

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Honorable Joseph Derham Cole, Circuit Court Judge

Appellate Case No. 2014-000764

RECEIVED
JUN 22 2015
SC Court of Appeals

The State, ... Respondent,

vs

Stephanie Irene Greene, ... Appellant.

RECORD ON APPEAL
VOLUME ONE

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States Exhibits Nos. 37-55 (Prescriptions)	Delivered to Ct. of Appeals by David Spencer
State's Exhibit No. 59 (Contract)	Delivered to Ct. of Appeals by David Spencer
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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Stephanie Irene Greene,) 2011-GS-42-5758
6 Defendant.) March 27 - April 4, 2014
7) Spartanburg, South Carolina
8
9

10 B E F O R E :
11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
12
13

14
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Circuit Court Reporter
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EXHIBITS

NO. DESCRIPTION

ID. EV.

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1 not the drug charges themselves from there. And hopefully
2 we can limit that. And they're both going to testify. She
3 was given waivers on both and was given her rights and
4 everything. So I think we'll make that part of the record
5 too just to make sure there's no question about that.

6 MR. WISE: I think what we were going -- I thought
7 what we were doing to try to do is just kind of figure out
8 what statements from those tapes would be admissible and
9 just have the officer testify I interviewed her and this is
10 what she said. And we probably should be able to do that.

11 THE COURT: I think you can.

12 MR. BARNETTE: I don't think that would be a problem.

13 And, Your Honor, we'd also made a plea offer prior to
14 court today. I'd like -- and I believe they've rejected
15 that offer. Obviously, it'll be withdrawn once it's
16 rejected from that point. But I just wanted to make sure
17 that's been made part of the record also.

18 THE COURT: Okay. Anything else we need to address
19 before we recess for lunch?

20 Do y'all have exhibits that y'all want to get marked?

21 MR. BARNETTE: Yes, sir. I've got them marked
22 upstairs. I haven't shown it to Mr. Wise yet. But I was
23 going to revamp that based off our discussions this
24 morning, based off the Court's rulings.

25 THE COURT: Okay. All right. Court is in recess

1 until 2:30.

2 (Whereupon, a recess was taken.)

3 (State's Exhibits 1 through 63 for Identification
4 marked by Mr. Barnette.)

5 MR. WISE: The only additional question I will have is
6 about whether or not they're related to law enforcement,
7 which is pretty standard anyway. I think that covers about
8 everything.

9 THE COURT: All right. Are we ready for the panel?

10 MR. BARNETTE: Your Honor, just a couple of matters
11 just to put on the record real quickly if I could.

12 I talked to Mr. Wise about some of the exhibits, Your
13 Honor, we have premarked. And from that standpoint, Your
14 Honor, if I can go through the exhibits themselves and just
15 put on the record real quick.

16 Your Honor, in talking to Mr. Wise, State's
17 Exhibits 37 through 55, those are the prescriptions in the
18 case. I believe he's stipulated to those and agrees they
19 can come into evidence based off them being the
20 prescriptions. They are copies of the prescriptions
21 themselves.

22 MR. WISE: That's correct.

23 THE COURT: Okay.

24 (Prescriptions marked State's Exhibits Nos. 37 through
25 55.)

1 MR. BARNETTE: And, Your Honor, just for reference,
2 and I've talked to Mr. Wise, I just want to make sure we're
3 clear for this.

4 What's marked State's Exhibit 34 just for I.D.
5 purposes, Your Honor, Court's Exhibit 1, that's the
6 coroner's office interview of the defendant. We're not
7 going to be introducing that, but just to put that in the
8 record from that, Your Honor.

9 What's been marked State's Exhibit 35 is Court's
10 Exhibit 2, Your Honor. That's an interview by the DHEC
11 officers of the defendant in this case. Obviously, based
12 off the Court's prior rulings, there's an issue about the
13 drug charges and so forth on it. It will just be entered
14 in the record as a court's exhibit, not entered in for
15 evidence for the jury.

16 What's been marked as State's Exhibit 57, Your Honor,
17 is Court Exhibit 3 also, Your Honor. This is an interview
18 by Investigator William Gary along with -- Kevin Bobo
19 actually did the Miranda rights with him, Your Honor. And
20 also Agent Kotecha was also involved with that, Your Honor.

21 We're going to mark that as a court's exhibit that was
22 mentioned about the drug charges in there. We're just
23 putting that as a court's exhibit. They'll be testifying
24 about what they can testify in this case, Your Honor.

25 Court's Exhibit -- State's Exhibit 36, Your Honor, for

1 I.D. purposes, Court's Exhibit 4, Your Honor, is the actual
2 waiver that was done by the DHEC officers of the defendant.

3 The reason why we're not introducing that, Your Honor,
4 they were given -- given -- her rights was given to her.
5 It mentions the drug fraud on them, Your Honor, as part of
6 the investigation. So we make that a court's exhibit even
7 though it'll be referenced in those rights being read to
8 her.

9 And, Your Honor, Court's Exhibit 5, Your Honor, which
10 is State's Exhibit 56, Your Honor, is the list of the drugs
11 that we -- it was obviously all of the charges involved and
12 all the drug use. The drug charges won't be mentioned, but
13 they would mention about the drug themselves.

14 We're just going to make that Court's Exhibit 5, Your
15 Honor, State's Exhibits 56 for I.D. purposes.

16 And none of these five items will be entered into
17 evidence. I just want to make sure they're part of the
18 court record.

19 As a matter of fact, I'm going to hand those to
20 Ms. Moffitt so we won't put them in by accident.

21 Thank you, Your Honor.

22 (State's Exhibit No. 34 for Identification marked
23 Court's Exhibit No. 1; State's Exhibit No. 35 for
24 Identification marked Court's Exhibit No. 2; State's Exhibit
25 No. 57 for Identification marked Court's Exhibit No. 3;

1 State's Exhibit No. 36 for Identification marked Court's
2 Exhibit No. 4; State's Exhibit No. 56 for Identification
3 marked Court's Exhibit No. 5.)

4 MR. BARNETTE: And, Your Honor, just to be -- clarify
5 the Court's ruling, what I've told the two officers
6 involved in the interview of the defendant, basically they
7 obviously can talk about the baby, about how the drugs was
8 used and everything.

9 The one thing that they -- they had a question about
10 was obviously we charged her with the drugs. We're not
11 following through with those charges based off the Court's
12 prior ruling. However, they did talk to her about, you
13 know, the doctor shopping and things like that.

14 Is there any problem with the Court's ruling? They're
15 not going to talk about charges themselves, just going to
16 say that's illegal for them to seek two different doctors.
17 I just want to make sure we're clear about that beforehand.

18 MR. WISE: I'm going to object to that.

19 I think the gist of the conversation as I recall it
20 was they told her these doctors say you didn't tell me
21 everything. And she said, "Yes, I did."

22 I don't know of them talking about an illegal, as
23 such, but I do remember very distinctly they said we have a
24 statement from the doctor saying they didn't know you were
25 taking these prescriptions. And she said, "Well, yes, they

1 did." And that was -- if that's the gist of what he's
2 trying to get in --

3 MR. BARNETTE: No, no. I think -- well, at first she
4 said she did, but then later on she admits to William Gary
5 she did not tell the doctors.

6 MR. WISE: Who?

7 MR. BARNETTE: Him -- sheriff's. It's in the
8 interview.

9 MR. WISE: I'll have to go back and listen to it to
10 make sure.

11 MR. BARNETTE: Okay.

12 THE COURT: Well, let's avoid that discussion unless
13 and until we have -- we know exactly what the questions and
14 answers are going to be and that that information has been
15 shared with the defense so they'll--

16 MR. BARNETTE: Well, it -- well, we've given the
17 recorded interview.

18 MR. WISE: Right. I've just got -- I've just got to
19 go listen to the taped interview.

20 THE COURT: Okay.

21 MR. WISE: I think it will come up tomorrow.

22 MR. BARNETTE: It possibly will come up today. I
23 don't know. It just depends on how fast we move. If it
24 does, I'll let the Court know at that point.

25 THE COURT: Please do.

1 All right. Let's bring the jury panel around, please,
2 sir.

3 (Pause.)

4 MR. WISE: Oh, we have one matter quickly. The
5 strikes I understand are five and five.

6 MR. BARNETTE: That's my understanding.

7 MR. WISE: I would -- I would object on the grounds --
8 under the equal protection provision of the South Carolina
9 State Constitution that it's a denial of equal protection
10 for a case of serious homicide by child abuse to deny that
11 defendant of having ten strikes. But you give the numerous
12 things from perjury and grand larceny, which carry much,
13 much less punishment -- they get ten strikes, and we only
14 get five for a much more serious offense. And I think that
15 would deny the defendant equal protection under the law
16 under the state and federal constitutions.

17 THE COURT: Okay.

18 MR. WISE: Thank you.

19 MR. BARNETTE: And, Your Honor, if I could just add
20 something to that, obviously, we would love to have equal
21 strikes. The legislature made that law and did not include
22 homicide by --

23 THE COURT: Y'all do have equal strikes.

24 MR. BARNETTE: We do in this case but not in all
25 cases. And, obviously, we feel like we should have equal

1 strikes in all cases. But the legislature has ruled
2 differently from that standpoint.

3 MR. WISE: That covers it.

4 THE COURT: Yes, it does.

5 where is this event alleged to have occurred?

6 MR. WISE: Just outside Campobello, South Carolina.

7 what's that road?

8 THE COURT: What's the street address?

9 THE DEFENDANT: Kimbrell Loop.

10 THE COURT: Kimber?

11 THE DEFENDANT: Kimbrell Loop.

12 THE COURT: And Dr. Kirch is what type of doctor?

13 MR. WISE: Karch. He's a medical doctor, and also a
14 toxicologist.

15 THE COURT: Karch?

16 MR. WISE: Karch, K-A-R-C-H.

17 THE COURT: Kimbrell Loop -- that's the residence of
18 the defendant?

19 MR. WISE: That's correct.

20 (The following takes place in the presence of the jury
21 venire.)

22 (Whereupon, a jury was impaneled.)

23 MR. BARNETTE: Your Honor, may it please the Court.
24 There's just one matter I need to put on the record I
25 forgot when I was putting the stipulations on the record.

1 I talked to Mr. Wise. I appreciate them doing this.
2 Taylor Bouknight. She was working at Spartanburg Regional
3 at the time with Dr. Wren. She has now moved to Atlanta
4 and has just started a new job in Atlanta, Georgia, today.

5 He has stipulated. Her part of the chain -- she was
6 actually in the chain in the blood sample that was taken
7 from the victim in this case. She took it from Dr. Wren
8 and placed it into the refrigerator where the coroner's
9 office retrieved it from that refrigerator. And I think
10 he's stipulating to that part of the chain, her part.

11 MR. WISE: That's correct, Your Honor. It was a very
12 minor role in it, and there's just nothing to be gained by
13 having her here.

14 THE COURT: All right. Any other matters we need to
15 address before the jury is sworn?

16 MR. BARNETTE: None from the state, Your Honor.

17 MR. WISE: None from the defense.

18 THE COURT: Okay. Bring them in.

19 (Whereupon, the jury was returned to the courtroom and
20 duly sworn. Whereupon, opening comments by the Court were
21 made.)

22 THE COURT: Ms. Poulos.

23 MS. POULOS: Thank you, Your Honor. May it please the
24 Court.

25 To bring a child, new life, into this world is an

Opening statements

1 amazing thing. It's an honor, a privilege, something so
2 sacred and so special.

3 On September the 28th of 2010 Stephanie Greene was
4 blessed with a precious little girl, but only 46 days later
5 baby Lexie passed away in her parents bed in the middle of
6 the night. Her fragile little body lay there lifeless.

7 On November 13th of 2010 E.M.S. and the coroner's
8 office and the sheriff's office respond to a 9-1-1 call
9 made from 180 Kimbrell Loop in Campobello.

10 They went out to the scene to gather information and
11 investigate and try to figure out what happened to Baby
12 Lexie. And you're going to hear about what they were told.
13 You're going to hear that they were told that the baby had
14 been having some issues in the days prior to that.

15 You're going to appear that Stephanie Greene breastfed
16 her baby the night before falling asleep and woke up again
17 in the middle of the night to breastfeed her some more, go
18 back to sleep. And around 5:00 a.m. her husband woke up
19 and found the baby in the middle of their bed not moving
20 and not breathing.

21 You're going to also hear about how Stephanie Greene
22 was acting that day. You're going to hear that she was
23 moving around slow and sluggish, that her eyes were glassy,
24 that her speech was slurred. You're going to hear about
25 all of that.

Opening statements

1 Later on that day an autopsy was performed and samples
2 were sent down to SLED for testing. And when those test
3 results came back they revealed toxic levels of morphine in
4 the baby's blood and in her liver and mostly in her brain,
5 along with traces of other drugs in her system.

6 How did the morphine get there? Well, you're going to
7 hear all about Stephanie Greene. You're going to hear that
8 she was taking a lot of prescription drugs. She was taking
9 some very strong pain killers, two of the strongest, in
10 fact, morphine and hydrocodone. She had been seeing
11 different doctors, and she had been getting similar
12 overlapping prescriptions from two different doctors.

13 And you're going to hear that she never told her
14 doctor that she was getting a similar prescription from the
15 other doctor. You're going to hear that she never told her
16 doctors that she was pregnant.

17 You're going to hear that she had never told her
18 doctors that she was breastfeeding. And those doctors will
19 testify that if she had told them they would have never
20 prescribed her those medications.

21 But we're going to prove that Stephanie Greene was
22 addicted and most probably would have lost those
23 prescriptions had she been honest with her doctors.

24 And what makes this case very even more interesting is
25 that Stephanie Greene was a nurse. And we believe that

Opening statements

1 that will put things on a whole different level.

2 In this case we believe that the evidence will prove
3 that Baby Lexie died of an overdose of morphine. That is
4 what we're here to prove.

5 We, the state, have charged her with homicide by child
6 abuse or neglect, involuntary manslaughter and unlawful
7 conduct towards a child. And we, the state, have the
8 burden, the responsibility, of proving those charges to you
9 beyond a reasonable doubt.

10 During the course of this trial you're going to hear
11 some testimony from several witnesses, and we'll try to
12 keep it as simple for you as we can. But over the next few
13 days you're going to hear the story unfold of what happened
14 in this unexpected death of a newborn baby, of how mother's
15 addiction outweighed her concern for the safety of the
16 health of her baby and why she is responsible for a tragedy
17 that should have never happened.

18 On behalf of the state I want to thank you all for
19 your service this week. And during the course of this
20 trial all we can ask of y'all is to pay close attention to
21 the testimony, and most importantly remember to use your
22 good old common sense. Thank you.

23 MR. WISE: Madam forelady and ladies and gentlemen of
24 the jury, this case is truly a tragedy. There's no
25 question about that.

Opening statements

1 Stephanie and Randy Greene married in February of
2 2005. They had a child born in June of 2006, another
3 child.

4 But the story actually goes back further than that.
5 It goes back to probably in 1998 when Stephanie Greene was
6 involved in a very, very serious automobile accident.

7 Hearing the medical testimony they'll talk about the
8 skull fracture, they'll talk about the broken pelvis and
9 numerous other injuries she had. And you'll hear the other
10 doctors talk about the other pain problems she had with
11 fibromyalgia, to the sleepless leg syndrome, anxiety
12 attacks and so forth.

13 And over a period of years she was prescribed pain
14 medicine by these doctors. Whether these doctors knew
15 about each other is a matter of really sharp dispute. So
16 listen carefully to the testimony on that. I think you'll
17 find that they really knew what was going on. They may
18 have later said they didn't, but they did.

19 At any rate, yes, she got some prescription for the
20 pain medicine that she was taking. You'll also look at the
21 prescription records which will be introduced, and they'll
22 show that she took them on a regular basis. Occasionally,
23 she would get a prescription for pain medicine, and it may
24 be three or four days before she filled it and started
25 taking it again. But, at any date, there's no question she

Opening statements

1 had a prescription for morphine.

2 They try to make out the fact that because she was
3 getting overlapping prescriptions or alleged overlapping
4 prescriptions, which we do dispute seriously, that that
5 caused the death of Alexis.

6 This is a science case. This is not whether or not
7 the drugs were legal or illegal. It's a science case. In
8 essence, it's interesting -- the prosecutor made an
9 interesting statement in the opening statement and said how
10 did the morphine get there.

11 I'm waiting for the answer. And the answer to that
12 question is what this case is about. How did the morphine
13 get there?

14 Basically, what the state is trying to prove in this
15 case is that Stephanie Greene committed a crime of homicide
16 by breastfeeding.

17 They are contending that numbers that are very, very
18 high -- there's no question about that -- were given to
19 this child through breastfeeding. Big numbers of morphine.

20 Experts from our side will say that simply is not
21 possible. Not a case that was not probable. It is not
22 possible. It cannot happen because of the high numbers you
23 have.

24 Listen to the testimony, and answer the question of
25 how did the morphine get there. And if the morphine

Opening statements

1 couldn't have gotten there through breast milk, then
2 obviously the numbers are just wrong.

3 You'll hear some testimony about what happens to the
4 human body after a death and whether or not morphine is
5 released into the blood after death and therefore increases
6 the level of morphine and so forth.

7 But this is a case of science. The state has a
8 theory, but they have scant facts to back it up. Their
9 experts will have a theory, but there won't be scant,
10 decent, serious research to back it up.

11 The defense has a theory. And I think you'll find
12 that there is plenty of research from experts from
13 published magazines -- published peer review publications
14 that back up the defense theory that it just could not have
15 happened the way the state said.

16 So when you listen to all of the testimony I think
17 you'll find the proper verdict is not guilty and end this
18 tragedy for Stephanie Greene. Thank you.

19 THE COURT: Do you need to set that up?

20 MR. BARNETTE: Yes, sir, if I could set that up real
21 quickly.

22 (Pause.)

23 MR. BARNETTE: I believe we are ready, Your Honor.
24 Thank you.

25 THE COURT: Okay. Not ready for the lights off yet.

Terri Carter
Direct examination by Ms. Poulos

1 MS. POULOS: Thank you, Your Honor.

2 The state calls Investigator Terri Carter.

3 TERRI CARTER, having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MS. POULOS

6 Q If you would, please state your name and tell the jury
7 where you are employed.

8 A My name is Terri Carter, and I am an investigator with
9 the Spartanburg County Coroner's Office.

10 Q And back on November 13th of 2010 did you respond to
11 180 Kimbrell Loop in Campobello?

12 A Yes, ma'am, I did.

13 Q And is that in Spartanburg County?

14 A Yes, ma'am.

15 Q About what time did you arrive?

16 A Is it okay if I look at my stuff? We arrived at
17 6:16 a.m.

18 Q And who else from the coroner's office was assisting
19 you?

20 A Investigator Ellen Holmes.

21 Q Was E.M.S. already at the scene when you arrived?

22 A Yes, ma'am.

23 Q And where was the baby when you got there?

24 A In the back of the ambulance on a stretcher.

25 Q Do you recall what the baby had on -- clothing?

1 A I believe it was an oversized large, red shirt and a
2 diaper.

3 Q Did you see the defendant when you got there?

4 A Yes, ma'am, I did.

5 Q Can you describe for the jury her demeanor?

6 A She was very stumbly. She was -- her words were very
7 slurred. Her eyes were not focused. She had no cognitive
8 abilities.

9 Q And while you were there did Investigator Ellen Holmes
10 conduct an interview of the defendant?

11 A Yes, she did actually.

12 Q And is that a pretty long interview?

13 A Yes, yes, ma'am, it is. Normally, when we have the
14 unfortunate case of a baby death Investigator Holmes and I
15 spend three or four or five hours usually with a family.

16 Q And were you present for most of that interview?

17 A Yes, ma'am, I was.

18 Q Do you recall anything unusual about the interview
19 that you feel like you need to point out for the jury?

20 A Well, as I said, I noticed that when we got there that
21 she was slurred in her speech and that she had trouble
22 walking. She was somewhat stumbling.

23 Other things that I think that would be necessary to
24 understand was that her husband was there with her during
25 the interview. Actually, when we got there there were

1 other family members there, but they left.

2 Investigator Holmes and I interviewed just the mother
3 and the father. And he almost mothered her if you know
4 what that means. You know, Stephanie, sit up straight;
5 Stephanie, quit doing that.

6 She knocked her coffee over I believe, and he was like
7 you would be with a child if they turned something over.

8 Other than that one thing I could bring to mind was
9 the fact that, as I said, we got there early that morning.
10 And after we had been with them for quit some time I
11 noticed that Stephanie improved. You know, she seemed more
12 aware of the circumstances of what was going on. She paid
13 more attention. She was more responsive to Investigator
14 Holmes' questions, that type of thing.

15 Q Did that change?

16 A It did actually. She asked to take a break. We had
17 told them at any time they needed to take a break we would.
18 And she had asked to take a break. And Investigator Holmes
19 stayed at the table with the husband. And I happened to go
20 back into the bedroom at the same time Stephanie was going
21 to the bathroom. So I was actually in their bedroom when
22 she went to the bathroom. She closed the door. I assumed
23 she went to the bathroom.

24 A few minutes, a couple of minutes, later, not long,
25 she came out, went back to the table. I think Investigator

Terri Carter
Direct examination by Ms. Poulos

1 Holmes turned on the recorder and started again.

2 At this time she was cognitive. It was clear in her
3 speech. You could understand what she was saying. Fifteen
4 or 20 minutes go by and you see the decline again. You
5 know, the slurred speech comes back, the little bit of
6 swaying and uneasy gait, if you were to say, very clumsy.

7 Q And that brings me to my next question.

8 During the interview did she ever admit to taking any
9 prescription drugs that morning?

10 A I don't remember. That would be a question that would
11 be best asked by Investigator Holmes because she was the
12 one that actually did what we call the sudy form. And I'm
13 sure she'll explain all of that.

14 I was more of there to basically assist her. I did a
15 lot of other things at the house while she did the
16 interview.

17 Q And while you were in and out of the room during the
18 interview did you ever hear the defendant mention that she
19 had ever taken morphine?

20 A No, I did not.

21 Q During your investigation while you were at the scene
22 did you take photographs while you were out there?

23 A Yes, I did. That was one of the things that I did
24 while Investigator Holmes was doing the actual interview.

25 Q Let me hand you State's Exhibits 1 through 32 and ask

Terri Carter
Direct examination by Ms. Poulos

1 you if you would review those.

2 (Pause.)

3 A Yes, ma'am.

4 Q And are those the photographs that you took that
5 morning at the scene?

6 A Yes, ma'am.

7 Q Do they fairly represent the pictures that you took?

8 A Yes, ma'am.

9 MS. POULOS: Your Honor, at this time we ask that
10 State's Exhibits 1 through I believe it was 32 be admitted
11 into evidence.

12 MR. WISE: We've already agreed to those.

13 MS. POULOS: Yes. Thank you.

14 THE COURT: They're admitted.

15 (Photographs marked State's Exhibits No. 1 through 32.)

16 MS. POULOS: Your Honor, may we publish the
17 photographs?

18 THE COURT: You may.

19 BY MS. POULOS

20 Q Investigator Holmes, I'm going to take you one by one
21 through these pictures. And if you would, just describe
22 for the jury what it is that we are seeing in each of these
23 pictures.

24 MS. POULOS: This is for the record, this is State's
25 Exhibit No. 1.

Terri Carter
Direct examination by Ms. Poulos

- 1 A This is a picture that I took of the master bedroom.
2 Q State's Exhibit No. 2.
3 A Again, that's the master bedroom just from a different
4 angle on the other side of the bed.
5 Q State's Exhibit 3.
6 A That's another picture of the same room, the master
7 bedroom.
8 Q Exhibit 4.
9 A That is another picture in the same room. We're very
10 thorough with our pictures. So, yes, there's going to be
11 quite a few that were from the master bedroom to show the
12 vicinity of other things in the room -- the doors, the bed,
13 the crib, all of those things. So we try to be very
14 thorough.
15 Q This is State's Exhibit 5.
16 A Yes, ma'am. That was the dresser in the master
17 bedroom.
18 Q And what are we seeing on the dresser?
19 A There were numerous prescription medications on the
20 dresser with Mrs. Greene's name on them.
21 Q This is State's Exhibit 6. Is that close up of the
22 same photograph?
23 A Yes, ma'am.
24 Q Is that showing all of the prescriptions that you
25 could see on the dresser?

Terri Carter
Direct examination by Ms. Poulos

1 A I believe so, yes, ma'am.

2 Q This is State's Exhibit 7.

3 A That is a prescription for Stephanie Greene for
4 morphine sulfate.

5 Q State's Exhibit -- one moment.

6 (Pause.)

7 Q Investigator Carter, do you know what type of morphine
8 that is?

9 A I can look here. I'm sure I have it written down if
10 you're wanting the exact name. Morphine sulfate ER 30 mg.

11 MR. BARNETTE: It's also MS Contin.

12 A Yes, it is.

13 Q Is it also MS Contin for the record?

14 A It is, yes.

15 Q This is State's Exhibit No. 8.

16 A That's the same bottle turned around. We normally try
17 to get three pictures on the -- of each bottle. And that's
18 just another side view. That one shows the quantity of 90.

19 Q And could you read the date that it was filled?

20 A It was filled on October the 20th of 2010.

21 Q And what was the date just to clarify for the jury?
22 what was the date this incident occurred?

23 A We were there on November the 13th of 2010 in the
24 very, very early morning.

25 Q State's Exhibit No. 9.

Terri Carter
Direct examination by Ms. Poulos

1 A This is another prescription that was at the house, at
2 the residence, with Stephanie's name on it -- hydrocodone,
3 7.5, 200, meaning the 200 is your acetaminophen.

4 I'm not a doctor, but, you know, I count quite few of
5 these. So, yes, that's what that is.

6 Q All right. State's Exhibit 10.

7 A That's the -- again, that's another side of it showing
8 the original date, the date it was filled, and actually
9 describes what the pill or the capsule -- in this case it
10 was a pill -- what it looked like.

11 Q And what was the date that this one was filled?

12 A This one was filled on November the 4th. That would
13 have been nine days before we were there.

14 Q State's Exhibit 11.

15 A That's another prescription for Stephanie Greene --
16 Clonazepam. I believe the quantity on that one is 90. It
17 says take one tablet by mouth three times a day.

18 Q State's Exhibit 12. Is that just the back side of
19 that same prescription?

20 A Yes, that's correct, and just shows the date it was
21 filled.

22 Q And what is that date?

23 A November the 4th of 2010.

24 Q And above that would you read the warning's labels?

25 A "Do not use if pregnant or suspect you are pregnant or

1 are breastfeeding."

2 Q State's Exhibit 13.

3 A This is another prescription. This one is
4 Mrs. Greene's, but it says her maiden or prior name I think
5 from her first marriage maybe. I'm -- I'm not a hundred
6 percent on that. It's Keppra XR. "Take one tablet twice a
7 day." Here you see the prescription number. It was filled
8 for 60. And at the bottom the prescriber.

9 Q State's Exhibit 14.

10 A Basically, the same thing. It's going to show you the
11 date it was filled, the date that the original prescription
12 was done.

13 Q And if you would, could you read out the warning on
14 that drug?

15 A That warning says, "May make you drowsy, dizzy,
16 especially with alcohol use. Use care with car or
17 machines." Under that it says, "If pregnant or becoming so
18 discuss use of drug with your doctor. Do not chew or
19 crush. Swallow whole."

20 Q State's Exhibit 15.

21 A This is another prescription for Mrs. Greene. It's
22 Bacolfen 10mg. It says, "Take a half to one tablet by
23 mouth three times a day."

24 Q State's Exhibit 16.

25 A Okay. That just again tells you that it was filled on

1 11/4. The shape of it at the top. "May cause drowsiness.
2 Alcohol intensifies effect. Use care using machines. May
3 cause dizziness."

4 Q Exhibit 17.

5 A That's another prescription for Mrs. Greene --
6 Amlodipine. "One tablet by mouth every day. It's got the
7 prescriber at the bottom, the prescription number and where
8 it was filled.

9 Q Exhibit 18.

10 A That's going to show you the date that it was filled,
11 which was November the 9th. "May impair ability to use
12 machines. Use care until familiar with effects. Take or
13 use this drug exactly as directed. Do not skip doses or
14 discontinue."

15 Q This is Exhibit 19.

16 A That is a prescription for Mrs. Greene. That one, I
17 can't read the whole name. It's Rop -- Ropinirole, which
18 is the same medication as Requip. "Take one tablet at
19 bedtime." It's got your prescription number, your -- the
20 prescriber and of course where it was filled.

21 Q State's Exhibit 20.

22 A That would be the paper or the other side of the
23 bottle showing that it was filled on the 4th.

24 "Breastfeeding not recommended while using this drug.

25 Consult doctor or" -- I'm sorry. I can't read the last.

Terri Carter
Direct examination by Ms. Poulos

1 Q That's okay.

2 A Okay. "May cause drowsiness. Alcohol intensifies
3 effect. Use care with machines. May cause dizziness."

4 Q This is Exhibit 21.

5 A Yes, ma'am. That is another prescription for
6 Mrs. Greene. It's Keppra XR, 500 mg. Quantity was 60.
7 Take one tablet twice a day." Prescription number,
8 prescriber and store that it was filled.

9 Q And 22. Again, is that just the back side of that
10 prescription?

11 A Yes, it is.

12 Q Okay. And, if you would, please read out the warning
13 label.

14 A "May make you drowsy, dizzy, especially with alcohol.
15 Use care with car or machines. If pregnant or becoming so
16 discuss use of drug with your doctor. Do not chew or
17 crush, swallow whole."

18 Q State's Exhibit 23.

19 A That's another prescription that Mrs. Greene had
20 called Gabapentin, 800 mg. "Take one tablet by mouth twice
21 a day." Quantity was 60. Prescription number, your
22 prescriber and the pharmacy.

23 Q Exhibit 24.

24 A That would be the other side of it. Date filled was
25 10/29, I believe.

1 Q Exhibit 25.

2 A That's another prescription that was on the counter at
3 the same time, Savella, 50 mg tablet. "Take one tablet by
4 mouth twice a day."

5 Q And Exhibit 26, again, the back side of that
6 prescription.

7 A That's correct, yes.

8 Q State's Exhibit 27.

9 A That's another prescription. It's Caris -- I don't
10 know how to say the word -- but it's Soma. That's a
11 generic for Soma.

12 Q And State's Exhibit 28.

13 A And that would be the back side of that prescription.

14 Q And State's Exhibit 29. Is that the same
15 prescription?

16 A It is. It's turned again because it was a larger
17 bottle.

18 Q And State's Exhibit 30.

19 A That was also on the counter. That is -- or on the
20 dresser. That's an over-the-counter alert.

21 Q State's Exhibit 31.

22 A That would be the back side of that, which is -- it's
23 just basically a caffeine pill.

24 Q And State's Exhibit 32. If you would, describe what
25 is in that photograph.

Terri Carter
Direct examination by Ms. Poulos

1 A As I said, something I do thoroughly is photograph the
2 entire residence. We photograph the decedent. We
3 photograph any medications or anything that we see is of
4 relevance.

5 I just so happened to have been coming through and
6 coming around. And that was not intentionally taken.
7 That's a photograph of the living room. And Mrs. Greene is
8 sitting outside the door on the porch smoking a cigarette,
9 drinking coffee and looking at the newspaper.

10 Q And in addition to taking all of these photographs did
11 you do some sort of pill count or inventory as a part of
12 your investigation?

13 A Yes, ma'am, I did.

14 Q And can you tell the jury what the process basically
15 involves?

16 A Okay. What we do is we find the medications. We look
17 at the information, and from that we write down the name of
18 the prescription, the dosage, the doctor, the times you're
19 supposed to take it each day, the date it was filled, it
20 was prescribed for how many, how many are remaining, the
21 name of the pharmacy and the prescription number.

22 That gives us the ability to say, okay, this
23 prescription was filled four days ago and you're supposed
24 to take it twice a day. So four times two is eight. So
25 eight pills from that prescription should be missing.

Terri Carter
Direct examination by Ms. Poulos.

1 Q And why is it important? why do you do this sort of
2 inventory?

3 A There are many times that we use that if there's a
4 suspected overdose, if there is possible family issues
5 where they say that their loved one that has passed away,
6 you know, had talked or threatened suicide. So it's very
7 important.

8 Q And did you do that for each of the bottles that you
9 saw laying in the residence?

10 A Yes, ma'am, I did.

11 Q And did you compile your numbers into some sort of a
12 chart?

13 A I did actually.

14 Q I'm going to show you what's been marked as State's
15 Exhibit 60 for identification purposes and ask you is that
16 the pill inventory that you compiled.

17 A Yes, ma'am.

18 Q Is that your handwriting?

19 A Yes, ma'am.

20 Q And does that fairly and accurately represent the
21 inventory that you took that day of the medications that
22 you found at the scene?

23 A Yes, ma'am. The only thing on here that's not my
24 handwriting is the words across the top, and that's
25 Investigator Holmes. But, yes, all of this is mine.

Terri Carter
Direct examination by Ms. Poulos

1 Q All right. Thank you.

2 MS. POULOS: Your Honor, at this time we'd ask that
3 State's Exhibit 60 be admitted into evidence.

4 MR. WISE: No objection.

5 THE COURT: It's admitted.

6 (Pill count list marked State's Exhibit No. 60.)

7 MS. POULOS: Permission to publish, Your Honor.

8 THE COURT: You may.

9 BY MS. POULOS

10 Q And just to help the jury understand a little bit
11 better, over here in the first column --

12 A Yes, ma'am.

13 Q -- in this column we have the drug names, is that
14 correct?

15 A Yes, ma'am, that's correct.

16 Q And in the second column?

17 A Is your dosage.

18 Q Okay. And in the third column all of those names are?

19 A That is the doctor that prescribed the medication.

20 Q Okay. And how about in the next column?

21 A In the next column it says times daily, which could be
22 several things. If you notice it says B.I.D. That means
23 take it twice a day. T.I.D. is take it three times a day.
24 Q.D. is once a day.

25 THE COURT: Be careful with the microphone. You've

Terri Carter
Direct examination by Ms. Poulos

1 got your back to it. You're rubbing up against it. Let's
2 just talk into it.

3 THE WITNESS: Oh, I'm sorry.

4 BY MS. POULOS

5 A Q.D. is once a day. And then I think the only other
6 one on there is Q.D. bedtime. That's Q.H.S. actually, but
7 that's what it means, is to take it at night before you go
8 to bed.

9 Q And in the columns to the right of that there are
10 several dates listed. And what do those dates mean?

11 A That's the date that the prescription was filled.

12 Q And in the next column what are those numbers?

13 A The first number you'll see will be the number that
14 was prescribed. And then you'll see the slash. And then
15 the number past that is the number that was actually in the
16 bottle.

17 Q Okay.

18 A So like with the first one, it was prescribed for 60.
19 I counted the prescription pills that were in the bottle,
20 and there were 14 in there.

21 Q All right. And finally in this column?

22 A That will tell you the name of the pharmacy and the
23 prescription number.

24 Q And in the last column, does that just basically
25 indicate that you photographed --

1 A That's correct, yes, ma'am.

2 Q -- the prescriptions?

3 A Yes, ma'am.

4 Q Okay. I want you specifically to look at the second
5 one for morphine, it's called.

6 A Okay.

7 Q And if you would, tell the jury what your count was
8 for that bottle.

9 A Okay. That was -- there were 90 prescribed and there
10 were 12 remaining, which meant there were 78 that were not
11 in the bottle.

12 Q And when was it filled, again?

13 A On October the 20th.

14 Q And taking you down to hydrocodone here. If you
15 would, tell the jury how many you counted in that bottle
16 that were left.

17 A That was prescribed for 90 pills, and there were 42
18 remaining. And it was filled on November the 4th.

19 Q So --

20 A That's on --

21 Q -- in doing the math about how many had been taken?

22 A Well, there were 48 missing. If it was filled on the
23 4th and you count the 4th actually through the 12th, which
24 would be I believe nine days, that's three times a day. So
25 nine times three is 27 -- 90 -- and you take away 27, would

Terri Carter
Direct examination by Ms. Poulos

1 be 53. Is that correct? No. Ninety take away 63 -- and
2 63 would have been what should have been remaining. There
3 should have been 27 that had been taken. So the way I do
4 the math is, okay, there's 90 there that it was prescribed.
5 There's 42 left. There were actually -- should have been
6 only 27 taken. So it was short 21 pills.

7 Q And did the defendant tell you about locations, any
8 other locations, where prescriptions or pills may have been
9 in addition to on her dresser?

10 A No, ma'am.

11 Q And if she had would you have documented that?

12 A Yes, most definitely. I would have photographed it
13 and counted it.

14 Q From the scene was the baby transported to Spartanburg
15 Regional by E.M.S.?

16 A Yes, ma'am.

17 Q And on November 17th of 2010, a few days after the
18 autopsy had been performed, did you go to the morgue to
19 retrieve the sample of the victim's blood?

20 A I did, yes, ma'am, along with my chief, Randy Bogan.

21 Q And was that sample stored in a locked refrigerator?

22 A Yes, ma'am.

23 Q Was it sealed?

24 A Yes, ma'am.

25 Q Was there tape over the seal?

1 A Yes, ma'am.

2 Q Was it in some type of tube or container?

3 A Yes. They're in a vial with a gray-top tube, and then
4 once the blood is put in there it's taped and sealed up.
5 And then it's put in a bag, and then it's put in the
6 refrigerator where it's locked.

7 Q And was it labeled with identification belonging to
8 this case?

9 A Yes.

10 Q And on that day did you transport the blood sample
11 down to SLED in Columbia?

12 A I did.

13 Q And when you got there -- well, did you transport it
14 in some sort of cooler, or how did you get it down there?

15 A Actually, what we do with SLED when we have something
16 that needs to go down there, we don't mail it or send it
17 that way.

18 We prelog it in a system that SLED has available
19 called iLAB. We prelog so that they know what's coming,
20 and then we take it the following day.

21 I was the one that took that one. What I do is I go
22 when I'm ready -- and if I've got one or more. I go to the
23 morgue. I get it out of the -- out of the refrigerator.
24 It does into a cooler, and in that cooler is what I take to
25 SLED. And I hand deliver it and turn it over to the

1 evidence techs.

2 Q So you physically handed that sample over to SLED?

3 A Yes, I did.

4 Q And later on February the 23rd of 2011, I believe it
5 was, did you go back to the morgue and retrieve tissue
6 samples of the victim's brain and kidney and liver?

7 A I did, yes, ma'am.

8 Q And I assume that you got them from the same locked
9 freezer.

10 A We keep blood in the refrigerator, and all the tissue
11 is in the freezer. But it is locked as well.

12 Q And were each of those tissue samples packaged
13 separately?

14 A Yes, ma'am.

15 Q Were they in separate containers and sealed as well?

16 A Yes, ma'am.

17 Q And did you transport those samples to SLED?

18 A I did.

19 Q And I'm assuming you transported them in the same type
20 of cooler.

21 A Yes, sir, yeah, I mean, yes, ma'am. I'm sorry. Yes.

22 Q And when you got to SLED you physically turned those
23 samples over to them?

24 A Yes, ma'am. The same process as we do with the blood.

25 Q Let me have one moment.

1 (Pause.)

2 Q Just a couple of more questions.

3 A Yes, ma'am.

4 Q Going back to your pill count.

5 A Okay.

6 Q If you would, the first prescription for Gabapentin, I
7 believe --

8 A Gabapentin, yes, ma'am.

9 Q Yes. If you would, tell the jury the number of -- the
10 number of pills that the prescription was prescribed for
11 and the number that you counted in there.

12 A Okay. It was prescribed for 60, and there were 14
13 remaining.

14 Q And when was that prescription filled?

15 A October the 29th. So are you -- are you wanting to
16 know based on the numbers what to expect? Is that what
17 you're asking?

18 Q If you can if you have that.

19 A Yes, ma'am. I have that.

20 Q Yes.

21 A That was -- there should have been 30, and there were
22 only 14. So it was 16 short.

23 Q Are there any others here that you identified that you
24 thought would have been short based on your inventory?

25 A Yes, actually. Let's see. That one. The Gabapentin

1 was short and the morphine was short. The Baclofen was
2 short.

3 Q And let me just stop you right there. If you could
4 tell the jury a little bit more about the Baclofen. That
5 was this one.

6 A Baclofen is a -- there was 90 prescribed, and that one
7 said that she could take one -- I believe it was one -- let
8 me look. One and a half to one twice a day.

9 So I calculated the numbers to see if she were taking
10 it one a day what it would be and if she was taking it one
11 and a half twice a day, as it says. So Baclofen is --

12 Q Is it three times a day?

13 A Three time a day, yes. I'm sorry. So I'm sorry. So
14 with the calculations that were done on that one if she
15 were taking only the half three times a day she would have
16 been short 22. If she would have been taking one every day
17 she would have been short nine.

18 Q And are there any others that from your inventory you
19 found to be short?

20 A The one at the very bottom, again, that word that I
21 don't say very well. But it is a generic for Soma. It was
22 short.

23 Q And going back to the pill count and the inventory
24 that you took, did the defendant ever mention any
25 medications being located inside of her purse?

Terri Carter
Direct examination by Ms. Poulos

1 A No, ma'am.

2 Q Again, and if she had would you have documented that?

3 A Most definitely.

4 Q And would you have also photographed that?

5 A Most definitely, yes.

6 Q And when you got to SLED in turning over each of the
7 samples for the blood and each of the tissue samples the
8 sample -- were the samples still sealed when you turned
9 them over?

10 A Yes, ma'am.

11 Q And did you see SLED put them in some sort of a
12 heat-sealed pouch --

13 A Yes, ma'am.

14 Q -- at that point?

15 A Uh-huh.

16 Q And I want to take you back to the morphine --

17 A Okay.

18 Q -- and your calculations. And how short was she with
19 that particular drug?

20 A On the -- on the morphine?

21 Q Yes, ma'am.

22 A If I calculated it correctly, six.

23 Q Thank you. Please answer any questions that the
24 defense may have for you.

25 CROSS-EXAMINATION

Terri Carter
Cross-examination by Mr. Wise

1 BY MR. WISE

2 Q Ms. Carter, when you got there you sat down with
3 Mr. Greene and Mrs. Greene, correct?

4 A I don't believe I ever sat down with them.
5 Investigator Holmes did. I was there to assist her. She
6 was the lead investigator on the case.

7 Q So you never sat down in their presence.

8 A I -- I might have sat down for a couple of minutes
9 throughout the morning while we were there, but not a
10 specific time.

11 Q So most of the time you were doing what?

12 A Most of the time I was -- I'm sorry?

13 Q Most of the time you were doing what then?

14 A I was doing photographs, counting medication, just --

15 Q Of course making that chart, right?

16 A Yes, actually. And, I mean, we do -- as an
17 investigator we do a plethora of things. I mean, there's
18 multiple things we do.

19 Q So you weren't -- you weren't there for the entire
20 two-to-three-hour interview.

21 A Yes.

22 Q I mean, you were in house but not in their presence.

23 A Not the entire time. I was not in their presence.

24 Q You were basically what we call in and out.

25 A I -- I was in the house the whole time.

- 1 Q Right. But I mean --
- 2 A But there was a lot of times that I would, you know, I
- 3 would be standing in the room but not sitting with them.
- 4 Q Where was the interview taking place?
- 5 A At the table in the kitchen.
- 6 Q Okay. And you were not in the kitchen the whole time.
- 7 A No, sir, I was not in the kitchen the whole time.
- 8 Q You were primarily in the bedroom with the number of
- 9 pictures taken and the evidence gathered in there.
- 10 A No, sir. I wouldn't say that.
- 11 Q Well, where were you primarily?
- 12 A The house.
- 13 Q Which room in the house?
- 14 A The master bedroom, the master bath, the hallway, the
- 15 den, the kitchen, the dining room, the children's bedrooms.
- 16 Q Would it be accurate to say most of the time you were
- 17 not in the kitchen?
- 18 A No, it would not be accurate to say that.
- 19 Q You were in the kitchen then most of the time.
- 20 A I was in the kitchen area more than I was not, but I
- 21 cannot give you a specific amount of time that I was in the
- 22 kitchen.
- 23 Q How long did it take you to make your list of drugs
- 24 there and do the count?
- 25 A That probably took a good 40 minutes.

Terri Carter
Cross-examination by Mr. Wise

- 1 Q Okay. And you got there at what time -- 6:16?
- 2 A Yes. We arrived at 6:16.
- 3 Q And left at what time?
- 4 A 10:30 a.m.
- 5 Q 10:30 a.m. All right. It was dark when you got
- 6 there.
- 7 A It was just starting to break dawn.
- 8 Q Pretty dark, right?
- 9 A Yeah.
- 10 Q Okay. And before you left you took that one picture
- 11 of Stephanie on the porch.
- 12 A Well, that's not -- I took bunches of pictures.
- 13 Q You took a picture with her on the porch.
- 14 A I did take that picture, yes, sir.
- 15 Q She was by herself.
- 16 A Yes.
- 17 Q Smoking a cigarette.
- 18 A Yes, sir.
- 19 Q Drinking coffee.
- 20 A Yes, sir.
- 21 Q All right. No one around her.
- 22 A Not that I was aware of, not at the time. I -- sir, I
- 23 don't remember exactly. I know that at the residence at
- 24 the time that picture was taken was myself, Investigator
- 25 Holmes, Stephanie and her husband Randy.

Terri Carter
Cross-examination by Mr. Wise

1 Q Y'all had just spent -- or not y'all -- but your
2 office -- not you individually -- but your office had just
3 spent about three hours talking to her about the death of
4 her daughter.

5 A Probably a little more than that, yes, sir.

6 Q Three and a half. Tough thing to do.

7 A Yes, sir.

8 Q Tough thing to endure.

9 A It is.

10 Q Upsetting to her, needless to say.

11 A Oh, I'm sure.

12 Q All right. Would it not be unusual after that
13 conversation for her to want to get away from the people
14 who had been addressing that issue with her?

15 A I don't know, sir. I can't -- I can't answer that
16 because I don't know how I would act if I were in her
17 shoes.

18 Q Okay. That's a fair statement. No one really knows,
19 do they?

20 A No, sir, they don't.

21 Q You have to be there to judge it.

22 A That's correct.

23 Q And even then it's not necessarily even good then or
24 accurate then because people react differently.

25 A People do react different, yes.

Terri Carter
Cross-examination by Mr. Wise

1 Q And you've seen that over your course of your career.

2 A Yes, I have.

3 Q All right. Now, you testified that you thought she
4 was -- go back one second. The blood sample was taken
5 when?

6 A I don't remember the specific dates.

7 Q All right.

8 A I would have to --

9 Q Taken the next day?

10 A I don't think -- I don't even think it was taken the
11 next day. I think it was the 17th. I don't have that.
12 Investigator Holmes has that notebook.

13 Q Okay. It was taken several days later.

14 A Yes. I believe so.

15 Q All right.

16 THE WITNESS: Your Honor, can I look at that notebook?

17 Q Sure. I have no objection.

18 (Pause.)

19 A Thank you. As you can see, this is a lot of
20 information.

21 Q Right.

22 THE COURT: Be careful of that microphone.

23 THE WITNESS: I do that. I'm sorry.

24 A It was taken, the blood was taken, on November the
25 17th at -- from the hospital morgue to SLED, yes.

1 Q All right. Do you know when the blood was taken from
2 Alexis though?

3 A Dr. Wren would have done that at autopsy, which would
4 have been the same day, I believe.

5 Q That's when -- the 17th is when you picked it up.

6 A The 17th is when I took it from the refrigerator and
7 took it to SLED, yes.

8 Q You don't know exactly when it was taken from Alexis
9 though, do you?

10 A I can look.

11 Q If you can find it in there that will save me some
12 trouble.

13 A It says right here date and time of recovery is
14 5:15 p.m. on the 13th.

15 Q So that was roughly 12 hours plus after the child had
16 died.

17 A Well, I'm just telling you what this says.

18 Q Okay.

19 A I wasn't there. So I'm not -- I don't know.

20 Q And the -- do you know when -- does that tell you when
21 the brain and liver samples were taken?

22 A That would have done -- that would have been done at
23 autopsy as well.

24 Q Okay. Now, you said that Stephanie appeared to be
25 stumbling and so forth.

Terri Carter
Cross-examination by Mr. Wise

- 1 A Yes, sir, I did.
- 2 Q Did you have medical people there at the house?
- 3 A Did I have who?
- 4 Q Did you -- were there medical people there at the
5 house at that time? The ambulance was still there, I
6 believe.
- 7 A At -- the ambulance was still there when?
- 8 Q when you got there.
- 9 A When we got there, yes, yes, the ambulance --
- 10 Q How long -- how long after you got there did the
11 ambulance leave?
- 12 A I can tell you that.
- 13 Q You've got all of the records there.
- 14 A Actually E.M.S. waited for hospital transport to get
15 there. Hospital transport arrived at 7:20 and released her
16 to the morgue at 7:53.
- 17 Q Okay. So releasing to the morgue at 7:53 means that
18 they didn't carry her to the hospital.
- 19 A Yes.
- 20 Q Oh, they did. And then the hospital -- she was
21 released from the hospital.
- 22 A Well, no. The morgue is in the hospital. I'm sorry.
- 23 Q Okay.
- 24 A Yes.
- 25 Q So the hospital [sic] carried her at 7:00 what again?

1 A It says here that she arrived at the morgue at
2 Spartanburg Regional at 7:53 a.m.

3 Q Arrived at the morgue.

4 A Uh-huh.

5 Q All right. So would have left the house in Campobello
6 some 20 minutes before that -- 30 minutes?

7 A It says that they were called, requested that they
8 come, at 6:47, and they arrived at 7:20.

9 Q Okay. So roughly 7:20, 7:30, sometime after 7:20 and
10 probably before 7:30 or so they left, correct?

11 A Uh-huh.

12 Q So that -- hospital personnel were there, and E.M.S.
13 people were there the whole time too.

14 A No, no.

15 Q They left?

16 A Yes.

17 Q Okay. Did you -- and you said that you noticed that
18 Stephanie was stumbling and so forth. Did you request
19 Stephanie to give you any blood sample?

20 A I don't have the -- I don't have that capability. I
21 don't have that right.

22 Q You don't have the right to ask even as part of your
23 investigation?

24 A No.

25 Q Okay. So y'all went back and discussed this case

1 later.

2 A Oh, yes, lots.

3 Q Okay. And had a lot of conversation about it the next
4 few days.

5 A Oh, yes.

6 Q Okay. Did -- over the next few days did you ever
7 suggest or did anybody ever suggest they go get a hair
8 sample from Stephanie?

9 A Again, sir, I don't have that capability.

10 Q I understand that. I'm not asking if you did it. Did
11 you in your discussions over the next several days with
12 people who had that capability, did anyone ever suggest to
13 go get a hair sample from Stephanie?

14 A Not that I recall, but, I mean, you know, when you're
15 talking about this incident happening and you're referring
16 to the next couple of days, and the next couple of days
17 we're not -- we're not talking to people to request that.
18 You know, when we're doing a death investigation our job is
19 to determine two things -- cause and manner of death.

20 Q Okay.

21 A We have nothing to do with any type of criminality,
22 nothing of that sort of nature whatsoever.

23 Q Now, the hydrocodone you say is missing some 27
24 tablets.

25 A That's correct.

Terri Carter
Cross-examination by Mr. Wise

- 1 Q Is that correct? And that's -- the hydrocodone was
2 actually a prescription that I forgot the name of it, but
3 it's a brand name.
- 4 A Lortab.
- 5 Q Well, it wasn't Lortab on this case though, was it?
- 6 A The hydrocodone.
- 7 Q Right. But it wasn't -- was it Lortab, or do you
8 remember looking at it?
- 9 A I don't -- I don't remember what it said other than
10 hydrocodone 7.5, which is what I have written in my notes.
- 11 Q So you didn't write down the brand name.
- 12 A Well, it's right there.
- 13 Q Well, that's the generic name.
- 14 A Right. That's what I wrote down.
- 15 Q You didn't write down the actual manufacturer,
16 Likuprofen [sic] or something like that.
- 17 A I don't assume so. I don't see that, sir.
- 18 Q All right. But you said 27 of those were missing.
- 19 A Twenty-one, yes.
- 20 Q Twenty-one. Okay. Now, did you look in her -- ask to
21 look in her pocketbook for any pills or anything?
- 22 A No, sir.
- 23 Q You weren't doing the interview about -- you weren't
24 doing the interview about these pills, were you?
- 25 A No. That's not what the interview was for.

1 Q All right. That -- that wasn't what it was for. The
2 interview was about something else.

3 A The death.

4 Q When did you have a conversation with either Stephanie
5 or Randy Greene about the pills?

6 A I don't remember that there being a specific
7 conversation other than I asked her, you know, when
8 Investigator Holmes was doing the -- what we call the sudy
9 form.

10 Q Uh-huh.

11 A Some of the questions on here asked those questions.
12 You know, some of the things that are asked on here are
13 prescription medications.

14 Q Right.

15 A What you're taking and what --

16 Q What you're taking and so forth.

17 A Yes, so.

18 Q So you didn't -- you didn't have a specific
19 conversation with anybody about it.

20 A Not --

21 Q With Randy Greene or Stephanie Greene.

22 A Not that I -- I recall, no, sir.

23 Q All right. And was Chad McNeil there when you got
24 there, or had he left?

25 A I -- I don't know who that is.

1 Q Okay. You wouldn't -- you wouldn't -- you don't
2 recognize the name.

3 A No, sir. I'm sorry.

4 Q Some E.M.S. people were obviously there when you got
5 there.

6 A Yes.

7 Q Was anybody from the city of Campobello there that you
8 remember?

9 A I kind of briefly remember one person being there,
10 that they said something to do with that. I don't remember
11 specifically. I don't remember a name.

12 Q Okay. Thank you.

13 MS. POULOS: Just a couple, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. POULOS

16 Q Investigator Carter, the defense asked you about the
17 defendant's stumbling. Did she appear to be under the
18 influence?

19 A Yes.

20 Q And in those three or four hours did she show any
21 emotion whatsoever?

22 A Yes, she did. There was some time that she did show
23 some emotion. And you could tell that she was upset, and
24 she should be. I mean, I would be too. Any mother would
25 be. But that only really showed with me when it got to the

1 point to where she had basically gotten straight again.

2 You know, when she had the time that she had gotten to
3 where you could understand her words and you could
4 understand what medications and this and that and the other
5 that -- like she was talking about the Tylenol and the
6 vapor and these things. So, yes, there was some, but it
7 was not throughout. There was a lot of it that was very --
8 I don't know how to explain it -- just out there, I guess.

9 Q Thank you.

10 RECROSS-EXAMINATION

11 BY MR. WISE

12 Q Of course you don't know anything about what caused
13 her effect and all.

14 A I'm sorry?

15 Q You don't know what caused her to be that way.

16 A Do I know what caused her to be that way?

17 Q That's correct.

18 A No, sir. I can't say that I know what would cause her
19 to be that way.

20 Q Thank you.

21 THE COURT: You may step down.

22 Ladies and gentlemen, we are going to recess for the
23 afternoon.

24 Let me caution you that as you leave the trial has
25 begun. You've been selected to make the decision in the

1 case.

2 You have to base your decision upon what you see and
3 hear during the trial. You can't supplement your knowledge
4 or allow yourselves to be influenced by any outside
5 consideration. And therefore you cannot discuss this case
6 with anybody whatsoever in any fashion whatsoever.

7 You can't discuss it even with your fellow jurors
8 until jury deliberations begin, and that won't be until the
9 end of the trial.

10 Also, you're never permitted to conduct any research
11 or do your own investigation into any issue that might
12 arise during the trial.

13 Again, you have to base your decision upon the
14 testimony and evidence presented during the trial. You
15 can't supplement that knowledge by conducting your own
16 research or doing your own investigation into any issue.

17 You are not to conduct any internet research about
18 anything whatsoever that might relate to this case. You
19 can't go to any type of social media to try to discover
20 information or talk about the case. You can't discuss it
21 at all.

22 Also, you're not to permit yourselves to be exposed to
23 any type of media coverage that might relate to the case.
24 Maybe there's something that'll come over the television or
25 radio or newspaper, article. You can't watch the

1 television as it relates to news about this case; you can't
2 listen to anything on the radio that might relate to the
3 case; you cannot read any newspaper article that relates to
4 the case.

5 Again, your decision has to be based upon what you see
6 and hear during the trial and not what somebody else thinks
7 they saw and heard during the trial.

8 So no discussions, no research, no investigation, no
9 media exposure.

10 Do have a good evening. Please report to your jury
11 room at 9:30 in the morning. The jury room you'll report
12 to, now, is the jury room that you've been introduced to
13 since your selection. So if you're not sure how to get
14 back there, talk to the bailiff. They'll provide you with
15 those directions.

16 Have a good afternoon.

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

19 THE COURT: What about the issue of bond, or is the
20 defendant's bondsperson available? Do you know if --

21 MR. WISE: Well, she can be. It's her -- she can be.
22 It's her husband's mother, is the one that's on the bond.
23 And we -- and that's the one we renewed when we redid the
24 charges a couple -- oh, six months or so ago. There was
25 really no problem with the bondsperson.

1 THE COURT: All right. Any objection to the defendant
2 remaining on that bond?

3 MR. BARNETTE: I will leave it to the Court's
4 discretion, Your Honor.

5 THE COURT: All right. We'll allow her to remain, but
6 I'm going to need something either -- I need to have the
7 bondsperson present or I need an affidavit saying she will.

8 MR. WISE: I will talk to her husband. I'll get that
9 tonight.

10 THE COURT: Intended to -- intended to assume the
11 obligation of her remaining out on bond.

12 Ms. Greene, however, your obligation is to be here
13 pursuant to the bond and the direction of the Court. If
14 you don't show up it's your plate. It's a violation of
15 your bond.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: The trial will continue in your absence.

18 All right. Any other matters we need to address?

19 MR. BARNETTE: None from the state, Your Honor.

20 MR. WISE: None at this point.

21 THE COURT: All right. Court is in recess until
22 9:30 in the morning.

23 Let me see the lawyers just a minute before you go.

24 END OF PROCEEDINGS MARCH 31, 2014

25

1 (Proceedings April 1, 2014)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Are we ready for the jury?

5 MR. BARNETTE: The state's ready, Your Honor.

6 MR. WISE: The defense is ready.

7 THE COURT: Okay. Bring them in.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Good morning, ladies and gentlemen.

11 As you know, when we recessed yesterday the state had
12 begun with their presentation of evidence. So we'll
13 continue with that presentation this morning.

14 Ms. Poulos.

15 MS. POULOS: Yes, sir. Thank you, Your Honor. The
16 state calls Wendy Lively.

17 WENDY LIVELY, having been
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MS. POULOS

20 Q If you would, state your name and where you are
21 employed.

22 A My name is Wendy Lively, and I work for
23 communications, 9-1-1.

24 Q And does your office maintain copies of recordings of
25 9-1-1 calls made in Spartanburg County?

Wendy Lively
Direct examination by Ms. Poulos

1 A We do.

2 Q And did our office ask your office to pull a copy of
3 the 9-1-1 call made on November the 13th of 2010 at 180
4 Kimbrell Loop in Campobello?

5 A Yes.

6 Q And did you provide our office with a copy of that
7 tape?

8 A Yes.

9 Q Okay. I'm showing you what's been marked as State's
10 Exhibit 33 for identification purposes and ask you is that
11 a copy of the tape that you provided our office.

12 A Yes, it is.

13 Q Have you had a chance to review that tape?

14 A Yes.

15 Q And does that fairly and accurately represent a copy
16 of the recording made on that day and from that location?

17 A Yes.

18 MS. POULOS: Your Honor, at this time we'd ask that
19 State's Exhibit 33 be admitted into evidence.

20 MR. WISE: No objection.

21 THE COURT: It's admitted.

22 (9-1-1 tape marked State's Exhibit No. 33.)

23 MS. POULOS: Permission to publish, Your Honor.

24 THE COURT: You may.

25 (Whereupon, the D.V.D. was played for the jury.)

Ellen Holmes
Direct examination by Ms. Poulos

1 Q That's all I have. Please answer any questions the
2 defense has for you.

3 MR. WISE: I have no questions of this witness.

4 THE COURT: You may step down.

5 MS. POULOS: May the witness be excused, Your Honor?

6 THE COURT: She may be.

7 (Whereupon, the witness was excused.)

8 MS. POULOS: Your Honor, the state calls Investigator
9 Ellen Holmes.

10 ELLEN HOLMES, having been
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MS. POULOS

13 Q If you would, state your name and where you are
14 employed.

15 A My name is Ellen Holmes. I'm employed with the
16 Spartanburg County Coroner's Office.

17 Q And prior to working with the coroner's office what
18 type of background did you have?

19 A I'm a Spartanburg native. I graduated from
20 Spartanburg High School in 1984. I went to Salem College
21 in Winston Salem, North Carolina, where I earned a bachelor
22 of science degree in biology.

23 From there I went to Queens College in Charlotte,
24 North Carolina, where I earned a bachelor of science in
25 nursing degree.

Ellen Holmes
Direct examination by Ms. Poulos

1 When I graduated there in 1992 I went to the Medical
2 University of South Carolina in Charleston as a new
3 graduate nurse working in their level three neonatal
4 intensive care unit.

5 I worked there for two years, came back to the Upstate
6 and worked at Greenville Memorial Hospital in their level
7 three neonatal intensive care unit for two years.

8 Then I came to Spartanburg Regional and worked in
9 their level three neonatal intensive care unit from two
10 thousand -- let's see -- 1996 to 2002.

11 In 2002 I transferred to the cardiac cath lab at
12 Spartanburg Regional, worked there for two years, and then
13 went to clinical trials management where I was a nursing
14 coordinator for drug and device clinical trials. I worked
15 there until 2010 --

16 THE COURT: Don't turn your back to the court
17 reporter, please. You can look straight out, but use that
18 microphone.

19 THE WITNESS: Oh, okay. I'm sorry.

20 A Let's see. I was clinical trials coordinator until
21 2010, when in March I became commissioned as a deputy
22 coroner for the coroner or Spartanburg County Coroner's
23 Office.

24 In 2006 I found that I missed direct patient care, and
25 I became employed as a registered nurse at the Pediatric

1 Evening Clinic where I'm still currently employed.

2 Q And back on November 13th of 2010 did you respond to
3 180 Kimbrell Loop in Campobello?

4 A I did.

5 Q Is that in Spartanburg County?

6 A It is.

7 Q And do you recall about what time you arrived?

8 A 6:16 a.m.

9 Q And who else from the coroner's office was there
10 assisting you with your investigation?

11 A Investigator Terry Carter and a little bit later our
12 chief investigator, Randy Bogan.

13 Q Was E.M.S. already there when you arrived?

14 A Yes, ma'am.

15 Q And where was the baby when you got there?

16 A The baby was in the back of the E.M.S. truck.

17 Q And could you describe what the baby was wearing?

18 A The baby when we initially went in the truck was
19 covered with a blanket, a hospital blanket. But when we
20 removed the blanket she was dressed in a red oversized,
21 long-sleeve turtleneck and a diaper that was wet.

22 Q How old was the baby?

23 A Six and a half weeks.

24 Q And what did her skin look and feel like?

25 A She was extremely pale and cold to the touch.

1 Q Did the baby already have lividity?

2 A She had mild lividity on her back, yes, when we turned
3 her over.

4 Q If you would for the jury, explain what lividity is.

5 A Lividity occurs after death where the blood settles
6 into the dependent areas of the body. So she had mild
7 lividity on her back. When we saw her on the stretcher she
8 was laying face up on her back. So lividity was the blood
9 settling in her back.

10 Q And what does that indicate to you?

11 A That -- death.

12 Q Did you check for any trauma to the baby?

13 A I did.

14 Q Did there appear to be any?

15 A No.

16 Q Did you see the defendant when you arrived?

17 A I did.

18 Q And if you would, describe her demeanor.

19 A She had a very flat affect, slurred speech, almost
20 incomprehensible at times. Her eyes were very heavy and
21 glassy. She was very -- when she walked it was a very
22 unsteady gait.

23 Q Did she appear to be under the influence?

24 A She did.

25 Q Did you ask her whether she had taken any medications

1 that morning?

2 A Yes, ma'am, I did.

3 Q And what did she tell you?

4 A She said no, I wanted to, however I wanted to make
5 sure I could first. But, no, she had not taken any.

6 Q Did you conduct an interview of the defendant while
7 you were at the scene?

8 A I did.

9 Q And did you make an audio recording of that interview?

10 A I did.

11 Q I'm going to show you what's been marked as State's
12 Exhibit 34 for identification purposes and ask you is that
13 a copy of the recording, the interview that you made on
14 that day.

15 A It is.

16 Q And have you had a chance to review that recording?

17 A I have.

18 Q And does that fairly represent the recording that you
19 took that day?

20 A It does.

21 MS. POULOS: Your Honor, we'd ask that State's
22 Exhibit 34 be admitted into evidence at this time.

23 MR. WISE: No objection.

24 THE COURT: It is admitted.

25 (Recorded interview marked State's Exhibit No. 34.)

Ellen Holmes
Direct examination by Ms. Poulos

1 MS. POULOS: Your Honor, may we have permission to
2 publish a portion of the tape?

3 THE COURT: You may.

4 (Whereupon, a portion of the D.V.D. was played for the
5 jury.)

6 Q Investigator Holmes, is it fair to say that that's a
7 very lengthy interview?

8 A Yes, it is.

9 Q About how many hours would you say that is?

10 A We were there from 6:16 to 10:30. I would say the
11 interview was probably around three hours with breaks.

12 Q And just to give the jury an idea of some things that
13 they didn't hear, what types of general questions do you
14 ask?

15 A When we have an infant death we do what's called a
16 sudy form that's about eight pages long. - It goes
17 everywhere. That goes from the first prenatal visit on to
18 the time of death. It asks feeding questions, positioning
19 questions, just basically everything. It asks everything.

20 Q Did the defendant tell you about any issues that the
21 baby had been having in the days prior to this?

22 A She had mentioned that the wednesday before -- this
23 happened on Friday night, Saturday morning, when she
24 passed -- so the wednesday before she had had some
25 congestion, that she had called the doctor's office,

1 exactly what she had stated, pretty much that that Dr.
2 Nash's office told her that she needed to get a vaporizer
3 and some baby rub and see if that helped, that she was not
4 running a temperature. Her rectal temperature was 99 that
5 day. The next day she told me it was 98.6 rectal. So she
6 was not running a temperature.

7 Q And did she say about what time they woke up to find
8 the baby unresponsive?

9 A He said closer to 5:00. She said 4:30, something. So
10 it was somewhere between 4:30 and 5:00, is the best I can
11 give.

12 Q During the interview and hours that you were there did
13 she show any emotion at all?

14 A Not that I could detect. She was very flat affect.

15 Q During the interview what did you learn about her
16 prior career?

17 A I learned that she was a nurse. Both Randy and she
18 stated that she was a prior nurse.

19 Q And what did she tell you about breastfeeding the
20 baby? Did she tell about the times?

21 A She did. And that varied. At the beginning it was
22 she breastfed at 11:00 o'clock or 11:30, sometime.

23 She said at one point she thought she fell asleep
24 while breastfeeding. Another time she stated 30 minutes,
25 ten minutes on the left, and 30 minutes on the right -- or

1 20 minutes on the right.

2 She then said that the baby had woken up. One time
3 she stated at 2:30 in the morning, and one time she stated
4 at 3:30 in the morning, nursed for -- let's see. The right
5 side only for about 30 minutes the best she could recall.

6 Q And during the interview did you ask her about drug
7 use with regard to prescription medications --

8 A I did.

9 Q -- that she had? And what did she tell you she was
10 taking?

11 A We asked her several different times, several
12 different ways.

13 We had asked her medication she was currently taking.
14 She listed the Amlodipine for the blood pressure, Baclofen,
15 Vicoprofen, Pristiq, Keppra and Klonopin.

16 We asked her the medicines, the specific medications,
17 that she had taken the prior evening. She stated the
18 Klonopin, Amlodipine, Baclofen and Pristiq. The Amlodipine
19 and the Pristiq were just previously prescribed, she said.

20 Other medications that were found that she did not
21 mention were morphine, Requip, Durotan, Savella, Soma and
22 the alert tabs.

23 Q During the interview did she ever tell you that she
24 was taking morphine?

25 A I had asked her one time in our sudy form, our

1 extensive form, what medications she was taking during her
2 pregnancy. That was the only time she mentioned MS Contin.

3 Q So she mentioned that she was taking MS Contin during
4 her pregnancy?

5 A Correct.

6 Q Did she tell you that she was on MS Contin at that
7 time while she was breastfeeding?

8 A No, no.

9 Q And did you ask her about her prescriptions more than
10 once during the interview?

11 A Yes, we did.

12 Q If you can refer to your notes with regard to the
13 symptoms that the baby was having, the defendant reported
14 as having prior to this, and if you could tell the jury
15 exactly what you have in your notes from what the defendant
16 told you.

17 A What page are you referring to?

18 Q Page nine of 12 in the case report.

19 A Oh, my case report.

20 Stephanie stated the infant, Lexie, had a cold on
21 Wednesday, November 10th, and was congested and not eating
22 very well and somewhat lethargic that day. Her rectal
23 temperature was 99. She called the pediatrician, Landrum
24 Family Physicians, the following morning, Thursday,
25 November the 11th, 2010, and was told by the nurse that as

1 long as Lexie was not running a fever she did not need to
2 bring her to be seen. She was instructed to get a
3 vaporizer and baby rub to use. Mom stated that Lexie
4 seemed to be getting better after trying the vaporizer and
5 baby rub. She even nursed all through the night Thursday
6 night. On Friday Lexie seemed to be getting better. She
7 bathed her around 8:30 Friday evening, rubbed her down with
8 baby rub and then went to bed around 11:00.

9 Q Thank you. If you would, please answer any questions
10 the defense may have for you.

11 CROSS-EXAMINATION

12 BY MR. WISE

13 Q Ma'am, when you started this interview Ms. Greene knew
14 her baby was deceased.

15 A Yes, sir.

16 Q Okay. A pretty traumatic event --

17 A Yes, sir.

18 Q -- for anybody, right?

19 A Yes, sir.

20 Q And I assume it's difficult for you to conduct those
21 interviews under these circumstances.

22 A Yes, sir.

23 Q Now, you said that she told you sometime that she
24 thought she woke up at 2:30 and sometimes at 3:30.

25 A Yes, sir.

1 Q It would not be unusual for a mother to really not
2 know what time a baby wakes up to feed, and, like, early in
3 the morning.

4 A If she was breastfeeding I would think she would know.

5 Q But, you know, if you're woken up out of a sleep it
6 would be difficult to get the time exactly right.

7 A Yes, sir. But she had stated that she had gone to
8 sleep at 11:30 and woke up to find her unresponsive.

9 Q And woke up. Okay. Well, then you said she'd woken
10 up and done breastfeeding about 2:00 o'clock in the
11 morning.

12 A That's what she stated later in the interview.

13 Q Now, on your study form --

14 A Yes, sir.

15 Q -- you asked her what medications she was taking.

16 A Yes, sir.

17 Q You asked are you taking medications.

18 A Yes, sir.

19 Q I noticed you didn't fill out anything beside that.

20 A Where? Excuse me.

21 Q Let me find the page here. On -- well, I don't have
22 it numbered, but it's question No. 7. Seven under
23 pregnancy history.

24 A Yes, sir.

25 Q All right. You said, "Currently does any caretaker

1 use any of the following?"

2 A Yes, sir.

3 Q And it says prescription medicines, and it has yes.

4 A Yes, sir.

5 Q And you didn't put anything beside that.

6 A I had documented at the end medications Stephanie
7 stated she was taking.

8 Q Okay.

9 A That's handwritten. It may not have --

10 Q Right. Did you ask her anything about the MS Contin
11 with morphine?

12 A There was one -- one time, yes, Investigator Carter
13 came out and specifically asked about the morphine and the
14 hydrocodone.

15 Q All right. Now, the history also from both -- and
16 Mr. Greene was there too.

17 A Yes, sir.

18 Q And both of them were contributing toward the
19 conversation.

20 A Yes, sir.

21 Q And he seemed very subdued also.

22 A Yes, sir.

23 Q Which is not unusual, again.

24 A Correct.

25 Q All right. And they informed you that Friday she,

Ellen Holmes
Cross-examination by Mr. Wise

1 Lexie, was doing better.

2 A Yes, sir.

3 Q And that she was basically bright-eyed and alert.

4 A Yes, sir.

5 Q Okay. And they hadn't noticed anything unusual on
6 Friday.

7 A Correct.

8 Q Do you know when she learned that her child had died
9 or --

10 A I don't --

11 Q Before you -- you knew. Let me back up a second.

12 When you got there did -- did you -- was it your

13 understanding that she knew her child was, in fact,
14 deceased?

15 A Yes.

16 Q Okay. And had known that probably for some at least
17 since E.M.S. got there.

18 A I'm not sure when or who told her.

19 Q But you -- but she knew it when you got there.

20 A Yes.

21 Q Okay. Thank you.

22 MS. POULOS: Nothing further.

23 THE COURT: You may step down.

24 MS. POULOS: May she be excused, Your Honor?

25 THE COURT: She may be.

Vera Andrus
Direct examination by Ms. Poulos

1 (whereupon, the witness was excused.)

2 MS. POULOS: Your Honor, the state next calls Vera
3 Andrus.

4 VERA ANDRUS, having been first
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MS. POULOS

7 Q If you would, ma'am, please, state your name and where
8 you are employed.

9 A My name is Vera Andrus and I work at Carolina
10 O.B.G.Y.N.

11 Q And what is your title there?

12 A I'm an L.P.N. I'm a nurse.

13 Q How long have you been a nurse?

14 A I graduated nursing school in 1996.

15 Q And back in 2010 was the defendant Stephanie Greene a
16 patient at Carolina O.B.G.Y.N.?

17 A She was.

18 Q And was she a patient at the time that she was
19 pregnant?

20 A Yes, ma'am, she was.

21 Q And were you the nurse who took down the initial
22 information on the defendant?

23 A Yes, ma'am.

24 Q And taking that information, what types of general
25 questions do you ask?

1 A When -- when they come in for an appointment with me
2 at the beginning of their pregnancy we just ask their prior
3 medical history, their present medical history, past O.B.
4 history, any medications that they're taking, any surgeries
5 that they've had, just their entire medical history
6 basically.

7 Q And do you do that for every patient?

8 A Yes, ma'am.

9 Q And specifically one of those questions you mentioned
10 you asked about medications. Did you ask the defendant
11 about the medications when she came in?

12 A I did. I asked her about medications, any medications
13 that she had taken since her last period.

14 Q And why is that important?

15 A It's important to know that because we want to know
16 anything that the baby has been exposed to during
17 pregnancy. And if those medications shouldn't be taken
18 during pregnancy, then we need to advise the patient, you
19 know, to have her stop or to stop or to wean off of them.

20 Q And each time a patient comes in for a -- for a
21 followup visit do you ask them about any changes to their
22 medications?

23 A Yes, ma'am.

24 Q And in this case did you ask the defendant about
25 medications that she was taking?

1 A I did.

2 Q And do you recall what medications that she told you
3 she was on?

4 A I have a list of them.

5 Q You can refer to your chart.

6 A Okay. I had asked her any -- to tell me any
7 medications that she had -- was taking currently or that
8 she had had since her last period. And what she told me
9 was Soma, Vicoprofen, Clonazepam, Keppra, Lortab,
10 Neurontin, Claritin, Benadryl, Savella and a prenatal
11 vitamin.

12 Q Did she ever tell you that she was taking morphine or
13 MS Contin?

14 A No, she did not.

15 Q And when she came in for a followup visit after the
16 baby was born did she ever mention that she was taking
17 morphine MS Contin?

18 A It's not in her chart. So she didn't tell me, and
19 it's not documented.

20 Q And is it fair that obviously if she had told you that
21 you would have put it in your chart?

22 A Yes, ma'am.

23 Q In fact, do you have morphine anywhere in her medical
24 record?

25 A It is not in her chart.

1 Q Thank you. Please answer any questions the defense
2 may have.

3 CROSS-EXAMINATION

4 BY MR. WISE

5 Q When did she first come to see you?

6 A Her -- her visit for her initial intake was May
7 10th of 2010.

8 Q And that was the first time she showed up in your
9 office for pregnancy.

10 A Yes, yes, sir.

11 Q Is that correct?

12 A Yes, sir.

13 Q All right. Do you know who referred her to you?

14 A I -- I do not. She had -- she had come to our office
15 on May 7th, and there is nothing listed in the referred-by
16 section.

17 Q All right. Now, are y'all part of Mary Black
18 Hospital?

19 A We are part of Spartanburg Regional Hospital.

20 Q Spartanburg Regional. All right. Did you ask her
21 what other doctor she'd seen?

22 A Well, she had seen Dr. Nichols on May the 7th, and
23 then she when -- she found out she was -- we had a
24 documented positive pregnancy test that day, and so then
25 it's just protocol that they come in and schedule a visit

Erin Steen
Direct examination by Ms. Poulos

1 with me to get their medical history, what we call their
2 intake visit. So then she came to me on May 10th.

3 Q Okay. Did you ask what other doctors she had seen?

4 A I did not.

5 Q Okay. Is that -- you say that like you should have.
6 Is that a common question to ask?

7 A No, sir.

8 Q Okay. So you're not that concerned about what other
9 doctor she'd seen or anything.

10 A Well, I had asked her about her -- her medical history
11 and documented her problems. But, no, I did not ask her
12 what doctor she was seeing.

13 Q Okay. Thank you.

14 MS. POULOS: Nothing further.

15 MR. WISE: Thank you.

16 THE COURT: You may step down.

17 MS. POULOS: May she be excused, Your Honor?

18 THE COURT: She may be.

19 (Whereupon, the witness was excused.)

20 MS. POULOS: Your Honor, the state next calls Erin
21 Steen.

22 ERIN STEED, having been first
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MS. POULOS

25 Q If you would, please state your name and where you are

Erin Steen
Direct examination by Ms. Poulos

1 your employed.

2 A My name is Erin Steed. I'm employed by Intergrade
3 [sic] Genetics.

4 Q And back in 2010 were you employed at Greenwood
5 Genetics Clinic?

6 A Yes.

7 Q And what was your title there?

8 A Genetic counselor.

9 Q How long have you been a genetic counselor?

10 A Twelve years.

11 Q And what type of training do you have?

12 A I had a bachelor's degree from Winthrop in biology and
13 then a master's degree from the School of Medicine at the
14 U.S.C. Columbia campus in genetic counseling, specifically,
15 is what the master's is.

16 Q Was the defendant Stephanie Greene seen for a genetic
17 consultation back in May of 2010?

18 A Yes.

19 Q Was she -- so was she pregnant at the time?

20 A Yes.

21 Q Was she referred by Carolina O.B.G.Y.N.?

22 A Yes.

23 Q And did you do an initial consultation with her?

24 A Yes.

25 Q What information do you generally ask a patient for

1 these consultations?

2 A I ask about their pregnancy history, what's been
3 happening since they became pregnant, a little bit of
4 medical history if it's something that would affect the
5 pregnancy, and then a full family history.

6 Q Do you ask about medications as well?

7 A I do.

8 Q And do you ask these types of questions for every
9 patient?

10 A Yes.

11 Q Do you take that information and then report it back
12 to the doctor?

13 A Yes.

14 Q And do you recall which medications the defendant told
15 you that she was taking at the time?

16 A She reported to me that she was taking Keppra, Requip,
17 Gabapentin and the Vicoprofen, that those were her current
18 medications.

19 Q And do you go through the side effects of each drug
20 with the patient?

21 A I do.

22 Q Do you recall her ever telling you that she was taking
23 morphine MS Contin?

24 A No.

25 Q Is it fair to say that if she had told you you would

Erin Steen
Cross-examination by Mr. Wise

1 have documented it in your chart?

2 A Yes.

3 Q How long have you been a genetic counselor?

4 A Since 2002.

5 Q And how many of these consultations would you say
6 you've done throughout your career?

7 A Maybe 2,000.

8 Q One moment.

9 (Pause.)

10 Q Ms. Steed, do you know how far along the defendant was
11 in her pregnancy?

12 A She was in her 19th week.

13 Q Thank you. Please answer any questions the defense
14 may have.

15 CROSS-EXAMINATION

16 BY MR. WISE

17 Q And you did a report on that and sent that to the
18 people who referred you to her?

19 A I sent it back to Carolina and copied the patient.

20 Q And the Vicoprofen was -- you were checking primarily
21 for genetic problems?

22 A Anything that can cause a birth defect to the baby,
23 uh-huh.

24 Q Right. And on the Vicoprofen you reported that it's
25 not known to cause birth defects.

1 A Depends on when you're taking it during the pregnancy.

2 Q And you said -- was talking about being generally
3 avoided in late pregnancy.

4 A Correct.

5 Q Okay. So early in the pregnancy at this point it
6 wouldn't be something that you'd tell them not to take.

7 A I typically tell everyone to stop ibuprofen no matter
8 what, because not everyone's certain where they are in the
9 pregnancy.

10 Q And there are women that take morphine while pregnant.

11 A There are.

12 Q And, in fact, there are women that take morphine by
13 pump while pregnant.

14 A That's true.

15 Q And deliver and everything.

16 A Uh-huh.

17 Q And morphine is not known to cause any genetic
18 problems.

19 A Well, it doesn't cause a genetic problem, but in
20 animal studies it can cause birth defects.

21 Q And so you tell women who are in pain and taking
22 morphine not to take it?

23 A I do not.

24 Q You do not. So if they're on morphine you will let
25 them continue but just caution them?

Erin Steen
Redirect examination by Ms. Poulos

1 A I'm not a prescribing physician, so I can't actually
2 stop a prescription or start a prescription. I would tell
3 them what research studies there are about morphine and
4 then ask them to discuss that with their physician who
5 would have my letter.

6 Q It's not something that you would necessarily say
7 absolutely you don't take that.

8 A Well, there's no absolutes.

9 Q Right. Well, there are some medicines, aren't there,
10 that are kind of absolutes that you don't take -- aspirin?

11 A No. There are women who take aspirin while pregnant.

12 Q But it's not something you'd recommend.

13 A Actually, sometimes it's really needed.

14 Q Right. And sometimes morphine is really needed.

15 A Sure.

16 Q Depending on the pain level of the patient.

17 A It would depend on what the prescribing physician felt
18 was best for their patient.

19 Q And so you're basically weighing the benefit-risk
20 scenario as with practically every medicine.

21 A Yes.

22 Q Okay. Thank you.

23 REDIRECT EXAMINATION

24 BY MS. POULOS

25 Q Just briefly. At what point in the patient's

1 pregnancy should they stop taking Vicoprofen?

2 A We would typically recommend no ibuprofen exposures in
3 the third trimester, so by around 24 weeks.

4 Q And if she was on morphine wouldn't she have told you
5 that?

6 A I would have expected her to. I asked several ways.

7 Q And basically when we talk about Vicoprofen, is that
8 basically hydrocodone?

9 A It's hydrocodone with ibuprofen, uh-huh.

10 Q Thank you.

11 MS. POULOS: That's all I have.

12 MR. WISE: Just one brief question.

13 RECROSS-EXAMINATION

14 BY MR. WISE

15 Q And with a patient that's taking morphine while
16 pregnant sometimes it's more harmful to go off the morphine
17 if the mother's going to go through any sort of withdrawal
18 than it would be to continue it.

19 A That's a risk benefit the physician has to tell her.

20 Q Right. That's one you have -- that's a judgment call.
21 Thank you.

22 MS. POULOS: That's all we have, Your Honor.

23 THE COURT: You may step down.

24 MS. POULOS: May Ms. Steed be excused?

25 THE COURT: She may be.

1 MS. POULOS: Thank you, Your Honor.

2 (Whereupon, the witness was excused.)

3 MR. BARNETTE: Your Honor, may I approach for a
4 second?

5 THE COURT: Yes, sir.

6 (Bench conference held off the record in the presence
7 of the jury but out of the hearing of the jury.)

8 THE COURT: Let me ask the jury to please go to your
9 jury room. Do not discuss the case. I'll bring you back
10 after a short break.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: We'll be at ease 15 minutes.

14 MR. BARNETTE: Thank you, Your Honor.

15 (Whereupon, a recess was taken.)

16 THE COURT: Are we ready for the jury?

17 MR. BARNETTE: One second, Your Honor. I want to give
18 one thing to a witness.

19 (Pause.)

20 MR. BARNETTE: The state's ready, Your Honor.

21 THE COURT: Bring them in, please.

22 Who is the next witness?

23 MR. BARNETTE: That's going to be Ms. Horn -- Emile
24 Horn, Your Honor.

25 (The following takes place in the presence of the

1 jury.)

2 THE COURT: Y'all can move over one seat if you want
3 to. There's no point in that seat being vacant.

4 All right. Solicitor.

5 MR. BARNETTE: May it please the Court, Your Honor. I
6 would like to call Mr. Horne to the stand, please.

7 EMILE MARKS HORNE, having been
8 first duly sworn, testified as follows:

9 DIRECT EXAMINATION BY MR. BARNETTE

10 Q If you would, ma'am, please state your full name.

11 A Emilie Marks Horne.

12 Q And where do you work at, ma'am?

13 A Mary Black Hospital.

14 Q And what do you do there, ma'am?

15 A I'm a labor and delivery nurse.

16 Q And how long have you been a nurse, ma'am?

17 A Thirteen years.

18 Q Okay. Did you treat the defendant in this case?

19 A I did.

20 Q If you would, tell the jury about that, about -- was
21 it prior to a delivery and during a delivery?

22 A I did. I admitted -- I admitted her, yes.

23 Q Okay. If you would, tell the jury about that.

24 A On September 27th she came into the triage with
25 complaints of a headache and intermittent contractions.

1 She was found to be 2 centimeters at her intake. So
2 we medicated her for her headache and pain and kept her for
3 several hours at which change -- at which time she changed
4 her cervix and was actually admitted into the hospital.

5 Q During that time when you were taking care of her did
6 you ask her about what medications she was taking?

7 A I did.

8 Q What medications did she tell you she was taking?

9 A She told me that she was taking a prenatal vitamin,
10 Keppra and Requip daily and occasionally antacids and a
11 stool softener.

12 Q So she never mentioned anything about morphine or SM
13 [sic] Contin.

14 A She did not.

15 Q Did she mention anything about Vicoprofen or
16 hydrocodone?

17 A No, sir.

18 Q Did she mention about Neurontin or anything like that?

19 A No, sir.

20 Q The only drug she mentioned to you was the ones that
21 you mentioned.

22 A That's correct.

23 Q And can you tell the jury those again?

24 A A prenatal vitamin, Requip, Keppra, with the
25 occasional antacids, and a stool softener.

1 Q And did she deliver the baby the next day?

2 A She delivered early in the morning, yes.

3 Q And later on did she leave the hospital -- or did you
4 take care of her -- for how long?

5 A I -- I turned her over once she was actually admitted
6 to the hospital.

7 MR. BARNETTE: One moment, Your Honor, please.

8 (Pause.)

9 Q Please answer any questions the defense has for you.

10 A Yes, sir.

11 Q Thank you.

12 CROSS-EXAMINATION

13 BY MR. WISE

14 Q What did your records show that you medicated her with
15 when she was complaining of the headaches?

16 A I medicated her with Nubain 10 mg.

17 Q And what is that?

18 A It's a narcotic pain medication.

19 Q Narcotic. Nubain?

20 A Nubain, yes, sir.

21 Q How do you spell that?

22 A N-U-B-A-I-N.

23 Q And when she was discharged from Mary Black, was she
24 given any pain medication at that point?

25 A I do not know that, sir. I didn't take care of her

1 then.

2 Q Do you know if she was given Percocet?

3 A I do not know that for certain.

4 Q Have you got your records with you?

5 A The records, no, I don't.

6 Q Excuse me one second then.

7 (Pause.)

8 MR. BARNETTE: Your Honor, may I approach the witness?

9 We do have the records if she'd like to look at them. May
10 I approach the witness, Your Honor?

11 THE COURT: You may.

12 BY MR. WISE

13 Q I think I can speed things up.

14 A Okay. Yes.

15 Q Do you recognize that as part of your records?

16 A I do, yes.

17 Q Okay. And what does that reflect?

18 A It says she was given a prescription for Motrin 600 mg
19 and Percocet.

20 Q All right. And what is Percocet?

21 A Percocet is also -- is a narcotic medication, pain
22 medication.

23 THE COURT: Please be careful with that microphone,
24 ma'am.

25 THE WITNESS: I'm sorry?

1 THE COURT: I said please be careful with that
2 microphone.

3 THE WITNESS: I will, yes, sir.

4 BY MR. WISE

5 Q So Percocet is also a narcotic pain medication.

6 A That's correct.

7 Q And that was given to her. And I notice it was given
8 to her for pain, correct?

9 A Yes.

10 Q And there were no warnings of anything put with it as
11 far as breastfeeding or anything.

12 A I do not know that. I did not discharge her.

13 Q Okay. You just say that's in the records.

14 A Yes.

15 Q Okay. Thank you.

16 MR. BARNETTE: Just one followup question, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. BARNETTE

19 Q Going through all of these records and everything, did
20 she ever mention, any mention, about being on morphine,
21 hydrocodone or Vicoprofen?

22 A She did not.

23 Q She didn't mention it to anybody at the hospital, did
24 she?

25 A Not that I could tell from the records, no.

Emilie Marks Horne
Recross-examination by Mr. Wise

1 Q Thank you, ma'am.

2 RECROSS-EXAMINATION

3 BY MR. WISE

4 Q Did you contact any of her treating physicians?

5 A I contacted her physician on admission, yes, sir.

6 Q And which physician was that?

7 A That was Dr. Nichols.

8 Q And did you get a copy of his records or anything?

9 A I have the prenatal record, yes.

10 Q Okay. Thank you.

11 A You're welcome.

12 MR. BARNETTE: We'd ask for this witness to be
13 excused, Your Honor.

14 THE COURT: You may step down. You may also be
15 excused.

16 (Whereupon, the witness was excused.)

17 MR. BARNETTE: Your Honor, I would like to call
18 Ms. Olson to the stand.

19 ELAINE S. OLSON, having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. BARNETTE

22 Q Ma'am, if you would, state your full name for the
23 record, please.

24 A Elaine S. Olson.

25 Q And where do you work at, ma'am?

1 A Spartanburg Regional Healthcare System. I work in one
2 of the offices, the float pool, one of the physician's
3 office.

4 Q And what -- what is your position there, ma'am?

5 A R.N., staff nurse.

6 Q And how long -- yes, ma'am. How long have you been
7 there?

8 A I've been there -- I retired a little over two years
9 ago. Then I went back P.R.N., which means as needed, two
10 years -- two years and two months ago.

11 Q How long have you been in nursing, ma'am?

12 A Forty-four years.

13 Q Back on -- make sure I'm reading this right. Did you
14 work at Piedmont Women's Healthcare back in March 25th of
15 2010, ma'am?

16 A I did.

17 Q And did you take call or intakes at that time, ma'am?

18 A Yes.

19 Q And did you take an intake from Stephanie Greene in
20 this case?

21 A Yes.

22 Q If you would, tell the jury a little bit about what an
23 intake is or what you was doing when she called in.

24 A I don't recall for sure, but at that time I think we
25 had the system where the doctor that was on call had a

Elaine S. Olson
Direct examination by Mr. Barnette

1 nurse working with him or her to take care of patients that
2 were being seen. And then we also had what we called a
3 nurse that had the beeper to take O.B. calls for that
4 doctor, then relay them either to the doctor or to the
5 nurse that was working with the doctor that day.

6 Q Yes, ma'am. And which doctor was you working with
7 that day?

8 A Dr. Marik, Dr. Susan Marik.

9 Q And y'all are not in Carolina O.B. Y'all are
10 different -- actually Piedmont Women's Healthcare.

11 A Right, Piedmont Women's.

12 Q So y'all a different agency from Carolina O.B.

13 A Right.

14 Q And did you receive a call from Stephanie Greene on
15 March the 25th of 2010?

16 A Yes.

17 Q About what time did you receive that call?

18 A 2:21 in the afternoon.

19 Q Okay. And what did she tell you?

20 A She told me that she had had a home pregnancy test on
21 March the 20th of 2010 that was negative and --

22 Q Could you reread that, ma'am?

23 A She had a positive home pregnancy test on March the
24 20th, and she thought she may have lost her I.U.D., which
25 is a contraceptive device, right after she was seen in

1 August of 2009 at that time for a G.Y.N. appointment. And
2 she had some heavy vaginal bleeding for eight days, but she
3 didn't call to be checked. And she didn't have any pain or
4 bleeding at the time of the call according to her
5 statements.

6 And she had scheduled what we call a medical-records
7 O.B. appointment for March the 1st after she had her
8 positive home pregnancy test.

9 And then her first visit with the nurse practitioner
10 was scheduled on March the 12th of -- I mean, April the
11 12th of 2010.

12 Q Okay. Did she come to that appointment in April?

13 A According to the records, no.

14 Q Okay. But she called, and she told you she had a
15 positive home pregnancy test on March 20th of 2010.

16 A Right.

17 Q And that's what she told you.

18 A She did.

19 Q And you took -- and that's in the notes.

20 A Right.

21 MR. BARNETTE: One moment, Your Honor, please.

22 (Pause.)

23 Q Ma'am, if you would, please answer any questions the
24 defense may have for you.

25 A Okay.

1 CROSS-EXAMINATION

2 BY MR. WISE

3 Q She had been seen at the Piedmont Women's Healthcare
4 prior to this March of 2010.

5 A Yes, sir.

6 Q Okay. Now, y'all have access to computer records,
7 don't you?

8 A Yes, we do.

9 Q All right. And back in 2009 was she seeing y'all
10 also?

11 A She was seen in August of 2009 for what we call a
12 G.Y.N. appointment or her annual G.Y.N. checkup.

13 Q August of 2009.

14 A Right.

15 Q And you were able to pull up off the computer a
16 complete list of all of her medications at that time. I'll
17 hand you this, and see if this refreshes your memory.

18 A It would have been available but I -- I didn't. It's
19 not standard procedure for a phone call.

20 Q Not standard, but it's available.

21 A It's available.

22 Q And in August of 2009 -- well, let me ask you this.

23 Do you recognize this as one of y'all's records? And I'm
24 sorry, but I have trouble finding the date on here for this
25 visit. If you can -- let me flip over one page. Let me

1 see if I can find the date. Let me have that back.

2 A I may have the same thing.

3 Q All right. It's -- well, see if you can find the
4 date. Look at that right there and see if you can tell me
5 about the date. Have you got that record on you?

6 A I think I do, but let me see right here. It would
7 have been signed off. It was signed off on September 20th.

8 Q of?

9 A 2009.

10 Q 2009. So that's approximately September, visit by her
11 in 2009.

12 A Well, the vital signs according to this were recorded
13 on August 28th of 2009.

14 Q Okay. So it's August or September of 2009 she was in
15 to see y'all.

16 A Yes, sir.

17 Q All right. And you list medications on there, don't
18 you, that she told you she was taking?

19 A I did not do her workup that day. I only spoke to her
20 on that phone call.

21 Q All right. Is this your -- this is y'all's records
22 though.

23 A Yes.

24 Q All right. From your office.

25 A Yes, sir.

1 Q All right. And what medications were she taking --
2 well, let me shorten it a little. Go through the list of
3 what medications she told you she was taking at that time.

4 A Over the counter multivitamins, Duragesic, which is
5 Fentanyl, Mirapex, Keppra, Neurontin, Aleve, Motrin,
6 aspirin, Sudafed, Guaifenesin, Bronkaid, mirena, which is
7 the I.U.D., and Cipro.

8 Q All right. Now, do you know what the Duragistic [sic]
9 patch is?

10 A I don't for sure, but it sounds like something for
11 pain.

12 Q Okay. All right. And that was -- and she put that on
13 there in August of 2009.

14 A Yes, sir.

15 Q And then you recognize this as a medication's report
16 from Piedmont Women's Healthcare?

17 A Yes, sir.

18 Q All right. And you put on -- that all is stored in
19 your computer.

20 A Yes, sir.

21 Q All right. And is that available to anybody who deals
22 with Spartanburg Regional Healthcare?

23 A At that time, I don't know. In 2009 I don't know if
24 it was or not.

25 Q What about 2010?

1 A It's according to who was on the same system that we
2 were on -- electronic records.

3 Q But you're a part of Spartanburg Regional Healthcare.

4 A Yes, sir.

5 Q All right. So anybody with Spartanburg Regional
6 Healthcare should be able to have access to what you --

7 MR. BARNETTE: Your Honor, I'm going to object at this
8 point. He's asking for speculation on the witnesses.

9 MR. WISE: Let me rephrase it then.

10 THE COURT: Okay.

11 BY MR. WISE

12 Q Do you know if anyone would be able in 2009-2010 to be
13 able to access the stored patient or medical records,
14 prescription records, that would have been put into the
15 Spartanburg Regional Healthcare system?

16 A I don't know that anybody -- not just everybody could,
17 no. I don't know.

18 Q Let me rephrase it. Someone who -- someone who is
19 employed by or another doctor with Spartanburg Regional
20 Healthcare.

21 A I don't know.

22 Q You don't know. All right. You don't know to what
23 extent they were interchanged.

24 A Right.

25 Q Okay. Are they interchanged today, or do you know?

1 A Not every office. I'm not sure of the extent, but I
2 know every office in the system, the physician's network,
3 is not on the same electronic records that we are on.

4 Q Now --

5 A It's more extensive now than it was then, but I don't
6 know.

7 Q Let me see your report that you've got about the
8 March 20th call, one of them.

9 A It was -- actually, the call was on March 26th.

10 Q 26th. All right.

11 A Yes, sir.

12 Q All right. And y'all said next time y'all saw her
13 after March 26th was when?

14 A There's no record of her being seen after that.

15 Q All right.

16 A There was an appointment scheduled, and apparently she
17 didn't come.

18 Q Okay. All right. And what doctor would she have been
19 seeing there?

20 A If she come for the April 1st appointment she would
21 have seen one of the nurses that does the medical records
22 intake.

23 Q Uh-huh.

24 A And if she had come on April the 12th she would have
25 seen Betsy Miller, the nurse practitioner, for her first

1 checkup for the pregnancy.

2 Q Okay.

3 A And she also was scheduled to come on the 26th of
4 March for an ultrasound with our ultrasound technician.

5 Q Y'all saw her for a period of several years prior to
6 2010.

7 A According to the records, yes, sir.

8 Q Okay. Thank you.

9 MR. BARNETTE: Just a couple of questions on redirect,
10 Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. BARNETTE

13 Q After you spoke to her she sat up appointments, but
14 she never showed up, is that right, ma'am?

15 A According to the records there's no -- no further
16 records that show that she came.

17 Q Not for the ultrasound or for the doctor's
18 appointments.

19 A Right.

20 Q And she'd been going to y'all for years before this.

21 A Yes, sir.

22 Q She had told them about the -- the patch that Mr. Wise
23 asked you about. Y'all knew about it. I mean, it was in
24 y'all's records, right?

25 A Yes.

Brandon Williams
Direct examination by Mr. Barnette

1 Q And then she didn't come back to y'all.

2 A Right.

3 Q She had told y'all about these medications and even
4 talked about the patch itself.

5 A Uh-huh.

6 Q But she didn't come back.

7 A Right.

8 Q Thank you, ma'am.

9 THE COURT: You may step down.

10 MR. BARNETTE: We ask the witness be excused, Your
11 Honor.

12 THE COURT: She may be.

13 (Whereupon, the witness was excused.)

14 MR. BARNETTE: Your Honor, we're going to call some
15 witnesses out of order if I can get them in and out from
16 this standpoint.

17 I'd like to call Brandy Williams from SLED, or
18 actually it's DHEC.

19 BRANDON WILLIAMS, having been
20 first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. BARNETTE

22 Q If you would, sir, give your full name for the record.

23 A Brandon Williams.

24 Q And, Mr. Williams, where do you work now?

25 A I currently work at DHEC -- Department of Health and

1 Environmental Control.

2 Q And how long have you been there, sir?

3 A Two weeks.

4 Q Okay. Before that, where did you work before that,
5 sir?

6 A I was employed at South Carolina Law Enforcement
7 Division, otherwise known as SLED.

8 Q And how long did you work there, sir?

9 A Seven and a half years.

10 Q And what department did you work in, sir, or what
11 department did you work in back in 2010?

12 A The toxicology department.

13 Q Okay. And back then did you receive a sample? I
14 believe the sample was brought down by the Spartanburg
15 Coroner's Office to SLED. Did you open a sealed package
16 that was a blood sample lab No. L10-12917?

17 A According to the chain of custody, yes, sir.

18 Q And was that the victim's, Alexis Greene, was the
19 victim's sample, blood sample, is that right, sir?

20 A Yes, sir.

21 Q And why did you open that? Why did you open that
22 sample at that time?

23 A I opened it to document how it came in before we
24 tested it to make sure it was sealed and it was labeled
25 correctly.

Brandon Williams
Cross-examination by Mr. Wise

1 Q And was it, sir?

2 A Yes, sir, yes, sir.

3 Q And was it -- was it later sealed back by you and
4 given to Toni Broome for additional testing?

5 A I sealed it and I gave it to Carmen Tucker.

6 Q Okay. You gave it to Carmen Tucker.

7 A Yes.

8 Q And then Carmen Tucker took possession of it after
9 that, sir?

10 A Yes.

11 Q After it was sealed. And that was just the blood
12 sample in this case, is that right, sir?

13 A That's correct.

14 Q Please answer any questions Mr. Wise may have.

15 CROSS-EXAMINATION

16 BY MR. WISE

17 Q What are you doing with DHEC now?

18 A I work in the lab called medial readesent glassware
19 [sic]. That's the support division.

20 Q Basically a technologist in a lab like you were with
21 SLED?

22 A Correct.

23 Q Okay. And this, what you're reading from, is
24 basically a chain of custody form showing who all touched
25 everything on it.

Brandon Williams
Redirect examination by Mr. Barnette

1 A Correct.

2 Q Okay. And you are -- and your role was what again?

3 A I inventoried the evidence as it came in, as I
4 received it from log-in.

5 Q Okay. And that was -- and you inventoried it on what
6 date?

7 A November 18th of 2010.

8 Q Okay. That was -- you're Brandon Williams?

9 A Yes, sir.

10 Q Okay. I wrote the name down wrong when they
11 introduced you. I'm sorry. Okay. Thank you.

12 REDIRECT EXAMINATION

13 BY MR. BARNETTE

14 Q Just one thing on followup. You talked about the
15 inventory.

16 MR. BARNETTE: Let me mark this, Your Honor, if I
17 could.

18 (Photographs marked State's Exhibit No. 64 for
19 Identification.)

20 Q If you would, sir, this has been marked for State's
21 Exhibit 64. If you would, tell us what that is, sir.

22 A I'm sorry. These are the pictures that I took of the
23 evidence in its bag all the way down to the tubes of blood
24 that were submitted.

25 MR. BARNETTE: Your Honor, I'd like to move these into

1 evidence at this time.

2 MR. WISE: No objection.

3 THE COURT: It's admitted.

4 (Photographs marked State's Exhibit No. 64.)

5 MR. BARNETTE: May I publish them to the jury, Your
6 Honor?

7 THE COURT: You may.

8 BY MR. BARNETTE

9 Q If you would, sir, I'm publishing Exhibit 64. It
10 actually has three pages on it. And this is the packaging
11 you received. And it was actually sealed by Terri Carter
12 in the coroner's office, is that right, sir?

13 A Yes, sir.

14 Q And you opened and actually took pictures of
15 everything involved with it, is that right, sir?

16 A Yes, sir.

17 Q And that was outside the package it was sealed in, is
18 that right, sir?

19 A Correct.

20 Q Showing you the second page. And was these tags and
21 information you received? Is these the blood samples that
22 you received in the packaging, sir?

23 A Yes, sir.

24 Q Okay. And obviously you photographed them and they
25 were sealed and everything labeled and her name on it.

Carmen Tucker
Direct examination by Mr. Barnette

1 A That's correct.

2 Q And I guess this is the other side. You just turned
3 the tubes over so you could see the other side of them, is
4 that right?

5 A Correct.

6 Q And who was these samples given to next, sir, after --
7 after you sealed them back up?

8 A Carmen Tucker.

9 Q Okay. Thank you, sir. Please answer any questions
10 the defense may have for you.

11 MR. WISE: I have no further questions.

12 THE COURT: You may step down.

13 MR. BARNETTE: Your Honor, we'd ask for him to be
14 excused.

15 THE COURT: He may be.

16 (Whereupon, the witness was excused.)

17 MR. BARNETTE: Your Honor, I'd like to call Carmen
18 Tucker to the stand.

19 CARMEN JENEAN TUCKER, having
20 been first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. BARNETTE

22 Q If you would, ma'am, please give your full name for
23 the record.

24 A Carmen Jenean Tucker.

25 Q And where do you work at, ma'am?

1 A South Carolina Law Enforcement Division.

2 Q And is that commonly known as SLED?

3 A It is commonly known as SLED. I work in the
4 toxicology department.

5 Q And is that the lab -- crime laboratory for the state?

6 A It is.

7 Q Okay. And how long have you worked there, ma'am?

8 A I've been with SLED for coming up on eight years, in
9 the toxicology department only the last three and a half.

10 Q Was you -- obviously, you was working at SLED back in
11 2010 --

12 A Yes, sir.

13 Q -- at that time. Was the sample, the Lexis Greene
14 sample, that we've been talking about -- L10-12917 -- did
15 you receive that from Brandon Williams?

16 A I did, sir. I put that in my custody. I received the
17 sealed evidence bag from him.

18 Q What did you do after that, ma'am?

19 A I cut open the evidence bag and removed a sample,
20 removed one of the tubes of blood. I cut out a sample of
21 that tube of blood for drug screening analysis and turned
22 that sample -- one for each instrument. We have two
23 different instruments at the time. And I cut out samples
24 for those instruments and turned them over to Brandon
25 Williams and Kenny Neers [sic].

Carmen Tucker
Direct examination by Mr. Barnette

1 Q And was those tested later?

2 A They were tested that day.

3 Q When you talk about pie pick [sic], tell the jury what
4 that is.

5 A Oh, I basically just took it out of what -- of that
6 blood sample, put it in a separate container and turned
7 that container over to them.

8 The blood sample itself stayed with me in the bag.
9 Then I resealed the bag, and that bag went into what we
10 call a refrigerator custody. It's just a lockable
11 refrigerator that we can lock evidence in.

12 Q And who was the next person that -- I know the one --
13 the one sample went for preliminary drug testing. The
14 other sample went to -- did it go to Toni Broome?

15 A The original evidence in the evidence bag that I took
16 the samples from, the aliquots from, that went on to Toni
17 Broome for blood alcohol analysis.

18 Q Okay. And at the same time the gray tube is on -- on
19 each test tube, is that right? The tube is sealed and
20 everything.

21 A Yes, sir. We check that on the front end before we
22 even cut into the bag.

23 Q I got you. And it was refrigerated before Toni Brown
24 [sic] got -- it was obviously kept in a safe place and
25 refrigerated to make sure it was -- the blood be

Toni Broome
Direct examination by Mr. Barnette

1 maintained, is that right?

2 A Yes, sir.

3 Q If you would, answer any questions the defense may
4 have for you, ma'am.

5 MR. WISE: I don't have any questions, Your Honor.

6 THE COURT: Come down.

7 MR. BARNETTE: Ask the witness step down.

8 I'd like to call -- and we'd ask the witness be
9 excused, Your Honor.

10 THE COURT: She may be.

11 (Whereupon, the witness was excused.)

12 MR. BARNETTE: Your Honor, I'd like to call Toni
13 Broome to the stand, please.

14 TONI BROOME, having been first
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. BARNETTE

17 Q Ms. Broom, if you would, state your full name for the
18 record.

19 A Toni Broome.

20 Q And where do you work at, ma'am?

21 A South Carolina Law Enforcement Division or SLED.

22 Q And what is your position there, ma'am?

23 A Forensic toxicologist.

24 Q And how long have you been there, ma'am?

25 A Since August of 2000.

Toni Broome
Direct examination by Mr. Barnette

1 Q If you would, tell the jury a little bit about your
2 qualifications.

3 A Basically, I received my bachelor of science degree in
4 chemistry from Francis Marion University. I have completed
5 and have been deemed competent in all aspects of
6 toxicology, specifically to blood alcohol. I have
7 completed classroom lectures on composition and uses and
8 effects of alcohol, along with a successful completion of a
9 competency, an oral and practical examination.

10 I have analyzed over a thousand -- over a thousand
11 known samples. I've analyzed a thousand known samples in
12 addition to unknown samples. I've had the opportunity to
13 observe live drinking studies where basically individuals
14 were dosed with a specific amount of alcohol on -- for a
15 period of time. And I've had the opportunity to observe
16 their effects.

17 I've also had the opportunity to attend D.U.I.
18 seminars along with schools on alcohols and I've had
19 opportunity to testify in courts of law in the state of
20 South Carolina.

21 Q How many times have you been qualified as a
22 toxicologist, forensic toxicologist, in the state court?

23 A Over 30 times.

24 Q Okay.

25 MR. BARNETTE: Your Honor, I'd move her as an expert

Toni Broome
Direct examination by Mr. Barnette

1 in the forensic toxicology at this time.

2 MR. WISE: No objection.

3 THE COURT: She is so qualified.

4 BY MR. BARNETTE

5 Q If I understand right you just tested for the blood
6 alcohol in this blood sample, is that right?

7 A That is correct.

8 Q And when Quintus Young actually tested -- tested for
9 the drugs at a later date.

10 A That is correct.

11 Q Okay. If you would, tell the jury a little bit -- is
12 that just protocol that y'all follow at SLED where you test
13 any sample?

14 A Basically, the samples that come in, usually they're
15 going to need a blood alcohol sample. Some variation comes
16 into play when it's like a criminal sexual conduct case.
17 We're looking at timeframes where this is what we call a
18 tox-other case where the other would be an unknown liquid
19 other than a biological sample where alcohol may not be a
20 drug entrance.

21 Q Did you do a blood alcohol test on this blood sample?

22 A That is correct.

23 Q And what was your results, ma'am?

24 A I would like to see the report, please.

25 Q Yes, ma'am. I'll be glad to give that to you.

1 Let me show you what's been marked State's Exhibit 62
2 for I.D. purposes, ma'am.

3 A Okay.

4 Q I believe that's a copy of the report. And what was
5 your finding on the blood alcohol?

6 A Okay. For the sample type blood toxicology labeled
7 Greene, Alexis, the -- the blood alcohol is negative.

8 Q After you did your testing and everything was the
9 blood sample -- the rest of the blood sample was then
10 forwarded to Quintus Young, or sealed?

11 A That is correct. The sample was -- basically, I
12 resealed. Basically, I resealed the tamper-evident bag,
13 initialed and dated and the package was stored into our
14 refrigerator until further analysis -- in our -- stored
15 secure refrigerator until further analysis.

16 Q And Quintus Young was the next person. It was sealed
17 and left for him, is that right, ma'am?

18 A That is correct.

19 Q Okay. If you would please, answer any questions
20 Mr. Wise may have for you.

21 CROSS-EXAMINATION

22 BY MR. WISE

23 Q So you took a blood sample from a bag and opened it up
24 completely in your lab.

25 A That's correct.

1 Q And then after testing it -- well, I guess you
2 resealed before you did the test.

3 A That is correct. We have -- we only open one piece of
4 evidence at a time. So basically what goes on is I have
5 a -- basically, a plastic bag, a tamper-evident bag. And I
6 will cut it open, remove the sample, which is usually a
7 blood test tube, take it out while -- a portion of the
8 blood that's in the sample -- in the test tube. The sample
9 will be prepared for analysis. Basically, I'm going to
10 seal it back up, heat seal, initial and date that test tube
11 that -- excuse me -- that evidence bag and get it for
12 store -- storage until analysis can be done.

13 Q That would be the test tube that you took the blood
14 out of.

15 A That is correct.

16 Q And how did you take the blood out of it?

17 A With Hamilton diluter or pipe bag.

18 Q What is that?

19 A Basically, it's an instrument that we use to get our
20 portion that we need for the blood sample to be analysis --
21 analyzed.

22 Q Okay. Now, y'all don't do the drug testing and the
23 alcohol testing in the same lab at the same time.

24 A No, not normally. We do not.

25 Q You can do that though.

Quintus Leon Young, II
Direct examination by Mr. Barnette

1 A Under certain circumstances it could be done.

2 Q Okay. But you chose not to do it in this case.

3 A This case it was not done.

4 Q Okay. All right. And then you resealed the blood,
5 correct --

6 A That's correct.

7 Q -- because you had to break the seal to get it out.

8 A That is correct.

9 Q Thank you.

10 MR. BARNETTE: No further questions of this witness,
11 Your Honor. We'd ask that she be excused.

12 THE COURT: You may step down. You may also be
13 excused.

14 THE WITNESS: Thank you.

15 (Whereupon, the witness was excused.)

16 MR. BARNETTE: Your Honor, I would like to call
17 Quintus Young to the stand.

18 QUINTUS LEON YOUNG, II, having
19 been first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. BARNETTE

21 Q Mr. Young, if you would, state your full name for the
22 record, please.

23 A It's Quintus Leon Young, II.

24 Q And where do you work at, sir?

25 A I'm employed with the South Carolina Law Enforcement

1 Division.

2 Q And what is your position there, sir?

3 A I am a forensic toxicologist.

4 Q And how long have you been with SLED, sir?

5 A Seven years.

6 Q Okay. And if you would, tell the jury a little bit
7 about your training and background, sir.

8 A I have my bachelor's degree from the University of
9 South Carolina in chemistry.

10 Once hired at SLED I began the in-house training,
11 which, like Ms. Broom stated, consisted of written and oral
12 exams and becoming proficient in volatile analysis.

13 Once that was completed in addition to going to other
14 seminars -- D.U.I. seminars, also the Borkenstein School of
15 Alcohol -- once that was completed drug -- drug analysis --
16 not drug analysis -- drug training began where you
17 essentially shadow senior analysts in each drug class until
18 you're deemed competent in drug analysis.

19 Q How many drug samples do you test when you're doing
20 that training?

21 A Hundreds.

22 Q And it's out of blood, all -- urine -- all types of
23 different things.

24 A Correct.

25 Q From there they check you to make sure you're

1 proficient in that.

2 A Correct.

3 Q And also you can continue your training. You said
4 education and so forth during this time also, is that
5 right?

6 A Yes.

7 Q And how many times have you been qualified in state
8 court as a forensic toxicologist, sir?

9 A About nine or ten.

10 Q Yes, sir.

11 MR. BARNETTE: Your Honor, at this time, Your Honor,
12 I'd move him as an expert in forensic toxicology, at this
13 time.

14 MR. WISE: No objection.

15 THE COURT: He is so qualified.

16 BY MR. BARNETTE

17 Q Sir, if I could, did you receive a sample, I guess,
18 shown up here? This is State's Exhibit 64. Did you
19 receive blood samples on this case from Alexis Greene?

20 A I did.

21 Q And did you do a drug analysis on the blood sample,
22 sir?

23 A I did.

24 Q Let me show you what's been marked as State's
25 Exhibit 62. Is that a copy of the report that you produced

1 in this case, sir, concerning your findings?

2 A This is a copy of the report.

3 MR. BARNETTE: Your Honor, I'd like to enter this into
4 evidence at this time.

5 THE COURT: What number is that?

6 MR. BARNETTE: Sixty-two, Your Honor.

7 MR. WISE: No objection.

8 THE COURT: It's admitted.

9 (SLED report marked State's Exhibit No. 62.)

10 MR. BARNETTE: May I publish it to the jury, Your
11 Honor?

12 THE COURT: You may.

13 BY MR. BARNETTE

14 Q When you received these blood samples what kind of
15 drug testing did you do on these blood samples, sir?

16 A In most -- most toxicologies we do what we call a
17 general drug screen. And we would also go as far as to
18 confirm whatever drugs were found on the preliminary
19 screen.

20 Q And those -- let me show you this page. Does that
21 show the, I guess the, blood alcohol and the preliminary
22 screen in this case?

23 A It does.

24 Q And what was the results of that, sir?

25 A The volatile -- volatile analysis was negative. The

1 drug screen, we screened for benzodiazepines, amphetamine,
2 methamphetamine and oxycodone. In this case it screened
3 positive for benzodiazepines.

4 Q And showing you page two of that same exhibit. What
5 else did it have, sir?

6 A Cocaine metabolite, which is benzoylecgonine, opiates
7 and salicylates.

8 Q Okay. And did you go -- based off that did you go
9 ahead and do a more comprehensive screen on that?

10 A Yes. We confirmed -- we confirmed exactly which drugs
11 within these classes were actually present or not present.

12 Q And was these the results of your drug screen after
13 you did them, sir?

14 A Yes.

15 Q If you would, tell the jury. And I guess we'll just
16 go down the list. What's the first item that you found in
17 Lexie Green's blood?

18 A It is the Acetaminophen.

19 Q Okay. And what was the result you found in there?

20 A It was 19 mg per liter.

21 Q Which is at the high level, I guess, of the
22 therapeutic -- these are your notes over here of the levels
23 that you're looking at.

24 A Correct.

25 Q And is it the high level of therapeutic at that time,

1 sir?

2 A Correct.

3 Q If you will, go to the next one, sir.

4 THE COURT: Do you have a copy of that that he can
5 have so he doesn't have to strain his neck looking at the
6 screen?

7 THE WITNESS: Oh, I think I have one.

8 BY MR. BARNETTE

9 A The next drug on the list is Diphenhydramine. It's
10 common known as Benadryl.

11 Q Okay. And that was found .03 mg per liter?

12 A Yes, sir.

13 Q Okay. And that was actually therapeutic levels too,
14 is that right?

15 A That is correct.

16 Q What's the next item that was found?

17 A Is Chlorpheniramine.

18 Q Okay. And it could come from Klonopin and things like
19 that?

20 A That is not -- that is an antihistamine.

21 Q Okay. I got you there. And you found .08 mg per
22 liter of that?

23 A Point -- .06 mg per liter.

24 Q I misread that a while ago. I need to get my glasses
25 changed.

1 Next one. What's the next one that was found, sir?

2 A Methorphan or Dextromethorphan, a drug commonly used
3 to treat cough at a point -- 0.03 mg per liter.

4 Q And what's the next substance that was found?

5 A It's Methorphanan which is a metabolite of the
6 Methorphan seen above it. This is just the body's way of
7 breaking it down. But that was found at a 0.04 mg per
8 liter.

9 Q And what's the next substance that you found, sir?

10 A That'd be morphine found at a 0.52 mg per liter.

11 Q Is that within lethal levels?

12 A That is.

13 Q Lethal levels is from .05 to 4 mg per liter?

14 A Yes.

15 Q And it was at a .052 mg per liter.

16 A 0.52, yes.

17 Q That's within lethal levels.

18 Now, you did check for cocaine, but it came negative,
19 is that right?

20 A That's correct.

21 Q So the preliminary test at that time, it wasn't enough
22 to show a large amount of that or anything in there, is
23 that right?

24 A Right. That screened positive, but we confirmed it.
25 And it was negative for cocaine.

Quintus Leon Young, II
Direct examination by Mr. Barnette

1 Q Okay. And what was the next substance you found, sir?

2 A That is Clonazepam, and that was at a 0.01 mg per
3 liter.

4 Q Okay. And that was also within the therapeutic level.
5 So it definitely had an affect on the person.

6 A It is present. It's on the low -- low end.

7 Q But it definitely had an affect on the --

8 MR. WISE: Objection, Your Honor. He's leading the
9 witness.

10 THE COURT: Sustained.

11 BY MR. BARNETTE

12 Q The therapeutic --

13 MR. BARNETTE: I'll rephrase the question, Your Honor.

14 Q The therapeutic levels is at that point there, is that
15 right?

16 A Correct.

17 Q Okay. And that's within that level, is that correct?

18 A Correct.

19 Q Afterwards did you also receive the brain and liver
20 tissue of Alexis Greene?

21 A We did.

22 Q Okay. I can show you this here.

23 (Photographs marked State's Exhibit No. 65 for
24 Identification.)

25 MR. BARNETTE: May I approach the witness, Your Honor?

1 THE COURT: Yes.

2 Q Let me show you what's marked as State's Exhibit 65.
3 Was that the bag that you received that was dropped off by
4 Terri Carter with the brain, I guess, kidney and liver
5 samples of Alexis Greene?

6 A Yes, it is.

7 Q And was you the person that opened that bag to do the
8 testing?

9 A To do the testing, yes, after the initial inventory.

10 Q Okay.

11 MR. BARNETTE: Your Honor, I'd like to move State's
12 Exhibit 65 into evidence at this time.

13 MR. WISE: No objection.

14 THE COURT: Those are photographs?

15 MR. BARNETTE: Yes, sir, they are. They're
16 photographs of -- I'd like to publish them to the jury.
17 That way the Court could see them.

18 THE COURT: Okay.

19 (Photographs marked State's Exhibit No. 65.)

20 Q So this was the SLED bag which you opened that had the
21 brain, liver and kidney tissue from Alexis Greene in it,
22 sir?

23 A Correct.

24 Q That's page two. Are these items that you found
25 inside the bag, sir?

Quintus Leon Young, II
Direct examination by Mr. Barnette

1 A Correct.

2 Q And was that one side of the bottles before you opened
3 them, sir, or are they I guess -- I call them bottles, but
4 I guess they're plastic bottles.

5 A That's what -- containers, bottles, yes.

6 Q And it shows Alexis Greene as being the person the
7 sample came from.

8 A Yes, sir.

9 Q And I believe that's the other side of the bottle, is
10 that right?

11 A That is correct.

12 Q And did you perform analysis on, I guess, the brain
13 and the liver tissue of Alexis Greene?

14 A We do. There's a process it must go through before
15 analyzing in its -- in its current state, homogenization.
16 I pretty much turned it from a solid to a liquid form so we
17 could analyze it.

18 Q So you did do that?

19 A Yes.

20 Q And did you test the -- I guess you tested the brain
21 and liver to see how much morphine or MS Contin was in
22 that.

23 A Correct.

24 MR. BARNETTE: May I approach the witness, Your Honor?

25 THE COURT: Yes.

1 BY MR. BARNETTE

2 Q Let me show you State's Exhibit 63 that's been marked
3 for I.D. Is that a copy of your report, sir?

4 A This is.

5 MR. BARNETTE: Your Honor, I'd like to enter this into
6 evidence at this time.

7 MR. WISE: No objection.

8 THE COURT: It's admitted.

9 (SLED report marked State's Exhibit No. 63.)

10 MR. BARNETTE: May I publish it to the jury, Your
11 Honor?

12 THE COURT: Yes.

13 BY MR. BARNETTE

14 Q So this is the toxicology report that you did
15 concerning the brain testing, as well as the liver testing,
16 is that right, sir?

17 A Yes.

18 Q It was on Alexis Greene.

19 A Yes.

20 Q And what was the results of the -- the amount of
21 morphine or MS Contin that you found in the brain of Alexis
22 Greene?

23 A In the brain it was a .54.

24 Q Okay. Is that mg per kilogram?

25 A Yes.

1 Q Which is also milligrams per -- I guess liter too also
2 from that standpoint or can be similar to --

3 A This -- this is weight, because of the nature of the
4 sample, it's a weight per weight.

5 Q Weight per weight, okay, instead of liter. I
6 understand from that.

7 Okay. And did you also check the liver in this case?

8 A Correct.

9 Q And what was your results there, sir?

10 A 0.56.

11 Q Okay. And was these both in the lethal range --

12 A Yes.

13 Q -- like the blood sample was? All of these drugs
14 together, do they have a centri -- I call it one plus one
15 equals three.

16 A Synergistic.

17 Q Yes, sir.

18 A These -- these drugs --

19 Q I'll go back to Exhibit 62. And, like I said, we're
20 going to have I think other people testifying about that,
21 so but they could have an affect on each other?

22 A They could -- they could.

23 MR. BARNETTE: One moment, Your Honor, please.

24 (Pause.)

25 Q If you would, please, answer any questions the defense

1 may have for you, sir.

2 CROSS-EXAMINATION

3 BY MR. WISE

4 Q Give me one second. I'm looking for a first page.

5 Here's a copy of your report with some handwriting on
6 it. Is that your handwriting, or somebody else's?

7 A It is not mine.

8 Q That's not yours.

9 Okay. All right. Now, when you did this analysis how
10 did you -- what analysis did you do or what exactly --
11 program did you run to determine the drugs in the blood?

12 A Once we -- once using -- using the preliminary drug
13 screens, screen positive for benzodiazepines, cocaine, and
14 opiates in this case, from there we would go on to confirm
15 that specific drug class to identify exactly which drug of
16 that class is actually present or absent.

17 Q Now, when you say drug class, what's included in a
18 drug class?

19 A Benzo -- the group, the drug class, of benzo --
20 benzodiazepines is made up of different drugs --
21 Alprazolam, Clonazepam, Diazepam, Lardiazepam [sic], a few
22 others.

23 Q Okay. And that's checked out to be negative.

24 A That's actually -- that -- that will be for the
25 Clonazepam that came back positive.

1 Q For the -- what was that actually for? What did
2 you -- what would you call that?

3 A Confirmation.

4 Q Excuse me?

5 A A drug confirmation.

6 Q Right. But, I mean, the substance is what actually?

7 A A benzo -- a benzodiazepine.

8 Q All right. And that is a -- breaks down from what?

9 A The Clonazepam or -- that's a -- it's a drug class of
10 its own.

11 Q It's a drug class of its own.

12 A Correct.

13 Q All right. And what drug would you take to end up
14 with that in your body?

15 A Xanax, Klonopin.

16 Q Okay. Something like that.

17 A Yes.

18 Q Okay. All right. Now, there's a -- is there a way of
19 testing very specifically for a drug?

20 A Yes.

21 Q And what is that test called?

22 A That is just the same confirmation that -- that I
23 performed in this two -- the drug test that we did where
24 the Clonazepam showed up. It's the same -- same process.

25 Q So there is a test that you're testing for a bunch of

1 different drugs at the same time.

2 A Correct, correct.

3 Q Sometimes you'll have a test where you test for a very
4 specific drug because you're asked for it the first time.

5 A It can be done.

6 Q Is that the same type test or a different test?

7 A The same type test.

8 Q Now, when you do the raw data in this you actually --
9 to get to this level of -- of morphine you did a manually
10 integrated qualifier?

11 A I would have to look to see what exactly.

12 Q well, I wish I could find my copy, but if you'll
13 excuse me I think I can let you look at this and explain
14 it.

15 (Pause.)

16 Q There we go. Do you recognize that as part of your
17 program?

18 A That is.

19 Q And what is that manual qualifier?

20 A That is simply saying that the software did not
21 integrate or find a peak that we were looking for for some
22 reason.

23 Q So.

24 A So -- so the analyst -- whose writing is that? The
25 analyst in this case would have had to manually integrate.

1 Q The analyst wasn't you.

2 A Not -- not in this instance, no, sir.

3 Q So you don't know why they used that qualifier.

4 A The qualifier -- we have a set list of target --
5 target -- target ions or a fingerprint that we specifically
6 look for. And these qualifiers are just more -- to
7 complete the set of fingerprints pretty much.

8 Q Well, this test there that you're looking at shows a
9 morphine level of .03 before the multiplication of the
10 manual qualifier.

11 A That is actually due to the -- they can't see, but
12 this was a diluted sample and --

13 Q What do you mean, a diluted sample?

14 A The -- if you look at the top -- well, they can't see,
15 but the liver in this case was diluted by one -- one to 16,
16 and this result -- the reason we did that is because the
17 opiates screened, actually screened, above a A1 per liter.
18 And because of that we know that our -- our curves or
19 the -- the levels that we look for in our controls goes up
20 to A1. So if I would have gave an undiluted sample it
21 would have been above that curve, meaning I can't use that
22 data.

23 Q So who diluted the sample?

24 A That would be me.

25 Q That would be you.

- 1 All right. And you diluted it for which reason?
- 2 A For the reason I just gave.
- 3 Q Okay.
- 4 A Just to make sure that that -- when that sample was
- 5 sent to confirmation that it actually fell within the range
- 6 that we were looking for.
- 7 Q All right. And you did the same thing with another
- 8 sample, or some tech did. You didn't do it.
- 9 A I would have to see.
- 10 Q I'm getting ready to show you. All right. Is that
- 11 correct?
- 12 A That is correct.
- 13 Q All right. And that -- and you multiplied that or
- 14 somebody multiplied that by what?
- 15 A By four.
- 16 Q And who did that?
- 17 A That would be me.
- 18 Q That would be you.
- 19 A Yes.
- 20 Q All right. And why did you multiply it by four
- 21 manually?
- 22 A Because the dilution in this case was a one to four.
- 23 Q All right. One to four done.
- 24 A Correct.
- 25 Q And your software doesn't have the means of just

1 putting in there it's a diluted sample one to four?

2 A It does not. That's something we have to go in the
3 back end. And the -- actually the -- the anolyte or the
4 compound that was manually integrated in this case was not
5 a compound of interest in -- for this particular case.

6 Q All right. So, and also with the blood you used the
7 manual qualifier, didn't you?

8 A It is possible.

9 Q Hold on one second.

10 (Pause.)

11 Q I don't know why it closed out on me, but it did. Is
12 using the manual qualifier a standard procedure?

13 A If, only if, for some reason the software that we used
14 to use in our analysis does not integrate or find a peak of
15 interest.

16 Q So -- so you only use the qualifier when you don't
17 find a peak of interest?

18 A No. The qualifiers are part of -- a part of the
19 fingerprint that we look for in compounds. In cases where
20 you have to manually integrate a compound or a peak as far
21 as the simple reason that the software did not integrate it
22 for you.

23 Q And why would the software not integrate it for you if
24 that's what the purpose of the software is?

25 A Well, we set certain -- certain -- well, the software

1 has certain limitations. It can't do everything or there
2 should -- there can be some cutoffs to where the peak is
3 missed by the software.

4 Q And explain what you mean by looking for a peak.

5 A Well, in our -- in our analysis we run an internal
6 standard or a control similar to the analyte that we are
7 interested in. How do I explain a peak or --

8 Q Yes, a peak.

9 A The different compounds -- with the instrumentation
10 that we use the instru -- the analytes come off. Best way
11 to explain this, each compound shows up at a certain time
12 on our -- on our computer system. You have to set up a
13 method of using the different controls that we run to set
14 up a method to actually search for certain compounds.

15 Q All right. So peak tells you what the compound is.

16 A Is the peak -- the peak -- the presence of a peak
17 simply says that the compound is there.

18 Q All right. How do you get the milliliters per
19 kilogram -- milliliters per gram -- per liter?

20 A Milligrams per liter?

21 Q Right. Either one.

22 A That is the units based on concentration.

23 Q All right. So what -- what in your program tells you
24 that the level is .02 or .01 or whatever?

25 A We run controls with each run.

1 Q Uh-huh.

2 A And we -- we routinely look for levels, therapeutic
3 levels -- from therapeutic to levels of abuse. In this
4 case with opiate, the opiate drug class, we look for the
5 range of a 0.01 mg per liter to a one -- 1.0 mg per liter.

6 Q Now, I believe this is from the brain sample, right?
7 You end up doing a multiplier there of what?

8 A Sixteen.

9 Q Sixteen. And with that 16 you ended up with how much
10 in the brain sample?

11 A .64.

12 Q All right. And so without doing the -- and before you
13 did the manual qualifier the reading was like .04?

14 A Actually the .04 is going to be there regardless of
15 whether or not the software found a qualifier. That is the
16 response primarily of the target or the main -- the main
17 fingerprint of -- of the drug.

18 Q So the .04 tells you there's morphine there.

19 A Correct, but because I did a dilution I --

20 Q So if you'd had twice as much morphine you'd still
21 have a .04 sitting there to tell you if it's morphine?

22 A It depends on the dilution that you -- that you
23 initially give.

24 Q So if you gave -- and dilution in this case with
25 the -- with the brain was how much?

Quintus Leon Young, II
Cross-examination by Mr. Wise

- 1 A Had one to 16.
- 2 Q One to 16. And if you'd done a one to 32 would it be
- 3 .04 there?
- 4 A It would be a point -- should be 0.02.
- 5 Q .02.
- 6 A Right.
- 7 Q So that would then just -- well, that tells you
- 8 there's morphine there at a certain amount then, doesn't
- 9 it?
- 10 A Correct.
- 11 Q Okay. But you have to do the multiplication yourself.
- 12 A Right.
- 13 Q And who did the dilution?
- 14 A That would be me.
- 15 Q All right. Now, did you occasionally run some tests
- 16 that showed no morphine on a chart similar to that?
- 17 A Do we?
- 18 Q Yeah. In this case, now, you generated in this case.
- 19 A I would have to go through the complete case file.
- 20 Q Would it surprise you if you had one?
- 21 A Depending on the dilution you give.
- 22 Q Okay. So you can over dilute it.
- 23 A You can over dilute it to where --
- 24 Q Has none.
- 25 A Right.

Quintus Leon Young, II
Cross-examination by Mr. Wise

- 1 Q So you did more than one dilution on each substance?
- 2 A Correct.
- 3 Q All right. So on the brain you would do a dilution of
- 4 one to 16, and you may do one, one to 32?
- 5 A If a -- depends on the nature of the case. If you
- 6 thought that once -- once you sent your sample to
- 7 confirmation that it would be above that curve that I
- 8 explained earlier, the .01 to the one -- if you felt that
- 9 it would be above that level you would give a dilution.
- 10 That's routine practice.
- 11 Q okay. So you give a dilution to kind of bring it
- 12 down.
- 13 A Correct.
- 14 Q And if you over dilute it you come up with zero.
- 15 A You could -- you could.
- 16 Q All right. So if there's some zeros in here, that's
- 17 because it's over diluted, correct?
- 18 A Could you ask that again?
- 19 Q If there some zeros in those charts it's because it's
- 20 over diluted.
- 21 A Oh, on the other -- other drugs?
- 22 Q All of the morphine with similar type prints.
- 23 A In that specifically morphine had a response.
- 24 Everything else was zero.
- 25 Q Now, you found no hydrocodone in this -- in this -- in

- 1 the blood.
- 2 A That is correct.
- 3 Q You found no amphetamine, correct?
- 4 A Correct. I don't think -- I think that screened
- 5 negative.
- 6 Q All right. And do you have a test that if you wanted
- 7 to you could -- you can test for -- I assume you tested for
- 8 Oxycontin.
- 9 A Oxycodone would have been in that same list.
- 10 Q In that same list.
- 11 A Uh-huh.
- 12 Q So to find out whether it's Oxycontin or hydrocodone
- 13 you'd have to do a further test.
- 14 A It would be covered in that same test.
- 15 Q It'd be covered in the same test.
- 16 A Uh-huh.
- 17 Q All right. You have no Oxycontin.
- 18 A That is correct.
- 19 Q No hydrocodone, correct?
- 20 A Correct.
- 21 Q And the -- you did found -- find Tylenol, correct?
- 22 A Correct.
- 23 Q And which would not be unusual for a baby taking baby
- 24 Tylenol.
- 25 A It wouldn't -- it wouldn't.

1 Q And the antihistamine was from what type of substance?

2 A Diphenhydramine is commonly found in Benadryl.

3 Q And what about the -- the substance you said was taken
4 for cough?

5 A Dextromethorphan. What about it?

6 Q I mean, it's -- it's something that's taken for cough,
7 a child or adult?

8 A I'm not sure how that's prescribed for children.

9 Q Okay. You don't know if it's prescribed for children
10 or not. You're not -- you're not in the pharmacy world.

11 A Correct.

12 Q All you can say is it's there.

13 A Is correct.

14 Q And in some numbers.

15 A Correct.

16 Q And then you get a chart that or a book that says
17 these numbers are bad.

18 A Based on different literature.

19 Q Right.

20 A And different case studies.

21 Q Okay. And basically a published book that says
22 they're bad.

23 A In some cases, yes.

24 Q Thank you.

25 MR. BARNETTE: Just one question on followup, Your

Quintus Leon Young, II
By Mr. Barnette

1 Honor.

2 REDIRECT EXAMINATION

3 BY MR. BARNETTE

4 Q Mr. Young, isn't your results reviewed, peer reviewed,
5 at SLED?

6 A They are.

7 Q And they're checked by them to make sure they're
8 correct.

9 A That is correct. Each person -- the person
10 responsible for each drug class or confirmation of each
11 drug class, they're responsible for putting together a
12 quality control pack which is reviewed prior to analysts
13 receiving data.

14 After that -- that data that's used to formulate the
15 reports that we send out, that too is reviewed before it's
16 actually locked and sent out to agencies or solicitors or
17 whoever, you know, that report's supposed to go out to.

18 Q Thank you, sir.

19 THE COURT: You may step down.

20 MR. BARNETTE: We'd ask for the witness to be excused,
21 Your Honor.

22 THE COURT: He may be.

23 (Whereupon, the witness was excused.)

24 MR. BARNETTE: May we approach for a second, Your
25 Honor?

1 (Bench conference held off the record in the presence
2 of the jury but out of the hearing of the jury.)

3 THE COURT: All right. Ladies and gentlemen, we're
4 going to recess for lunch now.

5 Let me caution you before you leave you're to have no
6 discussions about the case. You're not to conduct any
7 research or do your own investigation into any issue. Do
8 not permit yourselves to be exposed to any type of media
9 coverage -- television, radio or newspaper -- that relates
10 to the case.

11 Have a good lunch, and please report to your jury room
12 at 2:00 o'clock, at 2:00 o'clock this afternoon.

13 (The following takes place outside the presence of the
14 jury.)

15 THE COURT: Court is in recess until 2:00 o'clock.

16 (Whereupon, a recess was taken.)

17 (Redacted State's Exhibit 57 marked State's Exhibit No.
18 66 for Identification.)

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

20 MR. BARNETTE: The state's ready, Your Honor.

21 THE COURT: Bring them in.

22 (The following takes place in the presence of the
23 jury.)

24 THE COURT: Good afternoon. We're going to continue
25 with the state's presentation.

Dr. Susan Kovacs
Direct examination by Mr. Barnette

1 Mr. Barnette.

2 MR. BARNETTE: May it please the Court, Your Honor.
3 We would like to call Dr. Kovacs to the stand.

4 DR. SUZANNE KOVACS, having
5 been first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. BARNETTE

7 Q Doctor, if you would, give your full name, please.

8 A It's Dr. Susan Kovacs.

9 Q And where do you work at, ma'am?

10 A Piedmont Internal Medicine Associates in Spartanburg.

11 Q What is your position there, ma'am?

12 A Physician.

13 Q And how long have you been a doctor, ma'am?

14 A I've been at Piedmont Internal Medicine for 16 years.

15 Q If you would, tell the jury a little bit about your
16 background, education background.

17 A I graduated from New York Medical College in 1994 and
18 then from Duke University, 1998, internal medicine.

19 Q Okay. And you've been -- how many patients have you
20 treated over the years or --

21 A A lots.

22 Q I understand.

23 MR. BARNETTE: And, Your Honor, at this time I would
24 move her as an expert in medicine at this time.

25 MR. WISE: No objection.

1 THE COURT: She is so qualified.

2 Q Let me ask you. Do you know the defendant in this
3 case, ma'am?

4 A Yes.

5 Q Did you treat her?

6 A Yes.

7 Q And what did you treat her for?

8 A Treated her for any internal medicine problems such as
9 fibromyalgia, anxiety, sore throats, anything that she
10 would come in for.

11 Q When did she first come into y'all's practice?

12 A November of 2007.

13 Q And you treated her up through I guess 2010, is that
14 right, ma'am?

15 A Correct.

16 Q Okay. And did you ever know that she was pregnant?

17 A No.

18 Q Did you ever know that she was breastfeeding?

19 A No.

20 Q Let me take you back to I think it's April 30th of
21 2010. Did she have a doctor's visit with you then?

22 A Yes.

23 Q If you would, tell the jury about that doctor's visit
24 if you would.

25 A Doctor's visit in April. She had come in. We

Dr. Susan Kovacs
Direct examination by Mr. Barnette

1 adjusted her main medications because the patches I believe
2 were falling off or weren't working well. So we placed her
3 on a different type of medication for pain and referred to
4 the gynecologist to have a Mirena removed, which is a
5 contraceptive device.

6 Q So she didn't tell you at that time she was pregnant?

7 A No.

8 Q And you gave her MS Contin and mor -- along with
9 release morphine.

10 A Correct, instead of a durgies [sic] patch.

11 Q Would you give her that medication if you knew she was
12 pregnant?

13 A No.

14 Q Did you know that she was -- did you know she was
15 seeing Dr. Kooistra?

16 A Yes, yes.

17 Q Did you know about the medication Dr. Kooistra was
18 giving her?

19 A I knew about the seizure medications. When she first
20 came in she was on some pain medication, and then I was
21 taking over her fibromyalgia or chronic pain. This is what
22 I was -- what I believed.

23 Q Right. So you were treating her for her pain.

24 A Correct.

25 Q And you -- at that time Kooistra -- she didn't tell

Dr. Susan Kovacs
Direct examination by Mr. Barnette

1 you about pain medication Kooistra was giving her, did she?

2 A No. By this point in time she had been referred to
3 the pain specialist who was doing injections, and I
4 believed I was doing the pain control.

5 Q So you didn't know about the other prescriptions that
6 Dr. Kooistra was giving her also at the same time.

7 A Not at that point in time, no.

8 Q Let me show you. These have already been entered into
9 evidence by stipulation. Let me show you State's Exhibits
10 37, 38, 39, 40, 41, 50, 52, 53 and 55, ma'am. If you
11 would, take a look at those and see if those are
12 prescriptions that was ordered by you or somebody in your
13 office.

14 A These are from me or another physician in the office.

15 MR. BARNETTE: Your Honor, these have already been
16 entered into evidence. I'd like to publish them to the
17 jury at this time.

18 THE COURT: Are they numbered nine?

19 MR. BARNETTE: They're numbered -- do you want me to
20 read those numbers again, Your Honor?

21 THE COURT: Are there nine separate exhibits?

22 MR. BARNETTE: Yes, sir. I think they are.

23 BY MR. BARNETTE

24 Q Let me go ahead and show you No. 37, State's
25 Exhibit 37. It's entered into evidence, ma'am. Now, I

1 notice it says Stephanie Neet, but this is actually, was I
2 guess, a prior name for her. But it's Stephanie Greene, is
3 that right?

4 A Correct.

5 Q And what was this substance that she received on
6 March the 11th of 2010?

7 A Duragesic patch for pain.

8 Q And is that a morphine patch?

9 A It's a fentanyl patch.

10 Q A fentanyl patch.

11 Okay. And then let me show you State's Exhibit 38.

12 And the date of that was March 11th, is that right?

13 A Correct.

14 Q And this is something they put to your skin for pain.

15 A Yeah, yes.

16 Q Okay. On I believe this is April the 7th did she
17 receive another prescription?

18 A Yes.

19 Q Okay. And what was that prescription, ma'am?

20 A Same, Duragesic patch.

21 Q Let me show you State's Exhibit 39. This prescription
22 was done on April the 30th of 2010. What was this for,
23 ma'am?

24 A That's for pain. It was instead of the Duragesic
25 patch.

Dr. Susan Kovacs
Direct examination by Mr. Barnette

- 1 Q And what kind of medication was it?
- 2 A It's a morphine type medicine, long acting.
- 3 Q Long acting. So MS Contin is a long-acting morphine.
- 4 A Correct.
- 5 Q Now, in looking -- and you can review your notes if
- 6 you'd like to -- in the visit did she request to be
- 7 switched to MS Contin?
- 8 A Yes.
- 9 Q And why did she request to be switched to that?
- 10 A I believe the patches were not staying on.
- 11 Q And so she requested that. That's something that you
- 12 didn't do. You did it based off her request.
- 13 A Correct.
- 14 Q Okay. And, again, this is the same visit. She didn't
- 15 tell you anything about the morphine or anything, I mean,
- 16 about being pregnant or anything at this time.
- 17 A Right.
- 18 Q And, as a matter of fact, if I remember your records,
- 19 you always weigh the patient also.
- 20 A Correct.
- 21 Q What did she weigh at that time?
- 22 A 133.9.
- 23 Q And how much did she weigh in her previous visit?
- 24 A 131.
- 25 Q So there was no -- you weigh them every time, but

1 there was no noticeable difference, and obviously it was a
2 gain, but not a huge gain by any means.

3 A No.

4 Q Okay. And let me show you State's Exhibit 40. On May
5 27th of 2010 was she given another prescription?

6 A Yes.

7 Q And what does P.R.N. say?

8 A As needed.

9 Q So she determined when she would take the medication.
10 It wasn't three times a day or anything like that.

11 A You can take it every eight hours or just as needed.

12 Q So she dictated how she would take it.

13 State's Exhibit 41. Is this also another MS Contin?

14 A Same, same medicine.

15 Q And that was on June 28th of 2010?

16 A Correct.

17 Q Let me show you what's been marked as State's
18 Exhibit 52. Was this also another prescription for MS
19 Contin?

20 A Correct.

21 Q And was this October 15th of 2010?

22 A Correct.

23 Q Then on October 29th -- this is State's Exhibit 53 --
24 was she given another prescription for a different type
25 medication?

1 A That was the medication that she had been on, a
2 refill.

3 Q Was that Klonopin?

4 A Correct.

5 Q And she was given a quantity of 60?

6 A Correct.

7 Q Milligrams. And is that twice a day?

8 A Correct.

9 Q And she was given five refills on that.

10 A Correct.

11 Q And then October 11th of 2010 was she given another MS
12 Contin refill?

13 A Correct.

14 Q And that was also P.R.N.

15 A Yes.

16 Q Let me ask you, Doctor. I'm going to start, and
17 these've already been entered into evidence, so I'll just
18 place them up there.

19 You didn't know about the other prescriptions that Dr.
20 Kooistra was giving her.

21 A No. At that point in time she was supposed to be off
22 them.

23 Q And obviously Dr. Bridges has also -- her O.B.G.Y.N.
24 -- had gave her prescriptions. You didn't know about those
25 either.

Dr. Susan Kovacs
Direct examination by Mr. Barnette

- 1 A No.
- 2 Q Okay. So she didn't tell you about any of this.
- 3 A No.
- 4 Q Before I forget I actually -- show you these. State's
- 5 Exhibit 46 is already entered into evidence. This is the
- 6 one I actually missed. She was giving a prescription of MS
- 7 Contin on July 27th of 2010, is that right?
- 8 A Yes.
- 9 Q Showing you State's Exhibit 43. You didn't know about
- 10 this prescription of Dr. Kooistra for Klonopin at that
- 11 time, did you?
- 12 A No, because it wasn't overlapping prescriptions.
- 13 Q And I believe that was filled on July 3rd of 2010.
- 14 Let me show you State's Exhibit 47. This is for
- 15 Vicofin [sic], August 5th of 2010, and this is also from Dr.
- 16 Kooistra. Did you know about that prescription?
- 17 A No.
- 18 Q And is Visoprofen [sic] -- profen -- something that
- 19 you shouldn't take in your later pregnancy?
- 20 A I mean, I wouldn't prescribe any pain medicine in
- 21 pregnancy.
- 22 Q You wouldn't have gave any pain medication.
- 23 A No. The gynecologist or obstetrician would have to do
- 24 it.
- 25 Q Okay. And August -- you didn't know about this.

1 August the 5th of 2010, Dr. Kooistra had also gave her
2 Klonopin. You didn't know about that prescription, did
3 you?

4 A No.

5 Q Showing you State's Exhibit 44. You didn't know about
6 this Vicofin [sic] prescription of Dr. Kooistra on
7 July 6th of 2010, did you?

8 A No. She had been on pain medicine with Dr. Kooistra
9 in the beginning. And, like I said, I was taking over the
10 fibromyalgia for the chronic pain.

11 Q Okay. And, like you said, you would not have
12 prescribed it if you'd known, if you knew she was even
13 pregnant.

14 A No.

15 Q And you definitely didn't know she was breastfeeding
16 then.

17 A No.

18 Q Okay. State's Exhibit No. 54. You didn't know this
19 prescription that was given to her for -- from Dr. Kooistra
20 from Baclofen, Vicoprofen, Neuroton, Lonopin on
21 November 4th of 2010, did you?

22 A No.

23 Q As a matter of fact, if you take State's Exhibit 54 --
24 look at State's Exhibit 54. This, these four
25 prescriptions, is filled or given to her on November 4th of

1 2010, is that correct?

2 A Correct.

3 Q You'd gave her klonopin on October 29th of 2010 in 60
4 pills, didn't you?

5 A Correct.

6 Q So you didn't know -- I mean, obviously you wouldn't
7 have gave her the same prescription knowing Dr. Kooistra
8 was filling it five days later.

9 A No.

10 Q Showing you State's Exhibit 45. We'll do it this way.
11 Going back, this is State's Exhibit 42. This is
12 actually issued by Dr. Bridges. You didn't know about the
13 Darvocet prescription she gave on June 30th of 2010, did
14 you?

15 A No.

16 Q State's Exhibit 45, July 23rd of 2010. You didn't
17 know about a Darvocet prescription that had been given by
18 Dr. Bridges.

19 A No.

20 Q As a matter of fact, you didn't know she was pregnant.
21 So there was no reason for you to talk to her O.B.G.Y.N. or
22 anything, right?

23 A No. We had have referred her to have a Mirena changed
24 out.

25 Q So she wanted her Mirena changed when she talked to

1 you on April 30th of 2010.

2 A Correct.

3 Q And Mirena is an I.U.D. or a contraceptive device.

4 A Right.

5 Q Showing you State's Exhibit 49 that's been entered
6 into evidence. You didn't know about a Darvocet
7 prescription that was given on August 23rd of 2010 by Dr.
8 Bridges, did you?

9 A No.

10 Q And then there's one other prescription I missed. I
11 apologize. State's Exhibit 50. This is a MS Contin
12 prescription that was given by you on August 26th of 2010.

13 A Correct.

14 Q And, as a matter of fact, when did you find out that
15 she had had a baby?

16 A When the Chico came to the office to ask us about it.

17 Q Okay. You're talking about agent with the --

18 A Yes.

19 Q Right here. And that was in 2011.

20 A Yes.

21 Q It was well after.

22 A Well after.

23 Q And you found out the baby died I believe
24 November 13th of 2000 [sic], but you found out after the
25 fact.

Dr. Susan Kovacs
Direct examination by Mr. Barnette

- 1 A Right. Whenever he came.
- 2 Q Right. So she never told you.
- 3 A No.
- 4 Q And you had visits with her after, I guess, after the
- 5 death.
- 6 A Correct.
- 7 Q And she never said anything to you.
- 8 A No.
- 9 Q Okay. State's Exhibit 51. This prescription on
- 10 September 29th of 2010, that was given by Carolina
- 11 O.B.G.Y.N. for Motrin and Percocet. You didn't know
- 12 anything about that prescription either, did you, ma'am?
- 13 A No.
- 14 Q Doctor, do you expect a patient to be honest with you
- 15 when you ask them what medications they're on?
- 16 A Yes.
- 17 Q And she never told you about the morphine, did she, I
- 18 mean, about the other drugs that she was taking?
- 19 A No.
- 20 Q And she didn't even tell you she'd been pregnant.
- 21 A Correct.
- 22 Q And, like I said, you didn't find out until Agent --
- 23 we call him Chico, everybody that knows him -- came and saw
- 24 y'all and started an investigation of this case.
- 25 A Right.

1 MR. BARNETTE: Thank you, Your Honor. One moment,
2 Your Honor, please.

3 (Pause.)

4 Q And, Doctor, I think you've answered this question,
5 but I just want to make sure the jury is clear about this.

6 If you had knew she was pregnant would you have
7 prescribed her MS Contin and morphine?

8 A No. And we would referred her for the pregnancy. I
9 said the Mirena. And we would have talked to the
10 obstetrician at that point in time to see, you know, what
11 medications could be used.

12 Q So you would have talked to the O.B.G.Y.N. about this.

13 A Oh, yeah. I mean, they're right around the corner
14 from us.

15 Q The only thing she talked to you about was a
16 conceptive device on April 30th of 2010.

17 A Correct.

18 Q She never told you she was pregnant.

19 A No.

20 Q Never told you she was breastfeeding.

21 A No.

22 Q Thank you, ma'am. Please answer any questions the
23 defense may have.

24

25

1 CROSS-EXAMINATION

2 BY MR. WISE

3 Q Doctor Kovacs --

4 A Uh-huh.

5 Q -- Ms. Greene had some complex pain problems.

6 A Correct.

7 Q A history of model -- a motor -- motor vehicle
8 accident in 1998.

9 A Correct.

10 Q And that was documented, I believe, in Dr. Kooistra's
11 file.

12 A It's in mine too.

13 Q And yours too. Did you review Dr. Kooistra's file,
14 her file, on this --

15 A No. I just --

16 Q -- when you first saw her?

17 A When we first saw her she would have sent us some
18 records.

19 Q She would -- Dr. Kooistra would have sent some
20 records?

21 A I would think she may have, or Stephanie may have told
22 me that. I know it's just in my records.

23 Q All right. But she had -- and she was referred to you
24 for problems with pain.

25 A Correct.

1 Q Correct. And I think it's a little more. It was some
2 pelvic problems.

3 A For some fractures.

4 Q From prior fractures, correct, which is not surprising
5 for someone who had been in a serious automobile wreck.

6 A Right.

7 Q I think she had a fractured skull in that wreck.

8 A Correct.

9 Q So the pains that -- that she had were not -- were
10 very consistent with her prior medical history.

11 A Correct.

12 Q And when you're dealing with -- with pain how do you
13 start deciding what to prescribe -- prescribe to a patient?

14 A If they're on short-acting pain medication and it's
15 not holding them, usually it works well to start with
16 longer-acting pain medicine.

17 Q And when she came to see you she was taking
18 Vicoprofen.

19 A Right.

20 Q And you knew that.

21 A Right.

22 Q Okay. And that -- she came to see you I believe in
23 November of 2007.

24 A Correct.

25 Q All right. So I believe you -- you told the

1 investigators that -- that the Vicoprofen dropped off her
2 list in April of 2009.

3 A Yeah. At one point she was not on it any more.

4 Q All right. And how did you find out she was not on
5 it?

6 A By -- well, we would have talked about going on a
7 long-acting medication so that she wouldn't have to take
8 all of the short-acting medicine.

9 Q Okay. Well, the patch that you put her on is a
10 long-acting medication.

11 A Correct.

12 Q So, and Vicoprofen is basically what they call for
13 breakthrough pain, isn't it?

14 A Yes. It's a short-acting.

15 Q Right. And what is breakthrough -- why do you take
16 something for breakthrough pain?

17 A Well, you take it for breakthrough pain or just to
18 control your pain.

19 Q Right. But, well, what is breakthrough pain?

20 A If you continue having pain.

21 Q Even though you're taking a long-term pill, a
22 long-term --

23 A Yeah. I mean, you can use it with a long-term
24 medicine or you can use it just by itself.

25 Q All right. So it's not unusual to use them together.

1 A No. You can use them together.

2 Q Okay. Now, you specifically mentioned that she was
3 going to continue to taking the -- continue to take the
4 Vicoprofen for breakthrough pain in your notes.

5 A Yeah, until we got her on a dose that worked for
6 long-acting.

7 Q And then -- and where in your notes did she get on a
8 dose that worked for long-acting and wouldn't need the
9 Vica -- Vicoprofen?

10 A October of 2009 she wasn't on it any more. That's
11 when she was just on a patch.

12 Q October of 2009 she was not on Vicoprofen any more?

13 A No. We don't have it on our list.

14 Q All right. What about -- when was the last time you
15 have it on her list?

16 A I only have here I talked to her in 2009. I'd have to
17 have the chart.

18 Q Excuse me?

19 A I only have October of 2009. I didn't bring the whole
20 chart.

21 Q Well, let me help you out a little bit here. Have you
22 got one for April of 2009?

23 A No. April of 2010.

24 MR. BARNETTE: Your Honor, may I approach the witness?
25 Your Honor, I believe I have her records here if that would

1 help.

2 THE COURT: Show those to Mr. Wise.

3 MR. WISE: All right. Okay. I mean, you're going to
4 let her use them?

5 MR. BARNETTE: Oh, yeah. I'm sorry.

6 THE COURT: You can give them to her. Either one.

7 BY MR. WISE

8 Q Have you found one for April, I believe?

9 A There's a January.

10 Q All right. I believe you saw her some in April and
11 May of 2009.

12 A There's a May.

13 Q May. Right. Is Vicoprofen listed on there?

14 A We don't have the full medication list on May.

15 Q What do you have listed for medication?

16 A See medication from January.

17 Q All right. Didn't you tell Chico that that -- that on
18 May 20th she was seen in your office?

19 A Correct.

20 Q All right. And what does it say about -- where is the
21 notation in your notes where she told you I am no longer
22 taking the Vicoprofen?

23 A But we had increased her pain -- her long-acting pain
24 medicine, Duragesic patch.

25 Q Where -- and when did you do that?

- 1 A Actually, we had changed it to the -- it would have
2 been May.
- 3 Q of 2009?
- 4 A 2009.
- 5 Q All right.
- 6 A May of 2009 -- from the seventy-five to the hundred.
- 7 Q All right. So you went from seventy-five to what?
- 8 A A hundred.
- 9 Q A hundred on the patch.
- 10 A Correct.
- 11 Q And that's when she told you or you told her not to
12 take the -- take the --
- 13 A Yeah. At that point I'm assuming that I'm the one
14 giving her pain medicine.
- 15 Q All right. Did you notate in there that you
16 instructed her not to take the Vicoprofen?
- 17 A No. We just took it off of her medication list.
- 18 Q You took it off?
- 19 A Well, yeah, by increasing one and stopping the other
20 one.
- 21 Q But you weren't prescribing Vicoprofen.
- 22 A No.
- 23 Q Doctor --
- 24 A But I'm taking over her care.
- 25 Q Dr. Kooistra was, right?

- 1 A Right.
- 2 Q Where did you tell her in that notation that she's no
3 longer to take Vicoprofen?
- 4 A Well, I would tell her that I was the one taking her
5 pain medication over.
- 6 Q Right.
- 7 A You can't have two doctors doing it.
- 8 Q Okay. So at that point you assume there was no
9 Vicoprofen.
- 10 A Correct.
- 11 Q Did you fill out a form for her in September of 2009
12 concerning a request for nonformula drug? Do you have that
13 in your file?
- 14 A No. I just have what you gave me.
- 15 Q Do you recognize this one?
- 16 A I didn't fill it out, but somebody filled it out.
- 17 Q That's your signature at the bottom?
- 18 A Yeah.
- 19 Q All right. But you signed off on it as having read
20 it.
- 21 A Correct.
- 22 Q All right. And that's September 8th of 2009.
- 23 A Correct.
- 24 Q And on there it refers to Vicoprofen as she is taking
25 Vicoprofen since 2007 through current.

1 A Right. It's medications that she had been on so the
2 Duragesic patch could be approved.

3 Q Well, through current means current, doesn't it?

4 A It means that she had been on it and -- and medicines
5 didn't work well enough in the Duragesic patch. That's why
6 she needed a Duragesic patch.

7 Q But you didn't tell the people in this application
8 that she stopped taking Vicoprofen back in May, did you?

9 A No.

10 Q Because she wasn't taking -- she was still taking it,
11 wasn't she?

12 A Not that I now of.

13 Q And-but what did you mean by 2007 to current?

14 A Well, it just meant she had been on it. They probably
15 looked at an old note.

16 MR. WISE: I'd like to introduce this, Your Honor.

17 MR. BARNETTE: No objection.

18 (Dr. Kovacs' Application for patch marked Defendant's
19 Exhibit No. 1.)

20 Q Show you Defendant's 1 up there. All right. And
21 you're saying that when you filled out or somebody filled
22 out and you signed it, Vicoprofen, 7.5 mg, 2007 through
23 current, you didn't mean 2007 through current.

24 A No. It's just medications for pain that she had been
25 on to the Duragesic patch approved.

1 Q what did you mean by -- well, klonopin. Was she still
2 taking klonopin?

3 A Yes.

4 Q Was she still taking Cymbalta?

5 A I would assume so.

6 Q Was she still taking Vicoprofen?

7 A Not that I would have known in my notes.

8 Q How do you differentiate between 2007 and current for
9 two of those, meaning something different from 2007,
10 current, for the other?

11 A Because they probably went back to the last note and
12 just copied down any medication that she had been on.

13 Q All right. You filled out another form for her,
14 didn't you, in November of 2009? Do you recognize this
15 one?

16 A Yes. The same thing. I would have copied it to try
17 to get the Avinza approved.

18 Q Okay.

19 MR. WISE: Like to move to introduce this one.

20 THE COURT: Excuse me.

21 Dr. Kovacs, you might need to adjust that microphone.
22 I think you're blowing into it, and it is causing that
23 thumping sound.

24 THE WITNESS: Okay.

25 (Dr. Kovacs' application marked Defendant's Exhibit No.

1 2.)

2 Q I want to show you this one. Do you recognize it, the
3 one just looked at? All right. That was filed out for a
4 request to -- for step therapy exception. What is that?

5 A That's to get the Avinza approved for pain.

6 Q Avinza is not a patch.

7 A No. It's a pill.

8 Q It's a pill. And what is Avinza composed of?

9 A It would replace the Duragesic patch. It's a
10 long-acting pain pill.

11 Q It's similar to -- not necessarily similar in the
12 chemical sense, but use-wise similar to morphine.

13 A Correct.

14 Q Okay. And in that one at the bottom you had to list
15 the drugs she was taking, correct?

16 A Correct. They would have copied whatever was on
17 there.

18 Q You list Kolopin [sic], 2007 to current, correct?

19 A Correct.

20 Q You list Vicoprofen 2007 to current, correct?

21 A Correct. They --

22 Q Concurrent would mean November the 8th of 2009.

23 A They probably copied the last sheet.

24 Q Well, then you've got Cymbalta 2007 to 2009. That
25 wasn't on the last sheet that way, was it?

1 A Well, we may have changed it to something else. I'd
2 have to look.

3 Q But the last one means something different because it
4 tells you when it ends, correct?

5 A Correct.

6 Q And in filling out these forms it's important for the
7 agency to know what drugs they're on and when they stopped.

8 A No. It's more to just give reasons why they need to
9 have the medicine approved.

10 Q So you just made a mistake when you said 2007 to
11 current?

12 A I believe so. It's not in my note at that point in
13 time that she's on it.

14 Q Well, where is it in your note that she was instructed
15 to stop taking Vicoprofen, you instructed her to, or she
16 said I'm not going to take it?

17 A I don't know that we have it in a note.

18 Q In fact, you don't have it, do you?

19 A That we just have it October 30th of 2009. It's not
20 on her list anyway.

21 Q Okay. Dr. Kooistra -- not Kooistra -- Dr. --
22 referring doctor?

23 A Kooistra.

24 Q Kooistra. Right. She keep up you to date on what she
25 was doing for Stephanie?

1 A Sometimes we would receive notes; sometimes we don't.

2 Q Have you got any copies of any reports from Dr.

3 Kooistra in there?

4 A I don't believe so in here.

5 Q All right. In your -- in your file is your record for
6 Stephanie Greene.

7 A Right.

8 Q And -- and there are many things in there. How were
9 they generated, do you know?

10 A Dictated.

11 Q All right. And-but there's some other records in
12 there. Do people send you records on occasion, other
13 doctors?

14 A Sometimes.

15 Q All right. And you put it in the file.

16 A Right.

17 Q Obviously. Let me borrow your file one second.

18 (Pause.)

19 Q Is this in day order?

20 A I don't know. It's not my file.

21 Q Excuse me?

22 A It's his file. It's not records that I brought. They
23 were from the solicitor's office.

24 Q This isn't -- you didn't bring your file.

25 A No. Nobody told me to bring my file.

1 Q All right. So for a year and a half roughly from the
2 time you first saw her in November of 2007 up until May of
3 2009 all of your records reflect that she was taking --

4 A Vicoprofen.

5 Q Yeah. Taking the hydrocodone, correct?

6 A Correct.

7 Q All right. And you have no notes in your file that
8 say that she was not taking -- that you advised her to stop
9 taking it or that she told you she was not taking it.

10 A No. It's not written out, but that's what we talked
11 about.

12 Q Isn't that --

13 A I'm taking over her pain medicine.

14 Q Isn't that old saying in the medical profession that
15 if it's not written down it's not documented?

16 A Well, it would still be on the medicine list if I
17 thought she was still on it.

18 Q Could you have accidentally left it off the medicine
19 list?

20 A I guess, but we would have put it back on.

21 Q All right. Now, give me if you would -- let me show
22 you.

23 I sent a request to your office requesting her file,
24 correct? I'm sorry these are not in order, but I'm going to
25 just deal with two years.

1 All right. Do you know how many times you saw her in
2 2009 and 2010?

3 A Probably four to six.

4 Q Four to six over a 2-year period of time.

5 A I believe she usually came every six months.

6 Q Every six months. All right. So you didn't have a
7 lot of conversations with her for her to tell you anything.

8 A Well, I had enough conversations for her to ask me
9 refer her to gynecologist for a -- have a Mirena removed.

10 Q Now, MS Contin and the patch are both Schedule II
11 drugs.

12 A Correct.

13 Q Right? And those have different prescribing standards
14 from Schedule III drugs.

15 A Yeah. You can't get refills.

16 Q Well, you can't get refills. You can't call them in
17 either, can you?

18 A Right.

19 Q In fact, would you not agree that the department of
20 health and environmental control requires that the
21 physician actually write the prescription in the patient's
22 presence?

23 A No.

24 Q You don't. So you think you can schedule -- you can
25 prescribe a Schedule II drug and never have face-to-face

1 contact with that patient.

2 MR. BARNETTE: Your Honor, I'm going to object to this
3 line of questioning at this point.

4 THE COURT: Well, let me see y'all just a minute.

5 (Bench conference held off the record in the presence
6 of the jury but out of the hearing of the jury.)

7 THE COURT: All right. I've got one matter I'll need
8 to address outside of the jury's presence.

9 So I'll ask you to please go to your jury room. Don't
10 talk about the case. I'll bring you back in just a few
11 minutes.

12 (The following takes place outside the presence of the
13 jury.)

14 THE COURT: All right. Solicitor, your objection is
15 what?

16 MR. BARNETTE: My objection, Your Honor, I don't know
17 if Mr. Wise is correctly quoting the law. I don't know of
18 any law -- I'd like to see what law he's got.

19 THE COURT: All right. Show him.

20 MR. WISE: It's regulations of the department of
21 health and environmental --

22 THE COURT: Show that.

23 MR. BARNETTE: That's different. I mean, regulations,
24 now, we're getting into something totally different. He
25 said the law.

1 THE COURT: Well, the regulations as promulgated are
2 the law.

3 MR. BARNETTE: I understand, but I'd like to see what
4 he's --

5 MR. WISE: It's regulation 61-4 -- dash -- well, .505.

6 Let me just highlight it for you. It's Regulation
7 61-4.501.1. And it says, "Such practitioner shall be in
8 personal attendance of a patient at the time of the
9 issuance of the prescription."

10 MR. BARNETTE: Your Honor, my position would be that
11 they have seen him. It don't mean -- it's crazy to have
12 every prescription filled with the person there. I mean,
13 that's not the way --

14 THE COURT: Well --

15 MR. BARNETTE: I disagree with Mr. Wise's reading in
16 that because I think it's -- it's basically you have seen
17 the patient. It's not that every individual
18 prescription --

19 THE COURT: Let me read it.

20 MR. BARNETTE: Yes, sir.

21 (Pause.)

22 THE COURT: Yes, I agree.

23 Mr. Wise, this means that there has to be a -- there
24 has to be a current patient-physician relationship where
25 the physician has knowledge of the patient's condition in

1 order to prescribe a Schedule II drug.

2 MR. WISE: I agree with that, but then it goes on to
3 say "and" in the highlighted portion. And it's just for
4 Schedule II drugs. It's not any other drugs.

5 THE COURT: I understand.

6 (Pause.)

7 THE COURT: All right. Mr. Wise, your point is what,
8 now? What?

9 MR. WISE: You can only schedule -- you can only issue
10 a Schedule II prescription in the presence of the patient.

11 THE COURT: So in this situation you're saying that
12 this prescription was not given to the patient?

13 MR. WISE: It was not issued in the presence of the
14 patient, no, sir.

15 THE COURT: Who got the prescription?

16 MR. WISE: Well, one was mailed and one was picked up
17 at the front desk. I know that. And I think she testified
18 some were filled out by other doctors in the office when
19 she wasn't there.

20 THE COURT: I agree. That's what it says.

21 MR. BARNETTE: Wait a minute. Judge, can I be heard
22 on that?

23 THE COURT: Sure, if you need to be. Do you want to
24 read it again?

25 MR. BARNETTE: Yes, sir. I mean -- I mean,

1 it's personally. It's not -- I think it's being
2 misconstrued. I mean, that's -- the problem is --

3 THE COURT: well, it may be, but what it says is you
4 have to be in personal attendance of the patient.

5 And the purpose, the reason, for that is is so that --
6 in other words, her relative couldn't pick up that
7 prescription. That's the purpose of it. It's a different
8 type of drug. It's a Schedule II. It's strictly -- it's
9 more strictly regulated than are others. And according to
10 that regulation you have -- it says, "And be in personal
11 attendance of the patient."

12 I was reading it above to mean you had to have a
13 relationship, but that's in addition to. And attendance
14 means in the presence of, I think.

15 MR. BARNETTE: well, Judge, here's the problem.

16 If we start looking at this regulation of this which
17 I -- obviously, you've got cancer patients, you've got
18 people that can't see the doctor personally. So you're
19 going to require every person to go see --

20 THE COURT: I'm not requiring anything. I'm talking
21 about what the regulation says.

22 MR. BARNETTE: I understand, but, I mean --

23 MR. WISE: There are some procedures in those
24 regulations for emergency prescriptions that have to be
25 followed up very strictly.

1 THE COURT: And I'm sure there are likely other
2 regulations that conform to a hospital setting too, but
3 that's not what that regulation addresses.

4 Do you want to take a few minutes and do some further
5 research on it?

6 MR. BARNETTE: Yes, sir. Well, I think you -- the
7 relationship has got to be required. But then it talks
8 about -- I think you've got to read the whole reg. I think
9 just what Mr. Wise has pointed to is --

10 THE COURT: Well, I read that -- that whole
11 regulation. What part of it changes?

12 MR. BARNETTE: I'd like to look at all of it to be
13 honest with you.

14 THE COURT: Okay. Well, we'll take -- we'll take a
15 few minutes.

16 All right. Dr. Kovacs, I'm going to ask you to step
17 down from the stand, but you can't discuss your testimony
18 during this break because you're still on the witness
19 stand.

20 THE WITNESS: Okay.

21 THE COURT: All right. We'll be at ease for 15
22 minutes.

23 (Whereupon, a recess was taken.)

24 THE COURT: Let me see y'all just a minute.

25 (Bench conference held off the record.)

1 THE COURT: All right. Any matters to address before
2 the jury comes in?

3 MR. BARNETTE: Yes, sir. I know we have a conference
4 with Your Honor in chambers.

5 Your Honor, I'm going to make a motion to strike
6 because if you look at other regs concerning this I think
7 that basically the way the defense is reading it is not the
8 way it should be done.

9 They talk about D.E.A. regulations in the regs. They
10 talk about electronic prescriptions, listing D.E.A. This
11 is 103(b), I guess formerly R61-4504.

12 It says electronic prescriptions. List D.E.A.
13 regulations provide practitioner with the option of
14 transferring electronic prescriptions for controlled
15 substance, and lists paper prescriptions.

16 And they do -- I mean, this prescription was filled
17 out by this doctor. She prescribed it or had ordered it.
18 She had seen the patient from there.

19 So I think it's totally different from what the intent
20 of the reg is from the way the defense is going from there.

21 THE COURT: All right. Well, what is it that you're
22 wanting to have stricken?

23 MR. BARNETTE: Stricken the question where he says is
24 it in the law, say this.

25 THE COURT: Oh.

1 MR. BARNETTE: He asked that question.

2 THE COURT: All right.

3 MR. WISE: My thought, Your Honor, is I think it's
4 pretty black and white.

5 If he contends this isn't the way the law should be
6 interpreted, then he can bring in somebody to say it's not
7 the way to interpret it. I'm just dealing with the law as
8 written.

9 THE COURT: Well, I think he's willing to do that.

10 I'm going to deny the motion to strike it, but we're
11 going to refrain from that line of questioning, although
12 you can question the witness about what you believe to be a
13 nonconformity. But you can't address the regulation. I'll
14 address that later.

15 MR. WISE: That's fine.

16 THE COURT: Okay. All right. Bring the jury in,
17 please.

18 Dr. Kovacs, if you don't mind, please, come back
19 around and resume your seat.

20 (The following takes place in the presence of the
21 jury.)

22 THE COURT: I understand that some of the jurors have
23 requested to take notes. And sometimes that's allowed;
24 sometimes it's not. There are reasons for permitting it;
25 there are reasons for not allowing it. But in this

1 particular case I have determined that it should be
2 permitted.

3 But please understand that just because somebody's
4 taking notes doesn't mean everybody ought to take notes.
5 But, at the same time, you can't rely upon a note-taker's
6 notes as your own memory of what a witness has testified to
7 or what a fact that has been established is. You have to
8 base that upon your own memory.

9 Now, obviously when y'all go back to deliberate at the
10 trial's conclusion you'll be engaged in deliberations. And
11 at that time you'll be sharing your ideas and opinions
12 about things. But I'm just saying that even at that time
13 you can't just rely upon a juror's note-taking as your
14 memory of a fact. If you agree with it, that's fine. But
15 you can't just rely upon it.

16 And if you need to have testimony replayed when you go
17 back to deliberate, we can accommodate that request should
18 it be necessary.

19 So, in any event, the point of all of this is just
20 that you can take notes if you want to, but they're your
21 notes, and they're not to be relied upon by anybody else.

22 Okay. All right. Mr. Wise.

23 BY MR. WISE

24 Q Dr. Kovacs, I believe you stated earlier that you had
25 seen Ms. Greene four times in 2009 -- excuse me -- 2009 and

1 2010 if you can check the records there besides you if you
2 want to verify that.

3 THE COURT: while she's looking at those records let
4 me also tell the jury when you -- for those of you who have
5 a pad and who are taking notes, write your name on the top
6 of it or put your juror number if you want to. And at the
7 end of the day those pads will be put in an envelope.
8 They'll be sealed. Nobody will be looking at them. And
9 they'll given back to you in the morning.

10 BY MR. WISE

11 Q Is that correct?

12 A Correct.

13 Q So you issued during this period of time some 23
14 Schedule II narcotics.

15 A On two years, yeah, about.

16 Q Through November of 2010.

17 A Every month they get a refill.

18 Q Right. So that would be 23 of them through the end of
19 November of 2010.

20 A Correct.

21 Q And you saw her four times during that, those numbers
22 of times.

23 A If this is all of them, yes.

24 Q well, I want you to go check your records. And if you
25 find any more appointments other than those, please come

1 back and let us know.

2 A okay.

3 Q okay. So you did not see her every time you issued a
4 prescription.

5 A No.

6 Q Correct? And, in fact, you mailed one to her, didn't
7 you? I hand you that and ask.

8 A Correct.

9 Q Correct?

10 MR. WISE: I'd like to introduce this as
11 Defendant's --

12 (Dr. Kovacs' script mailed August 27, 2010 marked
13 Defendant's Exhibit No. 3.)

14 Q Now, this prescription for MS Contin was mailed on
15 August 27th of 2010.

16 A Correct.

17 Q Is that a normal means for you to deliver
18 prescriptions to patients?

19 A Typically, they come and pick them up.

20 Q And when they don't you mail them.

21 A I don't know what the circumstance was with it.

22 Q And then you on occasion will leave it up front to be
23 picked up, is that correct?

24 A It can be up front in an envelope with their name on
25 it.

1 Q Correct.

2 A And they'll come and pick it up.

3 Q Is that correct?

4 A Correct.

5 MR. WISE: I'd like to introduce this one.

6 (Dr. Kovacs' script note to pick up marked Defendant's
7 Exhibit No. 4.)

8 Q And this was a notation that it'll be picked up
9 available June 28th. And what year is that? Is that '10?

10 A I can't see it.

11 Q I can't read it. I can't read it up there either.

12 THE COURT: why don't you show that document to her
13 and let her look at it, and then you can put it back on
14 that.

15 Q See if you can read it better than I can, because I
16 certainly can't read it.

17 MR. BARNETTE: Has it been admitted into evidence yet,
18 Your Honor?

19 MR. WISE: Yes.

20 THE COURT: It has.

21 BY MR. WISE:

22 A Yeah. This isn't actually from me.

23 Q Well, what -- what is that a note of?

24 A It's a note that somebody called in that they wanted
25 MS Contin when it was due, because this isn't a

1 prescription.

2 Q Correct. That's from your office though.

3 A Right.

4 Q And it's the prescription will be picked up.

5 A Right. It's a note taken from somebody when they
6 called in.

7 Q Correct. That the prescription will be picked up.

8 A Right. They have to come pick up the prescription.

9 Q And you leave them out front for somebody to pick up.

10 A No. They're in an envelope, and they have to show
11 their I.D. to pick them up.

12 Q Right. And husbands picked up wives' prescriptions
13 before?

14 A If their name's on their form.

15 Q If their name's on there.

16 A Yeah, on the HIPA form.

17 Q So it's not really necessary that Stephanie Greene
18 show up to pick up the prescription as long as she
19 authorizes some third person to do it.

20 A She would have to tell us who was going to pick it up.

21 Q Right. All right. Now, have you got the report there
22 for April 10th of 2010?

23 A Yes.

24 Q All right. Did you make a referral for her in that,
25 on that day?

Dr. Susan Kovacs
Cross-examination by Mr. Wise

- 1 A Yes, to the gynecologist.
- 2 Q All right. O.B.G.Y.N.
- 3 A To the gynecologist.
- 4 Q Okay. And do you know who you referred her to?
- 5 A We referred to Carolina O.B.G.Y.N.
- 6 Q Carolina O.B.G.Y.N., correct?
- 7 A Correct.
- 8 Q And did you follow up with Carolina O.B.G.Y.N. to get
- 9 a report from them?
- 10 A No, because I wouldn't have anything to do with having
- 11 a Mirena replaced.
- 12 Q All right. But you didn't make any effort to find out
- 13 in your report from them.
- 14 A Not for a contraceptive device.
- 15 Q Would they have sent you a report of anything?
- 16 A Not unless something probably went wrong with the
- 17 procedure.
- 18 Q Something went wrong with the procedure like she was
- 19 pregnant?
- 20 A Well, no. You wouldn't put in an I.U.D. if you were
- 21 pregnant.
- 22 Q I understand that. Something went wrong like the
- 23 O.B.G.Y.N. found out she was pregnant, would they notify
- 24 you?
- 25 A They may or may not.

Dr. Susan Kovacs
Redirect examination by Mr. Barnette

1 Q You're a pain doctor, correct?

2 A I'm internal medicine.

3 Q Internal medicine. And you prescribe pain medicine.

4 A Right.

5 Q So the O.B.G.Y.N. who you referred it to, you would
6 not expect them to contact you if the O.B.G.Y.N. found --

7 A Well, if they knew she was on pain medicine, yeah,
8 they probably would.

9 Q But they didn't. In this case they didn't notify you.

10 A No.

11 Q Okay. Thank you very much.

12 MR. BARNETTE: Just a couple on followup, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. BARNETTE

15 Q Doctor, let me show you Defendant's Exhibits 4 and 3.
16 Actually, this is not even a prescription.

17 A Right. That's what I said. It's not a prescription.
18 It's a note taken from a phone call.

19 Q It is. But that's on July 28th, I mean, 2010. They
20 asked for it to be picked up, didn't they?

21 A Right.

22 Q Defendant's Exhibit 3. They mailed it August 27th of
23 2010.

24 A Correct.

25 Q They -- the defendant requested that obviously.

1 A Correct.

2 Q She was pregnant, but she didn't want y'all to know
3 about it, did she?

4 A That's what it sounds like.

5 MR. WISE: I object. He's leading the witness.

6 THE COURT: Sustained.

7 BY MR. BARNETTE

8 Q If you would, ma'am, just do have still your
9 April 30th of 2010 note?

10 A Yes.

11 Q And in the note if I read it right you said, "She
12 would like me to refer her to a gynecologist."

13 A Correct.

14 Q She asked you that, right?

15 A Yes.

16 Q And then she needs the -- I can never pronounce that.

17 A Mirena.

18 Q Mirena removed.

19 A Correct.

20 Q And she wanted to go off the Duris [sic] patch and try
21 a pill.

22 A Correct.

23 Q And she said the Azitom [sic] was too strong and she'd
24 like to try MS Contin.

25 A Correct.

1 Q And they're the ones who requested those prescriptions
2 either be picked up or mailed to them.

3 A Correct. Usually, they come and pick them up.

4 Q So you didn't -- but they have to come to your office
5 and pick them up, right --

6 A Correct.

7 Q -- which is in your presence. I mean, obviously your
8 office is your -- office is a business, is that right?

9 A Right.

10 Q Is that a normal thing to be done?

11 A Yes.

12 MR. BARNETTE: Excuse me one second, Your Honor.

13 (Pause.)

14 Q And just one other question. Doctor, is it common to
15 discontinue a medicine and use medication for the same
16 reason, to go to another medication?

17 A Yes.

18 Q So that's just normal to discontinue that one and you
19 switch to another medication.

20 A Right.

21 Q Thank you, ma'am.

22 RECROSS-EXAMINATION

23 BY MR. WISE

24 Q Just a couple of questions.

25 The pain pill that begins with an A, the --

Dr. Susan Kovacs
Recross-examination by Mr. Wise

- 1 A Avinza.
- 2 Q Avinza. She complained it was too strong.
- 3 A Right.
- 4 Q Is that a problem you had with other patients too?
- 5 A A lot of people don't like Avinza.
- 6 Q All right. And it depends on the individual.
- 7 A Right.
- 8 Q Different problems with different medicines.
- 9 A Correct.
- 10 Q But her complaint was it was too strong.
- 11 A Right.
- 12 Q And so you switched to something that would not be
- 13 quite as strong?
- 14 A That hopefully she'd tolerate better.
- 15 Q Okay. And that was the MS Contin.
- 16 A Correct.
- 17 Q Thank you.
- 18 THE COURT: You may step down.
- 19 MR. BARNETTE: We'd ask for the witness to be excused,
- 20 Your Honor.
- 21 THE COURT: You may also be excused.
- 22 MR. BARNETTE: Your Honor, I would like to call Dr.
- 23 Kooistra to the stand.
- 24
- 25

1 DR. CAROL A. KOOISTRA, having
2 been first duly sworn, testified as follows:

3 DIRECT EXAMINATION BY MR. BARNETTE

4 Q If you would, Doctor, state your full name for the
5 record, please.

6 A Carol Antonsen Kooistra.

7 Q And where do you work at, ma'am?

8 A I work at Carolina Neurology, 541 Floyd Road,
9 Spartanburg.

10 Q And how long have you been a medical doctor, ma'am?

11 A I've been a medical doctor for 30 years.

12 Q If you would, just tell the jury a little bit about
13 your educational background.

14 A I went to the University of Virginia where I graduated
15 with honors. Undergraduate I went to the University of
16 Virginia Medical School and then moved into an internship
17 in internal medicine at a Yale affiliated hospital in
18 Connecticut.

19 I then entered neurology training for three years at
20 the University of Florida where I was chief resident. I
21 did an additional year of training at the University of
22 Florida in higher functions and behavioral neurology, and
23 very much time was also as assistant professor at the
24 University of Florida.

25 I left the University of Florida and entered private

1 practice in Spartanburg in July of 1987 where I have
2 remained.

3 MR. BARNETTE: Your Honor, I'd like to move her as an
4 expert in medicine at this time, Your Honor.

5 MR. WISE: No objection.

6 THE COURT: She is so qualified.

7 BY MR. BARNETTE

8 Q Doctor, was the defendant a patient of yours, ma'am?

9 A Yes, sir.

10 Q I want you to tell this jury when you first met her in
11 2006 what condition she was in.

12 A Can I obtain my records?

13 Q Yes, ma'am.

14 A Well, Ms. Greene at that time was referred to me for
15 actually a seizure disorder, and she was also pregnant at
16 the same time.

17 Q So she was pregnant when you first met her.

18 A Yes, sir.

19 Q Did you prescribe her any narcotics at that time?

20 A No, sir.

21 Q Why not?

22 A Because basically I try to avoid prescribing
23 medications of any sort during pregnancy.

24 Q And what did you prescribe for her at that time?

25 A I did prescribe her seizure medicine, because it's

1 always a tradeoff trying to weigh risk and benefit in
2 treating patients who are pregnant.

3 Q And what kind of medicine did you give her for her
4 seizures, ma'am?

5 A You'll have to excuse the old paper charts.

6 I began her on a medication called Levetiracetam which
7 is also known -- name brand known as Keppra.

8 Q And that was for her seizures, no pain or anything
9 like that.

10 A That's correct.

11 Q You wasn't going to give her -- you didn't give her
12 any pain medication while she was pregnant.

13 A That's correct.

14 Q Go ahead, ma'am. I'm sorry.

15 A I did prescribe her some Darvocet in limited
16 quantities during that pregnancy.

17 Q But you didn't give her hydrocodone or Vicoprofen or
18 any morphine or anything like that.

19 A No, sir.

20 Q And, as a matter of fact, when she first came and saw
21 you I believe it was January 5th of 2006. Let me show you
22 what's been marked as State's Exhibit 59. Did she sign
23 what we call a narcotic pain medication contract with your
24 office?

25 A Yes, she did.

1 Q And do you have this done with every patient that
2 comes to your office?

3 A Yes, I do.

4 Q And was this signed -- given to her and did she sign
5 on January the 5th of 2006? I'll give you a chance to look
6 at it.

7 A Yes, she did.

8 MR. BARNETTE: Your Honor, I'd like to move this into
9 evidence at this time.

10 MR. WISE: No objection.

11 THE COURT: It's admitted.

12 (Contract marked State's Exhibit No. 59.)

13 MR. BARNETTE: Can I publish it to the jury, Your
14 Honor?

15 THE COURT: You may.

16 BY MR. BARNETTE

17 Q Showing you State's Exhibit 59. And, like I say, this
18 is a contract that you have signed with every patient that
19 you have.

20 A Yes, sir.

21 Q And it goes through what her responsibilities is. And
22 can you read No. 2 for us, please? It --

23 A I'm at a bad angle and I did not bring my glasses.

24 Q I'm sorry. Can -- can you read up close?

25 A Be near the mic -- if you don't mind, let me read

1 this.

2 Q No problem. And then I'll put it up there so you can
3 read it.

4 A But item No. 2 says, "I will not request or accept
5 controlled substance medication from any other physician or
6 individual while I am receiving such medication from my
7 physician at Carolina Neurology. Besides being illegal to
8 do so, it may endanger my health. The only exception is if
9 it is prescribed while I am admitted in the hospital."

10 Q I'll try to get you another copy of it too, ma'am. Do
11 you have a copy of it too?

12 A Somewhere.

13 Q So No. 2 is what you just read to the jury.

14 A Yes, sir.

15 Q Okay. So she signed a contract saying she
16 is responsible -- would not request or accept a controlled
17 substance medication from another physician, that is she
18 receiving it from you, from y'all.

19 A That's correct.

20 Q As a matter of fact, on page two does it have the
21 actual laws concerning this put on there?

22 A Yes, sir.

23 Q I believe it's section 44-53-390 and section
24 44-53-390 -- or 395 and 390. Excuse me.

25 A That's correct.

- 1 Q And this was given to her for her to read.
- 2 A That's correct.
- 3 Q I'm not going to read all that's on there. But
- 4 obviously it goes through explaining everything to them.
- 5 Do you have a copy in front of you down there?
- 6 A Yes, sir.
- 7 Q Okay. If you would, just read No. 6 for us.
- 8 A No. 6 says, "I understand that if I violate any of the
- 9 above conditions my controlled substance prescriptions
- 10 and/or treatment at Carolina Neurology may be ended
- 11 immediately. If the violation involved obtaining
- 12 controlled substances from another individual as described
- 13 above or the concomitant use of nonprescription or illicit
- 14 or illegal drugs I may also be reported to my physician,
- 15 medical facilities and other appropriate authorities."
- 16 Q And she signed -- signed this contract, is that right?
- 17 A Yes, sir.
- 18 Q And she wrote down. What grade did she complete?
- 19 A College grad, B.S.N.
- 20 Q What does B.S.N. mean, ma'am?
- 21 A Bachelor of science in nursing.
- 22 Q In treating her, when did you see her in 2010, ma'am?
- 23 A In 2010 my actual visit, first visit, with her was
- 24 2/16/10. She had had a no-show in January.
- 25 I'd also saw her in November -- 11/4/10. Between

1 those two actual office-visit dates there were several
2 phone calls for prescriptions.

3 Q Okay. Had she scheduled appointments?

4 A And there were two additional no-shows.

5 Q So she had scheduled appointments but did not show up.
6 Do you know when those appointments were scheduled, Doctor?

7 A One appointment was May 13th of 2010, which would have
8 been the routine three months after her February visit, and
9 she also had an appointment that she no-showed for
10 August 25th of 2010.

11 Q So later on she kept getting prescriptions from you
12 all, is that correct?

13 A Yes, she did get prescriptions. She had called for a
14 prescription approximately on 20 days prior to her missed
15 appointment in August. So that would have been August 5th.
16 And we noted then that she had an appointment coming up,
17 but then she failed to show for her subsequent appointment.

18 Q So the reason why y'all filled it, you felt like you
19 was going to see her 20 days afterwards. But she didn't
20 show.

21 A That's correct.

22 Q So did she request additional prescriptions in
23 October?

24 A Yes, she requested a prescription in October,
25 October 28th, for some Soma.

- 1 Q Okay. And what happened once she made that request?
- 2 A We -- I said no, she had not been seen since February
- 3 and she needed to come in.
- 4 Q So she came in. When did she come in to see you,
- 5 ma'am?
- 6 A So she came in to see me on November 4th.
- 7 Q Okay. At that time did she tell you that she had been
- 8 pregnant?
- 9 A No, sir.
- 10 Q Did she tell you that she was breastfeeding?
- 11 A No, sir.
- 12 Q In talking to her why did she say she missed all the
- 13 appointments and why she hadn't come and saw you?
- 14 A When I asked her why there had been this absence she
- 15 explained to me at that time that she had been in a severe
- 16 depression and had been unable to leave her house.
- 17 Q That's what she had told you in your report.
- 18 A Yes, sir.
- 19 Q Based off that did you give her prescriptions?
- 20 A Yes, sir.
- 21 Q And let me go through, Doctor. Going back to March of
- 22 2010, what was you prescribing her at that time?
- 23 A I was prescribing her Keppra for her seizure disorder,
- 24 Vicoprofen, Soma, Klonopin, Gabapentin, Prinprexol [sic].
- 25 Q Did she ever call you and tell you that she had had a

1 positive pregnancy test on March 20th of 2010?

2 A No, sir.

3 Q Did she continue to receive prescriptions through
4 April and May?

5 A April and May of what year?

6 Q Of 2010. I'm sorry.

7 A I believe so.

8 Q Okay. And what was those prescriptions, ma'am?

9 A That section of the computer chart I did not bring
10 with me.

11 Q But it continued on with the same type of
12 prescriptions, ma'am?

13 A Yes, it would be the same prescriptions. We were --
14 we did change the Soma to Baclofen in November of 2010.
15 But otherwise her prescriptions remained stable throughout
16 the period of time preceding two to three years.

17 Q During this time did you know she was seeing an
18 O.B.G.Y.N. for pregnancy or anything like that?

19 A No, sir.

20 Q Did you know that Dr. Kovacs was prescribing morphine
21 to her, or MS Contin?

22 A No, sir.

23 Q She never told you that?

24 A No, sir.

25 Q As a matter of fact, when she was pregnant in 2006 you

1 didn't prescribe her any narcotics other than the Darvocet.

2 A That's correct.

3 Q And if you known she was pregnant would you have
4 prescribed the Vicoprofen, the hydrocodone, which is the
5 same thing, Klonopin, all of the other drugs?

6 A I would have had a conversation, and we would have
7 discussed between Ms. Greene, her obstetrician and myself
8 the risks and benefit of continuing this regimen. There
9 would be risks in discontinuing it; there'd be risks in
10 continuing it.

11 Q And obviously you never had that conversation.

12 A No, sir.

13 Q Because she never told you.

14 A No, sir.

15 Q Just going through these, State's Exhibit 43. Is that
16 a prescription that was supplied by your office for
17 Klonopin?

18 A That's a notation of a call-in prescription.

19 Q And is that something you would do for patients, to
20 call in prescriptions? You don't call them, actually call
21 them, into the pharmacy, is that right?

22 A Correct. Molly, who was my employee at that time,
23 called that in.

24 Q Would that be requested by -- by the defendant in this
25 case?

1 A Yes. And, as you can see, we don't give actually
2 refills on any controlled substance. So every month,
3 whether refills are allowed or not by law, we don't tend to
4 add refills so I can keep track of things a little bit.

5 Q Okay. State's Exhibit 44. Is this also a call-in for
6 July 6th of 2010?

7 A Yes, sir.

8 Q Is that Vicoprofen?

9 A Yes, sir.

10 Q Show you State's Exhibit 48. Is this a call-in
11 prescription for Klonopin?

12 A Yes, sir.

13 Q Showing you State's Exhibit 47. Is that a call-in
14 prescription for Vicoprofen also?

15 A Yes, sir.

16 Q And that was on August 5th of 2010?

17 A Right. That's the date that -- that was 20 days prior
18 to her anticipated office visit.

19 Q Which she canceled or did not show, I should say.

20 A Correct.

21 MR. BARNETTE: I apologize. One second, Your Honor.

22 (Pause.)

23 Q Let me show you State's Exhibit 54. Now, this is when
24 you had the office visit on November 4th of 2010.

25 A That's correct.

1 Q She never told you she had her baby, never told you
2 that she was breastfeeding.

3 A That's correct.

4 Q And she told you she was depressed and so forth, is
5 that right?

6 A That's correct.

7 Q Was shut in the whole time.

8 A That's correct.

9 Q And so you prescribed these to her to try to -- why
10 did you prescribe those drugs?

11 A Well, three of those drugs -- and that is my
12 handwriting -- drugs numbered two through four were her
13 preexisting regimen.

14 Drug No. 1 is a muscle relaxer that we were attempting
15 to try at her request in place of Soma which is -- which
16 was considered initially as a muscle relaxer but is now
17 recognized primarily as a narcotic.

18 Q Let me show you State's Exhibit 53. Like I said, you
19 had given her Klonopin on November the 4th, is that right?

20 A I wrote a prescription for it at that time, yes.

21 Q Yes, ma'am. Obviously, State's Exhibit 53, you didn't
22 know that Dr. Kovacs had wrote a prescription for Klonopin
23 on October 29th of 2010, did you?

24 A No, sir.

25 Q Would you have gave her a second prescription of that

1 knowing that somebody had just filled it five -- or given
2 one five days earlier?

3 A No, sir.

4 Q And you didn't know she was getting -- and I can go
5 through them, but I'm not going to go through every one
6 because the jury has seen them. You didn't know that Dr.
7 Bridges had prescribed all of the drugs also, is that
8 right?

9 A No, sir.

10 Q So you didn't know. You hadn't had any talk with her
11 O.B.G.Y.N. because there's no reason to.

12 A That's correct, sir.

13 Q As a matter of fact, like you said, you didn't know
14 she was pregnant.

15 A That's correct.

16 Q But in 2006 you did, didn't you?

17 A Yes, sir.

18 Q And you didn't prescribe any of these medications for
19 her then, did you?

20 A No, sir.

21 Q As a matter of fact, you wouldn't subscribe [sic]
22 these medications if you knew she was breastfeeding too,
23 right, or would you have had a discussion with her --

24 A Again, a discussion with the patient and her -- and
25 the baby's pediatrician and to decide what the best course

1 of action was.

2 Q And the other thing too, and you wouldn't have
3 prescribed these medications if you knew she was getting
4 morphine and Klonopin from Dr. Kovacs, would you?

5 A Correct.

6 MR. BARNETTE: One moment, Your Honor, please.

7 (Pause.)

8 Q Thank you, ma'am. Please answer any questions the
9 defense may have for you.

10 CROSS-EXAMINATION

11 BY MR. WISE

12 Q You referred her to Dr. Kovacs, correct?

13 A I don't have an independent memory of that, and her
14 paper chart doesn't contain notations to that effect that
15 I'm aware of, but it's possible.

16 Q It's possible. Did you say that?

17 A Yes, sir. I do refer patients to Dr. Kovacs if
18 they're in need of a family doctor.

19 Q Have you got your notes from October the 4th of 2010?

20 A Yes, I do.

21 Q And you saw her on -- excuse me -- November the 4th of
22 2010.

23 A Yes, sir.

24 Q You've got that?

25 A Yes, sir.

1 Q And you saw that and prescribed several medicines for
2 her or listed her prescriptions, correct?

3 A Yes, sir.

4 Q And then on the second page I see that you've carbon
5 copied Dr. Kovacs.

6 A Yes, sir.

7 Q And that would be because Dr. Kovacs -- you had
8 referred her to Dr. Kovacs.

9 A It would be because I knew she was seeing Dr. Kovacs
10 at that point in time.

11 Q And so you sent a copy of that report to Dr. Kovcas on
12 November the 4th of 2010.

13 A Yes, sir.

14 Q And that report said that -- let me. Is this a copy
15 of your report?

16 A Yes, sir.

17 Q All right.

18 (Dr. Kooistra's report marked Defendant's Exhibit No.
19 5.)

20 Q I show you Defendant's 5. And there on the second
21 page is the carbon copy to Dr. Kovcas, correct?

22 A That is correct.

23 Q All right. Because either you had referred her to Dr.
24 Kovacs and knew she was seeing him -- for whatever reason,
25 you thought it was appropriate to him him a copy -- send

1 her a copy.

2 A Correct. I had made a number of medicine changes that
3 day. It had been a little bit of an extended visit.

4 Q And the medicines are listed there at the bottom,
5 right?

6 A The prescriptions that I wrote that day as we saw on
7 the --

8 Q Right. And Vicoprofen is on one of those.

9 A Yes, sir.

10 Q Now, have you got your file with you?

11 A I have my paper file and I have my office visits from
12 my computer-generated record.

13 Q Does your file reflect any comment from Dr. Kovacs
14 after you sent her that on November the 4th of 2010?

15 A The only communication that I am aware of that I have
16 from Dr. Kovacs is a letter dated September 2nd of 2011.

17 Q 2011. Can I see that letter? And that was the letter
18 from Dr. Kovacs basically restating her physical, is that
19 correct?

20 A And some laboratory results, yes.

21 Q Right.

22 MR. WISE: I'd like to introduce this.

23 THE COURT: Show it to Mr. Barnette.

24 MR. BARNETTE: May it please, Your Honor. I am going
25 to object because I don't understand the relevance of this.

1 THE COURT: All right.

2 MR. BARNETTE: She's -- it's after the incident
3 occurred and everything.

4 MR. WISE: I understand.

5 THE COURT: Let me see it.

6 (Bench conference held off the record in the presence
7 of the jury but out of the hearing of the jury.)

8 (Letter from Dr. Kovacs to Defendant dated September 2,
9 2011, marked Defendant's Exhibit No. 6.)

10 Q So you sent Defendant's Exhibit 5 to Dr. Kovacs on or
11 about October the 4th of 2010.

12 A That's correct.

13 Q And the next response you got from Dr. Kovacs was this
14 letter of September 2nd of 2011.

15 A It is possible that the patient brought that letter
16 with her at some point and gave it to me.

17 Q So you don't know if you got any response from Dr.
18 Kovacs.

19 A That's correct.

20 Q Okay. But at least you got that in your file somehow.

21 A Correct.

22 Q And you have no other indication of any response from
23 Dr. Kovacs in response to the file you sent her.

24 A That's correct.

25 Q Now, Stephanie's health problems were pretty complex,

- 1 is that correct?
- 2 A That's correct.
- 3 Q And, in fact, you would agree that she is disabled.
- 4 A That's correct.
- 5 Q And disabled for what reason?
- 6 A For the difficulties with her chronic pain and
- 7 limitations with the use of her neck, arms, back, plus
- 8 potential side effects from her medications.
- 9 Q And you were asked to fill out a form I believe when
- 10 she was applying for disability, correct?
- 11 A I would like to see the form.
- 12 Q Sure. No problem.
- 13 A I fill these forms out every day.
- 14 Q I understand.
- 15 A Yes.
- 16 Q All right. And these were filled out in 2008,
- 17 correct?
- 18 A I'd have to look at the date.
- 19 Q Well, I think it was 2008.
- 20 A August 7th of 2008.
- 21 Q Okay. And in this form you basically say she cannot
- 22 lift more than ten pounds at a time.
- 23 A I would need to see the form.
- 24 Q I promised you I had a copy, and I don't. I
- 25 apologize. All right. You go through it then.

1 Can't lift more than ten pounds at a time, correct?

2 A Lifting no more than ten pounds at a time and
3 occasionally lifting --

4 MR. BARNETTE: Your Honor, I don't understand the
5 relevance, and I object to the relevance of this from that
6 standpoint. I mean, she -- I think she said she applied
7 for disability and what not.

8 MR. WISE: They're prescribing a lot of pain
9 medication for my client, and I think it's relevant for the
10 jury to know the nature of her disability for what she was
11 receiving this medicine.

12 THE COURT: Overrule the objection.

13 BY MR. WISE

14 Q Go ahead.

15 A This questionnaire asks the following: "On an 8-hour
16 day, 5-day per week basis, can Stephanie Neet engage in
17 even sedentary work on a sustained basis, defining
18 sedentary work as follows," quote, "sedentary work involves
19 lifting no more than ten pounds at a time and occasionally
20 lifting or carrying articles like docket files, ledgers and
21 small tools. Although a sedentary job is defined as one
22 which involves sitting, a certain amount of walking and
23 standing is often necessary in carrying out job duties.
24 Jobs are sedentary if walking and standing are required
25 occasionally and other sedentary criteria are met."

1 And I answered that question, no, she cannot perform
2 sedentary work.

3 Q Okay. And the second question was?

4 A "Can Stephanie stand and walk in combination for more
5 than a few minutes during the work day?"

6 Q Okay. And your answer was?

7 A My answer was no.

8 Q The next one.

9 A "Must Stephanie avoid stooping? Yes. If Stephanie
10 attempted to work on an 8-hour day, 5-day per week, basis
11 would she most probably have to rest away from the work
12 station for significantly more than an hour during the
13 working portion of the work day?" And the answer was yes.

14 "If Stephanie attempted to work on an 8-hour day,
15 5-day per week, basis would she most probably have to miss
16 more than three days of work per month?" And the answer
17 was yes.

18 "If she attempted to work on an 8-hour day, 5-day per
19 week, basis would Stephanie most probably have to elevate
20 her legs above the waist for significantly more than an
21 hour during the working portion of the day?" I wrote no.

22 "If Stephanie attempted to work on an 8-hour day,
23 5-day per week, basis is it most probable that she would
24 have problems with attention to and concentration
25 sufficient to frequently interrupt tests during the working

1 portion of the work day," to which I answered yes.

2 "What are the diagnoses that underline the above
3 impairments?" I put, I said, fibromyalgia and seizures.

4 "What are the bases for your opinion that she suffers
5 from the above impairments at the above level of severity?"
6 And I put history and examination.

7 MR. WISE: I'd like to move to introduce this.

8 MR. BARNETTE: No objection.

9 (Disability opinions by Dr. Kooistra marked Defendant's
10 Exhibit No. 7.)

11 Q And in addition to what you listed you didn't even
12 mention the 1980 -- 1998 automobile accident, did you?

13 A Well, I believe her fibromyalgia to be a post -- have
14 a posttraumatic component to be in part related to that.

15 Q Related to the automobile wreck?

16 A Yes.

17 Q Okay. And she was involved in a quite severe
18 automobile wreck.

19 A Correct.

20 Q And you've reviewed those records.

21 A I don't know that I've reviewed those records
22 independently.

23 Q All right. But there's no question about that.
24 You've had x-rays made and --

25 A I don't -- I -- I believe that to be true.

1 Q Now, do you -- do you prescribe any Schedule II drugs?

2 A Yes, sir.

3 Q You do on occasions?

4 A Yes.

5 Q All right. You sent her the course to -- excuse me --
6 sent her to Kovacs for what reason?

7 A Well, first of all, I don't know for sure that I'm the
8 one who sent her.

9 Q Could you check your file and see?

10 A I've already checked my file.

11 Q Oh, okay.

12 A And-but if I sent her to Dr. Kovacs it would be for
13 the purpose of internal medicine management and not pain
14 management.

15 Q All right. And do you know what prompted you to send
16 that copy of that November of 2010 letter to Kovacs?

17 A I think, as I've already mentioned, this visit
18 followed a period of time that was a bit unusual.

19 She had had several no-shows. And then the reason
20 that she reported to me as the no-show involved a severe
21 depression.

22 I was changing one to two medications that could have
23 some potential side effects that she might interpret as a
24 medical problem such as nausea or something like that. And
25 I thought that to make that major of change she should --

1 her family doctor should be aware.

2 Q You just thought it was appropriate to exchange
3 information with another doctor that you knew the patient
4 was seeing?

5 A Correct.

6 Q And that's good medical practice.

7 A I consider that.

8 Q Do other doctors occasionally send you medical records
9 on their patients without your requesting them?

10 A Yes, sir.

11 Q And that's good medical practice.

12 A Yes, sir.

13 Q Because things don't always get communicated well if
14 you go through a third party like the patient.

15 A I just think it's a more direct way to let them know.

16 Q It's a more reliable way anyway, true?

17 A Correct.

18 Q All right. Now, she wanted to switch off from Soma to
19 what?

20 A Baclofen.

21 Q And the -- and the Soma -- and what was the reason for
22 that?

23 A Well, I believe she didn't think the Soma was working.
24 Again, when Soma -- Soma is a very old drug. And when it
25 was officially -- first released 30 years or more ago it

1 was felt to be a muscle relaxant. However, the body
2 actually takes this compound and metabolizes it into a
3 narcotic called meprobamate.

4 So over time it became recognized that it was not
5 really functioning as a muscle relaxant. It was really
6 functioning as a narcotic analgesic. And so especially in
7 the past five to eight years there has been attempts to
8 limit its use for the purpose of muscle relaxants. And it
9 has had its schedule change as well.

10 Q Now, you prescribed Darvocet on prior pregnancies.

11 A Correct, in the third trimester.

12 Q And Darvocet is now -- not recommended for taking
13 during pregnancy because it is a cardiologic toxin?

14 A Well, actually it's off the market.

15 Q It's off the market now?

16 A Yes.

17 Q And they took it off because of?

18 A I'm not sure to be honest.

19 Q All right. Now, you're aware that morphine can be
20 taken during pregnancy.

21 A Yes, sir.

22 Q And, in fact, there are women with morphine pumps
23 while pregnant and continuing after pregnancy.

24 A That's correct.

25 Q And the American Academy of Pediatric finds nothing

1 wrong with taking morphine while breastfeeding.

2 A So I've read.

3 Q So you've read. You've read those articles.

4 A I read a brief mention of that, yes.

5 Q You didn't research in its entirety.

6 A No. I was not prescribing morphine.

7 Q But you're aware that's out there.

8 A Yes, sir.

9 Q And you have prescribed it on occasion.

10 A Morphine sulfate?

11 Q Right.

12 A Yes. I can't that say I prescribed it to

13 breastfeeding women. I don't remember going through that

14 discussion with anyone, but I certainly have prescribed my

15 share of morphine.

16 Q So you didn't see her for a period of about nine

17 months?

18 A That's correct.

19 Q And you don't know what drugs she was taking during

20 that period of time because you never had a conversation

21 with her.

22 A That's correct.

23 Q All right. And you are using Vicoprofen for

24 breakthrough pain.

25 A I was using it for all of her pain.

1 Q And it's not uncommon for pain doctors to prescribe
2 Vicoprofen and morphine.

3 A Well, I think the practice had been strange all over
4 the place.

5 A single physician may prescribe those two together,
6 although in my practice if I was prescribing a long-acting
7 medication such as MS Contin, long-acting morphine, I would
8 prescribe short-acting morphine to handle the breakthrough
9 pain as opposed to adding a competitor analgesic into the
10 regimen.

11 Q But some doctors do prescribe both of them together.

12 A I believe so.

13 Q Okay. Now, Dr. Kooistra, you used to practice in
14 North Carolina?

15 A Yes, sir. I still have my license in North Carolina.

16 Q And on October 15th of 2010 were you disciplined by
17 the North Carolina Medical Board for prescribing
18 ultrasound -- musculoskeletal ultrasounds without a valid
19 medical purpose?

20 A I signed a consent order on that date, and that was
21 one of the allegations in there, yes.

22 Q And you agreed to it in the consent order.

23 A I agreed to it.

24 Q Thank you.

25 MR. BARNETTE: Just a couple of questions on redirect,

1 Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. BARNETTE

4 Q Following up with Mr. Wise's question he asked you,
5 does patients usually lie to you or not tell you things,
6 talking about third --

7 A Every day.

8 Q From there. But, I mean, what I mean is though they
9 usually tell you about medications and things, like, you
10 expect them to tell you about the medications and all and
11 so forth.

12 A I do expect them to tell me, but I can't tell you that
13 they all tell me.

14 Q Sure. Most people do though, don't they, from that
15 standpoint?

16 A I hope so.

17 Q Okay. I understand. And he was asking you about MS
18 Contin.

19 Let me show you a form here, ma'am, concerning this.
20 He was asking you about safeties and stuff like that. The
21 medication guide has been approved by the F.D.A., the U.S.
22 Food and Drug Administration.

23 A It looks like the product. It looks like a simplified
24 version of the product insert.

25 Q For MS Contin, is that right?

1 A For MS Contin.

2 Q And could you tell us what it says about tell your
3 healthcare provider if you are --

4 A "Pregnant or planning to become pregnant. MS Contin
5 may harm your baby, unborn baby. Tell your healthcare
6 provider if you are breastfeeding. MS Contin passes into
7 breast milk and may harm your baby. Tell your healthcare
8 provider if you are taking prescription or over-the-counter
9 medicines, vitamins or herbal supplements.

10 Q All right. Obviously, you never knew she was
11 pregnant.

12 A Correct.

13 Q When did you find out she was pregnant?

14 A I believe it was January of when -- well, Chico that
15 week called -- Kaushik in to visit.

16 Q So he actually came and visited you, and that's when
17 you found out she even had had a baby.

18 A Correct.

19 Q And you didn't even know the baby had died. I mean,
20 didn't know about the baby, didn't know the baby had died.

21 A That's correct.

22 Q That's how you found out the first time.

23 A That's correct.

24 MR. BARNETTE: One moment, Your Honor, please.

25 (Pause.)

1 Q Thank you, ma'am, for answering my questions.

2 MR. WISE: Just a couple of questions.

3 RECROSS-EXAMINATION

4 BY MR. WISE

5 Q Are you aware of any cases documented where a pregnant
6 woman who is breastfeeding taking MS Contin has harmed the
7 baby?

8 A I'm not aware of the literature in general on that
9 topic.

10 Q Thank you.

11 THE COURT: You may step down.

12 MR. BARNETTE: Your Honor, the state would like to
13 call Dr. Bridges to the stand.

14 THE WITNESS: May I also be excused?

15 MR. BARNETTE: Yes, Your Honor.

16 THE COURT: You may be excused. Thank you.

17 (Whereupon, the witness was excused.)

18 DR. KELLY ANN BRIDGES, having
19 been first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. BARNETTE

21 Q Doctor, if you would, give your full name for the
22 record, please.

23 A Kelly Ann Bridges.

24 Q And where do you work at, ma'am?

25 A Carolina O.B.G.Y.N.

Dr. Kelly Ann Bridges
Direct examination by Mr. Barnette.

1 Q And how long have you been a doctor there, ma'am?

2 A At Carolina since -- well, I emerged from a different
3 practice. I've been in Spartanburg practicing O.B.G.Y.N.
4 since 2002.

5 Q And where -- could you give the jury a little bit
6 about your educational background, ma'am?

7 A Sure. I went to medical school at the University of
8 South Carolina School of Medicine and then did my residency
9 in O.B.G.Y.N. in Savannah at the University Memorial
10 Medical Center, which is associated with the University of
11 Georgia, and finished in that and became board O.B.G.Y.N.
12 and have been practicing here in Spartanburg ever since.

13 Q And how many patients have you seen over the years?

14 A Hundreds, thousands.

15 MR. BARNETTE: Your Honor, I would like to move her as
16 an expert in medicine at this time.

17 MR. WISE: No objection.

18 THE COURT: She is qualified.

19 BY MR. BARNETTE

20 Q Dr. Bridges, did you see the defendant?

21 A I don't remember personally, but looking back through
22 the records I saw her on three separate visits during her
23 pregnancy.

24 Q Can you tell the jury about when those three visits
25 was, ma'am?

1 A I saw her one time on August the 11th. She was 31
2 weeks and six days.

3 wait a minute. I'm sorry. Before that it was on
4 June the 30th when she was 26 weeks.

5 Then August the 11th of 2010 she was 31 weeks and six
6 days.

7 And then the last time I saw her was on September the
8 17th of 2010. She was 37 weeks and one day.

9 And those are the only three times I've ever had
10 contact with her.

11 Q Okay. Let me take you back to July 30th -- or
12 June 30th of 2010 visit. At that time did you ask her
13 about what medications she was taking and so forth?

14 A Apparently. I have a note here that she was
15 complaining of a headache, a backache and varicose veins.
16 Apparently she told me at that time she was taking
17 vicoprofen, and I told her to stop the vicoprofen and
18 changed her to Darvocet for her headaches at that time.

19 Q You told her to stop taking Hycoprofen [sic].

20 A Yes.

21 Q why?

22 A To stop taking vicoprofen specifically, not
23 hydrocodone.

24 Q Vicoprofen.

25 A Vicoprofen because the other ingredient besides

Dr. Kelly Ann Bridges
Direct examination by Mr. Barnette

1 hydrocodone in Vicoprofen is ibuprofen. Ibuprofen is
2 dangerous in the third trimester of pregnancy because it
3 can close an area in the baby's heart called the ductus
4 arteriosus. And if it closes prematurely that can cause
5 heart failure and kill the baby in utero. So I did not
6 want her taking anything containing ibuprofen.

7 Q So if you take that late in the third trimester it can
8 affect the heart.

9 A Of the baby, yes.

10 Q And what drugs -- did she ever tell you she was on
11 morphine?

12 A No. We have no documentation of that.

13 Q And that's from any -- any of the visits, is that
14 right, ma'am?

15 A No. I filled out -- the visit, the first visit, that
16 she came in, which of course I did not see her that visit,
17 so but on the paperwork is listed, there's Vicoprofen
18 listed, but it was also listed that she stopped taking it
19 on 4/30/10 and that she was taking hydrocodone -- or I'm
20 sorry. That's acetaminophen. I'm sorry. And-but, no,
21 morphine is not listed anywhere in there.

22 Q So she never told you in any of the visits. And
23 obviously when she came and saw any of y'all she never
24 talked about any morphine.

25 A No.

Dr. Kelly Ann Bridges
Direct examination by Mr. Barnette

1 Q okay. And you told her to take -- don't take anything
2 with visiprofen [sic] in it, is that right?

3 A That's correct.

4 Q And you told her that on June 30th of 2010.

5 A That is correct.

6 Q At that time did she tell you about any of the
7 medications -- seeing the other doctors? Did you know
8 about Dr. Kovacs or Dr. Kooistra or anything like that?

9 A We do have documented that Dr. Kovacs was her primary
10 care physician and Dr. Kooistra is her neurologist.

11 Q Right. But she didn't tell you about, like I say, the
12 morphine or anything like that.

13 A Not that I know of, no.

14 Q And y'all asked that question.

15 A We didn't specifically ask her if she was on morphine,
16 no, but we asked what medicines are you taking.

17 Q Right.

18 A And we may not ask it every single visit, but we ask
19 it in their first visit and then, you know, expect them to
20 update us if -- if anything changes.

21 Q Yes, ma'am.

22 A And if we change anything we document it in the chart.

23 Q Yes, ma'am. Andrus Vera [sic] -- she testified
24 earlier she was the one that did the intake initially on
25 her.

1 A Vera Andrus, yes. She's the nurse that does the
2 intake, and then she has a first visit with a doctor
3 following that intake visit who should also review, you
4 know, her past medical history and everything at that time.

5 Q Let me ask you this question, ma'am. I noticed you
6 gave her prescriptions, and obviously you didn't know about
7 the other doctors' prescriptions, I guess.

8 A That's correct.

9 Q And State's Exhibit 45, is this the Darvocet that she
10 was given?

11 A Yes.

12 Q I believe that was on July 23rd of 2010.

13 A Yes.

14 Q And then on State's Exhibit 42, she was given
15 Darvocet-N 100 and that is June -- I guess that was the
16 visit.

17 A That was at the visit that I physically wrote that
18 prescription, yes, sir.

19 Q And then she was given another Darvocet on
20 August 23rd of 2010, is that correct?

21 A Yes.

22 Q And then she also received a prescription on
23 September the 29th of 2010 for Motrin and Percocet.

24 A Yes.

25 Q I believe that was from Ms. -- Dr. Johnson also?

1 A That -- that looks to me to be when she was discharged
2 from the hospital because it's got her hospital sticker on
3 it, so that she probably had had. But that's probably from
4 delivery, having the baby.

5 Q Would you have prescribed these prescriptions if you
6 knew she was taking morphine and these other type -- if you
7 knew that ahead of time?

8 A No.

9 Q Okay. And why not?

10 A Because you could potentially overdose on narcotics if
11 you're combining those medications. It could be dangerous.

12 Q I understand. And obviously did y'all treat her after
13 she delivered?

14 A She had a, looks like, one postpartum visit from what
15 I can tell in the chart.

16 Q Did she ever come back to y'all after that?

17 A Not that I can tell.

18 Q So she --

19 A There was a note. There is a note in here that she
20 wanted to schedule her tubal, a tubal ligation for birth
21 control. And that was on 10/27/10. But then there's
22 nothing after that.

23 Q So she's never seen y'all since that day as far as you
24 can tell.

25 A Not -- not -- as far as I can tell her last physical

Dr. Kelly Ann Bridges
Cross-examination by Mr. Wise

1 visit in the office was 11/4/10, which was her post partum
2 checkup where she had had a physical exam.

3 Q So she saw y'all's office on --

4 A She saw Dr. John Nichols on 11/4/10, and he did a
5 6-weeks postpartum exam.

6 Q And she never mentioned anything about morphine?
7 Well, nothing's mentioned about that.

8 A Nothing is mentioned about that, no.

9 Q Nothing's mentioned about seeing Dr. Kooistra on
10 November the 4th?

11 A It says she is seeing her family doctor regarding her
12 blood pressure being a little elevated.

13 Q But nothing about Kooistra or any additional drugs or
14 anything like that?

15 A No. There's nothing about any medications in there in
16 that note.

17 MR. BARNETTE: One moment, Your Honor, please.

18 (Pause.)

19 Q Thank you, Doctor, for answering my questions.

20 CROSS-EXAMINATION

21 BY MR. WISE

22 Q Dr. Bridges, she first came to see your office when?

23 A It looks like she came in the first time -- I'm sorry.

24 Q That's no problem.

25 A It's a little bit out of order probably from getting

1 copied. Looks like her very first visit at our office was
2 on 5/7/10. It looks like it was scheduled with Dr. Easton.

3 Q Okay. And what was the purpose of that visit?

4 A It says that she was -- for a new G.Y.N. But she had
5 a positive pregnancy test.

6 Q All right. What's a new?

7 A A new G.Y.N. is a -- just a new gynecologic patient to
8 our office. So when she was scheduled we did not know she
9 was pregnant.

10 Q And she didn't -- and did y'all do the pregnancy --

11 A We did a pregnancy test in the office and had a
12 positive test.

13 Q Why -- do you know what -- do you know who referred
14 her to y'all back in --

15 A That I do not know. When everybody was talking back I
16 looked backed in our correspondence to see if I could find
17 a referral note, and there is no documentation of a
18 referral in there. So I don't know.

19 Q So you don't know what doctor referred her.

20 A I don't know, and the referred-by section is blank
21 here, so.

22 Q Okay. Do y'all perform a routine pregnancy test?

23 A We probably did hers because her period was late. She
24 had said her last menstrual period was 12/3/09, and this
25 was 5/7/10.

1 Q Right.

2 A So it was late, so we did a pregnancy test.

3 Q She didn't come in and request a pregnancy test.

4 A Not -- that I don't know.

5 Q Okay. Your notes just indicate y'all did one.

6 A Yeah. My notes just indicate that because her period
7 was late she had a positive pregnancy test.

8 Q And there's nothing in your notes to indicate that she
9 came in and said I think I'm pregnant and I need a
10 pregnancy test.

11 A I have no idea of what -- there's no -- his actual
12 dictated note I cannot find.

13 Q What I'm saying is that your notes don't show that she
14 scheduled this appointment to find out if she was pregnant.

15 A No. It does not say that.

16 Q All right. It is a policy in your office that if a
17 woman is several months late you're going to run a
18 pregnancy test out of an abundance of precaution.

19 A Automatically if they're late, yes.

20 Q It's just a good office practice.

21 A Yes, yes, sir.

22 Q Okay. Now, you work with the -- your department work
23 with the Spartanburg Regional Healthcare?

24 A We are owned by Spartanburg Regional Healthcare, yes.

25 Q And Spartanburg Regional Healthcare has a lot of their

1 medical records computerized.

2 A They do. And we are now, but we are not at the time.

3 Q Back then. But you have the ability to -- do you know
4 what ability you had back then in 2010?

5 A We were on paper charts in 2010. This is paper
6 charts.

7 Q What ability did y'all have to go actually chart -- to
8 check the computer for Spartanburg Regional Healthcare to
9 see what was in it?

10 A We could check. A physician could get on the
11 physician portal and check hospital labs, but it would not
12 show anything done in the offices.

13 Q But she told you that she was seeing Dr. Kovacs?

14 A There is documentation in here. Now, she didn't
15 specifically tell me.

16 Q I understand that.

17 A But there's documentation in here that Dr. Kovacs is
18 her primary care physician -- Dr. Susan Kovacs -- and that
19 Dr. -- and Dr. Johnson -- looks like she wrote in that Dr.
20 Kooistra was her neurologist taking care of her seizures.

21 Q So she listed all of the doctors she was seeing.

22 A Yes.

23 Q And the Percocet is kind of -- is that a routine
24 medication prescribed to a new mother as they leave the
25 hospital?

Dr. Kelly Ann Bridges
Cross-examination by Mr. Wise

- 1 A The Percocet, yes.
- 2 Q Okay. And there's nothing unusual about prescribing
- 3 that.
- 4 A No, no. That's just for pain from delivery.
- 5 Q And it would be how long a supply?
- 6 A Usually it's 30 tablets, which could last, you know, a
- 7 few weeks.
- 8 Q Okay. Some two -- two weeks, three weeks maybe?
- 9 A It depends on how --
- 10 Q How frequently.
- 11 A -- frequently you take it, yeah, but it could --
- 12 Q Well, how often can you take it without --
- 13 A You can take up to two every four hours at -- is the
- 14 maximum dose.
- 15 Q Two every four. So that's 12 a day?
- 16 A At the maximum dose, yes.
- 17 Q Okay. So she -- if you're in severe pain they all's
- 18 go away in about two days then.
- 19 A Yeah.
- 20 Q It's not like it's a long-term.
- 21 A No. It's not a long-term. It's intended for
- 22 short-time pain relief.
- 23 Q And some people may even -- not need all of them.
- 24 A That's true. I still have mine from when I had my
- 25 baby, and he's six.

Dr. Kelly Ann Bridges
Redirect examination by Mr. Barnette

1 Q In '86?

2 A He's six years old. I still have the prescription.

3 Q Well, I guess there's --

4 A So it can last a very long time.

5 Q Thank you.

6 REDIRECT EXAMINATION

7 BY MR. BARNETTE

8 Q Just a couple on redirect.

9 Doctor, when did you say her last menstrual period was?

10 A She stated on her -- that it was 12/3/09.

11 Q 12/3/09?

12 A Yes.

13 Q And she came and saw y'all in May?

14 A 5/7/10 was her first visit.

15 Q Okay.

16 MR. BARNETTE: Give me one second, Your Honor.

17 (Pause.)

18 Q And when did you tell her to quit taking Vicacon --

19 profen? I'm sorry, Doctor. That's the reason I'm asking

20 you that question.

21 A That's okay. 6/30/10 when she was 26 weeks pregnant.

22 Q Showing you State's Exhibit 47. Did you know she got

23 Vicoprofen on August the 5th of 2010?

24 A No, sir.

25 Q Did you know -- did you know she had got Vicoprofen

1 filled on July 6th of 2010?

2 A No, sir.

3 Q And obviously that would have been in the third
4 trimester of her pregnancy, wouldn't it, at that point?

5 A Yes.

6 Q And what did you tell her again not to do?

7 A Take any ibuprofen containing medications while
8 pregnant.

9 Q And Vicoprofen has --

10 A Ibuprofen, uh-huh.

11 Q Okay. Thank you, ma'am.

12 RECROSS-EXAMINATION

13 BY MR. WISE

14 Q And the child was born with a healthy heart.
15 Obviously there was no harm.

16 A As far as I know.

17 Q It doesn't happen in every case.

18 A That's as far as I know. I don't -- I didn't know
19 anything about the -- anything about this.

20 Q Do your notes reflect that she came to see y'all
21 originally about a Mirena birth control device?

22 A I don't have that in the chart, exactly why. I do see
23 that the note that's in here is just a little handwritten
24 note from Dr. Easton. His dictation is not here. It said
25 something about a Mirena.

1 Q And that's on what area of the file and what date?

2 A That was that very first visit.

3 Q The very first visit.

4 A Yeah. Where did it -- let me get back to it if I can
5 find it here again. It's just a little handwritten
6 scratch. It said, "Mirena. Wanted removed." And then it
7 said, "October. Merix [sic] office." So that's just his
8 little notes he was taking.

9 Q And the Mirena can sometimes cause a woman not to have
10 a regular period?

11 A The Mirena can, yes.

12 Q Okay. So if she'd been a few months, wouldn't be that
13 unusual with that birth control device.

14 A It is possible not to have a visible cycle with a
15 Mirena.

16 Q Okay. Thank you.

17 MR. BARNETTE: Just one question on redirect, Your
18 Honor, following that.

19 REDIRECT EXAMINATION

20 BY MR. BARNETTE

21 Q Five months?

22 A Yes. It's possible. Some people that have a Mirena
23 have no visible cycles the entire time they have the
24 Mirena.

25 Q Which would it be something that they should check on

Wendy Bell

Direct examination by Mr. Barnette

1 in case they don't have one from that standpoint?

2 A No, because we warn them that that's a possibility
3 that that can happen.

4 Q Thank you, ma'am.

5 THE COURT: You may step down. You may also be
6 excused. Thank you.

7 (Whereupon, the witness was excused.)

8 MR. BARNETTE: The state would like to call Wendy Bell
9 to the stand, Your Honor.

10 WENDY BELL, having been first
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION BY MR. BARNETTE

13 Q If you would ma'am, please give your full name for the
14 record.

15 A My name is Wendy Bell.

16 Q And where do you work at, ma'am?

17 A I work at SLED, the South Carolina Law Enforcement
18 Division.

19 Q And what is your position there, ma'am?

20 A I'm currently the captain over the forensic
21 operations, which means I'm -- all the science divisions
22 fall under me. I supervise D.N.A., toxicology, drug
23 analysis, implied consent, which is our breath testing
24 program, and D.N.A., and trace department.

25 Q And could you give the jury a little bit about your

Wendy Bell

Direct examination by Mr. Barnette

1 educational background, ma'am?

2 A Sure. I have B.S. in chemistry from Furman
3 University. I got that in 1983. I went straight into
4 graduate school where I received my Ph.D. in analytical
5 chemistry from the University of South Carolina.

6 I came straight from there to SLED, and I've been
7 there since February of 1998. I started in the toxicology
8 department, and I was on the bench for nine years as a
9 toxicologist. I was the technical leader for the
10 department.

11 In 2007 I was promoted to the supervisor of the drug
12 chemistry unit, very similar testing techniques to
13 toxicology. It's a little -- it's a little simpler. In
14 one department we're looking for what a substance is. In
15 the other we're looking for the substances in the body.

16 In 2009 I was transferred, and I became a dual
17 lieutenant of both the drug chemistry and the toxicology
18 departments. And I was in that position in 2010 when this
19 case came through.

20 Q And how many -- how many drug cases, blood alcohol
21 cases, have you worked on, ma'am?

22 A There's been thousands.

23 Q And how many times have you been qualified in state
24 court as a forensic toxicologist, as well as a drug
25 toxicologist?

Wendy Bell

Direct examination by Mr. Barnette

1 A Over 30.

2 Q Over 30?

3 A Yes.

4 MR. BARNETTE: Your Honor, I would move at this time
5 as an expert in forensic toxicology involving drugs and
6 alcohol.

7 MR. WISE: For that limited purpose, I have no
8 objection.

9 THE COURT: She is so qualified.

10 BY MR. BARNETTE

11 Q If you would, ma'am, back in 2010 I think you said you
12 worked those dual roles over the department involving
13 toxicology at that time.

14 A That's correct.

15 Q If you would, I know you heard Quintus Young testify
16 about the Alexis Greene case. Can you tell how -- how
17 the -- his results are doublechecked by other people in the
18 department, as well as yourself?

19 A They're actually triple checked. Every phase of
20 testing in a laboratory -- we have quality control checks
21 because it's very important to us to -- to get the right
22 answer.

23 So any time data is performed an additional analyst is
24 going to sign off on it before that casework is accepted
25 and it goes into a case file. And then, so that's one

Wendy Bell

Direct examination by Mr. Barnette

1 check.

2 And then the analyst has to accept the data. He has
3 to agree that the quality control meets his expectations or
4 her expectations before he'll put his name on it as being
5 responsible for the testing.

6 So finally when they have all their data complete they
7 will write up a case file, and then it's sent to another
8 technical reviewer. And that experienced scientist also
9 looks at it and has to agree that they -- the conclusions
10 are supported by the data that's in the case file. So a
11 technical review is done on the final report. And so that
12 would be the third check.

13 Q And did you check over the results Quintus Young found
14 on this case?

15 A I did. It's not common practice for me to always
16 review everything that goes out, but because of this case I
17 did go back and pull all the data, the quality control and
18 do a full review of it myself.

19 Q And did everything appear to be correct?

20 A It did.

21 Q Okay. And I know you've seen the -- I have to find
22 the reports. I apologize.

23 (Pause.)

24 Q Show you State's Exhibit 62 which has been entered
25 into evidence already, specifically to the drug analysis.

Wendy Bell

Direct examination by Mr. Barnette

1 I think it's on page two of Mr. Quintus Young's report. If
2 you would, tell us about these drugs and the effects. And
3 if you would, educate the jury about that, ma'am.

4 A Well, Diphenhydramine and Chlorpheniramine are both
5 antihistamines. They're typically taken when someone's
6 experiencing cold-like symptoms or allergy-like symptoms
7 very much like this time of year.

8 Q Let me -- let me make sure they are --

9 THE COURT: Please be --

10 Q Are these the two substances --

11 THE COURT: -- mindful of the microphone, ma'am.

12 THE WITNESS: Thank you. I'm sorry.

13 Q Let me put the report here.

14 A It's difficult to look at that.

15 Q No problem. Do you have a copy of the report?

16 A I do have a copy of it.

17 Q Let's just start from the top if you can. That way
18 they can follow through with it from the beginning. The
19 first substance that was found.

20 A Well, we had some screens at the very top. I believe
21 Mr. Young explained that there was a cocaine metabolite
22 that screened as positive. That was actually later found
23 to be negative.

24 At the time the manufacturer of our screen started --
25 we started seeing that a lot of our child fatalities were

Wendy Bell

Direct examination by Mr. Barnette

1 screening positive. We were collecting data at this time,
2 and we later ended up raising our threshold on child
3 fatalities. But any time we had a screen that was near the
4 threshold in a child -- obviously, a child shouldn't have
5 cocaine -- we wanted to pursue that and make sure there
6 wasn't cocaine.

7 And in this case there was no cocaine. So that's why
8 that screen was positive. But you can have a false
9 positive screen. We followed up with a more selective,
10 more sensitive, screen to look for the actual substances,
11 and they were not there.

12 So the screens at the top indicate that there -- that
13 we should do further testing. So there was a positive
14 opiate screen.

15 Q Let me go back to the first page since we're talking
16 about that.

17 A Okay.

18 Q What's the first positive screen that y'all found?

19 A Benzodiazepines.

20 Q Okay.

21 A Typically prescribed for anxiety, some used for
22 antidepression. And -- and we did follow up with a full
23 panel Benzodiazepine quantitation for that.

24 Q On page two of the same report -- and you talked about
25 the positive for opiates. What would that be, ma'am?

Wendy Bell

Direct examination by Mr. Barnette

1 A I believe we cover six or seven different opiates, and
2 that -- those are things like hydrocodone, oxycodone,
3 morphine. We look for heroine. Well, the metabolites
4 pair, which was six -- sealed [sic] morphine. So it covers
5 a wide spectrum. Hydromorphone is also covered in that
6 panel. So we're looking for multiple substances, and it's
7 specific that we can tell which one is there.

8 Q And going through these -- and let me ask you this
9 question. How many child facilities do y'all examine?

10 A We get three -- anywhere from probably two to ten a
11 week. This is a very routine test that's actually --
12 legislated that child fatalities are supposed to come to
13 our laboratory for testing. Some -- there are a few
14 coroners that send it out for outside testing. But this is
15 a routine analysis.

16 Q So any time it's a child death it's automatically sent
17 to SLED.

18 A Anyone under age 18 it's required that a full
19 toxicology workup be done to make they weren't overdosed or
20 poisoned or anything like that.

21 Q So this is done routinely throughout the state.

22 A It is. And most are negative fortunately.

23 Q Most are negative. But this one obviously had some
24 positives.

25 A That's right.

Wendy Bell

Direct examination by Mr. Barnette

1 Q Okay. If you can, start with Acetopen [sic], the
2 first --

3 A So we found acetaminophen. It was actually
4 quantitated by Florence polarization in the assay. We have
5 specific assay for that, but it was confirmed by gas
6 chromatography/mass spectrometry.

7 Q Okay. And the quantitation --

8 A The quantitation was 19 mg per liter.

9 Q Okay. If you would, go to the next substance.

10 A Diphenhydramine, which again is an antihistamine. It
11 was found at 0.03 mg per liter.

12 Q And the next substance.

13 A Chlorpheniramine, another antihistamine, found at 0.06
14 mg per liter.

15 Q And if you will, go to the next substance.

16 A Methorphan, which is if you take a product that has
17 D.M. after it, it's typically found in a lot of combination
18 cold medications. Again, it's used for coughing. That was
19 found at a level of 0.03 mg per liter.

20 Q And the next substance, ma'am.

21 A Methorphan is found at 0.04 mg per liter. That's a
22 metabolite of the methorphan. So we expect -- again, any
23 time you take a substance of the body it starts trying to
24 change it to be able to eliminate it from the body. So
25 it's common to see the palalines [sic] of those drugs. A

Wendy Bell

Direct examination by Mr. Barnette

1 person probably didn't take that drug. It was metabolized
2 by the body into that drug.

3 Q And the next drug, ma'am.

4 A Morphine was found at 0.52 mg per liter.

5 Q And obviously that was a lethal level.

6 A That was very much a concern to us when we saw it.

7 Q And that's not -- you weren't looking for anything
8 specifically. You have to test every child fatality that
9 comes through.

10 A That's right. This -- this case screened particularly
11 high for opiates, and it did confirm high on this, on the
12 confirmatory test.

13 Q Let me take you to the third page. What is this
14 substance here, ma'am, that was found?

15 A Clonazepam is the benzodiazepine, that very first
16 screen that we saw that was positive. When we removed
17 assay for that, that is what we found. It is a
18 benzodiazepine. It was found at 0.01 mg per liter.

19 Q Now, when we're looking at these levels and
20 everything, essentially -- usually you're looking at adults
21 in a lot of these tests.

22 A Yes. These levels that are listed are actually for
23 adults.

24 Q These levels are actually listed for adults, not for
25 children.

Wendy Bell

Direct examination by Mr. Barnette

1 A There's very limited pediatric information for these
2 type of medications, yes.

3 Q So these are for adults, not a 6-week-year-old baby.

4 A That's correct.

5 Q If you would, tell the jury about the effects like the
6 Klonopin against the morphine. How would that affect?
7 would they have affect on each other?

8 A They would. All of these medications for the most
9 part are central nervous system depressants, which means
10 it's going to slow the respiratory system, the breathing,
11 the heart rate. And they can act together synergistically
12 to have affects on each other.

13 We're mostly concerned of course by that high level of
14 morphine because that's the one that stood out most. These
15 are not drugs that we commonly see in a 6-week-old baby.

16 Q And --

17 A If I can elaborate just one moment further --

18 Q Yes, ma'am.

19 A -- the concern there is that, you know, a lot of these
20 drugs aren't prescribed for children because their livers
21 have not fully developed yet. So it's very, very difficult
22 for them to metabolize this type of medication.

23 Most -- you know, most commonly you hear about babies
24 being prescribed acetaminophen for pain. And usually
25 doctors don't go a whole lot above that unless there's

Wendy Bell

Direct examination by Mr. Barnette

1 something very serious going on with the infant. And of
2 course pediatricians have the knowledge to assess a baby
3 and know what's safe. But commonly the children -- the
4 child fatalities that we examine, acetaminophen is going to
5 be the strongest thing we'd expect to see in a child
6 this -- this age.

7 Q So like you were telling the jury, the child's
8 organs -- liver and so forth -- haven't developed enough to
9 really fully metabolize these --

10 A No. And narcotics -- and particularly -- there's lots
11 of literature that supports it. Children under ten months
12 old cannot tolerate high levels of narcotics.

13 Q So obviously they're very susceptible to this from the
14 literature you've read.

15 A That's correct. They could be.

16 Q Could be from that standpoint.

17 A Could be.

18 Q And obviously these are not -- all of these drugs are
19 not drugs that you would normally see in children, and
20 especially morphine, I know.

21 A They're not normally dosed to children. They can
22 arrive here in different ways. We know that mothers do
23 breastfeed. Most of these are not going to be unsafe if
24 they're encountered that way in low doses.

25 Q Right. Talking about breastfeeding at this point,

Wendy Bell

Direct examination by Mr. Barnette

1 obviously, you've heard -- I know you've had to sit here
2 today and watch and hear some of the doctors and
3 everything.

4 would be appropriate to tell the doctors about when
5 you're taking medications and letting them know about these
6 medications that she's taking?

7 A I would think so but I -- that's a little out of my
8 area of expertise.

9 Q I know. You're basically on the pharmacology side.

10 A Right.

11 Q I know. But obviously these drugs, they can pass
12 through breast milk.

13 A They can.

14 Q And obviously -- and I believe I showed the doctor,
15 and I'll be glad to show you. MS Contin, which is the
16 morphine that was prescribed to the defendant, it was
17 obviously found in the baby.

18 A It was. If I may preface, at the time we found this
19 we didn't have a history that the mother was even taking
20 these medications. It was found without a history.

21 Q So y'all didn't know that.

22 A No, we didn't know it at the time.

23 Q It may still be up there. I apologize.

24 A I do think later in the coroner's report -- it may
25 have some information in it. But I don't think we're -- in

Wendy Bell

Direct examination by Mr. Barnette

1 that list, see, and verify that.

2 Q Let me go back. And I do have the report. But was
3 there additional testing done on the brain and liver of
4 Alexis in the case?

5 A Yes. After -- the brain and liver and kidney were not
6 originally submitted to us. That is not standard
7 procedure, because, again, most child fatalities come back
8 negative. But when we do see something unusual like this
9 if the tissue's available we like to get it because, again,
10 we can conform in multiple fluids that these substances do
11 exist.

12 We only tested for the morphine because that was the
13 one substance that was of interest to us because of the
14 high level. And there are some concerns with opiates, that
15 they can redistribute to the body after death. So we want
16 to make sure that we test the tissues to show that they're
17 consistent what we see in the blood to try to rule out
18 whether post mortem redistribution has occurred. That's a
19 phenomenon after death when the cells start breaking down.
20 Drugs can do that. So by testing, having similar results
21 in the three fluids, it kind of helps us rule out that that
22 is unlikely to have happened.

23 Q So that's why you did the additional testing, to make
24 sure the morphine levels was --

25 A To make sure it's real and to make sure the levels

Wendy Bell

Direct examination by Mr. Barnette

1 are -- are consistent.

2 Q And that would eliminate any issues, like I say, the
3 por -- the post settling or anything like that.

4 A It could, yes. That's what we're trying to do there.

5 Q So you had three different tests on three -- the
6 blood, the brain and the liver.

7 A Three separate tissues.

8 Q And talking about SM [sic] Contin, is the registered
9 trademark at MS Contin in Purdue Pharma -- or Pharmacy?

10 A That's right, Ucatrias [sic].

11 Q Okay. And I believe this is a report made by the
12 registered trademark at MS Contin.

13 A Yes. When manufacturers put out a new -- a new drug
14 they often provide this monograph with information from
15 their studies and research.

16 Q Okay. And let me direct you to page four of this
17 report. Talk about -- could you tell us what
18 contradictions are that they talk about in here?

19 A Well, contraindications. Those would be times we
20 would not want to use this medication.

21 Q And on that list, what do they say about
22 breastfeeding, pregnant, delivery, labor and delivery on
23 that?

24 A Find it.

25 Q I believe it's at the bottom of page four.

Wendy Bell

Direct examination by Mr. Barnette

1 A "Women who are pregnant --"

2 MR. WISE: Your Honor, I think this is beyond her --
3 her expertise. She said she wasn't a medical expert in
4 this area.

5 THE COURT: Yeah. Let me see y'all just a minute.

6 (Bench conference held off the record in the presence
7 of the jury but out of the hearing of the jury.)

8 BY MR. BARNETTE

9 Q But the morphine could come from MS Contin, is that
10 correct, ma'am?

11 A It could.

12 Q From what you know. And obviously this is a very high
13 amount. Was this along with the other drugs? Was that the
14 reason why this baby died?

15 A It certainly isn't a illegal level for an infant.

16 Q And the combination of all of these drugs, plus the
17 Klonopin on the next page, they'd have a syntroitic [sic]
18 effect on each other, I guess.

19 A They could.

20 Q And obviously this could be the reason why she died.

21 A It could be, yes.

22 Q And later on did you find that was the reason the
23 pathologist found out?

24 A We were told --

25 MR. WISE: Objection, Your Honor. Basing her

Wendy Bell
Cross-examination by Mr. Wise

1 conclusion on somebody else's.

2 THE COURT: Sustained.

3 MR. BARNETTE: She can testify later. One moment,
4 Your Honor, please.

5 (Pause.)

6 Q If you would, please, answer any questions the defense
7 may have for you, ma'am. Thank you.

8 CROSS-EXAMINATION

9 BY MR. WISE

10 Q Ms. Bell, first of all, you're assuming the accuracy
11 of these numbers.

12 A Yes, sir. Our laboratory is an accredited laboratory,
13 and as such we have to go into rigorous testing. We have
14 outside agencies come in and look at our protocols and make
15 sure that we're performing them properly and that they're
16 scientifically valid.

17 We also participate in prof -- proficiency testing
18 programs where they send us samples every year and we have
19 to accurately report them. And if not, then we're cited.
20 We have to undergo corrective action to find out why. And
21 we haven't had any of those for -- particularly for
22 opiates. We've been highly reliable in our opiate results.

23 Q So the answer to my question is yes.

24 A Yes.

25 Q Okay. You commonly dilute specimen before testing?

1 A Commonly. It's an unusual question. In tissues --
2 tissue comes in a solid form, so you have to add water to
3 it to liquify it. And we typically do a one-to-four
4 dilution for that. So, yes, for tissues every time we test
5 tissues it's a one-to-four dilution. And one of the
6 reasons we do dilutions if I may give an analogy --

7 Q Sure.

8 A -- our instruments have a linear range. And you want
9 to keep the testing within the linear range of an
10 instrument.

11 An example might be if I brought in a bathroom scale
12 the only weighs up to 200 pounds and I put a 250-pound
13 person on it. The needle would go off, and we would get
14 inaccurate results.

15 So, obviously, you can't measure part of a person, but
16 we can cut our sample back and put a smaller amount of it
17 into the instrument. That way it pulls our sample back
18 into linear range.

19 And we've also been proficiency tested with diluted
20 samples, and they have been high accurate.

21 Q Thank you.

22 Did you ever use a one-to-sixteen ratio?

23 A It has been used, again, if it's needed. And we --
24 typically, in overdose type situations we'll run multiple
25 dilutions. We could either average the data if they look

1 like they have similar quality controls, or we can choose
2 the data with the best response if there -- if one set of
3 data is better for one reason or another.

4 Q Do you use 1-16 dilution for blood?

5 A In very high levels of overdose we could.

6 Q You could. All right. Well, how do you know if it's
7 a high overdose before you do the test?

8 A Our screen indicated that it screened greater than
9 one, which is an indication. Our curve only goes up to
10 one. So we did a one-half dilution on the blood when we
11 screened it. It was screening at greater than one, which
12 told us if we ran it at a full mil it would have been
13 higher than a curve. So we needed to do the dilution,
14 again, to bring it back into that scale.

15 Q Do you have -- do you know what an ion mode scanner
16 is?

17 A Yes.

18 Q And what is that?

19 A Well, I'm assuming you -- ion mode, you're talking
20 about looking for master charge ratio ions --

21 Q Yes.

22 A -- in a mass spectrometer.

23 Q Right. Did y'all use that?

24 A We did.

25 Q Is that -- that's an accurate test too?

Wendy Bell
Cross-examination by Mr. Wise

1 A Yes, it is.

2 We ran -- our mass spec was run in full scan versus
3 sim. We -- you have the options with a mass spectrometer
4 to run it full scan or sim. We did run it in scan mode,
5 which in that mode we get a full fingerprint. In sim mode
6 you're only looking for three lines.

7 It makes your ion peak shapes a little bit better, and
8 visure [sic] sensitivity is lighter. But in scan mode we
9 get a better fingerprint to know exactly which compound we
10 have.

11 They're both used for quantitation in toxicology and
12 wildly accepted in the field. It's just kind of a personal
13 preference.

14 Q Is it common to use a full-scan mode to quantitate
15 drugs?

16 A It -- it is.

17 Q Okay. Is it as accurate as not using a full --

18 A It's actually more accurate. It's not as sensitive.

19 Q Well, you have to explain that a little bit to me.

20 A It's more accurate because you get a full-scan
21 spectrum, a full total ion femtogram of the compounds
22 you're looking for.

23 where it decreases your sensitivity is with a sim
24 you're only looking for two -- or probably three to four
25 ions per compound. In our instance we were looking for the

Wendy Bell
Cross-examination by Mr. Wise

1 full scan, which covers a range of I think 40 to 400 mass
2 charge ratio. So it cuts down your sensitivity slightly,
3 but you do get full spectrum identification of the
4 compound. It's kinda like that fingerprint, again, that we
5 were discussing. So when we say it's morphine, we know
6 with a hundred percent certainty it's morphine.

7 Q Now, you at one time had requested the weight of the
8 mother and the weight of the baby that died, correct?

9 A I may have. It's been several years since this case
10 was received.

11 Q Let me find the e-mail. I believe you sent over an
12 e-mail to Rusty Clevenger requesting the weight of the
13 baby, is that correct?

14 A Yes.

15 Q And you wanted to do some calculations based on that.

16 A At one time we had found some information about how
17 milk can dep -- how morphine could deposit to the milk, but
18 what we ended up finding after further research was that
19 there's a widely varied opinion. So we were quite
20 concerned. This is a high level.

21 MR. BARNETTE: Your Honor, it's -- I'll be glad to let
22 her testify if that's what he wants her to do as an expert
23 on that area.

24 MR. WISE: I just asked if she did those tests.

25 A We -- we did not end up doing those calculations to

Wendy Bell
Cross-examination by Mr. Wise

1 answer your question. No, sir.

2 Q So you never did any type on test that, correct?

3 A We did not pursue that after we started seeing a lot
4 of the variability in the research.

5 Q And the variability just meaning different readings on
6 different situations?

7 A Well, a lot -- when we found out the facts of the
8 case, a lot of the mothers that have been tested who use --
9 who were dosed with MS Contin and then test how it
10 partitions into breast milk were not chronic users. And we
11 were later informed that Ms. Greene was a chronic user.
12 And therefore she doesn't fit a lot of the profile of a --
13 and also due to the age of the baby. There are a lot of
14 discrepancies.

15 So therefore the data that's available, as I said, is
16 very limited in pediatric cases and breastfeeding cases.
17 So rather than make speculation we chose not to go down
18 that avenue. What we know is what we found in the blood
19 and the tissue.

20 Q Correct. And that's -- assuming those are right
21 numbers, that's all you know. You don't know how it got
22 there.

23 A No, sir. That is not part of our job.

24 Q Okay. You don't know how much morphine somebody had
25 to take to get there.

1 A No, sir.

2 Q All right. You do know, because there's an e-mail in
3 there, at one point where you stated that it is 100 times
4 some of the studies you've seen.

5 MR. BARNETTE: Your Honor, I'm going to object to
6 this. If he's going to let her testify, let her testify as
7 an expert. Don't keep adding information that he don't
8 want her to be the expert.

9 THE COURT: Well, are you going into that line?

10 MR. WISE: Well, let me find the e-mail real quick.

11 MR. BARNETTE: Your Honor, I'm object to -- I mean,
12 either he's -- he can't ask the question by not letting me
13 ask the question if he's not going to let her be an expert
14 in that area.

15 THE COURT: Well, I mean, if she's going to be an
16 expert in a particular area she's going to have to be
17 qualified as such for anybody to ask her a question. How
18 about that?

19 BY MR. WISE

20 Q You did look at several articles involving this case,
21 correct?

22 A Yes, I did.

23 MR. BARNETTE: Your Honor, I'm going to object to this
24 unless I get to ask her about the articles.

25 THE COURT: You'll certainly get to do redirect.

Wendy Bell
Cross-examination by Mr. Wise

1 MR. BARNETTE: Okay. That's fine. I just wanted to
2 make sure he understands where we're going.

3 BY MR. WISE

4 Q And one of the articles was from the Canadian Family
5 Physicians Mothers Update?

6 A It's been a while since I looked at it. I'd like
7 to --

8 (Pause.)

9 THE COURT: While she's looking at that let me see
10 y'all just a minute.

11 (Bench conference held off the record in the presence
12 of the jury but out of the hearing of the jury.)

13 BY MR. WISE

14 Q Pull that one back.

15 This figure -- I don't know if this is your area of
16 expertise or not. If it is, fine. If it isn't, just tell
17 me and we'll move on to something else.

18 Are you familiar with the blood-brain barrier they
19 refer to in drugs?

20 A Yes.

21 Q Okay. Morphine does not pass through the blood-brain
22 barrier very well.

23 A Actually, it can.

24 Q It can, I agree, but it doesn't pass, like it doesn't
25 pass as fast as heroine.

Wendy Bell
Cross-examination by Mr. Wise

1 A That is true.

2 Q Correct. And doesn't pass near as fast as Oxycontin.

3 A I -- I would have to look at those different numbers.

4 I -- I am familiar with it, but I don't know the exact
5 rates of those particular drugs off the top of my head. I
6 can refer to --

7 Q So I'm not asking for the specific numbers. I'm just
8 asking general knowledge. How about that?

9 MR. BARNETTE: Your Honor, we're going to -- I'm going
10 to object at this time.

11 If he wants -- I mean, this could go all out if we're
12 going to let it come. He's asking her all kinds of
13 questions about stuff that he --

14 THE COURT: She says this is within her realm of
15 knowledge in her profession.

16 MR. BARNETTE: Okay.

17 BY MR. WISE

18 Q So, but morphine is slower to go from the blood to the
19 brain than those other two substances.

20 A In -- in adults where most of the testing is done,
21 yes.

22 Q Right. And the children --

23 A Vary significantly.

24 Q We don't know.

25 A There's not a lot of data.

Wendy Bell
Cross-examination by Mr. Wise

1 Q And in this case the amount of alleged morphine in the
2 brain was considerably higher than the blood and the liver.

3 A It's not considerably higher.

4 Q well, it's higher.

5 A well, I would say statistically those are not terribly
6 significant differences.

7 Q Ten or 15 percent isn't significant?

8 A Not when you're talking about a lethal amount, because
9 it can vary. And tissues are very difficult to quantitate.
10 we have strong variability in our -- in our blood and in
11 our tissues. There's a lot of variability there.

12 Q The liver -- the liver though is more blood rich than
13 the brain.

14 A Yes, sir.

15 Q Okay. So if substances pass in the blood you would
16 expect the liver to be the highest reading normally?

17 A It can be, but, again, we're lysing the cells. We're
18 looking at total makeup of the tissues, not just what's in
19 the blood part.

20 we -- we homogenize the issue, which Mr. Young spoke
21 how he'd have to grind those up and liquify them. So it's
22 more of a [sic] intracellular and extracellular, not just
23 what's in the blood inside those tissues.

24 Q You know that the morphine breaks down into
25 subcomponents.

Wendy Bell
Cross-examination by Mr. Wise

1 A Yes.

2 Q That's part of that. It's M -- M -- M-6-G and M-3-G.

3 A Gluceron bound to morphine-3 and gluceron bound to
4 morphine-6, yes.

5 Q Okay. Now, were you given any stomach contents to
6 analyze in this case?

7 A We were not.

8 Q Okay. And those two substances can be used for
9 verification.

10 A well, they're just additional substances. We know
11 that they're there because, again, the screen was so high,
12 and we did not quantitate what our screen was.

13 The screen cross reacts with the glucurone. There's a
14 difference between total morphine and free morphine. We
15 quantitated at the time free morphine. And we would do
16 total morphine upon request, but it wasn't requested in
17 this case.

18 Q Was requested. And what's the difference between the
19 two?

20 A well, morphine-6 is active while morphine-3 is not
21 pharmacologically. And it's important because, again, it
22 can have -- if you have high morphine-6 levels it can add
23 to the toxicity, so it could even be more drug there that
24 we're not detecting, because we're looking for the free
25 drug.

1 Q And you mentioned that there is the premise that --
2 that morphine or drugs can redistribute after death.

3 A Depending on how long the interval is between when the
4 body dies and when their sampled, that can be an issue.

5 Q And roughly 12 hours will start some redistribution.

6 A It can start it, yes.

7 Q Start a little less than that really.

8 A Depends on the drug.

9 Q Right. But 12 hours is a plenty for most drugs.

10 A Again, some drugs don't distribute very highly at all.
11 It depends -- high-level drug and the body distribution
12 throughout the body.

13 Q But morphine redistributes.

14 A It can, yes.

15 Q And when it redistributes you get a distorted reading.

16 A You can -- if you have high distribution it would
17 expect the tissues to be much higher than the blood because
18 it's pulling out of the tissues and dumping into the blood.

19 Q Uh-huh.

20 A But we didn't see extremely different levels in this
21 case.

22 Q Okay. Now, you ever run a hair test?

23 A We do not do hair testing in our laboratory.

24 Q Can that be done? Are you familiar with it?

25 A Yes, I am familiar.

1 Q All right. And hair --

2 A Hair testing shows a history. We're looking more in
3 our laboratory for acute incidents. And if we -- we
4 do send some things off for hair testing. For example, if
5 we have a child that's suspected of being abused long-term
6 we might look to see if the parents were medicating it long
7 term.

8 Q And you do that through a hair test.

9 A We can, but we send that off.

10 Q And if you wanted to know whether or not someone was
11 taking an exorbitant amount of morphine you could do a hair
12 test and determine that.

13 A Potentially.

14 Q Well, I mean --

15 A I'm not sure how that works in babies. I'm --

16 Q Well, what about adults?

17 A Yes. You can test adults.

18 Q You can do that, right? So if -- if you have a sample
19 of Stephanie Greene's hair three or four days after this
20 incident you could have made some conclusions from it.

21 A Not three or four days. You typically want it -- we
22 would have to pull it. That'd be pretty painful.

23 Q You'd have to grow it a few days.

24 A Or a few weeks, yeah.

25 Q So how about a week later?

Wendy Bell
Cross-examination by Mr. Wise

- 1 A We could do hair testing.
- 2 Q And you could it a month later.
- 3 A Possibly.
- 4 Q And it sounds like that may even be better because
- 5 then you can determine peaks and valleys.
- 6 A That -- that type of testing is not frequently done,
- 7 and it's very expensive. It's not really --
- 8 Q Not frequently done.
- 9 A No.
- 10 Q But it is possible to be done.
- 11 A There are -- there are laboratories that could do it.
- 12 Q And they can take a sample of hair and determine
- 13 approximate morphine level a week earlier, two weeks
- 14 earlier, three weeks earlier.
- 15 A No, sir. It's not that -- it's not that quantitative.
- 16 It just shows use.
- 17 Q Shows use.
- 18 A We don't show levels in the hair like that.
- 19 Q Does anybody do testing that can show levels?
- 20 A The laboratories that we use do not do that kind of
- 21 leveling. It's more exposure.
- 22 Q Do any laboratories do quantitative hair testing?
- 23 A They do quantitative, but, again, it's -- it's
- 24 segmental. So it's not -- you can't tell it down to a
- 25 particular day. I'm not aware of that being possible.

Wendy Bell
Cross-examination by Mr. Wise

1 Q Excuse me one second.

2 (Pause.)

3 Q Thank you very much.

4 MR. BARNETTE: No further questions of this witness,
5 Your Honor.

6 THE COURT: You may step down.

7 MR. BARNETTE: We'd ask for the witness to be excused,
8 Your Honor.

9 THE COURT: She may be.

10 (Whereupon, the witness was excused.)

11 THE COURT: Ladies and gentlemen, we're going to
12 recess for the afternoon.

13 Keep in mind the caution I've previously given you,
14 and that is that you're not to have any discussions with
15 anyone. You're not to conduct any research or do your own
16 investigation into any issue in any fashion. You are not
17 to permit yourselves to be exposed to any type of media
18 coverage that relates to the trial, whether it be
19 television, radio or newspaper.

20 Do have a good evening, and please report to your jury
21 room at 9:30 in the morning, 9:30 in the morning.

22 If you have pads leave those with the bailiff, please,
23 and I'll put them in an envelope.

24 (The following takes place outside the presence of the
25 jury.)

1 THE COURT: Let me ask y'all to verify all of the
2 exhibits and let's be sure they're accounted for. And turn
3 them over to the court reporter.

4 (Pause.)

5 THE COURT: Court's in recess until 9:30 in the
6 morning.

7 END OF PROCEEDINGS APRIL 1, 2014

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1 (Proceedings April 2, 2014)

2 (The following takes place outside the presence of the
3 jury.)

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

5 MR. BARNETTE: Your Honor, just something that we need
6 to put on the record if that's okay for a second.

7 THE COURT: Okay.

8 MR. BARNETTE: Your Honor, we met back in chambers
9 prior to this. We I had done a redacted a copy of the
10 audio interview -- Investigator William Gary as well as
11 Investigator Kotecha in this case.

12 I supplied it to the defense, and we took out those
13 references to the drugs themselves, the drug charges.

14 We -- we would like to play it, but I understand from
15 the Court's ruling based off our conversation. I just want
16 to make sure the Court's ruling is the reason why is
17 because the officers and what was said -- I guess what
18 Mr. Wise's objection was -- I'll let him put on the record
19 from there at this point.

20 MR. WISE: Yeah. My objection -- my objection was the
21 officers offered too many opinions about the cause of
22 death, too many opinions about their opinion of her and
23 whether or not there are any addiction problems with her.

24 And they, quite frankly, just say, you know, I've been
25 around, I know, I know the signs, I know the symptoms and

1 so forth. And they were offering professional opinions in
2 both of those instances.

3 THE COURT: All right. Is that -- do you believe that
4 to be an accurate representation, Mr. Barnette, that the --
5 the officer on the audio is expressing an opinion about
6 things that would require some special medical training?

7 MR. BARNETTE: Well, there is times where Investigator
8 Gary mentions about, you know, obviously feels like
9 morphine could be passed through breast milk and things of
10 that nature.

11 THE COURT: Well, as I understand it both sides in
12 this case are calling expert witnesses on that point.

13 Now, you're not submitting that Mr. Gary is an expert
14 in that field, are you?

15 MR. BARNETTE: No, sir. But I -- you know, I think
16 he's relying on information we feel like is correct, but I
17 understand the Court's ruling. I understand they totally
18 disagree with that.

19 THE COURT: Well, I -- well, I obviously have not
20 listened to the audio. It may not be obvious, but I have
21 not listened to the audio because it's not been presented
22 to me for that purpose.

23 It's been shared with the lawyers in order to try to
24 agree to a submission of the audio of the interview between
25 Mr. Gary and the defendant. So I've not listened to the

1 audio. And I'm happy to listen to it if y'all think that
2 it's admissible.

3 However, if it's accurate that Mr. Gary is giving
4 medical opinions that you intend to call expert witnesses
5 to provide, then I'm satisfied that that would have to be
6 redacted.

7 MR. BARNETTE: Yes, sir.

8 THE COURT: I haven't listened to it, so I don't know
9 if that's the case.

10 MR. BARNETTE: Yeah, it is. I mean, he does do that,
11 yes, sir.

12 THE COURT: All right. Well, do you wish to do
13 further redactions, or do you just wish not to play it, I
14 mean?

15 MR. BARNETTE: Well, I think we start doing -- we
16 redacted a lot of it already, Your Honor. If we keep
17 redacting I think it's going to get to the point where it's
18 going to be hard to follow at that point.

19 THE COURT: Okay.

20 MR. BARNETTE: And obviously they can testify to their
21 interview, what she told them.

22 THE COURT: They can. But, now, you don't intend to
23 call lay witnesses, whether they be police officers or
24 otherwise, to testify about the ultimate medical opinions
25 in this case.

1 MR. BARNETTE: Oh, no, sir. It's basically what --
2 what she told them during the interview. Obviously,
3 they're not going to take issue with what she told them.

4 THE COURT: Sure.

5 All right. Anything else?

6 All right. Bring them in, please.

7 (The following takes place in the presence of the
8 jury.)

9 THE COURT: Good morning, ladies and gentlemen.

10 We're going to continue with the state's presentation
11 of evidence from yesterday.

12 MR. BARNETTE: May it please the Court, Your Honor.
13 I'd like to call Investigator William Gary to the stand.

14 WILLIAM ROBERT GARY, having
15 been first duly sworn, testified as follows:

16 DIRECT EXAMINATION BY MR. BARNETTE

17 Q If you would, sir, please state your full name for the
18 record.

19 A William Robert Gary.

20 Q And where do you work at, sir?

21 A Spartanburg County Sheriff's Office.

22 Q And what's your position there, sir?

23 A I'm a senior investigator in the criminal
24 investigation division currently assigned to violent crimes
25 encompassing homicide, robbery, those types of crimes.

1 Q And how long have you been at the sheriff's
2 department, sir?

3 A A little bit over 19 years.

4 Q Was you assigned to this case involving Stephanie
5 Greene, the defendant in this case?

6 A Yes, I was.

7 Q And if you would, did you actually go to the scene
8 that day?

9 A Yes, I did.

10 Q If you would, tell the jury about that, sir.

11 A I got called by the coroner's office early in the
12 morning to tell me of this death, and I responded to the
13 scene. I assumed miscommunication with the con-center that
14 a uniformed deputy had arrived also, who had not gone.

15 When I got there the ambulance was parked in front of
16 the house. I went to step inside and ended up passing the
17 victim not knowing who she was -- or the defendant -- on
18 the porch not knowing who she was. She was sitting there
19 smoking a cigarette, drinking coffee.

20 I went in and was told the baby was out in the
21 ambulance, so I went out to look at the baby in the
22 ambulance.

23 And then I went back inside the house. When I went
24 back in an interview had already started with the coroner's
25 office and her inside the residence.

1 Q Let me show this. This has been entered into evidence
2 as State's Exhibit 32. Is that a picture of her -- I guess
3 you actually saw her outside.

4 A I did. It was basically the same location. It just
5 wasn't at that exact moment.

6 Q Right. And so you didn't -- you didn't realize that
7 was even the -- was the mother in this case.

8 A No. I thought it was possibly a neighbor, friend,
9 someone like that.

10 Q Okay. And you said later on they -- they did start to
11 interview her, involving an interview with her.

12 A They did. I came into the -- it was at a like a
13 dining room table almost like -- not really an open area.
14 There's kind of a bar separating the dining room area and
15 the kitchen. And they were sitting at a dining room table
16 there, and I walked up and sat down while it was already in
17 progress, and so was there for a portion of that interview,
18 not the entire thing.

19 Q How did she appear to you?

20 A She was slow in her speech. She -- I didn't see her
21 move around a ton at that time, but everything she was
22 doing was slow.

23 To me with my experience in the years of working at
24 the sheriff's office, appeared to me she was under the
25 influence of something. I didn't know what. And during

1 that she -- you know, I asked her, you know, have you taken
2 anything, any medications since you found her. And she
3 completely denied taking anything.

4 Q Obviously, the investigation continues. Obviously,
5 you have baby deaths. Everybody -- the sheriff's
6 department responds to all baby deaths in this situation.

7 A Yes, we do.

8 Q So all of these -- obviously, they're charged mainly
9 with finding out the cause of death and things like that.

10 A Right. Baby deaths can be difficult because this is
11 not your cookie-cutter homicide or anything like that.
12 There's no gunshot; there's so stabbing; there's no
13 beating; there's nothing like that. There's no signs of
14 trauma on the baby at all and no signs of violence like you
15 might have with a struggle in a home or something with a
16 fight.

17 So there was nothing that day that stood out to us to
18 say someone could have done something to this child. So of
19 course with that we -- we might can make some -- I guess in
20 a bad way -- educated guesses, assumptions, things,
21 opinions -- you know, work a case based on what we might
22 have seen in the past, what we see there, and ask questions
23 to go along with that. But we don't know anything in this
24 case until there's an autopsy performed. And here it
25 toxicology reports and things like that to give us some

1 indication, because I didn't actually do an incident report
2 on this until a couple of months later.

3 Q Later on did y'all receive the pathology results, as
4 well as the toxicology results?

5 A Yes, I did.

6 Q And based off that what did the coroner's office
7 declare this to be?

8 MR. WISE: I object to his testifying what his report
9 said. He can testify what he did and what he saw.

10 THE COURT: You're asking him what the pathologist's
11 opinion was?

12 MR. BARNETTE: Yes, sir.

13 THE COURT: And the pathologist is going to testify?

14 MR. BARNETTE: Yes, sir.

15 THE COURT: All right. Overrule your objection.

16 BY MR. BARNETTE

17 Q Did you receive the pathology results, as well as the
18 toxicology results in this case?

19 A I did. Once I was notified of what was found there
20 that initiated the report and my investigation of doing
21 search warrants to obtain records for both the defendant
22 and for the child.

23 Q And did you do that, sir?

24 A I did.

25 Q And did you review those records?

1 A Yes, I did.

2 Q Based off that did you conduct an interview with the
3 defendant?

4 A I did.

5 Q Let me show you what's been marked as State's
6 Exhibit 58. If you would, just tell us. Is that a waiver
7 that you did with the defendant concerning her rights?

8 A It is. This is the Spartanburg County Sheriff's
9 office. It's entitled preinterrogation waiver form, which
10 is when we're doing an interview with someone who can be
11 considered to be in custody for something, or any time they
12 might perceive that, we go over their rights with them --
13 what you hear on television -- to remain silent and all of
14 that. We go over with that.

15 We ask them to sign both they understand their rights.
16 And then the second part asks if they will waive their
17 rights at that time and agree to talk to us about what we
18 want to talk to them about.

19 Q And did you read these rights to her?

20 A I did.

21 Q And did you -- did she sign that she understood these?

22 A She signed both that she understood her rights and was
23 willing to waive her rights at that time and talk to us
24 about this.

25 Q And was this witnessed by Kevin Bobo, and notarized by

1 him?

2 A Yes, sir. He was present when it was written.

3 MR. BARNETTE: Your Honor, I'd like to enter State's
4 Exhibit 58 in at this time.

5 THE COURT: No objection?

6 MR. WISE: No objection.

7 THE COURT: It's admitted.

8 (Waiver form of the defendant marked State's Exhibit
9 No. 58.)

10 MR. BARNETTE: Can I publish it to the jury at this
11 time, Your Honor?

12 THE COURT: You may.

13 BY MR. BARNETTE

14 Q Before that just to show the jury this picture,
15 State's Exhibit 32, that's the first time that you saw --
16 obviously, you was coming in. That's how you saw the
17 defendant.

18 A I can't -- I can't say, you know, when the picture was
19 taken that's exactly when it was, but it's the same
20 location where she was when I came in.

21 Q And you didn't -- didn't appear to be the mother at
22 that time.

23 A Not to me.

24 Q Showing you State's Exhibit 58. If you would, just
25 read the form and explain to the jury what you did, sir.

1 A The top, we fill out the personal information of the
2 person with their name, address, our case number if we have
3 one at the time. It's filled in.

4 And it goes with one through five -- their rights.

5 "I have the right to remain silent. Anything I say
6 can and will be used against me in a court of law. I have
7 the right to talk to a lawyer and have him present with me
8 while I'm being questioned. If I cannot afford to hire a
9 lawyer one will be appointed to represent me before any
10 questioning if I so wish. I have the right to stop
11 answering questions at any point in the questioning."

12 And we read that to the person. And when I do -- at
13 that point I stop just to ask do they understand any of it,
14 do I need to further explain any of those five.

15 And then, "The above rights have been read to me by
16 Detective Gary," which is me. "I've read the same and
17 understood the rights fully." And I'll ask that. If they
18 do, I'll ask them to sign, as she did there that she
19 understood her rights.

20 Then it says, "I waive, which means give up, my rights
21 as explained above and agree to talk to Officer Gary in
22 reference to Alexis Greene. My statement that I may make
23 is of my own free will without fear, threat, promise or
24 favor or reward of any kind. I'm able to read and write
25 the English language, finished 16 years in school."

1 Once I read that to them I make sure they're willing
2 to talk to me. Ask to sign there, which she did that she's
3 willing to talk to us. I witnessed it, and Sergeant Kevin
4 Bobo notarized it.

5 Q And she signed in two different places, is that right?

6 A Yes, sir.

7 Q And she had told you she went through four years of
8 school?

9 A Four years of college, yes, sir.

10 Q Four years of college. And did she also -- did she
11 tell you she was a nurse?

12 A Yes.

13 Q Okay. During the interview did Investigator
14 Kotecha -- did he come in at some part in the interview?

15 A He did. He came in a few minutes -- ten minutes or so
16 in the interview.

17 Q When -- if you would, tell the jury. What did she
18 tell you once you started asking her about what happened?

19 A When I first started talking to her about what the
20 toxicology report showed and started talking to her about
21 her omission to her doctors as far as not telling them, the
22 ones prescribing the medications to her, that she was
23 pregnant and telling them about the other -- one about the
24 other drugs -- her response was that they were covering
25 their own butts by not documenting it in there.

1 And when I started talking to her about what was in
2 the toxicology report one story that she mentioned was that
3 her sister was at the house at some point and dropped some
4 medication, that one of her children could have picked up
5 the medication and given it to the baby -- the medication
6 being in pill form. And I -- I kind of asked her how that
7 sounded, did that sound reasonable that a child would pick
8 that up.

9 Later on she talked about that again, and she said
10 that her sister was still there when they were found and
11 her sister got them back. So I wasn't sure, you know, how
12 that -- if her sister was there and her sister got the
13 pills, how that would even be possible.

14 At one point during the interview she was asked
15 that -- with her wanting to take the morphine and is -- to
16 continue to take it if she might have had a problem with
17 it, an addiction problem, that could that be the reason why
18 she didn't tell the doctors that she was pregnant and
19 breastfeeding because she knew that they would not give her
20 the medication and she -- and that was the only time she
21 started showing any emotion the day that this happened, as
22 well as during the interview. And she said that that was
23 part of it.

24 Q Let me go through this with you. You asked her about
25 the prescriptions she'd had filled --

1 A Correct.

2 Q -- all the way through her pregnancy and, you know, up
3 to the point where the child died. And she -- did she tell
4 you she didn't take them?

5 A She said she -- I asked her why. She was said she
6 wasn't taking the pills while she was pregnant. And so I
7 asked her why she was still filling the prescriptions if
8 she wasn't taking them. She said that she had insurance
9 that was covering it so she kept -- continued to get it
10 filled.

11 So my question to her was, you know, were you saving
12 it for a rainy day, you know, why would you continue to do
13 that, and she said that her husband Randy had her pills
14 locked up and would give her, you know, three days worth at
15 a time.

16 So that struck me as odd because all of these pill
17 bottles are setting on the dresser in the bedroom. So I
18 asked her about that and she -- her statement to me was at
19 that point in time he trusted me enough but he still had
20 some locked up.

21 Q At one point did she talk -- you talked to her about
22 the prescriptions. Did she say she didn't get the
23 prescriptions for four or five months and, as a matter of
24 fact, didn't get any prescriptions from Kovacs or Kooistra
25 during that four or five months? Did she make a statement

1 about that?

2 A I remember her saying she wasn't taking the pills that
3 she had filled.

4 At one point she did say that her husband had picked
5 up the pills from the office, because I asked her about not
6 going into the office, you know. And she said that he had
7 gone by to pick up the -- the prescription for her, you
8 know. I don't -- I don't recall her saying that she just
9 did not get the prescriptions filled.

10 Q Okay. And/or she didn't get the prescriptions.
11 Actually, he went and got the prescriptions.

12 A I think she talked about that at least on one occasion
13 where he went to -- or he went and picked up the
14 prescription.

15 Q And her thing, she kept saying the doctor didn't write
16 down what she told him, is that right?

17 A Right. She -- I asked her about that, did they go
18 back and take this stuff out of the charts, you know,
19 because how would they know this is what it was going to
20 lead to if you had told them. You know, it made no sense
21 why they wouldn't document it -- did you -- you know. And
22 she just kept saying they -- that doctors do that, they
23 just cover their -- their own butts and cover themselves.

24 Q As a matter of fact, didn't she at one point start
25 saying that, well, her memory's not as good as it used to

1 be?

2 A She talked about her -- her accident, which I have no
3 doubts that it happened. And she said that her -- her
4 memory wasn't -- wasn't that good.

5 So my question to her was should she have been
6 practicing as a nurse during that time. And she said
7 progressively it was getting worse as it went, which is
8 very possible. And -- and that's -- that was her
9 explanation, that her memory just wasn't what it used to
10 be, that it got worse because of the accident that she had.

11 Q And did she also make the comment during the talking
12 to you or whatever that she just breastfed a little, that
13 she was actually giving the baby formula?

14 A She said she supplemented a good bit with formula and
15 that she didn't breastfeed a lot, you know, which hearing
16 her talk about before with her talk about that there'd be
17 nights that Alexis would just -- she'd lay in the bed and
18 she'd stay latched on all night and feed as she wanted to,
19 to me that's not -- it was -- if you're doing that, I don't
20 know how you're not breastfeeding a lot.

21 Q And, as a matter of fact, what she told in the
22 coroner's interview that she breastfed all night.
23 Breastfed through the night.

24 A Right.

25 Q And she kept talking about her husband keeping her

1 medications locked up.

2 A Right.

3 Q And then he finally let her have them because he
4 trusted her?

5 A That's what she said. She said he'd started to trust
6 her at that point. But she also said he still had some
7 locked up.

8 Q And she also -- did she say that she saw Kovacs that
9 summer? As a matter of fact, right -- right before, like
10 three or four months before, her pregnancy. And then you
11 asked her about, you know, well, wasn't that earlier and
12 everything. And she kept insisting it was until you showed
13 her and told her about it. And obviously it wasn't back
14 until April of that year.

15 A Yes.

16 Q As a matter of fact, she had talked about nurses that
17 had been nine months pregnant and, I mean, not even knew
18 they was pregnant for the nine months at times. She kept
19 talking about that at times.

20 A Correct.

21 Q As a matter of fact, keep talking about locking up the
22 prescriptions. He kept them locked up until right before
23 she had the baby.

24 A That's what she -- that's the way I took it from the
25 way she said it. It was like he had it locked up before or

1 at some point until she had Alexis and then he -- she still
2 hadn't regained his trust the way -- the way she said it,
3 that's how I took it. And that's when he left the -- let
4 her have access to the medication.

5 Q And during the interview, Investigator -- and he'd
6 actually talked to her before that you had actually talked
7 to her.

8 A Yes, he did.

9 Q He confronted her, because actually she filled out
10 some of the lists herself just on the doctors, on the
11 medications, and left morphine off.

12 A Correct. And I'd talked to her also along that same
13 lines where she'd said that she told her O.B.G.Y.N. her
14 medications she was -- all of her medications she was
15 taking.

16 Q So once she realized that did she start telling y'all
17 more information after that?

18 A That's when she started -- it was obviously -- it was
19 towards -- towards the end of the interview is when she had
20 broken down crying. And she was saying that part of the
21 reason why she hadn't told them about the medication is
22 because they would stop prescribing it to her or about the
23 pregnancy is because they would stop prescribing it to her.

24 Q And you asked her about those admissions where she --
25 she finally admitted she just didn't tell them because she

1 was afraid they'd take off her off the morphine.

2 A Yes.

3 MR. BARNETTE: One moment, Your Honor.

4 (Pause.)

5 Q And did you also ask her about did you and your
6 husband talk about what happened?

7 A Yes, sir. I asked her if after this had happened did
8 she have any conversations about this and that the -- could
9 the -- the cause of Alexis' death could be from these
10 drugs. And she said that her and her husband had discussed
11 that as a possible cause of this.

12 Q And, as a matter of fact, hadn't she reviewed her own
13 records before y'all had this interview?

14 A She said she had seen her records.

15 Q And was making reference to them during the interview?

16 A Yes, sir.

17 Q And when was the first time she had found out about
18 the morphine overdose that she told -- in that interview
19 when you told her?

20 A She said that -- she said she had no -- that no one
21 had told her anything. And -- and I told her what the
22 levels showed.

23 She asked -- if she wanted to know. She said yes.

24 And so I told her what the levels showed in the toxicology
25 and what the -- I told her -- I read to her what the ruling

1 was on the -- from the pathology with the coroner's office.

2 Q And she admitted that was high.

3 A Yes, she did.

4 Q And she knew it was.

5 A Yes.

6 MR. BARNETTE: One moment, Your Honor, please.

7 (Pause.)

8 Q Thank you, sir. Please answer any questions that the
9 defense move for you, sir.

10 CROSS-EXAMINATION

11 BY MR. WISE

12 Q Officer Gary, you were there on the day of this
13 incident.

14 A Yes, I was.

15 Q And did you take anything from the house?

16 A No, sir.

17 Q Excuse me?

18 A No, sir.

19 Q Did you see anybody take any formula bottles from the
20 house?

21 A Yes, sir. We discussed it. While I was there during
22 part of the interview we were asking about the formula and
23 what was it that she had given to her at that time. And it
24 was pointed out to us I believe by both her and Randy where
25 the formula was in the kitchen. Then the coroner's office

1 said they wanted to take that with them in case they needed
2 to get any testing done on it.

3 Q And they actually took the formula bottle too.

4 A As far as I know, yes, sir.

5 Q Okay. And they -- Mr. and Mrs. Greene both pointed
6 out to -- to somebody where the formula was, and the
7 formula bottle.

8 A Yes, sir.

9 Q Okay. Now, you said there were no bruises on the
10 baby.

11 A None that I observed, no, sir.

12 Q And you did look.

13 A Yes, sir.

14 Q And when you talked to her the first time -- this
15 interview was done when?

16 A This was done --

17 Q Let me pull it down and see if we can get the date off
18 the top.

19 A I can tell you. June the 24th of 2011 should be the
20 date.

21 Q Where is the date on it?

22 A Right in the middle up at the top. Yes, sir.
23 June 24th of 2011.

24 Q So this was some eight months after this incident.

25 A Let me just doublecheck the date.

- 1 Q Going back to November the 13th.
- 2 A Yes, sir. It was November -- November the 13th, yes,
- 3 sir. It was about eight months.
- 4 Q About eight months later.
- 5 A Yes, sir.
- 6 Q All right. And the first time that she knew she was
- 7 accused of causing the death of her child was when you
- 8 interviewed her.
- 9 A Yes, sir.
- 10 Q Okay. She also told you that -- that she had
- 11 consulted with a lactation nurse --
- 12 A Yes, sir.
- 13 Q -- at the hospital.
- 14 A Yes, sir.
- 15 Q And that she'd also gone on line and looked up
- 16 things --
- 17 A Yes, sir.
- 18 Q -- about the safety of the drugs she was taking.
- 19 A Yes, sir.
- 20 Q Is that correct?
- 21 A Yes, sir. However, there was -- in a part of the
- 22 search warrants I got medical records from the hospital,
- 23 and there was no notes --
- 24 Q Well, you can't -- can't go into what the medical
- 25 records say unless they're your records. All right.

- 1 A Okay.
- 2 Q All right. But she did tell you that.
- 3 A Yes, sir.
- 4 Q Right? Thank you. And -- and she also said she'd
- 5 done research on line.
- 6 A Yes, sir.
- 7 Q And I think, in fact, what she told you was that she
- 8 had not seen the doctors for four to five months.
- 9 A Sounds about right.
- 10 Q There was a period of time where it's obvious that she
- 11 had not seen these doctors.
- 12 A Yes, sir.
- 13 Q A period of several months.
- 14 A Yes, sir.
- 15 Q Okay. And she mentioned that -- that Randy would pick
- 16 up the prescriptions for her.
- 17 A She mentioned that about one.
- 18 Q Excuse me?
- 19 A She mentioned that specifically about one.
- 20 Q Okay.
- 21 A At least one time. I believe that's how she said it.
- 22 Q Do you recall what website she said she went on to
- 23 look it up?
- 24 A No, sir.
- 25 Q Do you know if it was the National Institute of

William Robert Gary
Cross-examination by Mr. Wise

1 Health, or did she say?

2 A I have no clue.

3 Q Okay. Thank you.

4 MR. BARNETTE: No further questions of this witness,
5 Your Honor. We'd ask for him to be excused. I think he's
6 going to stay, but be excused if he needs to leave in the
7 case or whatever.

8 MS. POULOS: Your Honor, the state next calls Kaushik
9 Kotecha.

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Volume II

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

) IN THE COURT OF GENERAL SESSIONS

3 The State,

4 -vs-

) TRANSCRIPT OF RECORD
) 2011-GS-42-5758

5 Stephanie Irene Greene,
6 Defendant.

) March 27 - April 4, 2014
) Spartanburg, South Carolina

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury

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

16 BARRY JOE BARNETTE, ESQUIRE
17 TIMI POULOS, ESQUIRE
Attorneys for the State

18 C. RAUCH WISE, ESQUIRE
19 Attorney for the Defendant

22 Linda D. Moffitt
23 Circuit Court Reporter

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JUN 22 2015
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Honorable Joseph Derham Cole, Circuit Court Judge

Appellate Case No. 2014-000764

The State, ... Respondent,

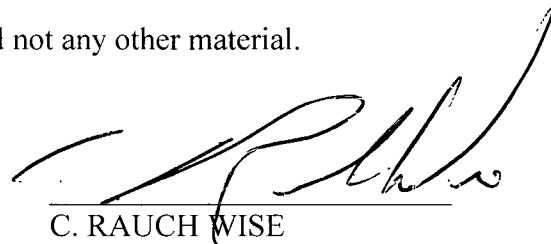
VS

Stephanie Irene Greene, ... Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

June 19th, 2015



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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

Hon. Joseph Derham Cole, Circuit Court Judge

RECEIVED

JUN 22 2015

SC Court of Appeals

Case No. 2014-000764

The State,.....Respondent,

vs.

Stephanie Irene Greene.....Appellant.

AFFIDAVIT OF SERVICE

PERSONALLY appeared before me Sandy Traynham who, after being duly sworn, deposes and says that she is the receptionist for C. Rauch Wise, Attorney for the Appellant in the above entitled case. That on June 19, 2015, she did deposit in the United States Mail with proper postage affixed thereto, three copies of the Record on Appeal together with a copy of the Certificate of Counsel in the above case addressed to David Spencer, S.C. Attorney General Office, P.O. Box 11549, Columbia, SC 29211.

Sworn to and Subscribed

before me this 19 day

of June, 2015.

Mary Jane Hunter
Notary Public for South Carolina

My Commission Expires: 11/30/22

Sandy Traynham

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RECEIVED

JUN 22 2015
June 19, 2015
SC Court of Appeals

Jenny Abbott Kitchings, Clerk
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: State vs. Stephanie Irene Greene, Appellate Case No. 2014-000764

Dear Ms. Kitchings:

I am enclosing herewith the original and fourteen copies of the Record on Appeal together with the original Affidavit of Service and Certificate of Counsel regarding the above matter. However, there will be a total of four different boxes.

With kindest regards, I am

Very truly yours,

C. Rauch Wise

C. Rauch Wise

CRW/slt
Enclosure

cc David A. Spencer



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