

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

J. Derham Cole, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

QUENTIN J. EVANS,

APPELLANT

APPELLATE CASE NO. 2015-000671

RECORD ON APPEAL

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE'S EXHIBIT #52 (VIDEO)**

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 in.

2 A. And pop her back in and she ready to go.

3 Q. Okay. Now the - You said she likes to watch TV
4 with you?

5 A. Yeah, cause one day me and - I remember Kierra
6 saying oh she's watching TV. So I was like she already
7 aware of what a TV is? So you can sit Minor on your leg
8 and Minor will actually sit there and watch TV with you
9 like.

10 Q. What kind of shows did you like to watch?

11 A. I watch all kind of police shows like - uh - World
12 Wide Police videos or - Uh - World's Funniest Videos, you
13 know.

14 Q. That kind of stuff. Did she seem to enjoy that?

15 A. She seemed to enjoy it. Ain't crying or nothing.

16 Q. So you did some of that during the day?

17 A. Yeah. That was the first time she came for the first
18 --

19 Q. Oh, I'm not talking about that. Any questions I ask
20 you are referring to Wednesday. We're only talking about
21 that.

22 A. Oh, okay, okay, okay, okay.

23 Q. So during that day --

24 A. Okay. Oh, no, we ain't watching none of the them
25 shows. The only movie we watch was Fast and the Furious.

1 And I had Bad Boys II but she ain't staying up long enough
2 for that.

3 Q. She wasn't what?

4 A. She wasn't gonna stay up long enough for that.

5 Q. Okay. So you watched *Fast and Furious* several times
6 through the day I believe you said?

7 A. Yeah, I watch the Fast and the Furious several times.

8 Q. And did it seem like just a normal day?

9 A. Normal day.

10 Q. All right. And then so moving forward to the
11 evening hours, about six or seven o'clock, who's in the
12 house?

13 A. I can't tell you exactly because it'd be a variety
14 of family members but it was a variety of family members in
15 the house. I'm in the bedroom of course with my daughter
16 so I ain't really paying attention to who really out there.

17 Q. Okay.

18 A. But it's a variety of family members.

19 Q. Okay. But you're staying with Minor in the
20 bedroom?

21 A. I'm staying with Minor in the bedroom.

22 Q. Is that pretty much throughout the day?

23 A. That's pretty much throughout the day.

24 Q. Just you and Minor

25 A. Just me and Minor

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 Q. Okay. Now at some point in time you fed Minor
2 closer towards the end of the evening? And I think you
3 said - What time was that?

4 A. It was about late nine, about nine, nine forty-five,
5 nine thirty somewhere.

6 Q. Okay. And that was her last bottle?

7 A. That was her last bottle she attempted to - I mean
8 she ate the whole bottle but that's about - You know it's
9 five lines on the side of one bottle.

10 Q. Uh-huh.

11 A. Like she eat all the way down until the last one.

12 Q. And then what did she do?

13 A. I burp her. While I doing that she might spit up
14 one time but she don't really spit up that but she might
15 spit up. I'll wipe her neck cause it run down her mouth to
16 her neck right here so I was wiping her neck, wipe her
17 mouth. Look at her and laugh and like giggle with her a
18 little bit and proceed to puttin her to sleep.

19 Q. Okay. So she was smiley and giggly when you put her
20 to sleep?

21 A. Yeah.

22 Q. You fed her and burped her?

23 A. Fed her and burped her then she --

24 Q. Same thing she always does?

25 A. Same thing, just normal Minor

1 Q. Okay. And then what time did she fall asleep?

2 A. Little bit after ten maybe, ten thirty, ten twenty.

3 Q. Okay. What did you do when she went to sleep? Now
4 you've had a hard day playing with ---

5 A. I had --

6 Q. --- the baby, keeping the baby happy. I mean it's
7 a job taking care of a baby.

8 A. Yeah it is. It is.

9 Q. So you've now had a hard day doing all that and
10 she's down.

11 A. She's down. I relax.

12 Q. What does Quentin do?

13 A. I relax. I kick my feet back cause I'm --

14 Q. What does Quentin do to relax? How does he calm
15 himself down?

16 A. You know I might lay around or watch YouTube videos.
17 Stick my head phones in or something but I got my daughter
18 so I can only put one head phone in if I'm gonna listen to
19 YouTube video or something. But other than that when my
20 daughter is there I just head to toe with her.

21 Q. Okay. But at some point in time when she's asleep
22 you feel like you've done your job for the day, so you
23 rewarded yourself by taking a blunt and going into the
24 laundry room and smoking it didn't you?

25 A. No I ain't have a full blunt. That was - Them

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 pictures was not from that day because I told my - It was
2 on my SD card, you know, if you snap a picture your memory
3 chip and your phone memory is two different things, you
4 know.

5 Q. You think that expert who came in here and talked
6 about all those schools he went to and how many times he's
7 been doing this and nine months at this school and with the
8 Secret Service and the US Marshalls Service and he teaches
9 other people, you don't think he knows the difference
10 between a time date stamp that's from ---

11 A. Yeah.

12 Q. --- moving something and the time date stamp that is
13 embedded in the photograph when it's created?

14 A. Yeah. I feel like he - I understood what exactly
15 he was talking about. But --

16 Q. Okay.

17 A. There a chance you did smoke that night and you just
18 don't remember that you smoked the joint?

19 A. No. I mean I remember. I would a remembered cause
20 if I go in there and smoke then I come back in there with
21 my daughter ---

22 Q. All right.

23 A. --- I don't really smoke around my daughter like
24 that.

25 Q. Now I believe you told Detective Haire that you were

1 watching the East and the Furious when she went down at
2 ten or ten thirty that night?

3 A. Yeah.

4 Q. With your brother?

5 A. Yes, sir.

6 Q. Now after that movie was over isn't it true you told
7 him your brother left the room?

8 A. No I don't remember my brother leaving the room.

9 Q. You went to go to sleep?

10 A. No, my brother went - My youngest brother Adrian E.
11 went to sleep and later on that night he got up because he
12 was hot because he came from up under the covers like man
13 I'm hot.

14 Q. You didn't tell Detective Haire that you were alone
15 back there with Minor that night?

16 A. Yeah, I was alone.

17 Q. That night? Through the night?

18 A. I was alone with her until - Listen, it was like
19 my little brother there, me, Minor and then my little
20 brother get up and then he leaves. But I basically I
21 called it alone cause it was just me and her. Who else is
22 there? Just me and my little brother and he's asleep. I'm
23 alone with her.

24 Q. Okay, tell us what happened? Walk us through that
25 night after she falls asleep and you finish watching the

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 Fast and the Furious and you go to bed.

2 A. Oh I --

3 Q. What time was that that you went to sleep?

4 A. I ain't go to sleep. I was up on my phone all night
5 watching YouTube videos or hip hop, you know what that is,
6 that's a internet site like ---

7 Q. Okay.

8 A. ---all kind of videos and texting and calling
9 people and all kinds of just nic naks on my phone. Maybe
10 she - I ain't gonna say she wake up but you know if you sit
11 up and you shine the light on her she make a noise so I
12 just give her her pacifier she go back to sleep.

13 Q. Okay. Let me show you what's been marked as State's
14 Exhibit Sixty-one.

15 A. Uh-huh.

16 Q. The 911 call right there, you see that?

17 A. Yes, sir.

18 Q. At 6:36.

19 A. Yes, sir.

20 Q. Right?

21 A. Yes, sir.

22 Q. Now before that there was one phone call at 3:44.

23 A. Yes, sir.

24 Q. And then before that at 9:56, 21:56. So there were
25 no phone calls made except that one. Right?

1 21:56 on 1/22 then after midnight it became 1:23 one
2 phone call at 3:44 and then the next phone call was at
3 6:36 to 911.

4 A. Okay.

5 Q. So there's one phone call in the middle of the
6 night. Right?

7 A. Right.

8 Q. Here's the text, State's Exhibit Sixty-two.

9 Well this is just Baby Momma.

10 State's Sixty-three or four?

11 MADAM COURT REPORTER: State's Sixty-three is the
12 internet history and that's marked for ID.

13 SOLICITOR BRACKETT: That's only for ID. That's
14 right.

15 MADAM COURT REPORTER: Yes, sir, at this point.

16 SOLICITOR BRACKETT: Where is that?

17 MADAM COURT REPORTER: I got it here, Mr Brackett.

18 SOLICITOR BRACKETT: Okay. Thank you.

19 Q. Now you say you were up with the internet. There
20 we are at January 22nd, 2014, at 9:35.

21 A. Okay.

22 Q. Right? That's one thing to Facebook.

23 A. Right.

24 Q. And then again at 12:03, ---

25 A. Right.

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1 Q. --- one thing? Then again at 2:43, one thing.

2 A. Right.

3 Q. Then 1/23 at 4:22.

4 A. Where we start Hip Hop Mobile.

5 Q. Uh-huh. Then at 4:22 Face book?

6 A. Right.

7 Q. And nothing else until 10:21 in the morning.

8 A. Yeah but look. If you flip these pages over they
9 1:22 all the way. I was on the phone all --

10 Q. Yeah, that's at 7:00, 8:00, 9:00... I'm talking about
11 in the middle of the night after you went to bed at 10:30.

12 A. Right. Okay. Flip the page over.

13 Now 10:30. Show me where 10:30 is.

14 Q. 10:30. There is where they start at 9:35.

15 A. Yeah, right.

16 Q. There's one. Then again at midnight. That's just
17 three minutes after midnight.

18 A. Okay.

19 Q. One thing. Then 2:43?

20 A. Right.

21 Q. Then 4:22?

22 A. Right.

23 Q. Again at 4:22 to Face book. Then the next thing is
24 10:21. So there's only like four things on the internet.

25 A. Right. But you see all these visits right here. I be

1 going - You can have more one App open at one time. I was
2 just going back and forth, back and forth.

3 Q. Their showing up as pages on the internet. This
4 just tells us the pages.

5 A. Pages of what?..

6 Q. The pages that you're going to, www. whatever.

7 A. Right. And so as I visited thirty-seven times.

8 Q. Okay. So you lay there watching your phone all
9 night?

10 A. Basically.

11 Q. So you should know the times pretty well; isn't that
12 right?

13 A. Sometimes with some videos take the whole screen but
14 it's - I ain't thinking nothing.

15 Q. But your phone has the time.

16 A. Time. Yeah it got the time in the corner but I
17 ain't -

18 Q. You should be dead on the time.

19 A. Yeah I should be but I ain't really paying that
20 much attention. Why - Its in the middle of the night. I
21 ain't - What am I using the time for?

22 Q. So you really aren't sure about the times?

23 A. Not really. I mean I know about the times but I
24 ain't really.

25 Q. Now let's go through a few things that you said.

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 (STATE'S EXHIBIT NUMBER FIFTY-FIVE PUBLISHED AT 11:50
2 A.M..)

3 Q. 9:03, 9:04. That's not like about nine o'clock.
4 That's pretty specific time isn't it?

5 A. Yeah early nine o'clock.

6 Q. Okay. 10:36, 37, pretty specific. 2:05, 2:06, pretty
7 specific.

8 MR. COOK: Your Honor, I'm gonna object. That's not
9 a question.

10 THE COURT: Over ruled.

11 BY SOLICITOR BRACKETT:

12 Q. Is that pretty specific, 2:05 or 2:06?

13 A. You can say but they estimates. They not exactly.

14 I don't know what time there, I'm just given estimates
15 off my memory.

16 (STATE'S EXHIBIT NUMBER FIFTY-FIVE PUBLISHED.)

17 Q. Around 4:40?

18 A. Yeah, you see as I say about cause I ain't for sure.

19 Q. At 5:32?

20 A. Correct.

21 Q. That's dead on.

22 A. That's - that's --

23 Q. That's a specific time.

24 A. And I can tell you about that specific time. I'm
25 actually looking at my phone. I told you I pop up cause

1 I'm laying down with my daughter and I get up. That's when
2 she was making the noise like kind of like I ain't gonna
3 say whining but . . .

4 Q. All those are very specific times aren't they?

5 A. You can count 'em as it.

6 Q. So you should have known the time. You said you
7 knew the time. Right?

8 A. Yeah, I was given estimates.

9 Q. And you're holding a cell phone in your hand?

10 A. Yeah, I'm watching videos.

11 Q. Okay. So all the times that you gave the detectives
12 in this case that things happened, are those all true and
13 accurate?

14 A. What the times?

15 Q. Yes.

16 A. They not - I ain't gonna say completely all the way
17 one hundred percent accurate but I gave a brief estimate of
18 what I thought the time were.

19 Q. Okay.

20 A. I would say maybe like eighty-five percent correct I
21 think so.

22 Q. You told the coroner for example that you got up,
23 that the baby fell behind the bed about two or two-thirty;
24 isn't that right?

25 A. I ain't for sure if it was two, two-thirty but I

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 don't remember telling her not two, two thirty.

2 Q. You told Detective Haire three or four o'clock.

3 A. That she fell?

4 Q. Yes.

5 A. No, that's when I was attempting to fed her.

6 Q. No, I'm talking about falling. Didn't you tell
7 Detective Haire it was between three and four o'clock?

8 A. I think it - I think I told him about four, somewhere.
9 I know it was deep in the night so I gave a good estimate
10 three or four.

11 Q. That's a long way from five something which is what
12 you're saying now isn't it?

13 A. Correct.

14 Q. How could you be so far off?

15 A. Cause it's late in the night I'm really not paying
16 too much attention to the time.

17 Q. But you're holding the phone in your hand that has
18 the time on it. All these things are happening through the
19 night and you've got a phone in your hand that's got the
20 time right on it.

21 A. Right. But if just because I have a phone in my
22 hand doesn't mean that I'm exactly just watching the time.

23 Q. Well you say you got up at 5:37 to go get your
24 mother. Right?

25 A. Right.

1 Q. And that she runs in grabs the baby. Right? And you
2 carry her over to the couch?

3 A No I don't - I don't carry her. My mother carried
4 her.

5 Q. She does?

6 A. Right.

7 Q. She carries the baby over to the couch -

8 A. Yes, sir.

9 Q. --- and 911 is called immediately?

10 A. Yes, sir.

11 Q. But that says 5:37 but the 911 call was at 6:36. You
12 can see that on your own record ---

13 A. Yes, sir, ---

14 Q. --- that's an hour late.

15 A. --- I can.

16 Q. What were you doing for that hour?

17 A. I wasn't - The hour is that you pertaining to that's
18 where my lawyer he explained --

19 Q. He didn't explain anything cause he can't explain
20 anything. He doesn't know anything that happened. You're
21 the only one that knows what happened. Do you understand
22 that?

23 A. Yes, sir.

24 Q. So you're the one that has to testify to it.

25 A. When I ran past the clock in the living room the - as

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 it set the five and the six almost look completely alike so
2 I say 5:37 cause I'm in panic mode and adrenaline rushing.
3 I'm really - I just glance at it and keep going. I know
4 you had made a second mistake thinking something was
5 something.

6 Q. Okay. So what you're telling us now is that you
7 looked at that clock and you thought that ---

8 A. Yes I did.

9 Q. --- the clock said 5:37?

10 A. Yes, sir, so I said 5:37.

11 Q. Okay. So at that moment that's your time reference?

12 A. Yes, sir.

13 Q. 5:37. And you're thinking it's five - It's twenty
14 till six?

15 A. That's how I end up calculating a lot of things cause
16 if it's 5:37 then I go back like a hour or so such and
17 such.

18 Q. So was that your point of reference when you're
19 talking to the police ---

20 A. Well can you --

21 Q. --- throughout the day? In other words when you're
22 trying to guess when something happened you're saying well
23 if that was at 5:30 then the other thing must have been at
24 five?

25 A. Yeah. Type of thing.

1 Q. So the 5:37 really threw you for a loop?

2 A. Yeah.

3 Q. Messed all your times up?

4 A. Yeah, you can say that.

5 Q. Now you understand how important it is to tell
6 the truth?

7 A. Yes, sir.

8 Q. And you would agree with me that time is important
9 in this case?

10 A. Yes, sir.

11 Q. Because if you're lying about that, and the time,
12 and you're making that up about misreading the time, that
13 would be a bad thing?

14 A. Right.

15 Q. And if that could be shown then there's really no
16 question about your guilt. Right? Because only a guilty
17 person would make up something like that to try to conceal
18 the truth from this jury.

19 A. No I wouldn't do such a thing.

20 Q. You wouldn't do such a thing. Only a guilty person
21 would do such a thing.

22 A. What, lie?

23 Q. Yes.

24 A. I'm not lying.

25 Q. I didn't say you were. I'm saying if only a guilty

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 person would lie. Right? That's the kind of thing a
2 guilty person would do.

3 A. Is lie.

4 MR. COOK: Your Honor, I would object. I believe that
5 calls for speculation.

6 THE COURT: Sustain.

7 BY SOLICITOR BRACKETT:

8 Q. It's critical that you tell the truth. Right?

9 A. Yes, sir.

10 Q. Now this time issue's important.

11 A. Yes, sir.

12 Q. How many times did Minor wake up in the middle of
13 the night?

14 A. You want me to start from ten and tell you?

15 Q. Yeah, please.

16 A. Ten lay her down she wake up and about one, two, then
17 she go back to sleep and wake up that second time.

18 Q. Speak up a little bit. I can't hear you.

19 A. I would say twice.

20 Q. Okay.

21 A. From ten o'clock that's when I lay her down then
22 about two and then the - Uh - five, when she wake up that
23 last time when I go make the bottle.

24 Q. So ten o'clock you laid her down. And what's the
25 next time she woke up?

1 A. About two.

2 Q. Two? And how long was she up?

3 A. About a minute. I mean all you got to do is just
4 lean up put the cell - put my cell phone over her face.
5 Her eyes are closed like this --

6 Q. And what did she do at two o'clock?

7 A. She ain't crying but she like making baby noises so
8 I just put the pacifier in her mouth.

9 Q. Did you get up to fix her a bottle?

10 A. I got up the - to get the bottle cause it was about
11 that much, cause in case she don't want the pacifier I
12 might as well give her the bottle.

13 Q. Okay.

14 A. Or something so I got the bottle on standby so it
15 really don't - -

16 Q. Where was the bottle? This is the left over from
17 when you fed her earlier that night?

18 A. Yeah, that's the left over.

19 Q. Where was that at?

20 A. I think it was either on my bed, on my head board
21 right there or on the lower right but I had - -

22 Q. It was somewhere in the room?

23 A. Yeah.

24 Q. You didn't have to leave the room though?

25 A. Right.

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 Q. Okay. But you gave her a pacie?

2 A. Yes, sir.

3 Q. Did she take the bottle?

4 A. She - I ain't give the pacifier first so if she took
5 the pacifier then the bottle is just.

6 Q. So then she fell back to sleep?

7 A. Went back to sleep.

8 Q. Until?

9 A. Hours after that she woke back up again.

10 Q. At what time?

11 A. Shooo, five, uh - I think five. Five-thirty-three,
12 thirty-two, five thirty.

13 Q. Okay. I thought you said you woke up at 5:32 and
14 your eyes popped open? You knew the time cause you was
15 looked at the clock.

16 A. It was 5:37.

17 Q. No, no. On your phone. You said you looked at
18 your phone at 5:32. You knew that time was solid because
19 you looked at the time on your watch, on your phone earlier
20 you said.

21 A. Earlier.

22 Q. Yes.

23 A. I said that?

24 Q. Earlier you were testifying just a few minutes ago
25 you said you looked at your watch on your cell phone and it

1 was 5:32 and your eyes popped open.

2 A. Popped open from where? From being asleep?

3 Q. From being closed.

4 A. No. You got it - You got it mumbo jumbo. I'm laying
5 in the bed popping up I'm sitting up you know I can look at
6 the phone.

7 Q. Yeah.

8 A. Then flash it on her to see if she got eye open.

9 Q. Yes. You remember when I went through all the times
10 and I said you sure seem to know all the times. You were
11 saying I really didn't know the time of anything. And I
12 said well you sure seem to know 'em in all these
13 interviews, 9:02, 9:03.

14 A. Cause I'm giving a good estimate.

15 Q. Yeah. No, but then I got to the last one and I said
16 (STATE'S EXHIBIT FIFTY-FIVE PUBLISHED.)

17 Q. Popped up at 5:32 and you said, oh, I knew that time
18 was right because I looked at my cell phone..

19 A. I popped up.

20 Q. And you looked at your cell phone.

21 A. Yes, sir.

22 Q. Right. Okay.

23 A. You laying down you pop up.

24 Q. Okay. 5:32. Right?

25 A. Correct.

QUENTIN EVANS: CROSS BY SOLICITOR BRACKETT

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1 Q. Look at your cell phone?

2 A. Correct.

3 Q. Cell phone says 5:32?

4 A. Correct.

5 Q. Well, what did you do after that? Tell the jury
6 what happened after you popped up and looked at your cell
7 phone? Why did you pop up?

8 A. Because Minor

9 Q. What about her?

10 A. She was making baby noises so I figured hey, let's
11 make a bottle cause it's about time. The last time I fed
12 her was way about ten o'clock last - that same night way
13 long time ago so I guess she must a be hungry so I get up.

14 Q. So you think that's when you went to make the bottle?

15 A. Yeah, that's when I went. She was making baby
16 noises and that's when I went and made the bottle.
17 I turned the stove on to get the water ready.

18 Q. Step us through what happened.

19 A. I get the water ready.

20 Q. Okay.

21 A. I come back into the room.

22 Q. Right.

23 A. That's when I open my closet put the cereal the powder
24 milk and I think its nursery baby water if I'm not
25 mistaken. Nursery baby water.

1 Q. Okay.

2 A. I put all that in there.

3 Q. Right.

4 A. Grab the top of the head of the bottle - the bottle
5 she drank out of.

6 Q. Right.

7 A. And I shake it so the milk don't stir well.

8 Q. Okay. And then what happened?

9 A. After that you can hear her making baby noises - you
10 know she's laying on her side so I go back out cause the
11 water - I feel like the water is warm enough to put in her
12 bottle. So phishhhhh -

13 Q. How long did all that take?

14 A. Maybe about a minute, minute and half. So I - -

15 Q. You warmed a bottle up in a minute and a half?

16 A. No. I fixed the bottle in - I'm fixin the bottle. I
17 didn't warm it. I warmed the water up first. First I
18 turned the water on.

19 Q. How long did the whole process take from the time
20 you got up and started fixing the bottle till the bottle
21 was warm?

22 A. Uh - About four minutes, five minutes. I ain't sure.

23 Q. Okay.

24 A. Short period of time.

25 Q. So now you're walking in there with a warm bottle.

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1 THE COURT: Use that microphone, please.

2 A. Oh, I'm sorry.

3 Q. Now the bottles warm. Tell us what happens next.

4 It's been five minutes or so.

5 A. Yeah, the bottle warm and as I'm coming back in the
6 room that's when I - the incident.

7 Q. Okay. Tell us about that.

8 A. Oh, I run. As I told you earlier I was processing in
9 my mind that she crying so she must be either hungry or she
10 finally woke now because she crying more than she normally
11 cries cause she don't really cry like that.

12 Q. Was it a loud cry?

13 A. Yeah.

14 Q. Like a help me cry?

15 A. Yeah.

16 Q. Like screaming her head off kind of cry?

17 A. Like trying to - Like kind of screaming her head off.

18 Q. Okay.

19 A. So that's when I - As I open the door it's dark so
20 I still can make out the room because I been in there all
21 night your eyes are adjusted to the dark so - -

22 Q. But you had the light turned on in the kitchen you
23 say?

24 A. Yeah, I don't - Well my brother said that.

25 Q. Was it?

- 1 A. I don't remember.
- 2 Q. Okay.
- 3 A. But if it was it still luminates the room.
- 4 Q. Okay.
- 5 A. So that's when I opened up the door ---
- 6 Q. All right.
- 7 A. --- and I run and I jump on the bed.
- 8 Q. You jump on the bed you think your baby's on?
- 9 A. No. I can see that my daughter's not on my bed.
- 10 Q. Okay.
- 11 A. That's the reason why I jump on the bed. If she's
- 12 laying there I'm not gonna bong jump on the bed.
- 13 Q. How fast were you moving when you jumped on the bed?
- 14 A. Immediately.
- 15 Q. A what?
- 16 A. Like at immediate speed.
- 17 Q. Well it's a pretty tight space in there. Right?
- 18 A. Yeah, it's a pretty tight space about this far.
- 19 Q. Okay.
- 20 A. You can take off running.
- 21 Q. Okay.
- 22 A. And get some speed up and jump.
- 23 Q. Very good. Now what happened when you got on the bed?
- 24 A. I look down she right there and I jerk her arm.
- 25 THE COURT: Don't forget about your microphone,

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1 please.

2 A. Oh, I'm sorry. That's when I run and I grab her and
3 jerk her up.

4 Q. Okay. When you look down there and you saw her down
5 below describe how she was oriented in that little space.

6 A. She was on her left side like this.

7 (WITNESS DEMONSTRATED.)

8 Q. Okay.

9 A. And that's when I looked down and that's when she like
10 this.

11 (WITNESS DEMONSTRATED.)

12 A. You know her arm straight like this.

13 Q. Was her face above or below that little side wooden
14 panel where it's on the side of your bed?

15 A. Maybe - I think it was - It's dark, right, maybe the
16 - say the bed thing right here like in between like kind
17 of sort of look like her head was --

18 Q. Like maybe she's hovering just above the safe?

19 A. Well it look like her head, not her whole body is
20 straight like half of it on and half of it off type of
21 thing.

22 Q. Okay. Did you pull her up easily from there?

23 A. No, sir, I was in fear and shock so I ran and jumped.
24 Ran as fast as I could without --

25 Q. Did she come straight up from the side of the bed is

1 what I'm asking?

2 A. No. I ain't got - I ain't got to do like this to get
3 her but she ain't come just perfectly like that. But as I
4 grabbed her it just seemed all of it happened so fast.

5 Well it seemed to me that she ain't come easy but I ain't
6 gonna say it took a whole lot to kind of jerk her out of
7 it.

8 Q. Okay. And she's still screaming this whole time?

9 A. If she screaming you know - Well what do you expect -
10 Explain screaming. She crying loudly

11 (SOLICITOR BRACKETT MADE NOISE LIKE BABY CRYING.)

12 A. Yeah, she crying loudly.

13 Q. Okay.

14 A. And that's when I sit on the right side of my bed and
15 I pat her on her back ---

16 Q. Okay.

17 A. --- and tell her everything gonna be okay.

18 Q. And how quickly does she calm down?

19 A. Quickly.

20 Q. Okay. And what else did you notice about her at
21 that time?

22 A. Her head was kind of loose.

23 Q. Kind of loose?

24 A. Yeah.

25 Q. You testified or you said earlier in the coroner's

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1 re-enactment ---

2 A. Yeah, ---

3 Q. --- her head ---

4 A. --- her head very ---

5 Q. --- she couldn't support it at all.

6 A. Yeah.

7 Q. It was completely off track and bobbling around.

8 A. Her head was like shoosh, shoosh.

9 Q. And you didn't think maybe something was wrong then?

10 A. No cause I looked at her like this.

11 Q. Her head flops forward and then flops backward. Is
12 that what you said?

13 A. Yeah.

14 Q. Like jello.

15 A. Yeah.

16 Q. I believe you used the term it looked like she'd
17 snapped her neck.

18 A. Yeah, that's when I looked and reached like this and
19 I was looking at her like baby you okay. That's what I'm
20 thinking in my head. You okay?

21 Q. Uh-huh.

22 A. But her eyes was like half dazed but I wasn't
23 thinking in my mind that she injured like in a head or her
24 arm or something was hurt. I'm not thinking like she's
25 really really hurt cause I seen babies fall before and they

1 don't get - they don't do like that but I'm not thinking
2 like she's really really really seriously hurt. If I'd a
3 knew she was seriously hurt like when 911 got there then I
4 would a been called.

5 Q. How long did it take you to calm her down?

6 A. Uh-Short period of time. Maybe a minute, two minute.

7 Q. And then what did you do with her?

8 A. I laid her down.

9 Q. Okay. How did you lay her down?

10 A. On her left side.

11 Q. Did she have a pillow?

12 A. She sleep on a pallet. My grandma made a blanket
13 before she died and I put the pillow then Minor covers
14 that Kierra brings and then my mom got a - bought a pink
15 crown blanket.

16 Q. And underneath all of that you have a big black
17 comforter. Right?

18 A. I got a -

19 Q. And that does down and lays over the whole top of the
20 bed?

21 A. Yes, sir.

22 Q. Now, what did you do after you laid her back down?

23 A. I run back in the kitchen.

24 Q. She take a pacie?

25 A. I tried to put it in her mouth.

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1 Q. But she didn't take it. Any response at all?

2 A. No. She was just doing moaning sounds.

3 Q. Like?

4 (WITNESS DEMONSTRATED.)

5 A. Like she was calming down that's why I never
6 thought that she would - was needed immediate attention
7 cause she was still like

8 (WITNESS DEMONSTRATED.)

9 Q. And when she fell back asleep?

10 A. I ain't gonna say she fell back asleep. But she
11 wasn't making no noises as I come back in the room from
12 puttin her bottle in the refrigerator.

13 Q. All right.

14 A. And I laid back down with her face to face.

15 Q. Was the lights still on in the kitchen?

16 A. Like I say I don't remember the light. I don't
17 even remember the light being - -

18 Q. Could you see her face as you lay down beside her?

19 A. I could see her face though.

20 Q. All right. I think you said she slept with her
21 eyes open?

22 A. No. I laid - I lay my arm over her and I go to sleep.
23 I start dozing but her eyes are still open so as I'm laying

24 --

25 Q. She sleeps with her eyes open regularly?

1 A. You can't sleep with your eyes open can you?

2 Q. Well you said that earlier in one of your statements
3 she sleeps with her eyes open.

4 A. Yeah.

5 Q. Yes, sir.

6 A. Okay. Well, she sleep with her eyes open. I don't
7 think that she was asleep, man. No.

8 Q. Does she stay there laying there with her eyes open
9 or did she --

10 A. She laying with her eyes open. I from being up all
11 night I go to sleep.

12 Q. Okay.

13 A. And when I wake up when my eyes pop back open.

14 Q. Now you - I think you've said in the re-enactment you
15 dozed off at ten or fifteen minutes and then your eyes pop
16 back open cause you had a dream?

17 A. Yeah, I had a flash in my head.

18 Q. Okay..

19 A. That my daughter had fell so pewwww my - I was
20 sleeping.

21 Q. So this is gonna be maybe twenty, twenty-five minutes
22 total thirty minutes after you had first heard her crying
23 and woke up to fix the bottle?

24 A. Yeah.

25 Q. How could you possible think that it was 5:37 then

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1 when you walk past the clock to go get your mom --

2 A. I ain't walked by -

3 Q. I'm not finished with the question. You walk past

4 the clock, you look down and you see it's 5:37 but

5 thirty minutes before it was only 5:32. You made the

6 bottle, gone in there and had this crisis with her, put her

7 back down, laid down and slept for a little while, got back

8 up, you see a clock you think only five minutes has passed?

9 A. No, I did not walk. I ran and I just glanced at her
10 like and kept going.

11 Q. Yeah, but how could you think it was 5:37?

12 A. Because the clock said - the second -

13 MR. COOK: Your Honor, I would object. That's been
14 ask and answered.

15 THE COURT: Well, I'm not certain so I over rule the
16 objection.

17 A. Continue with the answer?

18 Q. Please.

19 THE COURT: Yes, sir.

20 A. Oh: The two numbers on the right says thirty-seven.

21 The one number on the left looks to appear to be
22 five, to me, running past with adrenaline.

23 Q. And this is a digital cable box?

24 A. Yeah.

25 Q. That's the one that's sitting below your TV in the

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1 living room?

2 A. Yes, sir.

3 Q. So -

4 A. Digital with the numbers like.

5 Q. Yes. It's a cable box that's got the time on it.

6 A. Yeah, yeah.

7 Q. You agree you told Detective Haire in your final
8 statement to him, "The injuries do not lie, I was the only
9 one that had her."

10 A. Yes, sir.

11 SOLICITOR BRACKETT: The court's indulgence one
12 moment.

13 (PAUSE.)

14 SOLICITOR BRACKETT: No further questions, Your Honor.

15 MR. COOK: I have no further questions, Your Honor.

16 THE COURT: You may step down.

17 MR. COOK: The defense rest, Your Honor.

18 (WITNESS LEAVING WITNESS STAND.)

19 THE COURT: Any reply?

20 SOLICITOR BRACKETT: No, Your Honor.

21 THE COURT: All right, ladies and gentlemen, that is
22 all of the testimony or other evidence to be offered in the
23 trial of the case. What remains to be done are the lawyers
24 final summations after which I'll instruct you on the law
25 and then you'll begin with your deliberations in the case.

1 Because of the time we don't have enough time to get
2 all that done before lunch, so we're gonna break for lunch
3 now and we will resume this afternoon at 1:30, at 1:30, so
4 you're excused for lunch. Keep in mind no discussions, no
5 investigation, no research, no media exposure. Have a good
6 lunch, please report to your jury room at 1:30, 1:30 this
7 afternoon.

8 (JURY EXITS COURTROOM FOR LUNCH RECESS AT 12:15 P.M..)

9 THE COURT: All right, renew any motions or any
10 additional motions?

11 MR. COOK: I'll just renew the directed verdict, Your
12 Honor. A motion for a directed verdict. The state has
13 failed to prove every element of the crime beyond a
14 reasonable doubt.

15 THE COURT: All right. That motion is denied.

16 MR. COOK: Thank you, Your Honor.

17 THE COURT: Do you all have instruction request?

18 MR. COOK: Yes, sir, Your Honor. I did not put a
19 redaction request in my pleadings but of course I would
20 request that as well, just a typical redaction.

21 THE COURT: Well let me see your typical redaction
22 request and I'll consider it.

23 MR. COOK: To be candid and apologetic I don't have a
24 typical redaction request -

25 THE COURT: Okay.

1 MR. COOK: --- to hand to the court but I will trust
2 whatever Your Honor would charge.

3 SOLICITOR BRACKETT: Your Honor, we would just request
4 obviously a circumstantial evidence charge is appropriate
5 in this case. And we ask the court to charge - I believe
6 the language in *Repine* is appropriate and still good law.
7 In addition I would inquire is your reasonable doubt is it
8 the hybrid blended *Victor Manning*.

9 THE COURT: Its Manning.

10 SOLICITOR BRACKETT: Its *Manning*? We would request
11 the *Victor* language in addition - -

12 THE COURT: Well any request that you all have if you
13 will give them to me, whatever you're requesting in writing
14 I'll be happy to consider it.

15 SOLICITOR BRACKETT: Yes, sir.

16 MR. COOK: Thank you, Your Honor. I handed this up
17 prior but I would hand it back again if Your Honor does not
18 - Just a proposed jury -

19 THE COURT: Well I have that.

20 MR. COOK: That's all I have, Your Honor.

21 THE COURT: Well that's just the statute.

22 MR. COOK: Typical language of the statute yes, sir.

23 I would just request a beyond a reasonable doubt, the
24 typical charge that uses the hesitation in it. I'm not
25 familiar with the case law, Your Honor.

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1 THE COURT: All right. The court is in recess until
2 1:30.

3 (COURT IN LUNCH RECESS AT 12:18 P.M..)

4 (COURT BACK IN SESSION AT 01:36 P.M..)

5 THE COURT: Thank you, be seated.

6 All right, Mr. Thompson, did you share your request
7 with Mr. Cook?

8 SOLICITOR THOMPSON: I have, Your Honor. And I would
9 be asking that request in addition to your normal charge.

10 THE COURT: Okay.

11 MR. COOK: I have no objection to it, Your Honor.

12 THE COURT: All right. Any other request?

13 MR. COOK: No, sir, Your Honor, not from the defense.

14 SOLICITOR THOMPSON: No, Your Honor.

15 THE COURT: All right. You all ready to proceed?

16 MR. COOK: Yes, sir.

17 SOLICITOR BRACKETT: Yes, sir.

18 THE COURT: All right, bring 'em in please.

19 (JURY REENTERS COURTROOM AT 01:38 P.M..)

20 THE COURT: Good afternoon, ladies and gentlemen.

21 As you know all of the evidence has been received,
22 you're going to now hear from the lawyers in their final
23 summations or argument after which I'll instruct you fully
24 on the law then you can begin with your deliberations in
25 the case. So please give the lawyers your attention now as

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1 they give you their final summations.

2 Mr. Cook.

3 MR. COOK: May it please the Court, Your Honor.

4 Good afternoon, ladies and gentlemen.

5 I want to begin with a quote from Winston Churchill
6 that you often hear in these types of - in jury trials,
7 that there's no more important duty that you can serve for
8 your nation aside from active military service during the
9 time of war than jury service, and there's a reason. It's
10 what separates the United State's Of America and other
11 western countries from communist Russia, where you're
12 charged with a crime you go through a paid off three member
13 panel that works for the government then you're convicted
14 and then you're sentenced.

15 There's no trial, there is no jury of peers. These
16 are the types of things that the founding fathers wrote
17 into our constitution when they were forming this great
18 nation. Their there for a reason. I bet none of you
19 realize that you're a peer to Quentin Evans, but you are.

20 I realize that perhaps when a juror leaves the
21 courtroom and they're relieved, there is a lot of stress
22 going on. You go home you flip on the TV you pull that
23 lever back on the recliner after dinner sit around and talk
24 with the family about an amazing story. A few days pass
25 starts wearing off you fall back into that hum drum routine

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1 of day to day life and you never think about it again
2 unless somebody asks.

3 But for my client the decision you're gonna make today
4 is the most important decision that you will make in your
5 entire life. And he appreciates your attentiveness and he
6 appreciates your consideration and your due consideration
7 for all of the facts in this case.

8 I would want to ask you to fight the urge of what I
9 characterize as the sandbox mentality that we learn in
10 American public schools where if you're accused of
11 something you're guilty until you prove yourself innocent.

12 That's why Jefferson and all who wrote into the
13 constitution no actually you're innocent until you're
14 proven guilty. It's a big difference there. It's barriers
15 that are erected. Especially in a case of this nature with
16 such graphic photos. I would think that it would just
17 elicit this urge for vindication. But you need to realize
18 the statute ask you to punish a crime.

19 What do you do with an accident even if it's a
20 terrible horrific accident that takes a human's life? Is
21 it still an accident? Does it become a crime just because
22 somebody passes away? So I encourage you to pay close
23 attention to the statute. And I want to read parts of it
24 here for you today.

25 Again, at the end of all of this argumentation from

1 the defense and the state the judge will address the jury
2 and the judge will tell you, instruct you, on what the law
3 is. And of course I posit that that is the law of the
4 land. I'm reading off of a statute Section 16-3-85.
5 Homicide By Child Abuse; definitions.

6 It reads, a person is guilty of homicide by child
7 abuse if the person: (1) causes the death of a child under
8 the age of eleven while committing child abuse or neglect,
9 and the death occurs under circumstances manifesting an
10 extreme indifference to human life."

11 Of course, if somebody shakes a baby as hard as they can
12 that's extreme indifference to human life. Did that happen
13 here? The statute goes on, "or, knowingly aids and
14 abets another person to commit the crime" - I'm gonna pass
15 through that section, I don't think it's relevant.

16 Section (B) "For purposes of this section, the following
17 definitions apply: "child abuse or neglect", means an act
18 or omission by any person which causes harm to the child's
19 physical health or welfare;

20 (2) harm to a child's health or welfare occurs when
21 a person: inflicts or allows to be inflicted upon the
22 child physical injury, including injuries sustained as
23 a result of excessive corporal punishment.

24 (b) fails to supply the child with adequate food,
25 clothing, shelter, or health care, and the failure to do

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1 so causes a physical injury or condition resulting in
2 death; or abandons the child resulting in . . . death."

3 That's the statute.

4 I want to just put forth a few hypothetical that
5 perhaps legislator's were thinking about when they drafted
6 this statute. Of course we've seen the terrible cases of
7 shaken baby syndrome. And I don't know if you have
8 children or not, but let's just say you're going on about
9 the third day of colic. The baby is screaming all day
10 long, but more importantly all night long and cannot be
11 consoled no matter what you do.

12 And you start wearing down and you start losing sleep
13 sure. It gets to be three, four, five o'clock in the
14 morning and you snap. You're holding the baby please stop
15 crying, the pacifier, the bottle, nothing's working and you
16 just cannot control yourself and something over comes you
17 like the detective said numerous times and it just takes a
18 few seconds and you shake that baby as hard as you can.

19 The head flops back and forth and back and forth. The
20 same type of injuries occur and the child passes away.
21 Yeah, you're guilty at that point of homicide by child
22 abuse definitely. Let's say that you have a crack habit
23 and you keep your baby in the stroller all day long while
24 you're over in the next room doing crack day in and day out
25 to a point to where the baby gets just a bald spot their

1 hair doesn't grow because you lay down all day and you
2 never pick the child up and you never hold the child.

3 And you go off and you're on a five day binder and you
4 forget the child's back there and the baby dies from
5 malnourishment. Unfortunately these things happen and you
6 have to write a statute for it. That's the neglect portion
7 I would submit. I would also submit that neither one of
8 those happened here. They don't have statutes for
9 accidents.

10 Now I'd like to just briefly go over again but in a
11 little bit more detail the concept of beyond a reasonable
12 doubt. Not only does the defendant have to be guilty of
13 the statute but they have to be guilty of the statute
14 beyond a reasonable doubt. Every element of the statute.
15 And what does beyond a reasonable doubt mean?

16 Of course his Honor is going to instruct you on that
17 but I would just like to opine for a minute or discuss it.
18 And it is an nebulous concept that law professors will
19 fight over.

20 But the basic instructions from our Supreme Court and
21 the US Supreme Court say - first from our supreme court -
22 that reasonable jurors after hearing all of the evidence -
23 and you're at that point - this isn't evidence, any of the
24 closing arguments are not evidence. But still even more so
25 you go to the deliberation room - we're not at that point

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1 yet, we're close - you get to the deliberation room and you
2 five each of you - the foreman will give each of you a
3 chance to say your peace and talk and discuss the things
4 that are on your mind. After you've heard everybody - I
5 think you're there at that point. Sure perhaps there's
6 gonna be some more arguing going on back there but after
7 you hear all of the evidence and consider the state's
8 arguments, consider my arguments, consider the statute,
9 consider all the law, consider the evidence, the hard
10 evidence that you've seen; at that point if you're
11 hesitating that the defendant is guilty then the state has
12 not met their burden.

13 And I'm sure that his Honor and the state may very
14 well cover that. I'm not sure but that's my take on it.
15 The US Supreme Court further opines that firmly convinced,
16 you have to be firmly convinced in the guilt of the
17 defendant. How can you have a line across your forehead
18 that causes a subdural hematoma and follow the state's
19 theory that the baby was shaken and not hesitate?

20 Somebody tell me where that line came from? I haven't
21 heard it yet. Which makes me think about the coroner's
22 evidence. I call him the coroner, the forensic
23 pathologist, Doctor Hart. I'm not saying that he's
24 incorrect about the injuries. I'm saying he's a doctor and
25 not a detective. And I don't care what he thinks about the

1 floorboard or where it is. Just tell us what happened.
2 She's got a subdural hematoma, there's a line across her
3 forehead, there's a broken collar bone, there's bruising on
4 the ribs, there's spinal injuries. Thank you. Have a
5 seat. Did you notice in my cross-examination with him how
6 he would ask me questions which makes me think I don't
7 think he has all the experience that he needs to have
8 because you can't ask an attorney questions from a stand.

9 He says to me "I'm putting words in his mouth." Let
10 me fill him on something. I don't even know the words that
11 he's using to put in his mouth because I'm not a forensic
12 pathologist. I know one word that he didn't want put
13 back in his mouth after it came out of his mouth - linear.

14 And I ask him about that suddenly it became
15 oblongataed or I can't remember what he said. Anything
16 can cause that. Well how about a basketball to the
17 forehead, what about that? Well anything can't cause it.
18 Stick to the signs please.

19 Did you hear - I don't know many forensic pathologist
20 when I ask them is it possible, sir, that the line could
21 have come from the floor board or the molding? I think at
22 that point he's supposed to say, hum, yes, or no. Let me
23 think about the case studies that I've reviewed and give
24 you an answer. He's not supposed to say I don't think the
25 floor board was low enough to the ground. That's not

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1 forensic pathology that's detective work. He's not
2 sherlock Holmes, he's Doctor Hart.

3 These types of facts are up to you. You've got all
4 kinds of photographs. I'm not the type of attorney that's
5 gonna have a lot of evidence in my closing but look at
6 photograph Forty-five. You'll see all of 'em, please look
7 through everything in evidence. You can do that in the
8 jury room. You can play the interview again if you want
9 to. Sure it's long, but you can do it. Or you have the
10 luxury of playing just a few parts and when the typing
11 stops you can start.

12 It's all kinds of stuff in here. Very interesting
13 evidence. Look at photograph Forty-five of that floor
14 board, see if as a trier of the fact you think that it's
15 close enough to the floor or the molding to cause a line
16 across a baby's forehead. If you - I would posit if you
17 come to that conclusion we're done. If you don't hesitate
18 after that you're not paying attention.

19 He was biased in his clinical report that he read from
20 the onset. And this is what surprised me. He is a M.D.,
21 doctor, he's supposed to know about these types of things.
22 Well that report didn't influence me whatsoever. I'll just
23 read a little bit of the facts just to find out what the
24 police are saying might have happened. Well did the police
25 mention anything to you about the floor board with the baby

1 wedged between the bed. I was just reading this I was
2 looking - I think he was looking for a shaken baby case.
3 He saw retinal hemorrhaging; the subdural hematoma and some
4 of the classic signs of shaken baby case. But how could
5 he not get past the line on the forehead with all of his
6 years of experience and all the publications he's been in
7 and all the degrees that he has? That's not rocket
8 surgery. There's a line on the forehead. Do you get a
9 line on the forehead from shaking a baby? What is he
10 proposing? That my client shook the baby real hard and
11 then banged her head against the floor and then threw her
12 behind the bed and then sits there for three hours with his
13 dead daughter in the room until everybody wakes up and then
14 sudden decides to go and panic and make the 911 call that
15 the state led with? Is that what we're going with here?

16 He didn't do any case studies and he admitted that. I
17 said have you read any case studies that talk about force
18 impact, anything of this nature? I'm not sure it's ever
19 happened before. Did you read any case studies at all?
20 No. And what are you basing your premise on then? Again,
21 his job is to tell you what the injuries are and they are
22 gruesome and they make you want to punish. But it's not
23 his job to tell you how the baby came about that. He has
24 no idea. He's sitting there telling you that could be a
25 ping pong ball. I don't know, all kinds of things.

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1 How hard is a football tackle with your M.D.? You
2 want to tell me you're gonna compare it to a football
3 tackle? Is anybody played football? You can - Are we
4 talking about I'm running down the field trying to get
5 somebody on a kick off? Those are some really hard impact.
6 Or are we at the line of scrimmage and I'm just blocking
7 the guard right in front of me? Is that science? It's as
8 bad as a car crash. Huh. Did you bump into somebody at
9 Wendy's through the drive through or are you in a head on
10 on Interstate 77 going eighty miles an hour?

11 Do you know what he's talking about? He did say one
12 thing about the retinal hemorrhaging that I can imagine the
13 state is going to spend a lot of time on as proof that this
14 is shaken baby because you don't get multiple retinal
15 hemorrhages. What are multiple retinal hemorrhages? How
16 many retinas do you have?

17 Do you remember the doctor saying when somebody falls
18 and hits their head on the sidewalk one time you can get
19 retinal hemorrhages.

20 Be careful of the CSI effect. Everybody knows CSI.
21 Sweep the nation, everybody's watching CSI. And it's
22 Hollywood, it's big budget Hollywood. I really haven't
23 watched that much. I've seen it a few times. Big
24 graphics. A few times they've got you go inside the body
25 and the head and the camera takes you all through the blood

1 vessels. And that's great, that's fine and dandy, when you
2 have the million dollar budget and some Hollywood writers.
3 The endings the same every time. Through out science we
4 have discovered that it had to happen this way. And then
5 they always go and approach the person and they tell 'em we
6 found retinal hemorrhaging and he's oh, I confess, I'm
7 running, you can't catch me. Here, we are in reality. This
8 is York County, South Carolina. CSI. Football injuries.
9 I didn't take into account that. Are we supposed to
10 convict somebody off of that? I'm not saying the injuries
11 didn't happen. Here's the big question. How did they
12 happen?

13 Did anybody do a study? Detective Haire there,
14 Lubber, Detective Lubber and Detective Neely, the coroner
15 with her associates's degree who takes notes. Did anybody
16 try to do a force impact study? What would happen if I ran
17 and jumped on that bed? And I want to run and jump on the
18 bed. What would happen if a baby were wedged in between
19 that wall? Do we know? Did they just yeah we went through
20 that hypothesis and this and that. He said no, three
21 adults were on that bed and it never moved. What were
22 three detectives doing on that bed?

23 I ask him did any of your detectives move the bed
24 around when you took a photograph? No. And I will give to
25 him, I was incorrect. I thought on the re-enactment video

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1 at one point my client said they moved the bed. But he
2 said they moved the safe underneath the bed. And I thought
3 all right. I was wrong but then I was thinking. Wait a
4 second. How can you move the safe under the bed if you
5 don't move the bed to get to it?

6 Let's take a photograph and say to the jury this is
7 how the bed was at 6:30 a.m., on January 22nd, four inches,
8 bring out your tape ruler. Huh-huh. The truth is we have
9 no idea how much of a space was between that bed. The
10 truth is also we know exactly how high that floor board is
11 off the floor and how high that crown molding is. Look at
12 your photographs.

13 And then the detective says or actually I believe it
14 was the coroner playing detective says that bed couldn't
15 have moved. Your client said the baby was wedged in
16 between the bed it couldn't have moved. Again, please just
17 stick to forensic pathology. Here's how you're wrong.
18 There could be a wide gap. My client goes and runs and
19 jumps on the bed and the bed squishes the baby. At that
20 point the baby's wedged but does that mean that there was
21 never a gap? Just tell me about the subdural hematomas.

22 Please don't be fooled by the baby that they used in
23 the re-enactment. It was much bigger than the actual
24 decedent and you couldn't fit your head down there because
25 the baby's head was like that. And what is that? If

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1 you're going to do a re-enactment do a re-enactment.

2 Did you hear my client in his several different
3 accounts of the story? To date with the DSS worker, with
4 the detectives at the hospital, with the detectives after
5 the hospital, in the re-enactment video, line 'em all up do
6 a little flow chart. Where is he inconsistent about the
7 timing? Really? Are any of us consistent about what
8 happens at 4:00 a.m., in the mornings? Let's just call
9 that the wee hours of the morning. Whether you're high on
10 marijuana or not or whether you're as sober as you can be,
11 at 4:00 a.m., people are groggy on time.

12 Is that the state's entire case? We found the - What
13 did Detective Haire say? Quite obvious inconsistencies,
14 numerous and obvious inconsistencies in the defendant's
15 story. And I ask him, well what are they? Well. What is
16 that? I thought they were obvious. Can't you just spout
17 'em off? Well it's all about the timing. And see, once he
18 says he fed the baby at nine o'clock, once he says he fed
19 the baby at four and then he fed at five then at six. He
20 got to 5:37 wrong. Is that the - beyond a reasonable doubt
21 extreme indifference to human life because you can't tell
22 what time it is at 4:00 a.m.?

23 Here's some forensic evidence. Somebody measured
24 the side of this wall. It's twelve feet. Somebody
25 measured the width of the bed. Thirty-seven inches.

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1 Whether the door was open or not, whether he saw the baby
2 was missing from the next two - with the brown wide or
3 whether the door - he had to open the door to go in.
4 What's thirty-seven inches minus twelve feet? I don't know
5 somewhere around nine feet.

6 It's not perfect science. I don't know if you're
7 parents or not. If you walk in a room you hear that baby
8 on the floor she's not on the bed and you're gonna run that
9 far and jump on the bed is that enough force?

10 I submit that the amount of force it would take to
11 cause the linear forehead injury that caused the subdural
12 hematoma's that cause the blow on the brain that nobody
13 wants to talk about is also enough injury to cause the
14 collar bone to snap. And if the collar bone snaps go back
15 in the jury room do that to your chin. Where's it gonna
16 bruise? Well how do you account for the bruises on the
17 arms? He says he jerked the baby up. Well how do you
18 account for the bruise on the left other arm?

19 Then he looks at the baby right after he jerked her
20 up. Sure, that's a perfect place to shake it's it? You
21 want to shake your baby when you pull her out from behind
22 the bed? Or are you freaking out, are you okay? Please,
23 dear God, be okay. Everything's okay. She whimpered a
24 little bit I heard that shoooo. And we just laid her back
25 down everything's fine. I didn't do anything wrong just

1 now the baby falling off the bed. Sleeps a little bit.
2 Something hits him in his head. You're in denial about
3 something you might need to check on it right now.

4 He comes out of his sleep he realizes the truth and
5 what does he do immediately at that point? He runs to his
6 mother's room. You've heard testimony from her, you've
7 heard testimony from his brother. Let's talk about his
8 brother. Go in and look at the picture that says seventy-
9 seven degrees. Go in there and cut the temperature up in
10 the jury deliberation room to seventy-seven degrees see how
11 long you can stand it. Is that too hot? Wrap up in a
12 blanket and fall asleep. I'll move on.

13 My client's testimony is corroborated by various
14 outside sources. He immediately - I don't know - I think
15 the state might try to argue neglect - well okay, we'll
16 give it to him, the baby wasn't close - the linear. Okay.
17 But you're client neglected the child. He didn't
18 immediately call 911. He might have been high.

19 I ask Doctor Hart that. How immediate is immediate?
20 He said very immediate and even then I'm not sure anything
21 can happen. And I don't know the science but I think at
22 that point he was talking about the circle with the cables
23 dong down and the swelling and herniated and it cuts off
24 that. Said it doesn't last very long. There's a sad part.
25 My client said, she was crying and then she stopped.

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1 Doctor Hart also said when you receive a subdural hematoma
2 you become somnolent. Now Doctor Mante who I'm not even
3 going to address because I don't think he deserves it even
4 though he has a doctor in front of his name, the only thing
5 I get from him is yes the baby had acid reflux. He's like
6 well baby's gonna be irritable. Really? Do you want to be
7 irritable with a subdural hematoma? I don't even think
8 your Basel reptilian breathing heart doesn't function at
9 that point. Even the solicitor said in his opening
10 argument a baby is going to cry, an adult can tell you when
11 he's out of breath. No, sometimes the baby isn't gonna
12 cry. Sometimes the baby has a subdural hematoma.

13 Is it enough force with an impact with all those
14 injuries to cause a spinal hemorrhaging? What if the back?
15 What if? That's all I got. What if the back was wedged
16 and the baby was down there and the safe was half way up
17 the back and got pushed against the wall? Why am I having
18 to prove the case?

19 Well that's my take on the coroner and the forensic
20 pathologist. Yeah you're an expert but stick with medicine
21 please.

22 What other things? I said my client's story is
23 consistent throughout. He sat on the stand he subjected
24 himself to cross-examination, he bared his soul about one
25 of the most tragic points - times in his life for you to

1 decide. Did he leave the room at the same time with his
2 brother? It doesn't matter. There's always two or three
3 minutes give or take. We left the room at the same time or
4 he was out there fixing a bottle and I walked through the
5 room. I don't know. Did you believe the - Adrian E. his
6 brother the seventeen-year-old? I didn't hear any crying.
7 This baby is not colicky. We're not sitting there in the
8 eleventh hour after three days of colic. We're not there.
9 It was hot. I left. My brother went out to make the
10 bottle it was kind of awkward but I had to put some
11 pictures in with - while the detective was on the stand and
12 you guys probably thinking what's he showing me these pots
13 and pans and the seventy-seven degrees and the baby stuff
14 for? Here's why.

15 I'm showing you the state's own evidence that they
16 took corroborates my client's story. Why are the pots on
17 the stove? Because he said he was going to heat the baby's
18 bottle up. bottle up. I can't believe they took a
19 photograph of the thermometer for seventy-seven degrees.
20 Thank you.

21 How many twenty-seven year olds with a couple of
22 misdemeanor charges in the worst neighborhood in town have
23 a diaper drawer with talcum powder and get three days
24 visitation without a court order every week? Let's talk
25 about some of the character witnesses for a second. And

CLOSING ARGUMENT BY MR. COOK:

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1 want to - Bless their hearts. I realize it wasn't riveting
2 testimony from the people from the neighborhood. But what
3 character witness stood out most in my mind was the
4 decedents mother Kierra Banks. We can have another baby.
5 Is that what you say to somebody who shakes your child to
6 death? It's okay, I love you, you're a good father.

7 Don't' be beating yourself up Quen I'm driving up
8 there to see you. Now she was a little put off. She
9 wasn't forth coming but she didn't lie. She said what she
10 said. She said I don't know now after I see some of the
11 evidence. I wonder if that was it that makes her a little
12 put off or I wonder if it was the fact that Detective Haire
13 goes out a year later and starts asking questions on the
14 eve of the trial? Well who was sleeping with the baby?

15 What are you gonna think when a detective comes out to
16 your house right before a trial starts asking you questions
17 like that? Was the baby okay when it left your house?
18 You're gonna get a little upset. Wait a minute, what you
19 looking at me for? You might change your story a little
20 bit but you can't back off of the text that you've already
21 sent. You're looking for an objective character witness
22 there you go.

23 More corroboration. You heard his 911 call. Maybe
24 you think he's faking it. Maybe you think that he is
25 intelligent and clever enough to formulate this hypothesis

1 at 6:37 a.m., in his house with a dead baby right there
2 here's what I'm gonna do. Let me call 911 real quick.
3 No, ladies and gentlemen, don't fall for that. He's
4 running through a field to hale a ambulance so his daughter
5 doesn't die. It's not time to fake it. Besides and I was
6 gonna close with it but I'm not gonna give you any evidence
7 you can listen to it in the jury room. You go back, play
8 that 911 tape, play everything, please. Play the re-
9 enactment video. How many times have you heard defense
10 attorneys up here please look at all of the evidence? Look
11 at all the evidence, it's right there that proves my
12 client's not guilty.

13 The EMS said he was hysterical. They were doing -
14 The cop who was trying to throw him under the bus as hard
15 as he could go Hey I heard him, some people say fifteen
16 minutes. He said he was distraught, he was crying. Yeah,
17 I bet he was. But what does Detective Haire say? I put
18 quotation marks around this. The only way it could have
19 happened was if you shook her real hard, Quentin. I think
20 he should stop playing doctor and start playing detective.
21 He's painfully honest though. Detective Haire he's an
22 honorable man. I said how do you explain the linear? He
23 said, I don't know. You know why he said that? Cause he
24 doesn't know. Cause his mind hasn't thought threw the
25 hypothesis that I'm putting forward.

CLOSING ARGUMENT BY MR. COOK:

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1 I'm almost done. I don't know what the state is gonna
2 say in their argumentation. But I can guess. Well let's
3 put it this way. I know what they did say in their
4 opening. Again, it could be neglect. Look at the statute.
5 What's the legislators looking for there? If you slept
6 with a baby for thirty minutes to an hour when you weren't
7 sure and then you call the police, is that neglect where it
8 makes you guilty of homicide? Was he doing crack, heroin,
9 methamphetamine, or even a lot of alcohol which is the
10 worst. No. Did he tell from the onset, huh, I smoke
11 marijuana. You can consent everything, rip my phone. I
12 have no idea I'm not an expert. The guy impressed me too
13 with the secret service. I love that. All that cloak and
14 dagger and his black bag and that's awesome, I agree.
15 Yeah, but do you know are you - I'm sure he is absolutely
16 positive. Am I? No. I don't know.

17 I have no idea about electronics and I can't even talk
18 about that. I don't know when was imported and what. I'm
19 sure a lot of you are more adept in that than I am and
20 maybe you can see through it. I don't know. I think what
21 I want you to do is gauge the ques. We're all humans.
22 Again I keep saying some of you are parents. If you're a
23 parent you have children you're children have lied to you
24 at some point. And you know the second they're lying to
25 you.

1 Well, see what had happened or you look at the floor
2 all these little facial ticks and ques. You sat there and
3 you looked at my client for at least a half hour. You
4 gauge it. Do you think he's lying?

5 What else did the state say? A baby is going to fuss.
6 An adult will tell you it's difficult to breath. That's
7 funny. You're doctor said that the baby become somnolent
8 and doesn't fuss. Next: The brother said that the room was
9 hot kind of in a sarcastic tone. Well then don't give us a
10 photograph of a temperature at seventy-seven degrees.

11 Should have sought medical attention immediately.
12 6:37 a.m. Again, what is the state suggesting? Shaken
13 baby. How do you get the line on the forehead? Something
14 had to hit that baby's head or the head hit something. I
15 don't know if they're gonna say he's just making up behind
16 the bed cause the baby never fell between the bed and the
17 wall.

18 Well then how do we get the linear line that you're
19 doctor told us? They're gonna say a lot of stuff and
20 they're real good. When they get done think one word in
21 your head and see if they answered it effectively to your
22 satisfaction. Linear. And if you want to throw in another
23 that's fine with me. Extreme. That's the burden of proof
24 here.

25 The most ironic part about this whole case is the

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 reason he was running in that bed is because he cared for
2 his daughter, his memorial, so much. Thank you, ladies and
3 gentlemen.

4 SOLICITOR BRACKETT: May it please the Court.

5 THE COURT: Mr. Brackett.

6 SOLICITOR BRACKETT: On January 22nd, 2014, Kierra
7 Banks who you saw come into this courtroom delivered into
8 the care and custody of the defendant Quentin Evans a
9 beautiful, healthy, happy, six-week-old little girl in his
10 care. A little girl who had just been to her doctor a few
11 days before.

12 I appreciate Mr. Cook doesn't appear to respect Doctor
13 Mante but I think that man clearly cares about the kids, he
14 loves them and he spent a lot of time with Minor and he
15 looked her up and down and said she was happy, she could
16 smile, she was doing everything a six week old child would
17 be expected to do.

18 Delivered that little girl to this man right here, Mr.
19 Evans, Mr. Quentin Evans the defendant in this case. Mr.
20 Evans was supposed to care, protect, provide for the
21 welfare and look out for Minor until she came back on
22 Saturday morning and pick her up less than twenty-four
23 hours later. She dropped her off sometime about 9:45, less
24 than twenty-four hours later Minor is lying naked on a
25 metal table at PMC with a little tube in her mouth - gone.

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 What happened to Minor What happened to that little
2 girl, that happy, healthy little girl? That's what we're
3 here to decide.

4 Now, there's two theories that have been advanced in
5 this case.

6 Madam Clerk, would you mind?

7 (COURTROOM LIGHTS TURNED DOWN.)

8 SOLICITOR BRACKETT: The defense contends that it was
9 an accident and we have charged by indictment, which is
10 just an allegation, that this is homicide by child abuse.

11 That Minor didn't just die as a result of an
12 accident, an unfortunate event that nobody could have
13 prevented reasonably but she was killed through the
14 intentional act of another person. A homicide. That's
15 what homicide means, when a person kills another person
16 intentionally. It's not murder. We're not alleging that
17 this is malice. Murder is a different thing completely.

18 The defense basically in so many words and Mr. Cook
19 just went through all this so I'm not gonna spend a lot of
20 time, that she woke up in the night crying, Mr. Evans went
21 to make a bottle, and Minor fell behind the bed sometime
22 while he was gone, sustaining some kind of injuries either
23 during the fall and when he jumped on the bed but that her
24 death was an accident and the defendant is not guilty.

25 That's it in a nutshell what they're case is:

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 The state's case is based on the police investigation,
2 including an examination of the scene where Minor was
3 that night, as well as interviews with the defendant.
4 Critically the medical evidence which I'll go over in much
5 more detail, the medical evidence from Doctor Craig Hart
6 who came in here and testified and he is a forensic
7 pathologist, which means he's a medical doctor, he went to
8 medical school, but he's not just any kind of doctor, he is
9 a pathologist. He studies the causes of death and what
10 caused something to happen. And he was qualified as an
11 expert and I believe the judge is going to charge you that
12 an expert is a different kind of witness. You heard from a
13 lot of witnesses who took the stand and they told you what
14 they saw, what they heard, what they smelled, what they
15 picked up what they took a picture of, those are regular
16 witnesses. An expert witness is different.

17 An expert is a individual who because of their
18 training and experience is able to not just tell you what
19 they saw, but what you can deduce from what they saw. In
20 other words, an expert gives you an opinion. So, despite
21 what Mr. Cook has to say it is Mr. Hart's job to come in
22 and tell you what happened and why it happened and how it
23 could have happened. He wasn't in the room so he doesn't
24 know for sure. If he was he would be a direct witness.

25 All he's doing is looking at Minor little body

1 and checking out all these injuries, documenting them, and
2 drawing conclusions from what he sees and then to come in
3 here and tell you what those are.

4 Now this case as Mr. Thompson told you on direct - in
5 the opening statement has circumstantial evidence in it and
6 I would like to address that right up front because people
7 sometimes think circumstantial, whoo, that doesn't sound as
8 good because you hear that on TV or in movies.

9 Let me tell you, circumstantial evidence is every bit
10 as good and can be even more deadly and devastating and
11 powerful than direct evidence. You can build a
12 circumstantial case that is air tight and cannot be over
13 come before it convince you beyond any doubt of some fact.

14 I'll give you an example. Here we are standing in a
15 courtroom and there are no windows through which you can
16 see outside. You can see into the foyer but you can't see
17 outside. If all of a sudden we heard a loud clap of
18 thunder followed by another loud clap of thunder, and a
19 series of rumblings, and then the sound of slow at first
20 but gradually rising becoming more intense the sound of
21 patter on a metal roof coming down. And then five minutes
22 later the door opens and a guy walks in with a coat and
23 water's falling off of him, and he's got an umbrella in his
24 hand and water is coming off of that, you can't say that
25 you saw it raining outside. But are you convinced beyond

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 any reasonable doubt that it's raining outside?

2 Absolutely. That is the circumstantial case. That is
3 what it is, it is a chain of facts when taken together lead
4 you to a conclusion and that's what we have here. We have
5 a chain of facts that lead us inescapably to the conclusion
6 that Quentin Evans killed his daughter Minor

7 Let's go through the evidence. As I said we've got a
8 police investigation that involves the scene, the
9 defendant's statements, the medical evidence, and
10 circumstantial evidence.

11 First the scene. This is the front of the house,
12 State's Exhibit Seven, where the EMS
13 pulled up. As you walk through you go in and you see this
14 is the defendant's bedroom. And you can see there's two
15 beds here. This is Adrian E. bed and that's the
16 defendant's bed and you can see the pallet that was in the
17 corner there. These are the pictures taken by Paula Neely
18 when she first got to the house.

19 Remember what she told you her job was? Document the
20 house as she found it. Got there are about 7:17 I think
21 she said she arrived at the house and her times are exact
22 because it's her job to be exact. She's supposed to look
23 at her watch and note arrived on scene at this time.

24 A closer picture of the bed. And a view straight down
25 the bed. As you can see this is the gap between the wall

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 and the bed. And look, this is the edge of the mattress.
2 Paula Neely testified she measured from there to the wall
3 and it was four inches.

4 And sometimes it's hard to remember or visualize so in
5 this case I decided to make it a little easier for you and
6 put in a tape measure showing you just exactly how wide
7 four inches is. And that doesn't account for the
8 comforter, that black comforter I ask the defendant about
9 when he was on cross examination. I said there is a
10 comforter over the edge that would have made it even
11 thicker so that's the space that Minor supposedly fell
12 down.

13 This is the crime scene diagram and there was some
14 discussion from Mr. Cook talking about widths and so forth.
15 She did a nice job measuring the bed, the two beds, you can
16 just for yourself when you look at the picture they appear
17 to be identical. The head boards appear to be identical,
18 they appear to be made out of the same type of wood. This
19 bed doesn't have the measurements on it. This bed is
20 seventy-four inches long though which is six feet, two
21 inches, which is about right for a bed. Thirty-seven
22 inches wide as Mr. Cook observed during his closing
23 argument. So we also know that this is a twelve-foot-wide
24 room here. It's twelve feet from here to here. So if
25 that's six feet two inches and that's three feet three

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 inches between the bed - between the two beds the length
2 and the width we're over nine feet.

3 Then we have a closet, the door opens inward. If that
4 closet is even two feet which would be an awfully skinny
5 closet, but if it's two feet wide, that's over eleven feet.
6 The whole thing is only twelve. That means inches between
7 here and there; that supposedly this bed was pulled out and
8 nobody knows. I submit it wasn't. The thing is sitting on
9 a carpet and I don't think it slid at all from when he got
10 on it, but, that's for you to decide. But it couldn't have
11 been more than a few inches.

12 And as you will see in a minute I'll show you, I don't
13 believe it was out at all because here's the photograph.
14 There's the car seat. This is the edge of the bed. The
15 edge of the car seat appears to go right up to the edge of
16 the bed and straight over here to the garbage can which is
17 then wedged right up to the TV stand.

18 There is no space really for that bed to move out any
19 further than it already is.

20 Mr. Cook told you in his closing, they're probably
21 gonna tell you or they might tell you that they don't think
22 Minor even fell down the side of that bed. I submit
23 that based on the evidence that you have in front of you
24 ask yourself how probable it is. You all can use your
25 common sense and your everyday experience - if any of you

1 have ever had a six-week-old baby - ask yourself, is it
2 even within the bounds of realism could it possibly be that
3 a six-week-old baby - we're talking about a child that
4 isn't even ten pounds, nine - an infant could roll over?

5 I don't think so. I submit to you I think that's
6 improbable. That story is started right from the beginning
7 and I'll talk about it in a minute - right at the beginning
8 the defendant came out in a 911 call, right out of the gate
9 with a story about how she had fallen off the bed because
10 he knew that she was hurt. He knew that her body was gonna
11 show signs of injury and he had to come up with a story of
12 explaining that. So he started from the very beginning,
13 the baby fell off the bed story, and once he committed to
14 that he's got to ride that story all the way through. He's
15 got to stay with it, he can't sudden change his mind and
16 say oh, oh, she didn't fall off the bed. He's got to stay
17 with the same story.

18 Remember, she said it's only twenty-one and a half
19 inches down. And what did the doctor say? Maybe if she
20 fell out of a second story of a building you might see
21 those kinds of injuries because you have enough
22 acceleration. Twenty-one and a half inches down to a
23 carpeted floor. Never. These injuries were not caused by
24 a fall.

25 Now, before I get into this, because this is so muddy,

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 and there are so many statements and so many
2 inconsistencies, I'm just gonna warn you, I urge you to
3 listen to every piece of evidence. Go through it all.
4 That's fine. But you will drive yourself crazy listening
5 to all of the different variations of the stories that he's
6 given. And all the little details and all the different
7 versions and variations and specific things that he talked
8 about, you can drive yourself nuts doing that.

9 There is a simple and direct route to this evidence to
10 a reasonable and just verdict. And that is Mr. Evans was
11 hopelessly caught and guilty by the time Doctor Craig Hart
12 had finished testifying. Because once he went through all
13 those injuries articularly explaining a subdural hematoma,
14 and talking about that once that happened, there was
15 nothing, no theory, no version of Mr. Evans' story, none of
16 it, could possibly explain that child's brain injury.

17 No way based on his testimony alone, coupled with the
18 fact that even by the defendant's own admission that child
19 was happy and healthy and normal all day long and in his
20 care and custody, nobody else could have done this. Those
21 two facts alone are enough to justify a guilty verdict -
22 you can move on.

23 But you want to consider the defendant's story, you
24 want to hear his statements, I'll give you an example.
25 We'll walk though, and I'll give you a few examples of what

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 I'm talking about inconsistencies. His statements are
2 inconsistent even among themselves. They change from one
3 minute to the next. Let's look at the time Minor fell.

4 (STATE'S EXHIBIT ONE PUBLISHED TO THE JURY.)

5 SOLICITOR BRACKETT: Okay. We know what time the 911
6 call came, 6:46, so an hour ago is 5:46. Now let's go to
7 the next version. He tells DSS in the interview which is
8 in evidence, the summary of it; that it was sometime
9 between 3:00 a.m., and 4:00 a.m., instead of 5:46 which is
10 what it would have been if he was right on time for 6:46
11 for the 911 call. An hour before would have been 5:46.

12 DSS he says three and four. Christina Westover with
13 the Coroner's office testified, and if y'all have - I'd
14 just like to remind everybody, if you have any questions
15 about the evidence and you can't remember and you say did
16 she say that or did she say this?

17 The court reporter records everything. If you have a
18 specific question and you want to know what did the Coroner
19 or what this witness testify about that, send a note out.
20 We'll bring you back in and play that so you can hear it if
21 you wonder. But if you do that, this is what you're going
22 to hear Christina Westover say. That the defendant told
23 her that the incident where she fell took place between
24 2:30 and three o'clock. So here we're not talking about a
25 few minutes as he tries to "Well I said it was about." You

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 don't say it was about sometime after midnight and before
2 six o'clock cause that's about what he's saying.

3 Two-thirty to three o'clock is three hours from his
4 first statement 5:45. Here he is in the re-enactment.
5 Let's hear what he has to say.

6 (STATE'S EXHIBIT PUBLISHED TO THE JURY.)

7 SOLICITOR BRACKETT: Two, two-thirty again. How can
8 all these comments be right? How can you be off so far?
9 How can you be so wildly off? I mean, I can understand
10 twenty, thirty minutes. The guy said he was up all night
11 long looking at his telephone on the internet sending
12 messages, making phone calls, surfing playing games, taking
13 pictures, whatever. He's sitting there with a device in
14 his hand that constantly reminds you what time it is but
15 he's off by three to four hours.

16 Incidentally if you want to just look at one statement
17 to focus on, and you want to spend some time with it, that
18 re-enactment was great. It was phenomenal. There is so
19 much information in that which leaves you shaking your
20 head. We'll talk about it some more in a minute but the
21 Coroner's office did a great job with the re-enactment.
22 You can be proud of the work your Coroner's doing.

23 The statements were inconsistent with the medical
24 evidence. Doctor Hart testified when he did the autopsy
25 that Minor stomach was empty. There was no food, no

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 trace of food left in there.

2 (STATE'S EXHIBIT PUBLISHED TO THE JURY.)

3 SOLICITOR BRACKETT: And that was the 911 call.

4 He's talking about like an hour before he fed her and
5 burped her. He just testified right in front of your very
6 eyes that the last time he fed her was at about ten o'clock
7 the night before; she really didn't eat in the middle of
8 the night. But there's the 911 call where he's saying that
9 it's what, an hour before the 911 call and he fed her and
10 burped her and everything but there's no food in her
11 stomach.

12 They're inconsistent with the photographic evidence,
13 his statements are..

14 (STATE'S EXHIBIT NUMBER FIFTY-SEVEN PUBLISHED TO THE
15 JURY.)

16 SOLICITOR BRACKETT: "Definitely ain't gonna fire up
17 around my daughter." You heard the other expert that
18 testified in this case, Mr. Amick, who is the cell phone
19 forensic data cell phone - This is his whole job, just to
20 pull information out of cell phones, analyze it, study it,
21 prepare reports and come to court's like this one and tell
22 jurors about this type of evidence. And what did he say?

23 Imbedded in each photograph, at the time that it is
24 taken, is the date and the time that the photograph is
25 taken, as the date and the time is reflected in the device

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 that's taking it. So if the device's date and time are
2 right then the time that's on the photograph is right.

3 In this case 10:45 at night on January 22nd, the time
4 he said he wasn't smoking anything, he didn't smoke that
5 night cause that's what he said. And how do we know that
6 the time on the phone was right? Because he went the extra
7 mile and looked at the call records to see what time the
8 911 call was recorded by the phone. 6:36. Then he goes to
9 911. And their records we know are right and the 911
10 operator confirmed in her testimony the call came in at
11 6:36. So we know the phone's time is right, we know that
12 this time is right. The date and the time are accurate.

13 He was smoking pot at 10:45 that night despite the
14 fact that he wants to deny it now.

15 Some of his statements are just bazaar and
16 incomprehensible. There is no explanation for them.

17 (STATE'S EXHIBIT FIFTY-SEVEN PUBLISHED TO THE JURY.)

18 SOLICITOR BRACKETT: That man is lying on the bed
19 where his child died mere hours before talking about she
20 was looking at me like, Dang, I'm in trouble.

21 Who does that?

22 (STATE'S EXHIBIT FIFTY-SEVEN PUBLISHED TO THE JURY.)

23 SOLICITOR BRACKETT: His daughter had rolled and he
24 had been telling her not to do that, this six-week-old,
25 don't roll like she's gonna listen to him.

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 (STATE'S EXHIBIT FIFTY-SEVEN PUBLISHED TO THE JURY.)

2 SOLICITOR BRACKETT: He was at PMC his daughter is in
3 there they whine a little bit they die a little bit.

4 (STATE'S EXHIBIT FIFTY-SEVEN PUBLISHED TO THE JURY.)

5 SOLICITOR BRACKETT: Again, the timing is always down.
6 2:05, 2:06, about 9:02, 9:03.

7 (STATE'S EXHIBIT FIFTY-SEVEN PUBLISHED TO THE JURY.)

8 SOLICITOR BRACKETT: Thirty-five percent woke up.

9 (STATE'S EXHIBIT FIFTY-SEVEN PUBLISHED TO THE JURY.)

10 SOLICITOR BRACKETT: He thought she was playing possum
11 like she might be pretending to be asleep at six-weeks old.

12 And finally the statements are suspicious and
13 incriminating. He told Officer Aiton that he had only
14 slept fifteen minutes the night before because the baby had
15 been crying all night. Now, we're getting somewhere.

16 Now, we're getting to the truth. Now we're finding
17 out what really happened that night to Minor He said
18 that to Officer Aiton. Remember, Officer Aiton was the one
19 who came out to the scene early that morning. He had no
20 idea what was going on. All he knew a baby stopped
21 breathing, EMS was going out there standard protocol send
22 the police to back 'em up. He's standing around on the
23 front steps, he's, you know, standing out on the porch
24 talking to him. He doesn't have a ride to the hospital so
25 out of the goodness of his heart he says I'll give you a

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 ride to the hospital come on with me.

2 He puts him in the patrol car and they drive off to
3 PMC. And what does he say on the ride there? Not in
4 response to anything Officer Aiton said. Officer Aiton
5 doesn't even have any clue whether this is just a SID's
6 death or just, you know, did the baby have a bad heart and
7 just die of natural causes. Nobody has any ID. All we
8 have is a baby stopped breathing and EMS is rushing her to
9 the hospital. "I didn't do anything to hurt my baby. I
10 didn't do anything to hurt my baby." No one accused him of
11 doing anything. There is a whole quote from the Bible "a
12 guilty were none pursue" no one had said anything to him
13 but yet he had a guilty conscious and he felt the need to
14 say something like "I didn't do anything to hurt my baby."

15 And he says the same thing at the PMC interview about
16 the baby's crying all night long.

17 (STATE'S EXHIBIT PUBLISHED TO THE JURY.)

18 SOLICITOR BRACKETT: "She was like ahhhhhh." That's
19 what happened to Minor

20 And the category of suspicious and incriminating.

21 (STATE'S EXHIBIT PUBLISHED TO THE JURY.)

22 SOLICITOR BRACKETT: "It looked like she had snapped
23 her neck." Couldn't support it. Remember how he described
24 just flopped back and in other places he says it was like
25 jelly just bouncing around.

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 Well, first of all Mr. Cook is wrong. You do have an
2 obligation when you think your child has snapped their neck
3 to get the medical care immediately. You do have that
4 obligation. Even if you're the person who did the injury
5 you have an obligation. You convict this man under two
6 theories. You can convict him because he did it and then
7 you could convict him because he didn't do anything about
8 it after he did it. He should have said right then this
9 baby needs help, I screwed up.

10 But you know what Quentin Evans did right then? You
11 know what he did? Quentin made a value judgment. He said
12 if I pick up the phone and call for help I'm gonna have to
13 explain how this happened and put myself in jeopardy.

14 Hum. Help the baby or help Quentin. Guess who won
15 that battle? Lastly:

16 (STATE'S EXHIBIT PUBLISHED TO THE JURY.)

17 SOLICITOR BRACKETT: They didn't start talking about
18 shaken baby until they got back to the Rock Hill Police
19 Department after they did this. He's talking about I
20 couldn't shake my baby. You see, the reason why he was
21 saying all this falling off the bed and why he's telling
22 them there that the neck was all wobbly, because he knew
23 that the cause of death was gonna have something to do with
24 her neck. That's what he thought. And why would he think
25 that? Why would he think that she might have snapped her

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 neck and that might be why she died because it wasn't? She
2 didn't die from a broken neck.

3 Why did he think that? Because he was the one
4 standing there watching her head whip back and forth and
5 back and she's only nine pounds and her head is going back
6 and forth and inside of her head her brain is bouncing back
7 and forth against the walls of her skull. You can't see
8 any of those injuries on the outside. That's why it's
9 called a subdural hematoma - inside - he knew that.

10 But he's watching her head whip back and forth and
11 he's watching her neck and then her neck probably was
12 wobbly after that. But he's thinking that must be what
13 killed her. He was wrong but that's why he built that
14 explanation in there. That's why in the previous slide
15 that's why he said what he said about her neck was all
16 wobbly. He's thinking he's got to relate her neck to the
17 fall to explain how this child died.

18 The other thing that was unusual and suspicious in the
19 second interview at Rock Hill P.D. - the long one - thought
20 the collar bone was broken. Right there. It is broken.
21 But how did he - Listen to him.

22 (STATE'S EXHIBIT PUBLISHED TO THE JURY.)

23 SOLICITOR BRACKETT: He's telling Bruce Haire at the
24 Rock Hill Police Department after Bruce Haire tells him the
25 autopsy showed that her collar bone was broken. He's

1 saying, "I said that, I said that too. I said I thought
2 her collar bone was broken." How in the world could he
3 have ever known that her collar bone was broken? How could
4 he have known that unless he felt the break under his thumb
5 as he's hold her like this? I told you you should have
6 called for help when you saw that her neck was hurt.

7 The other suspicious thing in all this was one phone
8 call made that night after he went to bed about ten
9 o'clock. At 3:45 in the morning who does he call? Baby
10 momma Kierra Banks. And then he hangs the phone up. The
11 call doesn't go through but it goes through enough connect
12 to register on the system and register on the phone but he
13 cancels the call before it connects to her.

14 Why would he do that? Why would he call her at 2:45
15 in the morning in the first place? And why would he hang
16 before the call come in? He panicked and he called and
17 then said what am I gonna tell her? I got to think this
18 through.

19 The medical evidence from EMS: Never any signs of
20 life. Pupils are fixed and dilated. That's what Steve
21 Pursley from EMS testified to. Her extremities are cool,
22 her core temperature was warm. The thickest part of your
23 body is gonna be the slowest part to cool down. But your
24 fingers, the thinnest part, moving up through your arms,
25 your extremities, are gonna cool faster and they were

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 starting to cool already. And the reason that we took the
2 picture of the thermometer; the reason it was taken was to
3 document the temperature of the house. And the reason we
4 put it into evidence was to show you how warm it was.
5 Because the hotter the house is the slower the body is
6 gonna cool. If the house had been 98.6 degrees, the body
7 would have remained 98.6 degrees. It can't cool down. If
8 it had been hotter it would have been even hotter. If it
9 had been 60 degrees it would have cooled faster. That
10 information is relevant and should be considered by you.
11 That's why it was put in.

12 Now the autopsy. And I apologize for having to go
13 back through this information but it's important. This is
14 an important case. This is the linear bruise, right here,
15 on the forehead. It's very faint. Its not very well
16 developed yet. That means its fresh it hasn't started to
17 yellow. Doctor Hart told you that.

18 I agree Mr. Cook, I can't tell you how that happened.
19 There's only one person that knows how it happened. Mr.
20 Evans. It's not important that we know exactly how it
21 happened. How could it have happened? There are a number
22 of ways it would have happened. He could have taken a
23 piece of wood and hit her on the forehead. He could have
24 held her and - and banged her into something. Maybe in a
25 moment of frustration early in the night when she's crying

1 she won't shut up, she won't take a bottle, she won't take
2 the pacie, he's tired, he's been up all day he just can't
3 take it any more, he's like shut up, shut up. Then he
4 takes her and he turns her around and throws her back down
5 on the bed and she hits her little head on the - the
6 forehead on the headboard. Right there, there's a little
7 inset there in the picture, you can go back and see it.
8 She might have hit her head right there.

9 There's any number of ways it could have happened.
10 That's not what's important. What's important is that it's
11 there; it's a sign of abuse. It's linear and the only
12 relevance of the linear - I included this blue line -
13 that's the linear shape of it. On the outside the bruise
14 is linear. That means its' like a line running across the
15 forehead. It's a straight line.

16 More bruising on the neck, right there. Again, on the
17 arm. Again, on the left arm. And three places, two places
18 on the arm or three places on the arm, here, here, appears
19 to be another one there a mark. Doctor testified there was
20 one right here. And then on the outside of the arm you
21 have another one here which is consistent with what - and
22 these are pinpoint bruises, some of these are like
23 fingertip bruises where you might grab someone. That's
24 what the doctor characterized them as. Grab marks. And
25 that's where you would grab them if you were angry.

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 And you can't just hold an infant and give bruises to
2 them because if you could just hold them by - If you could
3 bruise them by holding them, there would be bruised babies
4 coast to coast cause they're held all the time. You'd have
5 to hold them aggressively, angerily.

6 More on the neck here, here, here. And this one
7 clearly defined right outside the ear. Another side here.
8 Under the neck here and here. And this one again right by
9 the ear. What could that come from if a baby is screaming
10 and crying and you're angry and you're frustrated and
11 upset?

12 (SOLICITOR BRACKETT DEMONSTRATED.)

13 SOLICITOR BRACKETT: "Shut up." From the front maybe
14 from the back, more bruising on the back. He's holding her
15 shifting his grip. Coming back to this, the bruised
16 clavicle, the fractured clavicle again. This is also
17 important. I like this slide because you can see the ribs
18 here. I'll come back to it in a minute. Then the backbone
19 along here you can see the ribs where they come forward
20 like this ---

21 (SOLICITOR BRACKETT DEMONSTRATED.)

22 SOLICITOR BRACKETT: --- and close the lungs in the
23 heart like a cage to protect it. But they stop. The tips
24 of the ribs are here and they roll around to the back and
25 connect at the backbone.

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 This - There was no bruise over the clavicle. But
2 that tells you because what does the doctor say? You can't
3 bruise and - You have to be alive when you bruise and if
4 you get hurt it takes a little while for a bruise to form.
5 I submit to you her collar bone was broken right before the
6 end of her life because bruising didn't have time to form.
7 And tragically what this tells us, the fact that there is
8 no bruise there, a really faint one here, darker ones on
9 her face, is that this probably wasn't the one single
10 episode, one quick five second thing; that Minor was
11 crying through the night, and gradually got more and more
12 frustrated and inflicted the injuries on her first grabbing
13 her face, shut up, shut up, and then he later throwing her
14 head down onto the bed hitting her head somewhere and then
15 ultimately grabbing her like this ---

16 (SOLICITOR BRACKETT DEMONSTRATED.)

17 SOLICITOR BRACKETT: --- and shaking her, and shaking
18 her, snapping her collar bone with his thumb. And then she
19 faded, she became somnolent and he thought well she's
20 asleep now, she finally got the message, and he puts her
21 back down and then she slowly dies over the course of the
22 next hour or two. She was alive when this was done because
23 if she wasn't she wouldn't have hemorrhaged.

24 The micro fractures in the ribs: As I told you from
25 that previous slide the ribs come around to the back

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 connect to the backbone and those little tiny spurs that
2 they connect with are protected by heavy walls of muscle.
3 And Doctor Hart testified you have to have that leveraging.
4 And what did he mean leveraging? He explained you're
5 holding the baby the ribs come out like this and you're
6 grabbing them. And you know what he said? Anterior
7 lateral posterior. Lateral and postural pressure so
8 squeezing the sides and the back at the same time and
9 pushing in. Expanding the rib cage and pushing it back
10 like that. That's what's happening to her immediately
11 until all those little bones that's connected to the
12 backbone start snapping causing these hemorrhages.

13 Right here, one, two, three, four, five, six ribs.
14 All that's blood. Two underneath from where the bones
15 broke. And on the other side hemorrhaging there too.

16 The injuries to the head, and these were the ones that
17 were fatal. This is the oblong patch of hemorrhaging
18 that's underneath the linear bruise. As you can tell it
19 was much more severe under the skin. There was a lot of
20 blood vessels that broke under the skin. It just hadn't
21 had time to materialize. Had she survived this would have
22 been a nasty bruise on her forehead but it just hadn't had
23 time to develop yet. No knot, it was a large bump on her
24 forehead. As the doctor said when the blood has no place
25 to go it just bulges out. Didn't have time, but it had

1 time for the blood vessels to break and the blood to start
2 spreading so you have this oblong injury here.

3 And that's the hemorrhaging from that. And inside,
4 the subdural hematoma. This is what ultimately was fatal
5 to Minor And this, is where his story fails, fails
6 hopelessly. There is no possibility that his story could
7 be anything close to the truth about her falling. Even -
8 And they ask the doctor - Even if he slid into the bed and
9 jumped on it and the bed slid into her pushing her against
10 the wall, that's a compression injury, her head would have
11 been bruised on the back side from where it was pushed from
12 the bed and the wall has to be pushed between something
13 there would have been a contusion, there would have been
14 bruising on the other side of the head. But there wasn't.
15 This can only be caused by severe acceleration, rapid
16 acceleration and sudden stops. And not just one, multiple.

17 He said there were multiple retinal hemorrhages,
18 multiple retinal hemorrhages bilaterally. Lateral sides by
19 both, both eyes have retinal hemorrhaging inside of them.
20 He said it couldn't have been just one shake. It has to be
21 multiple shakes to cause the multiple hemorrhages that he
22 saw. And what happens inside the brain? This line here,
23 and you see the skull cap, that line while inside the skull
24 cap corresponds with this line here and it fits down and
25 there are blood vessels inside your brain between the skull

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 and the brain. There's subdural and then there's blood
2 vessels that feed the brain and all those blood vessels are
3 connected and they sit right on top of your brain.

4 Well, when you're a little baby there's more room
5 inside your head and when your head is forced to whip back
6 and forth sudden stops, start, stop start, your brain is
7 moving inside the skull slamming back and forth inside of
8 it and all those little blood vessels that connect it sheer
9 off. They're tightly connected and when you pull them
10 suddenly they snap off and the blood leaks out onto the top
11 of the brain - right here - and causes the brain to swell
12 down into the subacrodial region - It's what his testimony
13 was; you can go back and listen to it - causing the brain
14 stem to swell which is where all of your autonomic central
15 nervous function is, the lower part of your brain that says
16 beat heart beat, breath lungs breath. All that shut down
17 as it swelled and closed that off and she was no longer
18 able to breath, her heart stopped beating and she died.

19 The folly of their defense and where it has to fail is
20 that at best if you even believe everything he says it
21 explains a little bit of this. Maybe the bruising on her
22 forehead. Maybe some of the bruising on one of the arms.
23 But there is no way, even if everything they say is true,
24 there is no way all of these injuries could have come from
25 what his version of events is.

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 I can't say it any better than Mr. Evans.

2 (STATE'S EXHIBIT PUBLISHED TO THE JURY.)

3 SOLICITOR BRACKETT: And injuries do not lie. "And I
4 was the only one watching her last night."

5 When I stood up to cross-examine Mr. Evans, I really
6 had only one thing that I wanted to get from him. I ask
7 him a bunch of questions but there was one thing that I
8 wanted to confront him with. Something that his lawyer had
9 suggested on cross-examination of another witness.

10 Because you see, Evans is prophetic.

11 (STATE'S EXHIBIT PUBLISHED TO THE JURY.)

12 SOLICITOR BRACKETT: "Time is everything." What did
13 Mr. Evans say? He said he got up and he ran into the
14 living room and he looked down at the clock and that's the
15 one time he knew the time was right. He looked down and
16 saw that clock and the digital clock said 5:37. But when
17 he got - And that's what he told the police. The time was
18 5:37, 5:37, 5:37. But then later when he's thinking about
19 coming into court and preparing his defense he's like, how
20 can I say it was 5:37? How can I do that? Because if I
21 say that they're gonna go, if it was really 5:37 why did I
22 wait an hour to call 911 cause they didn't get called until
23 6:36?

24 He knew time was important so he knew he had to
25 explain that. He knew that he had to come up with an

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 explanation for why it wasn't really 5:37 so that's why he
2 said that he misread the clock. He saw a 5, he saw a 6,
3 and he thought that it was a 5. He missed the loop that
4 closed it all. And I said, now if you're lying about
5 that, if somebody would lie and make up a story about that
6 that was such a significant fact, that wouldn't look very
7 good for them would it? No it would not.

8 And I of course would not have ask him that question

9 --

10 Where's the 911 tapes, Madam Court Reporter?

11 MADAM COURT REPORTER: 911 Re-enactment, State's One.

12 SOLICITOR BRACKETT: State's One.

13 MADAM COURT REPORTER: State's One is by Quentin Evans
14 and State's Two is Neal. 911 call?

15 SOLICITOR BRACKETT: Yes, ma'am.

16 MADAM COURT REPORTER: Yes, sir, State's One and Two.

17 SOLICITOR BRACKETT: They don't seem to be in here.

18 MADAM COURT REPORTER: I just saw them. I just put
19 them in there. They're together.

20 SOLICITOR BRACKETT: Yes, ma'am. Nope.

21 MADAM COURT REPORTER: No their not in there.

22 SOLICITOR BRACKETT: Nope.

23 MADAM COURT REPORTER: They're not.

24 SOLICITOR BRACKETT: They certainly are not.

25 MADAM COURT REPORTER: That's Courts, that's an ID.

1 I don't know, Mr. Brackett.

2 SOLICITOR BRACKETT: Did you take them, Mr. Cook?

3 MR. COOK: No, sir. Did you compile them onto one?

4 SOLICITOR BRACKETT: No, they were two separate ones.

5 MADAM CLERK: No, it was two separate ones. There's

6 two, State's One and Two is 911 calls.

7 THE COURT: Did they give you copy?

8 MR. COOK: Sir?

9 THE COURT: Did they give you copy?

10 SOLICITOR BRACKETT: Well we have a digital copy. We

11 can have it - play it off your copy off if you wouldn't

12 mind. Just a short one.

13 MADAM CLERK: I'm sorry, Mr. Brackett.

14 SOLICITOR BRACKETT: That's quite all right. We'll

15 find it.

16 MADAM COURT REPORTER: No it's not.

17 SOLICITOR BRACKETT: It's around here somewhere. I

18 don't think anybody would want to steal it.

19 (PAUSE.)

20 SOLICITOR BRACKETT: He's picked up the phone. He just

21 looked at the clock a moment ago running from his bedroom

22 to get his mother. They grab the baby they carry her over

23 to the living room they're checking on her condition. He's

24 glanced at the digital clock as he ran to his mother's room

25 and thought that it said 5:37 and that's what he's basing

CLOSING ARGUMENT BY SOLICITOR BRACKETT:

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1 on. So moments later, one or two, maybe three at the most,
2 he's picking up his phone and making this call.

3 (STATE'S EXHIBIT NUMBER ONE PUBLISHED TO THE JURY.)

4 SOLICITOR BRACKETT: "Earlier, earlier at about six
5 o'clock." But he just looked at the clock and it said
6 5:37. If he was so - He's saying earlier but he thinks its
7 5:37. Earlier at six o'clock he went to make a bottle.
8 Why would he say "I went to make a bottle twenty minutes
9 from now" cause in his mind it's 5:37? He just looked at
10 the clock and that's what it said. Right? Why would he
11 say earlier at six o'clock unless he really knew what time
12 it was? He knew exactly what time it was but he knew he
13 couldn't explain why he said 5:37. He had to make a
14 mistake when he misread the clock to account for the hour.

15 This is a tragedy. The world will never get to know
16 Minor . And she died a horrible and lonely death
17 that night. She died in the hands of the man who was
18 obligated by the very laws of nature to protect and nourish
19 and care for her. She died at the hands of the man who
20 valued his own interest above hers, who spent hours with
21 her in that room that night listening to her cry,
22 frustrated, angry, until he finally lost his patience
23 picked her up and shook her however briefly but fatal.

24 Quentin Evans is guilty of homicide by child abuse.
25 Quentin Evans' guilt is sometime in the early morning hours

CHARGE TO THE JURY:

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1 of January 23rd, 2014. Quentin Evans is guilty and you
2 should find him guilty. Thank you.

3 THE COURT: Is any juror need to take a short break
4 before we continue?

5 No one? All right.

6 Ladies and gentlemen, you of course have heard and
7 seen all the evidence in the case. You've also now heard
8 the final summations of the lawyers. It therefore becomes
9 my duty and obligation to instruct you on the law that's
10 applicable in the case. And of course you will be ask to
11 go back and begin with your deliberations and through that
12 process you will examine all of the evidence, you will
13 decide the facts, you will apply the law and arrive at a
14 fair and just decision whatever that decision may be.

15 It is your exclusive duty as jurors to determine what
16 the facts are. You do that through your own common sense
17 examination and evaluation of all the testimony and the
18 other evidence received in the course of the trial.

19 You twelve jurors alone will decide what weight,
20 value, and effect to give any particular witnesses'
21 testimony or other evidence in the case. You're sole
22 obligation and duty is to render and reach a fair and
23 impartial decision based upon the evidence presented and
24 the law that's applicable as I will then have provided it
25 to you.

CHARGE TO THE JURY:

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1 Now as you know in this case the defendant has been
2 charged by the State with the crime of homicide by child
3 abuse which is a statutory offense set forth in 16-3-85.
4 As to those allegations and as to that charge he has
5 entered a plea of not guilty. And as I have told you that
6 plea of not guilty has placed upon the State the burden of
7 proving the allegations that they have made in the
8 indictment. The burden of proving each of the essential
9 elements of the crime alleged against the defendant and
10 therefore the burden is upon the State to establish his
11 guilt to the satisfaction of you twelve jurors beyond a
12 reasonable doubt before a verdict of guilty could be
13 returned.

14 The burden is never upon a defendant to prove that he
15 or she is not guilty or to prove that he or she is innocent
16 because in some cases that might not be possible. The
17 burden is always upon the State because they have made the
18 accusation and they have brought the charge against the
19 defendant to establish his guilt to your satisfaction
20 beyond a reasonable doubt.

21 You are further instructed that it is a vital
22 important and cardinal rule of law that every defendant in
23 a criminal trial, no matter how great or serious the
24 offense might be, for which that person stands charged that
25 person shall always be presumed innocent of that charge and

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1 that presumption of innocence remains with any defendant as
2 it does with this defendant from the time he is placed
3 under arrest and throughout the course of the criminal
4 process and even throughout the course of the actual trial
5 in the case.

6 As I told you that presumption of innocence will be
7 with Mr. Evans even as you go back into your jury room to
8 begin with your deliberations in this case. And that
9 presumption of innocence will be with him in that jury room
10 and it will be with him forever unless you twelve jurors
11 determine that he's no longer entitled to that presumption
12 of innocence.

13 In other words after you've carefully considered all
14 of the evidence in the case and from that evidence in the
15 case and from that evidence you have determined the facts
16 and upon deciding those facts you apply the law that I will
17 have provided you if you twelve jurors unanimously determine
18 that his guilt has been proven beyond a reasonable doubt
19 then he would no longer be entitled to that presumption of
20 innocence. But it is only if unless and until you are
21 satisfied of his guilt beyond a reasonable doubt that
22 presumption of innocence would no longer be applicable.

23 Now while the State does have the burden of proving
24 the defendant's guilt to your satisfaction beyond a
25 reasonable doubt that doesn't mean that the State is

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1 required to prove his guilt to your satisfaction beyond all
2 doubt or beyond any possible doubt, but it does require the
3 State to prove his guilt to your satisfaction beyond a
4 reasonable doubt. And the term reasonable doubt should be
5 given it's plain and ordinary meaning. A reasonable doubt
6 is the kind of doubt that would cause a reasonable person
7 to hesitate to act upon the information provided.

8 The defendant is entitled to any reasonable doubt that
9 arises from the evidence or lack of evidence in the case.
10 And if upon any factual issue essential to a finding of a
11 verdict of guilty you have some reasonable doubt as to how
12 that issue should be resolved it would be your duty to
13 resolve that reasonable doubt in favor of the defendant.

14 Now the State may rely upon direct evidence or
15 circumstantial evidence or a combination of both direct and
16 circumstantial evidence in order to prove the commission of
17 a crime as well as to prove any essential element of that
18 crime. Now while there are various forms of evidence such
19 as testimony, photographs, documents, charts, and other
20 types of physical exhibits, there are really only two types
21 of evidence, and either or both of those types of evidence
22 may be used independently or a combination to prove any
23 fact and issue, but the two types of evidence are direct
24 evidence and circumstantial evidence.

25 Direct evidence is the testimony of a person who

1 testifies from actual knowledge of that fact. It is
2 testimony by a person who has perceived the existence of
3 some fact by means of their senses and then they come into
4 court and they testify as to what they had previously
5 perceived.

6 Circumstantial evidence on the other hand is the proof
7 of some other fact or a set of facts which taken either
8 singly or collectively may prove the existence of a fact in
9 question as a necessary consequence, that is, by an
10 inference. And an inference is simply a deduction of fact
11 that may logically and reasonably be drawn from the proof of
12 some other fact or set of facts. In other words it's not a
13 fact which is proven by the direct testimony of a witness
14 based upon that person's perception but it is a conclusion
15 which might reasonably be drawn from the proof of other
16 facts.

17 In other words, you may infer that a particular event
18 occurred or that a particular fact exist based upon the
19 proof of sufficient factual circumstances which would
20 reasonably warrant your arriving at a particular
21 conclusion.

22 The commission of a crime as well as any particular
23 element necessary to establish that crime may be proven by
24 direct evidence or by circumstantial evidence or by a
25 combination of direct and circumstantial evidence. The law

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1 makes no distinction between the weight or value to be
2 givne to direct evidence or to circumstantial evidence.
3 However, to the extent that the State relies upon
4 circumstantial evidence to establish the commission of a
5 crime all the circumstances proven must be consistent with
6 each other and when taken together point conclusively to
7 the guilt of the accused beyond a reasonable doubt.

8 If these circumstances merely portray the defendant's
9 behavior as suspicious, the proof is insufficient and
10 fails. This burden rest with the State regardless of
11 whether the State relies upon direct evidence or
12 circumstantial evidence or some combination of the two
13 types of evidence to prove the defendant guilty of beyond a
14 reasonable doubt.

15 Proof beyond a reasonable doubt is proof that leaves
16 you firmly convinced of the defendant's guilt. There are
17 very few things in this world that we know with absolute
18 certainty and in criminal cases the law does not require
19 proof that over comes every possible doubt. If based upon
20 your consideration of the evidence in this case you are
21 firmly convinced that the defendant is guilty of the crime
22 alleged against him then you are to find him guilty.

23 And if on the other hand you think there is a real
24 possibility that the defendant is not guilty then you must
25 give the defendant the benefit of that doubt and find him

1 not guilty.

2 Now the same law that provides that you are the judges
3 of the facts also provides that I am the judge of the law.
4 And that simply means that nobody's gonna tell you how to
5 arrive at your determination of fact in this case. You do
6 that as I've already stated through the exercise of good
7 judgment and common sense consciously applied to the
8 testimony and evidence received during the course of the
9 trial.

10 You must however under your oath as a juror accept the
11 law as I provide it to you as being the law that you are to
12 apply to the case. In other words you are never to concern
13 yourselves with what you thought the law was before you
14 came to serve as a juror this week, or, what you think the
15 law ought to be.

16 Under your oath as a juror you must simply accept the
17 law as I provide it to you as being the law that you are to
18 apply in the case. Then you simply take that law and you
19 apply it to the facts as you twelve jurors determine those
20 facts to be based upon your common sense examination and
21 evaluation of all the evidence received during the course
22 of the trial.

23 Now, as you know you are the sole judges of the facts
24 in this case and you are therefore necessarily the sole
25 judges of the credibility and the believability of any

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1 witness that has testified during the course of the trial.

2 You would determine what weight value and effect to
3 give any particular witnesses' testimony or even portions
4 of that testimony. But as the sole judges of the facts in
5 this case you must evaluate the testimony and you should
6 consider certain factors in order to arrive at your
7 evaluation or your assessment as to a witnesses'
8 credibility and believability. And I'm going to list those
9 factors for you.

10 You should consider the demeanor or a witness, that
11 is, how the witness appeared to you as the witness
12 testified from that witness stand. Was the witness
13 straightforward in responding to questions, or, was the
14 witness hesitant or evasive in responding to questions that
15 were ask of that particular witness? Simply put, did the
16 witness appear to you to be telling the truth, and, to have
17 knowledge of the facts to which that witness has testified?

18 You should also consider whether or not the testimony
19 of a witness was consistent or was it inconsistent? Not
20 only with that witnesses' testimony provided in court, but
21 also, with other witnesses' testimony as well as any
22 statements made by that same witness whether they were in
23 court or outside of court. And you should consider how the
24 witness came to know the facts to which each witness has
25 testified.

1 In other words, what was a particular witnesses'
2 opportunity and ability to perceive the existence of those
3 facts to which that witness has testified. And then what
4 has that witnesses' ability to be able to come into court
5 and accurately recollect to you as to what they had
6 previously perceived.

7 You should also consider any bias or prejudice or
8 interest that a witness might have with respect to the
9 case. In other words do you find some reason that a
10 particular witness would come into court would testify one
11 way or another to help or hurt one side or the other. And
12 you may consider any interest that a witness might have in
13 the outcome of the case if you determine that a witness
14 does have such an interest and you find that that interest
15 would bear upon that particular witnesses' credibility.

16 And you should also consider whether or not the
17 testimony of a witness was strengthened or weakened by
18 other testimony or other evidence received during the
19 course of the trial.

20 Now during the course of this trial you have heard
21 certain testimony that was elicited from certain witness's
22 that were qualified as experts in a particular field.
23 Please understand that I have to determine whether or not a
24 person can testify as an expert in a particular field. But
25 the fact that I qualify a witness as an expert should not

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1 be taken by you as any indication by me as to how I think
2 you are to judge that witnesses' testimony or credibility.
3 That is something that you have to determine based upon
4 your consideration of all the evidence in the case.

5 Lay witnesses are ordinarily not permitted to testify
6 in an opinion form. They can testify about facts that they
7 have perceived of their own personal knowledge or
8 perception but they are not usually allowed to testify in
9 an opinion form. However, certain witnesses who have
10 special training or education or experience with respect to
11 a particular matter may be qualified as an expert in that
12 particular field. And where that person is qualified as an
13 expert in a particular field then that person may testify
14 in an opinion form based upon the facts of the matter in
15 controversy and their conclusions and their opinions
16 constitute evidence for the jury to consider.

17 If you should determine that the opinion testimony of
18 an expert is not based upon sufficient qualifications, or
19 sufficient education, training, skill, knowledge and
20 experience, or a proper consideration of the facts that
21 relate to this particular case, then you may disregard that
22 expert's opinion in it's entirety or you may choose to
23 believe some of it and reject some other portion of it.

24 In other words, you must judge the credibility of an
25 expert witness just as you do any other witness that has

1 testified during the course of the trial. And because you
2 are the judges of the credibility of each witness you are
3 permitted to believe as much or as little of what a witness
4 has testified to as you deem is appropriate. And so, you
5 can believe everything that a witness testified to, you may
6 choose to believe none of it. You may believe some portion
7 of a witness's testimony and reject some other portion of
8 that same witnesses's testimony.

9 In a given can you could believe one witness as
10 opposed to several or several as opposed to one. But
11 whatever your good judgment and common sense tells you is
12 the most believable and credible testimony is the testimony
13 you should accept, and you should reject any testimony that
14 you find not to be credible or believable. Again, your
15 sole objective is to simply render a fair and impartial
16 decision in the case.

17 Now as you know the defendant in this case is charged
18 by the State with having committed the crime of homicide by
19 child abuse. That crime and those allegations are set
20 forth in the indictment that I previously read to you, but
21 please understand, the indictment will be in the jury room
22 with you, but the indictment itself is not evidence in the
23 case. It does not establish anything, it does not prove
24 anything, it's simply the means by which any person is
25 brought into this court and formally accused of a crime and

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1 of course it puts them on notice as to what crime the State
2 claims they have committed.

3 But it's not proof or evidence of anything. But it
4 will be in the jury room because it will serve as the
5 verdict form, Mr. Foreman. You will see on the back of the
6 indictment at the bottom left the word verdict and it's
7 beneath that word that you will indicate the jury's
8 unanimous decision whatever that decision is. But other
9 than serving as the verdict form the indictment serves no
10 purpose so far as you juror's are concerned.

11 But, the State does allege by way of this indictment
12 that Mr. Evans did here in York County on or about January
13 the 23rd of 2014, commit the crime of homicide by child
14 abuse, in that he caused the death of Minor

15 , a child under the age of eleven years at the
16 time of her death, while committing child abuse or neglect,
17 and, that the death occurred under circumstances
18 manifesting an extreme indifference to human life in
19 violation of Section 16-3-85.

20 Section 16-3-85 provides that a person is guilty of
21 homicide by child abuse if the person causes the death of a
22 child under the age of eleven years while committing child
23 abuse or neglect, and, the death occurs under circumstances
24 manifesting an extreme indifference to human life.

25 Now also within that statutory provision are certain

CHARGE TO THE JURY:

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1 definitions and the term child abuse, or neglect, means an
2 act or an omission by any person which causes harm to a
3 child's physical health or welfare. And the term harm to a
4 child's physical health or welfare means the infliction of
5 physical injury upon a child, or, the failure to supply the
6 child with adequate health care, and, the failure to do so
7 causes a physical injury or condition resulting in the
8 death of the child.

9 The term extreme indifference to human life refers to
10 the deliberate omission of an act, or, failure to act with
11 a conscious indifference to the probable consequences of
12 the act or omission which culminates in the death of
13 another human being, and in this case a child.

14 It may be further described as the intentional
15 commission of an act or a failure to act with a conscious
16 indifference to any risk created thereby which culminates
17 in the death of the child. And therefore based upon that
18 statute, before you could find the defendant guilty of
19 homicide by child abuse in the context of this case, it
20 would be necessary that the State and the evidence
21 establishes beyond a reasonable doubt the following four
22 essential elements.

23 First of all, it must be proven that the defendant
24 deliberately or intentionally committed an act or failed to
25 act under circumstances revealing an extreme indifference

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1 to human life. Secondly, that the act or omission caused
2 physical injury to a child. Thirdly, that the child was
3 under the age of eleven years. And fourthly, that the
4 physical injury culminated in the death of the child.

5 Now, Mr. Foreman, ladies and gentlemen of the jury, I
6 am not in any way concerned with what your decision is, but
7 you are instructed that your verdict must be unanimous, all
8 twelve of you must be in agreement before any decision may
9 be returned. In this particular case you have two possible
10 verdict forms. Those two possible verdict forms are guilty
11 and not guilty. So whatever that decision is, Mr. Foreman,
12 as I've indicated to you, you will reflect that on the back
13 of the indictment by inserting that in the space provided.
14 And, you will also sign your name as the foreperson. You
15 are the only juror that needs to sign the verdict form.
16 There is also a space for the appropriate date which today
17 is the 19th.

18 Now during the course of your deliberations there may
19 come a time when you have some questions about the evidence
20 in the case or you may wonder if there is something else
21 out there that you can have that might assist you in coming
22 to a unanimous decision. Now understand that all of the
23 evidence is gonna be introduced in the trial of this case
24 has been introduced. No additional evidence may be
25 received even if it does exist so as you go back we will

1 review all of the exhibits to be certain that everything
2 that was introduced is in the jury room with you.

3 But if you decide and say, well we might need
4 something else so could we get it, do you have it, or where
5 is it, or does it exist? It doesn't matter whether it
6 exist or not, if it has not been introduced now, it cannot
7 be introduced after you go back and begin your
8 deliberations. So don't inquire about any additional
9 evidence because it cannot be received.

10 Now if at any time you have some question about the
11 testimony of a witness, while I do not have transcripts of
12 a witnesses' testimony to send back to the jury room with
13 you, if you have a question about a witnesses' testimony
14 that can be answered by having that witnesses' testimony
15 replayed in whole or in part, we can bring you back into
16 the courtroom to have a witnesses' testimony reheard. The
17 court reporter will simply play it back by way of a tape.

18 And you can listen to all of it if you need to or only
19 some portion of it if that's all you need. So if you need
20 some clarification of a witnesses' testimony, or you have a
21 question that can be answered by having it replayed, let me
22 know of that fact and we'll bring you back into the
23 courtroom to have that testimony - have that testimony
24 reheard.

25 If at any time you have any question about the law

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1 that is applicable, I am permitted to answer those
2 questions. So if at any time you need for me to provide
3 you a re-instruction that I've already given, or you need
4 for me to provide you with some explanation or
5 clarification of some point of law that I've already
6 provided, you just simply need to let me know through the
7 bailiff and I will be happy to respond to those inquiries.

8 Mr. Foreman, if at any time you need to address a
9 matter to me if you will write it on a piece of paper, give
10 it to the bailiff, he will provide it to me and I will
11 respond accordingly.

12 I don't know if we have any smokers on the jury but if
13 we do you can smoke during your deliberations but you cant'
14 smoke in the jury room. You have to outside for that
15 purpose so if you need to smoke let the bailiff know and
16 he'll take you outside. You are instructed that
17 deliberations have to stop if any juror is absent from the
18 jury room for some authorized purpose. And deliberations
19 may only be engaged in when all twelve are present so that
20 all may participate.

21 I think that covers everything but if it doesn't I'm
22 sure one of these lawyers will tell me I neglected to
23 provide you with some information that I should have. If
24 that's the case I will bring you back and provide you with
25 additional information. If I don't need to bring you back

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1 I will simply send word by way of the bailiff that you may
2 begin with your deliberations. In that event he will bring
3 to the jury room all of the exhibits which have been
4 introduced during the trial of the case.

5 And to, Mr. Foreman, he will also bring the indictment
6 which will serve as the verdict form. So I'm going to ask
7 the two alternate jurors to stay in the courtroom with me
8 right now. I'll ask the twelve primary jurors to please go
9 with the bailiff to your jury room but do not begin
10 deliberations until I send you word to do so.

11 (JURY EXITS COURTROOM FOR DELIBERATIONS AT 03:37
12 P.M..)

13 THE COURT: I've got the two alternate jurors and you
14 all are not permitted to deliberate with the jury as you
15 know, but, I don't know if something might happen during
16 deliberations that one or more of the jurors may become ill
17 or cannot continue for some reason, so based upon that
18 potential occurrence I'm gonna ask you to stay with us.
19 The bailiff will take you to a separate room where you will
20 be alone just the two of you. You still are not to discuss
21 the case in any fashion. And if one or more the jurors now
22 deliberating cannot continue, then one or both of you will
23 be called upon to take their places, so I'm gonna ask you
24 to go with the bailiff to a separate room but do not
25 discuss the case while you are in that room. Okay.

JURY VERDICT:

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1 Thank you.

2 (ALTERNATE JURORS EXIT COURTROOM AT 03:38 P.M..)

3 THE COURT: Are there any exceptions taken to the
4 instruction or request for additions to the instructions by
5 the State?

6 SOLICITOR BRACKETT: No, Your Honor.

7 THE COURT: By the Defense?

8 MR. COOK: None, Your Honor.

9 THE COURT: All right, let me ask you all to verify
10 all the exhibits, please, before they go back.

11 Court is not in recess yet. Court is not in recess.

12 (PAUSE.)

13 THE COURT: All right, all the exhibits are accounted
14 for?

15 SOLICITOR THOMPSON: Yes. We just went to get the
16 computer that they play the disc on.

17 THE COURT: All right. Send 'em back and tell the
18 jury to begin deliberations and notify us when they
19 conclude.

20 (COURT IN RECESS AT 03:46 P.M..)

21 (COURT BACK IN SESSION AT 05:15 P.M..)

22 THE COURT: Thank you. Be seated.

23 I'm told that the jury has reached a decision.

24 You all ready to receive it?

25 SOLICITOR BRACKETT: The State is ready, Your Honor.

JURY VERDICT:

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1 MR. COOK: The Defense is ready, Your Honor.

2 THE COURT: Okay. Bring 'em in please.

3 (JURY REENTERS COURTROOM AT 05:17 P.M..)

4 THE COURT: Mr. Foreman, have you and your fellow
5 jurors reached a unanimous decision?

6 MR. FOREMAN: We have, Your Honor.

7 THE COURT: Have you reflected that decision on the
8 verdict form as requested?

9 MR. FOREMAN: I have, Your Honor.

10 THE COURT: Did you sign your name and date it?

11 MR. FOREMAN: I did.

12 THE COURT: If you will please hand that verdict form
13 up by way of the bailiff?

14 (VERDICT RECEIVED UP BY THE COURT.)

15 THE COURT: You may publish the verdict.

16 MADAM CLERK: In the State of South Carolina versus
17 Quentin Jarvis Evans under Indictment 2014-Gs-46-0-1-2-2-9
18 for homicide by child abuse verdict is guilty. Signed by
19 the Foreperson dated today's date.

20 If this be your verdict so say you all by raising your
21 right hand. Let the record show all jurors affirmed this
22 verdict.

23 (WHEREUPON, ALL JURORS AFFIRMED VERDICT.)

24 THE COURT: Does the Defendant wish to have the jury
25 polled?

JURY VERDICT:

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1 MR. COOK: Please, Your Honor.

2 THE COURT: All right. Poll the jury please, ma'am.

3 MADAM CLERK: Please stand.

4 Number Seventy-six, is this your verdict?

5 JUROR SEVENTY-SIX: It is my verdict - guilty.

6 MADAM CLERK: Is it still your verdict?

7 JUROR SEVENTY-SIX: It still is.

8 MADAM CLERK: Please be seated.

9 Number Seventy-nine.

10 JUROR SEVENTY-NINE: Yes.

11 MADAM CLERK: Is this your verdict?

12 JUROR SEVENTY-NINE: Yes.

13 MADAM CLERK: Is this still your verdict?

14 JUROR SEVENTY-NINE: Yes.

15 MADAM CLERK: Please be seated.

16 Number ninety-one, is this your verdict?

17 JUROR NINETY-ONE: Yes.

18 MADAM CLERK: Is this still your verdict?

19 JUROR NINETY-ONE: Yes.

20 MADAM CLERK: Please be seated.

21 Number 2-0-2, is this your verdict?

22 JUROR 202: Yes, ma'am.

23 MADAM CLERK: Is this still your verdict?

24 JUROR 202: Yes.

25 MADAM CLERK: Please be seated.

JURY VERDICT:

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1 Number one eighty-four.

2 JUROR ONE EIGHTY-FOUR: Guilty.

3 MADAM CLERK: Is this still your verdict?

4 JUROR ONE EIGHTY-FOUR: Yes.

5 MADAM CLERK: Please be seated.

6 Number 1-0-9, is this your verdict?

7 JUROR 109: Yes.

8 MADAM CLERK: Is this still your verdict?

9 JUROR 109: Yes.

10 MADAM CLERK: Please be seated.

11 Number two eleven, is this your verdict?

12 JUROR TWO ELEVEN: Yes.

13 MADAM CLERK: Is this still your verdict?

14 JUROR TWO ELEVEN: Yes.

15 MADAM CLERK: Pleas be seated.

16 Number one forty-three.

17 JUROR ONE FORTY-THREE: Yes, ma'am.

18 MADAM CLERK: Is this still your verdict?

19 JUROR ONE FORTY-THREE: Yes, ma'am.

20 MADAM CLERK: Please be seated.

21 Number fifty-four.

22 JUROR FIFTY FOUR: Yes.

23 MADAM CLERK: Is this your verdict?

24 JUROR FIFTY FOUR: Yes.

25 MADAM CLERK: Is this still your verdict?

JURY VERDICT:

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1 JUROR FIFTY FOUR: Yes.

2 MADAM CLERK: Please be seated.

3 Number two fourteen.

4 JUROR TWO FOURTEEN: Yes.

5 MADAM CLERK: Is this your verdict?

6 JUROR TWO FOURTEEN: Yes.

7 MADAM CLERK: Is this still your verdict?

8 JUROR TWO FOURTEEN: Yes.

9 MADAM CLERK: Please be seated.

10 Number one nineteen.

11 JUROR ONE NINETEEN: Here.

12 MADAM CLERK: Is this your verdict?

13 JUROR ONE NINETEEN: Is this still your verdict?

14 JUROR ONE NINETEEN: Yes.

15 MADAM CLERK: Please be seated.

16 Number ninety three, is this your verdict?

17 JUROR NINETY THREE: Yes.

18 MADAM CLERK: Is this still your verdict?

19 JUROR NINETY THREE: Yes.

20 MADAM CLERK: Please be seated.

21 THE COURT: Are there any other matters we need to

22 address with the jury present?

23 MR. COOK: No, sir, Your Honor.

24 THE COURT: All right, thank you, ladies and

25 gentlemen, for your participation as jurors this week and

SENTENCE OF THE COURT:

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1 of course for your services in the trial of this case.

2 I do hope that your service has not imposed too much
3 of a hardship on you. I do sincerely hope that it has been
4 an educational and beneficial experience for you. You will
5 not need to return tomorrow. You're gonna be excused now
6 for the balance of the week so again thank you for your
7 willingness to serve as jurors this week in the manner in
8 which you've carried out your services.

9 All right, if you will go with the bailiff he will
10 take your tags and you won't - will not need to report back
11 any further. Thank you again.

12 (JURY DISMISSED AT 05:21 P.M..)

13 THE COURT: Can I see you all just a minute please?

14 (BENCH CONFERENCE OFF THE RECORD AT 05:22 P.M..)

15 THE COURT: All right, any other matters that need to
16 be addressed prior to the imposition of the sentence?

17 MR. COOK: Your Honor, I'd like to make a motion for a
18 judgment non-obstante veredicto and a judgment for a new
19 trial, a motion for a new trial.

20 THE COURT: All right. That motion is denied.

21 MR. COOK: Yes, sir.

22 THE COURT: Is the Defendant ready for sentencing?

23 MR. COOK: Yes, sir.

24 THE COURT: All right.

25 MR. COOK: May it please the Court.

SENTENCE OF THE COURT:

-608-

1 THE COURT: Wait a minute, Mr. Cook.

2 Anything further on behalf of the State?

3 SOLICITOR BRACKETT: Yes, sir, Your Honor, just
4 briefly. I believe that Minor Evan's aunt would like to
5 address the court on behalf of the family and the victim.

6 A. I want to speak to - -

7 Talisha Banks, B-a-n-k-s. I want to let Mr. Evans and
8 his family know we don't hate them. We forgive - we
9 forgive you.

10 (MS. BANKS CRYING.)

11 MS. BANKS: This is a loose loose situation. I'm
12 sorry that you all have to go through this but at the end
13 of the day we can no longer see our child. His mother
14 still can see him. I'm sorry that she has to go through
15 this. But my sister is going through a lot right now. We
16 don't hate you. Okay?

17 THE COURT: Okay. Thank you, ma'am.

18 SOLICITOR BRACKETT: Your Honor, I won't belabor the
19 point. We have been in a four day trial. You've heard 11
20 the evidence. The evidence in this case was overwhelming
21 given the fact the defendant was in charge of the child and
22 without question received her when she was healthy and in
23 good condition, had no injuries and through the night
24 through the evening hours she obviously suffered from a
25 series of very very violent brutal attacks upon her body

SENTENCE OF THE COURT:

-609-

1 that resulted in her death.

2 The only thing I wish I could be standing up here and
3 hearing is that this family has not been put through what
4 they have had to suffer through over the last four days in
5 light of the overwhelming evidence against Mr. Evans. He
6 did not accept responsibility and I think this sentence
7 should reflect that fact.

8 THE COURT: All right. Thank you.

9 Anything further?

10 MR. COOK: All right, Mr. Cook.

11 MR. COOK: Your Honor, I don't believe any of my
12 client's family members wish to address the court other
13 than just to say that they are throwing themselves on the
14 court's leniency. And again, Your Honor, not to belabor
15 the point, this has been a four day trial and your Honor
16 has heard a lot of evidence. My client is twenty-six years
17 old, I think he just hopes that your Honor might consider
18 fashioning some type of sentence that perhaps lets him see
19 some daylight at some point in his life.

20 He didn't have a lot of education and - I'll rest
21 there, your Honor.

22 THE COURT: All right. Mr. Evans, is there anything
23 you would like to tell me?

24 MR. EVANS: I'm sorry. I'm sorry for all the
25 circumstances it happened. Hopefully my family - I hope

SENTENCE OF THE COURT:

-610-

1 there is some way to get through this. I want to tell the
2 mother I'm sorry. I want to apologize to my family and I'm
3 sorry. I love everybody. That's it.

4 THE COURT: Mr. Cook, you and Mr. Evans want to sign
5 that sentencing sheet?

6 All right, on Indictment 2014-46-1-2-2-9 the State
7 versus Quentin Jarvis Evans in indictment for homicide by
8 child abuse wherein you have been found guilty by the jury,
9 the sentence of the court is you, Quentin Jarvis Evans, be
10 confined to the South Carolina Department of Corrections
11 for a period of forty-five years.

12 Give him credit for any time he's entitled pursuant to
13 24-13-40.

14 Mr. Evans, you have a right to appeal the verdict of
15 the jury and the sentence of the court. You must file any
16 notice of your intention to appeal those decisions within
17 ten days of today's date.

18 (DEFENDANT QUENTIN JARVIS EVANS ESCORTED FROM
19 COURTROOM.)

20 THE COURT: Let me see you all just a minute.

21 (BENCH CONFERENCE OFF THE RECORD AT 05:29 P.M..)

22 THE COURT: Court is in recess.

23 (COURT IN RECESS AT 05:30 P.M..)

24 (END OF TRANSCRIPT OF RECORD.)
25

WITNESSES

RHPD / Welch

ARREST WARRANT NUMBER

2014A4620304135

ACTION OF GRAND JURY

TRUE BILL

Donald H. Colton
For person of Grand Jury
4-17-2014

VERDICT

Guilty

Paul W. Howard
For person of Petit Jury
Date: March 19, 2015

DOCKET NO. 2014-GS46- 01229

THE STATE OF SOUTH CAROLINA

COUNTY OF YORK

COURT OF GENERAL SESSIONS

APRIL 17, TERM 2014

THE STATE

vs.

QUENTIN JARVIS EVANS

Indictment for

HOMICIDE BY CHILD ABUSE

SC Code: 16-03-0085(A)(1)(B)(1)

CDR Code: 2356

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF YORK)

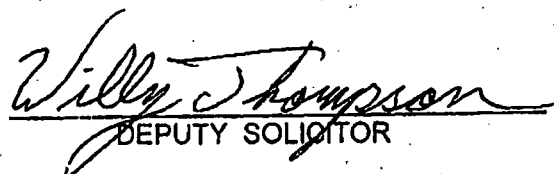
INDICTMENT

At a Court of General Sessions, convened on April 17, 2014, the Grand Jurors of York County present upon their oath:

HOMICIDE BY CHILD ABUSE

Quentin Jarvis Evans did in York County on or about January 23, 2014, commit the crime of Homicide by Child Abuse in that he caused the death of ^{Minor} a child who was under the age of eleven (11) at the time of her death, while committing child abuse or neglect, and the death occurred under circumstances manifesting an extreme indifference to human life. The crime occurred at in the City of Rock Hill, South Carolina all in violation of Section 16-3-85, *Code of Laws of South Carolina (1976)*, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 DEPUTY SOLICITOR

614

QUENTIN JARVIS EVANS

AKA:
Race: Black Sex: M Age: 26
DOB: SS#:
Address:
City, State, Zip:
DL# SID# SC01927013

INDICTMENT NUMBER: 2014A4620304135
A/W: 01/23/2014
Date of Offense: 16-03-0085(A)(1)(B)(I)
S.C. Code §: 2356
CDR Code #:

SENTENCE SHEET
ORIGINAL
RECEIVED

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was
TO: Homicide By Child Abuse

CONVICTED OF

In violation of § 16-03-0085(A)(1)(B)(I) of the S.C. Code of Laws, bearing CDR Code # 2356

APR 01 2015

[] NON-VIOLENT [X] VIOLENT [] SERIOUS [X] MOST-SERIOUS [] Mandatory GPS [] §17-25-45

The charge is: [X] As indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury (def.'s initials)
The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTEST

Willy Thompson 65118
Willy Thompson, Deputy Solicitor SC Bar #

Defendant

Attorney for Defendant 75081
SC Bar #

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections [] County Detention Center,
for a determinate term of 45 days/months/years or [] under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ - provided that upon the service of days/months/years and or payment
of \$; plus costs and assessments as applicable*, the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

[] CONCURRENT or [] CONSECUTIVE to sentence on:
[X] The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.
[] The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment
Payment Terms: Obtain GED []

[] Set by SCDPPPS Attend Voc. Rehab. Or Job Corp.

Table with 2 columns: Description and Amount. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211 (A)(1)(Conv. Surcharge) \$100, §14-1-211 (A)(2)(DUI Surcharge) \$100, §56-5-2995 (DUI Assessment) \$12, §56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, §14-1-212 (Law Enforce. Funding) \$25, §14-1-213 (Drug Court Surcharge) \$150, §50-21-114 (BUI Breath Test Fee) \$50, §56-5-2942 (Public Def Assessment) \$40/ea, Proviso 90.3 (DUI Surcharge) \$5, 3% to County (if paid in installments) \$, TOTAL \$ 130.

May serve W/E beginning
Substance Abuse Counseling []
Random Drug/Alcohol Testing []
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ Beginning
\$ Paid to Public Defender Fund
Other:

[] Appointed PD or appointed other counsel,
§47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court: David Hamilton
Court Reporter: Wanda Nelson
SCCA/217 (03/2011)

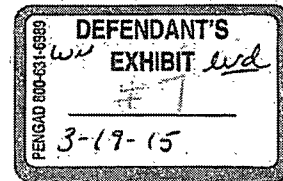
Presiding Judge:
Judge Bar ID:
Sentence Date: Judge Code: 2063 3-19-15

0001816631 - Evans, Quentin - 08/15/1988

442

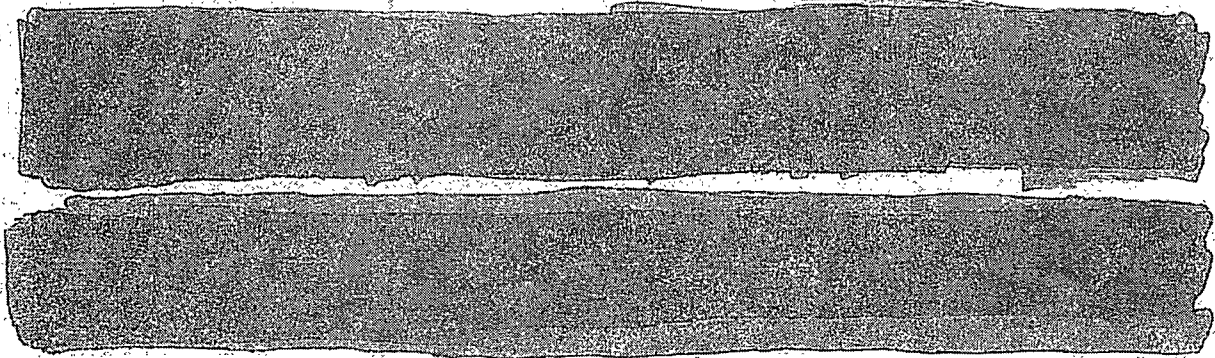
Action Date: 1/27/2014 Action Time: 12:00 PM Time Spent: 5.00
Input Date: 2/4/2014 Input Time: 11:53 AM Worker: CLYBURN, TAMMY

Service ID: 0001551299
Program Service Type: Child Protective Services Assessment
Authorization:
Support Service ID:

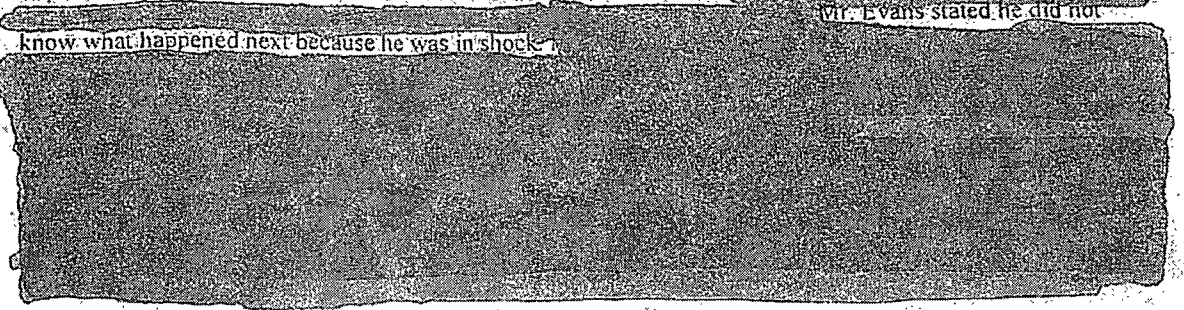


Dictation:

AM 11:53:31 2/4/2014



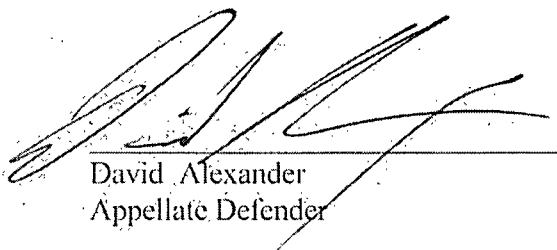
Nature: Quentin Evans stated that he laid Minor down around 9:00 p.m. Mr. Evans stated the baby fell between the bed and wall while he was in the kitchen preparing a bottle. Mr. Evans stated that the baby and he were alone in his bedroom. Mr. Evans told CW that his parents, Linda Evans and Cornelius Neal Adrian E brother, were present at the home too. Mr. Evans stated that early Thursday morning around 3:00 a.m. or 4:00 a.m. he got up to fix a bottle for Minor. Mr. Evans stated that he laid Minor on the left side of the bed closest to the wall so that she would not fall and he laid on the right side of the bed. Mr. Evans told CW that he went in the kitchen and put the bottle in a pot to heat it up for the baby. Mr. Evans stated he went back to the room to check on Minor and heard her crying. Mr. Evans stated that he found Minor on the floor between the bed and the wall. Mr. Evans stated he ran as fast as he could and picked up the baby. Mr. Evans stated that he patted Minor on her back and she was crying a little. Mr. Evans stated that he looked at the baby she appeared to be good. Mr. Evans stated that he thought Minor was okay and she went back to sleep. Mr. Evans stated he went a got the bottle and laid down next to the baby. Mr. Evans stated that he fell asleep. Mr. Evans stated that he woke up and baby was staring in his face. Mr. Evans stated that he put his ear to baby's mouth to hear if she was breathing. Next, he put his fingers on baby's neck to check for a pulse, and then he opened the baby's sleeper and onesie and put his ear to baby's chest. Mr. Evans stated that then he realized something was wrong. Mr. Evans stated that he ran and got his mother, Linda Evans, around 5:37 a.m. Mr. Evans stated that his mom came into the room and grabbed baby Minor. Mr. Evans stated that his mom took the baby in the living room and Cornelius Neal called for an ambulance. Mr. Evans stated that he called an ambulance too. Mr. Evans stated that he ran up the streets, about two blocks, to show first responders how to get to his home. Mr. Evans stated that he ran down by the bridge and got the attention of the first responders. Mr. Evans stated that he then ran back to the home and he "lost it". Mr. Evans stated that the first responders tried to help baby Minor but there was no response from the baby.



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

January 29, 2016



David Alexander
Appellate Defender

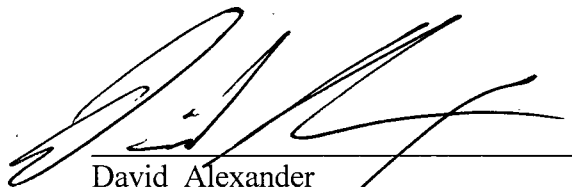
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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January 29, 2016



David Alexander
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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ATTORNEY FOR APPELLANT

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JAN 29 2016
SC Court of Appeals