mean, your limbs and arms, they go cold first before
3 your body does.

4 THE COURT: Sure. Yeah.

5 MS. CAMPBELL: But then they turn blue.

6 THE COURT: Yeah.

7 MS. CAMPBELL: But that would be an indicator to
8 the coroner's office that she had been deceased for a number
9 of hours.

10 THE COURT: Okay.

11 MS. CAMPBELL: Or she can just describe it.

12 THE COURT: Yeah, well, what I'm thinking of, and
13 I know that Mr. Frick has a stronger objection to the
14 buttocks shown with feces as opposed to these others, but
15 why couldn't we just have the coroner or whomever from the
16 coroner's office testify as far as what they saw and
17 observed as opposed to actually having a photograph of what
18 they could testify to?

19 MS. CAMPBELL: If that's your ruling, Judge,
20 that's what we'll do.

21 THE COURT: Yeah. I think that's probably -- and
22 we'll just certainly, let's have these marked as a Court's
23 Exhibit.

24 MS. CAMPBELL: I was going to say can I mark them?

25 THE COURT: Yes. And you can take these three

1 back because you had already pulled these, unless you just
2 want these all together as one Court's Exhibit.

3 MS. CAMPBELL: Whatever, I can take a three back.

4 THE COURT: All right. So we'll just have this
5 marked as a Courts Exhibit.

6 MR. FRICK: That's fine.

7 THE COURT: So none of these will be coming in,
8 but certainly, I mean, it's fair game to testify. Yes, she
9 had feces all over, location of the feces, the fingernails.

10 MS. CAMPBELL: And, Judge, I just don't -- in that
11 same vein, so the jury didn't kind of wonder, I'm not even
12 going to mention the fact that photographs were taken at the
13 hospital.

14 THE COURT: Yeah. I mean, you can even say, yeah,
15 we took some photographs, but the only potential problem
16 with that, then do you want the jury to -- well, where's the
17 photographs?

18 MS. CAMPBELL: We would prefer to say not even
19 mention the fact that photographs were taken there.

20 THE COURT: Yeah.

21 MR. FRICK: That's fine with me.

22 THE COURT: That's good. Thank you. Cynthia, you
23 want to take this? Is that three, Courts Exhibit 3?

24 COURT REPORTER: It is going to be Court's
25 Exhibit 5.

1 THE COURT: Five. Okay.

2 MS. CAMPBELL: Thank you, Judge.

3 THE COURT: Thank you.

4 MR. FRICK: I have an issue I need to address.

5 THE COURT: Okay.

6 MR. FRICK: Judge, I did not yesterday continue my
7 objection about the severance motion when Dr. Lamb
8 testified.

9 THE COURT: Right.

10 MR. FRICK: I did object to her testimony about
11 A.W. as bolstering, but on reflecting upon it, I did fail
12 to object to her testimony to continue my severance motion.

13 THE COURT: Sure.

14 MR. FRICK: I think the Court understands --

15 THE COURT: Exactly.

16 MR. FRICK: -- because we talked about it twice,
17 but I didn't contemporaneously make it yesterday. But I did
18 want the record to reflect that I did object to the
19 testimony. I do believe the Court, based on the ruling,
20 would have overruled my objection, but I did want to make
21 that part of the record.

22 THE COURT: I think you're protected. And I found
23 it interesting that even though I overruled your objection
24 as far as bolstering, I found it interesting that the
25 argument was one expert bolstering the testimony of another

1 expert, I found that to be interesting.

2 MR. FRICK: And I've never had to make that
3 objection before the other expert testified. But this is a
4 rather unusual --

5 THE COURT: It is. It is.

6 MR. FRICK: -- trial the way it's playing out.

7 THE COURT: I like the creativity. Okay.

8 Anything else before we bring jury out?

9 MS. CAMPBELL: No sir, Judge.

10 THE COURT: Okay. All right. Let's bring jury
11 out, please, Nolan.

12 THE BAILIFF: Yes, sir.

13 MS. MCGINNIS: And, Judge, the next witness that's
14 coming up is the custodian of records from Popeye's. She
15 was not specifically named on the witness list, so we'll
16 just need to have her name read to the jury as well.

17 THE COURT: Yeah, that's the name?

18 MS. MCGINNIS: Yes, sir.

19 THE COURT: Okay. I'll inquire of the jury to
20 make sure there's no...

21 THE BAILIFF: Jury's coming in.

22 (WHEREUPON, the jury entered the courtroom at 9:56
23 a.m.)

24 THE COURT: Let the record reflect the jury is
25 back in. And good morning, ladies and gentlemen.

ERIN PRESNELL REDIRECT BY MS. MCGINNIS

1 THE JURY: Good morning.

2 THE COURT: I understand that you were treated to
3 some donuts this morning.

4 THE JURY: Yes.

5 THE COURT: Were those good?

6 THE JURY: Yes, thank you.

7 THE COURT: All right. I think the Clerk's office
8 does a very good job of keeping the jury well fed, so I
9 appreciate that.

10 All right. Solicitor, are you ready for your next
11 witness?

12 MS. MCGINNIS: I am, Your Honor.

13 THE COURT: Okay.

14 MS. MCGINNIS: And this is the one.

15 THE COURT: Right.

16 MS. MCGINNIS: The State would call Angie Woody.

17 THE COURT: Okay.

18 THE CLERK: Put your left hand on the Bible, raise
19 your right, please. Do you swear to tell the truth, the
20 whole truth, and nothing but truth, so help you God?

21 THE WITNESS: I do.

22 ANGIE WOODY, having been duly sworn testified as
23 follows:

24 THE CLERK: You may be seated.

25 THE COURT: Ladies and gentlemen, this was another

ANGIE WOODY DIRECT BY MS. MCGINNIS

1 situation where Ms. Woody's name was inadvertently left off
2 the witness list, and I think we had this come up yesterday,
3 and so I just need to ask the question. Any member of the
4 trial jury related by blood or marriage, either now or
5 formally to Ms. Angie Woody?

6 Any member of the trial jury have or had in the
7 past a close personal or social relationship with Ms. Woody?

8 Okay. All answered in the negative.

9 Solicitor, you may proceed.

10 MS. CAMPBELL: Thank you, Judge.

11 DIRECT EXAMINATION

12 BY MS. MCGINNIS:

13 Q. Ms. Woody, can you state your name for the record?

14 A. Angie Woody.

15 Q. And where are you employed, Ms. Woody?

16 A. Leblon Franchising Holdings, doing business as
17 Popeye's.

18 Q. And in what department are you employed there?

19 A. I'm the human resource director.

20 Q. Okay. And did you or did Popeye's at one point
21 have an employee, David Demias White?

22 A. Yes.

23 Q. Did you receive a records request for some records
24 regarding Mr. White?

25 A. I did.

ANGIE WOODY DIRECT BY MS. MCGINNIS

1 MS. MCGINNIS: May I approach the witness?

2 THE COURT: Sure.

3 BY MS. MCGINNIS:

4 Q. I'm going to hand you what's been marked as
5 State's Exhibit 201. Can you review that for me?

6 A. Okay.

7 Q. And the back two pages of that, what are those
8 back two pages?

9 A. These are screen prints from our human resource
10 information system just showing his personal information,
11 such as Social Security number, date of birth, contact
12 information, emergency contacts.

13 Q. And what is the full legal name of the employee?

14 A. David Demias White.

15 Q. And what address is listed for him?

16 A. [REDACTED] Pardue Street, Lancaster, South Carolina
17 29720.

18 Q. Okay. And then the first two pages, what are the
19 first two pages of that?

20 A. These are a printout of the actual time punches
21 from the employee from the dates of February 1st, 2021,
22 through February 28th of 2021.

23 Q. Okay. And what's the last date in February that
24 this employee worked?

25 A. The last date I have is February 21st of 2021.

ANGIE WOODY CROSS BY MR. FRICK

1 Q. Okay. So based on the search criteria that you
2 just mentioned, there was no work activity from 2/21 through
3 2/28?

4 A. Correct.

5 Q. Thank you. No further questions. Answer anything
6 Mr. Frick has for you.

7 CROSS-EXAMINATION

8 BY MR. FRICK:

9 Q. Just briefly, Ms. Woody.

10 On that identification page where it's got his
11 name and address.

12 A. Yes, sir.

13 Q. It's got an emergency contact on there?

14 A. That's correct.

15 Q. Can you tell me who that emergency contact is?

16 A. It states Ruthie Hayden.

17 Q. Okay. And what's the address that she has there?

18 A. [REDACTED] Pardue Street, Lancaster, SC 29720.

19 Q. Okay. And your job is to maintain the records at
20 your corporate office, correct?

21 A. That's correct.

22 Q. Okay. You don't go out to the field to collect
23 the data, correct?

24 A. Sometimes I do, and sometimes I work from home.

25 Q. Okay. All right. But as far as the operation of

ANGIE WOODY CROSS BY MR. FRICK

1 the store itself, I mean, if an employee clocks out, you
2 don't know where to go after that?

3 A. Correct.

4 Q. You're just looking at the record?

5 A. Correct.

6 Q. Thank you, ma'am. That's all the questions that I
7 have.

8 THE COURT: Anything in redirect?

9 MS. MCGINNIS: Judge, the State would remove
10 State's 201 into evidence.

11 THE COURT: Okay. All right.

12 MR. FRICK: No objection, Your Honor.

13 THE COURT: What exhibit number, Solicitor?

14 MS. MCGINNIS: 201, Your Honor.

15 THE COURT: Okay. Mr. Frick, any objection?

16 MR. FRICK: No objection.

17 THE COURT: Without objection 201 into evidence
18 for the State.

19 (WHEREUPON, State's Exhibit Number 201 was
20 admitted into evidence.)

21 MS. MCGINNIS: Thank you, Judge. Can Ms. Woody,
22 be excused from her subpoena?

23 THE COURT: You're excused from the courtroom.
24 You're more than welcome to remain with us if you like.

25 THE WITNESS: Thank you.

SHONTESSA WYLIE DIRECT BY MS. CAMPBELL

1 THE COURT: All right. Next witness, Solicitor.

2 MS. CAMPBELL: Your Honor, the State would call
3 Shontessa Wylie.

4 THE CLERK: Put your left hand on the Bible, raise
5 your right, please. Do you swear to tell the truth, the
6 whole truth, and nothing but truth, so help you God?

7 THE WITNESS: I do.

8 SHONTESSA WYLIE, having been duly sworn, testified
9 as follows:

10 THE CLERK: You may be seated.

11 THE COURT: After you take a seat, if you'll state
12 your name for the record, please, ma'am.

13 THE WITNESS: Shontessa Wylie.

14 THE COURT: Your last name is White?

15 THE WITNESS: Wylie.

16 THE COURT: Wylie. Okay.

17 DIRECT EXAMINATION

18 BY MS. CAMPBELL:

19 Q. You can get as close to that microphone as you can
20 because it's just hard to hear in here for some reason.

21 Okay. And, Ms. Wylie, are you employed?

22 A. I am.

23 Q. And what kind of work do you do?

24 A. I work for a pharmaceutical company.

25 Q. And are you familiar with the foster care system

SHONTESSA WYLIE DIRECT BY MS. CAMPBELL

1 here in South Carolina?

2 A. I am.

3 Q. And are you actually a certified foster parent?

4 A. I am.

5 Q. And how long have you been a foster parent, ma'am?

6 A. Since 2001.

7 Q. And are you familiar with Child 1 and Child 2

8 [REDACTED]

9 A. I am.

10 Q. Does Child 2 have a nickname that he goes
11 by?

12 A. He goes by Child 2

13 Q. [REDACTED]

14 A. Uh-huh.

15 Q. And how did you first come in contact with Child 2
16 and Child 1

17 A. I was contacted by DSS for a placement, that was
18 March 9th, 2021, and they came into my home.

19 Q. And have these children been living with you as
20 your foster children since then?

21 A. Yes.

22 Q. And as part of your -- and I think the other day
23 you told me the difference between them since you've gotten
24 them to now is -- how would you describe it?

25 A. When they first came, very small. Child 2 very

SHONTESSA WYLIE DIRECT BY MS. CAMPBELL

1 timid, wouldn't talk. Layah, very small also. Now, they're
2 growing, they're thriving. Layah, very smart, doing well in
3 school. **Child 2** is talking very, very much. They're doing
4 very well.

5 Q. And as the -- and I want to talk about their
6 health first, then we'll talk about their developmental --

7 A. Uh-huh.

8 Q. -- issues. But when they first came to you, you
9 described them as small?

10 A. Very small.

11 Q. And since you've had them, did you follow the
12 recommendations from the pediatricians and everyone else --

13 A. Yes.

14 Q. -- as far as getting them certain medical care?

15 A. Uh-huh.

16 Q. And what kind of medical care did you seek for
17 them when they first came and over the past three-and-a-half
18 years?

19 A. So medical care, they went to the pediatrician.
20 There was no health issues or anything, they just needed to
21 be taken care of. I mean, there wasn't anything that they
22 talked about it that they needed as far as healthwise or
23 anything.

24 Q. Okay. And specifically as to David, since you've
25 had him, as far as his height and weight and everything, has

SHONTESSA WYLIE DIRECT BY MS. CAMPBELL

1 he gotten back on what's considered the growth scale he
2 should be on?

3 A. Yes. Yes, very much so.

4 Q. And **Child 1** has continued to thrive?

5 A. Yes. Uh-huh.

6 Q. And during that course of time have you had any
7 trouble with them having a failure to thrive or not being
8 able to keep weight on them or anything of that nature?

9 A. No.

10 Q. And, in fact, how would you describe **Child 2** now?

11 A. **Child 2** very chunky, very chunky, loves to talk. He
12 loves to play. There are no health issues or anything. He
13 eats whatever you put in front of him. He loves to, like,
14 monster trucks and Hot Wheels and he does everything a
15 little boy should be doing.

16 Q. Okay. But when you first got him, he wasn't like
17 that?

18 A. No.

19 Q. And as far as **Child 1** when you first got her, she
20 was in school, wasn't she?

21 A. She was.

22 Q. And at that point was she had what we call an IEP?

23 A. She did.

24 Q. And how has she done in school since you've gotten
25 her?

SHONTESSA WYLIE DIRECT BY MS. CAMPBELL

1 A. She's doing very well, very smart. They took her
2 off of the IEP because they didn't feel like she needed it.
3 She didn't accept the help because she wanted to do it on
4 her own and she's doing very good. She has all the grades,
5 all A's, one B. But we worked on that last year and she
6 brought it up to A, but she's doing really well.

7 Q. And as far as **Child 2** in school, how's he doing?

8 A. He's doing really well also. He stopped -- it was
9 a struggle at first, but now he's starting to pick up on
10 everything, so he's very smart too. He's thriving on his
11 own.

12 Q. Did he have to be put on an IEP at first?

13 A. He did.

14 Q. And is he still on that IEP?

15 A. He is, he is as of now.

16 Q. But what's his prognosis as far as having to stay
17 on that as well?

18 A. I don't see him being on there very long because
19 he's also following the footsteps of **Child 1**

20 Q. And just for the record, during the course of time
21 that you've had them over the last three-and-a-half years,
22 have you had any health issues, failure to thrive issues, or
23 anything of that sort?

24 A. No.

25 Q. I want to show you what's been marked as State's

SHONTESSA WYLIE DIRECT BY MS. CAMPBELL

1 Exhibit Number 200. Do you recognize this?

2 A. Yes.

3 Q. And what is this in this picture?

4 A. That's Child 1 and Child 2

5 Q. Are they school day pictures?

6 A. Uh-huh.

7 Q. Was that earlier this year?

8 A. Yes.

9 Q. Approximately how long ago?

10 A. That was like be maybe a month ago.

11 Q. Okay.

12 MS. CAMPBELL: Your Honor, at this time we'll
13 offer State's Exhibit 200 into evidence.

14 MR. FRICK: No objection, Your Honor.

15 THE COURT: Without objection 200 into evidence
16 for the State.

17 MS. CAMPBELL: Permission to publish?

18 THE COURT: Sure.

19 (WHEREUPON, State's Exhibit Number 200 was
20 admitted into evidence and published to the jury.)

21 BY MS. CAMPBELL:

22 Q. And this is how they pretty much look now?

23 A. Yes.

24 Q. After being in your care for three-and-a-half
25 years. And what grade is Child 1 in?

SHONTESSA WYLIE DIRECT BY MS. CAMPBELL

1 A. Fifth.

2 Q. And what grade is Child 2 in?

3 A. He's in third.

4 Q. And I noticed in this picture that Child 2 is, even
5 though he's only two or three years younger than Child 1
6 he's a good bit shorter?

7 A. Yes.

8 Q. But is he growing appropriately even though he's
9 short?

10 A. Yes. The doctor said that he's in his growth
11 range he's just shorter.

12 Q. Okay. Thank you, ma'am. I don't have any further
13 questions. Please answer any questions he's got.

14 THE COURT: Mr. Frick, any cross-examination?

15 MR. FRICK: No questions for this witness, no,
16 sir.

17 THE COURT: Okay. You can step down, ma'am.

18 THE WITNESS: Thank you.

19 THE COURT: You're free to leave the courtroom,
20 you're more than welcome to remain with us if you like.

21 MS. CAMPBELL: State would call Ashika Weekes.

22 THE CLERK: Put the left hand on the Bible and
23 raise your right, please. Do you swear to tell the truth,
24 the whole truth, and nothing but truth, so help you God?

25 THE WITNESS: I do.

ASHIKA WEEKES DIRECT BY MS. CAMPBELL

1 ASHIKA WEEKES, having been duly sworn, testified
2 as follows:

3 THE CLERK: You may be seated.

4 THE COURT: When you take your seat, please state
5 your name for the record.

6 MS. CAMPBELL: Ashika Weekes.

7 THE COURT: Okay.

8 DIRECT EXAMINATION

9 BY MS. CAMPBELL:

10 Q. And Ms. Weekes, do you work?

11 A. Yes.

12 Q. And what kind of work do you do?

13 A. I work for an insurance company.

14 Q. And are you familiar with the foster care system
15 here in South Carolina?

16 A. Yes.

17 Q. And how long have you been participating in that
18 system?

19 A. On and off since 2016.

20 Q. Did you have an occasion to come in contact with
21 two of the White children in this case --

22 A. Yes.

23 Q. -- Child 3 and Child 4

24 A. Yep.

25 Q. And when did you actually -- and when were they

ASHIKA WEEKES DIRECT BY MS. CAMPBELL

1 actually placed in your home?

2 A. On July 1st.

3 Q. Of this year?

4 A. Yes.

5 Q. And during the time that they have been in your
6 home, can you kind of describe to the jury, how they're
7 doing?

8 A. They are great, curious kids. They eat everything
9 inclusive of all the fruits you can imagine and vegetables,
10 we actually have our own tomato plant, so we grow our
11 tomatoes and eat that. They're doing really well in school
12 now. I just got a recent report from the second grade
13 teacher that, you know, in the beginning, **Child 3** was having
14 some issues with language and now she's doing really good.
15 They notice she has no unkind words, no curse words, so
16 doing really well.

17 Q. Okay. And during the time when you've had them,
18 medically, have you taken them actually to the pediatrician?

19 A. Yes, we went Monday.

20 Q. And so how are they doing as far as growth,
21 weight, and all those things?

22 A. Really good. No issues there. The only issue is,
23 like, **Child 3** has eczema, that's pretty much it. But no
24 issues with, like, growth or weight.

25 Q. She has eczema?

ASHIKA WEEKES DIRECT BY MS. CAMPBELL

1 A. Yeah.

2 Q. Okay. But no issues as to growth and weight?

3 A. No.

4 Q. So she's on the chart where she should be?

5 A. Yes.

6 Q. And is the same true for **Child 4**

7 A. Yes, no concerns there.

8 Q. As far as developmentally, has **Child 3** been
9 diagnosed in any way?

10 A. Yeah, she has autism.

11 Q. And as far as her interaction with people, even
12 having autism, how does she interact?

13 A. She's pretty good. She's timid in the beginning,
14 hiding behind her Squishmallow at first, but timid in the
15 beginning, but warms up eventually.

16 Q. So she has a Squishmallow on one of those big
17 puffy things?

18 A. Yeah.

19 Q. But she warms up quickly?

20 A. Warms up very quickly.

21 Q. And despite having autism, is she doing well in
22 school?

23 A. Yes, no issues. Her teacher is aware, we
24 communicate regularly to make sure nothing's going on, but
25 she she's listening and concentrating.

ASHIKA WEEKES DIRECT BY MS. CAMPBELL

1 Q. And does she happen to be -- does she have an IEP
2 herself?

3 A. She does not.

4 Q. So she doesn't even need an IEP despite her
5 autism?

6 A. No.

7 Q. And **Child 4** can you describe her for the jury?

8 A. I would say she is five going on 30 and insanely
9 smart, you know, very curious, good at making up fun stories
10 and fun games, really active. I think she might be a singer
11 in the future because she sings all the songs.

12 Q. And as far as doing well in school?

13 A. Doing really well in school, following directions,
14 I think she actually got, like, a little classroom reward
15 for being a really good listener. So she got to be, like,
16 teacher's aide for a couple of days. So she's really proud
17 of herself.

18 Q. And what grade are those two in?

19 A. Kindergarten and second grade.

20 Q. And during the time period that you've had them
21 and leading up to that, you've obviously just taken the
22 pediatrician, but medically they are doing well?

23 A. They're doing well.

24 Q. And then developmentally, they are doing well?

25 A. They're doing well, no concern.

ASHIKA WEEKES DIRECT BY MS. CAMPBELL

1 Q. And Child 3 despite her autism, is flourishing?

2 A. Yes.

3 Q. Do you and Ms. Wylie and all those -- and the
4 other foster parents do you all make attempts to try to get
5 them to still see each other?

6 A. Yeah, we actually did a trampoline kind of park
7 thing recently, the indoor thing where they got to run
8 around and hang out with each other, they had a blast.

9 Q. So the siblings are still able to interact?

10 A. Yes.

11 Q. I want to show you State's Exhibit Number 199 and
12 ask you if you recognize this.

13 MS. CAMPBELL: Did you want to see this?

14 MR. FRICK: No, I've seen it.

15 BY MS. CAMPBELL:

16 Q. Okay.

17 A. Yeah, that's them in my house with her
18 Squishmallow.

19 Q. And approximately how long was this picture taken?

20 A. Oh, a couple weeks.

21 Q. A couple weeks?

22 A. Yeah.

23 Q. So this fairly and accurately shows how the
24 children are flourishing now.

25 A. Yes.

ASHIKA WEEKES CROSS BY MR. FRICK

1 MS. CAMPBELL: Your Honor, at this time, we'd
2 offer State's Exhibit Number 199 into evidence.

3 MR. FRICK: No, objection, Your Honor.

4 THE COURT: Without objection, 199 for the State
5 into evidence and you may publish.

6 MS. CAMPBELL: Thank you.

7 (WHEREUPON, State's Exhibit Number 199 was
8 admitted into evidence and published to the jury.)

9 BY MS. CAMPBELL:

10 Q. And the person -- the Squishmallow you were
11 talking about, is that Child 3

12 A. That's Child 3

13 Q. And the other little girl is Child 4

14 A.

15 Q. Thank you, ma'am. I don't have any further
16 questions. Please answer any questions defense may have.

17 MR. FRICK: Just very briefly.

18 THE COURT: Okay. Certainly.

19 CROSS-EXAMINATION

20 BY MR. FRICK:

21 Q. Ms. Weekes, when did you get for children?

22 A. July 1st of this year.

23 Q. Of this year?

24 A. Yes.

25 Q. Okay. And they were in pretty good condition when

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 you got them?

2 A. Yes.

3 Q. Okay. So it didn't take a whole lot of -- you
4 didn't have to do a whole lot of stuff, you just had to do
5 the normal things?

6 A. Yeah.

7 Q. Okay. Thank you, ma'am. That's all the questions
8 I have.

9 THE COURT: You can step down, ma'am.

10 THE WITNESS: Thank you.

11 THE COURT: You're free to leave the courtroom, or
12 you're more than welcome to remain with us.

13 Next witness.

14 MS. CAMPBELL: The State would call Jennifer
15 Collins.

16 THE CLERK: Left hand on the Bible, raise your
17 right. Do you swear to tell the truth, the whole truth, and
18 nothing but the truth, so help you God?

19 THE WITNESS: I do.

20 JENNIFER COLLINS, having been duly sworn,
21 testified as follows:

22 THE CLERK: Please be seated.

23 MS. CAMPBELL: May it please the Court?

24 DIRECT EXAMINATION

25 BY MS. CAMPBELL:

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 Q. Ms. Collins, where are you employed?

2 A. At the coroner's office.

3 Q. And what do you do at the coroner's office?

4 A. I'm the chief deputy coroner.

5 Q. Can you tell this jury a little bit about your
6 duties as the chief deputy coroner for the County of
7 Lancaster?

8 A. We are death investigators. We investigate all
9 deaths in Lancaster County that are not hospice deaths.
10 Anything that happens suspiciously, auto accidents,
11 suicides, homicides, whatnot, anyone who's been in the
12 hospital less than 24 hours, we investigate all those
13 deaths.

14 Q. Can you tell the jury a little bit about your
15 training and your education to become the deputy coroner for
16 this county?

17 A. Yes. We spend lots and lots of hours doing
18 continuing education, lots of hands-on training. There are
19 six full time deputy coroners in our office. All of us are
20 nationally certified with the American Board of Medicolegal
21 Death Investigators, with the exception of one who is now
22 working on his certification as well. That is a rigorous
23 exam similar to the CPA that accountants have to sit for.
24 So it's not an easy task for to be able to be certified. We
25 have lots of things we have to test and do and have

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 knowledge of.

2 Q. And as part of that certification process and
3 training process, do you learn how to do certain things such
4 as investigate, collect body fluids from bodies, proper
5 maintenance of those body fluids, things of that nature?

6 A. Yes.

7 Q. I want to turn your attention back to February the
8 22nd of 2021. Were you on duty that night?

9 A. I was.

10 Q. And did you have -- did you get called out that
11 night as far as a suspicious death?

12 A. Yes.

13 Q. And where did you respond to, ma'am?

14 A. To the hospital.

15 Q. And when you got to the hospital, what did you
16 find?

17 A. Our first -- when we first get to the hospital we
18 of course go to the nurses station to collect information to
19 see what we have and then we go into the room. I went into
20 the room with city police officers where we perform an
21 external examination. We have to rule out there's no signs
22 of trauma or any kind of foul play to our decedents.

23 So what I noticed when I got into our room was a
24 very small, fragile female child lying in the hospital bed.
25 It was very obvious to us that she had signs of dehydration,

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 maybe malnourishment. Her ribs were very visible. She
2 looked very sickly. We noticed that there were feces along
3 her lower limbs, her feet, all around her bottom area. If I
4 have to describe her, she looked like a holocaust victim.

5 Q. And specifically you said that there were feces on
6 the lower half of her body?

7 A. Yes.

8 Q. And that was around her anal and vaginal area?

9 A. And it was also on her feet.

10 Q. On her feet. In addition to that, you mentioned
11 the general appearance was that of a holocaust victim?

12 A. Yes.

13 Q. Did you notice anything about her hands that stood
14 out to you?

15 A. Yes. Her fingernails were blue, which indicates
16 to us that she had been deceased longer than just a few
17 minutes. It was more along the lines of hours. There are
18 certain things that happen when someone dies, the body
19 starts decomposing very quickly. And that is one of our
20 signs, one of our indicators of how long someone has been
21 down.

22 Q. So she had not had any signs of life for a period
23 of time based on your observations?

24 A. A long period of time, yes.

25 Q. Once you made your observations of her, you didn't

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 try to draw any fluids or do anything there at the hospital,
2 did you?

3 A. No.

4 Q. Did you try to make contact with anyone in order
5 to continue your investigation?

6 A. We were then -- after we did our external
7 examination of the decedent, we were then taken down to the
8 family conference room where we met with the mother and
9 father.

10 Q. Let me back up, I forgot one thing.

11 Did you notice anything about her face that was --
12 stood out to you?

13 A. She did have a small bruise on her forehead. The
14 bruise appeared to be healing, so it wasn't such a big
15 concern, but it was there.

16 Q. Okay. And so you're looking, I mean, basically
17 while you're there, as far as -- you're looking at her, as
18 far as any injuries?

19 A. Top to bottom, yes.

20 Q. And what stood out to you was her physical
21 condition, not any injuries, but the physical condition --

22 A. Correct.

23 Q. -- that you described.

24 A. There were no signs of trauma or foul play that we
25 could see on our external examination.

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 Q. And I think that you wanted to go see -- make
2 contact with her caretakers?

3 A. Yes.

4 Q. And were you able to determine who the parents
5 were of this child?

6 A. Yes.

7 Q. And who were the parents?

8 A. Shaquanda Page and David White.

9 Q. And were you able to locate them there in the
10 hospital that day?

11 A. Yes, they were in the family conference room.

12 Q. In the family conference room?

13 A. Awaiting our arrival.

14 Q. So that's where they had been during the
15 resuscitative efforts made by the doctors?

16 A. Yes, as far as I know.

17 Q. And when you went in and made contact -- let me
18 ask you this: At that point was law enforcement already
19 there?

20 A. Yes.

21 Q. Was DSS there?

22 A. Not at my initial -- when I initially arrived, a
23 lot of the entities that are involved with child deaths
24 arrived periodically, they were all coming in as we were
25 doing our investigation.

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 Q. So they showed up a little later?

2 A. Yes.

3 Q. And ultimately, I believe an agent from SLED, as
4 mandated by law --

5 A. That's correct.

6 Q. -- showed up as well?

7 During that time did you think it was important to
8 sit down and talk to the parents of this child?

9 A. Absolutely.

10 Q. And what kind of information are you trying to get
11 as part of -- and let me ask you this first: Is your
12 investigation independent of law enforcements?

13 A. We all work together as a team. There is a child
14 fatality team. My job is to determine the cause and manner
15 of death of the child, to get answers for the family. Law
16 enforcement's job is to determine if anything happened,
17 foul-play wise, anything unusual. My job is the family,
18 their job is the scene, the situation, but we do work as a
19 team.

20 Q. And that night were you able to interview the
21 parents?

22 A. We were.

23 Q. And specifically did you interview David White?

24 A. Yes.

25 Q. And where did that take place, ma'am?

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 A. In the hospital conference room.

2 Q. And are you one of the people that actually was
3 taking -- was asking a lot of the questions?

4 A. Yes, I was.

5 Q. And, in fact, you were kind of leading the
6 interview that night?

7 A. Between me and SLED, yes.

8 Q. What type of information are you trying to get as
9 far as your investigation into what caused the death of this
10 child?

11 A. We have to ask if there was any sickness, anything
12 going on with the child, unusual. We always ask the parents
13 to tell us the events of the day. What led you up to
14 calling 911? How did you find your decedent? Just
15 anything, medical history, anything abnormal, any injuries,
16 anything they could tell us, they can help us figure out
17 what may have happened.

18 Q. That night did, once you had interviewed him, and
19 I'll get back to that in a minute, did -- once -- was that
20 interview recorded in any way?

21 A. It was.

22 Q. Okay. Once you had interviewed both the parents
23 that night did you then make do any further procedures
24 concerning A.W. [REDACTED] and transporting her?

25 A. We did.

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 Q. And where was she transported to?

2 A. We removed her from the hospital and she was
3 transported to our morgue.

4 Q. And is that per protocol?

5 A. Yes.

6 Q. And once she was at the morgue did you collect any
7 type of possible evidence in this case or do anything to
8 memorialize that?

9 A. Yes.

10 Q. What did you do?

11 A. So all our types of cases have to involve
12 autopsies and toxicology testing. We draw all of our
13 samples in our office, such as ocular fluid, we do urine, we
14 do femoral blood, if we're able to get blood. That
15 documentation or that evidence is then labeled with the
16 decedent's name, date of birth, date of death, who collected
17 it, the date and time it was collected, what the specimen
18 was that was collected, and who, I think I said who
19 collected it. Those labels are attached to those vials.
20 Those vials and things secured in a specific container and
21 put into our refrigeration until it's time for those to be
22 shipped out to our lab for testing.

23 Q. What lab were you using at the time?

24 A. NMS.

25 Q. And is that laboratory located here in South

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 Carolina?

2 A. No, ma'am. It's in Pennsylvania.

3 Q. And is there a protocol you follow to make, to
4 ensure the integrity of the actual evidence that you're
5 shipping out so you can get accurate results?

6 A. Yes.

7 Q. And was that followed in this case?

8 A. It was.

9 Q. And specifically can you tell the jury basically
10 how the samples were drawn and what steps you took to make
11 sure that they were packaged correctly, stored correctly, so
12 that they could be shipped correctly so they could actually
13 get the results?

14 A. We have a standard protocol of how we draw our
15 tox. We have certain tubes that certain things go in, such
16 as our vitreous fluid from your eyes go into a gray top tube
17 that has an additive in it to keep it from coagulating. Our
18 red top tube is what our blood goes in. There is no
19 additive in our blood. We want it to be as whole as we can
20 get it. We have urine containers where we can collect our
21 urine. All of those, like I said, are sealed. After it's
22 all -- well, the tube containers, the needle goes straight
23 into the tube, so we don't open the tubes, mess with the
24 tubes whatsoever. The urine is put into a bottle and then
25 sealed. I have a -- each needle has its own syringe that

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 goes with it, they're not reused, they're only used one time
2 for whatever it is that we are trying to collect, then they
3 are discarded. These tubes are all packaged in, like I
4 said, a prepackaged box that specifically goes to the lab,
5 put into a sleeve, put into the box with the correct forms.
6 That box is sealed with a label. It's never tampered with
7 again. In my hands, it goes into the refrigeration. When
8 it's ready to be shipped out, those boxes are collected, put
9 into a FedEx envelope. FedEx is called for the pickup and
10 they are sent out by FedEx to the lab. They usually go out
11 on Wednesdays to arrive in the lab on Thursday mornings.

12 Q. And what samples did y'all actually collect from
13 Amina's body that night?

14 A. Because of the shape that she was in, we were only
15 able to collect vitreous fluid and urine. We were not able
16 to collect any blood.

17 Q. Why weren't you able to collect the blood?

18 A. She was very dehydrated and it was very hard to
19 get any fluid from her, blood was not flowing.

20 Q. So you were able to get vitreous fluid, and what
21 is vitreous fluid?

22 A. That is eye fluid that tells us historically what
23 someone has done in the present.

24 Q. And that was actually collected and packaged
25 correctly and stored until it was shipped out?

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 A. Correct. It all goes out together.

2 Q. And during the time period that these items
3 remained in your care to the point where you packaged them,
4 sealed them, and sent them out, did anyone alter them or
5 tamper with them in any way?

6 A. No. They stay in our morgue cooler, which is
7 under lock and key with cameras.

8 Q. You also indicated that you collected some urine?

9 A. Yes.

10 Q. And how are these items collected?

11 A. With syringes. It's kind of graphic, so bear with
12 me, we have to actually insert needles into the eyes to draw
13 the ocular fluid. We have to insert a needle into the
14 bladder to get the urine. If we were to collect blood, it
15 comes out of the femoral vein, it is in the groin area.

16 Q. But again, you weren't able to get blood, but you
17 did get the urine?

18 A. Correct.

19 Q. As well as the vitreous fluid?

20 A. Yes.

21 Q. And all those during the time period they were in
22 your care, in your morgue, no one altered them, tampered
23 with them in any way?

24 A. No.

25 Q. And do these things have to be refrigerated to

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 ship out?

2 A. They do not.

3 Q. And why is that, ma'am?

4 A. They don't have -- the additives that are
5 necessary are in those tubes. The ones that are not
6 necessary, they can be room temperature, they can be
7 refrigerated, it doesn't really matter. We refrigerate them
8 just because it may be a little time before they are shipped
9 out, but once they arrive in the lab, they're good.

10 Q. And what's the name of the lab that we're being
11 shipped to? I'm sorry?

12 A. NMS.

13 Q. NMS?

14 A. Yes. I also need to say that we did a COVID test
15 on her, I left that out.

16 Q. And what was the result?

17 A. The COVID test results for her were negative.
18 During the time of her death, COVID was going around a lot,
19 heavy, heavily. We were doing tests on every decedent that
20 we had. And specifically, if we were told there may have
21 been some stuffiness, cold symptoms, that kind of thing, we
22 were seeing lots and lots of positive tests. Her test was
23 negative.

24 Q. Okay. And that's the -- how did you collect that?

25 A. That is done by a swab in her nose, just like

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 living people do with COVID tests.

2 Q. And even though she was deceased, as you did with
3 all the other people, it's still an accurate test?

4 A. It's still an accurate test, yes. Those samples
5 are then also packaged in the proper little tube that it
6 goes in. It is packaged up and sealed as well, and it is
7 taken to DHEC in Colombia. At that time, we were taking
8 them the very next day. Her samples were drawn early in the
9 morning. So later in that same morning her test was
10 delivered to Columbia.

11 Q. And later you got the results back from DHEC,
12 which was the agency used for that testing?

13 A. Correct. And they were negative.

14 Q. Had you had other people you tested after death
15 that had been positive?

16 A. Absolutely. Lots of them.

17 Q. So in this case, or in all cases back then you
18 were trying to eliminate COVID as being a possible --

19 A. Correct.

20 Q. Let me show you what's been marked as State's
21 Exhibit 202. Do you recognize this?

22 A. I do.

23 Q. And what is that, ma'am?

24 A. This would be her COVID test result that shows not
25 detected.

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 Q. Not detected.

2 MS. CAMPBELL: Your Honor, at this time we'd offer
3 it into evidence.

4 MR. FRICK: No objection, Your Honor.

5 THE COURT: All right. No objection 202 into
6 evidence for the State.

7 (WHEREUPON, State's Exhibit Number 202 was
8 admitted into evidence.)

9 BY MS. CAMPBELL:

10 Q. So ultimately, and your investigation as part of
11 the coroner's office, it's not just a one day thing, is it?

12 A. No, it's very ongoing.

13 Q. Once you had collected, done the COVID test,
14 collected the samples that you could, was the body then or
15 was autopsy then requested?

16 A. Correct. Yes, ma'am.

17 Q. And can that be done locally?

18 A. We use a forensic pathologist that is located in
19 Charleston. So she would have been transported to
20 Charleston. We have our own transport team. So they stay
21 with her and they would bring her back after the autopsy is
22 completed and would have transported her to the funeral home
23 that the family had chosen.

24 Q. And when was her autopsy scheduled and when was
25 she transported?

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 A. Her autopsy was scheduled for the very next day.

2 Q. So let me get this straight. You're notified on
3 the evening, sometime after 10:00, I assume --

4 A. Correct. We were notified --

5 Q. -- of the 22nd?

6 A. -- at 2239 which is --

7 Q. And then during the early morning hours of the
8 23rd is when you're collecting samples and everything?

9 A. That's correct.

10 Q. And then her autopsy was the next morning?

11 A. It would have been the next morning, that's
12 correct.

13 Q. On the 24th?

14 A. It was too late in the day to have the autopsy the
15 very same day, the morning we were collecting everything.
16 So it was the very next day.

17 Q. And does it affect any kind of findings or
18 anything for there to be -- because there's always going to
19 be some delay?

20 A. Yes.

21 Q. Does it affect the findings to have it a day or in
22 some cases it even goes up to a week later that the autopsy
23 is done?

24 MR. FRICK: Your Honor, I don't think she
25 testified in this area, that's the pathologist's purview.

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 THE COURT: I mean, if that's part of her
2 training, I mean, maybe lay a little foundation --

3 MS. CAMPBELL: I'll lay a foundation.

4 THE COURT: -- Solicitor, and then we'll see and
5 you can renew your objection, Mr. Frick --

6 MR. FRICK: Very good.

7 THE COURT: -- after that foundation is laid.

8 BY MS. CAMPBELL:

9 Q. As part of your training, do you talk about in the
10 investigation, do you go through the proper ways to request
11 autopsies, to care for the body until the autopsy gets
12 there, and to ensure that you get good results from the
13 autopsy?

14 A. Yes.

15 Q. And can an autopsy always be done, per your
16 training, the next day or the next hour after death?

17 A. No.

18 Q. And in fact, if a day or two days or three days or
19 four days, as long as the body is kept in a certain way, the
20 results are still accurate?

21 A. Correct.

22 Q. And was that done in this case?

23 A. Yes.

24 Q. How is her body stored prior to for the -- some
25 24-hours her bodies prior to transport?

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 A. All of our bodies are placed in a body bag that is
2 a heavy duty plastic to prevent any moisture or anything to
3 attach to it. They are placed in a cooler, a walk-in cooler
4 that we have, and kept in the refrigeration to slow down the
5 decomposition, to preserve the body as much as we can
6 preserve it so that it is as it was when it gets to autopsy.

7 Q. And I guess in certain cases, ma'am, you actually
8 have bodies that, I mean, unfortunately may not have been
9 discovered for days on end?

10 A. Correct.

11 Q. Can autopsies still be done on bodies after
12 they're exposed to the elements, say, for days if not found?

13 A. Absolutely.

14 Q. But in this case she was transported immediately
15 to your morgue and then ultimately to Charleston?

16 A. Yes, that's correct.

17 Q. And you also mentioned that someone stayed with
18 the body the entire time?

19 A. Yes.

20 Q. To ensure that it got there and got back?

21 A. Yes.

22 Q. And ultimately, once the autopsy is done, is the
23 family allowed to make arrangements to do whatever type of
24 burial may be appropriate for them?

25 A. Yes.

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 Q. And that was allowed in this case?

2 A. Yes.

3 Q. And at this point in your investigation, do you
4 know if there's any foul play or any kind of abuse or
5 neglect involved?

6 A. We do not.

7 Q. But your investigation continues?

8 A. Yes.

9 Q. The autopsy that was done, who did that in this
10 case?

11 A. The autopsy was performed by Dr. Erin Presnell
12 from MUSC in Charleston.

13 Q. And that was the one done on the 24th, correct?

14 A. That is correct.

15 Q. And once she has done her autopsy, are you
16 familiar with toxicology findings that need to be sent off,
17 like to NMS as you've mentioned earlier?

18 A. Yes.

19 Q. And did she send off some additional body fluids
20 in addition to the vitreous fluid and urine that you had
21 done?

22 A. Yes. Once she performed her autopsy, she was able
23 to collect blood that she also sent out to the lab to go
24 along with the samples that we had collected and sent in.

25 Q. And once those samples go out, do you get results,

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 does it take time?

2 A. It takes a lot of time.

3 Q. And in fact, in this case, it was about a
4 two-and-a-half or two-month lapse, I believe?

5 A. Yes. Yes.

6 Q. And when I say lapse, it's just a time period that
7 goes by before you were able to get all the results?

8 A. That's correct.

9 Q. And in fact, the autopsy results take time as
10 well, correct?

11 A. Yes. The pathologists do a lot of research
12 looking into slides of the organs. They take their
13 photographs and look at their go back and look after the
14 body's left. They wait on the toxicology results. They do
15 their head to toe autopsy, which is very evasive, invasive.
16 And those things take time for them, too, they can't always
17 make a determination right on the spot for us.

18 Q. And in this case I don't believe that there was a
19 final autopsy, it was a couple months later that that was
20 actually issued?

21 A. That's correct. She gave us a pending.

22 Q. And that was after the toxicology had been done?

23 A. Yes.

24 Q. And in this case, was there more than one
25 toxicology -- you can't talk about what they were, but was

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 there more than one toxicology test performed?

2 A. Yes.

3 Q. And those were ultimately reviewed by Dr. Demi
4 Garvin?

5 A. Correct. She is our forensic toxicologist.

6 Q. Once the autopsy had been done and the samples
7 have been sent off over the next months, you get the results
8 back?

9 A. Yes.

10 Q. And then once y'all get everything back -- let me
11 back up. During the course of this whole time period did
12 you attend what's called a Child Fatality Review?

13 A. Yes. We are mandated by the state to hold what is
14 called a Child Fatality Review. The coroner's office
15 actually is the one who initiates it. And in that meeting,
16 we get everyone who had a part in the investigation,
17 starting with EMS down to me, everyone in the room, if we
18 were able to have them in person. Everyone talks about
19 their findings, their investigation, and we try to put the
20 puzzle pieces together and gather other information from
21 other entities that we may not have known. On the front
22 side, such as SLED could tell me some things that I didn't
23 know, and I was able to share things with them, maybe that
24 they didn't know to help us all with our case.

25 Q. And things, records and other things were also

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 collected in this case?

2 A. That is correct.

3 Q. And ultimately, once all that is done, you don't
4 actually make any determination whether or not anybody
5 should be charged with a crime?

6 A. I do not.

7 Q. That is not your role?

8 A. Not my role at all.

9 Q. But once all that information had come do you
10 determine a cause of death?

11 A. I do not determine the cause of death, it comes
12 from the pathologist. In these situations, because it's a
13 child death, I am responsible for relaying the information
14 to the law enforcement entities and folks who need to know
15 and also to the parents.

16 Q. During the course of this couple months, in
17 between the arrest in this case and the death, are you in
18 contact with the family?

19 A. No, not continuously. We keep them updated as
20 much as we can on the progress of our autopsy and tox,
21 because it does take a while. Some families will call us to
22 check to see if we've heard results. Some families don't do
23 anything, they just wait to hear from us. After I'm able to
24 give them the results, usually I don't have any contact with
25 them afterwards.

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 Q. Okay. But in this case, you did keep the family
2 as informed as they chose to be?

3 A. Yes.

4 Q. As far as the autopsy results and the toxicology
5 results?

6 A. Yes.

7 MS. CAMPBELL: I want to go back -- Your Honor, at
8 this time, we would ask to publish the video we tried to
9 publish earlier.

10 THE COURT: Okay.

11 MS. CAMPBELL: She was actually a participant, and
12 we do have transcripts, if we could hand those out?

13 THE COURT: Okay. All right.

14 The video from yesterday, we had some audio
15 issues, I think we've got it better than it was. And also a
16 transcript had been generated prior to the start of this
17 trial of that. And you have copies for all the jurors?

18 MS. CAMPBELL: And for you, Judge.

19 THE COURT: All right. Do you need a minute to
20 get things together for this?

21 MS. CAMPBELL: I'm not in charge of that.

22 THE COURT: Mr. Frick, do you have a copy?

23 MR. FRICK: Yes, I do.

24 MS. CAMPBELL: Is it okay if I hand them?

25 THE COURT: Solicitor, hold on for one -- can I

JENNIFER COLLINS DIRECT BY MS. CAMPBELL

1 get the transcript? Thank you.

2 MS. CAMPBELL: Let's back it up.

3 THE COURT: Now, we'll collect those when we
4 finish with this.

5 THE WITNESS: Solicitor, do you have a copy for
6 me?

7 MS. CAMPBELL: Yes, ma'am.

8 THE COURT: You got one for me?

9 MS. CAMPBELL: Yes, sir. Thank you, Judge. I
10 appreciate it.

11 THE COURT: All right. Solicitor, do you just
12 want to start from the beginning?

13 MS. CAMPBELL: Yes, sir.

14 (WHEREUPON, the audio/video exhibit was played and
15 published to the jury.)

16 BY MS. CAMPBELL:

17 Q. Ms. Collins, at the end of that when you see
18 somebody walk in the door that has on kind of a light, white
19 sweater, is that Shaquanda Page that actually walks in
20 there?

21 A. It is.

22 Q. In that interview at the end, he mentions that he
23 wants to go and kiss his child one more time?

24 A. Yes.

25 Q. Did you give him the opportunity, he and Shaquanda

JENNIFER COLLINS CROSS BY MR. FRICK

1 Page an opportunity to go sit with or hold their child after
2 this occurred?

3 A. They're not able to hold, they are able to see,
4 because I want to preserve her as she is for the autopsy
5 purposes. We do allow families to go in if they choose to,
6 to see their loved one.

7 Q. And in this case --

8 A. In the end they declined.

9 Q. -- did you give them the opportunity?

10 A. They were given the opportunity, yes.

11 Q. And did either Shaquanda Page or David White want
12 to go say goodbye to their child?

13 A. In the end, they declined.

14 Q. Thank you.

15 THE COURT: Mr. Frick, any cross-examination?

16 MR. FRICK: Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. FRICK:

19 Q. Just going back on the fingernails, Ms. Collins,
20 you said when you looked at the fingernails, they're blue.
21 That's -- in your training, that's indicative of her being
22 deceased for a while?

23 A. Yes.

24 Q. Hours, I think is what you said?

25 A. Yes.

JENNIFER COLLINS CROSS BY MR. FRICK

1 Q. Okay. And you do, or your office does, a report,
2 kind of like an incident report; is that correct?

3 A. It's called a coroner's report, yes, sir.

4 Q. Okay. Do you have yours up there with you?

5 A. I do.

6 Q. And one of them, just make sure we're looking at
7 the same thing, yes, ma'am.

8 A. Just a moment, please?

9 Q. Sure.

10 A. Okay.

11 Q. Okay. And you put a whole lot of details in when
12 the call came in, incident, kind of talk about even the
13 temperature of the -- of the apartment, correct?

14 A. My scene was the hospital. I did not go to the
15 apartment.

16 Q. Okay.

17 A. So that would have been the temperature inside the
18 hospital room.

19 Q. Okay. Hospital room?

20 A. Yes, sir.

21 Q. All right. It was 74 in the hospital in February.

22 All right. I'm looking mainly at the second page
23 here, you put a seen date and time, that's referring to the
24 last seen by?

25 A. You're looking at this small page?

JENNIFER COLLINS CROSS BY MR. FRICK

1 Q. Yes, ma'am.

2 A. Okay.

3 Q. You see the part I'm talking about, "last seen
4 by"?

5 A. That would be when the family reported to us that
6 they last saw her alive.

7 Q. Right. And they said it was family that saw her
8 alive. And can you tell us that date?

9 A. And time says February 22nd, 2021 at 1530.

10 Q. And 1530 is 3:30 p.m?

11 A. That's correct.

12 Q. Okay, and then a couple lines down. There's a
13 question: Is any violence suspected, you say No?

14 A. Yes. We said no.

15 Q. And visible wounds, and I know there was a bruise
16 on the forehead, but no other wounds?

17 A. Nothing that was traumatic enough to list a
18 visible wound.

19 Q. Okay. And then the last one there, y'all -- it
20 was said that she was appropriately dressed?

21 A. That question we usually don't answer. In this
22 situation, she was nude, which was expected because the
23 hospital staff had been working her.

24 Q. Right.

25 A. So that, yes, no, whatever's there, it really

JENNIFER COLLINS CROSS BY MR. FRICK

1 doesn't matter.

2 Q. Okay. All right. Let's talk a little bit about
3 the Child Fatality Review Committee. You're on there, law
4 enforcement's on there, in this case SLED was there, I guess
5 SLED is probably usually there in a child fatality.

6 A. Yes.

7 Q. Okay. Is DSS involved?

8 A. Yes.

9 Q. In this case, was there a physician, a
10 pediatrician?

11 A. Yes, we had Dr. Lamb.

12 Q. Okay.

13 A. DSS always has her on board.

14 Q. Okay.

15 A. I'm sorry, SLED has her own board.

16 Q. Okay. And any other people on that committee?

17 A. We invite everyone from the beginning to the end,
18 down to EMS, down to me.

19 Q. Right.

20 A. They don't always attend.

21 Q. Okay.

22 A. I see in this particular instance, we did have
23 someone from the hospital that was a representative.

24 Q. Okay. And in this particular case do you know how
25 often you met?

JENNIFER COLLINS CROSS BY MR. FRICK

1 A. We met twice in this case because the first Child
2 Fatality Review that we held we did not have anything but a
3 pending death certificate -- well, a pending preliminary
4 result on the autopsy. We met a second time when we finally
5 had everything together to share that information with the
6 same team.

7 Q. Okay. And that is before the charging
8 determination. And I'm not saying you made the charging
9 determination, but that was before charging determination
10 was made?

11 A. As far as I know.

12 Q. Okay.

13 A. I don't have any part of that.

14 Q. Okay. And I think we could tell from the video
15 everybody was wearing masks?

16 A. Yes.

17 Q. This is February '21, we've been in COVID for a
18 year, but we're still in protocol, right?

19 A. Correct.

20 Q. It was still fairly prevalent in the community
21 that time?

22 A. It was.

23 MR. FRICK: Beg the Court's indulgence one second.

24 Thank you, ma'am. That's all the questions I
25 have.

JENNIFER COLLINS REDIRECT BY MS. CAMPBELL

1 THE COURT: Any redirect?

2 MS. CAMPBELL: Just a couple questions.

3 REDIRECT EXAMINATION

4 BY MS. CAMPBELL:

5 Q. And you tested her for COVID and she was what?

6 A. She was negative.

7 Q. And in this case, there were a time period like
8 there's a preliminary autopsy and then later, is it
9 important not to make a rush to judgment?

10 A. Absolutely.

11 Q. And that was not a rush to judgment in this case?

12 A. Not at all.

13 MS. CAMPBELL: Thank you. I have don't have
14 anything further.

15 THE COURT: You can step down, ma'am. Thank you.
16 You're free to leave the courtroom, you're more than welcome
17 to remain with us.

18 All right. Ladies and gentlemen, this would be a
19 good time to take a morning break. So I'll ask that you go
20 back to the jury room, we'll get you back out shortly, okay.

21 Yeah, just leave them just on the railing there
22 and we can pick them up and on the back row, just when
23 you're walking out, just put them right on the railing
24 there.

25 (WHEREUPON, the jury exited the courtroom at 11:00

JENNIFER COLLINS REDIRECT BY MS. CAMPBELL

1 a.m.)

2 THE COURT: I understand the next witnesses will
3 be the out of state lab people; is that right?

4 MS. MCGINNIS: Yes, sir. I have one custodian of
5 records that I'm going to put up real quick, but we can go
6 ahead and get --

7 THE COURT: Okay. Well, I'll get Carson back out
8 here and get the virtual lined up.

9 MS. MCGINNIS: Thank you, Judge.

10 (WHEREUPON, a break was held from 11:00 a.m. until
11 11:15 a.m.)

12 MR. FRICK: Are we on the record real quick,
13 Judge?

14 THE COURT: Sure.

15 MR. FRICK: I know we had a hearing about these
16 two, I just wanted to continue my less strenuous objection
17 that I had to the testimony not being in person.

18 THE COURT: Right. I think if I remember
19 correctly, you were not consenting to their testimony via
20 virtual courtroom, but you are not offering much opposition;
21 is that correct?

22 MR. FRICK: Yes. Yes, sir. It's a different
23 posture because of what they -- what I'm told they
24 contributed to the analysis.

25 THE COURT: All right. Solicitor, you say you

JENNIFER COLLINS REDIRECT BY MS. CAMPBELL

1 have one short witness in person before we go to virtual?

2 MS. MCGINNIS: Yes, sir. I'm going to have the
3 records custodian. She's been here this morning and needs
4 to get back to the office and then I'll do these two.

5 THE COURT: Okay. All right, so let's get the
6 jury in and we'll take off.

7 THE BAILIFF: Jury's coming in.

8 (WHEREUPON, the jury entered the courtroom at
9 11:18 a.m.)

10 THE COURT: Let the record reflect the jury is
11 back in. Solicitor.

12 MS. MCGINNIS: Thank you, Judge. The State would
13 call Quanita Clyburn.

14 THE CLERK: Place your left hand on the Bible,
15 raise your right, please. Do you swear to tell the truth,
16 the whole truth, and nothing but truth, so help you God?

17 THE WITNESS: I do.

18 QUANITA CLYBURN, having been duly sworn testified
19 as follows:

20 THE CLERK: You may be seated.

21 THE COURT: When you take your seat, if you'll
22 state your name for the record, please, ma'am.

23 THE WITNESS: I'm Quanita Montgomery Clyburn.

24 DIRECT EXAMINATION

25

QUANITA CLYBURN DIRECT BY MS. MCGINNIS

1 BY MS. MCGINNIS:

2 Q. Ms. Clyburn, where are you employed?

3 A. The Children's Clinic.

4 Q. How long have you Been with the Children's Clinic?

5 A. 11 years.

6 Q. And what's your role there?

7 A. Practice manager.

8 Q. Practice manager?

9 A. Yes.

10 Q. And in part of your role there, do you -- are you
11 the custodian of records for the Children's Clinic?

12 A. I do a little bit of everything.

13 Q. Okay. So I want to turn your attention to the
14 White family that's the subject of this case. Were the
15 White children patients of the Children's Clinic?

16 A. Yes.

17 Q. Okay. And there at the Children's Clinic, when a
18 provider sees a child, they make a note of that encounter?

19 A. Correct.

20 Q. And are those saved in your system?

21 A. Yes.

22 THE COURT: You need to speak up just a little
23 bit, please, ma'am?

24 BY MS. MCGINNIS:

25 Q. And as part of this case, did you pull and review

QUANITA CLYBURN DIRECT BY MS. MCGINNIS

1 some medical records for the White children, the children of
2 Shaquanda Page and David White?

3 A. You and I did go over some records.

4 Q. Okay.

5 MS. MCGINNIS: If I may approach the witness,
6 Judge.

7 BY MS. MCGINNIS:

8 Q. I'm going to hand you what's been marked State's
9 Exhibits 203 and 204. Are you familiar with these
10 documents?

11 A. Yes, ma'am.

12 Q. And what are the front pages of these documents?

13 A. They are the appointments for each child, whether
14 they were seen or not seen.

15 Q. Okay. And in this case, what are the two
16 children?

17 A. Child 6 and Child 5

18 Q. Child 5 and Child 6

19 A. Uh-huh.

20 Q. Child 5 and Child 6. And these two are twins,
21 correct?

22 A. Correct.

23 Q. And on the front page there, I'm going to start
24 with Child 5 Child 5, how many times was Child 5 seen there at
25 the Children's Clinic?