

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Aug 03 2026

SC Court of Appeals

Appeal from Richland County

Honorable Thomas William McGee, III, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BREONTE ALEXANDRIA GLASGOW,

APPELLANT

APPELLATE CASE NO. 2025-001004

RECORD ON APPEAL

DAVID ALEXANDER
Deputy Chief Attorney for Capital Appeals

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MARK FARTHING
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803) 734-4117

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 12, 2025	1
TESTIMONY	
JENNIFER KELLY SMITH (<i>in-camera</i>)	
Direct Examination by Ms. Browder	39
Cross-Examination by Mr. Fox.....	44
CHRISTOPHER MASTRIANNI (<i>in-camera</i>)	
Direct Examination by Ms. Browder	46
Cross-Examination by Mr. Fox.....	61
Redirect Examination by Ms. Browder	65
DEFENSE MOTION TO SUPPRESS DEFENDANT’S STATEMENTS BY MR. FOX	66
STATE’S RESPONSE BY MS. BROWDER	68
TRIAL TRANSCRIPT DATED MAY 13, 2025	142
COURT’S RULING DENYING DEFENSE MOTION TO SUPPRESS DEFENDANT’S STATEMENTS BY MR. FOX.....	156
OPENING STATEMENT ON BEHALF OF THE STATE BY MS. MONROE.....	168
OPENING STATEMENT ON BEHALF OF THE DEFENDANT BY MS. COLEY	177
TESTIMONY	
STOME ANTRON HIGGINS	
Direct Examination by Ms. Browder	181
Cross-Examination by Mr. Fox.....	192
Redirect Examination by Ms. Browder	200
KURT ROGER TILTON	
Direct Examination by Ms. Browder	202
Cross-Examination by Mr. Fox.....	210
PAUL L. TAYLOR, JR.	
Direct Examination by Ms. Cavanaugh	215
Cross-Examination by Mr. Fox.....	223

TIA FREY	
Direct Examination by Ms. Browder	225
Cross-Examination by Mr. Fox.....	229
Redirect Examination by Ms. Browder	230
DANIEL SEMONES	
Direct Examination by Ms. Browder	231
Cross-Examination by Mr. Fox.....	236
FRANKLIN RAINSFORD	
Direct Examination by Ms. Browder	239
JURY NOTE #1	258
COURT’S RESPONSE TO JURY NOTE #1	260
TESTIMONY	
CHRISTOPHER MASTRIANNI	
Direct Examination by Ms. Browder	266
Cross-Examination by Mr. Fox.....	288
JENNIFER KELLY SMITH	
Direct Examination by Ms. Browder	300
Cross-Examination by Mr. Fox.....	306
TREVOR HOLT	
Direct Examination by Ms. Browder	308
Cross-Examination by Mr. Fox.....	314
RICKY JOHNSON	
Direct Examination by Ms. Browder	325
<i>Voir Dire</i> Examination by Mr. Fox.....	331
Continued Direct Examination by Ms. Browder	333
Cross-Examination by Mr. Fox.....	379
Redirect Examination by Ms. Browder	387
Recross-Examination by Mr. Fox	388
TRIAL TRANSCRIPT DATED MAY 14, 2025	392
TESTIMONY	
DARREN MONROE (<i>in-camera</i>)	
Direct Examination by Ms. Browder	396
Cross-Examination by Ms. Coley	403
Direct Examination by the Court	405

LADONNA ALEXANDRIA YOUNG (<i>in-camera</i>)	
Direct Examination by Ms. Browder	410
Cross-Examination by Ms. Coley	419
Direct Examination by the Court	420
 MICHAEL WADE	
Direct Examination by Ms. Browder	439
Cross-Examination by Mr. Fox	451
 DARREN MONROE	
Direct Examination by Ms. Browder	453
Cross-Examination by Mr. Fox	484
Redirect Examination by Ms. Browder	490
 ERIC COATES	
Direct Examination by Ms. Cavanaugh	501
Cross-Examination by Mr. Fox	516
 EMILY TAYLOR	
Direct Examination by Ms. Cavanaugh	548
Cross-Examination by Mr. Fox	567
Redirect Examination by Ms. Cavanaugh	579
 MAKALA GREENE	
Direct Examination by Ms. Cavanaugh	582
Cross-Examination by Mr. Fox	593
Redirect Examination by Ms. Cavanaugh	605
 BAILEY POLSON	
Direct Examination by Ms. Browder	616
Cross-Examination by Mr. Fox	637
 TRIAL TRANSCRIPT DATED MAY 15, 2025	645
 TESTIMONY	
 LADONNA ALEXANDRIA YOUNG	
Direct Examination by Ms. Browder	648
Cross-Examination by Mr. Fox	708
Redirect Examination by Ms. Browder	720
 STATE RESTS	722
 DEFENSE MOTION FOR DIRECTED VERDICT BY MR. FOX	724
 STATE'S RESPONSE BY MS. CAVANAUGH	725

COURT’S RULING DENYING DEFENSE MOTION FOR DIRECTED VERDICT BY MR. FOX	734
TESTIMONY COLLOQUY WITH DEFENDANT	736
CHARGE CONFERENCE	742
DEFENSE RESTS	764
CLOSING ARGUMENT ON BEHALF OF THE STATE BY MS. BROWDER	765
CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT BY MR. FOX	791
CHARGE ON THE LAW	805
JURY NOTE #2	823
COURT’S RESPONSE TO JURY NOTE #2	826
VERDICT	829
POLLING OF THE JURY	830
SENTENCING	858
INDICTMENTS	860
CERTIFICATE OF COUNSEL	866

[THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**COURT’S EXHIBIT 5 (VIDEO), STATE’S EXHIBIT 36 (PHOTOGRAPH), STATE’S
EXHIBIT 37 (PHOTOGRAPH), STATE’S EXHIBIT 38 (PHOTOGRAPH), STATE’S
EXHIBIT 39 (PHOTOGRAPH), STATE’S EXHIBIT 42 (PHOTOGRAPH), STATE’S
EXHIBIT 44 (PHOTOGRAPH), STATE’S EXHIBIT 45 (PHOTOGRAPH), STATE’S
EXHIBIT 46 (PHOTOGRAPH)]**

STATE OF SOUTH CAROLINA) COURT OF GENERAL SESSIONS
) FIFTH CIRCUIT
 COUNTY OF RICHLAND) 2023-GS-40-09405
 *****) 2023-GS-40-09409
 State of South Carolina,) 2023-GS-40-09412

v.)

Breonte Alexandria Glasgow)
 Defendant.)

Transcript of Record

May 12, 2025

Columbia, South Carolina

Volume I of IV
 Page 1 to 142
 Criminal Trial

- - -

B E F O R E:

The Honorable Thomas William McGee, III, Judge

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

On Behalf of the State:

Anna Browder, Esq.
 Deputy Solicitor

Kathryn Cavanaugh, Esq.
 Sr. Assistant Solicitor

Morgan Monroe, Esq.
 Assistant Solicitor

On Behalf of the Defendant:

Eric Fox, Esq.
 Emily Coley, Esq.
 Attorneys at Law

Brandi J. Berry,
 Judicial Circuit Court Reporter

I N D E X

(SW) - STATE'S WITNESS (DW) - DEFENSE WITNESS

JACKSON v DENNO HEARING

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
(SW) JENNIFER KELLY SMITH.....	40	44		
(SW) CHRISTOPHER MASTRIANNI...	46	61	66	
CERTIFICATE.....				142

1 (Monday, May 12, 2025; in open court, Columbia,
2 South Carolina, Richland County.)

3 THE COURT: All right. Thank you, ladies, and
4 gentlemen. We're about to begin -- we're not -- we're
5 not going to begin it today. We'll begin first thing
6 in the morning.

7 But we're going to be selecting a jury in the
8 matter of the State of South Carolina versus Breonte
9 Alexandria Glasgow.

10 I'm going to ask some questions to determine now
11 that you've been qualified, we will be selecting a
12 jury for that trial right now.

13 We're going to select 12 jurors and two
14 alternates. Is that right? Two alternates? All
15 right.

16 And so I'll be asking you some questions if
17 you'll please, just like we did before, if you'll
18 stand up if -- if any of these questions apply to you.

19 MS. BROWDER: Your Honor, may we approach?

20 THE COURT: Oh, yes, ma'am.

21 (Sidebar discussion off the record.)

22 THE COURT: All right. We're going to have a
23 formal calling of the case before we begin and then
24 I'll ask you some questions. Madam Solicitor.

25 MS. BROWDER: Thank you, Your Honor. At this

1 time, the State calls Breonte Glasgow, Indictment
2 number:

3 2023GS40405, Homicide by Child Abuse.

4 2023GS40409, Unlawful Neglect or conduct towards
5 a child.

6 2023GS40412, Unlawful Neglect or conduct towards
7 a child.

8 THE COURT: Thank you, ma'am. All right. Ladies
9 and gentlemen, has anyone ever been related by blood
10 or marriage to Breonte Alexandria Glasgow? If so,
11 please stand.

12 (No response.)

13 All right. Has anyone ever had a close personal
14 or social relationship with Breonte Alexandria
15 Glasgow? If so, please stand.

16 (No response.)

17 The following is a list of possible witnesses in
18 this case. It's -- it's a fairly lengthy list and so
19 if you would please, if somebody -- if you recognize
20 somebody that you know, please keep that in mind so
21 that we can -- I'll ask you about it once the list has
22 been fully read. All right. Kelly Smith. And that's
23 USSS -- is that --

24 MS. BROWDER: Secret Service.

25 THE COURT: Secret -- Kelly Smith of United

1 States Secret Service, Christopher Mastrianni of the
2 Richland County Sheriff's Department, Emily Taylor of
3 DSS, Daniel Semones, Richland County Sheriff's
4 Department, Franklin Rainsford, Richland County
5 Sheriff's Department, Heidi Jackson, Richland County
6 Sheriff's Department, Tia Frey, Richland County 911,
7 Zachary Hentz, Richland County Sheriff's Department,
8 Captain Higgins, Columbia Fire Department, Ashley
9 Gurganious of the Richland County Coroner's Office,
10 Mark Laureano, Richland County Sheriff's Department,
11 Blake Holt, Columbia Fire Department, Brendan
12 Laffoday, Columbia Fire Department, Kurt Tilton,
13 Columbia Fire Department, Ricky Johnson, Richland
14 County Sheriff's Department, Brian Dawson, Richland
15 County EMS, Paul Taylor, Richland County EMS, Dr.
16 Darren Monroe, Dr. Ladonna A. Young, Dr. Eric Coates,
17 Dr. David Brown, Dr. Michael Wade, Dr. Kathlyn Taylor,
18 Trevor Holt, Richland County Sheriff's Department,
19 Joshua Fabel, Richland County Sheriff's Department,
20 Joshua Polson, Bailey Polson, Makala Andrea -- Andrea
21 Greene, Nikki Acerra and Breonte Alexandria Glasgow.

22 All right. Has anyone ever been related by blood
23 or marriage to any of the people I have just listed or
24 have anyone -- has anyone ever had a close personal or
25 social relationship with any of these people? If so,

1 please stand. Yes, sir. Juror number?

2 PROSPECTIVE JUROR NO. 206: 206.

3 THE COURT: Yes, sir.

4 PROSPECTIVE JUROR NO. 206: I was in the Fire
5 Academy with Captain Higgins.

6 THE COURT: Captain Higgins?

7 PROSPECTIVE JUROR NO. 206: Yes, sir.

8 THE COURT: All right. And --

9 PROSPECTIVE JUROR NO. 206: And I also worked
10 with Mastrianni or with Lexington County Sheriff's
11 Department, worked with him.

12 THE COURT: At Lexington County Sheriff's
13 Department, you said?

14 PROSPECTIVE JUROR NO. 206: Yes, sir.

15 THE COURT: All right. Does the fact that you --
16 and you just know that you're not related to them by
17 blood or marriage?

18 PROSPECTIVE JUROR NO. 206: No, sir.

19 THE COURT: You just have worked with them?

20 PROSPECTIVE JUROR NO. 206: Just worked with
21 them.

22 THE COURT: All right. Does the fact that --
23 that you worked with them or -- or in one case went to
24 the Fire Academy with Captain Higgins, would that
25 prevent you from being a fair and impartial juror such

1 that you could give the defendant and the State a fair
2 trial?

3 PROSPECTIVE JUROR NO. 206: No, sir.

4 THE COURT: Okay. Thank you, sir. All right.
5 The -- if the attorneys could please introduce
6 themselves and the folks that will be sitting at the
7 table with them.

8 MS. BROWDER: Thank you, Your Honor. Name is
9 Anna Browder. I'm Deputy Solicitor here in Richland
10 County. And trying the case with me will be Senior
11 Assistant Solicitor Kathryn Cavanaugh, Assistant
12 Solicitor Morgan Monroe. And that is Sergeant Chris
13 Mastrianni.

14 MR. FOX: Thank you, Your Honor.

15 THE COURT: All right.

16 MR. FOX: Good morning, ladies, and gentlemen.
17 My name is Eric Fox with Richland County Defender's
18 Office. Assisting me today, attorney Emily Coley.
19 And this is Breonte Glasgow, if you would please --
20 stand, please.

21 THE COURT: All right. Thank y'all very much.
22 All right.

23 Has any member of the jury panel ever been
24 represented by any of the lawyers involved in this
25 case or their offices? If so, please stand.

1 (No response.)

2 Has anyone ever been related by blood or marriage
3 to, or have you ever had a close personal or social
4 relationship with any of the folks that has just been
5 introduced? If so, please stand. Yes, ma'am.

6 PROSPECTIVE JUROR NO. 269: Your Honor, Mr.
7 Gibson is a friend of mine, the Solicitor, I don't
8 know if that's relevant or not. I have also given to
9 his candidacy as solicitor during his campaign.

10 THE COURT: All right. Has -- the -- the fact
11 that you've donated to his campaign or know the
12 Solicitor, would that -- could you still be a fair and
13 impartial juror or such that you could give the State
14 and the defendant a fair trial?

15 PROSPECTIVE JUROR NO. 269: Absolutely.

16 THE COURT: All right. Thank you, ma'am. And
17 your juror number?

18 PROSPECTIVE JUROR NO. 269: 269.

19 THE COURT: All right. All right. Has any
20 member of the jury panel formed or expressed an
21 opinion about any issue or matter involved in this
22 case? If so, please stand. Is -- ma'am, if you could
23 come forward please.

24 THE BALIFF: Juror Number 325.

25 THE COURT: Thank you. Good morning.

1 Juror number again?

2 PROSPECTIVE JUROR NO. 325: 325.

3 THE COURT: 325. Thank you. Yes, ma'am.

4 THE BALIFF: Juror Number 207.

5 THE COURT: 207. Yes, ma'am. Juror 207.

6 THE BALIFF: Judge, sorry.

7 THE COURT: I'm sorry. I didn't see you, ma'am.

8 PROSPECTIVE JUROR NO. 247: That's okay.

9 THE BALIFF: Juror Number 247, two-four-seven.

10 THE COURT: All right. Okay. Is any -- is any
11 member of the jury panel aware of any bias or
12 prejudice toward either the State or the defendant in
13 this case? If so, please stand.

14 (No response.)

15 All right. Is there any member of the jury panel
16 that was a member of the grand jury that issued the
17 indictment in this case? If you were on the grand
18 jury that heard the indictment in this case, please
19 stand.

20 (No response.)

21 All right. Is there any member of the jury panel
22 who is a member of or a contributor to any group which
23 has its primary concern, the promotion of law
24 enforcement or victim's rights. These groups would
25 include, but certainly not be limited to MADD, SCCADV

1 or CAVC, which is Citizens Against Violent Crime or
2 any similar entity. If so, please stand.

3 (No response.)

4 All right. Does -- has any member of the jury
5 panel or any member of their close family ever been a
6 victim of a crime of violence, assault, or child abuse
7 and neglect? If so, please stand.

8 PROSPECTIVE JUROR NO. 126: Say that question. I
9 apologize.

10 THE COURT: Yes, ma'am. No, I'm sorry. Let me
11 get this -- closer. Sorry about that. Has any member
12 of the jury panel or any close family member ever been
13 a victim of a crime of violence, assault, or child
14 abuse and neglect? If so, please stand.

15 Oh, ma'am, you're excused. I've excused both --
16 both of y'all. Y'all -- oh, you -- you're welcome
17 to stay. I just -- you don't have to respond
18 anymore. Yes, ma'am. Your juror number?

19 PROSPECTIVE JUROR NO. 126: 126.

20 THE COURT: Okay. If you would, please, ma'am
21 come over here (indicating).

22 THE BALIFF: Juror Number 326; three-two-six.

23 THE COURT: Yes, ma'am.

24 THE BALIFF: Juror Number 125; one-two-five.

25 (Sotto voce between the Court and juror).

1 THE BALIFF: Juror Number 358; three-five-eight.

2 THE COURT: Has any member of the jury panel or
3 any close family member ever been charged with or
4 convicted of a crime of violence, assault, or child
5 abuse and neglect? If so, please stand.

6 (No response.)

7 All right. Is any member of the jury panel or
8 any close family member related by blood or marriage
9 or close personal friend or acquaintance of -- or ever
10 been -- never mind that I've already asked that one.

11 I apologize. These are as to the lawyers. Is
12 any member of the jury panel or any member of their
13 immediate family related by blood or marriage or a
14 close personal friend or acquaintance of someone
15 employed by law enforcement? If so, please stand.

16 PROSPECTIVE JUROR: Say that again.

17 THE COURT: Is any member of the jury panel or a
18 close family member related by blood or marriage or a
19 close personal friend of someone employed by law
20 enforcement?

21 PROSPECTIVE JUROR: Is it just family or just
22 period?

23 THE COURT: Period.

24 (No response.)

25 All right. And I'm just going to ask your juror

1 numbers in just one -- brief one, if y'all stand.

2 Let's start on this side, sir, in the blue?

3 PROSPECTIVE JUROR NO. 198: Yeah. 198.

4 THE COURT: 198.

5 PROSPECTIVE JUROR NO. 198: My father is a -- a
6 retired SLED agent, 40 plus years.

7 THE COURT: All right. Is the fact that your
8 father was a -- a SLED agent -- he's retired now?

9 PROSPECTIVE JUROR NO. 198: No.

10 THE COURT: Would -- would that preclude you from
11 being a fair and -- being able to be a -- a fair and
12 impartial juror such that you could give the defendant
13 and the State a fair and impartial trial?

14 PROSPECTIVE JUROR NO. 198: No, sir.

15 THE COURT: All right. Thank you, sir. Yes,
16 sir. Juror number?

17 PROSPECTIVE JUROR NO. 334: Juror Number 334. My
18 brother is assistant director of a college of police
19 and he's on like a board and stuff across the nation.

20 THE COURT: Yes, sir. Does the fact that your
21 brother serves in those capacities, would that
22 preclude you from being a fair and impartial juror or
23 such that you could give the State and the defendant a
24 fair and impartial trial?

25 PROSPECTIVE JUROR NO. 334: No, sir.

1 THE COURT: All right. Thank you, sir.

2 Ma'am, I think --

3 PROSPECTIVE JUROR NO. 196: Me?

4 THE COURT: Yes, ma'am.

5 PROSPECTIVE JUROR NO. 196: 196.

6 THE COURT: All right.

7 PROSPECTIVE JUROR NO. 196: I have a cousin who's
8 a judge in this county.

9 THE COURT: All right. And is it a magistrate or
10 a circuit court or federal judge or --

11 PROSPECTIVE JUROR NO. 196: I'm not sure.

12 THE COURT: Okay. Yes, ma'am. All right. Does
13 the fact that -- that your cousin serves in -- as a
14 judge, would that preclude you from being a fair and
15 impartial juror such that you could give the State and
16 the defendant a fair and impartial trial?

17 PROSPECTIVE JUROR NO. 196: No.

18 THE COURT: All right. Thank you, ma'am. Yes,
19 sir. Yes, sir.

20 PROSPECTIVE JUROR NO. 133: 133.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR NO. 133: I have a few cousins
23 who are sheriff deputies in Sumter County.

24 THE COURT: Yes, sir.

25 PROSPECTIVE JUROR NO. 133: A former judge in

1 Sumter.

2 THE COURT: Okay. The fact that you have some
3 cousins that served in those capacities with law
4 enforcement, would that preclude you from being a fair
5 and impartial juror such that you could give the State
6 and the defendant a fair and impartial trial?

7 PROSPECTIVE JUROR NO. 133: No.

8 THE COURT: Okay. Thank you, sir. Yes, sir.

9 PROSPECTIVE JUROR NO. 211: Yes, sir. 211.

10 THE COURT: All right.

11 PROSPECTIVE JUROR NO. 211: I have relatives who
12 are county deputies not in this county, and friends in
13 this county and other counties as well who are in law
14 enforcement.

15 THE COURT: All right. The fact that you have
16 some relatives or some friends that serve in law
17 enforcement capacity, would that preclude you from
18 being fair and impartial to both the State and the
19 defendant in this case?

20 PROSPECTIVE JUROR NO. 211: I'm good.

21 THE COURT: Okay. Thank you. Yes, ma'am.

22 PROSPECTIVE JUROR NO. 95: Yes. 95 and I have
23 friends that's deputies in Fairfield County.

24 THE COURT: Fairfield?

25 PROSPECTIVE JUROR NO. 95: Yes.

1 THE COURT: Okay. And the fact that you have
2 some friends that are deputies in Fairfield County,
3 would that preclude you from giving both the defendant
4 and the -- and the State a fair and impartial trial?

5 PROSPECTIVE JUROR NO. 95: No.

6 THE COURT: Okay. Thank you, ma'am. All right.
7 Right here in the blue shirt. Yes, sir. You.

8 PROSPECTIVE JUROR NO. 189: Yes. 189.

9 THE COURT: Yes, sir.

10 PROSPECTIVE JUROR NO. 189: My father used to be
11 hired federal law enforcement education department
12 office of inspector general.

13 THE COURT: Okay. Does the fact that he used to
14 be employed by law enforcement, would that affect your
15 ability to give both the State and the defendant a
16 fair and impartial trial?

17 PROSPECTIVE JUROR NO. 189: No, sir.

18 THE COURT: All right. Thank you, sir. Yes,
19 sir.

20 PROSPECTIVE JUROR NO. 295: 295. My mother is a
21 Miami-Dade correction officer.

22 THE COURT: I'm sorry.

23 PROSPECTIVE JUROR NO. 295: My mother is a
24 correction officer.

25 THE COURT: Oh, okay. The fact that your brother

1 is a corrections officer -- is that here in South
2 Carolina?

3 PROSPECTIVE JUROR NO. 295: No, sir.

4 THE COURT: Okay. Would -- would that preclude
5 you from being able to serve as a juror in this case
6 such that you could give the State and the defendant a
7 fair and impartial trial?

8 PROSPECTIVE JUROR NO. 295: No, sir.

9 THE COURT: All right. Thank you, sir. Yes,
10 sir.

11 PROSPECTIVE JUROR NO. 265: All right. 265.

12 THE COURT: Yes.

13 PROSPECTIVE JUROR NO. 265: I have a couple
14 family members that are in law enforcement.

15 THE COURT: All right. And the fact that you
16 have some family members that are in law enforcement,
17 would that preclude you from being able to sit as a
18 juror on this case such that you could give the State
19 and the defendant a fair and impartial trial?

20 PROSPECTIVE JUROR NO. 265: No, sir.

21 THE COURT: Thank you, sir. Lastly, yes, sir,

22 PROSPECTIVE JUROR NO. 292: 292. I have a
23 stepbrother who's a member of the Florence County
24 Sheriff's Office and a good friend neighbor who is a
25 officer of S.L.E.D.

1 THE COURT: Okay. And does the fact that you
2 have those connections with law enforcement -- folks
3 that serve in law enforcement, does that preclude you
4 from -- in your mind of being a juror in this case
5 such that you could give the defendant and the State a
6 fair and impartial trial?

7 PROSPECTIVE JUROR NO. 292: No, sir.

8 THE COURT: All right. Thank you. Thank y'all
9 very much for -- for doing that. Oh, yes, sir.

10 PROSPECTIVE JUROR NO. 141: Does it matter if
11 they're retired?

12 THE COURT: Sorry?

13 PROSPECTIVE JUROR NO. 141: Does it matter if
14 they're retired?

15 THE COURT: No, no. It -- it -- it -- that's
16 okay. If you -- I think one other person had a
17 retired, so if you have somebody that's retired, I'll
18 be glad to hear from you, sir.

19 PROSPECTIVE JUROR NO. 141: My dad.

20 THE COURT: Your -- your juror number?

21 PROSPECTIVE JUROR NO. 141: 141.

22 THE COURT: Yes, sir.

23 PROSPECTIVE JUROR NO. 141: He was a resident
24 agent in charge of the ATF retired years ago.

25 THE COURT: Here in -- in South Carolina?

1 PROSPECTIVE JUROR NO. 141: Yes.

2 THE COURT: Okay. Thank you. And -- and the
3 fact that he used to serve in that capacity but is now
4 retired, would you -- would that preclude you from
5 being a juror in this case such that you could give
6 the defendant and the State a fair and impartial
7 trial?

8 PROSPECTIVE JUROR NO. 141: No.

9 THE COURT: All right. Thank you, sir. Yes,
10 ma'am.

11 PROSPECTIVE JUROR NO. 125: Juror 125, my father
12 was a police officer.

13 THE COURT: Your father?

14 PROSPECTIVE JUROR NO. 125: Los Angeles for 32
15 years.

16 THE COURT: Oh, in -- in Los Angeles?

17 PROSPECTIVE JUROR NO. 125: Yes.

18 THE COURT: Would that preclude you from serving
19 as a juror in this case in your mind, such that you
20 could give the State and the defendant a fair and
21 impartial trial?

22 PROSPECTIVE JUROR NO. 125: No, sir.

23 THE COURT: All right. Thank you so much. Thank
24 y'all for -- for addressing that. Has any member of
25 the jury panel seen or heard anything about this case

1 in the news or media? If so, please stand.

2 (No response.)

3 All right. Is any member of the jury panel
4 currently employed in a job where you work with
5 children, including but not limited to a school
6 teacher, tutor, therapist, daycare worker, youth
7 minister, Sunday school teacher, coach, music teacher,
8 etc.? All right. Let's start over on this side.

9 Yes, ma'am. You -- sorry. Yes, ma'am.

10 PROSPECTIVE JUROR NO. 184: 184.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR NO. 184: I'm a mental health
13 therapist, primarily private practice, so I'm not just
14 with kids, but I do work with kids.

15 THE COURT: All right. Does the fact that --
16 that you've got that experience or that -- that --
17 that you work in that capacity, would that preclude
18 you in your mind from being able to sit as a juror in
19 this case such that you would give the State and the
20 defendant a fair and impartial trial?

21 PROSPECTIVE JUROR NO. 184: I don't think so.

22 THE COURT: Okay. Thank you, ma'am. Yes, sir.

23 PROSPECTIVE JUROR NO. 294: 294, soccer coach.
24 I've got a nine-year-old team and a 12-year-old team
25 that I do.

1 THE COURT: All right. The fact that you serve
2 in those -- that capacity with -- with -- with
3 children, in your mind, would that preclude you from
4 being a juror in this case such that you could give
5 the State and the defendant a fair and impartial
6 trial?

7 PROSPECTIVE JUROR NO. 294: No, sir.

8 THE COURT: Thank you, sir. Yes, ma'am.

9 PROSPECTIVE JUROR NO. 559: 559. I'm a
10 substitute teacher in District 5.

11 THE COURT: Okay. The fact that you're serving
12 in that capacity with some children, in your mind,
13 would that preclude you from being able to serve as a
14 juror in this case such that you could give the State
15 and the defendant a fair and impartial trial?

16 PROSPECTIVE JUROR NO. 559: No.

17 THE COURT: Thank you, ma'am. Yes, sir, in the
18 glasses.

19 PROSPECTIVE JUROR NO. 189: 189.

20 THE COURT: Yes, sir.

21 PROSPECTIVE JUROR NO. 189: I'm an assistant
22 scout master with a scouting club.

23 THE COURT: Okay. And the fact that you serve in
24 that role, would that, in your mind, preclude you from
25 being able to sit as a juror in this case such that

1 you could give the State and the defendant a fair and
2 impartial trial?

3 PROSPECTIVE JUROR NO. 189: No, sir.

4 THE COURT: All right. Thank you, sir.

5 PROSPECTIVE JUROR NO. 24: Number 24.

6 THE COURT: Yes, ma'am.

7 PROSPECTIVE JUROR NO. 24: I teach elementary
8 school.

9 THE COURT: All right. And the fact that you
10 teach young children in that capacity, do you believe
11 that you could serve as a fair and impartial juror so
12 that you would give both the State and the defendant a
13 fair and impartial trial?

14 PROSPECTIVE JUROR NO. 24: Probably not.

15 THE COURT: Let me ask it a different way. I
16 think I may have had two negatives in there. Do you
17 believe that you could be a fair and impartial juror
18 in this case and give the defendant and the State a
19 fair and impartial trial?

20 PROSPECTIVE JUROR NO. 24: That's a very
21 difficult question for me.

22 THE COURT: Okay. Do you want to --

23 PROSPECTIVE JUROR NO. 24: Can I?

24 THE COURT: Yes, absolutely. Absolutely. While
25 you're coming up, let me ask the gentleman here in the

1 pink. Yes, sir. Your juror number?

2 PROSPECTIVE JUROR NO. 292: 292.

3 THE COURT: It's this way. Yeah. It's -- it's
4 very confusing way here. Yes, sir.

5 PROSPECTIVE JUROR NO.: 292. I'm the director of
6 youth ministries at -- at my church and I'm also a
7 coach.

8 THE COURT: All right. The fact that you serve
9 in that -- in -- in those capacities both in -- in a
10 professional capacity and it sounds like a coach as
11 well, would that preclude you from being a fair and
12 impartial juror in this case, such that you could give
13 the defendant and the State a fair and impartial
14 trial?

15 PROSPECTIVE JUROR NO. 292: I don't believe so.

16 THE COURT: Do you think that you could be fair
17 and impartial?

18 PROSPECTIVE JUROR NO. 292: I think so.

19 THE COURT: Why don't you come down as well?

20 THE BALIFF: Your Honor, one more.

21 THE COURT: Oh, I'm sorry ma'am. I didn't see
22 you behind him.

23 PROSPECTIVE JUROR NO. 213: I'm juror 213.

24 THE COURT: Yes, ma'am.

25 PROSPECTIVE JUROR NO. 213: Education manager and

1 I oversee the education in charge -- for Craig and
2 moms up to the children up to age four years old.

3 THE COURT: Okay. And the fact that you serve in
4 that capacity that you do that work, do you believe
5 that you could be fair and impartial to both the State
6 and the defendant such that they can get a fair and
7 impartial trial? You do?

8 PROSPECTIVE JUROR NO. 213: Yes.

9 THE COURT: Okay. Thank you.

10 THE BALIFF: Juror Number 24, Your Honor. Juror
11 Number 292.

12 PROSPECTIVE JUROR NO. 292: Yes, sir.

13 THE COURT: All right. All right. This case
14 involves allegations that the defendant, Breonte
15 Glasgow, caused the death of one of her children and
16 committed child abuse and/or neglect concerning two of
17 her other children.

18 In light of the nature of these charges, can you
19 withhold judgment until you have heard all the
20 evidence in the case and been -- and been instructed
21 on the law by the Court?

22 If anybody thinks that they cannot do this,
23 please stand.

24 (No response.)

25 All right. All right. Given the nature of the

1 allegations, does any member of the jury panel have
2 any personal or religious views or biases that would
3 interfere with their ability to be a fair and
4 impartial juror for both the defendant and the State?
5 If so, please stand. All right. Why don't you come
6 up, sir?

7 THE BALIFF: 358; three-five-eight.

8 THE COURT: All right. Yes, sir.

9 (Sotto voce between the Court and juror.)

10 Excuse this juror. All right.

11 Is any member of the jury panel a member of
12 volunteer and/or financial supporter of any group or
13 organization that has one of its stated goals,
14 advocacy for victims of child abuse and/or neglect?
15 Examples of such groups include CASA, Citizens Against
16 Spousal Abuse, National Children's Alliance, Child
17 Help, and National Child Traumatic Stress Network.

18 If so, please stand.

19 (No response.)

20 All right. Does any member of the jury panel
21 know of any reason whatsoever why he or she should not
22 serve as a juror in this case with particular emphasis
23 being placed on your ability to be fair and impartial
24 to both the State and the defendant? If so, please
25 stand.

1 (No response.)

2 All right. Any additional questions from the
3 State?

4 MS. BROWDER: No, sir.

5 THE COURT: Any additional questions from the
6 defendant?

7 MR. FOX: No, Your Honor.

8 THE COURT: All right. We can go ahead. Madam
9 Clerk.

10 MADAM CLERK: Judge, I just want to confirm
11 these.

12 THE COURT: Yes.

13 MADAM CLERK: So we have juror 247.

14 THE COURT: Uh-huh.

15 MADAM CLERK: Juror 366, juror 207.

16 THE COURT: Right.

17 MADAM CLERK: 326.

18 THE COURT: The ones that have been -- yes.

19 MADAM CLERK: 358, 24, and 292.

20 THE COURT: Right.

21 MADAM CLERK: Okay.

22 THE COURT: That's -- I mean, -- that -- you
23 might want to check. She -- think she's keeping it,
24 but that's -- that's fine. Okay. All right. Yes,
25 ma'am. Thank you. All right.

1 MADAM CLERK: All right. Ladies and gentlemen,
2 the jury panel, when I call your number, please come
3 to the center of the courtroom here and bring all of
4 your personal belongings with you.

5 Juror Number 119.

6 What says the State?

7 MS. BROWDER: Please, seat this juror.

8 MADAM CLERK: What says the defense?

9 MR. FOX: Please, excuse this juror.

10 MADAM CLERK: Please, have seat at the back of
11 the courtroom.

12 Juror Number 48.

13 What says the State?

14 MS. BROWDER: Please, seat this juror.

15 MADAM CLERK: What says the defense?

16 MR. FOX: Please, seat the juror.

17 MADAM CLERK: Please, have seat in the jury box.

18 Juror Number 334.

19 What says the State?

20 MS. BROWDER: Please, seat this juror.

21 MADAM CLERK: What says the defense?

22 MR. FOX: Please, seat the juror.

23 MADAM CLERK: Please, have a seat in the jury
24 box.

25 Juror Number 125.

1 What says the State?

2 MS. BROWDER: Please, seat this juror.

3 MADAM CLERK: What says the defense?

4 MR. FOX: Please, seat the juror.

5 MADAM CLERK: Please, have a seat in the jury
6 box.

7 Juror Number 351.

8 What says the State?

9 MS. BROWDER: Please, seat this juror.

10 MADAM CLERK: What says the defense?

11 MR. FOX: Please, seat this juror.

12 MADAM CLERK: Please, have a seat in the juror
13 box.

14 Juror Number 196.

15 What says the State?

16 MS. BROWDER: Please, excuse this juror.

17 MADAM CLERK: Please, have seat at the back of
18 the courtroom.

19 Juror Number 30.

20 What says the State?

21 MS. BROWDER: Please, seat this juror.

22 MADAM CLERK: What says the defense?

23 MR. FOX: Please, excuse the juror.

24 MADAM CLERK: Please, have seat in the back of
25 courtroom.

1 Juror Number 295.

2 What says the State?

3 MS. BROWDER: Please, seat this juror.

4 MADAM CLERK: What says the defense?

5 MR. FOX: Please, seat the juror.

6 MADAM CLERK: Please, have a seat in the jury
7 box.

8 Juror Number 7.

9 What says the State?

10 MS. BROWDER: Please, seat this juror.

11 MADAM CLERK: What says the defense?

12 MR. FOX: Please, seat this juror.

13 MADAM CLERK: Please, have a seat in the jury
14 box.

15 Juror Number 223.

16 What says the State?

17 MS. BROWDER: Please, seat this juror.

18 MADAM CLERK: What says the defense?

19 MR. FOX: Please, excuse this juror.

20 MADAM CLERK: Please, have a seat at the back of
21 the courtroom.

22 Juror Number 287.

23 What says the State?

24 MS. BROWDER: Please, seat this juror.

25 MADAM CLERK: What says the defense?

1 MR. FOX: Please, seat the juror.

2 MADAM CLERK: Please, have a seat in the juror
3 box.

4 Juror Number 9.

5 What says the State?

6 MS. BROWDER: Please, seat this juror.

7 MADAM CLERK: What says the defense?

8 MR. FOX: Please, seat this juror.

9 MADAM CLERK: Please, have a seat in the jury
10 box.

11 Juror Number 18.

12 What says the State?

13 MS. BROWDER: Please, seat this juror.

14 MADAM CLERK: What says the defense?

15 MR. FOX: Please, seat the juror.

16 MADAM CLERK: Please, have seat in the juror box.

17 Juror Number 269.

18 What says the State?

19 MS. BROWDER: Please, excuse this juror.

20 MADAM CLERK: Please, have a seat at the back of
21 the courtroom.

22 Juror Number 198.

23 What says the State?

24 MS. BROWDER: Please, seat this juror.

25 MADAM CLERK: What says the defense?

1 MR. FOX: Please, excuse this juror.

2 MADAM CLERK: Please, have a seat at the back of
3 the courtroom.

4 Juror Number 189.

5 The defense has used four strikes. The State has
6 used two. What says the State?

7 MS. BROWDER: Please, seat this juror.

8 MADAM CLERK: What says the defense?

9 MR. FOX: Please, seat this juror.

10 MADAM CLERK: Please, have a seat in the juror
11 box.

12 Juror Number 265.

13 What says the State?

14 MS. BROWDER: Please, excuse this juror.

15 MADAM CLERK: Please, have a seat at the back of
16 courtroom.

17 Juror Number 133.

18 What says the State?

19 MS. BROWDER: Please, seat this juror.

20 MADAM CLERK: What says the defense?

21 MR. FOX: Please, seat the juror.

22 MADAM CLERK: Please, have a seat in the jury
23 box.

24 Juror Number 47.

25 What says the State?

1 MS. BROWDER: Please, seat this juror.

2 MADAM CLERK: What says the defense?

3 MR. FOX: Please, excuse this juror.

4 MADAM CLERK: Please, have a seat at the back of
5 the courtroom.

6 Juror Number 184.

7 The defense has used all their strikes and the
8 State has used three. What says the State?

9 MS. BROWDER: Please, seat this juror.

10 MADAM CLERK: Does the defense challenge for
11 cause?

12 MR. FOX: No.

13 MADAM CLERK: Please, have a seat in the juror
14 box.

15 Juror Number 255 -- for alternate selection.

16 What says the State?

17 MS. BROWDER: Please, excuse this juror.

18 MADAM CLERK: Please, have a seat at the back of
19 the courtroom.

20 Juror Number 373.

21 The State has used all their strikes. Does the
22 State challenge for cause?

23 MS. BROWDER: No.

24 MADAM CLERK: What says the defense?

25 MR. FOX: Please, excuse this juror.

1 MADAM CLERK: Please, have a seat at the back of
2 the courtroom.

3 Juror Number 108.

4 State has used all the strikes. Does the State
5 challenge for cause?

6 MS. BROWDER: No.

7 MADAM CLERK: What says the defense?

8 MR. FOX: Please, excuse this juror.

9 MADAM CLERK: Please, have a seat at the back of
10 the courtroom.

11 Juror Number 5.

12 The defense has used both of their strikes. Does
13 the State challenge for cause?

14 MS. BROWDER: No.

15 MADAM CLERK: Does the defense challenge for
16 cause?

17 MR. FOX: No.

18 MADAM CLERK: Please, have a seat in the jury
19 box.

20 Juror Number 213.

21 What says the State?

22 MS. BROWDER: Please, seat this juror.

23 MADAM CLERK: What says the defense?

24 MR. FOX: Please, seat the juror.

25 MADAM CLERK: Please, have seat in the jury box.

1 THE COURT: All right. Thank you, Madam Clerk.
2 Any motions as to jury selection from the State?

3 MS. BROWDER: No, sir.

4 THE COURT: Any from the defense?

5 MR. FOX: No, Your Honor.

6 THE COURT: All right. Ladies and gentlemen,
7 thank you very much for -- for being here and again
8 being selected in this jury. We are going to -- well,
9 let me go ahead and dismiss. Should I let everybody
10 else go downstairs?

11 MADAM CLERK: Yes, Judge.

12 THE COURT: All right. Everybody else that did
13 not get selected, if you-all go downstairs, they'll
14 give you further instructions there. Thank y'all.
15 Oh, yeah. Just take it downstairs. Thank you, sir.

16 (Unselected jurors leave the courtroom.)

17 THE COURT: All right. Again, thank you, ladies,
18 and gentlemen. What we're going to do now, it's --
19 it's -- it's lunchtime. It's been a long morning.
20 There are a few legal matters that we need to take up.
21 So what -- what we're going to have you do is to come
22 back tomorrow morning. We'll be ready to go at 9:30.

23 They may tell you to get here a little bit
24 earlier than that, but that's what time we'll begin
25 the trial starting tomorrow. We'll swear you in.

1 I'll have a few matters to say and then we'll begin
2 with opening arguments.

3 So thank you, again, for all your patience today
4 and we'll see you again tomorrow morning. One -- one
5 thing. I -- I know that y'all indicated -- nobody
6 raised their hand when they said they heard anything
7 about this matter or not, but please don't talk to
8 anybody about this case, including yourselves.

9 I know there hasn't been any evidence yet, but
10 don't talk about the case with your friends, family
11 member or anybody.

12 Don't do any research on the case. Don't pay
13 attention to any media that there may or may not be
14 about this case.

15 And please remember just that you'll keep an open
16 mind until the very end when all the evidence has been
17 submitted and I've charged you on the law and sent you
18 back to the deliberation room. That time is the
19 appropriate time to discuss this case. No time
20 beforehand. Thank you very much. We'll see you
21 tomorrow.

22 (The jurors exit the courtroom.)

23 THE COURT: All right. The jury is out of the
24 room as are all other members of venire. So it's my
25 understanding we're going to begin with the pretrial

1 issues. Do y'all want to just have lunch and come
2 back and start then at 2:00? Is that work for y'all?

3 MR. FOX: Yes, sir.

4 MS. BROWDER: Yes, sir.

5 THE COURT: Okay. Why don't we do that then.
6 We'll stand in recess until 2:00. Thank y'all.

7 MS. BROWDER: Your Honor.

8 THE COURT: Yes, ma'am.

9 MS. BROWDER: There is going to be a pretrial
10 motion regarding the video that the State is seeking
11 to introduce.

12 THE COURT: Okay.

13 MS. BROWDER: I do have a copy of that video for
14 you, Your Honor.

15 THE COURT: Okay.

16 MS. BROWDER: So you can watch it over lunch.

17 THE COURT: And I assume Mr. Fox has had a --

18 MR. FOX: I have, Your Honor

19 THE COURT: -- copy of that. Okay.

20 MS. BROWDER: It's 18-minute video.

21 THE COURT: Yes, ma'am. All right. And are
22 there some other -- I received three of the
23 photographs that are --

24 MS. BROWDER: I don't have copies in hand with
25 me, Your Honor.

1 THE COURT: Okay. Obviously, I have -- just
2 while we're still on the record I -- I did want to
3 note that we let a few witnesses go after sidebar
4 conferences. And those were -- I mean, nobody -- I
5 think we're all in agreement.

6 If y'all want to put an objection on the record,
7 you can, but I believe that you're all in agreement.
8 Most of them had to do with they had -- had
9 experiences with their own children or themselves as
10 being victims of -- of some kind of violent crimes or
11 something neglect type.

12 I think we have one father who lost a child to
13 cancer. But if y'all have any -- if you have any
14 objections that you want to put on the record as to
15 any jurors that were released, please do so.

16 MS. BROWDER: No, sir. Not for the State.

17 THE COURT: Mr. Fox.

18 MR. FOX: No, sir, from the defense.

19 THE COURT: All right. Thank you. We'll be in
20 recess until 2:00. Thank y'all.

21 MS. BROWDER: Thank you, Your Honor.

22 MR. FOX: Thank you.

23 (Recess was taken.)

24 THE COURT: All right. Let me get -- before we
25 get started, if I could just have counsel back here, I

1 just have a couple questions I wanted to ask y'all
2 before we -- issues that we need to -- to tackle. Can
3 y'all -- is there a -- an agreed upon or preferred
4 order that we take on that, whatever y'all want to --
5 to -- to argue first? I'm -- I'm happy to hear.

6 MS. BROWDER: Your Honor, I think if we want to
7 do the *Jackson v. Denno* first or at least Ms. Smith's
8 testimony --

9 THE COURT: Okay. Yes.

10 MS. BROWDER: -- I could get her back --

11 THE COURT: I was going to ask if she was here to
12 testify about one in particular, so -- okay. Happy to
13 do that. Is that all right, Mr. Fox?

14 MR. FOX: Yes, sir.

15 THE COURT: All right.

16 MS. BROWDER: Your Honor, for *Jackson v. Denno*
17 purposes --

18 THE COURT: Yes, ma'am.

19 MS. BROWDER: -- there are several statements,
20 I'll go ahead and tell you the different statements
21 just so you can differentiate which ones we're talking
22 about.

23 There is a statement at the hospital -- there's a
24 statement at the hospital on March 11th.

25 There is a statement at [REDACTED] Redwood Court on March

1 11th.

2 THE COURT: [REDACTED]?

3 MS. BROWDER: 3/11/2023. I'm sorry. At [REDACTED]
4 Redwood Court.

5 THE COURT: Okay.

6 MS. BROWDER: There is a --

7 THE COURT: On three -- on 311 as well?

8 MS. BROWDER: Okay. There's one on 311 at the
9 hospital.

10 THE COURT: Okay.

11 MS. BROWDER: One on 311 at [REDACTED] Redwood Court.

12 THE COURT: All right.

13 MS. BROWDER: And then one on 312 which is child
14 death reenactment, and that is the one that Ms. Smith
15 will be testifying about. And then there is one on
16 313, one on 314, and one on 323.

17 THE COURT: All right. So this will be as to --
18 as to all of these. We'll just go -- go through in
19 order, is that --

20 MS. BROWDER: Well, I was just going to go ahead
21 and do her real quick.

22 THE COURT: Sure.

23 MS. BROWDER: And for purposes of this, Your
24 Honor, and I've told Mr. Fox, we don't intend to put
25 this one in during our case-in-chief, but we're just

1 showing that it's voluntary for purposes if Ms.
2 Glasgow takes the stand for impeachment purposes.

3 THE COURT: Understood.

4 MS. BROWDER: All right. All right. Kelly, can
5 you hear us?

6 THE WITNESS: Yes.

7 MS. BROWDER: Okay.

8 MADAM CLERK: Will you raise your right hand,
9 please? Will you raise your right hand, please?

10 THE WITNESS: Yes.

11 MADAM CLERK: Do you swear or affirm to tell the
12 truth, the whole truth, and nothing but the truth, so
13 help you God?

14 THE WITNESS: Yes.

15 MADAM CLERK: Thank you. Can you please state
16 your name for the record?

17 THE WITNESS: Jennifer Kelly Smith.

18 **JENNIFER KELLY SMITH,**

19 A witness herein, was duly examined and testified
20 as follows via Webex:

21 DIRECT EXAMINATION

22 BY MS. BROWDER:

23 Q. And where are you currently employed?

24 A. I'm currently employed with the United States
25 Secret Service.

1 Q. And prior to that, who were you employed with?

2 A. I was employed with Richland County Sheriff's
3 Department for 12 and a half years.

4 Q. I'm sorry, for how long?

5 A. Twelve and a half years.

6 Q. Okay. And during that time, did you come in
7 contact or become part of the case against Breonte Glasgow?

8 A. Yes.

9 Q. And specifically, I'm going to take you to March
10 12th, 2023, at [REDACTED] Universal Drive, which is Ms. Glasgow's
11 home. Did you go to her home at that time for -- prior to
12 your investigation?

13 A. Yes, ma'am.

14 Q. Okay. And was that for what's called a child
15 death reenactment?

16 A. Yes, ma'am for one of her babies.

17 Q. And when you went to Ms. Glasgow's home, was she
18 under arrest?

19 A. No, she wasn't.

20 Q. Okay. And was she under -- as far as you can
21 tell, under the influence of any alcohol or drugs or
22 anything that would impair her thinking or responding to
23 you in a logical fashion?

24 A. No, she was not.

25 Q. Did she appear to have any physical or mental

1 disability that -- extent that would impair her ability to
2 understand?

3 A. No.

4 Q. So when you went to her home, can you describe
5 her home a little bit to the Judge?

6 A. It was a smaller apartment. I believe, it was
7 two-bedroom, it was one or two-bedroom. There was a lot of
8 toys, bouncers, like something that a child was sitting in.
9 I believe, there was a couch also.

10 When I went -- when I went to her spare bedroom with
11 her, or not her spare bedroom, there was a crib, one crib.
12 I do remember that.

13 And there wasn't any blankets or anything in there. I
14 do remember seeing baby formula, also, but that's as much
15 as I can remember as of right now without watching any of
16 the -- the body camera.

17 Q. Okay. And when you went there, was she in
18 handcuffs or anything of that nature?

19 A. No, ma'am.

20 Q. Okay. Did you deny her any access to telephone,
21 bathroom, food, drink?

22 A. No, ma'am.

23 Q. Approximately how long were you there?

24 A. I would say roughly around 30 minutes.

25 Q. Okay. And what was your purpose for going there?

1 A. The purpose was to just try and gather a little
2 bit more evidence as far as the timeline, like, the
3 occurrence of what happened that morning since she was the
4 last person to be with the child who passed away, and also
5 the -- gather information for the coroner's office to help
6 them.

7 Q. And when you were speaking with her, did you make
8 any threats or promises in exchange for her talking to you
9 and going through that?

10 A. No, ma'am.

11 Q. At any time when you were speaking with her, was
12 she allowed to tell you she didn't want to talk to you
13 anymore or ask you to leave her home?

14 A. Yes, ma'am.

15 Q. And was she allowed to leave at any time if she
16 wanted to?

17 A. Yes, ma'am.

18 Q. In fact, how did you end up over there? Did she
19 know you were coming that day?

20 A. Yes, ma'am. I actually called her, according to
21 my follow up, on 3/12/2023 at 1:20 that afternoon. And she
22 gave me a good time to come by her house at 1:40. And then
23 according to my follow up, I showed up at 1:50.

24 Q. Okay. And when you were talking to her, was she
25 responding in a way that you could understand what she was

1 saying?

2 A. Yes, ma'am.

3 Q. Did she voluntarily, as far as you could tell,
4 speak to you?

5 A. Yes.

6 Q. And at some point you go to take her phone as
7 part of evidence. Did she consent to you taking her phone?

8 A. Yes, ma'am. She did consent to me taking her
9 phone and even after the consent I obtained a search
10 warrant. So I have --

11 Q. And in fact, after you told her you need to take
12 her phone, did you allow her to have her phone for a little
13 bit before taking it?

14 A. Yes, ma'am. I did allow her to get her family
15 member's phone numbers off of her phone so she could still
16 continue to speak with them.

17 Q. And she continued to cooperate with you in that
18 manner?

19 A. Yes, ma'am.

20 MS. BROWDER: I beg the Court's indulgence.

21 THE COURT: Yes, ma'am.

22 MS. BROWDER: No further questions for Special
23 Agent Smith now.

24 THE WITNESS: Yes, ma'am.

25 THE COURT: All right. Mr. Fox.

1 MR. FOX: Thank you, Your Honor, if it pleases
2 the Court.

3 CROSS-EXAMINATION

4 BY MR. FOX:

5 Q. Good afternoon, Agent.

6 A. Good afternoon. How are you?

7 Q. Fine, thank you. Were you in uniform when you
8 went to Ms. Glasgow's apartment for the reenactment?

9 A. In -- well, uniform? I was dressed as an
10 investigator, so I had probably dressed pants and a
11 pullover that said investigator.

12 Q. Okay. You identified as a law enforcement
13 officer?

14 A. Yes, sir.

15 Q. Okay. Had your side arm on you?

16 A. Yes, sir.

17 Q. Okay. Were there any other officers, deputies
18 with you beside -- there was the coroner, deputy coroner,
19 Ms. Gurganious, right?

20 A. Yes, sir.

21 Q. Okay. Anyone else along with you?

22 A. I believe it was just myself at first, but
23 Investigator Hentz ended up showing up later.

24 Q. Okay. Was this presented to Ms. Glasgow as an
25 optional exercise, this reenactment or we were -- we're

1 coming to talk to you and we'll arrange a time, but we're
2 coming to talk to you, or was she given the option to
3 refuse?

4 A. I don't remember exactly how the phone call was,
5 but it was definitely non-custodial interview. She
6 definitely had the option to decline.

7 Q. You stated questioning from the Solicitor that
8 the purpose was to gather evidence; is that correct?

9 A. Gather information as far as what went on that
10 morning.

11 Q. Okay. So I misunderstood what you said. I'm
12 sorry, I didn't mean to cut you off.

13 A. No, go ahead.

14 Q. I was going to say, I -- I thought I understood
15 your testimony was that the purpose was to gather evidence
16 and information, but gather evidence. Did you suspect that
17 a crime had been committed at this point?

18 A. It was too -- too early to tell, sir. All I know
19 is that we just had a death investigation of a child that
20 we were just trying to learn a little bit more information
21 on.

22 Q. I mean, that's you're -- you're an investigator
23 -- sorry were, with the Sheriff's department when you
24 investigated the crime, correct?

25 A. Yes, sir.

1 MR. FOX: Okay. Thank you, Your Honor.

2 THE COURT: All right. Anything, Ms. Browder?

3 MS. BROWDER: No, sir.

4 THE COURT: All right.

5 MS. BROWDER: You just give me a second I'll --

6 THE COURT: Sure.

7 Thank you very much. Thank you, Smith.

8 THE WITNESS: Thank you.

9 MS. BROWDER: All right. At this time, Your
10 Honor, we call Sergeant Christopher Mastrianni.

11 THE COURT: All right.

12 MADAM CLERK: Do you swear or affirm the
13 testimony you are about to give in this case to be the
14 truth, the whole truth, and nothing but the truth, so
15 help you God?

16 THE WITNESS: I do.

17 MADAM CLERK: Thank you. Please, take a seat on
18 the witness stand and state your name for the record.

19 THE WITNESS: Christopher Mastrianni.

20 **CHRISTOPHER MASTRIANNI,**

21 A witness herein, duly sworn, testified and examined
22 as follows:

23 DIRECT EXAMINATION

24 BY MS. BROWDER:

25 Q. Sergeant Mastrianni, where are you employed?

1 A. The Richland County Sheriff's Department.

2 Q. In what capacity?

3 A. I am a supervisor in investigations.

4 Q. Okay. And as part of -- how long have you been
5 in the Sheriff's department?

6 A. 13 years.

7 Q. And part of your duties there, did you become
8 involved in the case against Breonte Glasgow?

9 A. I did.

10 Q. Okay. And how were you involved in that?

11 A. I was notified by our desk sergeant of an infant
12 fatality at the hospital that the coroners were with. I
13 was the supervisor on call for investigations and received
14 that call that we needed to respond to the hospital.

15 Q. And did you respond to the hospital that day?

16 A. I did with Investigator Hentz.

17 Q. Okay. And that was March 11th, 2023?

18 A. It was.

19 Q. Okay. And when you arrived at the hospital, did
20 you meet with Ms. Glasgow?

21 A. Not initially, but yes, I did.

22 Q. Okay. And when you met with Ms. Glasgow, who was
23 present?

24 A. It was myself, Investigator Hentz, Deputy Coroner
25 Gurganious, and she had -- initially had, I believe, it was

1 her mother or an aunt was present. And eventually, the
2 father of the child was -- came in eventually at that
3 point, too.

4 Q. Okay. And what was the purpose of you meeting
5 with Ms. Glasgow at this point?

6 A. Just to gather information of what occurred
7 leading up to the hospital.

8 Q. Okay. And at this point, did you know anything
9 about what had happened?

10 A. We did not.

11 Q. Okay. And was she a suspect at that time?

12 A. Not at that time.

13 Q. And where did you -- where in the hospital did
14 you interview her?

15 A. There was a consultation room, I believe, it --
16 it -- it basically, after a family member passed, from my
17 understanding, they -- it's a room for -- it's a private
18 area kind of sectioned off from the children's emergency
19 room. It's several chairs, a table and it's down a
20 hallway. That's the best I can describe it.

21 Q. Okay. And who all was in the room when you
22 talked to her? Was everybody in the room that you just
23 discussed?

24 A. So myself, Investigator Hentz, Deputy Corner
25 Gurganious, her, and her mother.

1 Q. Okay.

2 A. I believe it was her mother.

3 Q. And during that time, was she allowed to leave at
4 any time that she wanted to?

5 A. She was.

6 Q. Was she in handcuffs?

7 A. She was not.

8 Q. And could you tell whether she was under the
9 influence of any drugs or alcohol that would have impaired
10 her ability to understand what you were saying?

11 A. She did not appear to be.

12 Q. Did she appear to have any mental or physical
13 disability that would cause her to impair her ability to
14 understand what was going on?

15 A. No.

16 Q. And when you asked her questions, did she respond
17 in a logical manner?

18 A. Yes.

19 Q. Approximately how long did you speak with her
20 there?

21 A. 15 minutes.

22 Q. Okay. And during that 15 minutes, did she ever
23 ask for an attorney or anything of that nature?

24 A. She did not.

25 Q. And was she denied access to phone, bathroom,

1 food, or drink during those 15 minutes?

2 A. She was not.

3 Q. Did you threaten or promise her anything to speak
4 with you at that time?

5 A. I did not.

6 Q. At that time at the hospital, that was the first
7 time you had met her, correct?

8 A. Correct.

9 Q. Okay. And when she gave you the answers, did she
10 seem in any way, obviously, she would've been upset at that
11 point, but did she seem to not understand what was going
12 on?

13 A. No, she seemed that she understood what I was
14 asking.

15 Q. And did she give you a statement that day?

16 A. A verbal one, yes.

17 Q. Later that day, did you speak with her as well,
18 on March 11th?

19 A. I did not speak to her. I spoke to her, I
20 believe, on the phone a couple days later.

21 Q. Later. So -- okay. You're at the hospital --

22 A. Oh, excuse me.

23 Q. -- did you see her later that day?

24 A. Yes. At [REDACTED] Redwood Court.

25 Q. And whose home was that?

1 A. That is her grandmother's home.

2 Q. Okay. And what was -- what were you doing there?

3 A. That was where we were with DSS to EPC the other
4 three children that were in the household at the time of
5 the incident.

6 Q. And when you got there, was the defendant,
7 Breonte Glasgow, there?

8 A. She was.

9 Q. Okay. And at that time, was she under arrest?

10 A. She was not.

11 Q. Was she a suspect at that time?

12 A. She was not.

13 Q. And this is in fact just a couple hours later
14 from the hospital?

15 A. Yes.

16 Q. Okay. And where did you speak with her at [REDACTED]
17 Redwood Court?

18 A. In the living room.

19 Q. Okay.

20 A. From my understanding, she was sitting on the
21 couch in the living room.

22 Q. And who all was present for that time when you
23 spoke with her?

24 A. Myself, Captain Jackson, who was there for the
25 Sheriff's Department as the victim's advocate for the
26 emergency protective custody part, and members of DSS.

1 Q. And what was the point of speaking with her at
2 that time?

3 A. Just to explain to her the process of why the
4 children are being placed into emergency protective custody
5 and the reasoning behind it, and what the next steps are
6 when it comes to the children that were present at that
7 time.

8 Q. And during that time, even though it was only a
9 couple hours later, did she seem impaired by any alcohol or
10 drugs?

11 A. She did not.

12 Q. Did she seem to have any physical or mental
13 instability at that time that would cause her not to
14 understand?

15 A. She did not.

16 Q. Was she free to leave at any time?

17 A. She was.

18 Q. Did you promise her or coerce her to giving you
19 any statements?

20 A. I did not.

21 Q. And did she, in fact, give you a statement at
22 that time?

23 A. She did give a brief statement of condition
24 leading up to.

25 Q. Okay. Now, you next were involved with her a

1 couple days later. You mentioned just a minute ago about a
2 phone call you received?

3 A. Correct.

4 Q. And do you remember what date that was?

5 A. I believe it was the 13th of March.

6 Q. Okay. And who called you that day?

7 A. Breonte.

8 Q. And where were you when she called you?

9 A. The Sheriff's Department.

10 Q. Were you expecting a phone call from her?

11 A. I was not.

12 Q. Okay. And when she called you at the Sheriff's
13 Department, what was she calling to inquire about?

14 A. Her cell phone that was taken the day prior by
15 Investigator Smith.

16 Q. Okay. And when she called you, was she under
17 arrest?

18 A. She was not.

19 Q. Was she even physically with you?

20 A. She was not.

21 Q. Did you threaten her or coerce her in any way to
22 say anything on the phone with you?

23 A. I did not.

24 Q. Did she seem like she was slurring, or drunk, or
25 anything on the phone, impaired by alcohol or drugs from

1 what you could tell?

2 A. Not at all.

3 Q. Okay. Was she free to hang up at any time when
4 she spoke with you?

5 A. She was.

6 Q. And did you give -- approximately how long was
7 that phone call?

8 A. Five minutes.

9 Q. And during that time, did she give any
10 statements?

11 A. Just about needing that phone because it was her
12 work phone.

13 Q. Okay. Did you speak with her again on that
14 subsequent day?

15 A. I -- on the 14th, yes.

16 Q. On March 14th?

17 A. I believe it was the 14th, yes.

18 Q. And where did you speak with her then?

19 A. 1701 Main Street, at the emergency protective
20 custody hearing with DSS in the family court.

21 Q. Okay. And what was -- that -- so that's in the
22 family court courtroom over there?

23 A. Yes.

24 Q. Okay. And at that time, was she under arrest?

25 A. She was not.

1 Q. Was she allowed to leave after you spoke with
2 her?

3 A. She was.

4 Q. At that time, what was the purpose of you
5 speaking with her?

6 A. To take possession of her cell phone.

7 Q. Okay. And why were you trying to take possession
8 of her cell phone if you already had her cell phone?

9 A. Because the initial phone we received, she told
10 me that we -- we had her work phone. When she called me on
11 the 13th, the number she called me from was the same number
12 that dialed 911.

13 So we weren't sure how that number was the same and
14 the initial -- what we were told is the initial sim card
15 number from the first phone did not match the 911 call.

16 Q. Okay.

17 A. And that's why we were taking possession of that
18 phone.

19 Q. So when you were speaking with her, were you
20 trying to get any information from her at that time?

21 A. Other than, is this the phone that she called 911
22 from.

23 Q. Okay. And at that time did you threaten her or
24 force her in any way?

25 A. I did not.

1 Q. Did you -- approximately how long was that
2 conversation?

3 A. Five or six minutes.

4 Q. Was she a suspect at that time?

5 A. At that time, it was just still initially the
6 initial preliminary information.

7 Q. Okay. Did she seem impaired by any drugs or
8 alcohol, or physically or mentally impaired to not
9 understand what was going on at that time?

10 A. She did not.

11 Q. Was she in handcuffs?

12 A. She was not.

13 Q. And you said she was allowed to leave that day?

14 A. Yes. She left right after that.

15 Q. When is the next time you had contact with, Ms.
16 Glasgow?

17 A. When we placed her into custody.

18 Q. And what date was that? Is that March 23rd?

19 A. That -- that sounds about right.

20 Q. And at that time, you said you were taking her
21 into custody at that time?

22 A. Yes.

23 Q. Did you have arrest warrants for her arrest?

24 A. We did.

25 Q. And where were you when you began to try to speak

1 with, Ms. Glasgow?

2 A. We initially took her into custody at her
3 apartment at Universal Drive. She was transported to the
4 Pineview office at 1931 Pineview Drive at the Sheriff's
5 Department. And we brought her into the interview room
6 where I attempted to read her rights and tell her wants.

7 Q. Now, at the Sheriff's Department at Pineview, the
8 interview room, explain to the Judge what this interview
9 room looks like.

10 A. It's a six-by-six office room. There's cameras
11 in the -- if you walk in the room to the top left corner,
12 there's a desk in front with a computer, there's a chair to
13 the left of it. In front of the computer, there's another
14 chair and then there's a third chair on the -- behind the
15 cameras you can't see it, where another investigator would
16 sit during an interview.

17 Q. You said at this time she is under arrest?

18 A. Yes.

19 Q. Did she have handcuffs on?

20 A. She did.

21 Q. And at this time, does she seem under the
22 influence of any alcohol, or drugs, or physical mental
23 disability that would prevent her from understanding what
24 was going on?

25 A. No.

1 Q. And approximately how long did you try to talk to
2 her at that time?

3 A. 10 minutes.

4 Q. Okay. And was she denied any access to
5 telephone, bathroom, food, or drink?

6 A. Telephone, yes.

7 Q. Okay.

8 A. Being in custody, but if she had to use the
9 bathroom, or food, or drink would've been provided.

10 Q. And did you threaten her or promise her in any
11 way to try to talk to her?

12 A. I did not.

13 Q. When you go to try to speak to somebody who's
14 under arrest, what procedure do you follow?

15 A. We sit them in the room. I explained it, I'm
16 going to read them their rights.

17 Q. Okay. And how do you try to read them their
18 rights?

19 A. We have a form of Miranda Rights form with a
20 waiver of rights at the bottom of that form.

21 Q. Okay. At this time, I'm going to show you what's
22 marked as Court's Exhibit 1. Do you recognize this?

23 A. I do.

24 Q. And what is that?

25 A. It is a advise of rights form with the Sheriff's

1 Department.

2 Q. Okay. And is that form that you were going to go
3 over with Ms. Glasgow?

4 A. Yes, it is.

5 Q. And how do you know that's the form for Ms.
6 Glasgow?

7 A. Because it has her name at the top, Breonte
8 Glasgow. The place is RCSD, for the Sheriff's Department.
9 My name, Sergeant Mastrianni. The date 3/23/23, and the
10 time of 9:32. And then I signed in the witness spot where
11 I read her her rights and stated that I read her rights.

12 Q. And what are the Miranda Rights? Can you read
13 them for the Judge?

14 A. Before we ask you any questions, you must
15 understand your rights. You have the right to remain
16 silent. Anything you say can be used against you in court.

17 You have the right to talk to a lawyer for advice
18 before we ask any questions and have a lawyer with you
19 during any questioning.

20 If you can't afford a lawyer, one be appointed to you
21 -- for you before any questioning, if you wish.

22 If you decide to answer questions now without a lawyer
23 present, you still have the right to stop certain questions
24 at any time.

25 You also have the right to stop certain -- answering

1 at any time until you talk to a lawyer.

2 Q. Okay. You read all of those to Ms. Glasgow?

3 A. I did. And signed where I witnessed it.

4 Q. And did she have any -- did she appear to have
5 any trouble understanding those rights?

6 A. No. She just really wasn't responsive at that
7 time. Not that she didn't understand it, she just was very
8 argumentative once I explained to her we had the warrants.

9 Q. And at some point before you started asking her
10 questions, did she ask for an attorney?

11 A. She told me to take her to jail. She wants her
12 lawyer.

13 Q. Okay. And at that time when she said she wants
14 her lawyer, did you continue to try to question her?

15 A. I did not.

16 Q. Okay. Did she continue to speak with you?

17 A. She did.

18 Q. Okay. Were you eliciting those answers from her
19 when she was speaking?

20 A. We actually stated multiple times that you've
21 asked for a -- an attorney, you've asked for a lawyer,
22 we're not going to ask any questions.

23 Q. And did she sign that form?

24 A. She did not.

25 Q. And why did she not sign that form?

1 A. Because she wanted to go to jail.

2 Q. Okay. And she refused to speak with you?

3 A. Yes.

4 Q. And was all this video recorded?

5 A. It was.

6 Q. And the statements, again, just to clarify that
7 she started saying after she asked for an attorney, did you
8 ask her a question for her to respond to that question to
9 give those statements?

10 A. I did not.

11 Q. Okay. And in fact, when she did start speaking,
12 what was your response to her?

13 A. That you've requested an attorney, we're not
14 going to ask you any questions.

15 Q. And was any -- anyone else present in the room
16 during that time?

17 A. Investigator Smith.

18 MS. BROWDER: Okay. I beg the Court's
19 indulgence.

20 THE COURT: All right.

21 MS. BROWDER: No further questions, Your Honor.

22 THE COURT: All right. Mr. Fox.

23 CROSS-EXAMINATION

24 BY MR. FOX:

25 Q. Thank you. Office Mastrianni, I'll start the

1 last one, the -- the interview on 323 March 23rd at the
2 police station. She did invoke her right to counsel at
3 that time, right?

4 A. She did.

5 Q. And she specifically stated, I don't wish to talk
6 anymore, correct?

7 A. Yeah. She said that she wanted a lawyer.

8 Q. Okay. And I think she also said, at first, I
9 don't wish -- you know, don't want to answer any question,
10 don't want to talk. Then get my lawyer, or I want my
11 lawyer, or something of that nature, correct?

12 A. Something I -- without watching the video, but
13 yes, along those lines.

14 Q. Yes. And that was -- you answered my next
15 question, that that encounter was in fact recorded, was
16 memorialized?

17 A. Yes.

18 Q. There's a video of it, right?

19 A. Correct.

20 Q. Okay. So that's done, reading her rights is this
21 thing, it's easily done. Was she read her rights on 314 at
22 the courthouse here when you requested and got her phone?

23 A. She was not.

24 Q. Okay. At that time, had the autopsy been
25 concluded at that point? There had been an autopsy done, I

1 believe, the day before, correct?

2 A. Yeah. We didn't have the results. I -- I didn't
3 go through a reenactment or a -- a autopsy review for I
4 think a week after.

5 Q. But there had already been -- there had been that
6 day an emergency protective custody hearing in family
7 court, correct?

8 A. For the other three children, yes.

9 Q. For the other three children, correct?

10 A. Yes.

11 Q. And without going through that whole hearing, the
12 basis of that was suspected neglect or abuse, correct?

13 A. Yes.

14 Q. And at that point you knew that, Ms. Glasgow, was
15 the mother of -- of all of the three children as well as
16 the child that was deceased **Infant One**, so of all four
17 children?

18 A. Correct.

19 Q. Okay. So if there's a suspicion of abuse and
20 neglect, it would be fair to say that she was a suspect at
21 that point?

22 A. It was a preliminary hearing in reference to a
23 suspicious death investigation. We didn't know the cause
24 of death at that point.

25 Q. But again, abuse and neglect was on the table to

1 the point the DSS had gotten involved and, in fact, taken
2 custody of the three children?

3 A. Which was protocol in these situations when
4 there's a death of a child.

5 Q. Yeah. But they don't just go swoop in and take
6 the children, there has to be some basis for that, correct?

7 A. Any suspicious death of a child.

8 Q. Right. The phone call on March the 13th, was --
9 are those phones recorded? Was that memorialized in any
10 way?

11 A. I don't believe it was saved. I did document in
12 my follow up what was said during that, though.

13 Q. Okay. The same with the -- the day before, it
14 might have been two days, on 11, but at -- at her
15 grandmother's house at [REDACTED] Redwood. And that's when in
16 fact she was informed and the children, I believe, were
17 taken into DSS custody, correct?

18 A. Yes.

19 Q. On that day. Okay. Again, was that memorialized
20 on a body cam or in any other way?

21 A. It was not. Investigators are not issued
22 body-worn cameras.

23 Q. Okay. So who was it on the -- in the courthouse
24 here, to go back to that one, that was a body cam video.
25 Whose body cam was that, do you know?

1 A. It was Corporal Culp. He's one of the deputies
2 down here. I asked him to just have it recorded as we
3 attempted to take her phone.

4 Q. I see. Was she told, the good Solicitor went to
5 lengths to make sure that she had asked you whether she was
6 in custody prior to the last encounter on the 23rd when she
7 wasn't in fact arrested at the hospital, at the courthouse,
8 at her grandmama's house, and the phone call. She was not
9 in custody. But was she told at any time that comments
10 that she made to you or law enforcement could be used
11 against her later, for instance, in a trial this week?

12 A. She was not told, specifically, it was a
13 non-custodial interview.

14 MR. FOX: I understand. Thank you, Judge.

15 That's all the questions.

16 THE COURT: All right. Any redirect?

17 REDIRECT EXAMINATION

18 BY MS. BROWDER:

19 Q. Very briefly, for the -- when she spoke with you
20 at the courthouse on March 14th, what was the purpose of
21 that conversation? What was your purpose for meeting up
22 with her?

23 A. Specifically for her phone. Because that number
24 that she called me from was the same number that called
25 911.

1 Q. Was it to elicit any information from her as a
2 suspect?

3 A. Not at all.

4 MS. BROWDER: No further questions, Your Honor.

5 THE COURT: All right. Thank you, sir. You may
6 be excused.

7 (Witness released.)

8 MS. BROWDER: Your Honor, that's all for the
9 State for purposes of *Denno*, Your honor.

10 THE COURT: All right. Yes, sir. Mr. Fox,
11 anything from you, sir?

12 MR. FOX: No presentation, Your Honor. We have
13 an argument.

14 THE COURT: Sure.

15 MR. FOX: Judge, I'll start with the -- the last
16 -- the March 23rd when she is in custody. That's
17 obviously considered custodial, she's under arrest.
18 They have already served the warrant; they do serve
19 warrants on her and she does invoke the right to
20 counsel. And she does state in that recorded
21 interview that, I think, first she said, I want -- I
22 don't want to answer any more questions or I'm done
23 talking, if you're going to arrest me, there's nothing
24 for me to say. Something along those lines.

25 THE COURT: Right.

1 MR. FOX: And then very shortly after says, I
2 want an attorney or you can talk to my attorney.

3 THE COURT: Right.

4 MR. FOX: Very clearly, invoking to right to
5 counsel.

6 THE COURT: Right.

7 MR. FOX: Our view would be that's a bright line,
8 there -- there's nothing equivocal about it. I know
9 sometimes the courts look at, you know, did they
10 really invoke the right counsel? It was very obvious
11 and clear that she did. And we would say anything
12 that comes after that should not be investigated.

13 THE COURT: And I haven't seen it, so I don't
14 know what she said, but -- so I can only go by what
15 y'all are telling me, but it sounds like she did that.
16 Said, I don't have anything to say, take me to jail,
17 at some point shortly after she says, "I want a
18 lawyer." And they stopped asking questions --

19 MR. FOX: I'm sorry --

20 THE COURT: And that -- and that she says
21 something herself unprompted, is that the case?

22 MR. FOX: She definitely says now there's a
23 little bit, I wouldn't say that Sergeant Mastrianni
24 is specifically, directing question, but there's a
25 little of engagement. Well, we just want to get some

1 answers. We just have some -- something like that.
2 We have some questions he doesn't specifically ask any
3 further questions.

4 THE COURT: Right. That is true.

5 MR. FOX: But he does -- there is some engagement
6 beyond just sort of blurring out, I would say that.

7 THE COURT: All right. So I mean, is there -- is
8 this on video? I mean, I --

9 MR. FOX: It is.

10 THE COURT: -- that I can go on a description,
11 but you know, when two people describe an accident --
12 a car accident are very different. I mean, I'm happy
13 to look at it, but it's hard for me to tell what is it
14 that she is supposed to have said after invoking her
15 rights.

16 MS. BROWDER: And, Your Honor, at this time, I
17 can tell you what she did say that we would seek to
18 introduce, but we would not seek to introduce it
19 during our case-in-chief. It would be if she would
20 take the stand for impeachment purposes. But she
21 said, my kids had no signs of abuse, no signs of
22 trauma. I love my kids. And y'all talking about
23 being the ones giving them bruises and marks.

24 MR. FOX: And I think to make a clean record,
25 Judge, it's not a very long --

1 THE COURT: No, I mean, if y'all have it, I'm --
2 I'm happy to

3 MR. FOX: I think that --

4 THE COURT: -- to look at it or whether it's now
5 or you know --

6 MR. FOX: We can send it to you.

7 THE COURT: Yeah. If y'all want to send it to
8 me, I'm happy to look at it later on. Second --

9 MS. BROWDER: She's going to get my computer I
10 can send it to you, Your Honor.

11 THE COURT: And so that would only be used if the
12 defendant herself decides to take the stand, not the
13 case in chief, correct? Okay. All right. So that's
14 the 23rd date. And is that -- is that the only
15 disputed statement on the 23rd? Because it sounds
16 like she may have said a couple things, but just I
17 don't want to talk, I want my lawyer that she said,
18 but what we discussed that I reviewed, is there
19 anything else that day, later on that night?

20 MR. FOX: No, not that I'm aware about.

21 THE COURT: All right. Okay. Yeah. Yes, sir.
22 If you want to talk with some others or --

23 MR. FOX: Yeah. Just with the others. I think,
24 you know, I know the threshold very clearly with
25 *Jackson v. Denno* with custodial interrogation. And --

1 and I do not believe that she was -- I think, she was
2 absolutely a suspect. I think, clearly, anything she
3 says can and hard -- is sought to be used against her
4 at this point. But I would have to concede that I
5 don't believe that she was in custodial interrogation
6 with these other --

7 THE COURT: Right.

8 MR. FOX: -- with these other encounters.

9 THE COURT: And that would be at the hospital on
10 311 at Redwood Court. Is that at 311?

11 MR. FOX: Yes.

12 THE COURT: Then at her grandmother's house on
13 312 and once on 313 and then once on 314.

14 MR. FOX: Maybe, just to clarify the -- the
15 second encounter on 311, I read the report that is her
16 grandmother's house.

17 THE COURT: Oh, okay.

18 MR. FOX: Is that correct? All right. So
19 reenactment on 12th. That's actually it.

20 THE COURT: Okay.

21 MR. FOX: Ms. Glasgow's apartment.

22 THE COURT: Understood. All right. So you --
23 you don't have any -- you don't have any objection as
24 to the first noncustodial statement, the hospital on
25 311?

1 MR. FOX: We're arguing against it. I guess, I
2 should say, I guess, that's a better way to put it.

3 THE COURT: All right. So you're not making an
4 argument against the statement taken at the hospital
5 on 311?

6 MR. FOX: No.

7 THE COURT: Okay.

8 MR. FOX: Anything other than the -- the arrest
9 at the --

10 THE COURT: On 323.

11 MR. FOX: 323. The other that I would say not
12 making an argument, I still believe, Your Honor, of
13 course has to make a finding as to their admissibility
14 under *Jackson v. Denno*.

15 THE COURT: Right. All right. But you're not --
16 you're not arguing --

17 MR. FOX: That's correct.

18 THE COURT: -- that they're -- they were not
19 voluntary?

20 MR. FOX: That's correct, Your Honor.

21 THE COURT: All right. And which of these -- I
22 know Ms. Browder, you said that the child death
23 reenactment on 312 and the statement on 323, that you
24 do not intend to use those in case-in-chief. How
25 about the others?

1 MS. BROWDER: The others we do intend to use in
2 case-in-chief, Your Honor.

3 THE COURT: All right. Well, as to it, again, I
4 want to make sure that -- that I'm clear on this, the
5 opposition, the defense opposition to the statement
6 taken on March 23rd after she was Mirandized that I'll
7 get a copy of the review, Mr. Fox, that's -- that's
8 the one that you were -- are objecting to at this time
9 under *Jackson v. Denno*?

10 MR. FOX: That's correct.

11 THE COURT: Okay. And so, I will review that and
12 then just get with y'all later this afternoon about my
13 ruling on those. It sounds like the others still are
14 not in dispute as far as defendant is concerned.

15 There may be objections later on, I guess, Mr.
16 Fox, at the time that these statements are offered in
17 -- in the trial. You certainly can object on other
18 grounds at that point if you choose, but --

19 MR. FOX: All right.

20 THE COURT: All right. So that's the -- is
21 anything further on the *Jackson v. Denno*?

22 MS. BROWDER: Your Honor, just as to the one on
23 March 23rd, it would be our position under case law
24 that he was not eliciting answers after that.

25 He specifically told her when she would start

1 talking, look, we can't talk to you, you said you
2 wanted your lawyer and she was still making statements
3 anyway, so that those would be voluntary statements
4 after she'd been given her Miranda rights.

5 THE COURT: Okay. Again, I'll take a look at
6 that and let y'all know as soon I have a chance to
7 review it on that, so I'll check on that. All
8 right. What do we have next to your --

9 MS. BROWDER: Your Honor, the Defense had made a
10 motion to prohibit the use of the word victim during
11 trial. I think we've all kind of agreed that we're
12 not intending to use "victim, victim, victim, victim."

13 We're telling all of our witnesses to avoid using
14 that word if possible. Obviously, somebody may slip
15 up here and there, but we do not intend to try to harp
16 on the word victim during the trial.

17 THE COURT: Right. And just to -- and -- and go
18 -- go ahead, Mr. Fox. I'll let you --

19 MR. FOX: No, I think that's inaccurate, we did
20 discuss this in chambers.

21 THE COURT: Yeah.

22 MR. FOX: You know, as far as coordinating for
23 this hearing. And I think that's an inaccurate
24 statement of -- of what we discussed and I'm fine with
25 that.

1 THE COURT: Okay.

2 MR. FOX: I would as part of the motion as well,
3 and we can address this really at the time of going
4 over jury instruction, as far as, I would request that
5 the Court not use that term in its jury instructions,
6 but we'll address that.

7 THE COURT: Okay. Well, yeah, we'll address that
8 later on. But again, what -- and y'all have described
9 it accurately to my recollection as well. When --
10 when we discussed this in chambers, I said, I'm not
11 going to say an absolute yes, you can always use it or
12 absolutely you can't.

13 I understand that -- that sometimes whether, you
14 know, police officers, somebody may use the word. I
15 -- I will be open to objections if Mr. Fox thinks that
16 it's being overused. However, I did want to -- it be
17 a black or white issue that you can always use and you
18 can never use it.

19 I know that Ms. Browder said that they're going
20 -- not going to do that and they're going to use
21 either the child that is deceased by the child's name
22 and -- but if it is referred to as victim
23 occasionally, then we can address that if Mr. Fox
24 think it's beyond that. But I think we are on the
25 same page.

1 MS. BROWDER: Next, Your Honor, we've just
2 reviewed all Rule 5 or Civil Court Rule 5 -- discovery
3 motions. We have turned over everything including
4 every little information to Mr. Fox and Ms. Coley. We
5 just ask that the State, obviously continuing if they
6 were to receive anything else. The same from my side.

7 THE COURT: All right. Any issues, Mr. Fox, with
8 discovery either you providing -- do you have anything
9 that is subject to Rule 5 that you have not provided
10 to the State? And is there anything that you believe
11 that you're entitled to that you have not received
12 yet?

13 MR. FOX: I don't believe there's anything that
14 I'd be obligated or need to provide in Rule 5 --

15 THE COURT: Okay.

16 MR. FOX: -- at this time. And Ms. Browder and I
17 have discussed that previously, made that request to
18 you previously, but don't think there is anything and
19 I do not believe at this point there is anything that
20 I do not have or would expect to have from the State.

21 THE COURT: All right. And same for you, Ms.
22 Browder, everything that you believe is responsive to
23 Rule 5 has been provided to Mr. Fox?

24 MS. BROWDER: Yes, sir. We -- Mr. Fox and I
25 discussed earlier the CV for Dr. Coates, because we

1 had not had that yet, but he did text or email that to
2 Ms. Cavanaugh earlier today. So we'll get that to him
3 today.

4 THE COURT: All right.

5 MS. BROWDER: He'll not be testifying to
6 witnessing that, Your Honor.

7 THE COURT: Okay.

8 MS. BROWDER: Regarding use of witness' prior
9 convictions, the only person who has a prior record,
10 Your Honor, would be Makala Greene. She would be
11 testifying probably on Wednesday. Given that she has
12 a 2015, it's actually, May 13th, 2015, breach of
13 trust, I believe. Is that what it is? Forgery. But
14 she did plead to probation for that. So it would
15 still be within the 10 years.

16 THE COURT: Right.

17 MS. BROWDER: That is what we need to be
18 admissible when Ms. Greene testifies.

19 THE COURT: Okay. And those -- that information
20 has been provided to Mr. Fox?

21 MS. BROWDER: Yes.

22 THE COURT: All that -- all those records. Okay.
23 All right.

24 MS. BROWDER: The only two things left from the
25 State, Your Honor, or I don't know what other he has,

1 is the video admissibility under 44B, and then
2 discussing the autopsy photographs of why they're
3 relevant.

4 And I can put our reasons for each photograph on
5 the record. I know you said you might want to hear it
6 from Dr. Monroe.

7 THE COURT: Sure. Sure. But I definitely want
8 to hear the arguments on that. First of all, as to
9 the video, I would note that I was provided a copy of
10 it. It's about 18 minutes, maybe give or take a
11 little bit.

12 And it appears to be a video recorded on a
13 telephone of the -- of the child, the deceased child,
14 and -- and two other children who I'm told are the
15 defendant's three children.

16 And I've reviewed also the photos that have been
17 provided to me. I think, is it seven or eight? I
18 can't remember how many.

19 MS. BROWDER: I think it's eight.

20 THE COURT: I -- but I've -- and of course, all
21 those have been shared with Mr. Fox.

22 MR. FOX: Yes.

23 THE COURT: As I've confirmed earlier, but I've
24 reviewed -- reviewed all of those. So I'm -- but I'm
25 happy to hear arguments. Why don't we do that on the

1 video first, just so it -- so at least when -- and I'm
2 probably going to take a look at a few other things.
3 I was trying to do that, and that's why I was late. I
4 apologize for that.

5 But let me go ahead and hear your arguments, Ms.
6 Browder, about why that video is -- in your view, why
7 it's admissible, and is it -- and if it's admissible,
8 should all of it be shown, should certain parts be
9 shown?

10 Is there anything on there that you believe we
11 should skip over? Tell me what your thoughts are on
12 that.

13 MS. BROWDER: Yes, sir, Your Honor. Just to
14 start with a little background for purposes of the
15 record, this video is created on Sunday, January 8th,
16 2023 at 8:42 p.m. is the video.

17 So the three children that are the -- I'm going
18 to use the words victim here during -- but the three
19 victims in this case are triplets of Ms. Glasgow.
20 This time, or in January, they're approximately six
21 months old.

22 Like I said, it was taken January 8th. The video
23 lasts for 18 minutes, and it begins with the deceased
24 victim, **Infant One**, naked in an infant bathtub.
25 He's crying, he's bleeding, he's got vomit on him.

1 She is taunting him and making comments, not
2 taking any action to give him his basic needs. He has
3 shown shivering, terrified.

4 He continues to have vomit all over him. She
5 never cleans him off. At the same time making
6 statements, which I won't put into the record as they
7 are in my memo, Your Honor.

8 And while her face is not shown on the video,
9 there's testimony at trial that that would be her
10 voice as well as the fact, Your Honor.

11 The person shown taking this video is wearing
12 pink crocs. There's also a video from the phone that
13 we would be playing that shows Ms. Glasgow doing a
14 full kind of selfie of herself that shows her face and
15 goes all the way down her body and shows her wearing
16 pink crocs.

17 So it would show that she's the one in this
18 video, as well as somebody authenticating her voice.
19 So that video, Your Honor, it goes to show in *State v.*
20 *Martucci* and *State v. Jarrell*, in context of homicide
21 by child abuse statutes. Extreme indifference is a
22 mental state akin to intent characterized by
23 deliberate act culminating in death.

24 The State may establish the mental state of
25 extreme indifference using evidence of prior instances

1 in which the accused either abused or neglected the
2 victim.

3 And that is *State v. Martucci*, Your Honor, where
4 they permitted evidence of a prior bad act, child
5 abuse, where there was eyewitness testimony that the
6 Defendant slapped the victim, did some other things.
7 And this is because we have to show clear and
8 convincing, Your Honor.

9 In this case, we would say it's clear and
10 convincing that there's actually a video. It's her
11 voice on the video, it's her taking, it was on her
12 phone.

13 So we do believe it's admissible in that sense to
14 show her mental state, since we do have to prove the
15 circumstances manifesting extreme indifference to
16 human life.

17 In addition, Your Honor, it goes to show her
18 mental state and her guilty state of mind as this
19 video is approximately two months prior to the death
20 of **Infant One**. He died on March 11th, Your Honor,
21 over the course of those two months, the children
22 never saw a doctor again.

23 And you can see in that video, it's relevant
24 because it shows he's a little bit -- he looks a
25 little bit chunkier and better than he did when he

1 dies on March 11th.

2 Your Honor, I know you've seen the autopsy
3 photographs, but doctors would testify that he lost a
4 significant amount of weight.

5 He was malnourished, he was severely dehydrated,
6 and we have to prove that a reasonable parent would've
7 seen this and that she failed to act to give any
8 medical help for this child over the course of those
9 two months.

10 In addition, Your Honor, it does show his penis
11 very briefly to show what it normally looks like
12 versus the day of his death where it's very swollen.

13 Doctors will testify, it was obviously very
14 painful that's something a reasonable parent would
15 notice. And she gives testimony during the DSS
16 hearing, Your Honor, which we would have entered
17 during the trial that she only saw that that morning.
18 Where doctors will testify that this would've been
19 before that, Your Honor.

20 In addition to that video to go -- to show her
21 guilty state of mind, that video is deleted, Your
22 Honor, between the time of **Infant One's** death between
23 March 11th and the time her phone is taken on March
24 12th by Investigator Kelly Smith at her home.

25 It goes to show that she got rid of this video

1 because she shows that she knew it would be a problem
2 for her that he had died due to her neglect.

3 It is the only thing that was deleted from her
4 phone, Your Honor. This is found in her deleted
5 folder.

6 And finally, Your Honor, just in case the defense
7 tries to say that, you know, he died of brain
8 injuries, the autopsy report actually shows, Your
9 Honor, that while he died -- he did die of
10 complications due to blunt force trauma, he also died,
11 Your Honor -- there's contributing factors of
12 dehydration, severe malnourishment.

13 So with that cause of death, if they don't
14 believe the head injuries would have caused it, but
15 just the neglect helped him die, Your Honor. The fact
16 that she neglected the child, it goes to show that she
17 was neglecting this child over the course of two
18 months.

19 It goes to show that her guilty state of mind,
20 her mental state, was neglecting that child, and that
21 she failed to do anything from January 8th until the
22 time that he died, and then tried to get rid of the
23 evidence of what she knew would be bad from the time
24 he died to the time her phone was taken.

25 THE COURT: All right. Thank you, ma'am. Mr.

1 Fox, what -- what's -- what say you about -- about
2 that? Where's -- where is Ms. Browder wrong there?

3 MR. FOX: Well, Judge, let me count the way it
4 is, no, I mean, that's a very strong presentation and
5 she obviously knows the law. However, I do disagree
6 with where some of these things fall, because the
7 State has argued this under a 404(b), which is what --
8 what I would call *Lyle*. Of course, it's codified, but

9 I still think of it as *Lyle* evidence. They would
10 have to show it -- each one of the exceptions, Rule
11 404(b), is a rule of exclusion. That's the starting
12 point.

13 This evidence of prior other, as sometimes we
14 say, prior bad acts, but actually it's just other bad
15 acts, is not admissible unless it meets one of the
16 four very well-defined exceptions.

17 So one of the exceptions that is -- the State has
18 argued is identity. Well, they will say it is her,
19 and they believe they have other evidence to tie to
20 the video to identify her in the video.

21 That's bootstrapping. What they're trying to do
22 is say, well, the identity exception is we need it to
23 be able to prove who's in the video. Because we
24 really want the video.

25 But the identity exception is to prove the

1 identity of the person that's committed the crime.

2 They want to use the alleged crime.

3 They want to use the video to identify her within
4 the video, which again, they will use yes, to tie to
5 the alleged incident, but I think they're kind of
6 bootstrapping the identity exception when it comes to
7 Martucci or absence of accident.

8 This -- let me start with this, Judge. You've
9 seen the video, it does not show -- other than the
10 injuries to the face, it does not show evidence of the
11 other allegation of the other injuries, the fractures,
12 the numerous fractures that were testified to.

13 There's no indication of any of those. It
14 certainly doesn't show any obvious head trauma. It
15 doesn't show anything that they can't get to in
16 another way and will attempt to get to through expert
17 testimony of the autopsy doctors, of other doctors, as
18 well as lay testimony.

19 It does not yet show as she is, Ms. Browder said,
20 **Infant One**, the infant who died in a very obviously
21 malnourished or neglected state. So it shows a lack
22 of compassion, they would say, although there are
23 comments in there that I will point out to the jury
24 about she does give a reason why she's doing the
25 filming. The person filming says, this is what, you

1 know, you're -- what I'm doing.

2 THE COURT: Right.

3 MR. FOX: Go ahead and say, she said, I -- you
4 know, doctor needs to see this, doctor needs to see
5 what's going on.

6 THE COURT: Right.

7 MR. FOX: Right. So I would say it doesn't show
8 any of the injuries. It's not clear and convincing
9 evidence of any of the injuries. There's two acute
10 injuries from whatever source. There's clearly not
11 life threatening to the cheek. It's not pretty, but
12 there are two, I'm going to say scratches, but some
13 kind of injury to the cheeks.

14 And the child spits up, but it's not clear and
15 convincing evidence of any of the injuries that are
16 alleged to be either the cause of death or
17 contributing factors.

18 I would distinguish *Martucci*, because in that
19 case, it was alleged a certain individual had, you
20 know, committed the child -- homicide by child abuse.
21 And there was direct eyewitness testimony that that
22 individual, the defendant, had hit, abused, I mean,
23 had eyewitness testimony of the abuse of that child
24 prior to whatever killed the child.

25 We don't have that here. And that video provides no

1 clear and convincing evidence of that.

2 Finally, Judge, I would say under 403 analysis,
3 it's very clear, although relevant evidence may be
4 excluded if it's probative value substantially
5 outweighed by the danger of unfair prejudice or
6 needless presentation of cumulative -- cumulative
7 evidence, I would say, there's definitely a very, very
8 strong risk of unfair prejudice.

9 I think the main reason this video would be
10 introduced would be to inflame the passion. And
11 certainly, the risk would be to inflame the passion of
12 the jury rather than -- and up with a verdict based on
13 that emotion rather than on evidence.

14 There's going to be plenty of testimony. There's
15 nothing in that video that the State alleges it shows
16 that will not be testified to in some form or fashion,
17 either through autopsy photos, testimony of the
18 doctors, testimony of lay witnesses in the encounter
19 of these children.

20 THE COURT: So are you consenting to the
21 admission -- admissibility of the autopsy photos?

22 MR. FOX: No.

23 THE COURT: Okay.

24 MR. FOX: I'm not actually, but there will be
25 testimony about the autopsy findings.

1 THE COURT: Right. Well, and I hear what you're
2 saying about, you know, that these -- this was six
3 weeks before, or however long it was before the
4 ultimate death. But doesn't it show? It -- well,
5 first of all, I'm told, and I haven't seen it yet, but
6 that the pathologist has as a contributing or
7 secondary cause I can't remember how Ms. Browder put
8 it, that --

9 MR. FOX: Dehydration.

10 THE COURT: -- that the -- yeah, the contributing
11 factors of dehydration and malnourishment. I mean,
12 surely the -- looking at the child six weeks before
13 and looking at the child, if the -- in the autopsy
14 photos, I'm not talking about admissibility here, but
15 if you wanted to -- if you wanted to investigate or
16 argue that issue.

17 I mean, it was -- was the child malnourished?
18 Was the child dehydrated? If the pathologist said
19 that those are contributing factors how -- isn't that
20 -- isn't that just proof of it? It's a picture of six
21 weeks beforehand and then six weeks later after he --
22 he passed, if he was hydrated and doing well and had
23 been properly fed, wouldn't that be evident then?

24 MR. FOX: Well, I would say the condition of the
25 child on the day he died would be evidence it -- would

1 be evidence itself of -- and the testimony about these
2 are our medical findings of --

3 THE COURT: Right.

4 MR. FOX: -- the child in this condition on this
5 day --

6 THE COURT: Right.

7 MR. FOX: -- March the 11th, we find, here's the
8 cause of death, blunt force trauma to the head.
9 Here's the contributing factors, which is dehydration.

10 Then use the word malnourishment, but
11 dehydration, which, again, that would not be evident
12 from the video. And just neglect. I'll see how the
13 doctor defines that, but it's not defined in the -- in
14 the autopsy itself.

15 THE COURT: Right. Well, I mean, dehydration and
16 malnourishment, I guess, is, you know, I -- I don't
17 know if doctors use the word neglect or not, but I
18 mean, that's -- if they're dehydrated, they're not
19 provided enough liquids, and if they're malnourished,
20 they're not provided enough food.

21 I mean, I guess, that's how I read it. But I
22 guess, the doctor will have to -- to speak to that.
23 How about the state of mind arguments that Ms. Browder
24 makes?

25 I mean, some of these appear to show some of her

1 state of mind. And then -- so talk to me about that.
2 And then also, this consciousness of guilt argument.

3 MR. FOX: I'll start with the consciousness of
4 guilt. I don't think deleting the -- the deletion of
5 the video itself arguably would be, but not the video
6 itself. In other words, an act taken to hide what
7 someone allegedly feels is incriminating evidence.

8 THE COURT: Right.

9 MR. FOX: That's the -- that would be the
10 mindset.

11 THE COURT: Right.

12 MR. FOX: The thing itself is not necessarily
13 right. The -- the item itself is not necessarily the
14 mindset. It is --

15 THE COURT: Okay. So how would that -- so -- how
16 would the State -- how would that be presented then?

17 Just, there is a -- there, as far as the
18 consciousness of guilt, she deleted this after the
19 death before some other marker.

20 And so ladies and gentlemen of the jury, it was a
21 -- it -- it was a bad recording. And so -- I mean, so
22 how can you have one without the other?

23 MR. FOX: Well, I think you could, but I'm not
24 sure they could even get to proving that she -- that
25 would be an issue. That she's the one that did the

1 deleting. They'll have an officer --

2 THE COURT: Right.

3 MR. FOX: -- who will say, I -- I, you know,
4 dumped this phone.

5 THE COURT: Right.

6 MR. FOX: The guy was thinking among the things I
7 found was this video.

8 THE COURT: Right.

9 MR. FOX: And I found that -- that that same
10 video was deleted within a couple days of -- of the
11 young boy's death.

12 THE COURT: Right. But that -- there's no -- no
13 direct evidence that she's the one that actually
14 deleted it.

15 MR. FOX: Yeah. And there's certainly
16 circumstantial, it's a phone that is -- that would be
17 testimony --

18 THE COURT: Right.

19 MR. FOX: -- is associated with her. But yes,
20 there's not direct evidence that anyone saw her do
21 that or that could prove that she did it.

22 THE COURT: Right. Okay. And how about the --
23 how -- how about these -- the argument that this also
24 supports the State and the State has the burden of
25 showing that, you know, I guess, a reasonable parent

1 would have been able to tell that this child needed
2 medical care, was not being properly fed or -- or
3 nourished.

4 And that -- that goes to a state of mind. Some
5 of the comments that she's making, you know, here, you
6 know, just some of the things like, you know, why is
7 he screaming, you know, he's just screaming, he didn't
8 hurt -- you know, I don't know what's going on. Those
9 types of things. Tell me how -- how that doesn't have
10 an effect on the admissibility, or does it?

11 MR. FOX: Well, Judge, I think that's part of the
12 problem and part of the -- the prejudicial effect of
13 it, that that is difficult to listen to. Whoever's
14 saying that, that certainly does appear that this
15 person is not comforting, is not tending to that
16 child.

17 And so that may be is as bad or worse as the
18 images themselves. So I would say I don't -- I can't
19 say that it doesn't necessarily go to state of mind,
20 but I would say that is -- goes to my argument that
21 it's a part of the overall picture and the warranted
22 prejudice that outweighs its prejudice value.

23 THE COURT: How about other than the 403
24 argument, is there -- and I watched the whole thing.
25 Is there any other basis for excluding the video other

1 than the 403 argument that we've -- that -- that we've
2 been -- been talking about? For instance, I -- I
3 didn't write down each of what she was saying, but I
4 mean, is there -- I -- I'm -- I just don't know the
5 answer to this.

6 So, I mean, other than the 403 argument, is there
7 any other basis for excluding whether it's either
8 parts of the video, certain statements or anything
9 else?

10 MR. FOX: Judge, as a fallback, I don't want to
11 concede that, my position is that the entire video
12 should be --

13 THE COURT: No, I understand. I'm just saying, I
14 -- I don't know if there's a subset, like, she says X
15 at --

16 MR. FOX: Right.

17 THE COURT: -- this point. And so a different
18 legal argument. It requires that to be excluded. I
19 -- I just I just don't know. I didn't write them all
20 down.

21 I want to make sure that if the video is to come
22 in, I'm going to have to look -- you know, look at it
23 and -- and do some research on this. Because it's
24 very unusual to have a video like this.

25 I mean, I mean, I haven't been around very long,

1 but I can't imagine it happened very frequently. But
2 is there any other argument as to any part of the
3 video other than the 403?

4 MR. FOX: I'm not aware of the --

5 THE COURT: Okay.

6 MR. FOX: -- I'm not aware of another one, Your
7 Honor.

8 THE COURT: Right. And again, I didn't know if
9 it -- you know, if she was referencing something that
10 happened, you know, a year ago or, you know, something
11 like that. I just didn't -- didn't know. So I just
12 want to be clear on -- on that.

13 All right. And it's just -- you know, and -- and
14 -- and it's just hard when you look at, it's very
15 difficult to look at. It's very difficult to hear.
16 And so I understand that it's -- it is difficult, but
17 it -- you know, again, if somebody is charged with
18 assault and battery in the first degree because they
19 beat somebody up with a baseball bat, and there's a
20 video of it, I mean, it might not be pleasant to look
21 at, but I mean, it is a video of the -- of -- of, you
22 know of what occurred. I guess, in this state it was
23 six weeks earlier. So --

24 MR. FOX: Exactly. I think there is --

25 THE COURT: That's kind of, I guess, a

1 distinguishing. How about that Ms. Browder, I mean,
2 the fact that it's six weeks earlier, you know, if
3 this had been the day of, or two days or three days,
4 would -- I mean, does it make any difference at all?

5 MS. BROWDER: I believe it does, Your Honor,
6 because the neglect is starting at that point that
7 shows what he looks like then, and six weeks later
8 he's dead. This is what he looks like now, which,
9 hopefully, there would be a picture from autopsy to
10 show a reasonable parent would see that.

11 In addition, Your Honor, some of his fractures
12 are healed -- healing fractures not acute fractures.
13 So it would show that this time, this date right here,
14 he doesn't seem to have any fractures.

15 But between there, when he did -- never sees the
16 doctor again until the time he dies. And the
17 fractures occur sometime during there. So it goes to
18 show his state on that day versus what he looks like
19 six weeks later.

20 In addition, Your Honor, regarding the fact about
21 whether she's the one that deleted it, she testifies
22 in the DSS hearing that she believes the babysitter
23 and her kids deleted it. Who else had control of your
24 phone? The babysitter and the kids. And they said,
25 who deleted that? She said, I did not, the

1 babysitter, her kids had it.

2 Makala Greene is the babysitter that she's
3 referring to. Makala Greene will be here testifying.
4 Makala Greene will testify she did not have that
5 phone.

6 In addition, Your Honor, when Ms. Glasgow leaves
7 to go to the hospital, she actually almost misses
8 ambulance, because she had to go get her phone
9 charger.

10 Then she makes statements that she did not get
11 service at the hospital. So she clearly has her
12 phone. She is the one that deleted this. So I don't
13 believe that is something -- that was something that
14 would remove the weight of the evidence --

15 THE COURT: Right.

16 MS. BROWDER: -- and it's admissibility.

17 THE COURT: Right.

18 MS. BROWDER: As her ID, Your Honor, we have to
19 show neglect. This goes to show she's the one
20 neglecting this child and the other two children --

21 THE COURT: Right.

22 MS. BROWDER: -- in a sense. And that it's a
23 lack of accident that she's doing this consciously.
24 She's neglecting this child while he's in the bathtub,
25 screaming, freezing. And she makes comments during

1 her DSS statement. Did he ever cry when you changed
2 his clothes? No. Did you ever cry -- did he ever cry
3 when he did this? No.

4 THE COURT: Right.

5 MS. BROWDER: Did he ever cry? No. But yet in
6 the video, Your Honor, he -- she literally states "He
7 can't take a bath in peace. He can't drink his bottle
8 in peace. He can't sleep in peace. He whines in a
9 sleep. You sound slow. He ain't calmed down yet, 15
10 minutes straight." So is -- is completely
11 contradictory to what she testifies to in the DSS
12 hearing.

13 So it goes to that, Your Honor. And again, the
14 autopsy, the contributing factors I just went back and
15 looked at is dehydration and neglect. So we have to
16 prove neglect. And so that's where this video comes
17 in, because this is the start of the neglect.

18 THE COURT: Right.

19 MS. BROWDER: He never sees another doctor, and
20 then he's dead in six weeks.

21 THE COURT: How did the other, and I heard you
22 mention this earlier, the other injuries that you're
23 talking about, the healing fractures and those types
24 of things, there'll be somebody to testify about
25 those.

1 MS. BROWDER: Yes, sir, Your Honor -- testify
2 about that.

3 THE COURT: Okay. Because I -- I just didn't
4 know about that. And I think Mr. Fox's argument is,
5 look, this is six weeks before, plus, it's blunt force
6 trauma that -- that caused the child's death, not
7 neglect. I mean, if the -- if the cause of death was
8 starvation, or severe dehydration, or something to
9 that effect, maybe, but, and I'm not speaking for Mr.
10 Fox, but what I'm hearing is, you know, at some point
11 in time, somebody or something caused blunt force
12 trauma to this child that killed him. It's too
13 prejudicial just to show this woman being a terrible
14 parent.

15 MS. BROWDER: Dr. Monroe, will testify the actual
16 non-accidental head trauma, Your Honor, is not acute.
17 It happened prior to his death, there would've been
18 one or two or three impacts. He testified that with
19 those head injuries he would have lethargy, his
20 demeanor would be off, he'd be out of it, he'd be
21 vomiting.

22 And so, I think, it goes to show that at this
23 time he was okay, and his demeanor would've changed
24 and a reasonable parent would've noticed that. But at
25 that time, the head injuries didn't happen right

1 before his death acutely. So it happened sometime
2 between that six-week period.

3 THE COURT: He's not -- he's not going to say it
4 happened that day?

5 MS. BROWDER: No.

6 THE COURT: Okay.

7 MS. BROWDER: No, Your Honor.

8 THE COURT: How -- does he place a time?

9 MS. BROWDER: He can't place a time on it, Your
10 Honor.

11 THE COURT: Okay.

12 MS. BROWDER: He also, of course, says the
13 contributory conditions to his death is dehydration
14 and neglect. And the neglect sped along his death.

15 THE COURT: Right. Yeah. So -- and I'm -- and
16 -- and Mr. Fox, why I understand the temporal issue
17 here, but I mean, how are they -- I mean, the State's
18 got the heavy burden of proving, you know, the neglect
19 in this case. And what we have here is kind of a
20 strange snapshot six weeks beforehand.

21 And then we've got a doctor's -- you know,
22 pathologist report and photographs afterwards. I
23 mean, isn't that I mean, it -- the State has the
24 burden of proving that, it doesn't -- that -- how -- I
25 guess, I'm wrestling with how that can -- how that's

1 not extraordinarily probative. If they have the
2 burden to show that. I mean, I know it's difficult to
3 look at. I'm not saying that that's the case. I'm
4 not trying to minimize it at all.

5 MR. FOX: I think, Your Honor, put it very well,
6 if you -- a little bit ago, it -- temporal is
7 important. And although, Dr. Monroe, the autopsy
8 doctor wasn't able to give a timeline, he did say not
9 acute. So not that day or right before.

10 THE COURT: Okay.

11 MR. FOX: Another doctor estimated. Because they
12 could -- one way they could tell that is it's -- it's
13 resolving. They could see certain activity in the
14 brain --

15 THE COURT: Right.

16 MR. FOX: -- heal -- a healing nature. Right.
17 There's a word, I'm not going to get the medical word.
18 Right. Basically, it's almost like a scabbing.

19 THE COURT: Right.

20 MR. FOX: There was bleeding in the brain and
21 there was almost like a healing scabbing of -- of the
22 tissue showing that this wasn't a fresh injury. But
23 another doctor estimated that between 10 and 21 days,
24 but we're still weeks and weeks out --

25 THE COURT: Right.

1 MR. FOX: -- from when this video was made. All
2 right.

3 THE COURT: Right.

4 MR. FOX: It's closer to eight weeks, but it's --
5 it's a good six to eight weeks. But beyond what any
6 testimony will be, there isn't -- you know, there's
7 going to be other -- I believe, other evidence of
8 testimony about dehydration, malnourishment. And I
9 agree with Your Honor, those go pretty much hand in
10 hand --

11 THE COURT: Right. Right.

12 MR. FOX: -- I believe. And so there's going to
13 be plenty of testimony about it. The State is not cut
14 off in any way from attempting to prove their case
15 that this video was out. They're not cut off from
16 testimony about the condition of the child on the day
17 he died. They're not cut off.

18 I believe, there's other -- we haven't gotten to
19 phone issue, but the officer who dumped the phone
20 found pictures, including pictures the day before, of
21 the triplets.

22 So there is the ability of the -- of the State to
23 show this another way. And again, Your Honor, hit it.
24 The video doesn't show evidence of, in their own
25 admission, he looks fairly healthy. And these are

1 premature babies. You have to keep in mind, these
2 babies were born at about a pound. They were 20 --
3 born at 24 weeks. They were tiny.

4 THE COURT: How old were they on --

5 MR. FOX: Eight -- about eight months. So this
6 --

7 THE COURT: Eight months?

8 MR. FOX: -- they were born in July. And this
9 was early -- so right at nine months, I guess.

10 THE COURT: Okay.

11 MR. FOX: No eight months. Eight months. So
12 they were teeny tiny. They never -- I'm not sure they
13 ever looked great compared to a big old healthy bouncy
14 --

15 THE COURT: Right.

16 MR. FOX: -- chubby baby. But there'll be plenty
17 of testimony about that, that they can get, whether
18 this video was in or not. By the Solicitor's own
19 admission, the baby looked relatively okay at that
20 point in terms of weight and, you know, physical skin
21 and all that.

22 Doesn't illustrate or show any fractures or
23 anything. It shows a fussy baby for sure, whatever it
24 is. Whether it's because he's hungry or because, you
25 know, we don't know what -- he's in a little tub,

1 there's some water.

2 We don't know what the temperature of the water
3 is. We don't know if it's because he is in a cold tub
4 or because he doesn't -- just doesn't want to be in
5 the tub. But you see a fussy baby, you know,
6 question.

7 But like, Your Honor is saying, basically, I
8 think the reason they want to show it is to say, look,
9 bad mama, bad mama, not comforting the child the way
10 we, community, thinks you should do it.

11 Right. Because there's going to be other --
12 there's another part of this whole thing is, we
13 haven't gotten into, I think it's relevant here, is
14 they've gone to great pains when I say they, the
15 State, law enforcement, etc., to interview everyone to
16 say, she didn't show the right emotion when EMS got
17 there. She didn't react the way we think she should
18 have reacted. That's what it boiled down to.

19 THE COURT: Right.

20 MR. FOX: She didn't react the way we thought she
21 should have at the hospital. She didn't show emotion,
22 "so she must be a bad mama", because she didn't react
23 the way we think a mama should react. And this kind
24 of all ties into that.

25 THE COURT: Right.

1 MR. FOX: So that's kind of my argument is they
2 want to show it more or less to just show a bad mama,
3 and it doesn't actually show the things that they do
4 have to prove and which they can get to through other
5 testimony and other evidence.

6 THE COURT: Right. And I guess, you know, again,
7 the difficulty with me with -- with criminals, I --
8 you just -- I just don't know as much going into it as
9 I do with civil, and that's just the nature of -- of
10 -- of how it is. But if -- if this was a acute head
11 injury, like it -- like it happened that day and he
12 went to the hospital, I could, I think your argument,
13 it would be stronger. I think if it happened over
14 time, you know, and they can't date it, but it wasn't
15 then, you know, it seems like that -- that almost, and
16 -- and I'm not ruling, I'm just thinking out loud that
17 -- that at that point, you know, the malnourishment
18 and the dehydration, you know, along with this injury,
19 whether it's, you know, two or three weeks out or
20 however long Ms. Browder said that he could only best
21 guess, that I see why it might be a contributing
22 factor at that point. If it was like a slow demise
23 instead of just like a slamming down on the table and
24 then he passes away, you know, within minutes.

25 All right. I don't want to go *ad nauseum* about

1 this. But Ms. Browder, is there anything else? I
2 mean, I think I've got both sides arguments on this.
3 I've got your memo, of course. I'm going to look at
4 the cases that you've cited in it, and then also the
5 -- the *Martucci* case I'll take a look at as well. Is
6 there anything else as far as the video is concerned?

7 MS. BROWDER: No, sir.

8 THE COURT: Anything, Mr. Fox, other than what
9 we've --

10 MR. FOX: No, Your Honor.

11 THE COURT: -- okay. And the -- the photo that
12 -- why don't we take a -- I think I left them back
13 here. Let me go get those. Let's stand at ease for
14 just a few minutes. Let me go and grab those. I
15 don't think I brought them out.

16 MS. BROWDER: Okay. I think I might put this up.
17 And then --

18 MR. FOX: Of course.

19 THE COURT: Three, four, five, six, seven, eight,
20 nine. So they're nine -- nine photos that -- that
21 I've reviewed. And I'm happy to hear the arguments as
22 to each of them. I think this is the only -- did you
23 say these are the only copies --

24 MS. BROWDER: That's the original copies that I
25 have.

1 THE COURT: Ms. Browder? Okay. Yeah. Let me
2 give these back to you.

3 MS. BROWDER: And I can describe them.

4 THE COURT: No, no, no, that's fine. Yeah. And
5 I think they're remarked on the back side for IDs.

6 MS. BROWDER: Whenever you're ready.

7 THE COURT: Yes, ma'am.

8 MS. BROWDER: Okay. First off, before I go into
9 the photos, for homicide by child abuse cases, again,
10 under *Martucci*, the State has the right to prove every
11 element of the crime is not obligated to rely -- rely
12 upon defendant's stipulation.

13 They use the Rosemond test, Your Honor, which is
14 335 SC 593 and *State versus Jarrell*, 350 South
15 Carolina 9 from 2002 also uses the Rosemond test,
16 which shows that the relevance, materiality, and
17 admissibility of photographs or matters were done
18 within the sound discretion of the court. And whether
19 the photograph evidence serves to corroborate the
20 testimony of witnesses offered at trials in court in
21 making the decision.

22 In *Martucci*, Your Honor, all autopsy photographs
23 of the child's internal organs and other injuries were
24 actually admissible in order to show the injuries to
25 the child. It's necessary to depict the severity of

1 **Infant One's** injuries in this case and his resulting
2 trauma in order to show one, what his injuries are.

3 And two, a reasonable parent would've been aware
4 of these injuries, whether they committed the injuries
5 or not, and failed to get medical care for the child.

6 So regarding that, Your Honor, I'll start with
7 State's Exhibit 40, which is a picture showing
8 **Infant One's** face straight on this picture, Your Honor.
9 You want to look at him while I do it or?

10 MS. COLEY: Yeah. Thank you. Sorry.

11 MS. BROWDER: Is used to depict -- to show that
12 the scar in between his forehead, Your Honor, this is
13 the same child that was in the video because there are
14 triplets.

15 In State's 39, Your Honor, this is the left side
16 of **Infant One's** body. It does not show his face, it does
17 not show his head. It just shows the left side where
18 there are scratches where he would not be able to
19 scratch himself. And doctors would testify that those
20 are larger than a child's fingernails. That --

21 THE COURT: Which one is that? Hold just -- if
22 you just hold it up.

23 MS. BROWDER: State's 39, Your Honor.

24 THE COURT: Okay. Right.

25 MS. BROWDER: State's 41 is his right leg, Your

1 Honor. It shows all the scratches on his leg that she
2 says is eczema, where the doctors will say, this is
3 not eczema. This is not one of the other triplets
4 scratching him.

5 This is not himself scratching himself. These
6 would be injuries that would've been noticeable. 42,
7 Your Honor, is the picture of the back of **Infant One's**
8 head.

9 THE COURT: Yes, ma'am.

10 MS. BROWDER: To show that he had no hair there.
11 He has scratches and it's scabbed over there, which is
12 a difference from when he came home from the hospital.
13 And actually, the -- the hair that's in the -- in the
14 video, Your Honor.

15 So he has healthy hair. Well, here he does not
16 have hair. Number 43 is his left leg, Your Honor,
17 it's similar to the right leg to show that there's
18 many scratches on that leg. Scratches he cannot give
19 himself, nor the other triplets could have done.
20 Number 44, Your Honor, which is the one of him lying
21 on his stomach with his back showing.

22 THE COURT: Right.

23 MS. BROWDER: That goes to show, Your Honor, how
24 emaciated his buttocks is. The doctors -- or Dr.
25 Young would testify that due to the lack of fat in his

1 buttocks and muscle, that that goes to show how
2 dehydrated and how malnourished he is.

3 Number 45, Your Honor, is the full picture where
4 he is on his back on the table and again, goes to show
5 his ribs. You can clearly see this child is
6 malnourished.

7 You can see his skin hanging off, can also see
8 his penis, which is one of the things that is noted on
9 the autopsy in Dr. Young's report, that this is
10 something that would be a sign of abuse. And it is
11 different from the one that is shown in the video,
12 Your Honor.

13 46 is the one of his torn frenulum in his mouth
14 that just goes to show that that injury is actually
15 very obvious. There's also will be testimony from
16 Makala Greene, Your Honor, about a week or two prior
17 to **Infant One's** death when she saw him, she walked in and
18 he was bleeding profusely from his mouth.

19 Ms. Glasgow told her that he just scratched his
20 gum. And that's what it is, where clearly this child
21 has no tissue left where his frenulum should be. It's
22 something that a mother would notice and gotten help
23 for him.

24 And then finally, Your Honor, State's Exhibit 38,
25 which is a picture of his face from his right side.

1 While it is another picture of his face, this one
2 shows his black eye much more obviously, that a mother
3 would've seen their child has a black eye.

4 It's not something -- the doctors will testify,
5 this is not something one of the other children
6 would've been able to give him, but that would've been
7 more force. So that's the relevancy of all those
8 photographs.

9 Your Honor, I believe we've been very generous in
10 picking the photographs. We did not pick any that
11 shows the actual brains laid open to show the brain
12 injuries and the head injuries.

13 We'll have Dr. Monroe testify to that, but those
14 are to show that Ms. Glasgow would've seen the
15 condition of this child, seen how he has deteriorated.

16 And this is somebody who should have been getting
17 a lot of medical attention and had none, and she did
18 nothing. That neglect is what helps speed along and
19 cause his death, Your Honor.

20 THE COURT: All right. Mr. Fox, how -- how about
21 that? And again, you know, I -- I keep coming back
22 to, you know, these because there wasn't a -- a -- an
23 acute head injury on -- you know, on the day that
24 caused it right then and there if --

25 MR. FOX: I don't mean to interrupt; Ms. Coley is

1 going to handle the autopsy.

2 THE COURT: Oh, I'm sorry. I apologize. Ms.
3 Coley.

4 MS. COLEY: It's okay.

5 THE COURT: Sorry about that. I didn't want to
6 be presumptuous. In this case, they've got to show an
7 -- an extreme indifference to human life. If this
8 video is six weeks out and the injury to the child
9 would've happened two or three weeks, you know,
10 whatever the doctor's best guess is.

11 So they -- and they've got this -- they've got a
12 black eye. I mean, it's how -- how are these aren't
13 open, you know, they're not open chest pictures of
14 broken, you know, broken ribs or, you know, brain
15 injuries or anything.

16 Tell me how these are not -- I know they're not
17 pleasant to look at. They're not blood and gore, but
18 tell me why they're not admissible under 403, which
19 is, I understand your objection.

20 MS. COLEY: Yes, Your Honor. That's correct.

21 THE COURT: All right.

22 MS. COLEY: And may it please the Court.

23 THE COURT: Sure.

24 MS. COLEY: Under *State versus Braswell*, the
25 Court held initially the photographs calculated to

1 arouse sympathy or prejudice of the jury should be
2 excluded if they're irrelevant or not necessary to
3 substantiate material facts or conditions. These are
4 relevant, we're not arguing that they're not -- they
5 don't meet that relevancy test.

6 But we're -- our argument is based on the fact
7 that they're considered unfairly prejudicial because
8 they are -- would be admitted on an improper basis
9 that would suggest a motion -- an emotional response
10 to the jury, in effect.

11 So the testimony as you -- as Mr. Fox has stated
12 already, as the Solicitor has stated, there will be
13 testimony from multiple doctors going over in a lot of
14 detail, how all of injuries that **Infant One** had sustained.
15 They will be able to be extremely descriptive with
16 those and we are arguing that under multiple cases
17 versus -- *State versus Middleton* 288, South Carolina
18 21, held that although photographs may be used to
19 corroborate other evidence, the testimony of the
20 forensic pathologist negated any arguable evidentiary
21 value to the photographs.

22 And the *State versus Nelson* reaffirmed the
23 decision in *Guernarin's* (phonetic) that explained that
24 in the guilt phase of the trial that the photographs
25 of murder victims should be excluded, where the facts

1 they're intended to show have been fully established
2 by competent testimony.

3 So if you look at the photographs that they're
4 intending to show under the statute, they -- and as
5 we've gone over already the cause of death was that
6 non-accidental blunt force trauma to the head, that it
7 was exacerbated by other conditions, but those
8 conditions were not the actual cause of death. It was
9 that blunt force trauma. I don't believe that any of
10 these photographs are indicative of showing any of
11 that.

12 THE COURT: Of showing what?

13 MS. COLEY: Of showing the -- the actual cause of
14 death.

15 THE COURT: Right. But don't they also -- I
16 mean, they've got to show the -- under the statute, a
17 extreme occurred under circumstances manifesting an
18 extreme indifference to human life. I mean, doesn't
19 -- doesn't showing the condition of the child at the
20 time of the -- and I don't want to get this mixed up
21 with the video, but doesn't this being able to show a
22 -- a black eye and being able to show that the child
23 has damage, you know, cuts or -- or scratches or
24 whatever they are outside of the reach of the child,
25 that it couldn't have, at least the doctors are going

1 to testify that it couldn't have made that he -- that
2 the child could not have made.

3 And that, you know, the hair is gone off the back
4 of his head and there's damage back there that he
5 couldn't reach. I mean, how was that not evidence
6 showing the circumstances manifesting in extreme
7 indifference to human life?

8 MS. COLEY: I -- I don't disagree that they would
9 bolster --

10 THE COURT: Right.

11 MS. COLEY: -- that testimony, but my argument is
12 based on the fact that that testimony alone is enough.
13 And this court has been very weary to allow autopsy
14 photos when it is just to propagate that emotional
15 response, which we do believe that it would, in this
16 case.

17 Although, they would show those things that the
18 doctor is talking about, the doctor wouldn't be able
19 to go into detail on those things, so much so, that it
20 wouldn't be necessary to show those other than to
21 invoke an emotional response.

22 As you're well aware, this case is with a -- of
23 the death of a child which is already emotional as we
24 saw in jury qualifications earlier for a lot of
25 people. And so to allow those photos to, in effect,

1 would only -- the purpose that it would serve would be
2 to invoke that emotional response from people.

3 And just to comment on the State's cases that
4 they are relying on in this case the State versus
5 Roseman was a death penalty case, and the photos were
6 allowed in the sentencing phase of that case, not in
7 the guilt phase.

8 And *State versus Martucci* was -- that case, the
9 photographs were introduced to corroborate the
10 testimony of the ward -- of Dr. Ward who testified
11 regarding to the various injuries that were inflicted
12 on the child including discoloration and bruising and
13 internal trauma that caused his death. But that the
14 photographs were necessary to depict the severity of
15 the bruises because they were underlying injuries.

16 And these -- the majority of these photos
17 including the scars and the black eye, while they are
18 -- are not they are injuries. They aren't
19 contributing to the cause of death. They aren't the
20 actual cause of death and they, again, would be able
21 to -- the doctors would be able to testify to those in
22 detail.

23 THE COURT: Well, let me ask you this, in *State*
24 *versus Holder* -- oh no, it's not Holder. What is it?
25 On this State issued computer. The -- yeah, in *State*

1 *versus Holder* and I -- and it's hard for me to -- to
2 take these in isolation from the video in some
3 respects, but in that case, the Court allowed the
4 admission of two photographs of a child victim taken
5 approximately one month before his death in a homicide
6 by child abuse that showed the child's condition a
7 month beforehand.

8 And which in the Supreme Court held, which was
9 relevant, whether defendant's acts or omissions
10 resulted in the child's death. And the photographs
11 established a pattern of abuse and neglect.

12 I understand that the pathologist can get up here
13 and say, this child was in -- when I did the autopsy
14 of this child, I'll tell you everything about it, but
15 I mean, the pathologist can't show all of the
16 circumstances manifesting an extreme indifference to
17 human life.

18 Can't -- can he or she? I don't know if it's a
19 man or woman, but if -- because I'm having a hard
20 time, wouldn't that -- because they've got to show
21 that a reasonable parent would have known or should
22 have known or would've been able to tell that this
23 child needed some type of medical help. How can a
24 pathologist testify about that?

25 MS. COLEY: Your Honor, the pathologist, I -- and

1 I -- to distinguish a little bit of *State versus*
2 *Holder* just in pulling up the case quickly the -- Dr.
3 Ward in that case was -- had in the appeal, the
4 pathologist had testified on camera that the
5 photographs would help him demonstrate the anatomic
6 relationship and the disruption of those anatomic
7 relationships.

8 So there may be some lack of knowledge of
9 internal anatomy of the jurors. And so I think that
10 that was what that was premised on, including those
11 photos in that.

12 And in this case, as Ms. Browder stated, when she
13 was going through the photos, and Exhibit 40, the scar
14 was on the forehead on -- in Exhibit 39, it was the
15 left side of his body where there were scratches. In
16 41, there was scratches on the right leg.

17 On 42, there was the back of the head that there
18 was no hair and scabs. 43, it was the left legged
19 scratches. 44 lying on the stomach and showing the
20 emaciated butt on. 45, it was showing his ribs and
21 that -- the protruding a little more than what would
22 be considered normal. 46 was a turn -- torn frenulum,
23 but I -- not -- although, that phrase is not
24 necessarily commonplace to jurors to know that the
25 doctor would be able to quickly explain and even

1 demonstrate on himself to show what a frenulum is if
2 necessary. And then 38, the picture was of the face
3 of his right side and had a black eye.

4 All of those things are easily identifiable,
5 easily seen in the courtroom, just on our own bodies.
6 And none of those are necessary as in, let's say the
7 court in *Holder* held to show that internal anatomy to
8 be able to explain that to the jurors. I think that
9 the testimony alone would be enough in that case.

10 THE COURT: Right. Okay. I -- I'm sorry, I
11 interrupted you as you were -- you were talking about
12 the Martucci case and some of these others as to kind
13 of a background on these.

14 MS. COLEY: Oh, I just -- my premise of that was
15 a lot of these cases where autopsy photo -- photos
16 have been deemed admissible by the higher court.
17 They're in the sentencing phase. And if they are in
18 the guilt phase, they're extremely limited for a
19 limited purpose.

20 I believe that in *State versus Braswell* that was
21 during the trial phase, they allowed only three photos
22 and excluded all others. And they stated that it was
23 necessary to show the victim's body in the crime scene
24 location.

25 Those photos were in color, but they were from

1 further away. And so it was just to help the jurors
2 understand the location of that when determining it.

3 I don't -- and *State versus Kinard* (phonetic), I
4 believe that that was a capital murder case as well.
5 That was of the -- admissible only in the sentencing
6 phase, not in the guilt phase itself.

7 And I believe that Middleton was not allowed in
8 the guilt phase as well, because of the testimony of
9 the forensic pathologist negated any arguable
10 evidentiary value of those photos.

11 And I think that that is the case in *State versus*
12 *Nelson* as well. And *State versus Nelson* further
13 qualified that the information gained from the autopsy
14 wasn't necessarily in question. We're not arguing
15 that **Infant One**, the deceased had these injuries on him.

16 I mean, it's very clear from the experts that he
17 did in fact have all of these injuries. I think the
18 question is who inflicted those injuries and when
19 those injuries were inflicted?

20 And that is the core issue of this case. And so
21 it's undisputed that the facts, the undisputed facts
22 being from the photographs could be established by
23 other evidence. And so that would be our argument in
24 this case, Your Honor.

25 THE COURT: All right. The -- and again, I --

1 I'm just going back to *Holder* just because it's one of
2 the few where you've got, you know, kind of, bookends
3 of the child's condition. And in that case he said
4 the photographs, which I think one -- they -- I can't
5 remember what they were of, it seemed like they were
6 fairly graphic, but this -- that says the photographs
7 tend to establish that the defendant was aware of
8 ongoing abuse, which is directly relevant as to
9 whether her acts or omissions, omissions is
10 emphasized, resulted in the death of the child.

11 The -- they are thus relevant to establish the
12 elements of the offense, including "extreme
13 indifference end." Further, the photographs establish
14 a pattern of continuous abuse and neglect, which made
15 it more probable that the child was a victim of child
16 abuse or neglect rather than a mere accident.

17 And those are, kind of, two arguments that the
18 State made a little bit ago, some of the 404(b)
19 arguments about, you know, whether, you know, an
20 exception being whether it was an accident or not.
21 And does -- do those holdings alter your position on
22 any of these photographs?

23 MS. COLEY: They don't -- if Your Honor is
24 inclined to introduce some of these photographs, we
25 would ask that closeups of the actual injuries are the

1 only ones that are admitted. So such as Exhibit 41
2 showing the leg of the deceased and the scratches on
3 there. The other photograph with his other leg.

4 THE COURT: Which one is that?

5 MS. COLEY: 43.

6 THE COURT: And these are ones that -- that are
7 -- are closeups of the actual injuries?

8 MS. COLEY: Yes.

9 THE COURT: Okay.

10 MS. COLEY: I -- I would probably argue against
11 42, but 42 is the deceased, the back of their head.
12 That is a closer up photograph showing -- depicting
13 those injuries.

14 THE COURT: Yes, ma'am.

15 MS. COLEY: And then 46 which is the frenulum.
16 And then the -- the pictures of -- I'm sorry, the --
17 39 which is the picture of the side of him as well.
18 Those -- those would be -- I think, sufficiently be
19 able to depict those scarring on him to show that that
20 may have been obvious.

21 THE COURT: Right.

22 MS. COLEY: The -- the pictures that we would
23 have most in objection would be 44, 45, 38, and 40.
24 Sorry. The first one is just the back of his -- but
25 44.

1 THE COURT: Is the 44 the one where he is lying
2 on his stomach?

3 MS. COLEY: Yes. And then --

4 THE COURT: You don't think that you -- you don't
5 think that's relevant to show the -- the dehydration
6 or the malnourishment?

7 MS. COLEY: I think if the State were using it to
8 make that argument, we would ask that it be zoomed in
9 much closer so that it doesn't show the whole -- the
10 whole body of him just focuses on the actual injury
11 that they're trying to substantiate the testimony of
12 the doctor. And then the same for 45, which is him
13 lying on his back.

14 THE COURT: Right.

15 MS. COLEY: We would ask that it's zoomed in on
16 the pertinent parts of the things that the State is
17 trying to point out.

18 THE COURT: Understood.

19 MS. COLEY: And then I don't --

20 THE COURT: Which one is 38? Of the face?

21 MS. COLEY: The photo of the face, yes. And so
22 is 40 while those show scarring, I would ask the same
23 -- just the same thing of that at least on 38 to show
24 that that zoomed in area of the scarring, if that is
25 apparent to -- to point out. And then same for 40 as

1 well.

2 THE COURT: All right.

3 MS. COLEY: And in addition to that, Your Honor,
4 we would ask that the State presents these photos in
5 the manner they have presented them today for purposes
6 of argument with the physical photo and pass that
7 around the jury if they were inclined to, rather than
8 putting it on the 70-inch screen found around the
9 courtroom.

10 We think that that would maybe exacerbate the
11 emotional effect of it. We understand that these,
12 again, are very emotional -- emotionally provocative
13 photos, and we would ask that those are presented in a
14 similar manner as they have been today.

15 THE COURT: All right. Ms. Browder.

16 MS. BROWDER: Thank you, Your Honor. Just to
17 kind of pick up where she left off --

18 THE COURT: Sure.

19 MS. BROWDER: -- regarding 38, this is the one
20 showing black eyes, Your Honor. Specifically, this
21 goes to show in Ms. Glasgow DSS testimony, she
22 testifies that she did not see any bruise on his head.

23 This would go to show the jury that the bruise is
24 visible on his head. It goes exactly to what her
25 testimony was during the DSS trial.

1 THE COURT: Well, I mean, how are they going to
2 find out about that?

3 MS. BROWDER: We're going to enter that into
4 evidence as a statement, Your Honor.

5 THE COURT: Okay. All right. I just had -- I
6 just didn't know if y'all had --

7 MS. BROWDER: Yeah.

8 THE COURT: -- okay.

9 MS. BROWDER: The one which is 40, Your Honor,
10 it's a picture that shows the scarring in the middle
11 of his head that is relevant to show the -- that this
12 is the same child that was in the video.

13 THE COURT: And that's Number 40?

14 MS. BROWDER: Yes, sir, Your Honor.

15 THE COURT: Okay.

16 MS. BROWDER: Number 45, which is the one of him
17 lying on his back. There would be no way to zoom that
18 in, Your Honor, to show the difference in his body.
19 Because this goes to show one, his penis, which she
20 testifies during the DSS hearing that she thought that
21 was a diaper rash, which clearly if a reasonable
22 parent ruling at this, they would know that it's not a
23 diaper rash.

24 Two, it goes to show his emaciated body, which
25 I'll get to in a minute when I get to the back photo.

1 But this also goes to show his ribs, but she testifies
2 in the DSS hearing that she never saw his ribs before
3 the hospital that day, which clearly these ribs are
4 very visible.

5 Regarding the one in the back of his body, Your
6 Honor, this just goes to show the entire body from the
7 back to show how emaciated he is. The doctors will
8 testify that this child was 7.9 or seven pounds, nine
9 ounces at his time of death.

10 If any normal person would hear seven pounds,
11 nine ounces, they're going to think about a baby
12 either their wife or their significant other had or if
13 it's the mother who had, thinking they had their
14 baby's cute little chubby seven-pound, nine-ounce baby
15 when that is not what this is.

16 It's very clear this is an older child who was
17 very emaciated and it gives them the context that one,
18 Ms. Glasgow would've been able to see this. And two,
19 this is not what a normal seven-pound, nine-ounce baby
20 looks like.

21 THE COURT: Well, I'm told, and I don't know
22 this, but I'm told that they were premature and so --

23 MS. BROWDER: Correct.

24 THE COURT: -- but I guess, that cuts both ways.
25 I mean, it -- would it be expected to be lighter at

1 eight months along, maybe? But at the same time, I
2 guess, the other argument is, well, if they're
3 premature then you should be double vigilant about
4 taking them in because they're -- they -- they were
5 born, you know, prematurely.

6 MS. BROWDER: I object, Your Honor. They're --
7 we're actually going to have the NICU doctor testify
8 that discharged all the children from the hospital
9 saying, this is what they weighed at the time they
10 left the hospital. They were gaining weight, they
11 were eating well, they had no problems eating.

12 And then there's going to be testimony over the
13 course of the next several months they started losing
14 weight. They were not getting what they were supposed
15 to need to the point that they're here and **Infant One's**
16 dead.

17 And part of that is dehydration and neglect
18 because those are contributory factors to his death,
19 which is something we have to prove is the neglect.
20 And she failed to get him any help, whether she's the
21 one that neglected him or not.

22 THE COURT: Right.

23 MS. BROWDER: And then also, Your Honor, it helps
24 for the jury to see what Ms. Glasgow would've seen
25 saying, would a reasonable parent have seen these

1 things?

2 And if I saw these things, as a juror, I would
3 say that this child needed help. That's what this
4 evidence proves versus somebody just saying, well,
5 yeah, you could see his ribs, but how do they know
6 that you could actually see the ribs without seeing
7 them themselves?

8 THE COURT: Right. All right. And I guess the
9 defendant would say, well, I mean the doctors can
10 testify to that, you know, when I did this autopsy,
11 you know, I could easily see that. So anybody else
12 could see it. I mean, I guess, that's what y'all
13 would say, right?

14 MS. BROWDER: That's correct, Your Honor.

15 THE COURT: All right. Let me -- anything
16 further from either party about the photographs at
17 this time? I think I've got it. I just want to make
18 sure. Okay. And let me ask one more thing about just
19 to rewind just a bit to the -- to the video, Ms.
20 Browder, I mean, are you proposing to play the whole
21 18 minutes? Are you proposing to play a short snippet
22 of it or, you know what -- it's certainly not all or
23 nothing, but I mean, I'm -- I -- tell me what your
24 plans are, what you foresee or want to use it.

25 MS. BROWDER: Our intent is to show the whole

1 thing, Your Honor, to show that this is 18 minutes,
2 this is what she does for 18 minutes, the comments
3 that she makes over those 18 minutes.

4 In addition, it shows the two other children
5 where she's letting them cry, not doing anything, and
6 then comparing them to each other. So we would, Your
7 Honor --

8 THE COURT: All right. And how about that? We
9 hadn't talked about the other two children, but of
10 course there's two charges, lesser charges that -- as
11 to each of them. How does that fact affect your
12 argument, Mr. Fox, if at all?

13 MR. FOX: It doesn't, in my opinion, they are --
14 Your Honor, has watched it. One of the children, the
15 toddler, little girl in the play pen, and she's -- why
16 at least --

17 THE COURT: Right.

18 MR. FOX: -- one of the others appears to be --
19 one of the other triplets appears to be -- have a
20 bottle kind of sipping in. And then there's another
21 one who intermittently fussing and cries a little bit,
22 and he's quiet. He doesn't appear to be any obvious
23 distress.

24 You know, he's not -- not going is certainly not
25 the same as what you see in -- so it doesn't really

1 change anything. It certainly is not illustrative of,
2 in my opinion, what's going on with that.

3 The other two, if they alleged neglect of them
4 other than perhaps failing to comfort the one who's --
5 who's being fussy.

6 THE COURT: Right. And how about this? I mean,
7 do you -- do you believe that this is all or nothing?
8 I mean, do you believe that this is -- show zero
9 seconds or show 18 minutes and however many?

10 MR. FOX: Well, that's kind of prisoner's limit.

11 THE COURT: Well, I'm not saying I'm going to
12 agree with it or not. It's just, you know, I mean,
13 there's --

14 MR. FOX: I do. I mean, that's --

15 THE COURT: -- there -- there's a spectrum on --
16 on one end it's -- it excludes all of it, and on the
17 other end it shows -- you know, have all of us sitting
18 here for 18 minutes and -- and watch and listen to it.

19 I know Ms. Browder wants one end of the spectrum
20 and you want the other, I don't split the baby just
21 for doing it, but you know, for the purpose, I could
22 see where for purposes of, of showing the child's
23 condition and showing some of the -- what would be
24 argued to be abuse or neglect of one or all three
25 children for as -- and there's no magic five seconds,

1 a minute and a half, three minutes, 30 seconds. I
2 mean, there's no magic number. But tell me -- I mean,
3 tell me what you -- what you think about that.

4 MR. FOX: Well, I think there would be a way
5 perhaps I -- I do take the all-happy position, but I
6 think there perhaps would be a way to edit it to show
7 the things that the State is alleging in terms of what
8 he looked like and what he's doing, you know, without
9 letting it run on and on and on.

10 So I think possibly and if that is Your Honor's
11 ruling, I believe, Ms. Browder and I could probably
12 come to -- perhaps come to an agreement on what should
13 become of it. But I do on behalf my client have to
14 take --

15 THE COURT: No, I completely understand. I'm not
16 asking you to --

17 MR. FOX: Yes.

18 THE COURT: -- to change your position, but, you
19 know, you know, if all you ever do is say, you know,
20 either 100 percent or zero of it -- there's always
21 going to be somebody that's -- you know, how about
22 these, how about the things that she says in the
23 narration of the video?

24 Because I kind of look at it as, you know, you've
25 got the condition of the child and what the child

1 looks like, you know, shivering in the cold tub. You
2 can see -- you can see, you know, various aspects of
3 the child -- the child's condition and those kind of
4 things.

5 And then, so that's one part of it. And then
6 you've got the other part of it, which -- that Ms.
7 Browder has argued the state of mind type issue. As
8 some of the comments that your client makes, do you
9 see any difference between the two or is it just -- or
10 is it all the same?

11 MR. FOX: I would agree they address different
12 areas for the State. I would agree they're not the
13 same. We don't concede that -- that it is Ms.
14 Glasgow. But I would -- I would say that they're not
15 an effort to show state of mind from the comments is
16 different perhaps than the condition of the child.

17 THE COURT: Right. And Ms. Browder, how about --
18 how about that? I mean, and -- and I may be off base
19 here, but that's kind of the two that I look at, is
20 that you've got the state of mind and her recognizing
21 that there are issues right then and there that may
22 require or may have triggered a -- another reasonable
23 parent to -- you know, those observations that she
24 notes to take the child in.

25 And then you've got the condition of the child.

1 Are the -- are her comments. I mean, I understand you
2 want all of it played, just like Mr. Fox wants none of
3 it played, but tell me how the comments -- your
4 position on what -- what it is that you think is most
5 important about those?

6 MS. BROWDER: It -- again, it goes to show her
7 state of mind, Your Honor. It goes to show she -- she
8 knows he's doing this; she sees him doing things,
9 she's not getting help for him.

10 And then, Your Honor, I mean, it just goes
11 towards, won't even get these time to heal up before
12 he's doing some other shit.

13 Now, he wants to start crying and she makes a
14 comment about every 30 seconds.

15 THE COURT: Right. Right.

16 MS. BROWDER: So it's going to be hard to redact
17 anything or do down to two minute or -- because I --

18 THE COURT: I know.

19 MS. BROWDER: -- I think the entirety of 18
20 minutes showing this occurring shows that --

21 THE COURT: I mean, this isn't easy. I mean,
22 this isn't easy, I'll be honest with you. I see where
23 I see that those are valid reasons in my view. That
24 the comments for the state of mind and seeing kind of
25 the bookend of the child.

1 But I mean, 18 and 20 -- you know, 18 minutes and
2 20 seconds or however long it is just, you know, I --
3 I -- I also have an issue with that because it's some,
4 and I don't know where, but I mean, at some point
5 along that it's just -- you know, it's almost
6 punishment to watch it. And I understand that, you
7 know, it is a video of what occurred and it's factual.

8 MR. FOX: And just to say that is that Your
9 Honor's struggling with this, to me, is kind of -- is
10 my argument, right? You're trying to make a legal --
11 very difficult legal determination a dispassionate
12 one, based on the law and the rules. But the jury
13 will just have it presented to them as this thing, and
14 you were struggling very much, it has an impact on
15 you. And you were describing it as being, you know,
16 almost torturous to watch.

17 THE COURT: Right. Well, it is, I don't think
18 that there's a person on this planet that wouldn't
19 describe it as difficult to watch, but it's factual.
20 See, it's what she did.

21 And so that's the problem I'm struggling with.
22 I'm not struggling with the fact that I think that
23 it's admissible. I think it is. I think -- I think
24 it shows exactly what it is. And I'm not saying
25 admissible after consider -- I think then I go to the

1 403, and that's the problem.

2 I don't have a problem with the fact of
3 reflecting exactly what the client did, but at some
4 point in time, it just -- my reaction is that it --
5 that it just may be, you know, difficult. But what --
6 10 seconds, three minutes, eight minutes? I mean,
7 there's no -- there's no formula for it.

8 MS. BROWDER: Your Honor --

9 THE COURT: I don't know. And then you're -- Ms.
10 Browder is right. I mean, some of these comments come
11 in, I don't know how you could edit it so that it
12 would get in her comments that go to her state of mind
13 according to the Solicitor without showing it. I just
14 -- I don't know. I mean, I'm open to suggestions. I
15 mean, I --

16 MS. BROWDER: One suggestion, Your Honor,
17 assuming the video come in is that the entire video
18 does come in, however, we agree to show maybe like the
19 first two or three minutes and then say, you know,
20 that's all we're going to show for now.

21 And during closing arguments, I can say, you
22 know, you can watch the whole thing if you'd like in
23 here, but then have Major Johnson testify to -- at the
24 other comments that were made during the thing. And
25 so we only show, like, two or three minutes, which two

1 or three minutes is terrible as it is.

2 But that will get the point across to the jury
3 and then have him testify that this goes on for 18
4 minutes and hear some other statements that she says.
5 And then if they want to watch it themselves in the
6 jury room, they can.

7 THE COURT: Yeah.

8 MS. BROWDER: But we don't make them watch it in
9 here and all of us have to sit here and do it. And
10 this is something, Your Honor, I know Ms. Coley
11 mentioned with the autopsy photographs handing them
12 around, this is something that we would put on the
13 smart board and put towards the jury, so it's not
14 towards everybody out --

15 THE COURT: Right.

16 MS. BROWDER: -- else out here because of the
17 sensitivity of it.

18 THE COURT: Right. Right.

19 MR. FOX: Judge, just to interject on that.

20 THE COURT: Yes, sir.

21 MR. FOX: Maybe I don't think the officer would
22 be able to testify about further comments in that, you
23 know, it's like --

24 THE COURT: Well, the alternative is to pick some
25 -- you know, and again, I'm just thinking out loud, I

1 haven't made a ruling, but the -- is for me to come up
2 with some duration of time to show it and either then
3 be able to splice it for every comment she has.

4 If there's no other way to get it in or, you
5 know, I mean, again, you say don't let any of it in.
6 I say, well, she -- you know, there's some issues with
7 her statements and you say, yeah, I recognize that,
8 but I don't -- you know, we don't want the whole thing
9 in. And then this person can't testify to what she
10 says.

11 I mean, you know, I know I'm not getting any
12 sympathy from y'all, but it's just -- you know, it's
13 -- I -- I'm trying to do the right thing here and --
14 and I'm afraid I'm just going to have to just think on
15 it and see and do the best I can with it.

16 But so, yeah. So I -- Ms. Browder, I guess, if
17 we can't get everything that she says it -- is there a
18 way to get that -- get those statements in? Mr. Fox
19 says, no.

20 MS. BROWDER: I mean, -- or Sergeant Mastrianni
21 can authenticate her voice from where he spoke to her
22 five different times.

23 THE COURT: Right.

24 MS. BROWDER: So he -- I mean, we have him going
25 before Major Johnson because he took one of the

1 phones. So for chain of custody purposes, we have to
2 call him before, but we could call him again
3 afterwards --

4 THE COURT: Right.

5 MS. BROWDER: -- to go through what the
6 statements are since he can authenticate as her voice
7 and --

8 THE COURT: There -- there's not a transcript to
9 the --

10 MS. BROWDER: I've got my own personal transcript
11 that I did.

12 THE COURT: Right.

13 MS. BROWDER: I -- I haven't shared up with them
14 because it was work product, obviously, but --

15 THE COURT: Right. Right.

16 MS. BROWDER: -- happy to if they want that.

17 MR. FOX: I think it's a slightly -- and I don't
18 have the case in front of me, but I believe there is
19 case law about an officer testifying about, you know,
20 a defendant's statement. That's what this is.
21 Although, it's not a formal, you know, interrogation.

22 THE COURT: Right.

23 MR. FOX: I think it could have -- would fall
24 under that and I can have that. I don't have it with
25 me right --

1 THE COURT: No, I mean, I think, that there's --
2 there -- there's some issues with that. I recognize
3 that that's why I'm trying to say, you know, the
4 alternative is to splice it up a bunch of times or to
5 have a transcript that everybody agrees on that can
6 be, you know, read out by somebody that pulled the
7 video off or, you know, again, if y'all can't come to
8 I mean, that's my job is to make decisions.

9 I'll make a decision on it if y'all can't come to
10 an agreement or if there's not any kind of any
11 suggestions or about those issues.

12 But those are the two things I'm having is the
13 length of the time that it shows the child. I don't
14 think that we need 18 and a half minutes to show what
15 the condition of the child is.

16 However, I recognize over the course of that,
17 that there are several places that indicate her that
18 at least what the State is arguing her state of mind,
19 that she's recognizing the child's condition in some
20 things. That he's always crying, he's always doing
21 this.

22 And you know, if we can't get that in any other
23 way, you know, that just may I -- I'll just have to
24 take that into consideration then. But I'm not going
25 to do that right this second. I'm going to go back

1 and look, I didn't focus as much on what she said
2 throughout that, to be honest with you.

3 The first few I got, but after that I -- I was
4 focused more on the child and then the other two
5 children too. So --

6 MS. BROWDER: Your Honor, I can send the
7 transcript that I did to Your Honor, Mr. Fox, Ms.
8 Coley, so y'all have it, if that's something that you
9 end up thinking about.

10 THE COURT: Okay.

11 MS. BROWDER: I will say for the record, we would
12 not agree to anything but the entire video.

13 THE COURT: No, no. I understand he wants zero
14 of it. You want all of it. I totally get that.

15 MS. BROWDER: There would be anything that we
16 would be able to --

17 THE COURT: I totally understand that it would be
18 that both of y'all are going to be angry with me,
19 likely but I -- I'll look at it and I'm going to get
20 -- and I'm going -- I'm not going to take long. I'm
21 going to get this to y'all because I know that y'all
22 need to prepare for your trial. It starts tomorrow
23 morning. I'm not going to sit on this, I'm just going
24 to take a little bit.

25 I just want to look through it one more time and

1 look at some of those photographs as well. How -- how
2 about, one thing I saw was, what is it? The EEG or is
3 -- is it some -- there's a -- it's almost like a
4 pineapple shape on the child. It looks like that it
5 was some kind of monitor or something that may have
6 been put on.

7 MS. BROWDER: That's from one of the things that
8 were from hospital.

9 THE COURT: Right. Right.

10 MS. BROWDER: We will be able to distinguish
11 that, but that was not --

12 THE COURT: Okay. All right. I just wanted to
13 be clear, but I -- I felt certain that that was the
14 case. But, you know, to the extent that -- that
15 somebody needs to point that out, that that has
16 nothing to do with the defendant, that that was
17 postmortem.

18 Okay. All right. Well, anything else from the
19 State before we adjourn until the morning?

20 MS. BROWDER: No, sir, Your Honor. I did -- I
21 took what was on your desk. I had the video on it.

22 THE COURT: Yes, ma'am.

23 MS. BROWDER: Hold on. And I added the video
24 from her statement at headquarters --

25 THE COURT: Oh, okay.

1 MS. BROWDER: -- on here. So that you have that.

2 THE COURT: So this -- this is my copy?

3 MS. BROWDER: Yes, sir.

4 THE COURT: Okay. All right. Perfect. Because
5 I was terrified about losing the other one. All
6 right. So I will -- so anything further from the
7 defense?

8 MR. FOX: Judge, I want to make a motion to
9 sequester witnesses.

10 THE COURT: Any -- any objection you would --

11 MS. BROWDER: We just ask, Your Honor, that
12 Investigator Mastrianni be able to stay in, I'll ask
13 that my Investigator Nikki Acerra be able to stay in.
14 She is on the list just in case one of the witnesses
15 says something different.

16 THE COURT: Right.

17 MS. BROWDER: But she obviously knows everything
18 about this case. And then I would ask that Bailey
19 Polson, who is the foster mother --

20 THE COURT: Right.

21 MS. BROWDER: -- of the other two surviving
22 triplets be able to stay in as the victims.

23 THE COURT: Is she going to testify?

24 MS. BROWDER: Yes, sir, Your Honor.

25 THE COURT: Okay. Any objection to those three

1 folks staying in?

2 MR. FOX: No, Your Honor.

3 THE COURT: Okay. All right. And so it's my --
4 it's my understanding I've got the -- the photos and
5 the -- and the video. Is it -- I think that's the
6 only thing that I have to rule on and that we
7 addressed the others. Is that right, Ms. Browder?

8 MS. BROWDER: Yes, sir.

9 THE COURT: Mr. Fox?

10 MR. FOX: That's correct.

11 THE COURT: Okay. Well, I'll get -- I'll get on
12 this, I'll let y'all know. And if anything comes up
13 you can get in touch with Paisley and she'll give you
14 our numbers. If y'all need to text, if anything comes
15 up that y'all need from us or need to tell us, please
16 feel free to do that. But we'll be adjourned until
17 tomorrow. Let's us be in here at 9:00, and -- but I
18 think I told the jury to be in here at 9:30 just so in
19 case there's any questions or anybody needs to put
20 anything on the record so we can hit the ground
21 running at 9:30.

22 MS. BROWDER: Yes, sir.

23 THE COURT: All right. Thank y'all very much.

24 (Court was adjourned for the day.)
25

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	FIFTH CIRCUIT
COUNTY OF RICHLAND	)	2023-GS-40-09405
*****	)	2023-GS-40-09409
State of South Carolina,	)	2023-GS-40-09412
	)	
v.	)	
	)	
Breonte Alexandria Glasgow	)	
Defendant.	)	Transcript of Record
*****	)	

May 13, 2025

Columbia, South Carolina

Volume II of IV
Page 143 to 391
Criminal Trial

- - -

B E F O R E:

The Honorable Thomas William McGee, III, Judge

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

On Behalf of the State:

Anna Browder, Esq.
Deputy Solicitor

Kathryn Cavanaugh, Esq.
Sr. Assistant Solicitor

Morgan Monroe, Esq.
Assistant Solicitor

On Behalf of the Defendant:

Eric Fox, Esq.
Emily Coley, Esq.
State Public Defenders

Brandi J. Berry,
Judicial Circuit Court Reporter

I N D E X

(SW) - STATE'S WITNESS (DW) - DEFENSE WITNESS

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
---------	--------	-------	----------	---------

(SW) STOME ANTRON HIGGINS	182	192	200	
---------------------------	-----	-----	-----	--

(SW) CAPTAIN KURT TILTON	203	211		
--------------------------	-----	-----	--	--

(SW) PAUL TAYLOR	216	224		
------------------	-----	-----	--	--

(SW) TIA FREY	226	230	231	
---------------	-----	-----	-----	--

(SW) DANIEL SEMONES	232	236		
---------------------	-----	-----	--	--

(SW) FRANKLIN RAINSFORD	240			
-------------------------	-----	--	--	--

(SW) CHRISTOPHER MASTRIAMI	267	289		
----------------------------	-----	-----	--	--

(SW) INV. KELLY SMITH	301	307		
-----------------------	-----	-----	--	--

(SW) INV. TREVOR HOLT	309	315		
-----------------------	-----	-----	--	--

(SW) MAJOR RICKY JOHNSON	326	379	387	388
--------------------------	-----	-----	-----	-----

STATE'S OPENING STATEMENT - MS. MONROE.....171

DEFENSE'S OPENING STATEMENT - MS. Coley.....179

CERTIFICATE.....391

1	E X H I B I T S					
2	STATE'S (S)		DEFENDANT'S (D)		COURT'S (C)	
3	NO.		DESCRIPTION	EV	ID	PAGE
4	(C)	5	VIDEO		X	160
5	(C)	6	STATEMENT		X	261
6	(C)	7	JUROR NOTE		X	266
7	(C)	2	USB		X	311
8	(C)	3	USB		X	343
9	(S)	1	911 CALL CD	X		229
10	(S)	2-22	PHOTOS	X		244
11	(S)	23	SAMSUNG PHONE	X		264
12	(S)	24	IPHONE	X		305
13	(S)	25	REPORT	X		337
14	(S)	26	REPORT	X		338
15	(S)	27	REPORT	X		350
16	(S)	28	REPORT	X		350
17	(S)	32	POWERPOINT	X		350
18	(S)	29	PHOTO	X		371
19	(S)	30	CD	X		373
20	(S)	31	CD	X		376
21						
22						
23						
24						
25						

1 (Tuesday, May 13, 2025; in open court, Columbia,
2 South Carolina, Richland County.)

3 THE COURT: All right. Good morning, everybody.

4 MS. BROWDER: Good morning, Your Honor.

5 THE COURT: We're on the record. Now I wanted to
6 -- I sent an email out yesterday and I did want to put
7 on the record. I didn't put -- you know, I wanted to
8 advise you what it was just so that y'all could
9 prepare, but I didn't include a whole -- a whole bunch
10 of reasoning behind it, although I think just about
11 everything that I considered was raised yesterday.

12 As far as the video is concerned, I think it's
13 about 18 and a half minutes or so. My ruling was that
14 we watch the first five minutes and these are some of
15 my -- the reasons why I came to that conclusion.

16 First of all, I considered all of the objections
17 and the arguments that were made by both sides, which
18 were very good.

19 I reviewed the case law that was cited both in
20 argument as well as in the submissions. And after
21 considering that and the rules, I determined that 18
22 and a half minutes would've been cumulative as much as
23 anything. And how I got to that is if after -- I know
24 he spits up on himself and then there's some
25 discussion, and that's in that five-minute period.

1 But after five minutes and I'm not saying that the
2 child was in good condition. He certainly was not.
3 But there are no new -- I mean, he didn't start to
4 bleed. He didn't start to picket anything.

5 And so I think from about that point on, it
6 would've been essentially the same type of physical
7 condition that the first five minutes would've shown.
8 Of course, the State wanted the whole 18 and a half
9 minutes, and I certainly understand that position.

10 But I think primarily, the video -- the purpose
11 for the video is to show, number one, what the
12 condition of the child was at that stage about six
13 weeks before he passed, about two -- about three to
14 four weeks before, I'm told from arguments yesterday,
15 the blunt force trauma in the head that -- as best the
16 pathologist could estimate that took place.

17 And so I think that that first five minutes
18 fairly shows that. I also think that it fairly shows
19 some of the comments made directly by the defendant so
20 that you could hear those in her own voice. And the
21 -- and also within that first five minutes, it shows
22 the other two children.

23 Of course, it doesn't focus on them as much and
24 it doesn't have as much detail. You can't see them
25 quite as much, but you do hear her talk about the

1 other two children and you at least see them at that
2 point.

3 And so I think that first five minutes
4 sufficiently shows that. I think 18 and a half
5 minutes also is getting much closer on the 403-type
6 analysis of just continuing to drill home the same --
7 the same thing over another 13 minutes or so.

8 I think, I can't remember what it was. It's a
9 little -- five minutes is a little more than a quarter
10 of the tape, I think. So those are so I think after a
11 while it's the probative value becomes a lot closer to
12 be outweighed by the potential prejudice. The in --
13 as insofar as showing the child's -- the decedent
14 child's condition, I think that again, the first five
15 minutes shows the physical condition of the child,
16 which I think is directly relevant to the elements of
17 the charge that the state has the burden of proving.

18 The video shows that the child shows obviously
19 the physical condition and the appearance but it also
20 shows what could be viewed by the jury. And of
21 course, the pathologist will testify about this as
22 dehydration and/or malnourishment, which I'm told the
23 is -- are contributing factors to the cause of death.

24 Which again, I think that the statute requires to
25 be shown. And I think that the State has certainly

1 has the right to show those. They carry the burden of
2 proof. I think also, and I tried to -- I look at this
3 as the video, the visual part of it. That's my
4 analysis of that.

5 But I think that what she says is separate and
6 apart from that, because I don't think there's a 403
7 issue about statements. I think their prior
8 statements against interest, I think it shows her
9 state of mind as it relates to the children. You
10 know, there's three charges against him as to all
11 three children.

12 And so what I figured is you could handle that a
13 few ways. We could show the whole 18-minute video, we
14 could play the whole 18-minute audio, which would show
15 -- which would have all of her statements in it.

16 I don't think that that would be -- I don't think
17 that would be the best way to handle it, for the
18 reasons that I cut it from 18 and a half to five
19 minutes.

20 We could splice it so that it would show the
21 video or the audio. Each comment back-to-back, to
22 back-to-back. But I don't -- I think that that would
23 be -- I don't think the defense would want that.

24 I'm not talking for him, but I think that that
25 would not be an effective way to get that across.

1 And so what I felt was the best alternative to
2 that is to allow, I can't remember the witness' name
3 that's going to testify about the phone that he --
4 once he addresses the phone so that it's entered into
5 evidence, assuming that everything is properly laid,
6 it comes into evidence that he -- how long is the
7 video.

8 18 and a half minutes or whatever it is. We're
9 going to show, you know, the first five minutes, but
10 it's -- it's 18 minutes. Yes. Is it substantially
11 the same? Yes. And I'm not -- I -- I'm just saying.

12 And then -- and then if you heard her make some
13 comments, are there any other comments? I think that
14 he can testify as to what other comments there on
15 there for the same reasons that it's a prior and
16 consistent or prior statement against interest and --
17 and state of mind of the defendant during -- during
18 that. So that's -- that was -- those are essentially
19 my thoughts behind that ruling. I watched it again.

20 Again, I looked over all the -- all the cases
21 that -- that y'all cited and the rules and -- and that
22 is how I determined that it would be best to proceed
23 with the video.

24 As far as the photographs, again we had talked
25 yesterday and I said that I wanted to hear arguments

1 so that I could kind of put them into context. I
2 hadn't seen all of them yet.

3 And so once I saw them I informed the lawyers
4 that I wanted the pathologist to testify outside the
5 presence of the jury.

6 So just on that issue, just on the photographs so
7 that I could -- so we can find out what he or she has
8 to say about the photographs that are sought to be
9 admitted into evidence.

10 If he or she says on this -- on photograph one,
11 the reason that I think that the jury needs to see it
12 or that, you know, for whatever reason it's important
13 because, and then he fills in the blank, you know,
14 whatever he or she has to testify then.

15 But I've also had times where a pathologist says,
16 you know what? Here is four of them. I think this is
17 important, but we can show it with one.

18 Or, you know, we could do it black and white if
19 that's -- if it's an issue. Or we could cover this
20 up, you know, because I only think it's relevant as to
21 this.

22 Again, I just don't know enough about the medical
23 condition and the analysis done by the pathologist, so
24 I don't want to substitute my judgment on that issue
25 until I -- for his, or her until -- his or hers until

1 I hear from them.

2 So Ms. Browder said yesterday in response to --
3 to my email that he or she is expected to testify
4 tomorrow, and so that we can do that. We'll tell the
5 jury to come in a little bit later so that we can
6 handle that.

7 MS. BROWDER: And Your Honor, Dr. Young will also
8 be using those photographs as well.

9 THE COURT: Okay.

10 MS. BROWDER: Because she reviewed the autopsy
11 photographs in order to do her report on **Infant One**.

12 THE COURT: Right.

13 MS. BROWDER: So some of those would be relevant
14 to her.

15 THE COURT: Happy to hear from her too, if she
16 believes -- if she has some testimony that bears on
17 the importance of those photographs that have sought
18 to be -- and they're nine photographs that we went
19 through yesterday.

20 And again, without having a final ruling yet, I
21 went through all of them again last night. I took
22 notes yesterday on both side -- both parties'
23 arguments.

24 I reviewed those. I also reviewed the cases that
25 were cited, and obviously there's a substantial number

1 of cases that address the photographs. I went over
2 those as well.

3 So I'll be ready to rule as soon as those doctors
4 testify on those issues. I did have one question
5 because Ms. Browder, you mentioned yesterday that
6 there were many other photographs and that these nine
7 were chosen deliberately by the State, because some of
8 them you thought, I'm not trying to put words in your
9 mouth, but my recollection is that you thought that
10 some of them were fairly graphic and while made
11 directly show some injuries or other things that --
12 that y'all did not choose to propose. And so I asked
13 how many y'all had or what type they were, and I'm
14 just curious about that.

15 MS. BROWDER: Your Honor, there's more than at
16 least one ring of paper worth of autopsy photographs.
17 I mean, so there's probably at least 500 of them.

18 THE COURT: Okay.

19 MS. BROWDER: Between the hospital and autopsy.

20 THE COURT: Right.

21 MS. BROWDER: Obviously, we didn't choose any
22 from the autopsy -- I mean, from the hospital that
23 shows him -- that showed him hooked up to machines or
24 because we thought that would be too prejudicial.

25 There's also photographs that we could use

1 showing the bleeding on his brain, the brain injuries
2 where his head is spliced open and you see the brain
3 or the arms are sliced open.

4 So we just try to take one from each side, one
5 from the back of his head, one from the front, one
6 from the back. So they keep it as minimal as possible
7 to show as many injuries as possible in that one
8 photograph so that we didn't have to shoot multiple
9 photographs.

10 THE COURT: Yes, ma'am. And you're and just for
11 the record, you're holding up a stack, it looks, you
12 know, two or three inches thick, I guess three or four
13 inches. I don't -- I don't know how thick it is, but
14 you say it's over 500 photographs.

15 Have those been shown or produced to the other
16 side?

17 MS. BROWDER: Yes, sir.

18 THE COURT: To Mr. Fox? Okay. And so that also
19 played into my consideration, at least, you know, up
20 until this point, is that -- is that they're not --
21 they're not pleasant to look at.

22 I mean, I don't think any photograph in the world
23 of a child, like -- of a deceased child would be
24 pleasant to look at. But they're not gruesome in that
25 they don't show any blood. They don't it's before any

1 invasive part of the autopsy.

2 And, you know, depending on what the doctor
3 testifies, I expect that he'll say, but don't know
4 that he'll say that's a fair and accurate
5 representation of the condition of -- the physical
6 condition of the child at the time.

7 And again, I think that being able to see the
8 video as well will show some of the State's
9 allegations, or at least it will show some evidence
10 that the State and the defendant can argue about
11 whether or not a reasonable parent should have known.

12 Whether or not there was any effort to have the
13 child treated over time where the child got better
14 from six months, six weeks out to that time. And so
15 at least at this point, without going any further,
16 those are some of the reasons.

17 And I did want to see the other photographs and
18 learn a little bit more about it. But that's where I
19 am with that one so far.

20 Lastly, I think I made a mistake because when I
21 sent y'all my rulings on those two issues, the video,
22 and the photos, I did not send you my ruling on the
23 Denno issue about the -- the post Miranda statement.
24 I was provided with a copy of that, and we talked
25 about it, but I just hadn't seen it.

1 And I did review it. It's a 11 minute 58 second
2 clip, although the first, I don't know, the first
3 three minutes plus is just blank. And then she comes
4 in, he reads, she says, take me to jail. He says, "I
5 -- I've got to read you the Miranda warnings first."

6 There's some back and forth. He reads them she
7 says, "Well, you know, you're going to arrest me if
8 you read the Miranda rights." There's some discussion
9 back and forth with that.

10 And then she says "Call my lawyer. I don't want
11 to talk.'" And so at that point -- from that point on,
12 there are several instances in which the officers are
13 asked -- and then he goes on to read the indictment.

14 So the arrest warrants at that point for her and
15 just says, "look, I just -- I need to read these to
16 you. That's fine. You don't want to answer
17 questions. That's okay."

18 He starts reading, and then she says, "what? I
19 mean, she has some reaction to the allegations in the
20 warrant." She asks a question at -- at some point,
21 and a female officer says, "You've said you don't want
22 to talk; you've asked for a lawyer. So we're not
23 going to address any of that."

24 The defendant continues, and that happens a
25 couple times. The defendant continues to comment on

1 the arrest warrants after she's been advised that
2 you've asked for a lawyer. We can't ask you any
3 additional questions at this time.

4 And at one point, I think she says something to
5 the effect of why -- I'm not talking about anything
6 else, but I'm talking about that -- about what you
7 just read out of that warrant.

8 So you're signing off on that warrant, you know,
9 and you know, that's not true -- you know, what you
10 just read is not true.

11 The doctor at Prisma knows about this and that --
12 and then she'll say, "Okay, well, I don't want to
13 talk, you know, anymore".

14 And then she'll go into it. And so I find that
15 -- that any statement, any post Miranda statements
16 that are in the video that I was produced, and it
17 looks like that it was at March 23rd, about 9:32 is
18 when it begins.

19 I find that -- that those are admissible. As far
20 as the *Denno*, the defendant clearly made the statement
21 she was clearly advised of the Miranda warnings before
22 she made those statements.

23 And again, *Denno*, you know, talks about whether
24 the defendant was advised of Miranda before being
25 questioned. I think there were only a couple

1 questions before she invoked her right to counsel, and
2 then they didn't ask her anymore questions.

3 They advised her that she had already asked for a
4 lawyer and that she didn't have to say anything else,
5 and she continued to ask questions, and she continued
6 to make statements after being read her Miranda rights
7 and reminded that she had done so -- that she had
8 invoked right to counsel.

9 Next did -- did the defendant knowingly and
10 intelligently waive her constitutional rights?
11 Clearly she was advised of her Miranda warnings and
12 knew that she didn't have to continue. She was told,
13 and she actually invoked her right to counsel, yet she
14 continued to make those statements without being
15 questioned or without being prodded or -- or coaxed to
16 make those statements by the officers there. And then
17 were the statements given voluntarily?

18 I find that they were. Again, she had been
19 advised of her Miranda rights. She had actually
20 invoked them, and yet she continued to, on her own
21 unsolicited, make comments during the reading of the
22 arrest warrants all three of them.

23 And then as she stood up to go away, she again
24 talked about a lawyer and going to jail and those
25 types of things. So I -- I find that the -- that the

1 preponderance of the evidence shows that the statement
2 -- the post Miranda statement made on March 23rd is
3 admissible and satisfies the *Jackson versus Denno*.

4 And so that will be admissible. I -- and again,
5 I was incorrect yesterday, but I think that that's all
6 the issues that we had that were unresolved or not
7 ruled on yesterday.

8 But I could be stand -- I could stand and be
9 corrected. Is there anything else that you think that
10 we need to address or I need to rule on, Ms. Browder?

11 MS. BROWDER: Not ruling, Your Honor. But we
12 have made the entire 18-minute video Court's Exhibit
13 Number 5.

14 THE COURT: Right.

15 MS. BROWDER: So we'll get it back to the Court
16 Reporter now.

17 THE COURT: Okay.

18 MS. BROWDER: The video that we sent you of the
19 statement.

20 THE COURT: Yes, ma'am.

21 MS. BROWDER: Ms. Berry was going to get that on
22 a disc and we'll make that Court's Exhibit 5.

23 THE COURT: Okay. And if -- if y'all -- and --
24 and I know y'all have copies, but if you need this
25 thumb drive that you -- you provided to me, which, of

1 course, has been provided to the defense, just let me
2 know. And of course, the -- my ruling as to the video
3 that only the five minutes will be admissible so that
4 the 18-and-a-half-minute statement will not go back to
5 the jury, only the five -- the first five minutes
6 will.

7 Anything else, Ms. Browder, that we need to
8 address from yesterday or before we bring the jury in?

9 MS. BROWDER: No, sir. Not from the State

10 THE COURT: All right. Mr. Fox, I understand
11 that you -- you objected to that.

12 MR. FOX: Yes.

13 THE COURT: And you're certainly protected on the
14 record as far as your objections to that. But if
15 there's anything that you think I need to rule on or
16 we need to address before we bring the jury in, I'll
17 be happy to hear it, sir.

18 MR. FOX: I don't believe so, Your Honor.

19 THE COURT: Okay. All right. I'm advised that
20 we do have -- our jury is all here. It's about 9:25.
21 So we will -- if you will go ahead and bring the jury
22 in, ma'am, I think we can get started.

23 THE BALIFF: Your Honor, we have one in the
24 restaurant.

25 THE COURT: Okay. Yeah. No rush at all. Tell

1 him to take the time. We're a little early.

2 (The jury enters the courtroom.)

3 THE COURT: Thank you so much, ma'am. Ladies and
4 gentlemen, thank y'all so much again, for being here
5 and for being on time. We really appreciate that. We
6 want got a couple things done so that we'll be ready
7 to go. But first of all, Madam Clerk, if you could
8 please swear the jury in.

9 MADAM CLERK: Yes, Your Honor. Ladies and
10 gentlemen of the jury, please stand and raise your
11 right hand to be sworn. After this oath, please
12 acknowledge by answering I do.

13 Please, raise your right hand. Do you swear or
14 affirm that you shall well and truly try and true
15 deliverance make between the State of South Carolina
16 and the defendant aboard who you shall have in charge
17 and a true verdict to give according to the law and
18 evidence, so help you God?

19 THE JURORS: I do.

20 MADAM CLERK: Thank you.

21 THE COURT: All right. Thank y'all. Ladies and
22 gentlemen, you've just taken an oath to try this case
23 and reach a fair and just verdict. And you are
24 expected to be, as I'm sure you will be professional,
25 reasonable, and ethical.

1 Thank you for accepting this important
2 responsibility and for your contribution this week to
3 our justice system.

4 As I mentioned earlier, it can't work without
5 good folks like you. Before we begin the actual trial
6 of the case, I thought it might be helpful if I
7 explained to you basically how a trial proceeds.

8 First, the State will make an Opening Statement.
9 An Opening Statement is not evidence. It is simply an
10 outline to help you understand what that party expects
11 the evidence will show.

12 The defendant may, if he wishes, present an
13 Opening Statement, but she does not have to for
14 reasons that I will explain later.

15 Following the Opening Statements, you'll hear
16 testimony and evidence in the case. This will consist
17 of testimony from State's witnesses, as well as any
18 physical exhibits which will be introduced into
19 evidence.

20 Following the completion of the testimony, the
21 attorneys will again have an opportunity to make
22 what's called a Closing Statement or a Summation.
23 This is an opportunity for the attorneys to summarize
24 the case from their respective points of view.

25 Again, these arguments by counsel are not

1 evidence. Following the Closing Statements by the
2 attorneys, I'll instruct you on the law of South
3 Carolina as it pertains to the issues that have arisen
4 in the case.

5 When I have completed my instructions to you, you
6 will be permitted to begin your deliberations in order
7 to reach a verdict.

8 I also want to take a few minutes to tell you
9 something about your duty as jurors and to give you
10 some instructions. At the end of the trial, I will
11 give you more detailed instructions which will control
12 your deliberations.

13 It will be your duty to decide from the evidence
14 what the facts are. You and you alone are the judges
15 of the facts. You will hear the evidence, decide what
16 the facts are, and then apply those facts to the law,
17 which I will give you.

18 That is how you'll reach your verdict. In doing
19 so, you must follow the law whether you agree with it
20 or not.

21 The evidence will consist of the testimony of
22 witnesses, documents, and other things received into
23 evidence as exhibits and any facts on which the
24 lawyers agree or which I may instruct you to accept.

25 You should not take anything I may say or do

1 during the trial as indicating what I think of the
2 evidence or what your verdict should be. This is a
3 criminal case brought by the State of South Carolina.

4 The State charges the defendant with homicide by
5 child abuse or neglect, and two counts of child abuse
6 or neglect.

7 The charges against the defendant are contained
8 in the indictments. The indictments are not evidence
9 of anything. They're simply the description of the
10 charges made by the State against the defendant.

11 The defendant has pled not guilty to these
12 charges and is presumed innocent unless and until
13 proven guilty beyond a reasonable doubt. Proven --
14 proven guilty beyond a reasonable doubt is proof that
15 leaves you firmly convinced of the defendant's guilt.

16 A defendant has the right not to testify and
17 never has to prove innocence or the -- or to present
18 any evidence.

19 The burden of proof is always upon the State of
20 South Carolina. The following things are not
21 evidence, and you must not consider them as evidence
22 in deciding the facts of the case.

23 Statements and arguments of the attorneys,
24 questions and objections of the attorneys, and
25 testimony that I instruct you to disregard.

1 Evidence may be direct or circumstantial. Direct
2 evidence is testimony by a witness about what that
3 witness personally saw. It's also it could also be
4 evidence about what a witness personally did or heard.

5 Circumstantial evidence is indirect evidence that
6 is, it is proof of one or more facts from which one
7 can find another fact.

8 You are to consider both direct and
9 circumstantial evidence. The law permits you to give
10 equal weight to both, but it is for you and you alone
11 to decide how much weight to give any evidence.

12 There are rules of evidence which control what
13 can be received into evidence during this trial. When
14 a lawyer asks a question or offers an exhibit into
15 evidence and a lawyer on the other side thinks that it
16 is not permitted by the rules of evidence, that lawyer
17 may object.

18 If I overrule the objection, the question may be
19 answered or the exhibit may be received. If I sustain
20 the objection, the question cannot be answered or the
21 exhibit cannot be received.

22 Whenever I sustain an objection to a question or
23 deny a motion to admit an exhibit into evidence, you
24 must ignore the question or the existence of the
25 exhibit, and you must not guess what the answer would

1 have been or what the exhibit would have shown.

2 Sometimes it may be necessary for me to request
3 that you leave the courtroom while I discuss the
4 attorney's legal questions that come up during the
5 trial. If this occurs, you should not speculate about
6 our discussions or the reason that you were asked to
7 leave the room. This is simply a procedure that the
8 law requires when certain legal issues arise.

9 There also may be occasions where I ask the
10 attorneys to approach the bench so that I can discuss
11 a legal issue with them in private. I will do this as
12 often as possible so that you will not be required to
13 leave the courtroom more than is absolutely necessary.

14 Again, if I ask the attorneys to step up to the
15 bench, or if I ask you to leave the courtroom, please
16 don't think anybody is trying to hide anything from
17 you or keep any evidence from you. This is simply a
18 procedure used by all lawyers and by all courts to
19 determine and decide legal questions.

20 In deciding the facts of this case, you may have
21 to decide which witnesses to believe and which
22 witnesses not to believe. You may believe everything
23 a witness says or only part of it or none of it.

24 In deciding what to believe, you may consider a
25 number of factors including the following:

1 The witness' ability to see, hear, or know the
2 things testified to. The quality of the witness's
3 memory. The witness's manner while testifying.
4 Whether the witness has an interest in the outcome of
5 the case or any motive, bias, or prejudice.

6 Whether the witness was contradicted by anything
7 the witness said or wrote before the trial or by other
8 evidence. And how reasonable was the witness'
9 testimony when considered in light of other evidence,
10 which you do believe.

11 Until I advise you to begin your deliberations,
12 you must not discuss the case with anyone including
13 your fellow jurors.

14 This includes friends, family members, and anyone
15 else involved in the case. It also includes
16 discussions that are face to face and those by
17 telephone, email, text, blogs, social media, or any
18 other method of communication.

19 You may not use a computer, cell phone, or other
20 electronic device with computer communication
21 capabilities at any time while in the courtroom or
22 during deliberations.

23 During the breaks for meals or overnight, if
24 necessary, you may use these devices, however, you may
25 not at any time use these devices to get or send

1 information about this case. This includes
2 information about a party, a witness, an attorney, or
3 a court officer.

4 It includes any new -- news accounts about the
5 case, research on any topics raised, any topics you
6 think would be helpful in deciding the case or any
7 testimony presented by any witness.

8 During the trial, please do not read, listen to,
9 or watch any news reports about this case. Again,
10 this includes anything that may be in the newspapers
11 or on the Internet, radio, television, or social
12 media.

13 You must not consider anything you may have read
14 or heard about the case outside the courtroom, whether
15 before or during the trial. After the case is
16 submitted to you, you must discuss it only in the jury
17 room with your fellow jurors.

18 The attorneys and parties in this case have been
19 advised that they are not to talk to you at all. So
20 if you see anybody involved in the case in the hallway
21 or outside on the way to or from lunch and they don't
22 say hello or recognize you, they're not being
23 unfriendly, they're simply following my instructions.

24 It is important that you keep an open mind and
25 not decide any issue in the case until all of the

1 evidence has been presented, the parties have made
2 their closing arguments and I have instructed you on
3 the law in this case.

4 If you become aware of another juror's violation
5 of these instructions, you must inform me immediately.
6 It is your responsibility to determine the guilt or
7 innocence of the defendant.

8 And your verdict must be based solely on the
9 evidence as it is presented to you in this trial and
10 on the law as I instruct you, and at the close of the
11 trial. Any exceptions to anything that I've said to
12 the jury, Ms. Browder?

13 MS. BROWDER: No, sir.

14 THE COURT: Mr. Fox?

15 MR. FOX: No, Your Honor.

16 THE COURT: All right. Ms. Browder, you may
17 begin -- you may have your Opening Statement.

18 MS. BROWDER: Ms. Morgan is doing the opening,
19 Your Honor.

20 THE COURT: I'm sorry about that. Excuse me.

21 MS. MONROE: That's fine. May it please the
22 Court?

23 THE COURT: Yes, ma'am.

24 STATE'S OPENING STATEMENT

25 MS. MONROE: "Look at his fucking face. This is

1 ridiculous. You want attention so bad, put the camera
2 on your ass. He don't look like he scratched his
3 fucking eye. This shit is beyond me. 20 minutes
4 straight -- almost 20 minutes straight of the same
5 shit."

6 That's how the defendant, Breonte, mom describes
7 her six-month old child in an 18-minute video found on
8 her phone of him shivering in the bathtub, bleeding
9 from his face, lying in his own vomit, crying out for
10 help.

11 Fast forward a couple months. March 11th, 2023,
12 Sunday about 11:30 in the morning, the fire department
13 and paramedics respond to her home on Universal Drive
14 here in Richland County for an unresponsive infant.
15 That baby in the bathtub, he's not breathing. That
16 baby's name is **Infant One**.

17 First responders get to the scene, they find
18 **Infant One** without a pulse and they immediately start
19 working on him.

20 **Infant One** is so emaciated that first responders can
21 see his ribs; they could see his chest bone. His skin
22 is rubber alike.

23 He's scarred up all over his face. So they
24 immediately give CPR. They're trying to resuscitate
25 **Infant One**. They're trying to get a heartbeat. And while

1 they're working on her son, the defendant is standing
2 nearby on her cell phone. They realize we need to get
3 **Infant One** to the hospital as quickly as possible.

4 So they rushed **Infant One** to the back of the
5 ambulance, so they can get out of there. While
6 they're loading **Infant One** into the ambulance, mom is
7 wandering around the house looking for a phone
8 charger.

9 They almost leave her behind because her baby is
10 not breathing. They don't have time to wait for mom
11 and her phone charger. Just so happens that that
12 ambulance wouldn't restart. We had some technical
13 problems with the ambulance.

14 So a second ambulance rolls up to pick everybody up
15 and take them to the hospital.

16 And mom does make it on that second ambulance.
17 The entire way of the hospital, paramedics are working
18 on **Infant One**. They're doing CPR, they're trying to get
19 an IV into his arm.

20 They're trying to restart his heart. And they
21 get numb. **Infant One** gets to the hospital; they rush him
22 into the emergency room. Doctors at the hospital
23 started working on **Infant One**.

24 They're continuing with CPR. They're pushing
25 medications. They're trying to restore a heartbeat.

1 Nothing. Time of death, 12:41 p.m.

2 Now, what y'all don't know is that **Infant One** was a
3 triplet. There are two more babies back at the house.
4 And so those babies are also taken to the hospital to
5 be checked out, just to make sure that they're okay.
6 But those babies weren't okay. Their names are **Infant Two**
7 and **Infant Three**.

8 And **Infant Two** and **Infant Three** at eight months old are 10
9 pounds each -- about 10 pounds each. And they too
10 have marks on their bodies.

11 And so the defendant has been charged with three
12 crimes in this case: She's been charged with Homicide
13 by Child Abuse; and she's been charged with two counts
14 of Unlawful Conduct towards a child. One count for
15 **Infant Two**, one count for **Infant Three**.

16 Now the judge is going to give you a rundown of
17 the law at the end of this trial, what the judge says
18 though. But I do like to give you a little bit of a
19 preview at the start just so you know kind of what to
20 listen for and what to look for as we're moving
21 through testimony, we're showing you evidence in this
22 case. So just briefly, Homicide by Child Abuse.

23 The elements are: cause the death of a child
24 under the age of 11 by abusing or neglecting that
25 child under circumstances manifesting extreme

1 indifference to the value of human life.

2 And I don't expect you to remember all of that.
3 But the one thing I do want you to remember about
4 homicide by child abuse is that it doesn't require an
5 intent to kill. Homicide by child abuse takes many
6 forms.

7 Yes, you can physically harm your child, you can
8 physically abuse your child and if that child dies,
9 qualifies. But also if it is causing the death by
10 either abuse or neglect.

11 So you can fail to provide necessary medical care
12 to your child, if your child dies because of that,
13 that's homicide by child abuse. If you don't feed
14 your child and your child dies as a result, also
15 homicide by child abuse. So if you find that the
16 defendant in this case did any one of those things,
17 she's guilty.

18 The second crime that I mentioned is Unlawful
19 Conduct towards a Child. And she is charged with two
20 counts of that. An Unlawful Conduct towards a child,
21 it's a little simpler. It only has two elements.
22 You're the parent or guardian of that child, and you
23 place that child at an unreasonable risk of harm. And
24 that can be either by action, abuse, or inaction
25 neglect.

1 Now, it's our job as the State to prove these
2 crimes beyond a reasonable doubt.

3 And I'm sure a lot of you have heard that phrase,
4 proof beyond a reasonable doubt either here or in a
5 book, maybe in real life.

6 I don't know. But it doesn't mean you can't have
7 any doubt. It just means that you have to be firmly
8 convinced that these crimes are committed and that
9 they were committed by this defendant.

10 And we're going to prove it to you. We're going
11 to prove to you that she's the reason for **Infant One** is
12 dead. And she's the reason that **Infant Two** and **Infant Three** were
13 left emaciated.

14 And we're going to do that by putting out
15 witnesses and introducing evidence. And the first
16 people that you're going to hear from are first
17 responders naturally. They're the first ones on
18 scene.

19 And they're going to tell you that when they got
20 to the defendant's house that -- that day, **Infant One**
21 didn't have a pulse, but they were doing what they
22 could to try to restore her heartbeat. They
23 ultimately weren't able to do that. But while they're
24 working on her son, there wasn't a concerned mama in
25 the house.

1 In fact, many of those first responders that
2 you'll hear from, they're going to tell you that the
3 thing that stood out about this case was not the dead
4 baby, it's her.

5 And then you're going to hear from the ER, Dr.
6 Wade. He's the doctor that attempted to save **Infant One's**
7 life when he got to the emergency room. He's going to
8 tell you that **Infant One** was cold, stiff by the time he
9 got to ER.

10 He is going to tell you he did everything he
11 could, but there really wasn't much more to do. He
12 said, **Infant One's** body was sent for an autopsy here in
13 Richland County.

14 And the doctor that conducts the autopsy, his
15 name is Dr. Monroe. And these are the things he's
16 going to tell you he found; bruises to the legs,
17 bruises to the back, two fractures in the left arm,
18 one fracture in the right arm. Rib fractures, swollen
19 penis, black eye, completely torn frenulum.

20 For those who don't know, we all have a frenulum.
21 It's what connect your -- your left to your gut. His
22 was completely torn. Bruises on his brain, bleeding
23 on his brain, swelling to the brain. Cause of death,
24 complications from blunt force trauma to the head with
25 neglect and dehydration contributing. Manner of

1 death, homicide.

2 And after that, you're going to hear from another
3 doctor. You're not just going to hear from doctors in
4 this case, you're going to hear from law enforcement
5 and some other people too.

6 But the reason I bring you the doctors is because
7 their testimony is really important. They're going to
8 tell you what explanations make sense and what
9 explanations don't make sense.

10 They're going to tell you what is normal for an
11 eight-month-old in terms of weight and growth and
12 mobility. And they're going to tell you that what
13 they saw in this case was not normal.

14 So Dr. Young, she is a forensic pediatrician here
15 in Richland County. And she's going to tell you that
16 an eight-month-old doesn't give himself a black eye.

17 She's going to tell you that an eight-month-old
18 doesn't completely tear his own frenulum. An
19 eight-month-old doesn't break bones in both arms on
20 his own.

21 And most importantly, that's because these babies
22 weren't mobile. None of the babies were mobile
23 because they were so malnourished. They weren't
24 rolling over. They could barely hold their own heads
25 up. They weren't crawling, they're not holding up on

1 things. And so these injuries are not self-inflicted
2 injuries.

3 And she's going to -- she's going to testify to
4 that. She's also going to tell you that all three
5 babies were in 0.01 percent for weight.

6 So at eight months old, **Infant Two** and **Infant Three**, the
7 surviving triplets, were 10 pounds. **Infant One** was seven
8 pounds, nine ounces at the time of his death. And
9 physically they were skin and bones.

10 And then before we wrap this thing up this week,
11 you're going to hear from **Infant Two** and **Infant Three's** foster
12 mom, Bailey Polson. She's been with **Infant Two** and **Infant Three**
13 pretty much from the beginning, and she's -- she's
14 going to explain to you what happened to those babies
15 when they were fed regularly.

16 What happened to those babies when -- when they
17 were loved on and snuggled regularly. What happened
18 to those babies when they went to the doctor
19 regularly. And you're going to see that it -- it
20 really didn't take much for those babies to grow.

21 All it took is meeting their basic needs. Now,
22 before I sit down I just ask one thing and that you
23 pay really close attention this week. It's not going
24 to be an easy week, but it is an incredibly important
25 week.

1 You are going to get to see a portion of that
2 video that I mentioned at the beginning. And I think
3 you'll realize that the defendant mom, the very person
4 that was supposed to protect **Infant Two** and **Infant Three** and
5 **Infant One**, was the person they needed protection from.

6 Those babies can't speak for themselves, but the
7 evidence is going to speak for them. And when all of
8 this is over, we are going to ask that you find her
9 guilty. Thank you.

10 THE COURT: Thank you, ma'am. The defense may
11 begin.

12 DEFENSE OPENING STATEMENT

13 MS. COLEY: Thank you, Your Honor. May it please
14 the Court.

15 THE COURT: Yes, ma'am.

16 MS. COLEY: Being a parent is really hard. Being
17 a mother in particular is really hard. It's one of
18 the best and most rewarding things that you can have
19 in this life. But it's also one of the toughest.

20 Moms not only physically put their bodies through
21 so much for their children, but mentally and
22 emotionally sacrifice and drain themselves at times to
23 make sure that their children are provided for.

24 If a mom is lucky, she'll have a community
25 surrounding her, ready to jump in at a moment's notice

1 to help. But for some, motherhood is done alone,
2 without much help or guidance.

3 And like so many others, Bre didn't necessarily
4 have that community. Don't get me wrong. She has a
5 family that loves her and offered on occasion to help,
6 but they had their own lives, their own struggles, and
7 their own priorities.

8 Bre's priority is her children, to make sure that
9 she cared for them and provided for them to the best
10 of her ability. And during the course of this trial,
11 you're going to hear that she did just that.

12 That she tried to provide for her kids as best as
13 she could. She waited until she was a little bit
14 older to start having children so that she'd be more
15 mature.

16 She changed her diet and her lifestyle in order
17 to show her kids that they not only had a mom that
18 cared for them, but would take care of herself so she
19 could better care for them.

20 You're going to hear that she joined a motherhood
21 support group to try to get those tips and tricks from
22 people when she didn't necessarily have that from
23 other people in her life.

24 And you're also going to hear that when the
25 father of the children wasn't working, wasn't

1 providing for her or her kids, that she took that upon
2 herself and became the breadwinner. Working multiple
3 jobs for long hours in order to make sure their kids
4 had everything that they needed.

5 Bre made some mistakes, but she did not harm her
6 children. One of those mistakes was trusting the
7 wrong people to protect her kids from harm. Her
8 mistake was taking the doctors at their word when they
9 dismissed her concerns time and time again.

10 One thing that you won't hear during the course
11 of this trial is that Bre was the person who caused
12 the injury that led to **Infant One's** death. You're not
13 going to hear that.

14 Bre was overworked, overwhelmed, and overextended
15 providing for four kids under the age of 18 months by
16 herself. She did not harm her children. Now you're
17 going to hear and see a lot of sad things during this
18 trial.

19 This is a sad case. But we ask that you don't
20 let your sadness cloud your judgment when you're
21 assessing the facts.

22 The Judge is going to go over his instructions to
23 you and your job is to decide the facts, separate from
24 your emotions.

25 Something my grandma used to say to me was that

1 when you're trying to figure out which way the wind
2 blows, you don't look at the tree trunk, you look at
3 the leaves.

4 And we're going to ask that you do that during
5 this trial. Don't just look at the tree trunk, the
6 bare allegations in this case, but look at the leaves,
7 the surrounding circumstances.

8 Bre did the best that she could with the
9 circumstances that she had, and she did not harm her
10 children. And at the end of this trial, we're going
11 to ask that you find her not guilty.

12 THE COURT: All right. Thank you. State to call
13 their first witness.

14 MS. BROWDER: State calls. Senior firefighter
15 Stome Higgins.

16 THE BALIFF: Stand here and face the Clerk and
17 put your right -- left hand on the Bible.

18 MADAM CLERK: Do you swear or affirm the
19 testimony you're about give in this case will be the
20 truth, the whole truth and nothing but the truth, so
21 help you God?

22 THE WITNESS: Yes, ma'am.

23 MADAM CLERK: Please take a seat in the witness
24 stand. State your full name for the record and spell
25 your first and last name.

1 THE WITNESS: Stome Antron Higgins, S-T-O-M-E,
2 Higgins, or Antron, A-N-T-R-O-N, Higgins,
3 H-I-G-G-I-N-S.

4 STOME ANTRON HIGGINS,

5 A witness herein, having been first duly sworn, was
6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. BROWDER:

9 Q. Good morning, Mr. Higgins.

10 A. Good morning.

11 Q. Where do you work?

12 A. Columbia Fire Department Station 30.

13 Q. Okay. And how long have you been with the
14 Columbia Fire Department?

15 A. Almost 10 years.

16 Q. All right. And what is your current position
17 with the fire department?

18 A. I'm a senior firefighter with the Columbia Fire
19 Department.

20 Q. And as a firefighter, what types of calls do you
21 respond to?

22 A. Fires, fire alarms, medical calls, car accidents
23 and some miscellaneous things when EMS can't get there when
24 have a extended ETA we'll get calls for first responder
25 calls.

1 Q. Okay. And so why -- and you tried to -- you were
2 explaining just now, why does the fire department also
3 respond to medical calls and medical emergencies in
4 addition to EMS?

5 A. Because a lot of times they're -- if -- if
6 they're unconscious, if they're a serious injuries,
7 bleeding, we can do those -- those first aid duties to
8 possibly, you know, save a life, or help someone in that
9 situation. There are more fire trucks than there are EMS
10 units active in the city. Every corner there is a fire
11 station, but I think there may be 13 to 15, if I'm not
12 mistaken, active EMS units at a time. So on every corner
13 there's a fire station.

14 Q. So is it fair to say that oftentimes y'all are
15 able to arrive before EMS can get there?

16 A. Yes, ma'am.

17 Q. Okay. And did you have an occasion on March
18 11th, 2023 to respond to [REDACTED] Universal Drive, Apartment
19 [REDACTED]?

20 A. Yes, ma'am.

21 Q. Okay. And what was the nature of that call?

22 A. The call came in, I think as a respiratory
23 distress at first. Then once we got on the truck, we
24 looked on the computer and saw that it came in as a child
25 choking. And then when we got there, we found an

1 unresponsive infant -- infant child.

2 Q. Okay. Did it take you long to get to that
3 apartment?

4 A. No, ma'am. It's right next door. We are on
5 Burdell Street, literally it's the apartment complex next
6 door, so we make a right out of the station and a right
7 into the apartment complex. I don't think a blinker turns
8 off. It'll stay on if you turn out to.

9 Q. Okay. Do you -- I mean, do you have a clear
10 memory of this call, even though it was a little over two
11 years ago?

12 A. Yeah. I can see it every day.

13 Q. Okay. Now, when you arrived at the apartment,
14 were -- were you the first to arrive?

15 A. Yes, ma'am. Engine 30 was the first to arrive on
16 the scene that morning or that day.

17 Q. And once -- once you got there, did you go
18 straight in?

19 A. Yes, ma'am.

20 Q. And what did you see when you got inside the
21 apartment?

22 A. When I walked inside I was -- I asked, I said,
23 who are we here to see? And the lady pointed to her right,
24 my left, there was an infant child lying on the floor of
25 the -- of the -- of the apartment.

1 Q. Okay. So lying on the floor, what room did it
2 appear to be?

3 A. The living room area. First room to the left, or
4 the only room to the left. As soon as you walk in, it's
5 right there to the left. So it's the living area.

6 Q. Okay. Did the baby that you just testified
7 about, did -- what did you observe about the baby? Did the
8 baby have any signs of life?

9 A. No, ma'am. Not initially, no signs of life. The
10 baby was lying on the floor on -- its on its back. And
11 when we arrived, of course, we checked for a pulse
12 responsiveness, and we didn't have a pulse after we
13 checked. The baby wasn't responding to anything. So we
14 called central to inform them that we had cardiac arrest in
15 progress and we were starting CPR and we also called for an
16 additional truck to come.

17 Q. Okay. And when you say cardiac arrest, I mean --
18 I think like when -- when you say cardiac arrest, I think
19 of a heart attack. Was the baby like actively having a
20 heart attack in front of you? What -- what do you mean by
21 cardiac arrest?

22 A. We didn't have a pulse. We didn't have a
23 heartbeat, so that's when we started CPR.

24 Q. Okay. And who -- who performed CPR on the child?

25 A. My partner and I -- we only -- we were two-man

1 trucks stationed, or engine 30 is a two-man truck. So my
2 partner and I started -- I started the chest compressions.
3 He's got the AED, the OPA, the BVM to start opening the
4 airway.

5 Q. Okay. Let's start with CPR. Is CPR performed a
6 certain way when you're talking about a -- a baby?

7 A. Yes, ma'am.

8 Q. Okay. Can you explain that?

9 A. So you want to put the child on the hard surface.
10 So once we check for responsiveness and it's a small baby,
11 so we're working on the floor. So I picked the child up,
12 his head was in my hand, his feet were around my forearm,
13 and I put him on the hard part of the sofa and I started
14 chest compressions.

15 By that time, my partner had gotten the pads on the --
16 on the infant one on his front, one on his back, connect
17 the infant pads to the child, started the AED and there was
18 a foamy substance coming from the child's mouth. So we
19 suctioned that.

20 Then we put this little plastic piece in his mouth to
21 open up his airway. It's called an OPA. So we put the OPA
22 in to open up his airway. Then of course, the bag valve
23 mask, well, to pump air into his lungs.

24 Q. Okay. And with the -- the CPR on a child that's
25 smaller, are you trained and -- and certified in performing

1 that lifesaving measure?

2 A. Yes, ma'am.

3 Q. Okay. And the members of your crew that perform
4 the other life saving measures, are they also trained and
5 certified in performing those?

6 A. Yes, ma'am.

7 Q. Okay. Did the baby have any response to those
8 techniques?

9 A. No, ma'am.

10 Q. Was there any -- the --- the lady that you
11 referred to that was in the living room where you saw the
12 baby, do you see her here in the courtroom?

13 A. Right here.

14 Q. And --

15 A. Looks like the lady I saw that day.

16 Q. What is she -- is she sitting at -- at the table
17 next to Ms. Coley in the black --

18 A. Yes, ma'am.

19 Q. -- jacket? And is she wearing a -- what is she
20 wearing?

21 A. The tan-colored turtleneck sweater.

22 Q. Okay. At this time, let the record reflect that
23 he's identified the defendant.

24 THE COURT: Yes, ma'am.

25 Q. While -- was there any indication -- was she the

1 only adult besides members of the Columbia Fire Department
2 that were present in the apartment?

3 A. As far as I can remember, she was the only adult
4 I saw there in the -- in the home.

5 Q. Okay. Was there -- did you have any -- was there
6 any indication that she had been performing CPR on that
7 child prior to your arrival?

8 A. No, ma'am.

9 Q. Okay. Did she tell you that she'd been trying to
10 do that prior to your arrival?

11 A. No, ma'am.

12 Q. Besides being -- besides the child being
13 unresponsive, what else did you notice about the baby that
14 was lying on the floor?

15 A. He was wearing a diaper, unresponsive on his
16 back. Again, no signs of -- no signs of life, just on a --
17 on the floor.

18 Q. Did you learn how old the baby was while you were
19 on scene?

20 A. No, ma'am. It was an infant baby. It was a
21 small child. I think later, the age came out that it was
22 maybe eight -- eight months old, I think, eight-month-old
23 child.

24 Q. When you learned that, did that surprise you?

25 A. Yeah. We thought it was like a newborn. He was

1 very, very small.

2 Q. Did EMS arrive while you were on scene?

3 A. Yes, ma'am. EMS did arrive. We were performing
4 CPR. Again, we requested an additional truck and engine 22
5 came. When they came, they -- it was just manpower from
6 that point. You know, anything we needed, they were there,
7 but we didn't need anything.

8 My partner -- again, I was doing chest compressions
9 and my partner was doing the airway and they were just
10 there for help.

11 And I told them, I said, when EMS arrives, we're going
12 to -- we're going to grab and go because we wanted to put
13 them into the hands of the EMS.

14 So when they pulled up on scene, we grabbed and the
15 child is still here, we were performing chest compressions
16 and rescue breaths, went to the EMS unit and placed the
17 child in the hands of the EMS workers.

18 Q. Okay. And what did -- once you handed the child
19 over to the EMS workers, what -- what did they do?

20 A. They continued CPR. At that point, you know, we
21 keep things kind of private, kind of closed the door of the
22 EMS unit, asked what we need. They did ask if we, the
23 Columbia Fire Department, had a driver for the EMS unit. I
24 am certified to drive the ambulance.

25 All firefighters aren't, I am. And I said, yes. I

1 said, I can drive. They said, okay, cool. We're going to
2 Richland. I said, okay. So I got into the unit, I said,
3 hey, let me know when you guys are ready.

4 And when I got inside, they said, stop. This unit
5 only did 45 miles per hour coming here. So there was a
6 mechanical issue with the EMS unit.

7 We have another unit on the way. They arrived. When
8 they arrived we transferred the baby over to the other unit
9 and they took off.

10 Q. Okay. And did that transfer take very long at
11 all?

12 A. No. It didn't take long at all.

13 Q. Okay. Was anybody -- when you were going to
14 drive the truck, was anybody in the -- in the front of the
15 truck with you --

16 A. Yes, ma'am.

17 Q. -- in the truck? Who?

18 A. The mother of the -- the baby or the lady that
19 was there that day.

20 Q. Okay.

21 A. I'm assuming was the mother.

22 Q. Okay. What were the -- when you were in the
23 front of the truck with the defendant, what was going on in
24 the back of the truck?

25 A. CPR was still going on.

1 Q. Okay. And how many EMS workers were in the back?

2 A. I can't remember. Maybe three. I'm not sure. I
3 can't remember how many were back there, but it was more
4 than one, of course, but they were performing CPR and as
5 I'm sitting in the truck, you know, they were just saying,
6 you know, hey, we're doing all we can do. We're doing all
7 we can do.

8 Q. Okay. And that was -- they were -- what was her
9 response to that?

10 A. She said okay. She was, I think, texting on her
11 phone, she said okay.

12 Q. While you were on scene with the unresponsive
13 baby and the defendant, did you observe anything about her
14 demeanor?

15 A. Very calm, very, very calm demeanor.

16 Q. Was she crying?

17 A. No, ma'am. She did ask one question, if we were
18 -- when we were doing CPR, she thought she saw the baby's
19 lips moving, and she did ask, you know, are his lips
20 moving? And, you know, we're -- we're -- we were trying to
21 count our compressions and do what we're doing. But she
22 did ask if his lips were moving

23 Q. And -- and were they?

24 A. No, ma'am.

25 Q. Did -- did the defendant appear to be displaying

1 like any signs of shock about what was going on?

2 A. No, ma'am. She was very, very calm. You know,
3 didn't have a lot to say. She was very calm demeanor.

4 Q. Once EMS took -- took the child away to the
5 hospital, what -- what did you do? What was your role?

6 A. So we go back inside and make sure we have all of
7 our equipment together. And, you know, running a --
8 running any call with the Columbia Fire Department is hard.

9 Any medical call, you know, we leave, we often say,
10 you know, hi, I pray for you guys, whether it's a fatality
11 or if it's just someone having trouble breathing. I pray
12 you feel better. But when it comes to a child, you know, a
13 lot of us have children on yourselves. I have four
14 children.

15 When it comes to a child, it kind of hits home a
16 little different. So we stood around and asked, is
17 everyone okay? Are you okay to continue your shift?
18 Because there were some EMS workers that were in tears.

19 I remember being in tears a little bit because, you
20 know, you're thinking, this could be my child. So you make
21 sure everyone is okay. Make sure you have all your
22 equipment, just kind of assess the situation. Hey, you
23 know, you guys okay? Yes, we're fine. All right. And we
24 clear and we go back into service after that.

25 Q. Okay. And once -- once you left the scene, that

1 was -- was that the extent of your involvement with this
2 particular call?

3 A. Yes, ma'am. We went back to the station. My
4 partner did a report and that was it.

5 Q. I beg the Court's indulgence.

6 THE COURT: Yes, ma'am.

7 MS. BROWDER: All right. Thank you, Firefighter
8 Higgins. Please answer any questions from the
9 defense.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: All right. Cross-examination.

12 MR. FOX: Yes, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. FOX:

15 Q. Captain Higgins, you're specially trained in --
16 I'll say in CPR and things like life saving techniques?

17 A. Yes, sir. It's -- it's not captain, it's
18 firefighter. I'm sorry.

19 Q. Firefighter. I'm sorry.

20 A. That's right.

21 Q. Okay.

22 A. I want to be a captain.

23 Q. I promote you.

24 A. All right.

25 Q. But you're -- you get special training to do
26 that, correct?

1 A. Yes. Yes, sir.

2 Q. Okay. And I think you testified it's a
3 particular -- there's a difference when you have a child or
4 an infant.

5 A. Yes, sir.

6 Q. Correct? Different considerations?

7 A. Yes, sir.

8 Q. Particularly a very small child.

9 A. Yes, sir.

10 Q. Correct? What are -- what are some of the
11 reasons or what are some of the differences with performing
12 CPR on an infant under the age of a year and, say, a
13 20-year-old adult?

14 A. Their bone structure. I can't do a chest
15 compression -- full chest compression on an infant like I
16 could on -- on an adult. So we can use the two fingers
17 here, or the two fingers here, or just the one hand here.

18 While with an adult it's two hands at one time. So
19 with an infant, I can't perform the same.

20 Q. You can't safely use the same force?

21 A. Yes, sir.

22 Q. Is that fair to say?

23 A. Yes, sir.

24 Q. And there's a reason you all exist, you fight
25 fires?

1 A. Yes, sir.

2 Q. But an average person wouldn't be expected to
3 have that kind of training?

4 A. Yes, sir.

5 Q. Okay. And you said you saw no evidence that Ms.
6 Glasgow had performed CPR?

7 A. No, sir.

8 Q. But you're not aware of what was happening at the
9 time before you got there, correct?

10 A. No, sir.

11 Q. Okay. And you weren't -- you had been, I assume
12 they're essential dispatch that alerted you, here's a call
13 you need to respond?

14 A. Yes, sir.

15 Q. But you weren't ever on the phone with Ms.
16 Glasgow?

17 A. No, sir.

18 Q. Okay. But you don't know how her demeanor was at
19 that time?

20 A. When I walked through? No, sir. When I walked
21 through the door, I just asked who are we here to see, and
22 she pointed to her right, my left, baby --

23 Q. You weren't -- I'm sorry. And you're aware there
24 was a -- a call to 911?

25 A. Yes, sir. That's how we get our calls. Someone

1 will call 911 and dispatch will dispatch the appropriate
2 units.

3 Q. Yes, sir. I apologize if I talk over.

4 A. No, no, no. You're fine. You're fine.

5 Q. But there was a call for help, correct?

6 A. Yes, sir. Yes, sir.

7 Q. Okay. And would it be standard procedure during
8 that -- in -- in this kind of situation where there's
9 suspicion there's cardiac arrest or distress whenever the
10 cause may be in an infant, that while you all are getting
11 there, because it could take you at least a couple minutes
12 to get there, correct?

13 A. A minute. Next door. Just --

14 Q. Very quick?

15 A. Yes, sir. Very quick.

16 Q. And in the interim, would it be typical for the
17 -- the 911 operator to give some kind of basic instructions
18 to the person calling to the person on scene?

19 A. Yes, sir. Usually they'll --they'll -- they'll
20 give, hey, you know, are you performing CPR? This is how
21 you do it. Just until we get there. We -- we've been to
22 certain calls where people were doing it wrong on a bid or
23 something.

24 Q. Sure.

25 A. But they -- they'll try to instruct you if you

1 don't know how to do CPR, they'll try to -- to the best of
2 their knowledge.

3 Q. Okay. And again, you're -- you noticed yourself
4 that this child was foaming at the mouth, something was
5 coming out of the mouth when you arrived?

6 A. Yes, sir.

7 Q. Okay. Ms. Glasgow was the only infant in the
8 apartment when you got -- I'm sorry, the only adult in the
9 apartment when you arrived?

10 A. The only adult I saw. Again walked in, she was
11 -- she met us at the door and we said, who -- who are we
12 here to see? And she pointed.

13 Q. Okay. Did you notice other small children in the
14 apartment?

15 A. I can't remember.

16 Q. Okay.

17 A. Yeah.

18 Q. Did you learn afterwards whether there were any
19 small children other than --

20 A. Yes, ma'am. Yes, sir. Yes, sir. Because I
21 think other family members were called to watch over the
22 children.

23 Q. Okay.

24 A. But again, when you're -- when you're called
25 tunnel vision, we're -- we're going to the source.

1 Q. But you recall she was the only adult in the --
2 in the apartment at the time that you arrived?

3 A. Yes, sir.

4 Q. When doing your job?

5 A. Yes, sir.

6 Q. Did you -- were -- were you aware -- you probably
7 testified about the size of the child and your belief just
8 that he was very, very young based on his size?

9 A. Yes, sir.

10 Q. Were you aware that he was a premature infant
11 born 24 weeks?

12 A. No, just saw small child.

13 Q. Okay. So you were not aware he was one of the
14 quadruplets, actually?

15 A. I found out later he was.

16 Q. Okay.

17 A. Yes, sir.

18 Q. And at birth, I believe weighed around a pound?

19 A. Okay.

20 Q. You don't have any idea who Ms. Glasgow was
21 texting when she was on her phone, do you?

22 A. No, sir.

23 Q. Okay. But you say someone did come and another
24 adult family member's friend, somebody came?

25 A. Yes, sir. More people came once we were leaving.

1 Q. So entirely possible she was texting someone to
2 come watch the other children?

3 A. Possible.

4 Q. Because she went to the hospital with her --

5 A. Possible.

6 Q. -- child in distress?

7 A. Yes, sir. I'm not sure what was being texted.

8 Q. All right. You say she was calm; you've never
9 met Ms. Glasgow before?

10 A. No, sir.

11 Q. You've never seen her in any kind of moment of
12 distress or chaos before?

13 A. No, sir.

14 Q. Any kind of crisis?

15 A. No, sir.

16 Q. You don't have any -- of course, you have no
17 personal knowledge of her life story --

18 A. No, sir.

19 Q. -- circumstances?

20 A. No, sir.

21 Q. Okay. Now you say understandably afterwards, you
22 and the other first responders kind of checked on each
23 other.

24 A. Yes, sir.

25 Q. Right?

1 A. Yes.

2 Q. Make sure like, look, this is a tough one.

3 Everybody doing okay?

4 A. Yes, sir.

5 Q. Right. And that's kind of standard.

6 A. Yes, sir.

7 Q. Right?

8 A. Yes, sir.

9 Q. For everyone's wellbeing, mental health?

10 A. Yes, sir.

11 Q. Okay. Was anyone checking on Bre when all this
12 was going on that you saw?

13 A. Bre?

14 Q. Breonte. Calling Bre.

15 A. I think she -- she'd already gone in the
16 ambulance. So I think --

17 Q. Anybody -- the first responders when people say,
18 obviously, your role focused on the child, but did anybody
19 check with her?

20 A. Yes, the -- the EMS worker in the back. He was
21 -- everything they were doing, he was signaling to her or
22 telling her exactly what they were doing, you know, and --

23 Q. That was about -- okay. And in fact she did
24 express concern. She asked, did you see his lips move?
25 That's the --

1 MS. BROWDER: Objection.

2 THE COURT: I'm sorry.

3 MR. FOX: I'll rephrase that, Your Honor. I -- I
4 did ask something that --

5 BY MR. FOX:

6 Q. She did inquire, without telling me what she
7 said, she inquired whether there was any sign of life,
8 basically?

9 A. Yes. She was asking if his lips were moving as
10 we were doing CPR and we told her no they weren't.

11 MR. FOX: Thank you. No further questions.

12 THE COURT: All right. Any redirect?

13 REDIRECT EXAMINATION

14 BY MS. BROWDER:

15 Q. Mr. Higgins, is y'all -- your members of your
16 fire department, including you, y'all respond to medical
17 emergencies on a fairly regular basis, correct?

18 A. Yes, ma'am.

19 Q. If an adult prior to y'all arriving is trying to
20 perform CPR, of the times, is that still going on when you
21 arrive?

22 A. Yes, ma'am.

23 Q. Was she doing that in this case?

24 A. No, ma'am. She met us at the door.

25 Q. Okay. When EMS was in the back working on her

1 child and you were in the front, were they advising what
2 they were trying to do?

3 A. Yes. Every step, they -- everything they were
4 doing, they were just signaling -- there was a little box
5 that you can communicate with the driver and whoever is in
6 the front and there was -- guys were back there saying,
7 ma'am, we're doing this, we're doing this, we're doing all
8 we can do.

9 Q. Okay. And while you were in the front with her,
10 did you ever see her look back while they were telling her
11 this?

12 A. No, ma'am. I just saw her text -- texting on her
13 phone.

14 MS. BROWDER: Thank you.

15 THE COURT: All right. Thank you very much, sir.
16 You may step down and be excused.

17 THE WITNESS: Okay.

18 (Witness released.)

19 MS. BROWDER: Your Honor, at this time the State
20 calls Captain Kurt Tilton.

21 THE COURT: All right.

22 THE BALIFF: Stand here and face the Clerk. Put
23 your left hand on the bible, and raise your right.

24 THE WITNESS: Okay.

25 MADAM CLERK: Do you swear or affirm the

1 testimony you are about to give in this case is the
2 truth, the whole truth, and nothing but the truth, so
3 help you God?

4 THE WITNESS: I do.

5 MADAM CLERK: Take a seat in the witness stand
6 and state your full name for the record.

7 THE WITNESS: Kurt Roger Tilton.

8 **KURT ROGER TILTON,**

9 A witness herein, having been first duly sworn, was
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. BROWDER:

13 Q. Is it Captain?

14 A. Captain. Captain Tilton.

15 Q. Good morning, Captain Tilton.

16 A. Good morning.

17 Q. Where do you work?

18 A. The Columbia Richland Fire Department.

19 Q. How long have you worked there?

20 A. 16 years.

21 Q. And what is your current role at the fire
22 department?

23 A. The captain of engine 22, which is station 22.
24 I've got three guys that are underneath me on the truck.

25 Q. Okay. Did you -- back on March 11th, 2023, did

1 your unit, including yourself, respond to [REDACTED] Universal
2 Drive?

3 A. Correct.

4 Q. Okay. And what was the nature of that call?

5 A. It was an infant cardiac arrest.

6 Q. Okay. When you arrived who all was on scene?

7 A. Engine 30's crew, which consists of an engineer
8 and a senior firefighter.

9 Q. Okay. What -- what were they doing as -- as you
10 arrived?

11 A. They were doing CPR. They were doing the CPR for
12 the infant.

13 Q. Okay. And were other -- without going into all
14 of them, were other lifesaving --

15 A. Correct.

16 Q. -- mechanisms used also?

17 A. Right. We brought our med bags. They had their
18 med bags there. For airway, for the AED, the, you know,
19 oxygen BBM, which goes over the -- the face to -- so you
20 can, you know, help breathe for the baby or for the person.

21 Q. Okay. And what was your role at the scene?

22 A. I'm more of making sure that, what's -- that the
23 CPR and everything is going well. I'm there more for scene
24 safety as a captain. Making sure if they need me to -- to
25 -- to do something with the CPR, then I can do it. If they

1 need anything, medical supply or whatever. And then -- but

2 I'm there more as a -- you know, I'm there to just to
3 monitor the scene and make sure that they can do what they
4 need to be doing.

5 Q. Okay. And part of monitoring the scene, what --
6 how many adults were there when you arrived?

7 A. Besides our -- the -- our personnel, there was a
8 woman or a caretaker there.

9 Q. Okay. And at the time -- you know, on that call,
10 while you were in the apartment, did you know what role the
11 woman that you're referring to had --

12 A. No.

13 Q. -- in relation to the child?

14 A. No.

15 Q. Did you know whether -- who did you think it was?

16 A. I wasn't sure. I just assumed just from the lack
17 of emotion that it was probably a caretaker that -- in my
18 mind when I first walked in, I thought was going to be a
19 caretaker. With the question of, you know, I wasn't sure
20 of where the mom was or who the mom was at that point
21 either.

22 Q. Okay. And was the -- was the woman that was
23 there, was -- I mean, was she crying? Did she seem
24 physically upset?

25 A. No, she was on the phone. She held the phone up,

1 talking to her phone saying, this is what I'm having to
2 deal with. And she turns the phone like she's on FaceTime,
3 I think, and then she turns the phone back. I kind of made
4 a step to go and intervene, but she had already turned it
5 back and we started talking back again on it and said,
6 you're going to need to clock me out, or something to that
7 effect.

8 Q. Okay.

9 A. And then I basically just formed a screen between
10 the little toddler that was behind me so that she couldn't
11 see what was going on in front of her.

12 Q. Okay. So she was on the phone?

13 A. Uh-huh.

14 Q. And what did you hear her say?

15 A. Something to the effect of, this is what I've got
16 going on. She turns the phone to -- like, she's going to
17 video it and then turns it back to herself.

18 Q. Okay.

19 A. And then the next thing was you're going to have
20 to clock me out, or something to that -- to that effect.

21 Q. Okay. Now, you are mentioning other children in
22 the home. How many -- where was -- who -- who all -- what
23 other children were in the home?

24 A. A little toddler girl in a -- or a little crib,
25 not crib, playpen inside the door. And then at that point,

1 that's all, I didn't know there was any other.

2 Q. Okay.

3 A. Later we -- I found out that there were two other
4 children in the -- in the bedroom, adjacent bedroom right
5 there down the hall.

6 Q. Okay. Okay. Did the EMTs arrive while you were
7 on scene?

8 A. Correct.

9 Q. Okay.

10 A. They were -- I think they were having engine
11 trouble so the -- the truck couldn't go over. I don't --
12 I'm not sure exactly what -- what the problem was, but they
13 -- there was a little bit of a delay getting there for
14 them.

15 Q. Okay.

16 A. So we -- but we knew that was going on. We
17 continued doing what we needed to do. The -- she was asked
18 to get - -- if there was some -- somebody that was -- could
19 come and watch the children because they wouldn't be able
20 to go in the -- to the -- in the ambulance with her.

21 Q. Okay.

22 A. So I think that she was talking with somebody to
23 -- to -- and got ahold of them to come over, somebody
24 nearby. Which I believe was -- it was two women as we were
25 leaving that -- that came into the apartment.

1 Q. So did you stay on scene while the ambulance --

2 A. Correct.

3 Q. -- was leaving?

4 A. Uh-huh (affirmative).

5 Q. Okay. And did -- did the -- the female that was
6 in the apartment when you got there, when you arrived --

7 A. Yes.

8 Q. -- that was on the phone. Did she go with the
9 ambulance and the -- the child?

10 A. I was telling her that she needed to go and she
11 started to, and then said that she needed to get her
12 charging cord and then turned and walked past me back into
13 the house. So I was -- you know, the EMS is like, where's
14 -- you know, is she coming with us or? And I go, I think
15 so, she's going to get her charging cord.

16 Q. Okay.

17 A. So at this point I'm outside the doorway because
18 everybody else was heading out.

19 Q. Okay. Did she make it into the ambulance prior
20 to them leaving?

21 A. Uh-huh (affirmative).

22 Q. Okay. And where -- you mentioned two other
23 babies in addition to the toddler, where were those babies
24 located?

25 A. As I was walking in, she walked past, the other

1 unit arrived, they transferred the care over to them. Two
2 other EMS workers came in with me and walked down the hall
3 saying that there were two other infants in the -- in the
4 apartment.

5 So we -- they walked in, I walked in behind them, and
6 I'm there too to check, make sure we've got all of our
7 equipment, anything that was left behind and kind of like,
8 you know, almost like the, you know, first one in, last one
9 out, kind of -- kind of a situation.

10 So I go there, they go in and look at the infants in
11 the room, they say that they're at least --

12 MR. FOX: Objection to hearsay, Your Honor.

13 THE COURT: Ask the question again, please.

14 THE WITNESS: I'm sorry.

15 MS. BROWDER: That's okay.

16 BY MS. BROWDER:

17 Q. I think the original question was, where were the
18 other babies in the apartment?

19 A. In the -- in the -- in the bedroom in the hall.

20 Q. Okay. All right. And so did you -- did you look
21 at those babies?

22 A. I saw them from the hallway in the doorway when
23 EMS checked them.

24 Q. Okay. Once -- once the -- the other women came
25 to watch those babies, what did -- did you have any other

1 role at the scene?

2 A. I basically just made sure everything was -- you
3 know, nothing else was in the room. Made sure that the
4 people that were going to be taking care of the kids were
5 there, which the two women were. And then I -- and then we
6 left.

7 And then we did a debriefing in the parking lot, which
8 I normally do any kind of a stressful situation like that
9 just to see how the other guys are reacting and how they're
10 -- you know, there's nothing to talk about it. And so
11 --and each -- you know, and asking -- you know, we were
12 asking each other who -- you know, I asked who was the
13 mother and the senior firefighter on 30 said that --

14 MR. FOX: Objection to hearsay, Your Honor.

15 THE COURT: All right. If you could, sir, just
16 don't -- don't -- don't testify about what somebody
17 else said.

18 THE WITNESS: I got you. I got you.

19 THE COURT: That's okay.

20 THE WITNESS: I asked who -- I may know who the
21 mother was.

22 BY MS. BROWDER:

23 Q. Okay. Did you learn it was the female in the
24 living room?

25 A. Correct. Yes.

1 MS. BROWDER: Okay. I beg the Court's
2 indulgence. Thank you, Captain Tilton. Please answer
3 any questions from the defense counsel.

4 THE WITNESS: Okay. Thank you.

5 THE COURT: Cross.

6 MR. FOX: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. FOX:

9 Q. So by its very nature, a call of this type,
10 person in distress, but specifically a -- a small infant in
11 distress.

12 A. Uh-huh (affirmative).

13 Q. Stressful situation.

14 A. Yes.

15 Q. Okay. So you all afterwards, you do your job,
16 you do it well, and then you check on each other to make
17 sure -- see how everyone is handling it?

18 A. Yes, sir.

19 Q. Because people respond in different ways, don't
20 they?

21 A. That's correct.

22 Q. All right. So some people -- you -- you have to
23 check on each other because some people may not, and I'm
24 talking about EMS people, first responders, etc. They may
25 not acknowledge or visibly show what's going on inside,

1 correct?

2 A. Right.

3 Q. Okay. And what's true for EMS first responders
4 may be true for anyone else in the world, correct?

5 A. That's correct.

6 Q. Okay. She, in fact, when I say she, Ms. Glasgow,
7 was the only adult present at first, correct?

8 A. Uh-huh (affirmative).

9 Q. Yeah. I'm sorry. You have to answer --

10 A. Oh, yes, sir.

11 Q. Thank you. And -- but she did get, there were,
12 turns out, three other small children in -- in the
13 apartment?

14 A. Yes.

15 Q. Okay. And she did, in fact -- she went to the --
16 to the hospital in the ambulance?

17 A. She did.

18 Q. All right. And she got someone, or some ones,
19 two people, to come and watch the other children?

20 A. She did.

21 Q. So she took care of that? Okay. In fact she
22 went back not just for her phone charger, she went back for
23 a diaper bag, correct?

24 A. That I'm not aware of.

25 Q. Okay. And she's going, at the time when she's

1 leaving, no one at that point has given up on the child.
2 Child has not been pronounced dead, correct?

3 A. Correct.

4 Q. All right. So she's asking, apparently, is --
5 she's inquiring -- she's checking on whether there are any
6 signs of life with -- with the -- with the infant. Were
7 you present --

8 A. I -- I was not. I -- yeah, I don't recollect.

9 Q. All right. But at the time she leaves to go to
10 the hospital, death had not been pronounced for **Infant One**?

11 Q. That's correct.

12 Q. Okay. And so the ability to communicate with
13 friends, family, or employer, let them know what's going
14 on, that would be important?

15 A. Yes.

16 Q. Okay. And so having a fully charged phone might
17 actually be an important thing to do for a careful and
18 concerned parent?

19 A. Yes.

20 MR. FOX: Thank you. No further questions.

21 THE COURT: All right. Any redirect?

22 MS. CAVANAUGH: No, Your Honor.

23 THE COURT: All right. Thank you very much,
24 Captain.

25 THE WITNESS: No problem.

1 THE COURT: You are dismissed.

2 THE WITNESS: Thank you.

3 (Witness released.)

4 THE COURT: All right. State may call its next
5 -- I'll tell you what, we've been going for about an
6 hour -- a little over an hour and a half now, why
7 don't we take a -- a -- a short break. Let's take
8 about a 10 or 15-minute comfort break. And we'll get
9 to the State's next witness.

10 Ladies and gentlemen, you'll probably get tired
11 of hearing me say this, but each time that you leave
12 the courtroom, I need to remind you that you're not to
13 discuss this matter with anybody including each other
14 until I've charged you on the law and you have gone to
15 the jury room for deliberations.

16 Please don't seek out or read any -- or consume
17 any media about the case in any way. And lastly and
18 importantly, please keep an open mind as to all
19 matters until you are excused from the jury to begin
20 the deliberations. Thank you very much.

21 (Jury leaves the courtroom.)

22 THE COURT: All right. All right. Let the
23 record reflect the jury left the room. Is there
24 anything that we need to address before we just take a
25 -- a brief break?

1 MR. FOX: No, sir.

2 MS. CAVANAUGH: No, sir.

3 THE COURT: All right. We'll be back in 10 to 15
4 minutes.

5 (Recess was taken.)

6 THE BALIFF: All jurors seat for Your Honor.

7 THE COURT: Thank you, ma'am. All right. Juror
8 Number 9, Mr. Anderson, I ask the Bailiff if they
9 would sit you in that seat. That is the only reserved
10 seat is for the jury foreperson. And so I'd like for
11 you to serve as the jury -- jury foreperson. It is
12 your added duty to preside in the jury room and be --
13 to ensure everyone follows the rules of conduct and --
14 and that -- that I gave earlier today.

15 And also to be the jury's spokesperson here in
16 court. It'll be also your duty to write the verdict,
17 but I'll give you further instructions about that at
18 the conclusion of the case. Just wanted to explain
19 why there's the change in sitting area. All right.
20 State may call its next witness.

21 MS. CAVANAUGH: State calls Paul Taylor.

22 THE BALIFF: Mr. Taylor, if you would stand right
23 here. Put your left hand on the Bible and raise your
24 right to that young lady.

25 MADAM CLERK: Do you swear or affirm the

1 testimony --

2 THE BALIFF: Raise your right hand.

3 MADAM CLERK: Do you swear or affirm the
4 testimony you're about to give in this case will be
5 the truth, the whole truth, nothing but the truth, so
6 help you God?

7 THE WITNESS: Yes, ma'am.

8 MADAM CLERK: Thank you. Please, take a seat in
9 the witness stand. State your full name for the
10 record.

11 THE BALIFF: Put the mic kind of close to you
12 when you talk.

13 THE WITNESS: All right.

14 THE BALIFF: I think -- good.

15 THE WITNESS: Paul L. Taylor, Jr.

16 **PAUL L. TAYLOR, JR.**

17

18 A witness herein, having been first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. CAVANAUGH:

22 Q. Good morning, Mr. Taylor.

23 A. Good morning.

24 Q. What is your profession?

25 A. Paramedic, Richland County EMS.

1 Q. Okay. And so you work with Richland County EMS?

2 A. Yes, ma'am.

3 Q. And what is your -- what is your role with EMS?

4 A. I respond to calls, emergency calls. Right now
5 I've been promoted to lieutenants. I'm more of assistant
6 supervisor now.

7 Q. Okay. And when you were actively responding to
8 calls, about how many given calls would you respond to
9 during a shift?

10 A. It would vary anywhere from 10 to 15, 20 calls a
11 day in a 12-hour shift.

12 Q. Okay. During a 12-hour shift?

13 A. Yes, ma'am.

14 Q. All right. And what was your work schedule?
15 What is your -- what was your typical work schedule like as
16 far as the 12-hour shifts?

17 A. Well, I was on first time, so I was -- that was
18 5:30 a.m. to 5:30 p.m.

19 Q. Okay. And then you get a period time off?

20 A. Yes, ma'am. We worked -- like this week we work
21 Monday, Tuesday, we're off Wednesday, Thursday, then we
22 work Friday, Saturday, Sunday, and the following week we
23 only work Wednesday, Thursday.

24 Q. Okay. And you said you -- you respond about 12
25 to 15 calls during any given 12-hour shift?

1 A. Yes, ma'am.

2 Q. All right. And just a rough percentage, how many
3 of those involve medical calls involving small children?

4 A. I couldn't give you a number. It's -- it's a
5 small amount.

6 Q. So not -- it is a small amount?

7 A. Yes, ma'am.

8 Q. Okay. How long have you worked at Richland
9 County Emergency Department? Excuse me. EMS.

10 A. Almost nine years.

11 Q. Nine years. Okay. Now did you respond to [REDACTED]
12 Universal Drive on March 11th, 2023?

13 A. Yes, ma'am.

14 Q. All right. And what was the nature of that call?

15 A. It went out as an unconscious.

16 Q. All right. And an unconscious?

17 A. We just got it was an unconscious pediatric
18 patient.

19 Q. Okay.

20 A. That's all our notes stated.

21 Q. Okay. What time did you arrive at the residence?

22 A. According to -- I believe around 11:52 a.m..

23 Q. Okay. And is there a report that was created in
24 relation -- for the Richland County EMTs for this call?

25 A. Yes, ma'am.

1 Q. All right. And is that what you have up there?

2 A. That's what I have in front of me. It says 11:52
3 is when I arrived on the scene.

4 Q. Okay. And does looking at that report help
5 refresh your recollection related to this call?

6 A. Yes, ma'am.

7 Q. Okay. So you arrived 11:52?

8 A. Uh-huh (affirmative).

9 Q. Is that what the report indicates?

10 A. That's what the report indicates.

11 Q. All right. What -- do you remember the call?

12 A. Vaguely. We run so many calls, you know, which
13 is why they give us the paper here to kind of jog your
14 memory with it.

15 Q. Exactly. So did you -- what was -- what was
16 first -- what did you first observe when you arrived?

17 A. There was a lot going on with that call and then
18 we had one unit on scene that was -- had mechanical issues.

19 So we had a secondary unit coming. When I got there,
20 the child already was being placed in the first unit.

21 Q. Okay.

22 A. And active manual compressions were being done by
23 the fire department.

24 Q. Okay. So when you say the child was being placed
25 in the first unit, you mean the first ambulance?

1 A. Yes, ma'am. I'm sorry. The first ambulance.

2 Q. Okay. All right. So you -- you were in the
3 second unit?

4 A. I was in a, what they call a QRV. And that's
5 just a quick response vehicle. I was in a supervisory role
6 that day, even though I was just a senior paramedic.

7 Q. Okay.

8 A. And I was responding out for the unconscious.

9 Q. Okay. Did you lay -- did you have interactions
10 with the -- with the child?

11 A. Once I got in the back of the ambulance.

12 Q. Once you got in the back of ambulance?

13 A. Yes, ma'am.

14 Q. Okay. And were there several of you in the back
15 of the ambulance?

16 A. Yes, ma'am. The original crew was there with the
17 -- with the ambulance that was having mechanical issues.

18 Q. Okay. So what -- what were you and the other
19 paramedics doing in the back of the ambulance with the --

20 A. Compressions and working in air -- getting an
21 airway to establish breathing for the patient.

22 Q. Okay. And were y'all successful in -- in doing
23 that?

24 A. Yes, ma'am.

25 Q. You were successful in?

1 A. I got an airway.

2 Q. Oh, in getting an airway, yes?

3 A. In getting an airway, yes, ma'am.

4 Q. Okay. Was the child responding to?

5 A. No, ma'am. There was no pulse, no respirations.

6 Q. Okay. All right. Would -- did a member of your
7 crew attempt an IV?

8 A. Yes, ma'am.

9 Q. Okay. And was -- was that successful?

10 A. Unsuccessful.

11 Q. All right. Did you actually -- what did you
12 observe about the child?

13 A. Just what I documented that he was cold and had
14 no pulse, no respirations, pupils were fixed and dilated.

15 Q. Okay. Did you observe anything around his mouth?

16 A. There was some vomituous, like some dried vomituous
17 around his mouth and his hair.

18 Q. Okay.

19 A. And some on his chest as well.

20 Q. All right. At some -- at some point, while your
21 crew is on scene, did you receive information from the
22 mother -- from the mother?

23 A. It was reported to me what the mother had said to
24 the crew on scene before I got there. I never saw the
25 mother.

1 Q. Okay. And is there any information about when
2 she found the child unresponsive?

3 A. According to what I was told that stated --

4 MR. FOX: Objection. That would be hearsay, Your
5 Honor.

6 MS. CAVANAUGH: It's --

7 THE COURT: Well, I -- I -- the way that I heard
8 it was did -- did he know? I -- I don't know if he's
9 going to -- if -- when you -- if you answer the
10 question, if you would, please don't say -- don't
11 quote what somebody else said.

12 THE WITNESS: Yes, sir.

13 THE COURT: If -- if you learned something,
14 please say --

15 THE WITNESS: Okay.

16 THE COURT: -- that you learned but don't --
17 don't say what -- what another witness said.

18 THE WITNESS: Yes, sir.

19 THE COURT: Thank you.

20 BY MS. CAVANAUGH:

21 Q. And let me rephrase the question. Is information
22 related to when the child was found unresponsive important
23 for medical treatment?

24 A. At times.

25 Q. Excuse me.

1 A. Yes, ma'am.

2 Q. Okay. And did y'all have information about when
3 the child was found unresponsive?

4 A. Per the mother on scene now the patient was found
5 approximately 30 minutes prior to EMS arrival.

6 Q. Okay. Did you learn of the patient's name prior
7 to completing the report?

8 A. Prior to completing the report, yes, ma'am.

9 Q. Okay. What was the patient's name?

10 A. It's -- I get the right page. **Infant One**.

11 Q. Okay. And did you obtain the date of birth also
12 for the report?

13 A. Yes, ma'am.

14 Q. What's the date of birth?

15 A. **[REDACTED]**.

16 Q. Okay. So approximately how old would that make
17 the child?

18 A. Approximately eight months old at the time.

19 Q. Okay. Now you testified that there was no signs
20 of life and the child was not responding to lifesaving
21 techniques being performed. Why did those -- did those
22 continue on the way to the hospital?

23 A. Yes, ma'am.

24 Q. And why?

25 A. That's our job.

1 Q. Okay. What -- what hospital did you -- did the
2 ambulance take the child?

3 A. Prisma Memorial.

4 Q. Okay. All right. When you arrived at the
5 hospital, what happened?

6 A. We removed the child from the unit. CPR
7 continued all the way to the pediatric trauma room and the
8 report was given to the receiving doctor and the nurse.

9 Q. All right. And did the doctors and the nurse
10 take over at that point?

11 A. Yes, ma'am.

12 MS. CAVANAUGH: I beg the Court's indulgence.

13 THE COURT: Yes, ma'am.

14 THE WITNESS: Excuse me.

15 MS. CAVANAUGH: Thank you, Mr. Taylor. No
16 further questions. Please answer any from the
17 defense?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Cross, Mr. Fox.

20 MR. FOX: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. FOX:

23 Q. You arrived around -- you and your unit arrived
24 at about 11:52 a.m.?

25 A. Yes, sir.

1 Q. Okay. And does that refresh your memory of the
2 911 -- this is in response to a 911call, correct?

3 A. Yes, sir.

4 Q. And that 911call came in at 11:38; is that
5 correct?

6 A. I would -- the times on here say 11:51, is what
7 time it says that we received.

8 Q. Okay.

9 A. As far as the dispatch notes.

10 Q. As far as the dispatch notes. Okay.

11 A. Yes, sir.

12 MR. FOX: That's all the questions I have.

13 THE COURT: All right. Any redirect?

14 MS. BROWDER: No, Your Honor.

15 THE COURT: All right. Thank you, sir. You are
16 excused.

17 (Witness released.)

18 THE COURT: All right. The State to call its
19 next witness.

20 MS. BROWDER: The State calls Tia Frey.

21 THE BALIFF: You can stand here. Put your left
22 hand on the Bible and raise your right hand.

23 MADAM CLERK: Do you swear or affirm that the
24 testimony you're about to give in this case will be
25 the truth, the whole truth, nothing but the truth, so

1 help you God?

2 THE WITNESS: I do.

3 MADAM CLERK: Thank you. Take a seat in the
4 witness stand. State your full name for the record.

5 THE WITNESS: My name is Tia Frey.

6 TIA FREY,

7 A witness herein, having been first duly sworn, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. BROWDER:

11 Q. What do you do for a living, Ms. Frey?

12 A. I am the custodian of record for Columbia
13 Richland 911.

14 Q. What does all of that mean? Custodian of record?

15 A. I maintain our audio files and our CAD incident
16 reports.

17 Q. Did you work in this capacity back in March of
18 2023?

19 A. Yes, I did.

20 Q. Can you tell us when a 911 call is made, what
21 exactly happens on your end?

22 A. When a 911 call comes in, it's -- it's answered.
23 And as the citizen is giving the information of what's
24 going on at their location, the call taker is notating what
25 the citizen is telling them at the same time.

1 Q. It's answered by a human?

2 A. Yes, it is.

3 Q. And do they -- you said they document kind of the
4 information that they're given?

5 A. Yes, they do.

6 Q. Does that information gathered during the call
7 amount to anything?

8 A. What do you mean?

9 Q. Does it turn into a report?

10 A. Yeah. It's called a CAD report.

11 Q. What does CAD stand for?

12 A. Computer aided dispatch.

13 Q. Does that report, is it written by a human -- who
14 writes the report?

15 A. The call taker as they're getting information
16 from the citizen notate and documents what they're saying
17 and they make the report.

18 Q. Is that report created in real time?

19 A. Yes, it is.

20 Q. Is that report produced for every single 911 call
21 that comes in?

22 A. Yes. Every single 911 call.

23 Q. Is every single one of those calls that come in
24 recorded?

25 A. Yes, they are.

1 Q. I'm getting you what's been pre-marked as State's
2 Exhibit 1. Can you tell us what that is?

3 A. This is one of our -- this is a 911 call from our
4 agency.

5 Q. And how do you know that?

6 A. It's -- I had initialed and dated by me.

7 Q. How do you know that it's the 911 call for this
8 particular case and not some other?

9 A. Because it will be timestamped and matching what
10 the CAD that goes with that particular incident has.

11 Q. Is it labeled with anything identifying this
12 case?

13 A. State versus Glasgow.

14 Q. Have you listened to that call?

15 A. I have.

16 Q. Has that call been changed or altered in any way?

17 A. No, ma'am.

18 MS. BROWDER: Your Honor, the State move to enter
19 the 911 call into evidence as State's Exhibit 1.

20 THE COURT: Any objection?

21 MR. FOX: No, Your Honor.

22 THE COURT: All right. Without objection, so
23 admitted.

24 (State's Exhibit 1 admitted into evidence.)

25 BY MS. BROWDER:

1 Q. And before we publish this call, can you tell us,
2 do you know what day these -- this call was made?

3 A. I -- at this time I don't remember the -- the
4 exact date of the incident, ma'am.

5 Q. If I said it was back in 2023, would you say that
6 was accurate?

7 A. Yes.

8 Q. Okay. Do you know where the call came from?

9 A. As far as what the address is, I -- I would need
10 to see the CAD report again on that.

11 Q. Let me ask you this question. Would the call
12 have been made within Richland County?

13 A. Yes, ma'am.

14 Q. If the call was not made within Richland County,
15 would you have received the call?

16 A. We would not have received it.

17 MS. BROWDER: Permission to publish the call,
18 Your Honor.

19 THE COURT: All right.

20 (Audio played.)

21 MS. BROWDER: I have no further questions, Your
22 Honor.

23 THE COURT: All right. Cross-examination.

24 CROSS-EXAMINATION

25 BY MR. FOX:

1 Q. So Ms. Frey at the end of that call, the caller
2 identified herself. That was the last thing we heard, as
3 Breonte Glasgow, correct?

4 A. Yes, sir.

5 Q. Okay. And throughout that call, you were getting
6 -- asking questions?

7 A. Yes.

8 Q. Okay. And she was answering or trying to answer
9 you, correct?

10 A. Not -- not me, but the call taker, yes.

11 Q. The call taker?

12 A. Yes.

13 Q. Okay. And you can hear the operator giving
14 instructions?

15 A. CPR instructions, yes, sir.

16 Q. Right. And you can hear Ms. Glasgow counting out
17 like the compression and -- and they're counting out the
18 compression, correct?

19 A. Her -- her counting, yes.

20 Q. Yeah. All right. But she's having to be
21 constant -- would you say she's having to be constantly
22 encouraged by the operator to keep with it, stay with it,
23 stay calm, take a breath. Right?

24 A. She encouraged her to keep going. Yes.

25 Q. Right. And she's at one point, take a breath,

1 calm down because you got something, we got to have -- you
2 got to do, right?

3 A. Yes, sir.

4 Q. All right. And multiple times, you can hear --
5 the recording speaks for itself, but you can hear over and
6 over again Ms. Glasgow saying, oh God. Oh, God?

7 A. Yes. I can hear that she's upset. Yes.

8 MR. FOX: Thank you, Ms. Frey.

9 THE COURT: Any redirect?

10 MS. BROWDER: Just briefly, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. BROWDER:

13 Q. Ms. Frey, you weren't present at the scene, were
14 you?

15 A. No, I wasn't.

16 Q. So you don't have any idea whether or not Ms.
17 Glasgow was following those instructions, do you?

18 A. I don't, no.

19 MS. BROWDER: Thank you.

20 THE COURT: All right. Thank you very much,
21 ma'am. You may step down and be excused.

22 (Witness released.)

23 MS. BROWDER: State calls Deputy Daniel Semones.

24 THE BALIFF: Stand here, sir. And put your left
25 hand on the Bible and raise your right to the Clerk.

1 MADAM CLERK: Do you swear or affirm the
2 testimony you're about to give in this case will be
3 the truth, the whole truth, nothing but the truth, so
4 help you God?

5 THE WITNESS: I do.

6 MADAM CLERK: Thank you. Please have a seat in
7 the witness stand. State your full name for the
8 record.

9 THE WITNESS: Daniel Semones.

10 THE BALIFF: Speak into the mic.

11 THE WITNESS: Sorry. Daniel Semones.

12 **DEPUTY DANIEL SEMONES,**

13 A witness herein, having been first duly sworn, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MS. BROWDER:

17 Q. A deputy?

18 A. Yes. It's Master Deputy to be exact, but yes.

19 Q. Deputy Semones, where do you work?

20 A. I work here at Richland County Sheriff's
21 Department.

22 Q. And how long have you worked with the Sheriff's
23 Department?

24 A. I started here back in 2016.

25 Q. 2016?

1 A. Uh-huh (affirmative).

2 Q. Okay. So about seven years?

3 A. Yes. Well, yeah, a little bit longer than that,
4 but yes.

5 Q. Oh gosh, yes. Geez.

6 A. Almost -- almost 10.

7 Q. I was thinking 2023, this case.

8 A. Almost 10.

9 Q. Almost 10. Thank you for correcting me. Back in
10 March 11th, 2023, did you respond to an apartment on
11 Universal Drive?

12 A. Yes, I did.

13 Q. And what was the address?

14 A. It was, to be exact, [REDACTED] Universal Drive. It
15 was Apartment [REDACTED].

16 Q. And is that address located in Richland County?

17 A. Yes, it is.

18 Q. What time did you arrive at the apartment?

19 A. According to the notes from my incident report
20 and dispatch --

21 Q. Well, this -- does this report actually indicate
22 exactly what time you arrived?

23 A. No. It's -- it's not exactly correct. No.

24 Q. All right. By the time you arrived, who was on
25 scene?

1 A. By the time I got there, there was actually a
2 vehicle that was in the parking lot. There was a couple of
3 males, a couple females, and a couple kids nearby. As I
4 approached the vehicle, I started to drive off and I'd
5 actually stopped them and I'd asked them if they were
6 involved and they had told me no. So at that point I
7 proceeded onto the apartment and I knocked on the door.
8 And nobody -- nobody answered. So --

9 Q. So at this time, EMTs were gone, correct?

10 A. Correct.

11 Q. Okay.

12 A. Fire department, all -- all of them were gone.

13 Q. Okay. And was there the -- was there any -- that
14 you knew of, was there any other individuals inside that
15 apartment at that time?

16 A. No. No.

17 Q. Okay. So what did you do after knocking on the
18 door?

19 A. After knocking on the door I walked back to my --
20 well, I knocked on the door, nobody answered. I tried to
21 knock on the window, peeked through the window. Nobody was
22 there as well through the window or answered as I knocked
23 on the window. I -- I walked back to my patrol car.

24 I had repositioned it; I was watching the apartment
25 because I was not letting anybody in or out of the

1 apartment. As I was waiting, there was a few nosy
2 neighbors. They were kind of wanting to see what all was
3 going on. I'd actually talked to one of them. I didn't
4 get her name, but she actually told me that the person or
5 the people that I talked to -- to in that vehicle --

6 MS. COLEY: Objection.

7 THE COURT: Sustained.

8 Q. What was your -- what was your role when you
9 responded to the apartment at that point?

10 A. Just to make contact with the family that was
11 there.

12 Q. Okay.

13 A. And then once I established that there was nobody
14 there, at least nobody answering the door, just to hold the
15 scene until Sergeant Mastrianni and other deputies came.

16 Q. Okay. And when you hold -- when you say hold the
17 scene, do you mean -- was that considered a potential crime
18 scene at this time?

19 A. Correct. Yes.

20 Q. Okay. So did investigators or did other members
21 of the sheriff's department eventually arrive while you
22 were there?

23 A. Yes. Eventually Sergeant Mastrianni came. He
24 came with a key to the apartment and he opened up the
25 apartment and then we did a safety sweep of the apartment

1 where we located nobody else inside the apartment at all.

2 And then after a little while, a couple other deputies
3 came, couple of investigators came and the crime scene came
4 as well.

5 Q. Okay. So crime scene came?

6 A. Correct.

7 Q. All right. And then crime scene proceed to do
8 what they do, process the apartment to the extent that they
9 did?

10 A. Correct.

11 Q. Okay. Did you stay during that process?

12 A. I was outside in my patrol vehicle and then once
13 they started to do their job, I left the scene.

14 Q. Okay. And was this case eventually turned over
15 or was this case turned over to an investigator?

16 A. Yes. To Sergeant Mastrianni.

17 Q. All right. And so was your role related to this
18 investigation done at the point that you left the
19 apartment?

20 A. Yes, ma'am.

21 MS. BROWDER: Okay. I beg Court's indulgence.
22 Thank you, Deputy Semones. Please answer any
23 questions from the defense.

24 THE COURT: All right. Cross-examination.

25 MR. FOX: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. FOX:

3 Q. This was -- Deputy, you responded, this was on
4 March 11th, correct? The apartment?

5 A. Yes, sir.

6 Q. And -- and I'm sorry I missed; you didn't have a
7 specific time?

8 A. According to the notes or the call log, it says
9 incident was 11:30. I'm not sure if that -- that's exactly
10 accurate or not.

11 Q. It was daylight, right?

12 A. Yes, sir. Yes, sir.

13 Q. Okay. You can recall that?

14 A. Yes, sir.

15 Q. And I think there's actually footage from your --
16 from your body cam of your encounter with the -- whoever's
17 in that car, right?

18 A. Yes, sir.

19 Q. A brief discussion and --

20 A. Yes, sir.

21 Q. You could clearly see its daylight?

22 A. Correct.

23 Q. All right. So within -- I realize you had no
24 part of the -- the response, the EMS response and all of
25 that, but within a few hours of EMS being there, is that

1 fair to say?

2 A. Yes, sir.

3 Q. Okay. And your understanding was, your
4 instructions were to make contact with family or whoever
5 might be there, if possible?

6 A. Correct.

7 Q. All right. And to secure the scene, correct?

8 A. Yes, sir.

9 Q. So this was March 11th, this is before -- were
10 you aware at the time you were on scene whether the -- the
11 infant was still alive or had -- had died?

12 A. I just knew that there was a child at the
13 hospital. I didn't have any knowledge of -- of anything
14 else.

15 Q. So you don't know when and of course we now know
16 that young -- that young boy did die. There was an autopsy
17 after --

18 MS. BROWDER: Objection. This is beyond the
19 scope of his knowledge.

20 THE COURT: Well, sustained.

21 Q. I -- I can sum it up in one question. You were
22 instructed to treat this from the very beginning as a crime
23 scene, correct? Keep the crime scene safe, keep people out
24 of there, so CSI can come in?

25 A. No, I was just told to go and talk to people or

1 make -- make contact with family members that were there.
2 And then throughout my process of being there, I was
3 eventually notified just to hold it as a crime scene. But
4 initially just to make contact with family members that
5 were there.

6 Q. Right. Right. But then you were -- while still
7 there, you were notified, hold it as a crime scene?

8 A. Correct, yes, sir.

9 Q. Okay. On the same day this all happened?

10 A. Yes, sir.

11 MR. FOX: Thank you. Nothing further.

12 THE COURT: Any redirect?

13 MS. BROWDER: No, Your Honor.

14 THE COURT: All right. Thank you. You may step
15 down. Thank you, sir. You are excused.

16 (Witness released.)

17 THE COURT: All right. State to call its next
18 witness.

19 MS. BROWDER: State calls Investigator Franklin
20 Rainsford.

21 THE BALIFF: You touch with your left hand and
22 raise your right.

23 MADAM CLERK: Do you swear or affirm that the
24 testimony you are about to give in this case will be
25 the truth, the whole truth, nothing but the truth, so

1 help you God?

2 THE WITNESS: I do.

3 MADAM CLERK: Thank you. Please take a seat in
4 the witness stand. State your full name for the
5 record.

6 THE WITNESS: Investigator Franklin Rainsford.

7 **INVESTIGATOR FRANKLIN RAINSFORD,**

8 A witness herein, having been first duly sworn, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. BROWDER:

12 Q. Good morning, Investigator Rainsford.

13 A. Good morning.

14 Q. Where do you work?

15 A. The Richland County Sheriff's Department.

16 Q. And how long have you worked at the Sheriff's
17 Department?

18 A. About 17 years now.

19 Q. What is your role at the Sheriff's Department?

20 A. Currently I'm a crime scene investigator.

21 Q. Okay. And do you respond to all types of calls
22 in your capacity as a crime scene investigator?

23 A. Yes, ma'am. As a crime scene investigator, I
24 respond to any number of kind of calls such as a burglary,
25 aggravated assaults, suicides, homicides, and so forth.

1 Q. Okay. And were you asked to -- were you asked to
2 -- were you involved in the call related to this case on
3 March 11th, 2023?

4 A. Yes, ma'am. Initially I was requested to respond
5 to the children's emergency room.

6 Q. Okay.

7 A. At 5 -- 7 Medical Park.

8 Q. All right. And why were you -- I mean, what --
9 what did you observe once you arrived at the emergency
10 room?

11 A. I was requested to photograph an unresponsive
12 infant. I had met with Sergeant Mastrianni, and Deputy
13 Coroner Ashley Gurganious at the ER.

14 Q. Okay. So what time did you get to the emergency
15 room?

16 A. 15:05, which was a little after 3:00, 3:05.

17 Q. Okay. And where was the child located when you
18 arrived?

19 A. In one of the rooms.

20 Q. All right.

21 A. The ER.

22 Q. And did you -- what did you do while you were in
23 the room at the emergency department?

24 A. I photographed the unresponsive infant and I did
25 collect buccal swabs, which are just DNA swabs from the

1 mouth.

2 Q. Okay. When you're saying unresponsive, was the
3 child deceased at that time?

4 A. Yes, ma'am. There were signs of medical
5 intervention about the infant and it was unresponsive.

6 Q. Okay. And what did you observe about the child's
7 body?

8 A. I did observe injuries and scars along the back,
9 legs, neck, and at the back of the head and pelvic region.

10 Q. Okay. Did you -- you said you collected buccal
11 swabs. What does that mean?

12 A. Those are just DNA swabs that we just routinely
13 collect on death scenes or anytime there's a death, we'll
14 collect buccal swabs just to have on file.

15 Q. Okay. And how is that done?

16 A. I have a single use cardboard box, and I take two
17 sterile individual swabs, kind of like Q-tips. I'll rub
18 the inside of the cheek for about three seconds and then
19 place it into the single use cardboard box. Secured it and
20 submitted it to evidence and property.

21 Q. Okay. And is that just in case the DNA lab might
22 need the DNA profile of that child?

23 A. Yes, ma'am.

24 Q. Okay. After leaving -- what time did you leave
25 the hospital?

1 A. At 15:40, so 3:40.

2 Q. All right. Where did you go next?

3 A. I was requested to respond to the residence at
4 [REDACTED] Universal Drive, Apartment [REDACTED].

5 Q. Okay. And upon what time did you get to that
6 apartment?

7 A. 16:10, which is 4:10.

8 Q. What did you do while you were at the apartment?

9 A. I met Sergeant Mastrianni at the incident
10 location. He provided me with a signed consent to search
11 form to go into the apartment. And I met Deputy Coroner
12 Ashley Gurganious at the scene as well. I took overall
13 photographs of the apartment and then at the request of
14 Sergeant Mastrianni, I collected a white cloth with stains
15 from a black trash bag in the living room.

16 Q. All right. I'm going to show you what's marked
17 State's Exhibits 2 through 22 and ask if you recognize
18 these photographs.

19 A. Yes, ma'am. These appear to be the photographs
20 that I took from the scene.

21 Q. Okay. In which scene?

22 A. At the apartment room.

23 MS. BROWDER: Your Honor, at this time we move to
24 admit Exhibit 2 through 22 into evidence.

25 THE COURT: All right. Any objection?

1 MR. FOX: No, Your Honor.

2 THE COURT: All right. Without objection, so
3 admitted.

4 (State's Exhibit 2 through 22 admitted into evidence.)

5 BY MS. BROWDER:

6 Q. All right. Let me turn -- let's just start with
7 State's Exhibit 2, or do you need those?

8 A. I have -- sorry, I have the computer here.

9 Q. Okay. All right. This is State's Exhibit 2.
10 And what is that?

11 A. This is the front of the apartment building.

12 Q. Okay. And moving on to State's Exhibit 3, is
13 that -- did you take that picture just to document the
14 address that you're responding to?

15 A. Yes, ma'am. This is the front door as I arrived
16 to it.

17 Q. Okay. All right. Moving on to State's Exhibit
18 3, 4, excuse me. Three, 4 -- let me start over. Four, 5,
19 and 6.

20 What -- what is -- what is this room?

21 A. These are the first room after you enter it, so
22 the living room of the apartment.

23 Q. Okay. All right. Is that a -- what is -- is
24 that a different angle?

25 A. Just a different angle. I'm standing out the

1 front door kind of painting around.

2 Q. Okay.

3 A. And this is in front of the window looking back
4 towards the front door, towards the kitchen area.

5 Q. Okay. What do you -- is there any evidence of a
6 child living in that home?

7 A. Yes. There's a -- a play crib by the door.
8 There's some high chairs kind of behind the door, but yes,
9 ma'am, there are --

10 Q. Okay.

11 A. -- infant there.

12 Q. All right. And towards the -- towards the front
13 door to the left, what is -- what is that on State's
14 Exhibit 6?

15 A. The kitchen.

16 Q. Well, the -- the -- is that a table right beside
17 the --

18 A. Oh, yes, ma'am. Kind of in the center there,
19 it'd be a table.

20 Q. And moving on to State's Exhibit 7. Is that a
21 closer picture of the table?

22 A. Yes, ma'am.

23 Q. And what did you -- what are you observing on the
24 table?

25 A. The -- there's a defibrillator pack kind of

1 sitting right on top of the table and a security camera,
2 looks like.

3 Q. Okay. What about, is there a computer set up on
4 it?

5 A. Oh, yeah, the computer set up as a desk area.

6 Q. Okay. All right. Is that possibly a -- a baby
7 monitor at the desk?

8 A. Some sort of monitor, yes, ma'am.

9 Q. Okay. Okay. So there are computers set up, you
10 said on State's Exhibit 7?

11 A. Yes, ma'am.

12 Q. All right. Moving on to State's Exhibit 8.

13 A. Same area, just a different angle.

14 Q. Okay. Going on to State's Exhibit 9. What room
15 is this?

16 A. This would be the kitchen area.

17 Q. And what did you observe on top of the
18 refrigerator?

19 A. That is just food supplies.

20 Q. Okay. State's Exhibit 10. Was that within the
21 kitchen?

22 A. Yes, ma'am.

23 Q. All right. And what do you see on top of the,
24 what looks like a microwave?

25 A. Baby formula and bottled water.

1 Q. Okay. Moving onto State's Exhibit 11. Was that
2 -- was that a -- what is that?

3 A. That's a calendar that was in the hallway that I
4 photographed.

5 Q. Okay. State's Exhibit 12 and -- and don't go
6 yet, but 13 and 14. What are -- why did you photograph --
7 I mean, what are you photographing here?

8 A. The condition of the kitchen and the contents of
9 the refrigerator, just to kind of give an overall
10 impression of what is available or what is inside the
11 residence.

12 Q. Okay. There appear to be a -- a good amount of
13 food in the freezer, in the refrigerator, in that kitchen?

14 A. Yes, ma'am.

15 Q. Did you also take pictures of her -- of the
16 pantry at that apartment?

17 A. Yes, ma'am.

18 Q. All right. And is that depicted by State's
19 Exhibit 13 and 14?

20 A. Yes, ma'am.

21 Q. All right. Again, a good amount of food in -- in
22 the pantry area of the kitchen?

23 A. Yes, ma'am.

24 Q. Okay. Moving on to State's Exhibit 15 and 16.
25 Did you photograph the bathroom in this apartment?

1 A. Yes, ma'am.

2 Q. All right. And was there anything in the
3 bathroom that the -- was a note to you?

4 A. The lack of a shower rod and shower curtain in
5 this one did raise my eyebrow, but other than that there's
6 nothing outstanding I would say --

7 Q. Okay.

8 A. -- About this bathroom.

9 Q. Moving on State's Exhibit 17, 18, 19, and 20, did
10 you note how many cribs there were in the apartment?

11 A. I do not have a numerical count, no, ma'am. No,
12 I do not. But I did photograph bedding areas.

13 Q. Okay. State's Exhibit 17, is that a picture of
14 the bedding area and one of the cribs?

15 A. Yes, ma'am.

16 Q. All right. And where was -- did you document
17 where that one was located in the room?

18 A. That would've been in one of the bedrooms, I
19 believe.

20 Q. Okay. Moving on to State's Exhibit 18 and 19,
21 was that another -- was that another crib in the home?

22 A. Yes, ma'am.

23 Q. And State's Exhibit 20, was that -- what does
24 that depict?

25 A. Another bedroom and the previous crib --

1 Q. Okay.

2 A. -- that was photographed.

3 Q. All right. So that was -- so there's two cribs
4 in the home?

5 A. Yes, ma'am.

6 Q. All right. Moving on to State's Exhibit 21.
7 What is that picture of?

8 A. This is what I would identify as a master
9 bedroom.

10 Q. Okay. All right. And State's Exhibit --
11 finally, State's Exhibit 22. Where is this picture taken?

12 A. Going back into the kitchen, this was one of the
13 lower cabinets, I believe.

14 Q. Okay. And is it fair to say there's more -- at
15 -- at least 10 cans of formula in the -- the kitchen area?

16 A. Yes, ma'am.

17 Q. All right.

18 A. At least.

19 Q. Now when you -- when you photograph the
20 apartment, when you collect any evidence, do you have any
21 idea what will be relevant later on during this
22 investigation?

23 A. No, ma'am.

24 Q. And so are you just trying to be as thorough as
25 possible when you photograph the scene?

1 A. Yes, ma'am. At this scene I was just instructed
2 to take overall photographs of the -- of the scene. Did
3 not process -- but again, just overall to document the
4 scene as it was when I arrived.

5 MS. BROWDER: Okay. I beg the Court's
6 indulgence. Thank you, Investigator Rainsford.
7 Please answer any questions from the defense.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: All right. Cross-examination.

10 MR. FOX: No questions for this witness.

11 THE COURT: All right. Thank you, sir. Mr.
12 Rainsford, you may step down. You are excused, sir.
13 Thank you.

14 THE WITNESS: Thank you.

15 (Witness released.)

16 THE COURT: All right. Ladies and gentlemen,
17 what we try to do is to make things as efficient as
18 possible and have few interruptions as possible. So
19 what we're going to do is break now so that we don't
20 have to break in the middle of a witness.

21 We're going to take our lunch break and we come
22 back at -- we'll start at 1:30. So they may tell you
23 to get back here a few minutes early, but we're going
24 to take our lunch recess now.

25 As I mentioned before, please don't discuss this

1 case with anyone including each other. Please don't
2 seek out or review any kind of media or information
3 about the case.

4 And lastly, please keep an open mind about all
5 issues until I charge you on the law and sent you back
6 to begin deliberations Thank y'all very much and we'll
7 see you after lunch.

8 (Jury leaves the courtroom.)

9 THE COURT: All right. Let the record reflect
10 jury has been released for lunch. They're not in the
11 courtroom. Is there anything from the State before we
12 break for lunch?

13 MS. BROWDER: No, sir.

14 THE COURT: All right. And Mr. Fox, I think you
15 said that there was something that you wanted to
16 address.

17 MR. FOX: I do need to put this -- we've
18 addressed this yesterday, that, Your Honor, off the
19 record and again this morning. So Ms. Glasgow was
20 brought yesterday for pretrial motions and jury
21 selection actually... in shackles both leg chains and
22 a belt, so her arms are shackled and her waist.

23 And I addressed that with deputy present in the
24 courtroom. He said, that's our policy now, what I
25 have to do.

1 So I addressed that with Your Honor. And so for
2 yesterday afternoon when she wasn't allowed to be
3 completely free because the way she was brought over
4 when she sat down and release one hand so she could
5 write, take those, etc. The other part still shackled
6 her waist and still and -- and leg chained.

7 And I objected to that and said, I thought that
8 was highly prejudicial. Whether the jury could see
9 that or not, Your Honor, inquired why that was.

10 The deputy said, that's just our policy and I
11 follow instructions. And I get that. But at your --
12 I request the deputy did at least for motions
13 yesterday afternoon, the jury was not present.

14 THE COURT: Yes, sir.

15 MR. FOX: Did in fact take all the shackles off.
16 So clearly they can and even in courtroom setting
17 today, I know this -- that she again brought in. Now
18 she was not framed in front of jury -- brought in
19 again fully shackled and they only released the one
20 arm.

21 My concern is from the angle, I don't know that
22 any juror can see, I don't believe they can see her
23 feet. The -- the counsel tables do have a -- a front
24 piece so that they're not open to view from the other
25 side.

1 However, I don't think that matters. Judge, if
2 you look at State -- there are several Supreme Court
3 cases, United States and South Carolina.

4 I refer Your Honor to State v. Hayward, which is
5 South Carolina Supreme Court. That's 895 SE 2nd 658,
6 "Trial judge cannot force defendant to wear shackles
7 in front of the jurors unless it's necessary." And
8 that's highlighted.

9 And there must be a finding that it is necessary,
10 that there's no less burdensome means to do that. And
11 there are -- and the examples where they are now,
12 officer referred on *State v. Tucker*, in that case,
13 that was a murder trial. *State v. Tucker* is 464 SE
14 2nd 105. In that case, though, there was a history of
15 the defendant, you know, acting out and escaping.

16 THE COURT: Yes.

17 MR. FOX: And so there must be a fine, so both of
18 those cases made clear. The United States Supreme
19 Court case made clear that it is, per se, a violation
20 of defendant's rights.

21 South Carolina Supreme Court would back up a
22 little bit and say, well, there may be a necessity,
23 but there must be, you know, an extreme necessity.
24 Right? And I'm assuming safety is going to be that
25 issue.

1 But with the demonstrated, not just general
2 safety, not just generally, there might be a problem,
3 but again, with Mr. Tucker, a demonstrated issue, this
4 man has run from law enforcement, resisted arrest and
5 all sorts of things before. We have done that with
6 Ms. Glasgow.

7 There's no indication with one arm shackle, she
8 can't -- anytime she might raise or raise an arm to
9 write or to turn the page or do something that may
10 well come up. I don't know.

11 But I think just the -- the image, even if no one
12 is seeing, just the idea of a defendant being paraded
13 into court, forget the jury, in shackles is just
14 inherently just wrong. I think it just violates the
15 due process rights to have a neutral, and there's no
16 reason for it.

17 There's no reason -- maybe the deputies can give
18 us, but I think it has to be something more than,
19 well, that's our policy. And I think there's got to
20 be something more than that. And it only takes a
21 second.

22 And if for -- you know, Judge, if she acts -- if
23 she forgets or she stands up while the jury is, you
24 know, either coming in or coming back, it only takes a
25 second. And at that point I would ask for a mistrial.

1 And I believe I'd be entitled to one. Your Honor
2 may not agree, you may not grant me one, but we're
3 going to be in that territory and we have a very easy
4 solution, which is every trial I've ever been in,
5 which is triple digits now in my career, where the
6 defendants, you know, they take appropriate
7 precautions.

8 There's one or two deputies right there. They
9 certainly, in moving her back and forth to hold and
10 bringing her into court, transporting her, of course,
11 we don't have an issue with any of that.

12 But it's, once she's in here at counsel table,
13 her ability to communicate freely with her attorneys,
14 to not have to worry about whether she raises her arm.
15 And rather, it's not just the visual. I worry about
16 being heard, if she moves in a certain way.

17 And I think there are far less burdensome steps
18 that can be taken that will protect her rights and yet
19 to protect courthouse security.

20 THE COURT: Yes, sir.

21 MR. FOX: We would ask that she be shackle free.

22 THE COURT: All right. Does the State take a
23 position on any -- on this matter?

24 MS. BROWDER: No sir, Your Honor. We would defer
25 to Your Honor and security.

1 THE COURT: All right. And -- and I don't know,
2 obviously you mentioned some cases. I don't know if
3 those cases that you say hold that there has to be a
4 reason for -- or some kind of finding for the
5 defendant to be shackled in front of the jury. I
6 don't know whether that means, so the jury can see it
7 and walk up and back from the defense table.

8 I mean, I agree that there would need to be
9 something for that. I've never been in a trial where
10 -- where that's been done. I don't know if that's
11 what its referring to or just that they have to be
12 shackle free at the table.

13 I'm unaware of that. In fact, I had several
14 murder cases this year and some of them because of
15 outbursts and prior acts have -- have been handcuffed
16 and shackled. But I've not had any serious felony
17 trial where they've not been shackled.

18 MR. FOX: Well, I can -- you know, Judge, I would
19 refer and I'd encourage you to please read Hayward.
20 But it says in part, thus a defendant in a criminal
21 trial may not be required, all this underlined.

22 May not be required to wear handcuffs, leg
23 shackles or other restraints in the presence of the
24 jury unless the trial court makes specific findings on
25 the record as of particular reasons the restraints are

1 necessary. So I do think you're required at a minimum
2 to make findings as to why it's okay.

3 THE COURT: Right. And I don't want to nitpick,
4 but I don't know whether the presence of the jury,
5 whether that means that when she walks up and back, if
6 she has visible or if she's able, I -- I'll read it.
7 And -- and I'll consider it.

8 I -- I'm fine with not having the arm because I
9 do think that if she needs to turn the page, if she
10 needs to flip a page of a notepad, if she needs to
11 open up a bottle of water or lean over to get advice,
12 I don't have any problem with that.

13 I don't know that as far as the -- the shackles
14 are concerned. I mean, I'm told that that is -- that
15 that's for Court's safety. Just so that the defendant
16 doesn't go -- doesn't go anywhere, get up and run, add
17 anybody.

18 I'm not saying your client is going to do that,
19 but I mean, I think that -- that -- that's -- the --
20 the purpose for that. And the jury can't see that, as
21 you said all these tables, as with most -- most
22 courthouses have a front that they can't see the jury
23 is diagonal and -- and can't see that. I don't see
24 the harm in that as much.

25 But I -- I'll look at it and when we get back

1 from lunch before the jury comes in, I'll -- I -- I'll
2 rule on that, but I'm likely to, and of course I'll
3 talk with courtroom security, with the deputies about
4 that, but I don't have a problem with -- with her not
5 being handcuffed to the chair.

6 I just don't want that issue to come up either
7 way. Y'all have worked very hard preparing for this
8 and we're, you know, day and a half into it. I don't
9 want to have to do it again or address that issue if
10 we don't have to.

11 So I think that that's kind of outweighing some
12 of the issues of concern. I'm not aware of any issues
13 that they've had with her in custody. Again, that's
14 one thing that I want to ask about before doing that.
15 But I'll -- we'll have that issue behind us before the
16 jury comes in after lunch.

17 MR. FOX: Yes, sir.

18 THE COURT: All right. Anything further from the
19 State?

20 MS. BROWDER: No, sir.

21 THE COURT: Anything further from the defense?

22 MR. FOX: No, Your Honor.

23 THE COURT: I will see y'all after lunch.

24 (A lunch recess was taken.)

25 THE COURT: Let's -- it's just -- it's a couple

1 minutes before 1:30. That's when we said we'd be
2 back, so it's fine. They're probably still filtering
3 in. I -- before we went on the record, I gave both of
4 the attorneys a note that we received or that I
5 received as soon as I got back in here after lunch.

6 And it states in full, Juror Number 189, Andrew
7 Livingood (phonetic), and it says, "I did not realize
8 yesterday, but for professional purposes I have
9 corresponded briefly with one of the witnesses in the
10 case.

11 I do not know her personally and I do not think
12 it will affect my ability to be impartial, but I
13 wanted to make you aware and I'm glad to answer any
14 questions."

15 I can't tell here if the -- if the email took
16 place like a long time ago or, you know, or who it was
17 with. I think we've only had one female witness so
18 far, which was the 911 lady.

19 So maybe he just remembered it from the list
20 yesterday, which would be impressive. But I don't
21 know how y'all would -- which y'all propose. If y'all
22 have questions for him -- I'm glad to -- to get them
23 from y'all and then have him come in and I'll ask him
24 just so that y'all -- it won't be like y'all are
25 trying to get him removed. But --

1 MR. FOX: But I think I'd have to sort the same
2 question, Judge, just a little more detail. When was
3 this?

4 THE COURT: Right.

5 MR. FOX: What was the -- you know, all the
6 details. It was kind of --

7 THE COURT: Right. How many times, when it was,
8 what was it about, you know, any communication
9 outside.

10 MR. FOX: Which witnesses he talked to.

11 THE COURT: Exactly.

12 MR. FOX: I think Your Honor would ask those --

13 THE COURT: Okay.

14 MR. FOX: A couple clarifying questions.

15 THE COURT: Sure.

16 MR. FOX: To be sufficient problem.

17 THE COURT: Any other than just kind of just
18 describe the communications essentially. And then
19 what I'll do then is I'll ask him those and send him
20 out in the hallway and just make sure that we don't
21 have any follow ups and if -- and then we'll talk
22 about what y'all want to do and then we'll either send
23 him back or do -- do whatever we need to with him.

24 So all right. I'm sorry, Ms. Browder, is there
25 anything -- other questions that you might have for

1 him?

2 MS. BROWDER: No questions.

3 THE COURT: I think you did mark some -- pre-mark
4 something as a Court's Exhibit -- that you wanted.

5 MS. BROWDER: Yes, sir. This was the defendant's
6 statement given 323 at headquarters.

7 THE COURT: Yes, ma'am.

8 MS. BROWDER: That we've given you. We marked as
9 Court's Exhibit 6 for --

10 THE COURT: Yes, ma'am. I got it on a thumb
11 drive, so, all right. Yes, ma'am. If you would get
12 juror 189, Mr. Livingood. Thank you, ma'am.

13 (Juror 189 enters the courtroom.)

14 THE COURT: Good afternoon Ms. Livingood?

15 JUROR 189: Yes.

16 THE COURT: Just have just a couple just follow
17 up questions.

18 JUROR 189: Yes.

19 THE COURT: First of all, let me just say that I
20 appreciate you bringing this to -- to our attention.
21 I know there were so many witnesses, it's very
22 difficult sometimes to keep track of it, but I really
23 appreciate you doing this, so important. Just a
24 couple follow up questions. First of all, what -- do
25 you remember what the witness' name is?

1 JUROR 189: Tia Frey.

2 THE COURT: Tia Frey.

3 JUROR 189: Frey.

4 THE COURT: Okay. So, and that was the woman
5 that testified earlier, the --

6 JUROR 189: Yeah. With 911 records.

7 THE COURT: Okay. And you said that you emailed
8 her. Do you know just generally when it -- when it
9 might have been?

10 JUROR 189: No. So I'm currently the zoning
11 administrator for the city, but I -- I used, well, and
12 still work on annexations. And so I would request
13 data from the police department and they would in turn
14 request data from 911.

15 THE COURT: Okay.

16 JUROR 189: Yeah.

17 THE COURT: Okay. And then -- so the -- and so
18 you believe you may have been in an email -- you may
19 have emailed her about getting certain documents --

20 JUROR 189: Yeah. Aggregated -- aggregated data
21 for report areas.

22 THE COURT: Okay. And you think it's just made
23 one time, a few times or --

24 JUROR 189: Yeah. A few times and I -- I've
25 never met her personally.

1 THE COURT: Okay.

2 JUROR 189: I'm sure I said "thank you very
3 much".

4 THE COURT: Right. Right. And no contact
5 outside of -- of that -- those few emails. Okay. All
6 right. Thank you.

7 If you just step outside, I think we'll -- we'll
8 get right with you in just one second.

9 JUROR 189: Okay.

10 (Juror 189 exits the courtroom.)

11 THE COURT: Thank you very much again. All
12 right. Mr. Livingood is -- is out of the courtroom,
13 any follow up questions that y'all have?

14 MS. BROWDER: No, sir, Your Honor.

15 THE COURT: And it sounds like -- I mean, I guess
16 they use that in zoning or annexing issues to
17 determine what -- what area falls within certain
18 things, but I mean any -- anything from the defense on
19 that?

20 MR. FOX: No, Your Honor. I'm satisfied.

21 THE COURT: All right. If you would just let Mr.
22 Livingood know that everything is fine if he would
23 just get back to the jury room and then you can bring
24 everybody out. All right. I guess I should have
25 asked first. Anything from the State before we bring

1 the jury out?

2 MS. BROWDER: No, sir.

3 THE COURT: Anything from the defense?

4 MR. FOX: Yeah, Your Honor, we do ask file on the
5 record.

6 THE COURT: Yeah. If you would please just hold
7 on one second. Please don't let them in for --- for
8 one second, please.

9 THE BALIFF: I'm not going to get them in.

10 THE COURT: Okay. If you could close the doors
11 just so they can't hear us.

12 MR. FOX: Judge.

13 THE COURT: Yes.

14 MR. FOX: Final thing I want to say, not to
15 re-argue this, but when I went upstairs talking with
16 colleagues, someone I think made a very good point.
17 If Ms. Glasgow was out on bond, and was coming in off
18 the street, she would not be in shackles.

19 THE COURT: No. No. And -- and I reviewed the
20 *State versus Hayward* case. You're exactly right.
21 Supreme Court 2023 held that I would need to make
22 findings on the record before she would be restrained
23 in any way.

24 I talked with the -- with the officer in charge
25 of courtroom security just a few minutes ago. I told

1 him that I was going to allow her to be unhandcuffed,
2 so both of her hands are free. The only issue about
3 the leg shackles is that there's only one officer in
4 the courtroom today.

5 And so he has said that there were plenty of
6 folks or plenty of times where there's been an issue
7 that's come up, especially in a case where a large --
8 a long amount of time is involved and is -- it's a
9 crime of violence.

10 And so I'm going to leave the shackles on because
11 there's one officer here. If he said that there's
12 another trial going on and that there may be more
13 staff tomorrow, if there is, then I'll -- if there is
14 and there are no more issues, I will allow her not to
15 have the shackles on tomorrow.

16 But simply because there's only one officer, he
17 -- he says that, that would not be advisable. So I
18 will have the defendant's other handcuffed if it's not
19 already. Does she --

20 MS. COLEY: It's not.

21 THE COURT: It's not. Okay. All right. Her
22 both on --

23 MS. COLEY: It's on. Yeah. She has one arm
24 available.

25 THE COURT: Oh, okay. If we could free the other

1 arm, Deputy. You learn something new every day. I
2 had no idea that the Supreme Court had addressed that.
3 And any other arguments it's usually just been about
4 courtroom safety, so. All right, ma'am.

5 MR. FOX: Sorry. Can we take the -- from the
6 round where her arms are free, but the shackle was
7 still around her waist. Can we remove the waist as
8 well?

9 THE COURT: Okay. I didn't -- I mean, I didn't
10 know. And just for the record also, I've made the --
11 the jury know that we got from Mr. Livingood the
12 Court's Exhibit 7. All right. Yes ma'am. We can get
13 the jury now. Thank you.

14 (Jury enters the courtroom.)

15 THE BALIFF: All jurors seat for Your Honor.

16 THE COURT: All right. Thank you very much. All
17 right. State may call its next witness.

18 MS. BROWDER: Thank you, Your Honor. State calls
19 Sergeant Chris Mastrianni.

20 THE BALIFF: Stand and face the Clerk.

21 MADAM CLERK: Do you swear or affirm that the
22 testimony you're about to give in this case is the
23 truth, the whole truth, nothing but the truth, so help
24 you God?

25 THE WITNESS: I do, ma'am.

1 MADAM CLERK: Thank you. Please have a seat on
2 the witness stand. State your full name for the
3 record.

4 THE WITNESS: Christopher Mastrianni.

5 **CHRISTOPHER MASTRIANNI,**

6 A witness herein, having been first duly sworn, was
7 examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MS. BROWDER:

10 Q. Sergeant Mastrianni, where are you employed?

11 A. The Richland County Sheriff's Department.

12 Q. And what do you do there?

13 A. I'm a sergeant in investigations.

14 Q. What does that mean?

15 A. So I'm in -- my regular job is major crimes
16 currently which is assaults, homicides domestic violence.
17 And also every six weeks we have a on-call where we are in
18 charge of investigation during non-business hours.

19 Q. Okay.

20 A. And I'd be the supervisor of that unit during
21 that time.

22 Q. Okay. And how long have you been with the
23 Sheriff's Department?

24 A. Since 2013.

25 Q. And how long have you been a sergeant there in

1 the major crimes unit?

2 A. I -- I became a sergeant in 2022.

3 Q. Okay.

4 A. And then in 2023 -- late 2023 I was a sergeant of
5 major crimes.

6 Q. Okay. And prior to law enforcement with the
7 Sheriff's Department, were you in law enforcement anywhere
8 before that?

9 A. I was not.

10 Q. Okay. Did you become involved in the case
11 against Breonte Glasgow?

12 A. I did.

13 Q. And how did you become involved in that case?

14 A. Being the on-call sergeant for investigations, I
15 received a call from our -- our desk sergeant, who stated
16 that the coroner's office was requesting us for a
17 suspicious death of an infant at the hospital.

18 Q. Okay. And which hospital was that?

19 A. It was Prisma Richland.

20 Q. And so when you get that call, the supervisor
21 on-call, I guess Sergeant, what do you do?

22 A. At that point, I notify investigators that I have
23 that are working during those hours. So at this time it
24 would've been Investigator Hentz, I notified him that
25 needed him to respond to the hospital. And I also

1 responded to the hospital.

2 While enroute, I called Investigator Smith, who was
3 part of the on-call team. She's part of the SVU unit. And
4 being that it was an infant, I notified her that we had a
5 possible -- a suspicious death of an infant just to let her
6 know I'm naming her to come in to help assist with this
7 case.

8 Q. And when you -- about what date was this?

9 A. This was March 11th, 2023.

10 Q. And about what time did you arrive at the
11 hospital?

12 A. Probably a little bit after noon.

13 Q. Okay. And when you arrived at the hospital, what
14 are your first steps when you go to the hospital?

15 A. So my first steps are one, to find the deputy or
16 investigators that are already there and kind of get an
17 update. Usually I'm -- while enroute I'm making phone
18 calls to the desk sergeant and certain other investigators
19 just to kind of let them know what's going on in my chain
20 of command and kind of let them know what we have going on.

21 So initially I responded to the room where the
22 deceased infant was.

23 Q. And when you walked into the room, what did you
24 observe?

25 A. I observed a young black male lifeless on the bed

1 and there was a nurse and a doctor in there with
2 Investigator Hentz and Deputy Coroner Gurganious was also
3 there.

4 Q. And you said the child was on the bed?

5 A. The hospital bed, yes

6 Q. And what did -- from your observations, what did
7 you see about the child?

8 A. He -- I asked actually how old he was. Because
9 on the phone they told me he was an eight-month-old and he
10 looked very small for an eight-month-old. And he also his
11 -- his skin looked, I would -- I describe it as leathery.

12 And I could see his bones, his ribs his, he -- he had
13 -- when we started to take photographs, we -- I could see
14 on his penis had a large bulge that did not look normal.
15 And then on his rear end it looked like a severely, I'll
16 describe it as a -- of a severe rash. It just didn't look
17 normal.

18 Q. And when you said he looked extremely small for
19 an eight-year-old, what reference do you have for that?

20 A. So actually when this call came in, I was holding
21 my old daughter at home when I got the phone call. And so
22 my comparison is just I'm holding her at the same time this
23 call comes in and then I get to the hospital and I see the
24 child and that's why I asked how old this child was because
25 it just didn't seem correct.

1 Q. Okay. And you stated when y'all started taking
2 photographs, who was taking photographs with you?

3 A. So Rainsford, when he got there, he took
4 photographs. There was also Deputy Coroner Gurganious.
5 She was there as well.

6 Q. And did you help in taking those photographs in
7 any way?

8 A. Yeah. I assisted by kind of pulling the diaper
9 so that they can take photographs. Anything that
10 Investigator Rainsford needed assistance with when it comes
11 to taking those photographs.

12 Q. Okay. And after y'all got done with that, what's
13 your next step as the sergeant on this case?

14 A. Speak to the family. We just kind of want to
15 know where this occurred. At this point it's a suspicious
16 death, being the infants, we don't know if that is -- if
17 this is a situation where it could be SIDs, it could be
18 something that can be natural. We're not aware. So at
19 this point we treat this death as a suspicious death and
20 just try to gather information at that point.

21 Q. Okay. And how did you try to gather information
22 in this case at the hospital?

23 A. By speaking to the mother.

24 Q. Okay. And who is the mother in that case?

25 A. Breonte Glasgow.

1 Q. And do you see Ms. Glasgow in the courtroom
2 today?

3 A. I do.

4 Q. Okay. And where is she sitting?

5 A. She's sitting behind that monitor in the
6 defendant table. Third person or first person on the left.

7 MS. BROWDER: Okay. Your Honor, for the record
8 that he's identified Ms. Glasgow.

9 THE COURT: Yes, ma'am.

10 BY MS. BROWDER:

11 Q. All right. So when you went to speak with Ms.
12 Glasgow, was anybody with you?

13 A. Investigator Hentz was there and also Deputy
14 Coroner Gurganious.

15 Q. Okay. And where would you -- where were you
16 speaking with Ms. Glasgow?

17 A. Basically like a consultation room that they had
18 in the pediatric center. It's off the hallway, it's kind
19 of private. There's an area, not -- not a lot of traffic
20 comes in that area. So you can kind of speak about
21 obviously something sensitive without people coming and
22 going in that area.

23 Q. And when you went to speak with her, did you
24 threaten her in any way to talk to you?

25 A. I did not.

1 Q. Okay. What was her demeanor at the time?

2 A. Just not emotional, calm. She -- she had no --
3 no problems answering our questions. just-- I kind of say
4 just dry, is another word I describe it as.

5 Q. Okay. And when you went to speak with her, what
6 sort of questions did you ask her?

7 A. Basic questions, if you -- if you don't mind, I
8 can refer to my notes.

9 Q. Yes. And when you say you refer to your notes,
10 do you keep a case jacket in this case?

11 A. We do.

12 Q. And why do you keep a case jacket as the
13 investigator?

14 A. Just so I can verify what has been done in this
15 case by either myself or other investigators, responding
16 deputies, it's our way of putting a timeline together of
17 this case and what has been done and what needs to still be
18 done.

19 Q. And does it help you recall facts that refresh
20 recollection?

21 A. It does.

22 Q. All right. So in this case, what did you ask Ms.
23 Glasgow? What was her response to you about what happened?

24 A. So with Investigator Hentz, we spoke with her --
25 MR. FOX: Your Honor, I object to him -- he can

1 refresh his recollection and refer to it and -- and
2 then testify. I object to him reading from his.

3 THE COURT: Okay. I didn't -- I -- I didn't know
4 whether he was reading or not.

5 THE WITNESS: I'm not.

6 THE COURT: Okay. If you would just --

7 BY MS. BROWDER:

8 Q. So when you went to speak with Ms. Glasgow, what
9 sort of questions were you asking her?

10 A. Just questions about when the last time the child
11 was fed, where this occurred, where the -- where the
12 incident occurred or where this started, the 911call. What
13 the conditions of the baby has been in the last 24 hours.

14 Has she noticed any signs of distress or has there
15 been any signs of something that wasn't right.

16 Q. Okay. And what did she tell you about where this
17 occurred?

18 A. She stated that it was her apartment, [REDACTED]
19 Universal Drive.

20 Q. Okay. When you find out where a suspicious death
21 occurred, what is the normal protocol for your office for
22 that?

23 A. First, to secure that scene.

24 Q. Okay. Why is that important?

25 A. At this point, a suspicious death, whether it

1 turns into natural causes or homicide, that is a scene that
2 needs to be secured for evidence.

3 Q. Does that mean at that point that Ms. Glasgow is
4 a suspect?

5 A. No, it does not.

6 Q. Okay. That's just your normal protocol when you
7 have a death to secure where that death occurred?

8 A. Correct.

9 Q. Okay. Now, when you asked her about when this
10 occurred, what did she tell you?

11 A. She stated approximately around 11:00 that
12 morning.

13 Q. Okay. And you stated earlier that you were
14 talking about had the baby been in distress in any way.

15 What did she tell you about that?

16 A. She did state that he did not eat as much as his
17 two brothers. She would feed them every three hours and he
18 would get four ounces because that's how he was. And the
19 other two would get about eight ounces. And also that he
20 was sleeping differently than he was -- he started about a
21 week ago sleeping differently than he was in the past.

22 Q. Okay. And you said his other brothers, how many
23 other brothers did he have?

24 A. So there's two other brothers **Infant Three** and **Infant Two**,
25 and then there was an older sister

1 Q. And Infant Three and Infant Two, were they triplets?

2 A. Yes.

3 Q. Those three? So Infant One, Infant Three and Infant Two?

4 A. Correct.

5 Q. So they were all eight months old at that time?

6 A. Yes, ma'am.

7 Q. Okay. And did she state anything about previous
8 medical issues that Infant One had?

9 A. She was asked about some scratches and stuff that
10 were seen on -- on Infant One at the hospital and she stated
11 that it was -- they had a skin issue.

12 Q. Okay. And did she mention anything to you about
13 any of the injuries that you saw on the child, such as his
14 penis or seeing his ribs or anything like that when you saw
15 him in the hospital?

16 A. No.

17 Q. Okay. What did she tell you about when she found
18 him around 11:00?

19 A. She stated that he -- she realized he didn't use
20 the bathroom and thought that was weird and then also
21 stated that there was some orange substance coming from his
22 mouth and as well as his nose, and that his breathing
23 wasn't right.

24 Q. Okay. And is there anything else that she told
25 you about Infant One that day at the hospital?

1 A. Give me a second to look at my notes. She did
2 state that they -- the doctor that they go to that was
3 Southern Meds Pediatric was their doctor.

4 Q. Okay.

5 A. And that they've been going there and that they
6 last received shots in January of that month -- of 2023.

7 Q. And what kind of shots did she reference those
8 as?

9 A. I don't recall what those shots are.

10 Q. Did she say anything about any missed doctor's
11 appointments or shots appointments?

12 A. She did not.

13 Q. Okay. Okay. So then after you got done talking
14 with Ms. Glasgow, what did you do next?

15 A. We asked her for consent to search her apartment
16 and just kind of told her it's protocol with a suspicious
17 death. We -- we go back to the scene just to document the
18 scene at that point and collect any evidence of if -- if
19 this is a homicide and we -- we explained to her that this
20 is just protocol on our part. If she didn't have to
21 consent to our asking, if she said no, we would get a
22 search warrant for the location as protocol for these type
23 of situations.

24 Q. Okay. And did you end up going to the location?

25 A. We did.

1 Q. Okay. And did you actually personally go to the
2 location?

3 A. I did.

4 Q. Okay. And when you went to the location, what
5 did you observe?

6 A. So I was given a key by Ms. Glasgow to open the
7 apartment. We did secure the apartment, myself, and Deputy
8 Semones did a protective suite to make sure nobody else was
9 inside the apartment. When you went through the front door
10 to the right is a table, which looks like a workstation,
11 like a dining room table with like a workstation with some
12 monitors.

13 To the left is the living room. There's a couple
14 couches. There's a Pack 'n Play. And then you go down the
15 hallway, there's a room to the left with a crib, you go
16 straight down the hallway further, straight ahead is
17 another door, which is another bedroom. And then there's a
18 -- to the left would be, I would consider the master
19 bedroom.

20 Q. About how big was this apartment?

21 A. 1,000 square feet.

22 Q. Okay. If you were standing at the front of the
23 apartment, if somebody was screaming, could you hear
24 somebody from the back of the apartment?

25 A. Yes.

1 Q. Okay. How clean was the apartment?

2 A. The front room was fairly clean. There wasn't a
3 lot of stuff on the floor. The back bedrooms had a little
4 more clutter, I guess, with having children. I understand.

5 And then the master bedroom had a lot of clothing and
6 stuff on the bed and on the floor as well.

7 Q. And do you know if that's what the apartment
8 looked like at the time of the death?

9 A. I do not.

10 Q. Okay. That's just what it looked like when y'all
11 showed up later after going to the hospital and realizing
12 this was the place that y'all needed to go to?

13 A. Yes.

14 Q. Now, after you went to the apartment just to look
15 at the scene very quickly, what did you do next that day?

16 A. In these scenarios, DSS gets notified. And --

17 Q. Is that normal protocol?

18 A. That's normal protocol when there's a -- a
19 suspicious death of an infant or a child. So in this
20 circumstance we would take the rest of the children into
21 emergency protective custody with DSS. We were notified
22 that the rest of the children had left this location and
23 were at the grandmother's house or great-grandmother's
24 house, I apologize, at [REDACTED] Redwood Court, which is in
25 Richland County.

1 Q. So did you go to [REDACTED] Redwood Court?

2 A. I did with Captain Jackson and DSS.

3 Q. Okay. And when you went to [REDACTED] Redwood Court,
4 who was there when you got there?

5 A. So Captain Jackson was there, DSS, I believe
6 arrived shortly after. There was several family members,
7 to include Breonte.

8 Q. Okay. And when you got there, what was Breonte
9 or the defendant doing with her children?

10 A. The two children were in a small bassinet in the
11 one back room and the little girl, she was, I think, 18
12 months, she's kind of running around and Breonte was, I
13 believe, sitting on the couch when I talked to her.

14 Q. And what was her demeanor at that time?

15 A. Still calm, non-emotional, and I -- I -- we
16 briefly spoke.

17 Q. Okay. When you say you briefly spoke, did she
18 tell you anything different at that time that she told you
19 at the hospital?

20 A. She did not.

21 Q. So after that day on March 11th, what was your
22 next steps as the investigator or sergeant over a team in
23 this case?

24 A. So verifying the results from the autopsy,
25 speaking with the doctors and the medical examiners that do

1 that part of the investigation. Any -- any items that
2 we're taking into evidence, cell phones, video, any
3 evidence that we have to look at to further this case. And
4 once these results are there and we've concluded what we
5 believe, at this point, if there is probable cause for an
6 arrest, we would get warrants for an arrest.

7 Q. Okay. So on March 12th, did you do anything as
8 it related to this case?

9 A. On March 12th, I do not believe so.

10 Q. Okay. So when was your next involvement in this
11 case?

12 A. It would've been March 13th.

13 Q. Okay. And what did -- what happened on March
14 13th?

15 A. I received a phone call from Ms. Glasgow. She
16 called looking for her cell phone that was taken the day
17 prior.

18 Q. Okay. Let's stop for a second. So where were
19 you when you received this phone call?

20 A. The Sheriff's Department.

21 Q. Okay. And how did you know it was Ms. Glasgow
22 that called you?

23 A. When she stated who it was and also the number
24 she called from was the same number we verified as a number
25 that called 911 on the 11th.

1 Q. Okay. And are you aware at this point if a phone
2 had been taken into evidence at this time?

3 A. Yes. And I knew Investigator Smith had taken one
4 the day prior

5 Q. On March 12th?

6 A. Correct.

7 Q. Okay. And that's the phone at that time you
8 believed to call 911?

9 A. Yes.

10 Q. Okay. So when she called you on March 13th and
11 it was from the same phone number, what was she calling you
12 to ask for?

13 A. She was asking that she needed that phone because
14 it was her work phone. She needed something for
15 authentication and that -- that had information that she
16 needed for work. And when I saw the phone number as the
17 phone that called 911, we believed that the phone that we
18 had was not the proper phone that we needed in reference to
19 this investigation.

20 Q. When she called you on the phone that time, did
21 she ask how the investigation was going against the death
22 of her son?

23 A. She did not.

24 Q. Did she ask about her other two children that had
25 been taken?

1 A. She -- she did not.

2 Q. So when's the next time you had contact with Ms.
3 Glasgow?

4 A. It would've been March 14th at the DSS emergency
5 protective hearing -- emergency protective custody hearing.

6 Q. Is that normal when you take children into
7 custody there's always a hearing and it's specific to Ms.
8 Glasgow?

9 A. Correct. Within 72 hours, we have to have a
10 hearing in reference to the children.

11 Q. And after that hearing, where did that hearing
12 take place?

13 A. At 1701 Main Street here on the third floor in
14 the family court.

15 Q. So in this courthouse?

16 A. Yes, ma'am.

17 Q. And after that hearing, what did you do?

18 A. I was in the room with those several -- there was
19 a couple other deputies that did have body-worn camera. I
20 asked them to activate their camera because based on what I
21 learned the day before with the phone number, we believed
22 that the phone she still had in her possession was the
23 phone that we needed for our investigation and took
24 possession of that phone at that time.

25 Q. Let me show you what's been marked as State's

1 Exhibit 23. Do you recognize this?

2 A. Yes. This is a phone labeled Samsung Galaxy S21
3 with case with Breonte Glasgow's name.

4 Q. Okay. And who does it have as the lead
5 investigator on that, at the top?

6 A. Myself.

7 Q. And is that the phone that you collected at the
8 courthouse on March 14th, 2023?

9 A. It is.

10 Q. Okay. And when you got that phone, did you do
11 anything to it, alter any data on it, changed that phone in
12 any way?

13 A. I did not.

14 Q. What did you do with that phone?

15 A. I gave the phone to Investigator Smith.

16 Q. Okay. Did you turn it off or anything of that
17 nature?

18 A. No, ma'am.

19 Q. Okay. And Investigator Smith is who?

20 A. She was the other investigator on this case.

21 MS. BROWDER: Okay. At this time, Your Honor,
22 enter into evidence State's Exhibit 23.

23 THE COURT: Any objection.

24 MR. FOX: The phone itself?

25 MS. BROWDER: The phone itself.

1 MR. FOX: Well, unless it's been in his
2 possession since he took it, then I'll object, the
3 chain not complete yet.

4 MS. BROWDER: Your Honor, the download would be
5 part of the chain's not completed for.

6 MR. FOX: Right. We just -- at this point we're
7 talking about just the physical phone itself, not the
8 contents of it. Is -- is that what you're moving to
9 admit?

10 MS. BROWDER: Yes, sir.

11 MR. FOX: It'd be the same objection, but I
12 understand. I get -- I understand the distinction of
13 what's being offered.

14 THE COURT: Okay. All right. So overruled.

15 MS. BROWDER: Okay. Thank you, Your Honor.

16 THE COURT: Exhibit 22, you said?

17 MS. BROWDER: 3.

18 THE COURT: 23.

19 (State's Exhibit 23 admitted into evidence.)

20 BY MS. BROWDER:

21 Q. And you gave that to Investigator Smith?

22 A. I did.

23 Q. Okay. And when you get phones in a case like
24 this, where do they go in general?

25 A. So we have lockers at our headquarters where you

1 can plug a phone and to keep it charged. So those phones
2 go into those evidence lockers. Unless it's one of those
3 situations where we're going to go directly to our tech
4 services and bring the phone directly to them. If not, you
5 would place the phone into that locker, send a -- submit a
6 request form to tech services and they would then come pick
7 the phone up and do their part of processing the phone.

8 Q. Okay. And did you and Investigator Smith request
9 that this phone be downloaded?

10 A. It was requested.

11 Q. I am going to show you first what's marked as
12 State's Exhibit 30. Do you recognize this?

13 A. I do.

14 Q. Okay. And what is that?

15 A. It is a video on DVD that I did sign as a video
16 of Ms. Glasgow.

17 Q. Okay. And that -- that's as far as I need to go.
18 So on the video is Ms. Glasgow?

19 A. Yes.

20 Q. Okay. And how do you know what Ms. Glasgow looks
21 like?

22 A. In multiple interactions with her.

23 Q. Okay. And that's just for ID purposes for now,
24 Your Honor.

25 THE COURT: All right.

1 Q. State's Exhibit 31, do you recognize this?

2 A. Yes.

3 Q. And what is that?

4 A. It's a video of the three triplets in a bathtub.

5 Q. Okay.

6 A. And I have signed that one as well.

7 Q. And you have watched that video?

8 A. I have.

9 Q. Okay. And when you watch that video, is someone
10 -- do you hear someone speaking on that video?

11 A. I do.

12 Q. And based on your interactions in this case, did
13 you recognize the voice on that video?

14 A. I did. I did.

15 Q. And whose voice was it?

16 A. Ms. Glasgow's.

17 Q. Okay. At any time, did y'all look at -- I guess,
18 as the investigation keeps going, you do these phone
19 downloads, do y'all eventually come to the decision to
20 arrest Ms. Glasgow?

21 A. We do.

22 Q. Okay. And along the way, did you look at any
23 other suspects?

24 A. Yes. We spoke with the father.

25 Q. Okay.

1 A. Who we learned Jasper was not in the picture for
2 almost two months due to falling out with Ms. Glasgow.

3 Q. Okay. So did that rule him out in your eyes, as
4 investigator, as a suspect?

5 A. It did.

6 Q. And did Ms. Glasgow tell you who the primary
7 caretaker for these children was?

8 A. She stated that it was her.

9 Q. Herself?

10 A. Yes.

11 Q. And did she state anybody else watched after the
12 children?

13 A. There was a friend that would occasionally watch
14 the child named Makala.

15 Q. Okay. And did you try to find Makala?

16 A. Yes. On several occasions we made a phone call
17 to Makala and also went to her residence. At the time,
18 this was probably a couple weeks after the incident, her 15
19 or 16-year-old daughter was there. She got her on the
20 phone. We told her we need to talk to her. I left my
21 business card that we needed to have her come in and speak
22 to us. And she didn't -- not make contact with us after
23 that.

24 Q. Okay. And did you reach back out to her after
25 that?

1 A. I did not.

2 Q. But based on everything that you had collected
3 from the phones, from speaking to people, from 911, all the
4 way up to the date of arrest, Ms. Glasgow was who you
5 arrested for this death?

6 A. It was.

7 MS. BROWDER: I beg Court's indulgence. No
8 further questions. Answer any questions that Mr. Fox
9 may have for you.

10 THE WITNESS: Yes, ma'am.

11 THE COURT: All right. Mr. Fox,
12 cross-examination.

13 MR. FOX: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. FOX:

16 Q. Let's start with Ms. Greene. Why was it you
17 needed to talk to Makala Greene or felt like you wanted to
18 talk to Makala Greene?

19 A. Just because she said that it was somebody that
20 has watched the children in the past.

21 Q. Okay. So in other words, someone else who
22 possibly might have been responsible for the condition of
23 the child -- children?

24 A. Just somebody that was in the child's life at the
25 time.

1 Q. Okay. And so after just a couple -- so a witness
2 perhaps?

3 A. Yes.

4 Q. Okay. So you had information, this person,
5 Makala Greene was -- whatever her role may or may not have
6 been, was involved in both Breonte's life and potentially
7 the life of her children, correct?

8 A. Correct.

9 Q. So someone who may have been a witness to the
10 condition of the children?

11 A. Correct.

12 Q. Because the charges here involved alleged abuse
13 and neglect aside from with **Infant One**, right, with **Infant Three** and
14 -- and **Infant Two** charges unlawful conduct toward the child. So
15 abuse and neglect, correct?

16 A. Correct.

17 Q. So their condition -- their physical wellbeing,
18 how they looked, how they sounded, etc., would be
19 important?

20 A. Yes.

21 Q. Okay. And you had a witness that perhaps had
22 information about that, you believe they did?

23 A. That was why we were trying to talk to her.

24 Q. Exactly. But you gave up after a couple efforts
25 when she decided not to cooperate. You said that's it?

1 A. We attempted multiple -- via phone and left our
2 business card and also went to the residence and made
3 contact with a 15 or 16-year-old child.

4 Q. Now with regard to Breonte's demeanor at the
5 hospital when you saw her you -- that's the first time you
6 ever met Breonte Glasgow?

7 A. That is correct.

8 Q. Okay. You have no idea what she was feeling
9 inside, do you?

10 A. I do not.

11 Q. Okay. At that point, do you know if she'd been
12 informed of her child's death?

13 A. I believe at that point she was.

14 Q. Okay. And you -- you were there within 30
15 minutes of the 911 call, right? You testified you're there
16 shortly afternoon?

17 A. I -- I don't know the exact time I got to the
18 hospital. It was after I got the phone call from our desk
19 sergeant and the coroner. So it's at least an hour after
20 the 911 call. I would -- I would say if I had to give a
21 guesstimated time, but it's not within an hour or a half
22 hour if you said.

23 Q. But could you -- are you aware of when death was
24 pronounced?

25 A. Without looking at the notes, I can't give you

1 off head.

2 Q. You can -- you certainly can refresh your memory
3 if you need to, if you have that information.

4 A. I don't have that time in front of me.

5 Q. Okay. Okay. But your recollection is that by
6 the time you spoke with her, doctors had informed Glasgow
7 that her infant son was dead?

8 A. Yes. With Deputy Coroner Gurganious there,
9 that's -- their job was to notify the family of the death.

10 Q. So you're speaking to her in the aftermath of
11 learning that her -- one of her children is gone, is dead?

12 A. Correct.

13 Q. Okay. Again, you don't know what her response is
14 in other times of crisis, you've never seen her deal with
15 anything like this before?

16 A. I -- it was the first time I met her.

17 Q. Okay. And obviously no idea what she's feeling
18 or thinking inside?

19 A. I do not.

20 Q. And you're a stranger to her?

21 A. Yes.

22 Q. Okay. And identified yourself as law
23 enforcement?

24 A. Yes.

25 Q. And from the beginning protocol, but you -- you

1 were called in specifically to investigate a potential -- a
2 possible crime?

3 A. A suspicious death. Yes.

4 Q. Right. But when she called you a day or two
5 later about her phone, she called indicating that was a
6 work phone, correct?

7 A. Correct.

8 Q. And if I understand, you said, well, that was
9 from the same -- that that was -- the phone she was
10 referring to was the number that called 911, correct?

11 A. Yeah. It was a 295 number -- is [REDACTED]-295. And I
12 verified with the 911 calls we requested. That's the same
13 number that called 911.

14 Q. Right. So I'm going to make sure I understand.
15 The number she called you from to ask about the phone, that
16 was the same number that called 911?

17 A. Correct.

18 Q. Okay. Now, nothing unusual. She said she had a
19 work phone. Right? There'd be nothing suspicious about
20 having personal phone or a work phone, were there?

21 A. Not at all. I -- I have one of each.

22 Q. Okay. And she gave -- when you asked her about
23 that after the family court hearing on, I think it was the
24 13th, she gave you the phone. You explained we can get a
25 warrant, but she didn't make you get the search warrant,

1 she gave you the phone, correct?

2 A. She -- yeah, she handed me the phone that day.
3 It is destructible evidence. So we would've taken it.

4 Q. Of course. I mean, you could've gotten a
5 warrant, could've gotten it, but she handed it over?

6 A. Yes.

7 Q. Okay. And when you asked the day before, or I
8 guess it was actually the day of **Infant One's** death on the
9 11th, when you asked to go to her apartment, she gave you
10 the key, she gave you consent and gave you the key to go
11 in, correct?

12 A. Correct. We explained to her that this was
13 protocol and she was willingly to give us consent. Yes.

14 Q. Yes. She was cooperative with all that?

15 A. Uh-huh (affirmative).

16 Q. When you talk about -- you testified about your
17 observations on **Infant One**, what he looked like, his size and
18 everything, when you saw him at the hospital. At that
19 time, were you aware that he was a quadruple and a preemie?

20 A. I was notified by the --I believe it was the
21 nurse who stated that he was a preemie. And then she also
22 explained to us that they were preemies as well.

23 Q. Right. In the apartment you went in, we've seen
24 photographs that Deputy Semones testified to, I think,
25 actually Rainsford was the one who took the photographs,

1 correct?

2 A. Yes, sir.

3 Q. CSI Rainsford. We saw pictures of the front
4 room, the kitchen, bathroom, and two bedrooms, but there's
5 actually three bedrooms in that apartment, correct?

6 A. Yeah. I testified to that. There's one when you
7 first come down the hallway to the left and there's two in
8 the back.

9 Q. Okay. I just want to clarify because I think we
10 only saw pictures of the master bedroom, one other bedroom
11 and the front room, but there're actually three bedrooms?

12 A. There was -- the pictures show --

13 Q. Three rooms, anyway?

14 A. The pictures show three bedrooms. There's cribs
15 in each room and then the master bedroom.

16 Q. Okay. Well, I may have misunderstood, but good.
17 So we can -- we agree on that. She did mention to you, I
18 know we're jumping around a little bit, trying to go into
19 order you testified.

20 When you spoke to Breonte, you asked her about his
21 condition, if you noticed anything. She did mention that
22 she'd take him to Southern Pediatrics, correct?

23 A. Yes, she said that was the doctor that she takes
24 the kids to.

25 Q. Okay. And that they had gotten -- you were able

1 to verify that they were getting their shots up through
2 January.

3 A. Yeah. In January were done at Prisma.

4 Q. Right.

5 A. Those shots were done at the hospital, not the --
6 the pediatric.

7 Q. And there was a -- and you retained some of these
8 records, right? To verify or to get information, you
9 obtained some of the medical records yourself, correct?

10 A. Investigator Smith obtained the records. Yes.

11 Q. That's part of the investigation that you --

12 A. Correct.

13 Q. Okay. And you were part of that. You were --
14 anything Investigator Smith obtained, you would become
15 aware of at some point, correct?

16 A. That's correct.

17 Q. Okay. Did you y'all ever retain -- obtain any
18 from the Retina Clinic -- Eye Clinic here in Columbia?

19 A. I did not.

20 Q. Okay. Are you not aware of any?

21 A. I'm not aware of any.

22 Q. Okay. So if there was an appointment the
23 children were taken to in January, you wouldn't know about
24 that?

25 A. Not that I can recall.

1 Q. Okay. The children -- so on that same day,
2 because of the circumstances of **Infant One's** death, DSS
3 obviously became involved?

4 A. That's correct.

5 Q. And in fact they were at least there. Were you
6 -- were they there at the same time at **Redwood** as you
7 were?

8 A. They arrived shortly after I did.

9 Q. Okay.

10 A. I can't exactly give you a timeframe, but I know
11 they were there pretty --

12 Q. You overlapped a little bit?

13 A. Yeah. Yes.

14 Q. Okay. And, I mean, may seem obvious, but DSS is
15 not under the Richland County Sheriff's Department. That's
16 a whole separate agency?

17 A. Correct. They -- they don't answer to us. We
18 request them when we have these types of situations for an
19 EPC and emergency protective custody that based on this
20 investigation and they take custody of the children at that
21 time.

22 Q. It'd be their determination as well, right? If
23 they showed up and said, you know what, under all those
24 circumstances, we think there's not a problem, in the end,
25 that would be their call, correct?

1 A. If we make the call to -- put the emergency
2 protective custody, they have to --

3 Q. They have to --

4 A. They have to abide by that.

5 Q. And then there's a review, correct?

6 A. And they -- they'll do a review whether it's with
7 family, but that's their entity. We don't do that one.

8 Q. I understand. So that's a -- a protocol issue.
9 But once that happens, then DSS -- they're a state agency,
10 right? Department of Social Services, they're a State of
11 South Carolina agency with local branches; is that right?

12 A. That's correct.

13 Q. Okay. And again, as you indicated, they operate
14 completely independently of the Sheriff's Department?

15 A. That's correct.

16 Q. Right. So when Breonte called you, and I'm
17 assuming this was explained to her when they took custody
18 of her -- because she has three other children, right? The
19 other two triplets --

20 A. Yes.

21 Q. [Infant Two] and, and -- and [Infant Three]. And then there was
22 a toddler just about a year older, [Sister], right, little
23 girl?

24 A. Correct.

25 Q. Right. And all three of them were taken into

1 protective custody?

2 A. That's correct. And I explained to her the
3 process when we took them into custody.

4 Q. Okay. All right. Was it explained to her that
5 DSS would then be in charge or -- or making decisions after
6 that point? Do you know?

7 A. Referring to?

8 Q. Well, with -- with regard to what would
9 ultimately happen with her children. In other words,
10 that's a temporary -- emergency protective custody, is a
11 temporary status. It might continue, in theory, it might
12 not, correct?

13 A. Correct. That -- that -- but that wouldn't be --
14 that's a judge in Family Court's determination.

15 Q. Understood.

16 A. Not -- we don't make those calls.

17 Q. What I'm getting at in a very convoluted way is
18 that when -- when Breonte called you about her phone,
19 Solicitor asked you, well, did she ask you about her kids
20 in DSS custody? Well, you wouldn't be the person to ask
21 about that, would you?

22 A. I believe she asked --

23 Q. But there are EPC.

24 A. I believe she asked me about the investigation to
25 their death, but --

1 Q. Well, I think your answer was no, she didn't ask
2 about the investigation.

3 A. Correct.

4 Q. Okay. But as far as -- as far as DSS and her
5 kids, you wouldn't have any part of that. There'd be no
6 reason for her to ask you about that?

7 A. Other than explain to her the hearing and when
8 that hearing happens within 72 hours and we are present
9 there.

10 Q. But again, she could get that information from
11 DSS who actually has her kids, right?

12 A. She can.

13 Q. Yeah. So again, can we agree there really would
14 be no reason for her to ask you questions about family
15 court proceedings that DSS is involved with?

16 A. There's no reason to. She can if she wants to,
17 but there --

18 Q. She could. Sure. There ain't no suspicion --
19 anything suspicious about not asking you, fair to say?

20 MS. BROWDER: Objection, Your Honor. Opinion.

21 THE COURT: Sorry.

22 MS. BROWDER: His opinion.

23 THE COURT: Overruled.

24 MR. FOX: Thank you. That's all the questions I
25 have.

1 THE COURT: Any redirect?

2 MS. BROWDER: No, sir, Your Honor.

3 THE COURT: All right. Thank you. You may step
4 down, sir. Thank you.

5 (Witness released.)

6 THE COURT: State may call its next witness.

7 MS. BROWDER: State calls Investigator Kelly
8 Smith.

9 THE BALIFF: You will stand here, put your left
10 hand on the Bible and face the Clerk that way.

11 MADAM CLERK: Do you swear or affirm that the
12 testimony you'll give in this case will be the truth,
13 the whole truth, nothing but the truth, so help you
14 God?

15 THE WITNESS: Yes.

16 MADAM CLERK: Thank you. Please take a seat in
17 the witness stand. State your full name for the
18 record.

19 THE WITNESS: Jennifer Kelly Smith.

20 **JENNIFER KELLY SMITH,**

21 A witness herein, having been first duly sworn, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. BROWDER:

25 Q. What's your -- where do you currently work?

1 A. I currently work for the United States Secret
2 Service.

3 Q. So your title is?

4 A. Special Agent.

5 Q. Special Agent Smith. When did you start working
6 for the Secret Service?

7 A. January 13th, 2025.

8 Q. Okay. What did you do before that?

9 A. I worked at Richland County Sheriff's Department
10 for 12 and a half years.

11 Q. In March of 2023, what was your title?

12 A. Investigator.

13 Q. And what type of crime did you investigate?

14 A. I was in Special Victims Units, so crimes against
15 children or in vulnerable adults as well.

16 Q. And what were some of your job duties as a
17 Special Victims investigator?

18 A. We primarily worked cases involving kids of --
19 who are victims of sexual assault, any kind of unsafe
20 sleep, homicide by child abuse cases, things like that.

21 Q. Did you get involved in the case involving
22 Breonte Glasgow?

23 A. Yes, ma'am.

24 Q. And in what capacity were you involved in this
25 case?

1 A. I was, I wouldn't say, primary. Myself and
2 Sergeant Mastrianni works jointly together on it.

3 Q. I'm kind of going to jump ahead. Did you collect
4 any items of evidence in this case?

5 A. Yes, ma'am.

6 Q. And what did you collect?

7 A. Her phone.

8 Q. Where did you collect her phone from?

9 A. That would be during the death reenactment.

10 Q. And where did that occur?

11 A. At her house at [REDACTED] Universal.

12 Q. Okay. Do you remember the date?

13 A. The collection of the phone was on the day after
14 the child had passed away. So that would be 3/12/2023.

15 Q. I am handing you what's been pre-marked as
16 State's Exhibit 24. Can you take a look at that and tell
17 me what it is?

18 A. That would be the defendant's Apple iPhone. And
19 that has the same pink glitter case that I wrote down as
20 well in my notes.

21 Q. How do you know it's the defendant's Apple
22 iPhone?

23 A. That's the -- what I had wrote down in my notes.
24 That -- what I placed into evidence in the chain custody.

25 Q. Who did you collect the iPhone from?

1 A. Ms. Glasgow.

2 Q. How do you know that it's the iPhone collection
3 in this case and not some other random?

4 A. From the pink glitter case, that's the one
5 matching the description that I had wrote down as well.

6 Q. Is there a case number identifying the cell
7 phone?

8 A. Yes, ma'am.

9 Q. Who's the investigator listed on the -- on the
10 back?

11 A. Myself, K. Smith, I refer to my middle name as
12 well on some paperwork. It's Jennifer Kelly Smith. I
13 usually go by my middle name.

14 Q. Does that look like the phone you collected from
15 Ms. Glasgow?

16 A. Yes.

17 Q. From her house? Does the phone look to be
18 damaged or altered in any way?

19 A. No, ma'am.

20 MS. BROWDER: Your Honor, the State moves to
21 enter Exhibit 24 into evidence as State's Exhibit 24.

22 THE COURT: Any objection?

23 MR. FOX: It would be the same chain of custody,
24 Your Honor.

25 THE COURT: All right. Now I'll overruled.

1 Subject to the completing the chain of custody in use.

2 MR. FOX: Yes, sir.

3 THE COURT: As to this time is entered.

4 (State's Exhibit 24 entered into evidence.)

5 BY MS. BROWDER:

6 Q. I have a couple more questions about the iPhone.

7 Where was the phone when you got to the house?

8 A. I believe she had it on her person.

9 Q. Did you immediately --

10 A. No, I did not immediately take it, no, ma'am.

11 Q. Okay. Did she do anything with the cell phone
12 before you took it?

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

14 Q. She didn't use the cell phone in any way?

15 A. No.

16 Q. Before you collected it?

17 A. Not that I recall -- that I remember, no.

18 Q. Okay. Once you took the cell phone from her
19 person, what did you do with it?

20 A. I did allow her to get phone numbers from family
21 members and let her write down, because she needed, I
22 believe, her mother and grandmother's phone number. So I
23 did let her get phone numbers out of her phone for her --
24 for her use.

25 Q. Did you watch her do that?

1 A. Yes, ma'am.

2 Q. Were you able to confirm that she wasn't deleting
3 anything from the cell phone?

4 A. I was not standing over her shoulder, but I did
5 see her actively writing other phone numbers down as if she
6 were trying to get information for her personal use.

7 Q. So you don't know if she did anything other than
8 write down phone numbers?

9 A. No, ma'am, I do not.

10 Q. Once she was done with the cell phone and you
11 collected it, what did you do with it?

12 A. I transported it to headquarters at 5623 Two
13 Notch Road and put it in locker number 18.

14 Q. Did you turn it off?

15 A. In airplane mode.

16 Q. You put it in airplane mode?

17 A. Yes, ma'am.

18 Q. Why did you do that?

19 A. That's usually what our tech services requests
20 when we submit a phone into evidence.

21 Q. Does -- did you manipulate the phone in any other
22 way besides that?

23 A. No, ma'am.

24 Q. And you said you put it in the evidence locker.
25 Where was that?

1 A. At headquarters in the Criminal Investigations
2 Division. It's right in the middle of the unit on the
3 wall.

4 Q. Did you request to download that phone?

5 A. Yes, ma'am. I believe actually Investigator
6 Laureano submitted a ticket, but I ended up getting a
7 search warrant for that phone for download.

8 Q. Did you do anything else with that cell phone?

9 A. No, ma'am.

10 Q. Did you touch any other cell phones in this case?

11 A. No, ma'am.

12 Q. Did you -- were -- are you aware that there was
13 another cell phone in this case?

14 A. Yes, ma'am.

15 MS. BROWDER: I don't believe I have any further
16 questions. Please answer any questions that the
17 defense may have.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: All right. Cross-examination?

20 MR. FOX: Yes, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. FOX:

23 Q. Investigator, your testimony is that was the only
24 phone, the pink glitter iPhone was the only one that you
25 ever dealt with, ever handled?

1 A. Yes, sir.

2 Q. Okay. No one ever gave you another galaxy phone?

3 A. No, sir.

4 Q. Okay. And Ms. Glasgow, when you asked the phone
5 explaining the reasons you wanted it she -- she willingly
6 gave it to you?

7 A. Yes, sir, she did.

8 Q. Okay. And then you gave her the opportunity to
9 write down some -- some phone numbers?

10 A. Yes, sir, I did.

11 Q. And you could observe her looking and actually
12 writing the --

13 A. Yes, sir, I did.

14 Q. Okay. So no reason to think that she was going
15 through and deleting anything that you could tell?

16 A. No sir, she did not.

17 Q. Okay.

18 A. She was cooperative.

19 MR. FOX: Thank you. That's all the questions I
20 have.

21 THE COURT: All right. Any redirect?

22 MS. BROWDER: No, Your Honor.

23 THE COURT: All right. Thank you, Special Agent.
24 You may step down and be excused.

25 (Witness released.).

1 THE COURT: State may call its next witness.

2 MS. BROWDER: State calls Investigator Trevor
3 Holt.

4 THE BALIFF: You will stand by -- there you go.

5 MADAM CLERK: Do you swear or affirm the
6 testimony you're about to give in this case will be
7 the truth, the whole truth and nothing but the truth,
8 so help you God?

9 THE WITNESS: I do.

10 MADAM CLERK: Please take a seat in the witness
11 stand. State your full name for the record.

12 THE WITNESS: Trevor Holt.

13 **TREVOR HOLT,**

14 A witness herein, having been first duly sworn, was
15 examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MS. BROWDER:

18 Q. Investigator, where do you work?

19 A. Richland County Sheriff's Department.

20 Investigator with the tech service unit.

21 Q. What's the tech service unit?

22 A. So Tech Service Unit has three primary functions.
23 The collection of security video from public and private
24 security systems. We also do data acquisitions for things
25 like smartphone, watches, tablets, drones, anything to that

1 manner. And then we do the examination of the acquired
2 data.

3 Q. How long have you been with Richland County?

4 A. December of 1995.

5 Q. Great. Do you work as an investigator in any
6 other capacity?

7 A. Strictly now it's just technical services.

8 Q. Was that your title back in March of 2023?

9 A. Yes, it was.

10 Q. Did you have an opportunity to be involved in the
11 case against Breonte Glasgow?

12 A. I did.

13 Q. And tell us in what capacity you were involved.

14 A. I received a request from Sergeant Mastrianni to
15 download a Galaxy S21.

16 Q. And who made that request?

17 A. Sergeant Mastrianni did.

18 Q. You said it was a Galaxy what?

19 A. S21.

20 Q. Is that a cell phone?

21 A. Yes.

22 Q. Okay. I'm handing you what's been marked as
23 Court's Exhibit 2. If you can tell us what that is.

24 A. This appears to be a thumb drive.

25 Q. Of what?

1 A. The download from the Galaxy.

2 Q. And how do you know it's download from the
3 Galaxy?

4 A. It has it listed on the ramp.

5 Q. Have you had an opportunity to look at that
6 download?

7 A. I have not.

8 Q. I guess, tell us, before you did the download,
9 where did -- did you have to go find the cell phone?

10 A. Sure. So on the request I received from Sergeant
11 Mastrianni, it states on there where he secured the phone.
12 I went and retrieved the phone from that phone locker. At
13 which point I'll take it back to my desk; I'll document the
14 phone for -- through photography.

15 I'll document things like just the physical condition
16 of the phone, whether it's damaged when I received it or
17 not. I'll document the date and time that's on the phone.
18 I'll document the control screen, which is where you can
19 turn your Wi-Fi Bluetooth, airplane mode on and off.

20 If it's locked, I'll document the lock screen. If
21 it's unlocked or I have a pin code for it, I'll document
22 the general information of the phone like the make and
23 model of the phone, serial number, that type of stuff.

24 Q. Anything significant about the physical phone
25 that you can remember?

1 A. I don't recall anything physical about it.

2 Q. Do you remember if the phone was on or off?

3 A. The device was powered on and it was locked.

4 Q. Okay. So if you have a device that's locked,
5 what do you do?

6 A. If it's supported by one of our tools we can
7 still possibly get a download from it. In this case the
8 phone was connected to what's called the Cellebrite UFED,
9 which is a forensic tool. It was not supported by
10 Cellebrite without the passcode. It was then connected to
11 what's called the GrayKey, which is another forensic tool
12 that we have. The GrayKey was able to determine the
13 passcode for the phone and complete the download.

14 Q. How does -- I mean, how does it do that?

15 A. It manipulates vulnerabilities into software.

16 Q. So it can basically figure out what the passcode
17 is --

18 A. Correct.

19 Q. -- to get the code for you?

20 A. Right.

21 Q. Okay. So once you're in the phone, what are the
22 next steps?

23 A. So once the -- once the data is downloaded, it's
24 downloaded to the GrayKey and a hash value is assigned to
25 that particular dataset. Now, what's important about hash

1 values? It is -- it is unique to that data. So when I
2 take the data from the GrayKey and load it onto my read
3 system, which is a mass storage device, once it's
4 downloaded on the read system, I then run the hash value of
5 that data again and I compare the two. If they don't
6 match, I know something went wrong. If it matches, I know

7 I can move on to the next step. The next step was
8 creating the Cellebrite report. So the data was then
9 uploaded to Cellebrite Physical Analyzer, which creates a
10 nice user-friendly report to view the data obtained from
11 the device. once the Cellebrite report was created, I then
12 checked the hash values a third time to make sure nothing
13 went wrong. Because if they don't match, I got to back up
14 and try to figure out what -- what happened.

15 Q. Did they match in this case?

16 A. They did match.

17 Q. Okay. So when you say that you -- you download
18 the phone to GrayKey?

19 A. Uh-huh (affirmative).

20 Q. You plug the phone in?

21 A. Correct.

22 Q. Okay. And then the system does the download for
23 you?

24 A. Correct.

25 Q. And then you verify that there wasn't something

1 wrong with the download?

2 A. Correct.

3 Q. Okay. And then once the download has been done,
4 you put it into a program that reads it for you?

5 A. Correct. It'll -- it'll -- it's called parsing
6 the data. It'll take the data and like I said, it'll put
7 it in a nice user-friendly format.

8 So when the investigator opens it on their computer,
9 if they want to look at text messages, they just go click
10 text messages. If they want to look at contacts, they can
11 click on contacts, videos, pictures, whatever was obtained
12 that's accessible from that download, they'll have access
13 to it on their reader report.

14 Q. Did you do any of that in this case?

15 A. I'm sorry? Do any of?

16 Q. Did you -- did you do any of that in this case?

17 A. I created the report and then uploaded it to
18 evidence.com for Sergeant Mastrianni.

19 Q. So you don't really know what was on that cell
20 phone?

21 A. No, ma'am.

22 Q. Did you do anything else with the phone once it
23 was downloaded?

24 A. Other than submitting it to evidence and
25 property, I think that was about the extent of my

1 involvement with it.

2 Q. Did anybody else touch the cell phone?

3 A. Not to my recollection, no, ma'am.

4 Q. So you took it out of evidence and you put it
5 back in evidence?

6 A. Correct.

7 MS. BROWDER: I don't have any further questions.

8 THE COURT: All right. Cross-examination.

9 MR. FOX: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. FOX:

12 Q. Officer, you indicated that there'd be a -- when
13 you take the phone or any property, there'd be like a -- a
14 written record of the chain or we call it chain of custody,
15 but there'd be --

16 A. Correct.

17 Q. So we can say taken from this person collected as
18 evidence and then it went to this person, maybe the
19 evidence locker, etc. In this, if I understand your
20 testimony, you received it from the evidence locker, but
21 through Investigator -- Sergeant Mastrianni?

22 A. Correct. So Sergeant Mastrianni chained it into
23 the locker. I then chained it from the locker to myself.

24 Q. Okay. So Investigator Kelly Smith wasn't
25 involved in that in any way that you know of?

1 A. Not that I know of.

2 MR. FOX: Okay. Thank you. No further
3 questions.

4 THE COURT: Any redirect?

5 MS. BROWDER: No, Your Honor.

6 THE COURT: All right. Thank you, sir. You may
7 step down. Be excused.

8 (Witness released.)

9 MR. FOX: Your Honor, may we approach?

10 (Sidebar discussion starts.)

11 MR. FOX: No, I've got the same kind of problem
12 up -- up on my feet. We -- we may need this at one
13 point. But I --

14 THE COURT: Yes, sir.

15 MR. FOX: -- don't need it right now.

16 THE COURT: That will help all that.

17 MR. FOX: Yes.

18 THE COURT: How about that. Okay.

19 MR. FOX: I've got the same problem up there.
20 I've got two of them that I don't need.

21 (Sidebar discussion ends.)

22 THE COURT: All right. Ladies and gentlemen,
23 we'll take a short comfort break now until quarter to.
24 So why don't we step out until 2:45? Again, please
25 don't discuss this case with anybody including each

1 other.

2 Please don't review or seek out any information
3 about the case and always keep an open mind about all
4 issues in the case until I have charged you on the law
5 and sent you back to begin deliberations. Thank y'all
6 very much.

7 (Jury leaves the courtroom.)

8 MR. FOX: I have a quick matter at this time to
9 take.

10 THE COURT: Okay.

11 MR. FOX: I believe the next witness is Johnson.
12 So this Johnson. Okay. One of the things Officer
13 Johnson is going to testify to, he prepared a report
14 PowerPoint of his findings from these phones or at
15 least one of the phones and the State -- and I have a
16 copy -- I've had a copy of that presentation.

17 THE COURT: Okay. Yes, sir.

18 MR. FOX: They're going to show that on the
19 monitor facing the jury.

20 THE COURT: Right.

21 MR. FOX: A part of that are some photographs and
22 things showing the condition of the triplets. And
23 that would -- my, I guess, objection would be that
24 they not be blown up larger than life. There's an
25 actual physical eight by 10 that I request for that

1 part, not for the PowerPoint. But for any photographs
2 or anything showing the condition of the triplets or
3 any of them that they be --

4 THE COURT: Okay. I -- I -- I haven't seen -- I
5 haven't seen the picture. I don't know what -- what
6 it is or -- or how it -- how it is formatted on the
7 screen.

8 MS. BROWDER: Your Honor, it State's Exhibit 29.
9 I'll hand it up. It would be shown just towards the
10 jury. I believe, that's not a confidential picture to
11 be showing towards them so that they can see all three
12 babies.

13 THE COURT: No, no. Go ahead, Mr. Fox. Again,
14 this is the first I've -- I've seen of it. So this --
15 so this will be -- Ms. Browder, this will be just the
16 same size as everything else on the --

17 MS. BROWDER: Hold on, hold on. Sorry.

18 THE COURT: -- not enhanced any more than any of
19 the other photos?

20 MS. BROWDER: No, sir. Not enhanced. Well, of
21 course, could not be on this screen --

22 THE COURT: I mean, enhanced is wrong term not --

23 MS. BROWDER: -- instead of those big screens up
24 there, which actually would make it about the same
25 size, but probably the same size TVs.

1 THE COURT: This looks -- these look bigger than
2 that one. But, oh, okay.

3 MS. BROWDER: I mean, that's the photograph right
4 there, Your Honor. It's no big -- it is smaller than
5 would've actually be up there.

6 THE COURT: Right.

7 MS. BROWDER: And it would just be shown towards
8 the jury.

9 THE COURT: And so what are you -- are -- is it
10 just -- I don't -- I haven't seen the -- the
11 PowerPoint either. So again, I'm flying blind with
12 this, but I'm -- I'm told by Ms. Browder that this
13 photograph will not be any larger or smaller or
14 enhanced in any other way that other photographs or
15 other visuals that are going to be shown by this
16 witness.

17 MS. BROWDER: Correct, Your Honor. That --
18 that's the only photograph.

19 THE COURT: Oh, okay.

20 MS. BROWDER: And then the other two are the
21 videos that we discussed previously.

22 THE COURT: Right. Okay.

23 MS. BROWDER: Which would be played on here.

24 THE COURT: All right. So now that I've seen
25 this -- this apparently is the only photo. And so Mr.

1 Fox, I just want to be clear, you're asking when they
2 show this photo that it be smaller than it is on that
3 screen right there? Or is that size fine?

4 It needs to be big enough since -- since all of
5 them are looking at it and it's far away. It's not
6 like I can look at it here and this is fine, but if
7 you -- if you held it, I -- I would have a more
8 difficult time seeing it.

9 So I'm just, I don't want to get nitpicky about
10 it, but, I mean, if we can come to a size that's big
11 enough for them to see, but not blown up so that it's
12 --

13 MR. FOX: The size in your hand, Your Honor.
14 They can pass it around old school. They can all look
15 at it, look at as close as they want to, anything. I
16 don't care if it -- you know, obviously they want to
17 show the condition of that photograph taken they
18 believe the day before **Infant One** died or the 10th of
19 March.

20 And they want to show the condition of the
21 children. Get anything, a picture of me blowing up
22 lifestyles, no one wants to see that. You know, close
23 look picture.

24 And so I think, again, I don't frankly care if
25 it's pointed. Obviously, it has to be pointed to the

1 jury. I'm not worried about any effect on the
2 audience because they don't have a vote. But --

3 THE COURT: I'm just trying to figure out what
4 the difference is between this photograph and that if
5 that size on that screen is not filtered in any way.
6 Not the color is not any different. There hasn't been
7 any enhancement or changes to it. If it's identical,
8 but it's just larger so that the jury can see it.

9 I'm having a hard time understanding why this one
10 photograph out of everything else you would like to be
11 passed around instead of shown on that screen.

12 MR. FOX: Well, it's the same. I would like
13 really everything, it's the same objection in part we
14 made, and Your Honor hasn't made a final ruling on the
15 autopsy photos. That was part of our request with the
16 autopsy photos that any that are admissible be shown
17 in the eight by 10 format rather than enlarge.

18 So it's the same argument for the same reason
19 that we made with regard to the autopsy photos. I
20 have no reason to think that's been enhanced or
21 changed. Altered in any way. I don't. So it is --
22 it is strictly a size --

23 THE COURT: Right. Okay. All right. And I
24 would have -- you know, and I would have a problem if
25 it was zoomed in, if it was, you know, different, if

1 it was enhanced, if there were circles. I mean, those
2 -- those kind of things. But I'm -- if we could just
3 keep it that size, that's not frame to frame on it. I
4 mean, it -- I mean, to me, that's reasonable enough.

5 I mean, I can't see it very well from here, but
6 it's going to be a little bit closer to the jury. So,
7 I mean, it doesn't matter if I see it. I've got this
8 copy. And so I don't know if that has a -- does that
9 say on there what size it is? Was that 400 --

10 MS. BROWDER: It's 480 times 360, Your Honor.

11 THE COURT: 480 by --

12 MS. BROWDER: 195 percent.

13 THE COURT: Okay. 195 percent of -- of the eight
14 by 10?

15 MS. BROWDER: If you go to 100 percent, Your
16 Honor, it's really, really small. And it's hard for
17 them to see. But if you do it up to the 480 times the
18 195 get there --

19 THE COURT: What -- what does 150 look like? How
20 about that? There we go. Why don't we do that?
21 That's 150 percent. I mean, look, I hear what you're
22 saying, but, I mean, they've got to be able to see it.
23 We've got alternates on the -- on the back of the --
24 back row and they've got to be able to see it.

25 And if he's talking and discussing it, I don't

1 know that if one person has it, it's going to be
2 helpful to the other 11 jurors and two alternates, if
3 one of the jurors is looking at this and -- and he's
4 explaining what's going on, I don't know that that's
5 going to be helpful.

6 And I don't see how there's any prejudice to this
7 if there's no evidence that this is any different from
8 what I'm holding in my hand.

9 MR. FOX: Well, and not to argue with your own
10 person.

11 THE COURT: Yes.

12 MR. FOX: But just on that last point, if I
13 understand this will just be the technician, the
14 officer who downloaded, he won't really be explaining
15 it. He'll be saying this is what I downloaded, here
16 it is.

17 THE COURT: Right.

18 MR. FOX: Right. So he is not medical personnel.
19 He's not anyone who's going to be explaining anything
20 in the photo. Just that it's there and this is where
21 he got it from.

22 THE COURT: Okay. I understand what -- what
23 you're saying. I think 150 percent there is much,
24 much smaller than that whole screen. It's less than
25 half of it.

1 I think that that's -- if we go any smaller, I'm
2 not sure that the jurors are going to be able to see
3 all of it at the same time. And that's my concern
4 about passing around one copy of it, is it may be
5 distracting one -- one juror looks at it different --
6 at a different time than another.

7 And this ensures that everybody is looking at the
8 same picture, the same size at the same time. And so
9 I respectfully overrule your -- I don't -- you just
10 raised it. So I respectfully -- respectfully not use
11 just one sheet of paper to pass around to everybody
12 that we can proceed like this with that size.

13 MR. FOX: Understood. Thank you.

14 THE COURT: All right. Thank you. Here's -- I
15 don't know if this is the only copy of this Ms. --

16 MS. BROWDER: Yes, sir. That's that.

17 THE COURT: Okay. So I'll leave that there. Is
18 there anything else from the State before we just take
19 a quick break?

20 MS. BROWDER: No, sir.

21 THE COURT: Anything from the defense before we
22 take a quick break?

23 MR. FOX: No, Your Honor.

24 THE COURT: Okay. We'll be right back.

25 (Recess was taken.)

1 MS. BROWDER: Major Ricky Johnson.

2 THE COURT: Okay. And -- and he's the one that's
3 -- this is -- is this where we're going to have the
4 video and the PowerPoint? Is that right? All right.

5 And -- and of course we dealt with that issue.
6 Like this morning before the jury got here I put on
7 the rulings on the record, certainly the defense have
8 preserved their objections to this. I think I've
9 spelled out most of mine.

10 I don't know going back through my notes, I saw
11 that the State is also arguing in a way just as far as
12 the video and the -- the photos are concerned. And --
13 and I can't recall whether or not that made it into my
14 ruling this morning. Certainly that was piece of this
15 as well. Anything before we bring the jury in from
16 the State?

17 MS. BROWDER: No, sir.

18 THE COURT: Anything from the defense?

19 MR. FOX: No, Your Honor.

20 THE COURT: Okay. Thank you. May we have the
21 jury, please. This is the last witness of the day.
22 Is that what y'all told me?

23 MS. BROWDER: Yes, sir. That's all we have for
24 now.

25 THE COURT: Okay. That's fine -- that's fine. I

1 just want to make sure.

2 (The jury enters the court room.)

3 THE BALIFF: All jurors are seated, Your Honor.

4 THE COURT: All right. Thank you, ma'am. Thank
5 you, ladies, and gentlemen. State may then call its
6 next witness.

7 MS. BROWDER: State calls Major Ricky Johnson.

8 MADAM CLERK: Do you swear or affirm that the
9 testimony you're about give in this case will be the
10 truth, the whole truth and nothing but the truth, so
11 help you God?

12 THE WITNESS: I do.

13 MADAM CLERK: Thank you. Take your position on
14 the witness stand and state your full name for the
15 record.

16 THE WITNESS: Ricky Johnson.

17 **RICKY JOHNSON,**

18 A witness herein, having been first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. BROWDER:

22 Q. All right. Your title is Major?

23 A. Yes, ma'am.

24 Q. And -- and where do you work Major Johnson?

25 A. I work at the Richland County Sheriff's

1 Department.

2 Q. And how long have you worked there?

3 A. I am on, going on year 19.

4 Q. All right. And your -- your title is Major.

5 What is a Major?

6 A. It's the rank. The -- the official title is
7 Director. So I'm the Director of investigations. I work
8 -- work underneath our chief, Chris Landler. We -- we
9 supervise roughly between 120 to 130 mid-level supervisors
10 and investigators to include some civilians.

11 Q. Was that your title back in March of 2023?

12 A. I was a captain in 2023.

13 Q. And what did -- what did you do as a captain?

14 A. Yeah. So I was the captain over two specialized
15 units within investigations in 2023, narcotics and
16 technical services, which is the digital forensic side of
17 the house. My primary role in 2023 was running technical
18 services.

19 Q. And you said technical services is the digital
20 side of the house. What all does tech services do?

21 A. Primarily, our job is to take digital data from
22 any type of device, whether it be a cell phone, a tablet,
23 hard drives vehicles. We -- our job is to take that data,
24 extract it, analyze it, and then put it in a report that
25 you and I -- and -- and the court system can understand.

1 Q. And what kind of education do you have that
2 allows you to do that?

3 A. Yeah. I -- I have a multitude of certifications
4 and digital forensics and mobile forensics. Starting in
5 2014 when I first got into this field, I can go through
6 them if you'd like.

7 Q. Well, let's start. You have a bachelor's degree?

8 A. I do -- that --

9 Q. In what?

10 A. Criminal justice.

11 Q. And any other education after that?

12 A. I have taken grad -- grad school, some graduate
13 classes at the University of Louisville.

14 Q. Okay. And in what area?

15 A. Police administration.

16 Q. Okay. And then you mentioned certification.
17 Let's get into that. Certifications and like training.
18 What all is involved in your role? What kind of training
19 do you have to go through?

20 A. Yes. My primary focus since 2014 has been mobile
21 devices. Mobile devices in the field of mobile forensics
22 is very unique in the fact that it's dynamic. It changes
23 all the time, almost weekly. if you think about how often
24 your phones update your apps update, right? We have to
25 continuously go through trainings and so it is nonstop in

1 our field.

2 And if -- if a procedure that we use changes, then I
3 have to go get a certification to learn how to do that. So
4 it's constantly changing.

5 Q. And about how often do you --

6 A. Yeah. So starting in 2014, I -- I started my
7 very first vendor, what we call vendor training. So
8 there's a company that a lot of agencies use both State and
9 Federal called Cellebrite. I learned basically how to use
10 their tool and what their tool does and how it works.

11 That's when I was first introduced. And then I
12 started focusing my training on what I call non-vendor
13 training. So those types of trainings are, what is the
14 tool doing so that I can verify that what the tool is doing
15 is right, right?

16 So I'm learning data structures, I'm learning how the
17 data is stored natively on the phone in its raw format, so
18 that if the tool shows me a result, I can go look at it and
19 make sure that that tool is producing the right types of
20 results.

21 So a lot of the certifications are in, again, how the
22 -- the phone stores the data -- and then how we can
23 interpret it. I also have several certifications in data
24 acquisition as far as advanced certifications in what we
25 call JTAG and ChipOff, which is, if the -- the device is

1 damaged or if it was encrypted, we can solder to the
2 motherboard or we can take the memory chip off and read
3 directly from the chip.

4 Q. You mentioned Cellebrite that we're learning
5 today is the reader that reads the data for you. It's the
6 program that y'all use to read the data off of the cell
7 phone extractions?

8 A. It is a way that -- it is -- it is essentially a
9 tool that takes the data in its raw format and it sort of
10 parses through it, goes through it and takes it from zeros
11 and ones and puts it into a text message. And it does it
12 automatically for us.

13 Q. And then you go back and you read those zeros and
14 ones to make sure that what Cellebrite is telling you is
15 accurate?

16 A. That's correct. That's one reason we do it.
17 Also, there's millions of apps. Cellebrite I think
18 supports maybe 1,000 apps right now. So there's a lot of
19 apps in your phones that those tools doesn't even
20 understand. So we then have to go through there, test it,
21 create test data to understand it ourselves.

22 Q. How long have you worked in tech services,
23 specifically?

24 A. Oh, officially, maybe five years. But I've been
25 doing digital forensics since 2014. I started my role as a

1 task force officer with the DEA, that's when I was
2 introduced. And for five or six years when I first
3 started, I primarily did narcotic devices, or for narcotic
4 investigations. Excuse me.

5 Q. Over the duration of your career, just
6 approximately how many mobile devices have you analyzed?

7 A. Thousands. In the fiscal year of 2023 I received
8 a -- the Top Digital Forensic Examiner Award from the
9 Secret Service. And I finished 70th in the country out of
10 more than 3,800 people in the sheer volume of devices I
11 did. It is a -- a quantitative award, not a qualitative,
12 but a quantitative just on the number of devices. And
13 again, I -- I was 70th out of over 3,800 people in the
14 volume that I did.

15 Q. And just for clarification, a cell phone is
16 extracted before it's analyzed, right?

17 A. That's correct.

18 Q. And you've extracted over thousands of cell
19 phones?

20 A. That is correct.

21 Q. Have you also analyzed about that many?

22 A. That's correct.

23 Q. Okay. Have you ever qualified as an expert
24 before in mobile device analysis?

25 A. Yes.

MAJOR RICKY JOHNSON-DIRECT-BY MS. BROWDER

331

1 Q. About how many times?

2 A. Five previous times.

3 MS. BROWDER: Your Honor, at this time, the State
4 renders Major Ricky Johnson as an expert in the field
5 of mobile device analysis.

6 THE COURT: All right. Any objections of order
7 from the defense?

8 MR. FOX: Just a couple of questions.

9 THE COURT: Yes, sir.

10 MR. FOX: You say you have -- officer, you say
11 you have certifications from different organizations
12 basic training. Can you tell us what those
13 organizations are? What -- what is involved in
14 achieving those certifications?

15 THE WITNESS: Sure. So the most recent one is
16 through the SANS Institute. I received my GX
17 certification in 20 --, let me get you the date here.
18 Bear with me one second.

19 Smartphone Forensics. That was in 2022 -- 2022
20 through the SANS Forensic Institute. That was the
21 most recent one. I -- I have had training through
22 IASIS, through Hexordia, through Cellebrite, through
23 Grayshift.

24 MR. FOX: I don't mean to cut you off. So
25 Cellebrite I'm familiar with, that's a -- that's a

1 private company. They have software that you utilize?

2 THE WITNESS: Correct.

3 MR. FOX: All right. How about certifications
4 through like law enforcement agencies? And these are
5 just by example. Certainly not to be all inclusive,
6 but the FBI, SLED here in South Carolina.
7 Organizations that aren't in business --

8 THE WITNESS: Yeah.

9 MR. FOX: -- certifying people that buy their
10 products. Does that make sense?

11 THE WITNESS: Most of my certifications are in
12 that non -- I -- I really don't have many in the --
13 the vendor training that you're referring to. Most of
14 my certifications are from companies that don't sell
15 products, right?

16 I also have training through the NCFI, the
17 National Crime Forensic Institute through the Secret
18 Service. I've been through their training as well,
19 but again, most of my certifications are non-vendor
20 specific.

21 MR. FOX: I understand. Thank you. No other
22 questions, Your Honor.

23 THE COURT: Any objections to him being qualified
24 as an expert in the mobile device analysis?

25 MR. FOX: No, sir.

1 THE COURT: All right. Ladies and gentlemen,
2 typically a person cannot give opinion testimony. A
3 witness cannot give opinion testimony. Normally when
4 a person testifies, they must testify as to what they
5 either saw, heard, or sensed by smell or something of
6 that nature.

7 However, there's an exception when someone is
8 qualified because of education or experience, they're
9 permitted to give their opinion in certain areas if
10 the Court qualifies them that way. This witness will
11 be qualified as an expert in the area of mobile device
12 analysis to give opinion testimony in that area.

13 Does not mean that you must accept the opinion,
14 but it is evidence for you to use in any way you see
15 fit and give the weight and credibility you believe is
16 appropriate. Yes, ma'am.

17 MS. BROWDER: Thank you, Your Honor.

18 BY MS. BROWDER:

19 Q. All right. Major Johnson, did you examine any
20 phones in this case?

21 A. I did.

22 Q. How many?

23 A. I did a full examination of an Apple iPhone and I
24 also verified some searches in a Samsung Galaxy.

25 Q. Let's talk about the Galaxy first. When you

1 received a request for verification had that Galaxy already
2 been extracted?

3 A. It had.

4 Q. So where do you go to get that extraction?

5 A. So I get the -- the raw data. It is zipped in
6 what's called a container on our secure server Axon. The
7 acquisition examiner extracts it, he uploads it to -- to
8 the server and then I pull that down. It is hashed. There
9 is a digital fingerprint that's assigned to it. So when I
10 pull it down, I run a hash on that to verify that all the
11 data is correct, and then I examine that data.

12 Q. Okay. And when you say you examine that data,
13 what is step one in doing some -- an analysis like this?

14 A. So it depends on what the request is. So if I'm
15 just doing a verification maybe verifying certain artifacts
16 that someone has seen in a Cellebrite report, they want to
17 verify that they're accurate, right? So if that's the
18 case, then I gather whatever they've shown to me and I --
19 and I go to the source and verify it is what they think it
20 is. If I'm doing a full-blown analysis, typically I will
21 timeline artifacts for a time -- a time period. I will
22 basically tell you things that the device is doing during a
23 certain period of time.

24 Q. I am handing you what's been pre-marked as
25 State's Exhibit 25. If you can take a look at that and let

1 me know what that is?

2 A. Okay.

3 Q. And tell us what it is?

4 A. This is just a -- a preliminary device report.
5 So it's -- it's got certain information about the device
6 that is reported from the tool, from Cellebrite. It's just
7 a PDF report from the tool.

8 Q. Does that report look accurate to you?

9 A. Yes.

10 Q. Does it look to be altered or changed in any way?

11 A. No.

12 MS. BROWDER: Your Honor, the State moves to
13 enter Exhibit 25 into evidence as State's Exhibit 25.

14 THE COURT: All right. Any objection?

15 MR. FOX: No, sir.

16 THE COURT: All right. With no objections, so
17 admitted.

18 (State's Exhibit 25 admitted into evidence.)

19 BY MS. BROWDER:

20 Q. Major Johnson, can you tell us what phone number
21 is associated with this cell phone?

22 A. Yes. Telephone number for this device is showing
23 as [REDACTED]-0845.

24 Q. Are you able to tell based off of that report
25 when that cell phone was first activated?

1 A. Not from this report.

2 Q. You did your analysis of -- of the Galaxy cell
3 phone, was there anything significant?

4 A. There was some -- some Google searches of
5 interest that I was asked to verify.

6 Q. I am going to hand you what's been pre-marked as
7 State's Exhibit 26. If you can take a look at that and let
8 us know what it is.

9 A. So this is a list of several Google searches
10 within the Chrome browser on this Samsung Galaxy device.

11 Q. And how do you know it came from that Samsung
12 Galaxy device?

13 A. From the source -- from the source file. So I
14 can follow the source file and it -- and it leads me to the
15 raw data to the extraction.

16 Q. And did you verify that that report accurately
17 reflects the searches from that Galaxy or iPhone?

18 A. Yes.

19 Q. Does the report look to be altered in any way?

20 A. No.

21 Q. The State moves to enter Exhibit 26 into evidence
22 as State's Exhibit 26.

23 THE COURT: Any objection?

24 MR. FOX: No, Your Honor.

25 THE COURT: With no objections, so entered.

1 (State's Exhibit 26 entered into evidence)

2 MS. BROWDER: Your Honor, permission to publish
3 those legal searches for the jury.

4 THE COURT: All right. Okay. Mr. Fox.

5 MR. FOX: Yes, sir.

6 THE COURT: Thank you.

7 BY MS. BROWDER:

8 Q. All right. Mr. Johnson, we're going to walk
9 through -- Major Johnson, we're going to walk through some
10 of these Google searches. Can you see this? Well, you
11 have the report in your hand, right?

12 A. I can't see that, but yeah, if I can refer to
13 this.

14 Q. Okay. Let's talk about Google search number 1.
15 What is it that was searched?

16 A. So the query -- the what -- what was typed in is
17 what is considered child abuse from an autopsy.

18 Q. And are you able to tell what time and the date
19 of that Google search?

20 A. Yes. So this time it does not reflect local
21 time. So this time is on coordinated universal time. So
22 this report shows is March the 14th, 2023 at 2:50:39 a.m.

23 We need to subtract four hours from that, right?
24 Because we hit daylight savings time, I think on March the
25 12th. So typically we subtract five hours, but during

1 daylight savings we subtract four hours. So this was
2 actually conducted around 10:50 p.m. on March the 13th,
3 local time.

4 Q. And we say Google searches, but what program was
5 used to conduct the search?

6 A. It was a Google search using the Chrome browser.

7 Q. Let's look at search number 2. What was search
8 number 2?

9 A. Search number 2 was autopsy concerns for child
10 abuse.

11 Q. And the date and time of that?

12 A. When we subtract the four hours, March the 13th,
13 2023, 10:23:08 p.m.

14 Q. Then the number 3?

15 A. Factory reset an iPhone I don't have access to.

16 Q. And what date and time is that?

17 A. That is going to be March the 13th, 2023 at
18 3:37:13 p.m., local time.

19 Q. And then the number 4?

20 A. Number 4, call Apple customer service. And that
21 would be March the 13th, 2023. And that would be also at
22 3:36:29 p.m.

23 Q. And is it accurate to say every search on here
24 was a Google search, so to speak?

25 A. That's correct.

1 Q. Okay. And then number 5?

2 A. Number 5 is going to be a part of number --
3 number 1, it is a, what is considered child abuse. That is
4 coming from a separate source called a Favicon. It's just
5 something that the system saves, but it is a part of the
6 very first search at the top.

7 Q. And why is there no date or time listed?

8 A. Because of the way that it is stored on the
9 device. There really -- it's really hard to determine the
10 system. So essentially a Favicon is if you open Chrome or
11 on an iPhone, you open Safari, there's a logo at the top of
12 a tab, you know, just the smallest called a Favicon, like a
13 favorite.

14 The first time you go to a website, if it's the very
15 first time your -- your phone will save that file, save an
16 image of that, right? And then every other time you go
17 there, it looks in the database to see if you've been there
18 before, right?

19 So if you go multiple times it didn't know the second
20 or third or fourth time you went.

21 Q. Are you able to tell or I guess would the report
22 tell us whether or not the search was deleted?

23 A. No, this -- this report is showing that that
24 Favicon was deleted. However, this would not be a user
25 action. Like the user didn't delete something. So it

1 could be an action that was caused by the system. And my
2 opinion is that it was not deleted.

3 Q. And you'd be able to tell if it was user deleted?

4 A. Correct. And -- and -- and my opinion is this
5 was not user deleted.

6 Q. And is it fair to say that you can't testify to
7 who actually did these Google searches?

8 A. That's correct.

9 Q. But these Google searches came from what cell
10 phone?

11 A. It came from the Samsung Galaxy.

12 Q. And does the device report tell you who the owner
13 of the Samsung Galaxy is?

14 A. So there were accounts associated with it.
15 There's a Gmail account, breonteglasgow@gmail.com as well
16 as I think that may be one of the -- the outlook is
17 breglasgow, Microsoft Teams is breglasgow and then again,
18 the Gmail account is breonteglasgow@gmail.

19 Q. I mean, you said that you manually verified that
20 this information was correct, right?

21 A. Correct.

22 Q. And what do you mean by manual verification?

23 A. So if you look at that second column, there's a
24 long path. That path is essentially the database and the
25 tables within that database that the system Cellebrite is

1 saying the data came from. So what I do is I manually
2 extract the database myself and then I manually go through
3 it and look at it in its raw native format and verify that
4 it is the same, that I get the same conclusion, which I
5 did.

6 Q. And when you say all that, do you mean you -- you
7 looked at the -- the numbers on a document to verify, or
8 you picked up the cell phone and opened it and went to her
9 Google history?

10 A. Everything I did was from a forensic image, so
11 not from the actual device.

12 Q. Okay. You also worked with an iPhone in this
13 case, right?

14 A. I did.

15 Q. Okay. I'm going to hand you what's been marked
16 as Court's Exhibit 3. If you can just tell us what that
17 is?

18 A. This is the -- the forensic image from the apple
19 iPhone XS Max.

20 Q. You say it's the forensic?

21 A. It's a forensic image. It is the download, it's
22 the extraction.

23 Q. Okay. And have you viewed that extraction?

24 A. Yes.

25 Q. Has that extraction been altered or changed in

1 any way?

2 A. It has not.

3 Q. And you conducted the extraction of that iPhone,
4 correct?

5 A. I did.

6 Q. And tell us kind of how that went?

7 A. Would you like me to go through the process from
8 the request on?

9 Q. Please.

10 A. Sure. So what happens is in the technical
11 services unit, we get a request from an investigator. We
12 use a system called the help desk. And so the investigator
13 will seize a device, in this case it was an iPhone. They
14 would then place those devices, we have forensic lockers at
15 our headquarters and at a subdivision that keeps those
16 devices powered so that we don't lose any data and
17 additional data didn't get -- doesn't get added to it,
18 right?

19 So those phones are secure in their own power. They
20 then submit a ticket to us letting us know what
21 authorization they have, whether that be a search warrant,
22 a consent, and where the device is at. Upon receiving the
23 -- the request, we pick up the -- the device, we confirm
24 the authorization. This is all done with the chain of
25 custody. We then transport it back to our laboratory where

1 the first thing we do is photograph the device in its
2 current state.

3 We want to document everything before we make any
4 changes by connecting it to the machine. We want to know
5 what kind of state it -- state it's in. We want to make
6 sure that it's isolated from the network. The way we do
7 that is we -- we enable airplane mode. We want to make
8 sure that Bluetooth and Wi-Fi beacons are turned off.

9 Again, we don't want that device to connect to
10 anything else because then new data is getting entered into
11 the device. And then from there we -- I was provided with
12 a passcode for this device. I entered that passcode. It
13 did successfully unlock the device. I then manually went
14 into the settings and changed the timeout, the screen
15 timeout, and then connected to the forensic tool. In this
16 case it was the GrayKey which is a pretty straightforward
17 process of you follow some prompts and it -- and it
18 conducts a -- an extraction of the image.

19 Q. Do you remember who made the request for an
20 extraction?

21 A. Investigator Kelly Smith.

22 Q. And you -- you stated you click; you go pick
23 those iPhones up or any cell phone that you're asked to
24 extract from the evidence locker?

25 A. Correct.

1 Q. And that's what you did in this case?

2 A. That's correct.

3 Q. And then you testified that you then kind of do a
4 physical examination of the cell phone, right?

5 A. That's correct.

6 Q. Anything significant in this case?

7 A. In this device -- in this instance when I removed
8 the protective case off of it, there was a sticky substance
9 on the back between the case and the glass. And again, we
10 notate that because we want to document the stated device
11 any damages to the device when we receive it. And there
12 was a sticky type substance on the back.

13 Q. What did you do about that sticky type
14 substances?

15 A. We documented it and just, you know, wore gloves
16 and -- and extracted it. It didn't affect the way that I
17 was going to conduct my exam.

18 Q. It's not going to affect the contents of the cell
19 phone?

20 A. Not at all.

21 Q. Do you do anything else other than a physical
22 inspection?

23 A. No. Again, we just document the -- the state,
24 like, again, is airplane mode, is it locked? Is it -- we
25 want to document -- we also want to document the encryption

1 state, right? Is it AFU BFU, some technical terms that --
2 those are things that are important to us as far as what
3 type of data or how much access we have. But we do
4 document those things.

5 Q. Was this iPhone in airplane mode?

6 A. It was.

7 Q. Why put a -- a cell phone in airplane mode?

8 A. We want to -- again, we want to prevent any type
9 of remote wipe command. So as a user, you could go to any
10 computer, go to iCloud, log in and go reset my phone. If
11 that device receives that signal, it's going to wipe,
12 right, and we lose access.

13 So we want to cut off all communication from the
14 network. And one way of doing that is by enabling airplane
15 mode.

16 Q. So whoever's Googling, factory reset an iPhone I
17 don't have access to on Breonte's cell phone wouldn't be
18 able to do that, because the phone is on airplane mode?

19 A. That is correct. That is the reason we do that.

20 Q. Is it important to know -- you said it's an
21 iPhone, but like what kind of iPhone?

22 A. Yeah. So we document the hardware and the
23 software, what model of the phone, in this case this was a
24 XS Max was the model. And then the -- the iOS -- iOS
25 version. In this case, I believe it was 15.6 .1. And

1 again, that matters because, again, it's going to tell me
2 when I'm doing my analysis, what version or -- or how I
3 interpret the artifacts. Like, so for instance, if -- if I
4 send a text message and it's outgoing in a database, it
5 doesn't say outgoing, it's -- it's going to be a 1 or a 2
6 or a 3, right?

7 And it -- that changes from version to version. And
8 so I need to know in that version, what does the 1
9 represent. And those are things that I have to know so
10 that I can interpret the data correctly.

11 Q. And how do you feel you rise yourself with that
12 information?

13 A. Constantly train, you constantly test.

14 Q. Do you look it up right before you conduct an
15 extraction?

16 A. Yes.

17 Q. And then after you conducted an extraction, what
18 did you do with the phone?

19 A. So what we do is I -- we use a multitude of -- of
20 tools to analyze the data based off of the -- the request.
21 And in this case, again, I focused and narrowed my analysis
22 initially just on March the 11th, 2023. Again, I'm giving
23 the artifacts, the events that happened on that device
24 during that timeframe.

25 Q. When you were conducting an analysis of -- of the

1 iPhone, just yes or no, did you find anything significant
2 on it?

3 A. Yes.

4 Q. Okay. I am going to hand you what's been
5 pre-marked as State's -- couple things, Exhibit 27, 28 and
6 32. If you can start with 27 and tell us what that is?

7 A. This is a device report. Again, basic
8 information about the device that's produced from the
9 forensic tool and it gives you know, user accounts, IMEI of
10 the device which is like the VIN number for a car that's
11 like what that is for a cell phone, the IMEI, things like
12 that. Just identifiers for the device.

13 Q. Does that report look to be accurate to you?

14 A. Yes.

15 Q. Does it look like it's been changed or altered?

16 A. It does not.

17 Q. What about Exhibit 32?

18 Can you tell us what that is?

19 A. It is a PowerPoint presentation that I put
20 together for this -- from this iPhone, from artifacts from
21 this iPhone.

22 Q. And all that's includes all of the items of
23 significance that you would've found?

24 A. Correct.

25 Q. Do you know if this PowerPoint was -- has been

1 altered in any way?

2 A. No.

3 Q. Anybody edited the PowerPoint other than you?

4 A. Not to my knowledge.

5 Q. And then the last thing I handed you State's

6 Exhibit --

7 A. 28.

8 Q. 28. Can you tell us what that is?

9 A. It is a call log from the iPhone XS Max.

10 Q. And how do you know that it came from that

11 iPhone?

12 A. Just based off the file path and the -- I just --
13 and also just recognize some of these calls from having
14 looked at this numerous of times.

15 Q. And did you verify that that report accurate --
16 accurately reflects the calls from that iPhone?

17 A. Yes.

18 Q. Does the report look to be altered in any way?

19 A. No.

20 MS. BROWDER: Your Honor, at this time the State
21 moves to enter Exhibits 27, 28 and 32 into evidence.

22 THE COURT: All right. Any objections from the
23 defense?

24 MR. FOX: No, Your Honor.

25 THE COURT: All right. Without objections,

1 exhibits 28, excuse me, 27, 28 and 32 are entered.

2 (State's Exhibit 27, 28 and 32 entered into
3 evidence.)

4 BY MS. BROWDER:

5 Q. Okay. While we're getting the -- your PowerPoint
6 teed up, let's talk about the device report. What phone
7 number is associated with that iPhone?

8 A. Actually, in this case, there were two -- there
9 were two telephone numbers. There were was -- so this
10 phone, the iPhone X was the first iPhone where you could
11 have a physical SIM and what's called an eSIM and an
12 embedded SIM.

13 So you could essentially have two telephone numbers on
14 one device. It -- it was common for people who have a work
15 phone and a personal phone and don't want to carry two
16 phones.

17 So the -- the physical SIM card number for this device
18 was [REDACTED]-7579 and the eSIM telephone number was [REDACTED]
19 [REDACTED]-0845.

20 Q. So when you say two SIMs one phone, you know, you
21 used to be able to pop the SIM card out of the side of your
22 cell phone, it's not a card anymore. So where -- where is
23 it stored? How do you switch between?

24 A. So in this case, you could -- there -- there
25 actually was a physical SIM card. And then there's what's

1 called again the embedded SIM. Now with the iPhone 14 and
2 up, the physical SIMs are no more, they're all eSIMs,
3 Electronic Embedded SIMs. So you don't -- you're not going
4 to get a -- a SIM card from your provider. It says put it
5 in your phone, it's just going to get network through your
6 phone.

7 And in this case, again, there was a physical SIM with
8 one telephone number, they could remove that SIM card out
9 and then there was an embedded SIM. And what -- if you're
10 going to make a phone call, you can choose which number you
11 want to make the call, you can literally hit a button and
12 tap, all right, I want to make the call with my work phone.

13 And then if you want to make a personal call, you can
14 choose your personal number to make your personal call.
15 You can go back and forth.

16 Q. And the user can do that?

17 A. That's correct.

18 Q. Can the user use the same eSIM on two different
19 devices?

20 A. Not at the same time.

21 Q. If they want to switch the eSIM from one device
22 to another device, what do you got to do?

23 A. You got to cancel it on one. So you got to call
24 your network provider and tell them that you want to switch
25 the service from one device to the other device.

1 Q. And are you able to tell from your analysis of
2 the iPhone whether or not there was some swap between the
3 SIM and the eSIM in this case?

4 A. Can you ask it again?

5 Q. Were both phone numbers used?

6 A. Most of the for the 11th, most of the
7 information, if not all, was from the number ending in
8 0845, which was the eSIM.

9 Q. Okay. We're going to talk about, let's start
10 with the PowerPoint. So kind of explain to the jury what
11 is on the list.

12 A. Yeah. So what I'm showing here, again, it's just
13 a -- a timeline of events for that date. What I'm showing
14 here is the -- so the far picture on the right is the lock
15 screen wallpaper. So this is, if the phone is locked, this
16 is what would be showing up on the device.

17 The baby picture is if the phone was unlocked, what is
18 showing up as the home screen wallpaper. And those are
19 just stuff that I extracted and I'm just displaying what
20 would look like if you were looking at the phone if I had
21 it in the courtroom.

22 Q. And this is the iPhone that you analyzed?

23 A. That's correct.

24 Q. Okay. So now we're going to kind of get into
25 State's Exhibit 28. And you -- you sort of summarized a

1 lot of this in your PowerPoint. What -- what is this?

2 A. Yeah. So it started at -- and I started at kind
3 of around 01:45:59 a.m. The device using the Facebook
4 account, Melanin Beauty. They make a -- an outgoing
5 Facebook Messenger video call to the participant with
6 Quincy Landrum. That call was answered with duration of 13
7 minutes and 28 seconds.

8 Q. And is this Facebook handle notated on the device
9 report for the iPhone?

10 A. Yes. So the user of this device is using the
11 very top one. So at 02:22:36 a.m. the device locks. The
12 device then at 2:28:50 a.m. it receives an incoming
13 Facebook Messenger video call from participant Queen BKK,
14 I'll spell it B-W-R-K-N. That call again was not answered.

15 Q. And what date are we talking about here?

16 A. This is March 11th, 2023.

17 Q. This is the early morning hours of March 11th?

18 A. That's correct. All right. So at 6:36:17, the
19 device unlocks for the first time since locking at 2:22:36
20 a.m. All right. 6:54:58, the device locks and stays
21 locked until 7:56:45 a.m. All right. At 7:56:49 a.m. the
22 Microsoft Teams application is launched and is in what we
23 call focus.

24 So what that means is you can have multiple
25 applications running at the same time, but the application

1 that's presented to you in your face, like the app that's
2 on your screen is what we call in focus. You could send
3 that app to the background. It would not be in focus, but
4 it would still show active, but that is the app at that
5 time that was in focus.

6 Q. What is Microsoft Teams?

7 A. Microsoft Teams is just like a -- the best way to
8 describe, it's a platform where people can go have Zoom
9 calls and communicate like a -- businesses do that kind of
10 like a Zoom call. There's -- they can cooperate and work
11 on things together at the same time.

12 Q. So it's often used for work purposes,
13 professional purpose?

14 A. Yes.

15 Q. Just going back one slide. So you testified that
16 at 2:28 the device received an incoming Facebook message
17 not answered five minutes before that, six minutes before
18 that the device locks. So is it fair to say that there's
19 no activity between approximately 2:30 in the morning and
20 6:36 in the morning?

21 A. That's correct. There's no user generated
22 activity between those times. So 7:57:25, the device locks
23 again, and it stays locked until 8:15:07 a.m. It then
24 receives -- at 8:02:11 a.m., the device receives an image.

25 It's a group chat. There were multiple participants

1 via the Microsoft Teams application, and image should pop
2 up. It's just a good morning, happy Saturday message that
3 was sent to everybody. At 8:03:38 the device starts
4 receiving messages from the Microsoft Teams application
5 from a user, Fanta Hughes. This one is, hey, send me the
6 list, please.

7 Q. And I'm just going to kind of load a lot these in
8 here.

9 A. So at 8:03:58, Fanta Hughes sends another
10 message. I haven't done it yet, working on it, followed
11 by, I can't get in. And I am locked out. At 8:05:11,
12 what a way to start the morning. And these are all
13 incoming messages from the User Fanta Hughes.

14 Q. Oh, sorry.

15 A. All right. At 8:05:32, there's an incoming
16 Facebook Messenger message from User Vic James that says,
17 just HMU, which I believe to be hit me up, but again, that
18 message was not marked as being read by the user. 8:06:04
19 a.m., the device sends a message to User Fanta Hughes via
20 the Microsoft Teams app that says, OJH, I thought Andre did
21 it. Followed by at 8:06:25, no task your time, I wasn't
22 trying to rush, I thought it was already made and they
23 forgot me.

24 Q. And do you know what any of these are in
25 reference to?

1 A. I think from just reading it that Fanta couldn't
2 get logged in or couldn't get something and she was just
3 trying to help her.

4 Q. Like possibly messages about work.

5 A. It was -- it appeared to be work related for
6 sure. 8:07:15 a.m., there's an incoming call from Fanta
7 Hughes via the Microsoft Teams application. That call was
8 not answered.

9 8:08:04 a.m., the device receives a message from User
10 Fanta Hughes, no, I cannot get in and IT is not answering,
11 can you do it please? 8:08:22, the device receives a
12 message from Fanta Hughes, I am going to reach out to
13 Sydney.

14 Q. Is it fair to say, for the most part, these are
15 all incoming messages and calls?

16 A. A majority of the early ones were incoming.
17 Correct.

18 Q. Okay.

19 A. 8:11:19, there is an outgoing message to User
20 Fanta Hughes via the Microsoft Teams application. It says,
21 "Girl, I'm about to take a shower real quick, followed by,
22 it's okay, it's a slow day anyway," followed by, "Keep
23 calling in."

24 The device then lock -- the device unlocks until 8:24
25 or from 8:15 to 8:07 to 8:24:19.

1 Q. And when you say the device unlocks, does that
2 just mean it's -- could you tell if it was sitting idle or
3 if there was activity during that time?

4 A. So this was actually a case that we had to do
5 some testing on because the device during that period was
6 showing that it was locked and we were trying to figure
7 out, well, if the device was locked, how was the user
8 sending an outgoing text message?

9 And through our testing in various hypothesis, I was
10 able to come up with that the user received the
11 notification. You could hard press on the notification;
12 you could then enter the message. It requires your
13 passcode, which authenticates and allows you to send it in
14 a lock straight, which is what happened in this event.

15 Q. And send a message through what app?

16 A. Through the Microsoft Teams app. So at 8:15:46
17 a.m., the TextMe application is launched and again, is in
18 focus. And then at 8:18:04, the Facebook application is
19 launched and it is now in focus.

20 At 8:24:19, the device locks and stays locked until
21 8:34:22 a.m. Between 8:24:29 and 8:29:53, the device
22 travels approximately 31.92 meters. It's calculated in
23 steps on the device over the course of five minutes and 24
24 seconds.

25 Q. How are you able to tell that the device travels?

1 A. So there's a database helps secure that uses a
2 accelerometer that it basically is a motion sensor that
3 calculates stride and -- and motion and stores it in a
4 database called Health on your iPhones.

5 Q. And I assume it's fair to say that a device is
6 only in motion if a person is also in motion holding the
7 device?

8 A. Generally speaking, yes, but it -- I mean, it
9 could be in your pocket it -- but again, we've tested this
10 and we've seen it can be in a vehicle and you can have an
11 incline and the device will show steps. 8:24:22 a.m., the
12 device unlocks until 8:41:59.

13 At 8:34:50 a.m., the Facebook Messenger application is
14 launched and it is now in focus and stays in focus until
15 8:41:39. At 8:35:59., the device user attempts an outgoing
16 Facebook Messenger audio call to User Queen BKK, last name
17 B-W-R-K-N, which is not answered by that user.

18 At 8:36:57 a.m., the device receives a message from
19 User Andre Pulley via the Microsoft Teams application that
20 says, who is here besides Fanta and Bre? 8:40:33., the
21 device receives a message from, excuse me, User Andre
22 Pulley via the Microsoft Teams app and the message says, in
23 case anyone comes in later to work happy, call this 03112x
24 or 23.excelx.

25 And that is a link to an Excel spreadsheet. At

1 8:41:59, the device locks until 8:53:49. At 8:46:57, the
2 device sends a message to User Fanta Hughes via the
3 Microsoft Teams app, no soup.

4 8:48:54, there is an incoming Facebook Messenger audio
5 call from user Queen B-K-K, B-W-R-K-N, which is answered,
6 and it has a duration of 10 minutes and eight seconds.
7 Okay. At 8:53:49, the device unlocks and stays unlocked
8 until 9:09:32.

9 At 8:55:19, the device sends two photos via the
10 Facebook Messenger application to User Queen B-K-K,
11 B-W-R-K-N. That is one photo and there should be one more.
12 Those two photos are sent.

13 Q. And these are screenshots?

14 A. Those are screenshots that were captured from the
15 iPhone. Okay. 8:59:03, the Facebook Messenger audio call
16 with user Queen B-K-K, B-W-R-K-N ends. And then at
17 9:07:41, the TextMe application is launched and is now in
18 focus.

19 From 9:09:15 a.m., to 9:18:18 the device travels
20 approximately 47.34 meters, approximately 67 steps over the
21 course of nine minutes and three seconds. The device then
22 locks at 9:09:32 until 9:26:17. And then at 9:26:17 it
23 unlocks and stays unlocked until 10:13:12 a.m.

24 Q. And do you know what was happening on the device
25 between this time?

1 A. There wasn't a ton of user activity during --
2 that I recorded. At 9:2:33 a.m., there is an incoming
3 Facebook Messenger message from User Kamara Sumter
4 (phonetic), which says, a damn girl with a laughing face
5 emoji. At 9:30:13 a.m., the device using the telephone
6 number associated with the TextMe app, which is a number
7 that you can assign yourself. You can choose a number
8 within the application.

9 The number that was assigned to this TextMe app was [REDACTED]
10 [REDACTED]-5895. It makes an outgoing TextMe audio call to
11 area code or one area code [REDACTED]-8141 for a duration
12 of 20 minutes and 19 seconds. That call ends at 9:50:32
13 a.m.

14 Q. Why would somebody use a TextMe number if they
15 have a --

16 A. I mean, I -- I don't know the reason why they
17 would use it. It's just a voice over Internet protocol.
18 It's just an app you can download and -- most of those apps
19 are free to send text messages. A lot of them, and I
20 believe TextMe requires a premium service to actually make
21 phone calls.

22 So it's the way you can use -- you can either use your
23 network service your data, or you can use -- use Wi-Fi and
24 send phone calls or messages.

25 Q. And then 9:34?

1 A. 9:34, an outgoing Facebook Messenger message to
2 User Kamara Sumter, which says, yes, even though I know you
3 wanted another boy with a laughing emoji. At 10:00:07
4 a.m., incoming Facebook Messenger video call from Erling
5 Glasgow. That is unanswered.

6 Q. And do you have any knowledge of who Erling
7 Glasgow is?

8 A. Just from my understanding, I believe it's her
9 grandmother. At 10:08:09 a.m., there is an outgoing
10 Facebook Messenger video call to Erling Glasgow that is
11 unanswered. At 10:08:50 a.m., there is an outgoing audio
12 call to [REDACTED]-5251. The contact name was Jay Johnson.

13 That lasted for seven seconds. On an outgoing call on
14 audio calls, I'm not able to tell you that that device --
15 that that call was answered, or if it was forwarded to
16 voicemail, I can only tell you that they had duration.

17 So it could be either one, but it lasts for seven
18 seconds. At 10:12:59 a.m., there is an incoming audio call
19 from [REDACTED]-5251, contact Jay Johnson for duration of
20 16 minutes and 28 seconds. That one was answered. At
21 10:13:12 a.m., the device locks until 10:21:03 a.m.

22 Q. Now you said that this call at 10:12:59 a.m., was
23 answered and the call was a duration of 16 minutes and 28
24 seconds, but then the device locks a minute later?

25 A. Correct.

1 Q. Can you stay on a phone call even though your
2 device is locked?

3 A. You absolutely can. From 10:17:01 a.m. to
4 10:17:08, the device travels approximately 7.57 meters. 11
5 steps over the course of that seven seconds. From 10:21:03
6 a.m., the device unlocks until 10:45:59. At 10:29:54 there
7 is an incoming audio call from [REDACTED]-5234. Destiny
8 Pearson was the contact name. That is unanswered.

9 And then at 10:30:06 a.m., there is an incoming --
10 iMessage from [REDACTED]-5234. Destiny Pearson, which
11 says, hey Bre, I can come today. That was also marked as
12 not being read, like the user did not read that message.
13 Oh, until 10:36:49. Excuse me.

14 Q. Do you know if this message was eventually
15 responded to?

16 A. It -- it was at least read at 10:36:49. 10:30:44
17 a.m., there's an incoming call from [REDACTED]-5251 Jay
18 Johnson for a duration of four minutes and nine seconds.
19 At 10:37:05, between 10:37:05 and 10:38:48, the application
20 EBT Edge is launched and is in focus. 10:45:59 a.m., the
21 device locks and stays locked until 10:57:51 a.m.

22 It then unlocks and stays unlocked until 11:44:35 a.m.
23 at 10:57:51. At 10:57:59 a.m., the device sends an Apple
24 iMessage to [REDACTED]-5234.

25 Destiny Pearson, which says, yes. That is a response

1 to the earlier message when she asked if she could come --
2 come over.

3 Q. Can you tell if there was any -- a lot of
4 activity between 2:57 and 11:44?

5 A. Again, not a lot of noteworthy user activity that
6 I can find. 11:04:28 a.m., the device sends a Facebook
7 Messenger message to user Whitney Hollands LE which says,
8 hey, the girl you posted with the bags, do you know her?
9 Don't want to get scammed.

10 From 11:04:31 a.m. to 11:34:09, the Facebook
11 application is in focus, is the application being looked
12 at. 11:26:35 a.m., the device receives a Facebook
13 Messenger video call from User Erling Glasgow, which was
14 unanswered.

15 At 11:26:54 a.m., the device receives a Facebook
16 Messenger message from User Whitney Hollands LE, which
17 says, hey, yes I do, she's definitely no scammer. And
18 again, that was notated in the database as not being read
19 by the user.

20 All right. We have a couple of missed calls. The
21 first one is an incoming call at 11:27:53. That is from
22 contact Erling Glasgow. Again, that is unanswered. And
23 then at 11:28:19, the device receives an incoming 13 second
24 voicemail from Erling Glasgow.

25 There's another call that is missed at 11:28:58 also

1 from Erling Glasgow, which was unanswered. The device then
2 receives a second -- seven second voicemail audio message
3 from this contact at 11:29:17.

4 Q. Again from Erling Glasgow?

5 A. Correct. So from 11:34:18 until 11:37:34, the
6 device travels approximately 19.92 meters, approximately 28
7 steps over the course of three minutes and 16 seconds. At
8 11:35:23 a.m., the native phone application is moved into
9 focus.

10 So the -- the user clicked on the phone icon on the
11 iPhone and is now the -- the application that's in front of
12 the user. At 11:35:32, the device makes an outgoing call
13 to [REDACTED]-1044.

14 That call has a duration of 24 seconds. Again, I
15 can't tell you if that call was answered or forward to
16 voicemail.

17 Q. Do you know what the native phone application is?

18 A. It is just a green phone icon on your phone.

19 Q. You don't know what it does or a person --

20 A. It makes phone calls, makes regular phone calls,
21 audio calls, but it can also -- you can use it to launch
22 like FaceTime. So right after that phone call at 11:38:12
23 a.m., 911 is called from this device with a duration of six
24 minutes and 21 seconds. I know this call was answered
25 because I've heard the recording.

1 Most -- again, most outgoing calls, I can't tell you
2 that, but in this case I can tell you what it was. At
3 11:38:21 the device battery is at 42 percent. At 11:43:24
4 the device receives a five second voicemail from contact
5 Erling Glasgow and then followed by that there is a system
6 message what it -- which is trying to transcribe the
7 voicemail and it was unable to do that, but that's produced
8 by the system and it was sent via text message to this
9 device at 11:44:05. All right.

10 So from 11:44:35, the device locks and stays locked
11 until 11:47:46 a.m. At 11:44:58 a.m., there's an incoming
12 Facebook Messenger video call from User Erling Glasgow
13 which had duration of 32 seconds, it was answered. At
14 11:47:56 the device unlocks and stays unlocked until
15 11:52:29.

16 11:48:07 a.m., there's an outgoing Facebook Messenger
17 video call to user Queen BKK, last name B-W-R-K-N, which is
18 unanswered. 11:48:20, there is an outgoing audio call to
19 area code [REDACTED]-1044 with duration of 12 seconds.

20 Again, unknown if this call was answered or forwarded
21 to voicemail. At 11:50:02 the device sends an outgoing
22 message via the Microsoft Teams application to User Sydney
23 Waters that says, EMS is here.

24 At 11:50:41 there is an outgoing audio call to Sydney
25 Waters via the Microsoft Teams application that is not

1 answered. At 11:51:06 a.m., there is another outgoing
2 audio call to Sophia. I will spell the last name
3 I-N-K-L-I-Z-I-A-N via the Microsoft Teams application.
4 That is also unanswered.

5 There is then an incoming call from that same user,
6 Sophia, last name I-N-K-L-I-Z-I-A-N that is unanswered at
7 11:51:28 a.m. 11:51:47 a.m., there is an outgoing audio
8 call to Sophia, last name I-N-K-L-I-Z-I-A-N via the
9 Microsoft Teams application that is unanswered.

10 At 11:52 there is an incoming audio call from Sophia
11 as well via the Microsoft Teams application that is -- that
12 is answered with a duration of 23 seconds. The device
13 locks at 11:52:29 and stays locked until 11:53:40.

14 At 11:53:05, the device receives an incoming group
15 message via the Microsoft Teams application from User
16 Sophia, last name I-N-K-L-I-Z-I-A-N that says, Bre had to
17 clock out for the day. 11:53:40 a.m., the device unlocks
18 and stays unlocked until 12:15:46 p.m.

19 From 11:55:02 a.m. until 12:03:57 p.m., the device
20 travels approximately 134.48 meters over the course of
21 eight minutes and 55 seconds.

22 At 11:55:15 a.m., there is an outgoing audio call to
23 [REDACTED]-5251 that is unanswered followed by an outgoing
24 Facebook Messenger audio call to User Rhonda Weston at
25 11:57:19 a.m., that is also unanswered.

1 At 11:58:07 there's an outgoing call to contact Josie
2 area code [REDACTED]-5389 that is also unanswered.

3 11:58:35 a.m., there is an incoming call from [REDACTED]
4 [REDACTED]-5389. Contact Josie for a duration of six seconds.
5 11:59:43 there is an incoming Facebook audio call from User
6 Wanda Weston, which was answered with a duration of two
7 minutes.

8 At 12:13 seconds p.m., the device's battery is at 37
9 percent. 12:13 p.m., there's an outgoing Facebook
10 Messenger video call to user Erling Glasgow for a duration
11 of three minutes and nine seconds. 12:16:35 p.m., the
12 device receives a Facebook Messenger message from User Best
13 mama, L-O-V-I-N-G, K-A-N-A-R-I-A-H.

14 It says, hey, the baby is all right? 12:20:17 p.m.,
15 incoming call from area code [REDACTED]-7981. God mama was
16 the last updated contact name, which was answered with a
17 duration of 32 seconds. At 12:20:52 p.m., the device's
18 battery is now at 31 percent.

19 It is going down. 12:43:17 p.m., there's an outgoing
20 call to Erling Glasgow, which is not answered. 12:43:30
21 p.m., there is an outgoing call to Erling Glasgow, which
22 was not answered. 12:45:23 p.m., the device locks and
23 stays locked until 1:22:34. At 12:46:33 there's an
24 incoming iMessage from [REDACTED]-5234 that says, I can
25 come in an hour, is that fine? At 1:22:25 p.m., there's an

1 incoming TextMe call from [REDACTED]-8141 that is
2 unanswered.

3 And then at 1:23:08 p.m., there is an unsent SMS
4 message in the draft folder of the iPhone. So it's just
5 sitting there. It hasn't been sent to area code [REDACTED]
6 [REDACTED]-7420 that says, died.

7 Q. Is the iMessage received at 12:6:33 p.m. ever
8 responded to that you can recall?

9 A. I don't have any knowledge that it is.

10 Q. And you don't have any knowledge as to whose
11 phone number this is?

12 A. I don't. So this is showing just the powering
13 events. I showed that the device powers off at 4:59:35.
14 This is again, most likely due to the battery dying. As I
15 could show from the raw percentage that the battery was
16 less than a percent, it was like 0.7 percent.

17 Then there is a powering on event approximately six
18 minutes later and I can show that the device is now
19 connected to power.

20 Q. So to your knowledge, that phone wasn't going to
21 die until plus 5:00?

22 A. That phone did not die until 5:00.

23 Q. Okay. Moving on. We're going to talk about some
24 pictures that were found or a picture that was found on the
25 phone. You did include this in your PowerPoint, so if you

1 could just kind of describe what this slide is showing.

2 A. So what I -- what I'm showing here is just what
3 -- in an iPhone you have the option to take what's called a
4 live photo. It is a feature that you have to turn on, you
5 can toggle it on or off. And essentially what it does is
6 it creates a motion photo.

7 So one -- one and approximately one and a half seconds
8 before you hit the button and a one and a half seconds
9 afterwards. So if you don't like a photo, you can hard
10 press on it and it will play about a three second video
11 clip that you can take images from. It's called a live
12 photo. But what that does is it saves multiple versions of
13 that photo on your device. It saves it as an image. It
14 also saves it as a moving file.

15 And then it also saves it as a thumbnail, which is how
16 you're able to find it in your photo album on your phone.
17 So essentially you get three versions of that from one
18 capture of a live photo.

19 Q. Mr. Johnson, I'm handing you what's been
20 pre-marked -- I beg Court's indulgence. It's marked, I
21 apologize. This is pre-marked as State's Exhibit 29. And
22 if you could just take a look at that and if you could
23 describe what it is.

24 A. So this is the -- is an image which was the
25 thumbnail version of this live, one of the many live photos

1 on the device. And then the associated metadata which
2 includes -- metadata is just data about data, right? It
3 tells me what took the device.

4 If you think about it, like an old -- old school photo
5 that your mom may take with the Polaroid when they were
6 right on the back when it was taken. That's what metadata
7 is. It tells me things about that photo. So that's
8 essentially what this paper is doing is telling me facts
9 about this photo.

10 Q. And is that date of that report accurate?

11 A. It is.

12 Q. Have you verified that?

13 A. I verify it with multiple tools. So we never use
14 one tool. This is verified in several tools.

15 Q. And the photo that's associated with that, does
16 that look like an accurate reflection of the photo you
17 found on the iPhone?

18 A. It does.

19 Q. Does it look to be either -- the photo or the
20 report altered at all?

21 A. It does not.

22 MS. BROWDER: Your Honor, at this time the State
23 moves to enter Exhibit 29 into evidence as State's
24 Exhibit 29.

25 THE COURT: Any objection?

1 MR. FOX: No, Your Honor.

2 THE COURT: All right. Without objection.

3 (State's Exhibit 29 entered into evidence)

4 MS. BROWDER: Permission to publish?

5 THE COURT: Yes, ma'am.

6 BY MS. BROWDER:

7 Q. All right. Mr. Johnson, tell us what we're
8 looking at?

9 A. So again, this is -- I just want to get the right
10 file. This is, again, one of several live photos that were
11 taken sort of back-to-back to back and 3097, spare me one
12 second, please. All right.

13 So what I can tell from this -- from the metadata on
14 this live photo is that it was captured on March the 10th
15 of 2023 while at [REDACTED] Universal Drive in Columbia, South
16 Carolina 29209.

17 Q. And can you tell what device it was taken?

18 A. It was taken with this device, this iPhone XS
19 Max.

20 Q. Do you know if this photo was sent to anybody?

21 A. No, I had no records that it was sent to anybody.

22 Q. Where on the iPhone was the photo found?

23 A. This was found in -- so for the user it would be
24 in your photo album, like the photo, the natural photo
25 album for me on the forensic side, it's in a folder called

1 the DCIM, which stands for Digital Camera Images. So
2 typically what we say is photos only get in this folder if
3 the user made it happen. Either they created it or they
4 saved it. It's the only way photos get there.

5 Q. And did the photo look to be deleted or changed
6 in any way by the user?

7 A. No.

8 Q. Do you have any knowledge of who's in the photo?

9 A. Again, just from the information I was given that
10 the decedent was the child on the far right.

11 Q. Okay. I'm going to show you what's been now
12 pre-marked State's Exhibit 30. Take a look at that. I can
13 leave some of this. What is that?

14 A. This is a video that was created by this device
15 on February the 14th, 2022. And again, this is the form
16 that has all the metadata attached to that video.

17 Q. Have you watched this video?

18 A. Yes.

19 Q. Is -- well, first is the -- the data and the
20 report accurate?

21 A. Yes.

22 Q. Does that look to be changed or messed with?

23 A. No.

24 Q. What about the video? You watched it; did it
25 look to be altered in any way?

1 A. No.

2 Q. You verified the video that did come from this
3 iPhone?

4 A. That was verified. Yes.

5 MS. BROWDER: Okay. Your Honor, at this time the
6 State moves to enter Exhibit 30 into evidence as
7 State's Exhibit 30.

8 THE COURT: All right. Any objection?

9 MR. FOX: No objection, Your Honor.

10 THE COURT: All right. Without objection.

11 MS. BROWDER: Permission to publish, Your Honor.

12 (State's Exhibit 30 entered into evidence)

13 THE COURT: All right.

14 BY MS. BROWDER:

15 Q. If you can tell the jury what kind of shoes are
16 those?

17 A. Those appear to be Crocs, like pink Crocs.

18 Q. And I'm sorry, I -- I might have missed it, but
19 did you -- this video was created by this iPhone?

20 A. That's correct.

21 Q. Where on the iPhone did you find the video?

22 A. I also found this in the DCIM, again, the digital
23 camera images folder, which would only be there if the user
24 -- was a user generated action.

25 Q. And did it appear to be deleted or messed with by

1 the user at all?

2 A. It was not.

3 Q. Okay. I'm -- now I'm going to hand you what's
4 been pre-marked State's Exhibit 31. If you can just look
5 at that and tell us what it is?

6 A. This is also a video that was also created by
7 this device. It was created -- trying to make sure I get
8 the time right here, because this is in UTC. It was
9 created on the 8th of January, 2023, again, by this device.

10 And it was also found in the -- originally in the DCIM
11 folder. It was moved out of that folder, but originally it
12 was in the DCIM folder.

13 Q. What's the DCIM folder?

14 A. Digital Camera Images. And -- and essentially
15 for again, for a user, if you open your phone and you go to
16 photos, it's that application. When you open that app,
17 that's what you see as a user. When I look at it from
18 forensics apps and folders structure. And the folder is
19 stuff called photos, it's called DCIM.

20 Q. Have you watched that video in full?

21 A. I have.

22 Q. Is the report associated with the video to be
23 accurate?

24 A. Yes.

25 Q. Is the video I handed you an accurate reflection

1 of the video you found on the iPhone?

2 A. It appears so, yes.

3 Q. Did it look to be changed or messed with in any
4 way?

5 A. Are you asking from -- from the forensic
6 standpoint of this?

7 Q. From the forensic standpoint.

8 A. Well, it was marked for deletion. I could tell
9 that the user, it was created in January, however, on March
10 the 11th, the evening of March the 11th that video was
11 marked for deletion by the user. When you in that version
12 of iOS, when you delete a photo or a video, those get put
13 into a folder called recently deleted. The user then has
14 30 days. If the user doesn't do anything to that video in
15 30 days, it will be permanently deleted after 30 days.

16 However, you have the 30 days to go in and restore
17 that photo. So once I was able to look at the forensic
18 image, that photo was not in the DCIM anymore. It was now
19 residing in the recently deleted folder.

20 Q. And you verified on the cell phone itself so that
21 it -- that it was in the deleted folder?

22 A. Correct. So what I do in a lot of cases, if we
23 either find settings or find things like this, we conduct a
24 forensic portion of it and then we do what's called a
25 post-acquisition exam. So, right. So I know from a

1 forensic standpoint, that folder is in the recently deleted
2 photo album.

3 I then went into the actual phone and photographed it,
4 still sitting in the recently deleted photo. I mean, at
5 that time it had 27 days left which that was the third day
6 since I've had it. So it was 30 days once it was put in
7 there.

8 Q. Approximately how long is this video in total?

9 A. It's a little over 18 minutes in length.

10 MS. BROWDER: Okay. Your Honor, at this time the
11 State moves to enter Exhibit 31 into evidence as
12 State's Exhibit 31.

13 THE COURT: All right.

14 MR. FOX: I have previous objections, Your Honor.

15 THE COURT: Yes, sir. Your objection is noted.
16 I made my ruling earlier that I will allow this into
17 evidence.

18 (State's Exhibit 31 entered into evidence.)

19 BY MS. BROWDER:

20 Q. I -- really quickly before we play that video,
21 could you tell whether or not the video had been sent to
22 anybody?

23 A. I had no record that it was sent to anyone.

24 MS. BROWDER: Permission to publish the video,
25 Your Honor.

1 THE COURT: Yes, ma'am.

2 (Video played)

3 BY MS. BROWDER:

4 Q. You said that video is about 18 minutes in
5 length?

6 A. Yes.

7 Q. Have you watched the entire thing?

8 A. Yes.

9 Q. You heard some of the defendant's statements in
10 the first five minutes. Did she continue to talk
11 throughout the rest of that video?

12 A. She did.

13 Q. I'm going to ask you to tell the jury what she
14 said.

15 A. At the five minute and two seconds mark, "He
16 rolled his eyes at the camera. He was scratching up his
17 face. I had to put mittens on him. 5:18 and then look at
18 this. Now he want to be quiet. Everybody else get the tub
19 and act civilized. He can't take a bath in peace. He
20 can't drink his bottle in peace. He can't sleep in peace.
21 This N-I-G-G-A whines in his sleep. He doesn't look like
22 he scratched his fucking eyeball. This shit is beyond me.

23 Just look at his down face. This shit is crazy.

24 These one is, won't even get this time to heal up before he
25 doing some other shit. Boy hush, don't you start. Now he

1 want to start crying. He don't even know what he's crying
2 for, just crying.

3 I get this, who can cry the loudest at this point?
4 The camera wasn't on him, so he's mad. Which one of y'all
5 going to cry the loudest? He don't even know what he's
6 crying for. He's just crying. The camera ain't on him.

7 He don't -- he need attention. He's crying because
8 he's crying. Look, he don't even know what the -- what to
9 whine for. **Infant Three**, what you crying for? What you
10 whining for? Because you definitely ain't crying. You're
11 just making damn noise. That's sad. You just want to
12 make. Just started crying out of the blue just because
13 he's crying. He ain't even crying, he whining. That's so
14 sad.

15 Look at him, he's trying to look to see if I'm
16 looking. Yeah, I see you. I see you. Yeah. Look, he
17 trying to see this is so fake. Like what in the world type
18 of triplet little thing y'all got going on?

19 Now, here she goes. Now over here he go, now a tear
20 coming down his face. Why your mouth open so wide over
21 there and not much coming out? And why your mouth always
22 open with too much always coming out? Boy, you sound slow.
23 That's why y'all don't get together right there -- right
24 there. You just going to sit there and cry?

25 Okay. Cool. Now he about to start crying, watch. He

1 going to start crying in a minute. You are just going to
2 sit there with your mouth wide open whining.

3 Hush. Look, he stopped and then started. Hush.
4 Everybody hush. He like, is she still listening? Is she
5 still looking? Now, he about to turn up is a giggle.
6 Y'all funny.

7 Just want to whine, that's sad. Ain't calmed down
8 yet, 15 minutes straight. How'd the rest of the day go.
9 Now which -- how y'all know whine for 15 minutes straight
10 without hushing?

11 He tired now; he will start back in a minute. Boy, if
12 you know how you look with your mouth wide open like that,
13 you really wouldn't do it. You really wouldn't. Don't
14 even know what to cry for.

15 Don't even know if you want to cry or not. You just
16 want to make some damn noise. Not at -- near a tear done
17 came down yet. That's water -- that's water right there
18 that's been sitting in for the longest.

19 Not near a tear. This is sad. Yeah, I still see you
20 bro still. Almost 20 minutes straight of this same shit.
21 I'll be back when he get the bottle to show y'all what he
22 do."

23 MS. BROWDER: I have no further questions, Your
24 Honor.

25 THE COURT: All right. You're' set Mr. Fox for

1 cross-examination?

2 MR. FOX: Yes, sir.

3 THE COURT: All right.

4 CROSS-EXAMINATION

5 BY MR. FOX:

6 Q. Mr. Johnson?

7 A. Yes, sir.

8 Q. You said the video is seen as marked for deletion
9 on the 11th?

10 A. Yes, sir. I can give you the exact time if I can
11 refer to my report.

12 Q. You can give me in the evening of the 11th,
13 right?

14 A. Yes, sir. That that's correct. Yes, sir. On
15 the 11th.

16 Q. And if -- you know, you seem to have some -- I
17 recognize you're not the investigating officer, but you
18 seem to have obtained some information. You testified
19 about identifying children in different things. You're
20 aware the EPC, the Emergency Protective Custody hearing was
21 on March the 14th?

22 A. Very vaguely. I don't know the details of it,
23 but I know that there was -- there was one.

24 Q. Okay. So there was one. Does that sound right,
25 March the 14th, from your knowledge?

1 A. I'll trust that you're saying that's correct.

2 Yeah, I'm not sure.

3 Q. I understand. I'm not sure. It's fine. I'm not
4 trying to trick you. And the Google searches that you
5 testified to earlier on, those were done in the evening of
6 March 13th and early morning of March the 14th, correct?

7 A. There were also some that were done -- variations
8 of that were done on the 12th, but yes, most of them were
9 on the 13th and on the 14th.

10 Q. So prior to the -- the DSS hearing in family
11 court about whether DSS would continue to have custody of
12 her other three children?

13 A. Sure.

14 Q. Prior to that, correct?

15 A. Yes. If that's when it happened, yes, it would
16 be prior to that.

17 Q. Now photograph you've shown of, or taken on
18 March, 10th of -- looks like the three boys, those are seen
19 clearly being the three triplets?

20 A. Yes, sir.

21 Q. Okay. And you can very clearly see, you can
22 think back, you can look, I think you have the -- the
23 printed copy yourself?

24 A. Yes, sir.

25 Q. You can clearly see the child on the left side.

1 I think he's face down or on his stomach, his head up a
2 little bit. He clearly has something on one of his hands,
3 does he not? A mitten, a glove, a little something?

4 A. Yes.

5 Q. Okay. And throughout the video we just heard,
6 you can hear the person taking the video repeatedly say,
7 scratches, scratches himself, I have to put mittens on him.
8 Things of that nature, correct? Several times,?

9 A. Yes, I do hear that.

10 Q. Okay. And that's confirmed by the photograph you
11 have from the day before?

12 A. Correct.

13 Q. Okay. She also said at one point -- the person
14 taking the video also says at one point, I'm filming
15 paraphrasing here, I'm filming this so that I can show the
16 doctor.

17 A. I'm not sure if I remember to show somebody,
18 there was a mention of showing this to someone. Yes.

19 Q. Okay. I had to put gloves on his hands, new
20 scratches, I had to put mittens on him, things like that?

21 A. Yes.

22 Q. Okay. When you analyze a phone, it can tell you
23 the what, it can't tell you the who was with the camera?

24 A. Generally speaking, that's correct.

25 Q. Okay. And so you can -- and you've testified who

1 the phone, the user, and the different accounts were
2 registered to. Did you analyze two different phones?

3 A. Yes.

4 Q. Taken as far as you know, from the same source
5 being Ms. Glasgow?

6 A. That's correct.

7 Q. Okay. But you don't have any knowledge about how
8 those phones are utilized in terms of her everyday life?

9 A. Correct. Only -- only from what the -- the data
10 is presented to me. That's all I know.

11 Q. Okay. And it appears that one of them, there
12 certainly seems to be messages traffic, phone calls back
13 and forth, the use of the Teams app that indicates it may
14 have been a work phone?

15 A. Correct.

16 Q. Okay.

17 A. That was my understanding that it was a work
18 phone.

19 Q. Okay. And they are in fact consistent with what
20 -- were you here when -- when EMS and first responders
21 testified this morning?

22 A. No, sir.

23 Q. Okay. But there was phone activity and traffic
24 around, you can say from your analysis that that was at --
25 it was 11:38 in the morning and some odd seconds, but

1 that's when the call to 911 was?

2 A. 11:38:12 was 911.

3 Q. Right. Memory, and you know -- and you know that
4 because you've heard the 911 call yourself, you know, that
5 was an answered call?

6 A. Yes, sir.

7 Q. Right. And you can certainly see phone activity
8 back and forth around that time. A lot of it unanswered, a
9 lot of it not responded to, correct?

10 A. Correct.

11 Q. Okay. And did you extract any other photographs
12 off of that phone?

13 A. I did.

14 Q. Okay. In fact, there are other photographs on
15 that phone that showed just like the ones on the XS.

16 MS. BROWDER: Objection.

17 MR. FOX: I'm asking him something he would know
18 from his own knowledge. If he doesn't know, he can
19 say he doesn't know.

20 MS. BROWDER: Those -- those evidences haven't
21 been admitted into evidence yet.

22 THE COURT: Okay. Well, I'll overrule the
23 objection, if you ask him a question, if he knows he
24 knows, if he doesn't he doesn't.

25 BY MR. FOX:

1 Q. Do you have a recollection of those other
2 photographs at all?

3 A. Yes.

4 Q. Okay. Do you recall from seeing them whether --
5 and others -- there are other in -- and those were on --
6 there was some from March 3rd, January 7th, January 25th,
7 February 6th. Does that sound correct?

8 A. There were -- there were various photos with
9 various dates. I do remember that.

10 Q. And there were multiple photos that showed and
11 they were of -- specifically these were photographs of Ms.
12 Glasgow's children, correct?

13 A. Correct.

14 Q. Okay. And in more than one of those photos, just
15 like the one on the 10th, there are pictures with one or
16 more of the children with mittens on their hands. Do you
17 recall that?

18 A. I do remember mittens. I don't remember
19 specifically which photo it came from, but I do remember
20 seeing a photo with mittens on one of the children's hands.
21 Yes.

22 Q. And more than one, more than just that one that's
23 in your PowerPoint, there were others that showed that,
24 correct?

25 A. That is very possible. I don't -- I -- I can't

1 think of one right off, but that is possible.

2 Q. Okay. As well as ones with what appear like
3 really super long sleeves. So down I go onesie and even
4 like the sleeves extending out beyond what would be normal,
5 beyond the hand and wrist. Do you recall that?

6 A. I don't recall that.

7 Q. Okay. Okay. You noted it's in your PowerPoint.
8 The -- and you're talking about the beginning, the activity
9 when the phone on the 11th, 11th of March, which is the
10 subject of pretty much most of that PowerPoint, right?
11 That activity really from almost midnight on through until
12 it powers off around 5:00 p.m.?

13 A. That's correct, yes.

14 Q. Okay. And that's all on March the 11th?

15 A. Yes.

16 Q. And we know what day of the week March 11th was
17 now, don't we, in 2023?

18 A. I'm not sure that I do.

19 Q. It was in your PowerPoint. It was --

20 A. A Saturday. It was a Saturday.

21 Q. It was a Saturday.

22 A. It was a Saturday. You're right.

23 Q. Do you have any idea who Queen B-K-K, B-W-K-R-N
24 is? Do you know who that is?

25 A. I don't.

1 Q. Okay. And you didn't get -- you say there wasn't
2 a ton of activity, you testified or at least a lot -- not a
3 lot of noteworthy activity at different times. You said
4 that thing a couple of different times.

5 A. Sure.

6 Q. Who told you what to include or not include in
7 the PowerPoint?

8 A. So I'm going to tell you what the data is. So
9 what I mean by that is there's nothing user generated. So
10 if there would've been any type of things that the user was
11 doing or if there was any notifications that were coming
12 in, like you -- you're always going to have like the cell
13 phones are dynamic.

14 There's always a running clock, there's always logs
15 that are running in the background, but those are not
16 important here, right?

17 There's nothing that were -- it's coming into the user
18 or things like that. My job is to give you an unbiased
19 opinion of what was happening on the device. And that's
20 what I did.

21 Q. Okay. But 11:38 that morning, there was a
22 six-minute call on 911?

23 A. Yes.

24 Q. 11:50 through Teams. So that will be,
25 realistically thinking, the work app, EMS is here, correct?

1 A. You said it was what time?

2 Q. 11:50.

3 A. 11:50:02 there is a -- there is an outgoing
4 message that says, EMS is here.

5 Q. And there were calls just shortly after that,
6 11:51 and not -- around that time, just after the 11:50 text
7 --

8 A. Yes.

9 Q. -- or message to Sophia, I-N-K-L-I-Z-I-A-N back
10 and forth? There's several both ways, correct?

11 A. That's correct.

12 Q. Okay. And then the message that said, died, that
13 was an unsent message?

14 A. Yes.

15 MR. FOX: Thank you. That's all my questions.

16 THE COURT: Any redirect?

17 MS. BROWDER: Just a few, Your Honor.

18 THE COURT: Yes, ma'am.

19 REDIRECT EXAMINATION

20 BY MS. BROWDER:

21 Q. Mr. Johnson, you testified under examination that
22 the person in the video in Exhibit 30, which is the first
23 video, that person was wearing pink crocs. In Exhibit 31,
24 in that video, what was the narrator wearing on their feet?

25 A. Appeared to be pink crocs.

1 MS. BROWDER: Nothing further.

2 THE COURT: All right. Thank you, sir. You may
3 step down and you are excused.

4 THE WITNESS: Thank you, Your Honor.

5 MR. FOX: Your Honor, may I re-cross on my last
6 question? That last question.

7 THE COURT: All right.

8 RECROSS EXAMINATION

9 BY MR. FOX:

10 Q. Just you -- what were the dates on the -- the --
11 the one with the kind of panning the body? When was that
12 one taken?

13 A. Give me one second just to look back please.

14 Q. Yes, sir.

15 A. I beg the Court's indulgence. So that video, the
16 first one, which shows the person's face and the pink cross
17 was created July 14th, 2022.

18 Q. And then video that was played here was in
19 January, 2023?

20 A. That's correct.

21 Q. So about five or six months apart?

22 A. Yes.

23 MR. FOX: All right. Thank you. That's all.

24 THE COURT: All right. Thank you, sir. You may
25 step down and you are excused.

1 (Witness released.)

2 THE COURT: All right. Ladies and gentlemen that
3 will be -- that will conclude today. We have some
4 additional witnesses. Tomorrow we're actually making
5 some good time. So we -- we're able to finish up
6 about 30 minutes early today. Tomorrow, if you will
7 please be here, we plan to start at 10:00. So you can
8 come a little bit later than today.

9 We've had a couple things to take care of in the
10 morning, but we'll be ready to go at 10:00 in the
11 morning. If you'll please remember, don't discuss the
12 case with anybody at home or with each other.

13 Please don't seek out or review any media notes
14 or information about the case. And lastly again,
15 please keep an open mind as to all issues in the case
16 until I've charged you on the law and sent you back to
17 begin deliberations. Thank y'all very much and have a
18 good evening.

19 (The jury exits the courtroom.)

20 THE COURT: All right. Just for the record, the
21 jury is out of the courtroom now. And so we will --
22 and that be we hold up for just a second just for the
23 record.

24 The State didn't have another witness, obviously,
25 certainly one we could finish today. And tomorrow at

1 9:00 we are going to be here, out of the presence of
2 the jury, some limited testimony from two of the
3 doctors about pictures that we've been discussing
4 along, so. With that, Ms. Browder, anything further
5 from the State before we adjourn?

6 MS. BROWDER: No, sir.

7 THE COURT: Anything from the defense, Mr. Fox.

8 MR. FOX: No, Your Honor.

9 THE COURT: All right. Y'all have a great
10 evening. See you in the morning at 9:00.

11

12 (Court was adjourned for the day.)

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

I, THE UNDERSIGNED BRANDI J. BERRY, CERTIFIED COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 12TH DAY OF MAY, 2025.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Brandi J. Berry, CVR

COLUMBIA, SOUTH CAROLINA

JANUARY 8th, 2026

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	FIFTH CIRCUIT
COUNTY OF RICHLAND	)	2023-GS-40-09405
*****	)	2023-GS-40-09409
State of South Carolina,	)	2023-GS-40-09412
	)	
v.	)	
	)	
Breonte Alexandria Glasgow	)	
Defendant.	)	Transcript of Record
*****	)	

May 14, 2025

Columbia, South Carolina

Volume III of IV
Page 392 to 644
Criminal Trial

- - -

B E F O R E:

The Honorable Thomas William McGee, III, Judge

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

On Behalf of the State:

Anna Browder, Esq.
Deputy Solicitor

Kathryn Cavanaugh, Esq.
Sr. Assistant Solicitor

Morgan Monroe, Esq.
Assistant Solicitor

On Behalf of the Defendant:

Eric Fox, Esq.
Emily Coley, Esq.
State Public Defenders

Brandi J. Berry,
Judicial Circuit Court Reporter

1	I N D E X				
2	(SW) - STATE'S WITNESS (DW) - DEFENSE WITNESS				
3	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
4	(SW) DR. DARREN MONROE	397	455	405	485
5	(SW) DR. LADONNA YOUNG	413	420		
6	(SW) DR. MICHAEL WADE	441	453		
7	(SW) DR. ERIC COATES	501	517		
8	(SW) EMILY TAYLOR	547	566	578	
9	(SW) MAKALA GREENE	580	592	604	
10	(SW) BAILEY POLSON	613	634		
11					
12	CERTIFICATE.....644				
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					

E X H I B I T S					
STATE'S (S)	DEFENDANT'S (D)	COURT'S (C)			
NO.	DESCRIPTION	EV	ID	PAGE	
(C) 5	VIDEO		X	160	
(C) 6	STATEMENT		X	261	
(C) 7	JUROR NOTE		X	266	
(C) 2	USB		X	311	
(C) 3	USB		X	343	
(S) 1	911 CALL CD	X		229	
(S) 2-22	PHOTOS	X		244	
(S) 23	SAMSUNG PHONE	X		264	
(S) 24	IPHONE	X		305	
(S) 25	REPORT	X		337	
(S) 26	REPORT	X		338	
(S) 27	REPORT	X		350	
(S) 28	REPORT	X		350	
(S) 32	POWERPOINT	X		350	
(S) 29	PHOTO	X		371	
(S) 30	CD	X		373	
(S) 31	CD	X		376	

21

22

23

24

25

1 (Wednesday, May 14, 2025; in open court, Columbia,
2 South Carolina, Richland County.)

3 THE BALIFF: Court come to order. All rise.

4 THE COURT: Thank y'all. Please be seated. Please
5 be seated.

6 (Off the record conversations.)

7 THE COURT: All right. Let the record reflect that
8 the jury is not here. We're going to deal with some
9 issues about the photographs that have been proposed to
10 be used as evidence in the case this morning before the
11 jury arrives at 10:00. So --

12 MS. BROWDER: Your Honor, we'll wait for the
13 defendant.

14 THE COURT: Oh, I'm sorry. I --

15 MS. BROWDER: It's okay. It's hard to see with the
16 monitor.

17 THE COURT: When this -- yeah, when this week is
18 over, I'm going to do something about this up here.
19 Because I know I'm short, but I can't see over some of
20 these monitors sometimes. So, all right. If you need
21 -- if y'all need to chat or talk a little bit before we
22 begin, let me know.

23 MR. FOX: Judge only if we can get her a better
24 change of --

25 THE COURT: Oh, sure. All right. Yes, ma'am.

1 MS. BROWDER: Your Honor, State calls Dr. Darren
2 Monroe.

3 THE BALIFF: Dr. Monroe. Yes.

4 MADAM CLERK: Do you swear or affirm the testimony
5 you are about to give in this case shall be truth, the
6 whole truth, nothing but the truth, so help you God?

7 THE WITNESS: I do.

8 MADAM CLERK: Take a seat in the witness stand.
9 State your full name for the record.

10 THE WITNESS: Darren Monroe.

11 DR. DARREN MONROE,

12 A witness herein, having been first duly sworn, was
13 examined and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. BROWDER:

16 Q. And Dr. Monroe, just to get into this, you're a
17 forensic pathologist?

18 A. Yes.

19 Q. Okay. And you performed the autopsy on Infant One
20 [REDACTED] ?

21 A. Yes, I did.

22 Q. And when you performed the autopsy, are photographs
23 taken during the autopsy?

24 A. Yes.

25 Q. And why are photographs taken during the autopsy?

1 A. For completeness of record. I make diagrams, but
2 we also take photographs.

3 Q. Okay. And do those photographs help you when doing
4 your autopsy report?

5 A. Yes, they do.

6 Q. I'm going to show you what's been marked as State's
7 Exhibit 38 through 46. Do you recognize these photographs?

8 A. Yes.

9 Q. And what are those photographs?

10 A. These are photographs from the autopsy.

11 Q. Okay. Of **Infant One** ?

12 A. Yes.

13 Q. Okay. And do they fairly and accurately represent
14 the way he looked the day that you did the autopsy on him?

15 A. Yes, they do.

16 Q. Okay. Now, with these photographs, would these
17 photographs help explain to the jury **Infant One's** condition in
18 addition to your testimony?

19 A. Yes, they would.

20 Q. And why is it helpful for you to have these
21 photographs to show to the jury to explain the injuries?

22 A. So a picture is worth a thousand words. I can only
23 describe things so much using just words or even diagrams.

24 Q. Okay. I'm going to show you first what State's 45.
25 Do y'all want to --

1 THE COURT: Sure.

2 Q. This the one, the full body front?

3 THE COURT: You don't have any copies of those, do
4 you?

5 MS. BROWDER: I don't.

6 THE COURT: Okay.

7 MS. BROWDER: We can make copies for later, if
8 you'd like.

9 THE COURT: Yeah. Is there a way so --

10 MS. BROWDER: Or actually I could put them on --

11 THE COURT: Oh, that would be great.

12 MS. BROWDER: Your little thing.

13 THE COURT: Yeah. Yeah. Just -- just so that I
14 know which one that we're -- we're talking about. Thank
15 you.

16 MS. BROWDER: Yeah. Give me the thumb drive
17 because it is not -- we'll have to put them up here.

18 THE COURT: My -- is which thumb drive?

19 MS. BROWDER: The one that had your video.

20 THE COURT: Oh, the video. The one that has the
21 videos. That one is on it, too. This one (indicating)?
22 I didn't know the photos were on that as well.

23 MS. BROWDER: Well, they're not. Put them on those
24 record.

25 THE COURT: Mr. Fox, do y'all have -- you have

1 copies?

2 MS. BROWDER: Yes.

3 THE COURT: That you're able to see as well? Okay.
4 Thank you. And the one that you're asking Dr. Monroe
5 about right now is 45; is that right?

6 MS. BROWDER: 45. Yes, sir.

7 THE COURT: Okay. All right. Thank you very much.

8 BY MS. BROWDER:

9 Q. All right. And this is the photograph of **Infant One**
10 lying on his back. Why is that photograph helpful in
11 explaining to the jury what you observed on **Infant One**?

12 A. This demonstrates a number of things. One, he had
13 a number of scars all over his body. Two, just his general
14 condition. He is very underweight which you can see in this
15 picture.

16 Q. Okay. And what about his penis?

17 A. There's some swelling at the end of the penis.

18 Q. Okay. And would that help you -- the jury, what
19 the penis looked like at the time of death?

20 A. Yes.

21 Q. Okay. Next is State's 46. What does that depict?

22 A. This is a picture of the upper lip kind of lifted
23 up so that you could see the under surface of the upper lip
24 and it's demonstrating the laceration of the frenulum.

25 Q. Okay. And do most lay people know what a frenulum

1 is?

2 A. No.

3 Q. Okay. And would that help you explain to them what
4 a frenulum should look like and not look like?

5 A. Yes, sir.

6 Q. Okay. State's 44, this is a picture of **Infant One**
7 lying on his stomach. What would that photograph help you
8 explain to the jury about?

9 A. This also demonstrates a number of scars on the
10 body and again, just the -- the general condition of being
11 underweight and --

12 Q. Okay. State's 38, this is a picture of the right
13 side of **Infant One's** face.

14 A. So this picture demonstrates a -- basically a black
15 eye as well as multiple scars on the face.

16 Q. Okay. Would that help you show the jury the
17 condition of the eye and that it was noticeable? It would've
18 been noticeable to a reasonable parent?

19 A. Yes.

20 Q. Okay. State's Exhibit 39, this is the left side of
21 **Infant One's** body. And what would that help you show the jury?

22 A. This again shows some scarring that's -- that's on
23 the body.

24 Q. Okay. And is it fair to say during your autopsy
25 there was a lot of scarring on his body?

1 A. Yes, there was.

2 Q. Okay. State's Exhibit 40, this is a front picture
3 of **Infant One's** face. How would this picture help you explain to
4 the jury **Infant One's** injuries that you noticed that day?

5 A. So again, this demonstrates more scarring. It also
6 shows the swelling involved with the black eye on the -- the
7 right eye.

8 Q. Okay. State's Exhibit 41, which is **Infant One's** right
9 leg.

10 A. This again shows a number of different scars all
11 along the leg as well as some -- a medical intervention
12 puncture.

13 Q. Okay.

14 THE COURT: And I'm sorry. What was that last bit?

15 THE WITNESS: A medical intervention puncture for a
16 -- a line to give fluids during resuscitation.

17 THE COURT: Okay. So that's -- that's after he
18 came to the hospital?

19 THE WITNESS: Right. That's the -- either the EMS
20 or the hospital people. Yes.

21 THE COURT: Thank you.

22 BY MS. BROWDER:

23 Q. State's 43, which is **Infant One's** left leg.

24 A. And this is demonstrating more of the scarring.

25 Q. Okay. And --

1 MR. FOX: What -- I'm sorry. What number was that?

2 THE WITNESS: 43.

3 MR. FOX: 43. Okay.

4 BY MS. BROWDER:

5 Q. And then State's Exhibit 42, which is the back of
6 Infant One's head, what would that help you show the jury?

7 A. So this is showing an absence of hair and there's
8 also some basically dried flaking skin.

9 Q. Okay.

10 A. Involving a large area of the --

11 Q. Okay. And would that be easy to explain to the
12 jury without a picture of what it exactly looked like?

13 A. I mean, the picture explains it all.

14 Q. Okay. And part of your cause of death, one of the
15 contributory factors was neglect. Would these scars be part
16 of that potential neglect?

17 A. Potentially, yes.

18 Q. And were there more scars and more injuries that
19 you found on Infant One that we haven't given you pictures of?

20 A. Without going through every single scar on my
21 diagram and correlating with the pictures, he just had a lot
22 of scars all over his body and, of course, internal injuries
23 as well.

24 Q. And are there any pictures of internal injuries
25 that we're trying to present to you right now?

1 A. These are not internal, no.

2 Q. And would all of these pictures, again, help you
3 explain to the jury your medical opinion as it came to the
4 death and the neglect of **Infant One** ?

5 A. Yes.

6 MS. BROWDER: Okay. No further questions, Your
7 Honor.

8 THE COURT: All right. Yes -- yes, ma'am.

9 MS. COLEY: Thank you, Your Honor.

10 THE COURT: Cross-examination.

11 CROSS-EXAMINATION

12 BY MS. COLEY:

13 Q. Dr. Monroe, one of the things that you talked about
14 in all of these photos is including scars on the body,
15 correct?

16 A. Yes.

17 Q. Can you describe those scars to me?

18 A. They are a variety of shapes and sizes and
19 distributed all over the body.

20 Q. Okay. Are they light or dark?

21 A. The majority of them are a lighter color.

22 Q. So they would be obvious to the eye?

23 A. Yes.

24 Q. Okay. And most likely people have experiences with
25 scars in your opinion, correct?

1 A. Very likely, yes.

2 Q. Okay. And for some of the other conditions that
3 you described such as being generally underweight, you're
4 going to testify about the weight of **Infant One** when he was --
5 passed away, correct?

6 A. Yes. That's part of the report.

7 Q. Okay. And in the -- the picture and in your
8 report, you talk about how you can see his ribs, correct?

9 A. I am not sure the report explicitly states that I
10 can see his ribs.

11 Q. But when -- when asked about when you were
12 examining his body, you could see his ribs and his chest
13 plate; is that correct?

14 A. Yes.

15 Q. Okay. And you'd be able to tell the jury that,
16 right?

17 A. Yes.

18 Q. Okay. And as to the swelling at the end of the
19 penis, you'd be able to describe that to the jury as well,
20 just like you stated for Ms. Browder, correct?

21 A. I can describe it.

22 Q. Okay. And then the black eye and the swelling with
23 that, you described that to Ms. Browder as well, correct?

24 A. Yes.

25 Q. And most people -- mostly people would be aware of

1 what a black eye is, right?

2 A. Probably.

3 Q. And what swelling looks like, right?

4 A. Yes.

5 Q. And then the lack of hair, most people are aware of
6 what that looks like even without any medical experience,
7 correct?

8 A. Likely.

9 Q. As well as dried flaking skin, they would be aware
10 of what that looked like and be able to understand your
11 detailed explanation of that, correct?

12 A. Possibly, yeah.

13 Q. Okay. So one of -- the only things that you have
14 testified to this morning that lay people may not understand
15 is what frenulum is; is that right?

16 A. Yes.

17 Q. Okay. And would you -- but if you pointed out what
18 it is, the skin between your upper lip and your gums, they
19 would probably likely be able to understand that, correct?

20 A. If you demonstrate it on someone probably.

21 MS. COLEY: Okay. I don't have any further
22 questions at this time. Thank you.

23 THE COURT: Any redirect?

24 MS. BROWDER: No, sir.

25 THE COURT: All right. Doctor, I just have just a

1 couple the Exhibit 39, if you could just pull Exhibits
2 39, 40, 41 and 43.

3 THE WITNESS: Let's see, 39, 40 --

4 THE COURT: 41 and 43.

5 THE WITNESS: Okay.

6 THE COURT: The -- and I think I talked about this
7 with the lawyers yesterday, but the -- the -- the
8 circle, you see that right there in the upper left
9 portion? What -- what is that?

10 THE WITNESS: On 39?

11 THE COURT: Oh, I'm sorry. Yes, sir. On 39.

12 THE WITNESS: So that's an impression from one of
13 the EKG pads.

14 THE COURT: Okay. Okay. All right. And -- and
15 some of the -- and so some of the -- the same things on
16 Exhibit 39 might be visible on Exhibit 45; is that
17 right? What I'm trying to get to, just to kind of let
18 you know where I'm -- where I'm coming from with some of
19 this is, to the extent that we can show the same thing
20 in fewer photographs is -- is what I'm -- I'm -- I'm
21 trying to -- to figure out, just so that they're not
22 cumulative --

23 THE WITNESS: Right.

24 THE COURT: -- on the same things. So does 39 and
25 45, do they show some of the same injuries or no?

1 THE WITNESS: Yes. 45 -- both 45 and 39
2 demonstrates scarring. They both have an impression
3 from an EKG pad.

4 THE COURT: All right. Let's look at number 40, if
5 you would, the closeup of the child's face and then on
6 38. So are the -- are the -- Exhibit 40 -- does Exhibit
7 38 show, I guess, similar injuries or the condition of
8 the child as 40?

9 THE WITNESS: They do show similar things. They're
10 -- they're obviously from different angles.

11 THE COURT: Right.

12 THE WITNESS: One shows the discoloration from the
13 bruising better than the other, and the other one shows
14 the swelling better than the other.

15 THE COURT: Right. Okay. So 38 would show the --
16 the -- the bruising more and -- and -- and 40 would show
17 the -- the swelling more; is that right?

18 THE WITNESS: Yes.

19 THE COURT: All right. All right. And 41 and 43
20 are both photographs of the right and left leg
21 respectively. And would -- and I know it's not as close
22 up, but this Exhibit 45 where the child is lying on his
23 back, I know you can't see it quite as well, but you can
24 still see some of the scarring on both legs.

25 THE WITNESS: The back one is 44. But it does

1 demonstrate scarring on both the legs.

2 THE COURT: I'm sorry. What did -- okay. I was
3 talking about Exhibit 45, the one where he's lying on
4 his back.

5 THE WITNESS: That one says 44 on --

6 THE COURT: Let me --

7 THE WITNESS: -- on this one.

8 THE COURT: Oh no, no -- not -- well, that one
9 shows the -- the back of the legs, right?

10 THE WITNESS: Yes.

11 THE COURT: Lying on his stomach on the Exhibit 45.
12 I believe is the side view of the child lying on his
13 back, not on his front. I know it's hard when you have
14 to keep flipping it over like that and we're kind of
15 going out of chronological order or numerical.

16 THE WITNESS: Yeah. 45 is a side view but yeah,
17 lying on his back. Yes.

18 THE COURT: Right. So you can see some of the
19 scarring on both legs there on the -- on kind of on the
20 front or the side. And then on, as you pointed out on
21 Exhibit 44 where the child is lying on his stomach, you
22 can see some of the scarring on the legs on the -- on
23 the back and side of the legs.

24 THE WITNESS: Yes. On 45, which is lying on the
25 back.

1 THE COURT: Yes, sir.

2 THE WITNESS: That demonstrates scarring on the
3 right leg. It's difficult to discern but there is some
4 scarring visible on the left leg in that picture as
5 well.

6 THE COURT: Okay. All right. And then -- and then
7 at kind of contrasting 45 or 44, on 44, you could see
8 the -- the opposite side of the legs from 45; is that
9 right?

10 THE WITNESS: Yes.

11 THE COURT: Okay. All right. I don't -- I don't
12 have any other questions but if -- if the lawyers want
13 to ask him any follow up questions on what I've asked
14 you certainly -- certainly feel free to do so.

15 MS. BROWDER: Nothing to say, Your Honor.

16 THE COURT: Anything?

17 MS. COLEY: No, Your Honor.

18 THE COURT: Okay. All right. Thank you very much,
19 Doctor. I appreciate it. You may step down.

20 (Witness released.)

21 MS. BROWDER: State calls Dr. Alex Young.

22 THE BALIFF: Raise your right.

23 MADAM CLERK: Do you swear or affirm that the
24 testimony you are about to give in this case will be the
25 truth, the whole truth, nothing but the truth, so help

1 you God?

2 THE WITNESS: I do.

3 MADAM CLERK: Please have a seat in the witness
4 stand. State your full name for the record.

5 THE WITNESS: Ladonna Alexandria Young.

6 **LADONNA ALEXANDRIA YOUNG,**

7 A witness herein, having been first duly sworn, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MS. BROWDER:

11 Q. Dr. Young, what is your profession?

12 A. I'm a child abuse pediatrician.

13 Q. And as a result of that, were you called in to
14 consult regarding the death of **Infant One** ?

15 A. I was.

16 Q. And when were you called in to consult on that?

17 A. The case was brought to me in July of 2023.

18 Q. Okay. And at that time, obviously **Infant One** had been
19 deceased for a while?

20 A. Yes.

21 Q. So you never saw him in-person?

22 A. I did not.

23 Q. And in order to complete your child abuse
24 consultation report, what did you depend on when it came to
25 your records and how you made your opinion?

1 A. I reviewed autopsy photos, autopsy report, seen
2 photos and medical records.

3 Q. And why were the autopsy photos important in
4 regards to coming to your opinion?

5 A. I was not present at the time of the autopsy and in
6 order to gain more clarity and understanding of what's
7 written in the report, the photographs had that detail for
8 full context

9 Q. And before we get into the photographs, your
10 ultimate opinion was child abuse in this case, correct?

11 A. Yes.

12 Q. Okay. When you testify in front of the jury, will
13 it help you when -- or explaining the injuries to show
14 pictures of them to explain why you came to the decisions you
15 did?

16 A. Yes.

17 Q. Okay. I'm going to show you what's marked as
18 State's Exhibit 39. Do you recognize that photograph?

19 A. I do.

20 Q. And what is that photograph?

21 A. It is of the left upper extremity of the left arm,
22 the left side of his torso as well.

23 Q. And why was that picture important when coming to
24 your opinion?

25 A. It shows in full context and clarity these scars

1 that were seen on the side of his body.

2 Q. And these scars, which -- are they scars that could
3 come from little hands like somebody else who's eight months
4 old?

5 A. These are not the type of scars that are consistent
6 with infant fingernail.

7 Q. And would that be hard to describe to the jury
8 without showing them the difference of what it would look
9 like if it was an infant versus an adult nail?

10 A. I believe it would be difficult to provide that in
11 full detail.

12 Q. Okay.

13 THE COURT: Is that -- is that Exhibit 45?

14 THE WITNESS: 39.

15 THE COURT: 39.

16 THE WITNESS: Its the left side of his body.

17 THE COURT: Got it. Thank you.

18 BY MS. BROWDER:

19 Q. All right. I'm going to show you -- and when it
20 came to the scarring on **Infant One's** body, how much scarring did
21 you find?

22 A. I can refer to my report. I usually list them and
23 I documented 37 skin findings.

24 Q. Okay. And those skin findings, were they random?
25 Were they patterned? How did you -- how would you describe

1 those?

2 A. They were different sizes, different shapes on
3 different planes of the body, different bilaterality, which
4 basically means on the left and the right side, they weren't
5 clustered in one location, they were diffused.

6 Q. Okay. And what does that mean when it comes to
7 your opinion as it being child abuse?

8 A. The number and the location contributes to the
9 concern or the diagnosis of whether it could be plausible for
10 accidental or concerning for physical abuse.

11 Q. And with this child being eight months old and
12 immobile, did that play into your decision when it came to
13 the scarring and the number and the quality and the pattern
14 of the scarring?

15 A. Absolutely.

16 Q. Okay. Show you what's marked as State's Exhibit
17 41, which is **Infant One's** right leg. How is that picture
18 important to show the jury your opinion regarding his
19 scarring?

20 A. It shows additional scars in different locations,
21 some larger than others.

22 Q. Okay. And how is that important for your opinion
23 of child abuse?

24 A. It shows another area of the body, again, not a
25 focal point of injury, but just the diffuse nature of the

1 injuries.

2 Q. And would that be helpful to show the jury the
3 different sizes of it? That it couldn't come from the same
4 thing?

5 A. Yes.

6 THE COURT: Which one is that, Doctor? I'm sorry.

7 Did it --

8 THE WITNESS: That is 41.

9 THE COURT: 41. Okay. Thank you.

10 BY MS. BROWDER:

11 Q. State's Exhibit 43, which is **Infant One's** left leg. Is
12 that the same testimony you would give regarding the right
13 leg just to show the different scars, the size of the scars
14 and how that related to your child abuse analysis?

15 A. Yes.

16 Q. Okay. State's 44, which is the picture of **Infant One**
17 lying on his stomach. How would that photograph help you
18 explain to the jury your opinion regarding child abuse?

19 A. In addition to showing more skin injuries, it plays
20 a part into the diagnosis of nutritional neglect. It shows
21 the lack of what the notes may say adipose tissue, but that's
22 just the medical term for fat and also shows muscle wasting
23 as well. And so this picture says all that without all the
24 words.

25 Q. Okay. And is it hard to explain that -- does the

1 jury necessarily understand fat muscle, what it's supposed to
2 look like when it comes to growth on an infant, or would that
3 picture help you explain that better to them, to show what it
4 should look like versus what it does?

5 A. I believe this picture would greatly improve the
6 ability to communicate the severity of the injuries and that
7 most people tend to relate what they've seen. And this is
8 something that is not common. And so I think that would help
9 show the difference in what it should look like and what it
10 should not.

11 Q. State's 45, which is the picture of **Infant One** lying on
12 his back, the full picture. Can you explain to the Judge the
13 importance of that picture in making your child abuse opinion
14 and how that would help you explain it to the jury?

15 A. So this picture shows the failure to thrive or the
16 lack of nutritional support that was seen on his exam as well
17 as additional skin findings and then the genital injuries as
18 well.

19 Q. And were all those things that you mentioned in
20 your report?

21 A. Yes.

22 Q. Show you State's Exhibit 38, which is the right
23 side of **Infant One's** face. Can you explain to the judge what
24 that picture would show the jury and how it would help you
25 explain the injury on his face?

1 A. This picture again shows injuries to multiple
2 planes of the face. There's injuries to the cheek below the
3 eye, to the ear, along the forehead on the scalp. And so it
4 shows the different locations of multiple injuries.

5 Q. And why do you keep saying different planes? Why
6 is that important in child abuse cases?

7 A. It's important because we do take into
8 consideration other possible mechanisms for injuries and from
9 simple injuries such as a fall one time or smaller mechanism
10 of injuries.

11 You may expect to find injury on one plane, which is
12 basically one flat surface, but when you have them on
13 multiple planes, that usually is indicative of multiple
14 points of contact or multiple accidents or multiple injuries.

15 Q. And this particular picture, does it show his black
16 eye?

17 A. It shows some discoloration of the upper lid. Yes.

18 Q. I'm going to show you what's marked as State's
19 Exhibit 40, which is the straight on picture of **Infant One's**
20 face. Does that picture depict anything different regarding
21 the black eye than the previous picture did?

22 A. It does. The angle shows the prominence of the
23 swelling of that eye, so it depicts something very different.
24 Same injury, but different appearance of it than the previous
25 picture.

1 Q. And how would that help you show the jury the
2 difference in the swelling of the eye?

3 A. It shows the severity or the involvement of the
4 injured tissue.

5 Q. And does it show it as a comparison to his left
6 eye?

7 A. Absolutely.

8 Q. I'm going to show you State's Exhibit 42, the back
9 of **Infant One's** head. How would that picture help you explain to
10 the jury the lack of hair and injuries you see?

11 A. I think because it is sometimes common to see
12 infants that have a little patch of hair that's missing in
13 the back. I think this shows the severity, which shows a
14 difference in what people may see commonly. And it also
15 shows the lesion or the sore that's within that bald patch of
16 scalp.

17 Q. And is -- are those injuries that a child can make
18 himself?

19 A. They're injuries that can be from neglect.
20 Sometimes you get that from sores, pressure sores. So while
21 it may not be inflicted, it's not normal to see them.

22 Q. Okay. And finally, State's Exhibit 46, this is a
23 picture of a frenulum tear. How would that explain to the
24 jury what a frenulum is supposed to look like and then
25 compared to how that looks?

1 A. Again, I think people may use their context and
2 know what their own frenulum may look like or be able to feel
3 that with their tongue. But to be able to see not only the
4 laceration but the almost absence of that tissue speaks
5 volumes.

6 Q. And why would that be important in your child abuse
7 neglect opinion?

8 A. Sometimes tears of the frenulum can possibly be
9 accidental, but the complete avulsion, which would be the
10 absence and the ripping of that tissue is a different
11 mechanism.

12 Q. And all of these injuries in these pictures, are
13 these things a reasonable parent would've been able to notice
14 upon first look at a child?

15 A. Yes.

16 Q. Okay. And would these pictures help you show the
17 jury that this is something a reasonable person would've been
18 able to see?

19 A. Yes.

20 MS. BROWDER: No further questions, Your Honor.

21 THE COURT: All right. Cross-examination.

22 MS. COLEY: Thank you, Your Honor.

23 THE COURT: Yes, ma'am.

24 CROSS-EXAMINATION

25 BY MS. COLEY:

1 Q. Good morning, Dr. Young.

2 A. Good morning.

3 Q. You, like, Dr. Monroe had testified to, said that
4 all these pictures show scarring, correct?

5 A. Some -- some version of scarring, some version of
6 injury. Yes.

7 Q. Okay. And while you say that the distribution of
8 the scarring is important for your findings in this case, you
9 were able to explain to Ms. Browder what those differences in
10 the dispersion of them mean, correct?

11 A. Yes.

12 Q. Okay. And you didn't need the pictures for that,
13 correct?

14 A. The pictures are very much important in the
15 explanation.

16 Q. But you can -- if asked, you could give a detailed
17 explanation for that, correct?

18 A. Not to the same clarity, but yes, I could.

19 Q. Okay. And for the frenulum tear, you discussed
20 with Ms. Browder the almost absence of tissue, I believe
21 that's what you said, correct?

22 A. Yes.

23 Q. And you would -- okay. And then you described the
24 angle showing a prominence of a black eye on picture 40,
25 correct?

1 A. Yes.

2 Q. And then for describing the -- specifically the
3 injuries to **Infant One's** face, you were able to explain why
4 injuries on multiple planes is important to your analysis,
5 correct?

6 A. Yes.

7 Q. And you did that in detail to be able to explain
8 that to lay people like us that don't necessarily know that
9 medically, correct?

10 A. Not to the same degree of clarity in the absence of
11 a picture that I can describe to the best of my ability with
12 just words.

13 MS. COLEY: Okay. I beg Court's indulgence. No
14 further questions, Your Honor. Thank you.

15 THE COURT: All right. Any redirect?

16 MS. BROWDER: No, sir.

17 THE COURT: Doctor, did you review all of the
18 autopsy photos?

19 THE WITNESS: I reviewed all the ones that were
20 made available to you by the SLED agent.

21 THE COURT: Okay. Do you know how -- how many,
22 approximately those were? Or if not, that's fine, but
23 --

24 THE WITNESS: 83 photos.

25 THE COURT: 83?

1 THE WITNESS: Yes, sir.

2 THE COURT: Okay. All right. And some of them
3 were -- were, I guess, invasive photographs of after the
4 autopsy had begun insofar as incisions were made, the
5 internal pictures?

6 THE WITNESS: Yes.

7 THE COURT: Okay. All right. And those -- those
8 pictures would -- would also show some injuries?

9 THE WITNESS: Head injuries and fractures, yes.

10 THE COURT: Okay. All right. Okay. I think
11 that's all the questions that I had. If any -- any from
12 the State follow up on mine?

13 MS. BROWDER: No, sir.

14 THE COURT: Any from the defense?

15 MS. COLEY: No, Your Honor.

16 THE COURT: Follow up on mine? Okay. Thank you
17 very much, Doctor. You may step down.

18 THE WITNESS: Do I leave these here?

19 THE COURT: Yes, ma'am. That'd be great. Thank
20 you.

21 (Witness steps down.)

22 THE COURT: All right. I'm happy -- as far as the
23 photographs are concerned, I know we've got nine that
24 are proposed. I'm happy to hear from the State first on
25 your position as to the admissibility of these nine

1 photographs.

2 MS. BROWDER: Yes, sir, Your Honor. As to State's
3 38 and 40, those are the two of **Infant One's** face. We would
4 ask that those both be admissible because both Dr.
5 Monroe and Dr. Young testified that one, a reasonable
6 parent would've seen these injuries.

7 But it shows differences as to one shows more of
8 the discoloration of the black eye and the other shows
9 more of the swelling and how it relates to the other eye
10 and how a reasonable parent would've been able to see
11 that.

12 You can't get that in just one of the photographs,
13 Your Honor. In addition, State's 40 also shows the scar
14 in between **Infant One's** eyes, which is relevant as to the
15 video to show that he's the same child that is being
16 neglected in the video that was shown to the jury, well,
17 because these are triplets. So we need to prove that
18 he's specifically neglected and he's dead now, Your
19 Honor.

20 So that goes to relevancy as to that. Regarding
21 State's 39, 41 And 43, those are the ones showing
22 scarring on **Infant One's** left side and his two legs.
23 Those, Your Honor, we believe were all relevant as they
24 showed just the amount and the volume of scarring on
25 this child.

1 And this would've been reasonable to a parent. And
2 then as you heard Dr. Young explain, these were all part
3 of her child abuse analysis. These were things that
4 were different sizes, different variations.

5 And that's important when it comes to her analysis.
6 And that's going to be hard to explain to a jury how
7 these are different sizes without seeing them to explain
8 that these are not children's who is not wearing mittens
9 on their hands scratching.

10 But the fact that an adult potentially scratching.
11 State's 42 is the back of the head, as you heard Dr.
12 Young explain, this shows the severity of the lack of
13 the hair and the injuries, which if a jury were to hear
14 what they're commonly seen, they think of children who
15 have been lying a little too much on the back of their
16 head. This is different as it has the sores and it
17 shows the extent of that.

18 And then as to 44 and 45, Your Honor, that just
19 goes to show the complete emaciation of this child and
20 how he had lost weight. He was malnourished. That goes
21 to both of their opinions to neglect, both the
22 contributing factor for Dr. Monroe as well as the
23 neglected child abuse for Dr. Young.

24 In addition, State's 45 also shows, Your Honor, the
25 ribs, which would've been available and seen to a

1 parent, which Ms. Glasgow and her DSS testimony says
2 that she did not see the ribs on this child, which that
3 goes to contradict what she said there.

4 In addition, it shows the penis and how swollen it
5 is and how a parent -- reasonable parent would've seen
6 that and gotten medical attention for that. And then
7 finally, Your Honor, number 46 is the frenulum tear.
8 That's something that both -- both Dr. Young and Dr.
9 Monroe testified to, that not many people know what the
10 frenulum is.

11 They could kind of feel it with their own tongue,
12 but without seeing it be able to explain the complete
13 lack of tissue there, that it would be hard for
14 explaining clarity. A lot of this stuff and words
15 without using a picture to show.

16 In addition, both of them had multitude of other
17 pictures to look at to show injuries, but these are the,
18 I believe, it's nine, Your Honor, that we have picked to
19 try to keep it as simple as possible to show as much as
20 possible.

21 And both of them testified, Your Honor, that there
22 were other injuries that these children have, but
23 they're not pictures that are being shown. So we ask
24 that they all come in, Your Honor.

25 THE COURT: All right. Thank you, ma'am. Yes.

1 Happy to hear from the defense.

2 MS. COLEY: Thank you, Your Honor. I think I'd
3 like to start out by saying that we're not arguing that
4 these are not relevant to the case. We understand that
5 these do depict **Infant One** at his time of death. I think
6 that the -- that issue here is that I think it was very
7 clearly laid out by Dr. Monroe and also Dr. Young, and
8 then also Ms. Browder in her argument just now that
9 these are things that are able to be thoroughly
10 described.

11 We understand that they needed to rely on these to
12 come to the findings that they're going to present to
13 the jurors today but they were very descriptive and just
14 going over the -- each of the photos individually,
15 briefly and can use their reports and those things to be
16 able to go to -- to it in more detail.

17 I think that a lot of these pictures are very
18 redundant in what they show. I understand that there
19 was a multitude of scarring all over **Infant One's** body, but
20 I don't think that it's necessary to show pictures of
21 every single scar on the body when there were so many.

22 And that can be testified to by the doctors
23 themselves and why they came to the findings that they
24 did because of those scarring scars. I think that
25 again, we would just reiterate the arguments that were

1 made pretrial about all the case law and everything that
2 the case law has cleared that the guilt phase is very
3 different from the sentencing phase in a death penalty
4 case where more photos are admissible for that reason.

5 But then in the guilt phase, the -- the Court
6 should be very careful in what they allow and what they
7 don't, because we don't want this to become a case of
8 the jury deciding on emotion because it already is an
9 emotional case just by the fact that there's a deceased
10 child in this case. So I think that we would reiterate
11 that.

12 Additionally, and I guess finally, Your Honor, I
13 don't know if this is relevant for right now but during
14 the testimony of Dr. Monroe and also Dr. Young, we would
15 also note that these are medical experts. They can
16 say that these injuries are noticeable if you do admit
17 some or all of the autopsy photos.

18 But we don't believe that they get to say what a
19 reasonable parent would have seen or would not have
20 seen. I think that noting that these are noticeable
21 injuries is enough.

22 And even if you don't admit any of the autopsy
23 photos, we would suggest that -- or argue that they not
24 be allowed to say the reasonable parent regardless that
25 they would just be able to say that these were

1 noticeable injuries to a -- a person.

2 THE COURT: All right. And so is the defense
3 objection to each of these nine photographs Rule 403?

4 MS. COLEY: Yes, Your Honor.

5 THE COURT: Okay. All right. Anything -- anything
6 further from the State?

7 MS. BROWDER: Yes, Your Honor. *Under State v.*
8 *Martucci*, the State specifically has the right to prove
9 every element of the crime. It's not obligated to rely
10 on the defendant's stipulation that these injuries
11 exist.

12 Like I said, we have chosen non very, in my
13 opinion, tame photographs when it comes to the volume of
14 photographs that were taken to the type of photographs
15 that were taken to show as many of the injuries that we
16 can without having to show every single little one
17 closeup or whatever, just to the date the -- the jury
18 could give a good idea of what this child looked like on
19 the day that he died.

20 In addition, just as to the guilt phase argument,
21 she added that more photos were shown during the guilt
22 phase, which indicates that there were autopsy photos
23 shown during the normal phase of the trial. And those
24 are death penalty cases, Your Honor. This is, we get
25 one shot at it, this is not, there's this phase and then

1 a guilt phase.

2 And lastly, as to the reasonable parent, Your
3 Honor, we would have Dr. Monroe, not Monroe, Dr. Young
4 testify to that. She's a child abuse forensic
5 pediatrician, that is specifically her field, but we
6 have to prove that a reasonable parent would notice
7 these things.

8 Of course, they don't have to take her expert
9 opinion in whole, in part, in full whatever, but she's
10 allowed to give her expert opinion as to child neglect,
11 a mother, a parent would see these and that's what
12 caused this child to die.

13 THE COURT: All right. All right. Again,
14 excellent briefing and argument on -- on both sides,
15 both pretrial and -- and now. The doctors, I think,
16 were very helpful.

17 First of all, and -- and I recognize this as the
18 defense argued that these are --these are not pleasant
19 photos to look at, but they're not -- they're not
20 gruesome photos. They're not in -- don't -- don't
21 reflect -- which apparently there are, I think, correct
22 me if I'm wrong Ms. Browder, but I think you said there
23 were over 500 pictures.

24 I mean, I'm sure that there are some -- or some --
25 some number -- some number in the hundreds. That there

1 are many pictures that show the internal injuries that
2 are not being proffered. And so --

3 MS. BROWDER: That's correct, Your Honor.

4 THE COURT: And so I -- I think there would be, you
5 know, much more, you know, concern or -- or need to --
6 to analyze those types of pictures. These don't show
7 any incisions other than I think that -- that Dr. Monroe
8 said something about just one -- one small puncture that
9 -- that he noticed that -- that would've been prior to
10 death when they were trying to resuscitate him.

11 And then obviously some of the EKG things that he
12 could point out. But otherwise, I don't think there's
13 any invasive issues there. I think the State does, and
14 I've looked at -- at -- at all of these cases that --
15 that y'all have cited. Went -- went through all of them
16 and *Martucci* and -- and *Thompson*, I think, were -- were
17 particularly helpful to me.

18 *Martucci*, that both of y'all have cited, you know,
19 held that the photographs were relevant to prove the
20 child was abused, that the abuse was the cause of death,
21 and that the abuse manifested an extreme indifference to
22 human life, all of which support the charge of homicide
23 by child abuse. I think that's the same here.

24 Furthermore, the photographs were necessary to
25 depict the severity of the bruises and the resulting

1 trauma, which was inconsistent with accidental injury or
2 play.

3 Again, I think that that's something that is --
4 that is relevant here as well. The photographs were
5 relevant and necessary and they were not introduced with
6 the intent to inflame, elicit the sympathy of, or
7 prejudice of the jury.

8 Again, I think if that was the intent here, that --
9 that there are plenty of photographs which have been
10 described but not shown of the internal part of the --
11 of the autopsy that frankly I'm told show some internal
12 injuries that child suffered before death that may be
13 relevant, but that again, may -- may be more on the
14 prejudicial side of the 403 scale. And so I note that
15 these photographs are not in that bucket. In *State*
16 *versus Thompson* has kind of kept with me during this
17 because it states, courts must often grapple with
18 disturbing and unpleasant cases, but that does not
19 justify preventing essential evidence from being
20 considered by the jury, which is charged with the solemn
21 duty of acting as the fact finder as one court, as
22 astutely observed, it is the duty of the courts and jury
23 to examine the evidence even in the most unpleasant of
24 circumstances.

25 Courts and juries cannot be too squeamish about

1 looking at unpleasant things, objects or circumstances
2 and proceeding to enforce the law. And especially if
3 the truth is on trial.

4 The mere fact that an item of evidence is gruesome
5 or revolting, if it sheds light on, strengthens or gives
6 character to other evidence, sustaining the issues in
7 the case should not exclude it.

8 I don't think that these are gruesome or revolting
9 photographs. I think they're sad photographs. But I --
10 I don't find that the -- the nine photographs that have
11 been presented are so prejudicial that they outweigh the
12 probative value of them. However, I -- I do find that
13 some of the -- some of the photographs may be a little
14 cumulative.

15 And -- and also, but -- I mean, I'm not going to go
16 through all of them, but *State versus Holder*, *State*
17 *versus Jarrell*, *State versus Thompson*, *State versus*
18 *Gray*, *State versus Davis*, and *State versus Williams* are
19 some other cases that I reviewed that I think support
20 the -- how they were dealt with in the court's holdings
21 and those cases, I think support this finding as well.
22 And so I'm going to allow into evidence Exhibits 45, 46,
23 44, 38, 39, and 42.

24 I -- and I'll tell you, the side view -- Exhibit 45
25 is the side view. I think that both doctors said that

1 this was important.

2 I think it is -- I don't think that there are other
3 pictures that depict these injuries better than --
4 better than this one.

5 So I don't think that that one cumulative. 46 is
6 of the frenulum. That's the only one, to be honest with
7 you, I don't know what a frenulum is. I didn't -- I
8 mean, I've heard it before, but you know, I wasn't
9 positive of it. That's the only photograph that shows
10 that that injury.

11 44, I think, not only -- I think this one shows a
12 lot of why I excluded the other photographs. It does
13 show the scarring on the legs. I think this one
14 probably shows the dehydration or the malnourishment, as
15 the doctors mentioned, probably better than -- than some
16 of the others.

17 On 38, and I'm sorry, these are just the ones that
18 -- how it came in order of Dr. Monroe. 38, I believe
19 shows the black eye.

20 You can't see the -- quite the comparison about the
21 swelling, but you certainly can tell that there's
22 swelling there as well as the scarring on the right side
23 of the face.

24 39, I was going to exclude this one, but I couldn't
25 find a photograph that depicted the left side of the

1 child and the injuries on the left side.

2 And the last doctor, Dr. Young, testified that it
3 was important, at least, to her to show that they were
4 on different, I can't remember if it was different
5 levels or what have you, and that it was -- and that
6 they were also symmetrical in that there were damages to
7 both sides and that that was important to her in her
8 opinion.

9 She's a doctor, I'm not. She says that that's
10 important for her, and I couldn't find another
11 photograph that showed those damages on the left-hand
12 side there.

13 So that's why I included that one. And then
14 Exhibit 42 is the only one of the back of the head. And
15 both doctors spoke about how a typical baby obviously
16 will have some missing hair back there too.

17 So if they described it as just some missing hair
18 and scabs, they may not know -- understand. So I think
19 that that one shows some injuries that are relevant and
20 that were not shown by others.

21 The ones that I -- that I kept out were 40. That
22 one does show, excuse me, the swelling a little bit
23 better. But I think there are two other photographs, 45
24 and 38, that also show it, maybe not quite as good, but
25 also depict that and certainly the doctors can note that

1 it was much more swollen than the other.

2 Exhibit 41 is of the right leg. And that's the one
3 that has the puncture right there that the doctor was
4 talking about just under the knee.

5 The -- Exhibits 44 and 45 show the front, when he's
6 lying on his stomach, show the back and side of the
7 legs, and then when he's on -- and then 45 when he's on
8 -- lying on his back show the flip side of that.

9 So I -- and you can see those injuries to the leg
10 on those. So I think that those are a little
11 cumulative. And then 33 -- 43, the same thing. This
12 one is up the left leg and 44 where he's lying on his
13 stomach, you can see one side of -- of that leg and 45
14 you can see the other side.

15 So in sum, 45, 46, 44, 38, 39 and 42 will be
16 admitted in evidence over the objection of the
17 defendant. And 40, 41, and 43 will be excluded over the
18 objection of the State.

19 MS. BROWDER: Your Honor, based on that ruling for
20 number 44 and 45.

21 THE COURT: Yes, ma'am.

22 MS. BROWDER: We would ask that we be able to put
23 those in the smart board to show the jury so we can blow
24 up the legs to show the scarring --

25 THE COURT: Okay.

1 MS. BROWDER: -- on the legs, since it was going to
2 be harder to see because they're from further away and
3 the other ones were excluded.

4 THE COURT: All right. As long as we're not
5 blowing up everything, I don't --

6 MS. BROWDER: No. The other ones, we -- we would
7 continue to pass around to the jury, like I asked, but
8 those two we would ask that we can blow up the legs just
9 to show --

10 THE COURT: Just a reasonable amount. And Mr. Fox,
11 if you think that we're going too far afield on -- on
12 blowing up or zooming in on things, please feel free to
13 object and we'll deal with it at that time. But -- but
14 I expect that the State will not go too far with that.

15 MR. FOX: Just -- just for the record, we would --
16 we would object because we did previously, but I
17 understand the Court's ruling.

18 THE COURT: Yes, sir.

19 MR. FOX: We'll watch and see what --

20 THE COURT: Yes, sir. I don't want to say you
21 can't blow up anything under any reason to show
22 anything. But then again, you know, similarly as -- as
23 like using the victim, you know, I think that -- that
24 there might be some instances where a -- the doctor may
25 say there was some scarring to the leg. Can you see it?

1 Well, I can't really, I can see a little bit, but I
2 can't, you know, and then blow it up some so that they
3 can see it.

4 I think that would be okay. But certainly feel
5 free to object if you think that we get too far afield
6 in that. But your objection is certainly noted. Is
7 there anything else that we need to take care of before
8 we bring the jury in, from the State?

9 MS. BROWDER: No, sir, Your Honor. I just would
10 like to separate the photographs.

11 THE COURT: Oh, sure. Yeah. And I'll -- we -- we
12 will take a five-minute break or something like that
13 just to -- you know, to get ready for the jury to come
14 in and that kind of thing. Anything from the State -- I
15 mean from the defense?

16 MR. FOX: Yes. Judge, I don't know if there's a
17 specific ruling about or objection to Doctors Monroe or
18 Young referring to a reasonable parent standard.

19 THE COURT: Okay. Well, to the extent that we're
20 going to deal with that issue now, I mean, I think that
21 -- that -- isn't that part of the elements? I mean, I
22 think that that's part of the elements that the State
23 has to prove.

24 And I -- let's put it this way, I think that if
25 they say were they visible? Yes. Do you believe that

1 they would've been visible to a -- a parent that bathed
2 them, dresses them, all these kind of things? Yes, I --
3 do. I mean, certainly I think that that's fair game for
4 cross-examination as well.

5 You know, you could say, well, a reasonable parent,
6 you know, might not have had a premature child, might --
7 you know, some children scratch more than others, these
8 are triplets. Maybe they were in the same place and
9 hurt each other.

10 I mean, I think that's fair game for -- for you --
11 the jury is going to have to determine what a reasonable
12 parent would or wouldn't have.

13 And I think that it's fair for witnesses to be able
14 to offer their opinions on that. Certainly these
15 doctors. But I also think that it's fair game for you
16 to attack if you think that there are other reasons that
17 -- that she may have noticed it, but also understood
18 where they came from and they were not intended or they
19 were not done by her or not -- that there were not any
20 foul play involved.

21 MR. FOX: Yes, sir.

22 THE COURT: So, all right.

23 MR. FOX: I understand.

24 THE COURT: All right. All right. Well, let's
25 take a just a short, if we can, just five minutes

1 because the jury is all in and will be able to go and
2 will it be Dr. Monroe that starts us off?

3 MS. BROWDER: Dr. Wade will start, Your Honor.

4 THE COURT: Okay.

5 MS. BROWDER: He's the ER doctor.

6 THE COURT: Understood.

7 MS. BROWDER: And then Dr. Monroe.

8 THE COURT: Okay. All right. We'll stand in
9 recess for just about five minutes so we can get the
10 exhibits solved square away.

11 (Recess was taken.)

12 THE BALIFF: Have a seat for Your Honor.

13 THE COURT: All right. All right. Thank you.
14 Thank you, ladies, and gentlemen. Hope you had a
15 pleasant evening. We are still in the State's
16 case-in-chief and so, the State may call its next
17 witness.

18 MS. BROWDER: Thank you, Your Honor. State calls
19 Dr. Michael Wade.

20 MADAM CLERK: Thank you. Please take a seat in
21 the witness stand and state your full name for the
22 record.

23 THE BALIFF: Speak in to the mic.

24 THE WITNESS: I'm Michael Wade, MD.

25 DR. MICHAEL WADE,

1 A witness herein, having been duly sworn, was examined
2 and testified as follows:

3 DIRECT EXAMINATION

4 BY MS. BROWDER:

5 Q. And Dr. Wade, are you currently employed?

6 A. No.

7 Q. And why not?

8 A. Retired.

9 Q. And when did you retire?

10 A. June of '24.

11 Q. Okay. And when you retired, what facility did
12 you retire from?

13 A. Prisma Midlands, the ER.

14 Q. Okay. And that --

15 A. Emergency Room.

16 Q. Is that here in Richland?

17 A. Pardon me.

18 Q. Richland?

19 A. Yes.

20 Q. That's what we all know as Prisma Richland?

21 A. Yeah. Richland Memorial, now it's Prisma
22 Midlands.

23 Q. Okay. How long were you at Prisma Richlands?

24 A. Since 1987.

25 Q. And you stated, what was your role there?

1 A. I was Emergency Medicine physician.

2 Q. And in order to become an Emergency Medicine
3 physician, what type of training do you have to have?

4 A. A lot.

5 Q. Okay.

6 A. Four years of college, four years of med school.
7 And I did four years of residency, which is training to be
8 an ER physician.

9 Q. Okay.

10 A. And -- go ahead.

11 Q. Yeah. And where did you go to college?

12 A. I went to USC, College of Charleston, USC.

13 Q. And where did you graduate? What type of --

14 A. Biology and a minor in chemistry.

15 Q. And then where did you go to medical school?

16 A. MUSC in Charleston.

17 Q. Okay. And I might have just asked this and
18 forgot. How long have you been emergency medicine doctor?

19 A. I've -- I started in '87, graduated in '91, so
20 '91 to 2024.

21 Q. So a long time?

22 A. Yes.

23 Q. Okay.

24 A. 33 years.

25 Q. And that entire time, were you here at Richland

1 or did you work other facilities?

2 A. No. I actually trained at Richland for four
3 years prior to being finished in '91.

4 Q. Okay.

5 A. So I was there for a while.

6 Q. Okay. And then you said it's emergency medicine.
7 What is emergency medicine?

8 A. We work in the emergency room. We take care of
9 emergencies from car wreck, gunshot wounds, heart attack,
10 strokes, anything that's emergent in any field, you know.

11 Q. And in order to be a doctor, do you have any
12 certifications or licenses?

13 A. Yes.

14 Q. And what are those?

15 A. You take written tests and then you have to take
16 oral boards and you have to repeat the written test every
17 10 years.

18 Q. And did you stay up to date on all your education
19 tests?

20 A. Actually still up to date.

21 Q. Okay.

22 A. For 10 -- I just took it in December, even though
23 I retired and I'm certified for 10 more years.

24 Q. Okay. And approximately, you said you've been
25 working in emergency room since 1991?

1 A. Since -- I trained for four years prior to that,
2 so 1987.

3 Q. So it's fair to say you've been doing this for a
4 very --

5 A. 37 years.

6 MS. BROWDER: 37 years. All right. At this
7 time, Your Honor, we would like to offer Dr. Wade as
8 an expert in emergency medicine.

9 MR. FOX: No question, Your Honor.

10 THE COURT: No objection?

11 MR. FOX: None.

12 THE COURT: All right. All right. Ladies and
13 gentlemen, as -- as I mentioned earlier, just want to
14 let you know, a person typically cannot give opinion
15 testimony when they are on the witness stand.
16 Normally when a person testifies, they must testify as
17 to what they either saw or heard or sensed by smell or
18 something of that nature. However, there is an
19 exception when someone is qualified because of
20 educational experience. They're permitted to give
21 their opinion in certain areas that the Court
22 qualifies in that way. This witness will be qualified
23 in the area of emergency medicine to give opinion and
24 testimony in that area. Does not mean that you must
25 accept the opinion, but it is evidence for you to use
26 in any way you see fit and to give the weight and

1 credibility you believe is appropriate. Yes, ma'am.

2 MS. BROWDER: Thank you, Your Honor.

3 BY MS. BROWDER:

4 Q. So in general, not to this specific case yet, but
5 in general, when somebody is coming into the emergency room
6 by ambulance, are you aware somebody is coming in?

7 A. Most of the times we get a radio call ahead of
8 time.

9 Q. Okay. And what is the purpose of that?

10 A. So we can prepare.

11 Q. Okay. And what do you do when you prepare?

12 A. Like if we get a trauma alert and we know the
13 helicopter is coming, we activate the trauma team, which is
14 surgeons and anesthesia and us, and we get the room ready
15 for what's coming in.

16 Q. Okay. And I want to take you to March 11th,
17 2023. Did you become involved in the treatment and care of
18 Infant One ?

19 A. Yes.

20 Q. Okay. And how did you first learn about Infant One
21 coming into the emergency room?

22 A. We had a phone -- there was a phone call to the
23 charge nurse in the pediatric emergency department saying
24 they had a cardiac arrest coming and be there in 12 to 15
25 minutes, I think is what they said.

1 Q. And when you got that phone call, what did you
2 and your team start to do to get ready for **Infant One**?

3 A. We went to the resuscitation room, turned on the
4 warmer, which we always do. It's a, you know, infant
5 warmer. Have a -- we have a code book with all the weights
6 and the drug dosages. And we started pulling out some
7 drugs because they give -- instead of a name, they give
8 like a -- they start -- they used to use a number, but now
9 they went to states and so he was Oklahoma, I think, 2023
10 with a number attached. And I don't remember the exact
11 number.

12 Q. Okay.

13 A. But it allows us to get into the Pyxis. And the
14 Pyxis is the -- basically, the closet where all the
15 medicines are kept. Because if you don't have a number,
16 you can't get into Pyxis.

17 Q. Okay.

18 A. So if somebody comes in emergency and needs
19 something, you have to be accessed to -- to the medicine.
20 So we prepare.

21 Q. Okay.

22 A. So we have the nurses in there and the
23 respiratory comes and I'm in there and we had a couple of
24 doctors in training in there also.

25 Q. Okay. Approximately, I don't mean an exact

1 number. Approximately how many people do you think was
2 there ready to take care of Infant One?

3 A. Probably six or seven.

4 Q. Okay. Now, when Infant One came in, what did you do?
5 What's the first thing that you do when a child -- an
6 infant like that comes into the emergency room?

7 A. Well, we get a report from EMS and they were
8 actively doing CPR. So we put them on the stretcher or the
9 infant warmer and we continued CPR and they kind of tell us
10 what they have done.

11 Q. Okay. And after they told you what they had
12 done, what was your course of treatment?

13 A. They -- they put an airway in, meaning that they
14 put a tube in the trachea to facilitate breathing because
15 the child wasn't breathing when apparently they got there.
16 They weren't able to give any co-drugs. So the first thing
17 that we did was we put a intraosseous line in the -- I -- I
18 don't remember which leg, I think it was the left tibia.

19 Q. Okay.

20 A. That gives us access to the vascular system so we
21 can give drugs.

22 Q. Okay. And did you give any drugs to Infant One?

23 A. Yes.

24 Q. And what drugs did you give to Infant One?

25 A. We gave -- I think we gave epinephrine five

1 times.

2 Q. And what is epinephrine?

3 A. It's a vasoactive drug that increases your heart
4 rate and your blood pressure. Gets your heart -- gets your
5 heart started.

6 Q. Okay. So gets your heart started?

7 A. Basically.

8 Q. And you had to give how many?

9 A. We gave five.

10 Q. And did any of those five doses work to get his
11 heart started?

12 A. No.

13 Q. Do you give them back-to-back to back or --

14 A. No, we usually wait three to five minutes with
15 CPR to try to get it going through the circulation and then
16 we give more.

17 Q. And when he came in, what was his -- when you
18 visually looked at him, what did he look like?

19 A. A small old man.

20 Q. Okay. And why do you say small old man?

21 A. He just was wrinkled and tiny.

22 Q. Okay. And were you aware at that time that he
23 was eight months old?

24 A. No.

25 Q. Okay. Based on your observation, your experience

1 working on infants and children as they come into the
2 emergency room, how old did you believe he was, based on
3 his appearance?

4 A. Two to three months maybe.

5 Q. Okay. So as you continued to work on **Infant One**, do
6 you get any vitals from him when you're trying to figure
7 out?

8 A. We -- we assess for pulses many times. Because
9 that's -- if we don't get a pulse back or any activity, we
10 give more epinephrine.

11 Q. Okay.

12 A. And we also gave, I think, sodium bicarbonate and
13 also glucose.

14 Q. And what did -- what would those do?

15 A. When you're -- when you're not breathing and your
16 heart is not beating, your -- your body becomes acidotic.
17 So sodium bicarb is a base to offset the acidosis.

18 Q. Okay.

19 A. And glucose, we give glucose just because if your
20 glucose is high, a little bit of glucose is not going to
21 hurt. But if your glucose is low, it's going to help.

22 Q. Okay.

23 A. So we kind of pretreat it even though we don't
24 even know.

25 Q. And did any --

1 A. Because it's not going to hurt you.

2 Q. And did any of those medications help?

3 A. No.

4 Q. Do you also take the child's temperature or the
5 person's temperature when they come in?

6 A. Yes. The nurse --

7 Q. And how do you do that?

8 A. The nurses, they have a rectal probe that they
9 put in and the nurses do that.

10 Q. And what was **Infant One's** temperature?

11 A. I think she could -- can I look up the --

12 Q. Yes.

13 A. I think she said it was unable to be read.

14 Q. And what -- as a emergency room doctor, what does
15 that mean to you? If it's unable to be read?

16 A. It means it was too low.

17 Q. Okay. And what is a person's normal temperature?

18 A. 98.7 to 99 probably. It varies depending on the
19 person.

20 Q. And if she couldn't get a temperature with a
21 thermometer, how low does the thermometer go?

22 A. Well, good question. I had to look that up. So
23 it was a Welch Allyn SureTemp 690 thermometer. We have
24 them on the wall and it reads from -- excuse me, it reads
25 from 80 to 110 degrees.

1 Q. Okay. So anything below 80 is not going to pick
2 up?

3 A. Correct.

4 Q. Okay. And so **Infant One's** temperature was below 80
5 degrees?

6 A. Correct.

7 Q. What does that indicate to you as emergency room
8 doctor about his care treatment?

9 A. I don't understand what you're asking.

10 Q. Does that play into your treatment in any way?

11 A. No.

12 Q. Okay.

13 A. No.

14 Q. Would that be considered very low or averagely
15 low or --

16 A. It's pretty low. I mean, not that -- not the
17 average temperature registered. That's pretty low.

18 Q. How often does somebody come into the ER and you
19 can't register their temperature?

20 A. Maybe less than 10 times in my career.

21 Q. So 10 times over 37 years?

22 A. Yeah.

23 Q. How long did you work on **Infant One**?

24 A. We -- they -- I think EMS had the child for about
25 -- about 15 minutes and we did 30 minutes.

1 Q. Okay. And after those 30 minutes, were you ever
2 to get any -- were you ever able to get any pulse?

3 A. No. No pulse.

4 Q. Was he ever able to start breathing again?

5 A. No.

6 Q. Did any of the medication work?

7 A. No.

8 Q. At that point, what did you decide to do?

9 A. We terminated the code about, I think, it was
10 12:41 p.m.

11 Q. Is that his time of death?

12 A. Yes.

13 Q. Did you call his time of death?

14 A. I did.

15 Q. Okay. And at the time of his death, do you know
16 how much **Infant One** weighed?

17 A. I think they weighed and I -- I don't -- I don't
18 remember exactly. Because when we knew it was -- I think
19 -- I think we, not calculated, but we estimated eight kgs.

20 Q. Okay.

21 A. And then when he got there, I think we had -- we
22 re-estimate because he was small, to four kgs and I think
23 they weighed him but I just don't know. Oh, I can tell
24 you, it's in there. Give me a second.

25 Q. Yes, sir.

1 A. He was -- our initial estimate before he got
2 there was going to be eight kgs based on his age, I think.
3 And then when he got there, we estimated four and he
4 actually weighed 3.3.

5 Q. And what is 3.3?

6 A. It was seven pounds four ounces.

7 Q. Okay. Seven pounds four ounces?

8 A. Yes. 4.4 ounces actually is what they put. And
9 they did that on the -- they did that about 3:00, 14:59, is
10 what it says.

11 Q. Is there anything else you could have done to
12 save **Infant One's** life that day?

13 A. No.

14 MS. BROWDER: No further questions, Your Honor.

15 THE COURT: All right. Cross-examination.

16 MR. FOX: Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. FOX:

20 Q. Dr. Wade, so first glance at **Infant One**, was that
21 your estimate that he was over four kgs or after four kgs?

22 A. That was the nurses.

23 Q. Nurses. Okay.

24 A. Yeah. We -- we all kind of look and say how much
25 do you think? Because they weigh kids every time they come

1 in, so they're probably better at than me.

2 Q. Okay.

3 A. That was their estimate.

4 Q. They had experience doing that?

5 A. Oh, they do it every day.

6 Q. Okay. And when you were assessing and looking
7 and estimating weight and all, were you aware of any
8 history at that time of the child? Any medical history or
9 anything like that?

10 A. Not that I recall, no.

11 Q. Okay. So you weren't aware that he was --

12 A. No, because we're actively doing CPR and we're
13 not asking any questions. We're trying to get the heart
14 beating. So, you know.

15 Q. You had -- you had the issue in front of you?

16 A. Yes. We're -- we're trying to fix the issue.

17 Q. Okay. So unaware that he was a 24-week preemie?

18 A. Yeah.

19 Q. Okay. Unaware he was one of quadruplets?

20 A. No, didn't know that either.

21 Q. Okay. Didn't know any of that? Didn't know any
22 of the -- how he came to be in your care? Just that he was
23 in your care?

24 A. Correct.

25 MR. FOX: Okay. Thank you. I don't have

1 anything else.

2 THE COURT: All right. Any redirect?

3 MS. BROWDER: No, sir.

4 THE COURT: All right. Doctor, you may step down
5 and be excused. Thank you, sir.

6 THE WITNESS: Okay.

7 (Witness released.)

8 THE COURT: All right. State to call its next
9 witness.

10 MS. BROWDER: Your Honor, State calls Dr. Darren
11 Monroe.

12 MADAM CLERK: Thank you. Please take a seat in
13 the witness stand. State your full name for the
14 record.

15 THE WITNESS: Darren Monroe.

16 **DR. DARREN MONROE,**

17 A witness herein, having been duly sworn, was examined
18 and testified as follows:

19 **DIRECT EXAMINATION**

20 BY MS. BROWDER:

21 Q. Dr. Monroe, where are you employed?

22 A. I'm employed by MUSC Health Pathology, which is a
23 group of pathologists here in Columbia.

24 Q. And did that just get bought out?

25 A. As of April 1st, yes.

1 Q. Okay. And what was it formally known as?

2 A. Professional Pathology Services.

3 Q. And what is your job title there?

4 A. I'm a pathologist. I do forensic pathology and
5 surgical pathology.

6 Q. And what is pathology?

7 A. Pathology is the diagnosis of disease and
8 forensic pathology in particular is using our medical
9 knowledge to determine the cause and manner of death in
10 certain cases.

11 Q. Okay. And in order to do that as a forensic
12 pathologist, what do you do in general?

13 A. We perform autopsies on the deceased to determine
14 the cause of death.

15 Q. And in order to become a forensic pathologist,
16 what kind of education and training do you have to have?

17 A. We go to medical school for four years and then
18 after that we go to four years of residency in pathology.
19 And after that we do another year of fellowship, which is
20 specific training in forensic pathology for a year.

21 Q. And where did you go to college?

22 A. I went to undergrad and graduate school at the
23 University of Louisville in Kentucky and then medical
24 school and residency at University of Kentucky. And then
25 my forensics fellowship was at MUSC in Charleston.

1 Q. And how long have you been a forensic
2 pathologist?

3 A. 11 years.

4 Q. And approximately over those 11 years, how many
5 autopsies have you performed?

6 A. Over 3,000.

7 Q. Okay. Have you ever testified as an expert
8 witness before?

9 A. Yes, I have.

10 Q. Approximately how many times?

11 A. 30 to 40.

12 Q. Okay. And are you a member of any professional
13 associates regarding pathology associations?

14 A. Yes, I am.

15 Q. And which ones?

16 A. Right now the College of American Pathologists.

17 Q. Okay. And do you do any continuing education to
18 keep up on the science of forensic pathology?

19 A. We have to do yearly, continuing medical
20 education is what it's called. And I do roughly 40 to 60
21 hours of -- of this every year.

22 MS. BROWDER: At this time, Your Honor, I'd like
23 to offer Dr. Monroe as expert in field of forensic
24 pathology.

25 THE COURT: All right. Any questions,

1 objections?

2 MR. FOX: No questions, no objection, Your Honor.

3 THE COURT: All right. Thank you. Again, ladies
4 and gentlemen, typically a witness is not allowed to
5 give opinion testimony, however, there is an exception
6 because of a person's education or experience.
7 Therefore this witness will be qualified in the area
8 of forensic pathology. You are to give Dr. Wade --
9 Dr. Monroe's testimony the weight and credibility that
10 you deem as appropriate. Thank you.

11 MS. BROWDER: Thank you, Your Honor.

12 BY MS. BROWDER:

13 Q. Dr. Monroe, what is an autopsy?

14 A. An autopsy is an external and internal
15 examination of the body to determine the cause of death.

16 Q. Okay. And in general, when you perform an
17 autopsy, what's the course of action you -- how do you
18 start?

19 A. We start with getting any background information
20 that we can and that's case-specific. Usually we are -- we
21 do these for the coroner's office and the coroner's office
22 will provide us with whatever history or scene
23 investigation that they've been able to come up with up to
24 that point. And then actually to do the autopsy itself,
25 we'll start with a general external examination where we

1 examine the outside of the body.

2 Q. Okay. And in order to do the external
3 examination, how do you examine the outside of the body?

4 A. So a number of different things that we do.
5 We'll document things like height and weight and eye color
6 and general characteristics like that. We also examine for
7 any sorts of natural disease that you can see on the
8 outside, any sorts of injuries, all of that gets
9 documented.

10 Q. Okay. And how do you document that?

11 A. A number of different ways. I make diagrams
12 myself and then we also take pictures.

13 Q. Okay. And after you do the external examination,
14 what do you do after that?

15 A. Then we go to the internal examination where we
16 examine all of the organs on the inside of the body and
17 basically do the same thing. Document natural disease, any
18 sorts of injuries, anything abnormal.

19 Q. Okay. And is that what you're looking to
20 document, is anything that is abnormal?

21 A. Almost anything. Yes.

22 Q. Okay. Do you do any additional testing when you
23 look at a body?

24 A. In general, we do some ancillary testing on
25 basically every case and that includes toxicology testing.

1 So we'll usually send off blood to a lab and they test it
2 for various drugs both regular medicines and drugs of abuse
3 for instance.

4 Q. Do you do X-rays?

5 A. On some cases, yes.

6 Q. Okay. And do you -- when you said you examine
7 the organ, how do you do that?

8 A. So we have to go on the inside, we use large
9 incisions on the torso and then we will eventually, it
10 depends on the case, how exactly we do it, but we have to
11 actually take the organs out and examine them and that
12 involves dissecting them and documenting everything that we
13 find.

14 Q. And that's in order to find injuries on those
15 organs?

16 A. Yes.

17 Q. Did you become involved in a case to perform an
18 autopsy on **Infant One**?

19 A. Yes, I did.

20 Q. Okay. And what date was that?

21 A. The autopsy was on March 12th, 2023.

22 Q. And when you first -- how did you know it was
23 **Infant One** that you were about to perform the autopsy on?

24 A. So the coroner's office will identify the body in
25 the vast majority of the cases and there are various ways

1 that they do that and they document that. On the transport
2 bag, for instance, there -- it's labeled. Will have --
3 some cases will have hospital ID vans and things like that.

4 Q. Okay. And before starting the autopsy on **Infant One**,
5 did you receive any background information about him
6 involving his death, his age, or anything of that nature?

7 THE COURT: I'm sorry, I hate to interrupt, but
8 is there a way we can find out what's going on
9 outside?

10 MR. FOX: It's outside.

11 MS. BROWDER: Your Honor, there's jack hammering
12 the breakout outside there.

13 MR. FOX: It's outside the building.

14 THE COURT: Oh, okay. All right. I -- I --
15 sounds like that it's directly above us but so ladies
16 and gentlemen, I -- I apologize for that.

17 THE WITNESS: Ask if you could speak up. The
18 jury can't hear.

19 THE COURT: And it's not your fault, Doctor,
20 we've got these noise that we can't control. If you
21 just pull the microphone a little closer and sorry
22 about that.

23 BY MS. BROWDER:

24 Q. Okay. So before starting the autopsy, did you --
25 did you receive any background information on **Infant One** such

1 as age, circumstances involving the death or anything along
2 that lines?

3 A. Yes. So the coroner's office notifies us o -- of
4 the case and in this case they would've given me the age
5 and any information they had up to that point in their
6 investigation.

7 Q. And in an autopsy of a child, is it important to
8 have the age of the child for your autopsy?

9 A. Yes.

10 Q. Okay. And why is it important?

11 A. Children especially develop very quickly. For
12 instance, it doesn't really matter if an adult is 40 or 45
13 years old, but it matters a great deal in a child whether
14 they're four months old or eight months old.

15 Q. Okay. And in this case, what was **Infant One's** date
16 of birth?

17 A. His date of birth is [REDACTED].

18 Q. And that would make him approximately eight
19 months old at the time that you performed his autopsy?

20 A. That's correct.

21 Q. Okay. And what was his date of death?

22 A. Date of death was March 11th, 2023.

23 Q. So you were performing this autopsy the next day?

24 A. Correct.

25 Q. Okay. When an -- when a body comes in for you to

1 perform an autopsy, you're told that there may be possible
2 abuse or that he died a natural death. What do you do to
3 make sure to rule out any natural causes of death?

4 A. So like I said when explaining what the autopsy
5 was, we'll document all of the natural disease processes as
6 well as any injuries that we come across.

7 Q. And in this case for **Infant One**, when you did
8 your autopsy, were you able to find any natural causes of
9 death?

10 A. No.

11 Q. Okay. When you perform the autopsy, what's your
12 ultimate goal?

13 A. The ultimate goal is to determine the cause of
14 death. That's the biggest thing.

15 Q. I know it kind of seems self-explanatory, but
16 what is the cause of death?

17 A. The cause of death is the actual process that led
18 to death.

19 Q. Okay. So for **Infant One**, you said the first thing
20 you do when you get somebody in is you do an external
21 examination. Did you do an external examination for
22 **Infant One**?

23 A. Yes, I did.

24 Q. Okay. Please describe for the ladies and
25 gentlemen of the jury how you proceed with that

1 examination.

2 A. So it starts, like I said, with documenting
3 general characteristics like height and weight and hair
4 color and those sorts of things. And then I'll proceed to
5 document any sort of natural disease that I can see
6 externally on the outside of the body and then also
7 evaluate any remote or acute injuries that you can see on
8 the outside.

9 Q. What does remote and acute injuries mean?

10 A. So an acute injury is something that's not healed
11 or not in the healing process just yet. Remote would be
12 something like a scar, an injury from a while ago.

13 Q. Okay. You said you get the child's weight. What
14 was **Infant One's** weight?

15 A. His weight was 3,260 grams.

16 Q. What does that mean in normal people terms?

17 A. So a couple pounds.

18 Q. Okay. Okay. Typically how long does it take you
19 to do an external examination of a child, mainly?

20 A. It depends entirely on the findings. If there
21 are a lot of findings, it'll take a lot longer. If there's
22 not a lot of findings, it can be very quick.

23 Q. And in this case, how long did it take you to do
24 **Infant One's** autopsy?

25 A. I don't have an exact time, but with the amount

1 of documentation that I had to do and things to examine,
2 this probably took several hours.

3 Q. And is that longer or shorter in the scheme of
4 what you just said about sometimes it'll take shorter time,
5 sometimes it'll take longer?

6 A. This is longer. Yes.

7 Q. And when you do your examination, how do you
8 document your findings on **Infant One**?

9 A. So I have various diagrams that we use and I'll
10 draw in what I find. And we also, like I said, take
11 pictures as well.

12 Q. I'll show you what's been marked as State's
13 Exhibit 33, 34 and 35. Do you recognize those?

14 A. Yes, I do.

15 Q. And what are those?

16 A. These are copies of my diagrams.

17 Q. Okay. And would that help you in explaining to
18 the jury some of the injuries that you found on him?

19 A. Yes, it would.

20 MS. BROWDER: At this time, Your Honor, I'd like
21 to enter into evidence State's Exhibit 35, 36. Sorry.
22 Yes sir. 33, 34, 35.

23 THE COURT: Any objection?

24 MR. FOX: No, Your Honor.

25 THE COURT: All right. Without objection, so

1 admitted.

2 (State's Exhibit 33, 34 and 35 admitted into
3 evidence.)

4 BY MS. BROWDER:

5 Q. Start with State's 33, what is this diagram?

6 A. That's the basic diagram that we do for all
7 cases. In this case, obviously it's a diagram, you know,
8 outline of a baby.

9 Q. Okay. And we'll go into all the specific
10 injuries in detail in a minute, but in general, can you
11 tell the jury what injuries you documented on this diagram?

12 A. Yes. So the first thing injury-wise is there are
13 numerous scars all over the body. It's probably difficult
14 to discern how many exactly, just looking at the diagram,
15 but they're scattered all over the body. That was the most
16 obvious set of injuries externally that I found. Also
17 documented on this is a laceration of the frenulum, which
18 is the little piece of tissue between your gum and your
19 upper lip. That's considered part of the external
20 examination.

21 Q. Okay. State's 34, what is this diagram?

22 A. So this is just a larger diagram of -- of the
23 head, obviously. And we use that to document when there's
24 just not a lot of room on the smaller diagram. And in this
25 case there were a lot of injuries to document and so I used

1 this one. It's showing a number of other scars
2 specifically over the face. It's showing an area of -- a
3 large area of hair loss on the back of the head as well as
4 abrasion in the central part of that.

5 Q. What's an abrasion?

6 A. An abrasion is a scrape

7 Q. And State's 35, what is this diagram?

8 A. So that's a side view, both left and right of the
9 head. And again, used this to document because there's
10 more room and there were a lot of these injuries to
11 document.

12 Q. Now, I'm going to start with the -- well, let me
13 show you first. I will show you what's marked as State's
14 Exhibit 36, 37, 38, 39, 42, 44, 45 and 46. Do you
15 recognize these photographs?

16 A. Yes, I do.

17 Q. Okay. And what does those photographs depict in
18 general?

19 A. These are -- with exception of two of the
20 pictures, these are pictures from the external exams, so
21 the outside of the body.

22 Q. Okay. And what are the other two pictures?

23 A. The other two pictures are pictures of X-rays
24 that we took during the case.

25 Q. Okay. And would those pictures help you explain

1 to the jury some of the injuries on **Infant One**?

2 A. Yes, they would.

3 Q. Do they fairly and accurately represent the way
4 **Infant One** looked on March 12th, 2023 when you did his autopsy?

5 Q. Yes.

6 MS. BROWDER: At this time, Your Honor, I would
7 like to enter into evidence State's 36, 37, 38, 39,
8 42, 44, 45 and 46.

9 THE COURT: All right. Any objections beyond?

10 MR. FOX: None other than previously stated, Your
11 Honor.

12 THE COURT: Okay. All right. So admitted.

13 (State's Exhibit 36, 37, 38, 39, 42, 44, 45 and
14 46)

15 MS. BROWDER: All right. Thank you, Your Honor.

16 BY MS. BROWDER:

17 Q. I'm going to start with State's Exhibit 36. What
18 is this a picture of?

19 A. That is an X-ray of the majority of his body and
20 in particular it's demonstrating multiple bone fractures.

21 Q. And can I have you step down off the stand for
22 me, please?

23 A. Yes.

24 Q. Okay. Can you explain to the jury where you see
25 bone fractures in this X-ray?

1 A. So this is the left side of the body and this is
2 the left arm. And right here in the forearm you can see a
3 fracture right there as well as a fracture right there.
4 And they're both somewhat displaced. So they're the bones
5 broken and out of alignment.

6 Q. And those two separate breaks?

7 A. Yes.

8 Q. Okay. And are there any other breaks shown in
9 this photograph?

10 A. Yes. But you can barely see the right arm.

11 Q. Okay.

12 A. This one.

13 Q. That's where we're going next, so. All right.
14 Let me show you what's marked as State's 37. All right.
15 Can you explain to the jury what's in this X-ray?

16 A. So this is the right arm and the right forearm
17 here, you can see a fracture in this bone towards the end,
18 about right here.

19 Q. You're pointing kind of towards your wrist?

20 A. It's very close to the wrist, yes.

21 Q. Okay. So I'll start with those two fractures
22 that we just talked about. So the left arm where there's
23 two separate fractures, can you explain to the jury a
24 little bit more about those fractures?

25 A. So the left arm, the left forearm, your forearm

1 has two bones in it. The upper arm just has one. So in
2 the left forearm, both what's called the -- the radius and
3 the ulna had fractures and they were both displaced
4 somewhat.

5 When you get a -- when you break a bone, it can break
6 in different ways. It can just crack; it can fracture all
7 the way through or it can fracture and be displaced to any
8 degree.

9 And we -- I found, you know, both of those bones had
10 displaced fractures. They were in a process of -- they had
11 started the process of healing.

12 Q. And what does that mean? Started the process of
13 healing. What does that tell you time-wise?

14 A. So when you break a bone, it will begin to heal
15 and it's a process that takes time. It can take six weeks
16 to two months, generally. And it's a -- you know, it's a
17 continuum of changes that you can see over time.

18 I can't give a specific time, like six days, 12 days,
19 or anything that specific, but I can tell that this has
20 been going on for a couple weeks anyway.

21 Q. And regarding the fracture in the right arm,
22 explain to the jury about that fracture.

23 A. So the right arm was fractured in this area, very
24 close to the wrist about here, and it was less displaced
25 but also in the process of healing as well.

1 Q. Okay. And how did you know it was in the process
2 of healing?

3 A. So we will take sections of tissue and they get
4 processed by some of our techs and put on the microscopic
5 slides and then we look at them under the microscope and we
6 can see exactly what's going on at the cellular level. And
7 we can observe whatever changes are or are not occurring.
8 And from that, we can diagnose what's going on and see
9 what's happening.

10 Q. Okay. And did **Infant One** have any other fractures?

11 A. Yes, he did.

12 Q. Okay. And where did he have other fractures?

13 A. His -- the posterior aspect of the right ribs
14 number is --

15 Q. I'll stop you right there. What does posterior
16 mean?

17 A. The back.

18 Q. Okay.

19 A. Yeah.

20 Q. So the back of his ribs?

21 A. Yes.

22 Q. Okay.

23 A. The back of three of his right ribs specifically
24 ribs eight, nine, and 10 had healing fractures as well.

25 Q. Okay. So in total he had six fractures that you

1 could tell?

2 A. Yes.

3 Q. Okay. On different parts of his body?

4 A. Yes.

5 Q. Now, after you looked at all or you determined
6 the fractures, I want to go back to some of his external
7 injuries. You stated there were bruises and scratches and
8 scars all over his body?

9 A. Yes.

10 Q. When you looked at his, you said there was acute
11 injuries before, correct?

12 A. What was that?

13 Q. You said there were acute injuries you noticed?

14 A. Yes.

15 Q. What were the acute injuries that you noticed,
16 the ones that were more recent and new?

17 A. The -- there were a couple more acute injuries.
18 One was the laceration, which is a tear of the frenulum of
19 the upper lip.

20 Q. Okay. I'm going to show you what was entered as
21 Exhibits 46. Does that accurately represent the tear his
22 frenulum?

23 A. Yes, it does.

24 Q. Okay. Now explain real quick to the jury what a
25 frenulum is again.

1 A. So the frenulum is the little piece of tissue
2 between your gum and your upper lip and you actually have
3 three of them in your mouth. Your bottom lip has one and
4 there's one that holds -- attaches the bottom of your
5 tongue to the floor of your mouth.

6 Q. And which one of **Infant One's** was torn?

7 A. So this is the -- the upper lip one.

8 Q. And was it partially torn, completely torn?

9 A. It was lacerated and displaced. You could use
10 the word evulsion, would be the technical term. So a
11 pretty good laceration that's going on.

12 Q. And if someone were to get this injury, would
13 there have been a lot of bleeding, a little bleeding? Do
14 you know?

15 A. There would've been bleeding, yes.

16 MS. BROWDER: Okay. At this time, Your Honor, I
17 would publish 46 to the jury.

18 THE COURT: Yes, ma'am.

19 BY MS. BROWDER:

20 Q. What was the next acute injury that you noticed?

21 A. So he had a black eye.

22 Q. Okay. And when you observed the black eye, I'm
23 going to show you what's marked as State's Exhibit or
24 entered as State's Exhibit 38. Do you recognize that
25 picture?

1 A. Yes, I do.

2 Q. And what does that picture show?

3 A. This is a picture of predominantly the right side
4 of the face and head and it shows some scarring and also
5 swelling and contusion, which is bruising. What you would
6 commonly refer to as a black eye.

7 Q. And the scarring on his face, approximately how
8 many scars do you see in that picture? Just on his face?

9 A. There's at least six or seven in this picture.

10 Q. And is the one specifically there in the middle
11 of his forehead?

12 A. There are some in the middle of the forehead.
13 Yes.

14 Q. And is this something you documented as part of
15 your autopsy as the black eye?

16 A. Yes.

17 Q. Okay. And can you tell how much force would've
18 been had to use to receive something like that? If
19 somebody just kind of hit you a little bit, would that
20 cause that type of swelling in the black eye?

21 A. A light tap like that is not going to cause a
22 black eye.

23 Q. Okay. You mentioned the back of **Infant One's** head,
24 he did not have hair and had some injuries. Can you tell
25 the jury what you noticed -- what your findings were

1 regarding the autopsy, the back of **Infant One's** head?

2 A. So this picture in particular shows the back of
3 his head. It's showing a large amount of hair loss and
4 it's showing some dried and flaking skin in the middle.
5 It's also showing an abrasion in the middle. Again,
6 abrasion is a scrape.

7 Q. Okay. And does that accurately represent how he
8 looked on the day of autopsy?

9 A. Yes.

10 Q. Okay. And for purposes of finding, why was it
11 important that he did not have hair on the back of his
12 head?

13 A. So that's an extensive amount of hair loss for an
14 infant.

15 Q. You mentioned more scratches. So I'll start with
16 this one, which is State's Exhibit 39. What does that
17 photo depict?

18 A. This is a picture of the left side of the body
19 and left arm and it's showing multiple different scars of
20 different sizes and shapes.

21 Q. Okay. And is there something else also in that
22 picture that isn't related to his death when it comes to
23 injuries?

24 A. Yes. There is an imprint on the more stomach
25 area of an EKG pad, which is just a little sticky pad that

1 they put on during resuscitation efforts.

2 Q. So that's nothing that was part of your exam?
3 That was just part of the picture because it had been on
4 him previously during lifesaving measures?

5 A. I do document the medical intervention apparatus
6 that's still on the body but it's not an injury.

7 Q. Okay. Now, you mentioned his weight was 3,000
8 something grams. When you did your external examination of
9 Infant One, what did his body look like?

10 A. I was aware that he was -- had been born
11 premature. Even accounting for that I could look at the
12 body and tell that he was just very underweight.

13 Q. Okay. And how could you tell that when you
14 looked at it?

15 A. Colloquially, you would say he was skin and
16 bones.

17 Q. Okay. I'm going to show you State's Exhibit 45.
18 Is that an accurate representation of how Infant One looked the
19 day that you did his autopsy?

20 A. Yes, it is.

21 Q. And how are you able to say from that picture he
22 looks like skin and bones?

23 A. On the middle of the body, you can see outlines
24 of the ribs on the upper chest area. The abdomen is -- is
25 very flat. Usually, a normal weight baby will have the

1 abdomen, which is the stomach area, will be about the same
2 width as the chest. And in this case you can see the
3 abdomen is much less. You can look at the face as well.
4 There's just a lack of adipose tissue. There's no puppy
5 baby cheeks.

6 Q. What about his legs?

7 A. The legs are very skinny as well.

8 Q. I'm going to zoom in on this particular leg, the
9 right leg. What are those marks on his right leg?

10 A. So the lighter colored areas are scars.

11 Q. Okay. And approximately, how many scars can you
12 see on that leg?

13 A. There's about five or six.

14 Q. Okay. And did you also make a finding in your
15 exam about his penis?

16 A. Yes.

17 Q. Okay. And what was your findings regarding his
18 penis?

19 A. Can see towards the tip of the penis, it's very
20 swollen.

21 Q. And is that normal?

22 A. No.

23 Q. Okay. And can you tell how long the penis had
24 been that way? Is that something that you're able to tell
25 during an autopsy or do you just document it?

1 A. I can't tell how long it's been like that.

2 Q. Okay. I'm going to show you State's Exhibit 44.
3 What does this picture represent?

4 A. So that's showing the back.

5 Q. Okay. And what is significant about this picture
6 that you indicated he was underweight?

7 A. So again, you can see the arms and legs are very
8 skinny. Additionally, this picture also shows a couple
9 scars.

10 Q. Okay. Now, were these scars that you -- when you
11 did your examination, were they readily, easily to see for
12 you? Were they something you had to use a microscope to
13 see the scars or were you able to see them during your
14 external examination?

15 A. They're very easy to see.

16 Q. Okay. Are they injuries that would've kind of
17 popped up after he died, that you wouldn't be able to see
18 them after he died or would those have been visible before
19 he died?

20 A. These would've been visible before death, yes.

21 Q. And does that goes for all of the scratches and
22 scars on his head, face, body, and legs that you saw?

23 A. They would all have been visible, yeah.

24 Q. Okay. I'm going to now the -- go about the
25 fractures real quick. So when you do your examination and

1 you -- you said you try to rule out natural causes for
2 things. Were the fractures -- were you able to tell when
3 you did your exam of **Infant One** if there would -- would it be
4 readily able to determine if the child had any condition
5 that would cause the bones to be broken easily?

6 A. There are different conditions both nutritional
7 and genetic that can cause your bones to be easy to
8 fracture. He does not have any of those.

9 Q. Okay. Could he have caused those fractures to
10 himself?

11 A. No.

12 Q. And how much force was needed to cause those
13 types of injuries and fractures?

14 A. A lot of force. Baby's bones are not nearly as
15 brittle as an adult such as me or especially an older
16 person. It takes a lot of force to -- to break them and a
17 lot of force to get this displacement, like I was talking
18 about, of the bones

19 Q. Could -- if this child was one of triplets, so
20 other children who were about the same size, maybe a little
21 bit bigger than **Infant One**, could they have caused those
22 fractures?

23 A. No.

24 Q. Now the frenulum tear, do some -- are some people
25 born without a frenulum?

1 A. There can be different malformations along the
2 midline of the face that can affect whether the frenulum is
3 there or not.

4 Q. And could you tell based on your review of **Infant One**
5 if this would've been a defect?

6 A. This was not.

7 Q. A birth defect. Yeah. Okay. And how do you
8 know it was not?

9 A. Because he didn't have any of the defects that --
10 that we see with them.

11 Q. And that's one of the ones that you determined
12 was acute, which happened recently, correct?

13 A. Correct.

14 Q. Okay. And could that injury have been caused by
15 one of the other triplets?

16 A. Very unlikely.

17 Q. Okay. And how much force would it have taken to
18 tear that frenulum in that manner?

19 A. It would take a good amount of force to do that.

20 Q. Now, I'm go to his internal examination. In
21 general, when you begin an internal examination, tell the
22 jury how you start or what you do first?

23 A. So the first thing that we do is we make a large
24 incision on the front of the body and that allows us to
25 expose the inner surface of the body right here. And then

1 from there we can get into the chest and the abdomen.

2 Q. Okay. And when you did your internal examination
3 on **Infant One**, did you look for any natural cause of death?

4 A. Yes.

5 Q. And did you find any?

6 A. No.

7 Q. Okay. Tell the jury how you proceeded and what
8 you found regarding any injuries as to **Infant One** internally.

9 A. So internally again, the fractures were
10 demonstrated that we saw on the X-rays. You could also
11 feel them on the external examination by just palpating or
12 touching the arms, for instance. So they were
13 demonstrated, of course, when we went inside. Again, the
14 rib fractures in the back of the right side, you could see
15 those easily. Let's see. Other than that on the internal
16 examination there were contusions of the legs and hips
17 areas as well, deep in the tissue.

18 Q. What are contusions?

19 A. A contusion is a bruise.

20 Q. So he had bruises on his hips and where?

21 A. Right thigh, right lower leg, left thigh and left
22 lower back and hip area.

23 Q. Okay. And did you look at the organs in this
24 case?

25 A. Yes.

1 Q. And did you find anything significant regarding
2 **Infant One's** cause of death regarding his organs?

3 A. Not on the thoracic organs. The organs down
4 here, the internal examination of the head revealed more
5 injuries.

6 Q. Okay. And what injuries did you find internally
7 for **Infant One**?

8 A. So on the surface of the brain, I found some
9 resolving cortical contusions in multiple areas. A
10 contusion again is a bruise.

11 Q. What does cortical mean?

12 A. And cortical means the surface of the brain.

13 Q. Okay.

14 A. So the outside surface of the brain.

15 Q. And how many of those did you find?

16 A. There were three areas of resolving bruising of
17 the brain and evidence of bleeding onto the surface of the
18 brain as well.

19 Q. And how many different spots did you find
20 contusions?

21 A. There were three areas, three main areas.

22 Q. Okay. What were those areas?

23 A. One was on the left superior frontal parietal
24 lobe, which is basically right here.

25 Q. So basically the front kind of middle left of his

1 head?

2 A. Front side.

3 Q. Side. Okay. Where was the second one?

4 A. Second one was on the right superior frontal
5 parietal area. So the same exact area basically, but on
6 the other side.

7 Q. And could those injuries have occurred at the
8 same time?

9 A. It's unlikely. Very unlikely.

10 Q. And where was the third injury?

11 A. And the third area of injury on the brain was the
12 right superior frontal lobe. So about right here.

13 Q. Okay. And what is the significance of those
14 injuries as it comes to the autopsy?

15 A. So this is indicative of, you know, head trauma,
16 most likely multiple -- resulting from multiple impacts.
17 It's also, like I said, resolving. So it's in the process
18 of healing for some time.

19 Q. And those injuries, what type of symptoms would
20 they cause when they occur?

21 A. Most likely you can lose consciousness. These
22 are effectively very bad concussions. You can lose
23 consciousness, you can have -- you're going to have --
24 you're not going to be acting yourself, you know, very
25 painful. A baby like this would be absolutely inconsolable

1 with this degree of head injury.

2 Q. Would they be acting any different based on what
3 -- medically, based on what you know about these types of
4 injuries?

5 A. Yes.

6 Q. Okay. And how would they be acting differently?

7 A. Again, they would be in a lot of pain, so there's
8 going to be a lot of crying, inconsolable, they may or may
9 not again, be conscious even. You know, there's a whole
10 spectrum of findings that are possible.

11 Q. And would an eight-month-old like **Infant One** be able
12 to do these types of injuries to himself?

13 A. No.

14 Q. Okay. And why not?

15 A. He's too young and too weak to move very much at
16 all.

17 Q. And you mentioned earlier about he was skin and
18 bones. Medically, was there anything when it came to
19 **Infant One's** body regarding any sort of malnutrition or
20 malnourishment?

21 A. So again, going by the general appearance of the
22 body and documenting the height and weight and knowing his
23 age, we can get an idea of what his weight should be or a
24 bowel in his very, very, very low body weight.

25 Q. And did he have anything in his stomach?

1 A. In the stomach, there was a little bit of
2 semi-liquid material.

3 Q. Could you tell based on any testing whether he
4 was well fed, dehydrated, anything of that nature?

5 A. So one thing is the large bowel or the colon was
6 full of very hard stool. It should not be that hard. It
7 was impacted at the distal aspect. So right before you
8 would go to the bathroom and get rid of those very hard and
9 impacted it wasn't going anywhere. Basically very bad
10 constipation.

11 Again, we do ancillary testing. In this case we
12 tested the vitreous, which is the fluid inside of your
13 eyeballs. And from that we can test for different things.
14 And the results in this case were consistent with the
15 degree of dehydration as well.

16 Q. Based on your entire autopsy examination, what
17 was **Infant One's** cause of death?

18 A. So his cause of death is complications of
19 non-accidental blunt head trauma and contributory
20 conditions include dehydration and neglect.

21 Q. And how did dehydration and neglect contribute to
22 the cause of death?

23 A. So dehydration itself can kill you. It makes you
24 weaker, it makes you not able to withstand any other sort
25 of disease or injury.

1 Q. Okay. And what about the neglect? How did that
2 contribute to the cause of death?

3 A. And neglect, babies can't take care of
4 themselves. They need constant supervision, constant
5 feeding, constant taken care of.

6 Q. And did the fractures need medical attention?

7 A. Yes.

8 Q. Did the head trauma need medical attention?

9 A. Yes.

10 Q. If he had gotten medical attention, could he have
11 potentially lived?

12 A. Potentially.

13 MS. BROWDER: No further questions, Your Honor.

14 THE COURT: All right. Cross-examination.

15 MR. FOX: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. FOX:

18 Q. Dr. Monroe, specific again, the cause of death
19 was blunt force trauma to the head, correct?

20 A. Complications of non-accidental blunt head
21 trauma.

22 Q. Okay. And that was an injury that you assessed
23 or saw when you opened the skull or cut the scalp and --
24 and did the internal examination, correct?

25 A. Correct.

1 Q. And the findings about dehydration, it can, but
2 in this case, and you testified dehydration can kill you,
3 but dehydration in this case was not the cause of death.
4 The cause of death was an injury -- internal injury to the
5 brain, correct?

6 A. So dehydration and neglect were listed as
7 contributory conditions.

8 Q. Yes.

9 A. So it's -- it's not the top line cause of death
10 statement, but it's included -- it's all -- it all goes
11 together.

12 Q. I understand. The -- can you estimate with the
13 -- back to the head injury, can you estimate, you say those
14 were healing, so not acute, correct?

15 A. They were in the process of healing, yes.

16 Q. Okay. Can you give any kind of estimate? You
17 estimated, I think, with the fractures but with the head,
18 can you estimate roughly how far out those injuries
19 occurred?

20 A. So again, the healing process, just like with the
21 bone fractures and that healing process, it's a continuum
22 of changes that happen. So I can't give any sort of very
23 precise timeline for this. These are going to be at least
24 several weeks old.

25 Q. Several weeks old. Okay. So several, could it

1 be up to like eight weeks old?

2 A. Possibly.

3 Q. Okay. So we could go wherein the death was on
4 March 11th, so that would put us roughly in January,
5 correct? If it's -- if it is in fact that long. Two
6 months prior, eight weeks would be two months, that would
7 be January?

8 A. Yeah. Possibly, yeah.

9 Q. Okay. The contusions that were found on the hips
10 in different places, those were also in deep tissue, right?

11 So again, that was something that you found on the
12 internal examination, correct?

13 A. Yes. They weren't visible on the surface of the
14 skin.

15 Q. Okay. And you testified about the frenulum, the
16 black eye, hair loss and flaking, none of those were the --
17 were the cause of death?

18 A. The --

19 Q. Normal, but not -- I'm sorry, I didn't mean to
20 interrupt you. Not normal, but not what caused the child's
21 death?

22 A. Correct. The -- like the frenulum lacerations,
23 not a failed wound.

24 Q. Okay. And it's difficult with the -- would you
25 say that it's difficult -- can be difficult in reading an

1 X-ray to determine where there are fractures that sometimes
2 further examination is necessary?

3 A. It -- depending on the fracture it can be, you
4 know, very subtle. These were less subtle.

5 Q. There were two. And you testified about these
6 and the arms and the skull. At one point you suspected,
7 and that's in your report that there was a skull fracture,
8 correct?

9 A. There was a -- a possible skull fracture seen on
10 the X-ray.

11 Q. Right. But then further examination and you did
12 some kind of microscopic testing, I think you talked about
13 that, but you did a deeper dive, if you will. Did you
14 determine that there was no skull fracture?

15 A. I could not find a skull fracture healing or
16 otherwise.

17 Q. And there was also another one noted in one of
18 the femurs, which is the big bone in the leg, correct?

19 A. Yes.

20 Q. Okay. Again, that was noted as another possible
21 fracture, but upon further examination determined that it
22 was not?

23 A. Correct.

24 Q. Okay. Now you know you're qualified as a medical
25 expert and you've testified about those qualifications and

1 what you do in an autopsy and as a doctor. And you talk
2 about the displaced fractures, palpitating and -- and being
3 able to determine, that's one of the ways that you could
4 determine that there was a displaced fracture, correct?

5 A. Yes.

6 Q. But that's based on your training and your
7 experience as a doctor?

8 A. Yes.

9 Q. And an average person wouldn't have that same --
10 you wouldn't expect to have that same knowledge to do that?

11 A. Depends on when they're feeling the arm.

12 Q. Okay. And with the head injury, you described
13 that as like a concussion which is -- could that be from --
14 if there's not a fracture, could that be from what's known
15 as an acceleration deceleration kind of injury? Kind of a
16 whiplash kind of situation?

17 A. So cortical contusions or bruises on the surface
18 of the brain are from impacts.

19 Q. All right. Your determination is this was from
20 an impact?

21 A. Yes.

22 Q. Okay. But you described concussions like and you
23 described the symptoms for an infant being very fussy,
24 crying inconsolable, so maybe constant crying or nearly
25 constant crying?

1 A. Yes.

2 Q. Okay. Especially around the time of the injury,
3 correct?

4 A. Yes.

5 Q. And again, I realize you didn't diagnose an
6 actual concussion, but with concussions and that type of
7 injury, that recovery process can be extended, correct?

8 A. It --

9 Q. As in doesn't heal in a day or -- or two?

10 A. Correct. It takes a long time to heal.

11 Q. And it can be very painful headaches and things
12 like that?

13 A. Yes.

14 Q. Okay. And at eight months old, you wouldn't
15 expect that **Infant One** could verbalize what was going on?

16 A. Not with words, with crying.

17 Q. With cry, right. His behavior perhaps, but not
18 with words. He can't describe my head hurts or any of
19 those -- those things?

20 A. Correct.

21 Q. What exactly -- if you recall, what information
22 did you have from the coroner? You say you usually get
23 background information. What was the background
24 information or the -- what just -- what was the background?

25 A. So I was able to one, get information from the

1 coroners and that consisted basically of, this is an
2 eight-month-old male infant who was born premature. And
3 then from looking -- before the autopsy, from looking at
4 the electronic medical record system at the hospital, I was
5 able to look at some of his past medical history as well as
6 the emergency room visit, you know, when he came in and was
7 dead.

8 Q. Okay. Did they describe the nature of -- of the
9 -- say, as a deceased infant, did they -- I'm talking about
10 a coroner, frame it as suspected child abuse?

11 A. They may or may not have mentioned that, I don't
12 recall.

13 Q. Or even suspicious death. Is that something that
14 would typically be done?

15 A. All infant deaths are suspicious and so we have a
16 -- a low threshold for suspecting and we basically need to
17 rule it out on every single case.

18 MR. FOX: Thank you. No further questions, Your
19 Honor.

20 THE COURT: Any redirect?

21 REDIRECT EXAMINATION

22 BY MS. BROWDER:

23 Q. You stated that you looked at his prior medical
24 records as part of your analysis and examination, so you
25 were aware he was premature. Has prematurity played any

1 part in your determination of cause of death?

2 A. No.

3 Q. And Mr. Fox was asking about these internal
4 injuries, how they couldn't be seen, if somebody -- if an
5 infant gets a fracture, how would they verbalize if they
6 got fractured?

7 A. Fractures such as these would be extraordinarily
8 painful and they would be absolutely inconsolable --

9 Q. Crying?

10 A. -- for a long time.

11 Q. Okay. And Mr. Fox asked you about these internal
12 injuries and how they can't be seen. Was the frenulum tear
13 something that could be seen?

14 A. When it initially happened, there would've been
15 some degree of bleeding.

16 Q. And that was an acute injury, which means it
17 happened recently?

18 A. Fairly recently, yes.

19 Q. And the black eyes, is that something that could
20 be seen?

21 A. Yes.

22 Q. Okay. And you said that was also acute that
23 happened recently?

24 A. Fairly recently, yes.

25 Q. Okay. And his penis, was that visible?

1 A. Yes.

2 Q. Okay. And can you say whether that happened
3 recently or long ago, but how would you consider that
4 injury?

5 A. I can't really give a timeline for that.

6 Q. And would that injury have been painful?

7 A. Yes.

8 MS. BROWDER: No further questions, Your Honor

9 THE COURT: All right. Dr. Monroe, thank you
10 very much. You may step down and be excused.

11 (Witness released.)

12 THE COURT: Ladies and gentlemen, we've been
13 going for about an hour and 20 minutes, hour and 25.
14 Why don't we take our -- our mid-morning break for
15 about, looks like about 13 minutes or so, and then
16 we'll come back and the State's next witness will take
17 the stand.

18 As always, please don't discuss the case with
19 anybody including yourselves. Don't seek out or
20 review any information or media about this matter.
21 And please keep an open mind as to all issues in this
22 case until I charge you on the law and excuse you to
23 begin deliberations. Thank you very much.

24 (Jury exits the courtroom for a break.)

25 THE COURT: All right. The jury is -- is out for

1 our mid-morning break. Is there anything from the
2 State before we stand down for just a few minutes?

3 MS. BROWDER: No, sir.

4 THE COURT: Anything from the --

5 MS. CAVANAUGH: Yes, sir.

6 THE COURT: Oh, I'm sorry. Ms. Cavanaugh.

7 MS. CAVANAUGH: Thank you, Your Honor. I just
8 don't want, before we call our next witness and the
9 jury is out, I don't want there to be another break.
10 We do put -- our next witness is Emily Taylor. She is
11 with the Department of Social Services.

12 She was present during a hearing of August 21st,
13 2023 when the defendant testified. We have a
14 certified copy of the transcript. I have provided,
15 this morning -- granted this morning around about
16 7:45, I provided -- my understanding is they had the
17 transcript from about a week and a half ago.

18 But this morning around 7:45, I provided a
19 highlighted version to them about which questions and
20 answers I plan on or at least attempt to elicit from
21 this next witness.

22 And so I wanted to address number one, whether
23 there's objections before we get into that. And then
24 number two assuming that, you know, the -- the
25 testimony -- the -- the question and answers are

1 admitted as evidence and our -- and do come through
2 this witness, the logistics of -- of how to do the
3 question and answer.

4 I was planning on reading the question that was
5 asked by the lawyer and having Ms. Taylor read out the
6 answer from the defendant. So those are the things
7 I'd like to address before we call her as a witness.

8 THE COURT: All right. Mr. Fox, happy to hear
9 from you on that issue, sir.

10 MR. FOX: Well, I may need a moment, Judge.

11 THE COURT: Okay.

12 MR. FOX: I don't know what happened. I see the
13 copy of the email went to Ms. Coley; I see my name on
14 it. For some reason it didn't pop up on my phone.
15 But I see that it was sent what Ms. Cavanaugh said. I
16 haven't had a chance to review what she's highlighted.

17 And I need to think a minute about whether this
18 witness is the right way to do that. So what I'd like
19 to do is maybe during this short break --

20 THE COURT: All right.

21 MR. FOX: -- consider and -- and when we come
22 back give my thoughts on that too before.

23 THE COURT: All right. So Ms. Cavanaugh, you --
24 you're anticipating where you -- what you -- what you
25 would like to do is to put the -- the witness up,

1 establish that she was there when it happened, that
2 there was sworn testimony, a hearing for emergency
3 protection with -- with -- is that the hearing we're
4 talking about or the EPC?

5 MS. CAVANAUGH: It was a merits hearing. I was
6 not going to go into the type of hearing it was
7 outside of the fact that it was a hearing related to
8 the DSS matter.

9 THE COURT: All right. And then she testified --
10 the defendant testified and then -- and then you read
11 the question, she read the answer that the defendant
12 gave?

13 MS. CAVANAUGH: Yes, Your Honor. And I have a
14 copy for you -- also as far as which questions and
15 which answers that I'm attempting to publish.

16 THE COURT: Okay.

17 MS. CAVANAUGH: To the jury through testimony. I
18 am not planning on introducing the transcript other
19 than the Court's Exhibit.

20 THE COURT: Right.

21 MS. CAVANAUGH: I have gone through a great
22 effort to look at -- to the questions that are asked
23 which we don't believe are hearsay because they're not
24 offered for the truth of the matter. They're just
25 questions.

1 But I have gone through and I have tried to only
2 highlight the ones that are open-ended questions, not
3 that put certain evidence into the question, not that
4 even ones that aren't argumentative, just open-ended
5 questions. So --

6 THE COURT: All right. Well, why don't we -- I
7 -- I think, and I just want to clarify not only for
8 me, but for Mr. Fox since he didn't see the email this
9 morning. So why don't we take a break.

10 Mr. Fox, please feel free to look at that. If we
11 need to keep the jury, I think -- I was looking at
12 coming back at like 20 to, but if we need to have a
13 few minutes longer so that you can look at that, I'll
14 be glad to do that too, sir.

15 MR. FOX: Thank you, Your Honor.

16 THE COURT: All right. We stand adjourned.

17 (Recess was taken.)

18 THE COURT: Of all scheduling issue. It looks
19 like it's 12. I don't want to -- if we're going to --
20 if we're going to need to hash this out, it's going to
21 take a few minutes. Do y'all want me to go ahead and
22 send them and tell them to come back at like 1:30 or
23 --

24 MR. FOX: Might be a good idea.

25 THE COURT: Or is the next witness not going to

1 be --

2 MS. CAVANAUGH: So, Your Honor, there is --

3 THE COURT: -- this issue.

4 MS. CAVANAUGH: The -- the next witness will not
5 be this issue.

6 THE COURT: Okay.

7 MS. CAVANAUGH: The next witness, Dr. Coates, who
8 was the neonatologist at Prisma when all three
9 triplets were discharged to talk about the state of
10 their health at discharge.

11 THE COURT: And you anticipate that will be
12 fairly short?

13 MS. CAVANAUGH: I mean, from our perspective it
14 should be.

15 MR. FOX: I don't expect that to be particularly
16 likely --

17 THE COURT: Well why don't we call them in and
18 have that witness testify and then we'll send them and
19 then we'll -- we will build in some time for us so
20 that we can go over this issue. I just don't want it
21 I don't want to rush that. Because I know it's an
22 important issue. We -- let's wait for -- are we
23 waiting for Ms. Browder and then we'll be ready to go.

24 MS. CAVANAUGH: She's on her way.

25 THE COURT: That's fine. Sure. While we're

1 waiting for her, just so that I can -- can look on
2 some things, what is the State's position as far as
3 the -- the next -- not this witness, but the witness
4 that's going -- that you want to read the question
5 have her answer this. Is it your position that it's
6 hearsay and that there's an exception? That it's
7 non-hearsay?

8 MS. CAVANAUGH: Your Honor, typically when you're
9 dealing with prior sworn testimony, it's in the
10 context of Rule 804 an unavailable witness. Here it
11 is the statement of the defendant, which puts it under
12 a non-hearsay under the rule -- either rule one,
13 that's not hearsay because it's a statement by a party
14 opponent.

15 As far as why the questions, we don't -- we don't
16 believe that the questions asked by the lawyers to
17 elicit a response are hearsay because they are not
18 being offered for the truth of the matter asserted.
19 Like I -- as I stated before, I went through the
20 transcript and tried to only highlight, which means
21 I'm planning on asking and publishing to the jury the
22 questions that are open -- as open-ended as they could
23 be. When did you find **Infant One** dead? Did you cause
24 these injuries? You know, who caused these injuries?

25 So not necessarily questions that -- that -- have

1 evidence contained within them.

2 THE COURT: Right.

3 MS. CAVANAUGH: So that -- so our position is,
4 the actual questions are not hearsay because the
5 actual questions themselves are not being offered for
6 the truth of the matter asserted, it's a question.

7 THE COURT: And then her answer is?

8 MS. CAVANAUGH: Is a statement by party attorney.

9 THE COURT: All right. Okay. And again, I -- I
10 didn't want to get into this, I just wanted to -- to
11 know the basis of these so I can look at this while
12 the -- you know, while this goes on --

13 MR. FOX: I would agree. I'm sorry.

14 THE COURT: No, no.

15 MR. FOX: I would agree that would be the right
16 context, Rule 801 admission, but very, very briefly, I
17 would say, a quick read through on this, these are not
18 admissions, a lot of it is not self-serving from our
19 point of view, but a lot of it is denials.

20 THE COURT: Right.

21 MR. FOX: A lot of it is not admissions and I
22 think they're absolutely offered for the truth of the
23 matter asserted.

24 THE COURT: Right. And that -- and again, that's
25 why I wanted to see what the basis was so that I could

1 look into that. And then -- and I'm obviously not
2 going to cut anybody short, we'll have plenty of time
3 to argue those, but I just wanted to get kind of a
4 jumpstart on that.

5 So, all right. But this next witness is going to
6 -- is not going to involve that legal issue. So we'll
7 go ahead and do this short witness and then take a
8 lunch break. Anything before we bring the jury in
9 from the State?

10 MS. CAVANAUGH: Nothing further.

11 THE COURT: Okay. From the defense before we
12 bring the jury in?

13 MR. FOX: No, Your Honor.

14 THE COURT: All right. Madam -- Bailiff, if we
15 could have the jury please.

16 (Jury enters the courtroom.)

17 THE COURT: All right. Thank you very much.
18 State may call its next witness.

19 MS. CAVANAUGH: Thank you, Your Honor. The State
20 calls Dr. Eric Coates.

21 THE BALIFF: We want your left hand here
22 (demonstrating), face the Clerk and raise your right
23 hand.

24 MADAM CLERK: Do you swear or affirm that the
25 testimony you're about to give in this case shall be