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SC Court of Appeals

Volume I of II

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

QUENTIN J. EVANS,

APPELLANT

APPELLATE CASE NO. 2015-000671

RECORD ON APPEAL

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

State of South Carolina.,)
)
)
County of York.)

In the General Sessions
Court of York
Case No.: 2014-GS-46-01229

State of South Carolina.,)
)
Plaintiff.,)
)
-vs-)
)
Quentin Jarvis Evans.,)
)
Defendant.)

Transcript of Record

March 16-19, 2015
York, South Carolina

B E F O R E:

The Honorable Derham Cole, Judge, and a jury.

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ORIGINAL

Wanda Nelson, CVR-M
Official Court Reporter
To the Honorable John C. Hayes, III

I-N-D-E-XE-X-A-M-I-N-A-T-I-O-N

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Doctor Craig Franklin Hart		
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Shay Banks a/k/a Talisha Sashay Banks

Solicitor Thompson

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Doctor Ebenezer Mante

Solicitor Thompson

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Doris Castle

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I-N-D-E-XE-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD.</u>
Ct.1	Photo/Infant		
	(Same as St.3)		P.
Ct.2	Photo/Infant		
	(Same as St.16)		P.
Ct.3	Photo/Infant		
	(Same as St.20)		
Ct.4	Jury note @ 05:10 p.m.		
	March 18, 2015		P.
St.1	Audio CD/911 call		
	By Quentin Evans		P.75
St.2	Audio CD/911 call		
	By C. Neal		P.75
St.3	Photo/Infant		
	(Same as Ct.1) (Same as Court's One.)		
St.4	Photo/Infant forehead.		P.120
St.5	Photo/Infant neck/side view.		P.120
St.6	Photo/Infant right arm		P.120
St.7	Photo/Infant left arm.		P.120
St.8	Photo/Infant left arm		
	and shoulder		P.120
St.9	Photo/Infant arm and		
	back of arm.		P.120

I-N-D-E-XE-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD.</u>
1			
2			
3			
4	St.10 Photo/Infant right side neck.		P.120
5	St.11 Photo/Infant right side chin.		P.120
6	St.12 Photo/Infant right side cheek		P.120
7	St.13 Photo/Infant back right shoulder		P.120
8	St.14 Photo/Infant whole body graph.		P.134
9	St.15 Photo/Infant broken collar bone.		P.134
10	St.16 Photo/Infant (same as Ct.2)		
11	St.17 Photo/Infant chest		P.143
12	St.18 Photo/Infant ribs.		P.143
13	St.19 Photo/Infant left wing ribs.		P.143
14	St.20 Photo/Infant (same as Ct.3)		
15	St.21 Photo/Infant scalp/face.		P.143
16	St.22 Photo/Infant brain		P.143
17	St.23 Photo/Infant internal brain.		P.143
18	St.24 Photo/Defendant		P.143
19	St.25 Photo/Defendant.		P.384
20	St.26 Photo/Defendant.		P.384
21	St.27 Photo/Defendant.		P.384
22	St.28 Photo/Defendant.		P.384
23	St.29 Photo/Defendant.		P.384
24	St.30 Photo/Defendant.		P.384
25	St.31 Photo/Baby's foot (Not admitted into evidence.)		

I-N-D-E-XE-X-H-I-B-I-T-S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD.</u>
1				
2				
3				
4	St.32	Photo/crime scene		
5		Inside trash can		P.246
6	St.33	Photo/Crime scene/medicine		
7		green leafy substance.		P.246
8	St.34	Photo/Crime scene		
9		Ashtray on TV.		P.246
10	St.35	Photo/Crime scene		
11		Thermostat @ 77 degrees.		P.246
12	St.36	Photo/crime scene		
13		carrier and trash can		P.246
14	St.37	Photo/Crime scene		
15		side shot baby carrier.		P.246
16	St.38	Photo/Crime scene/bedroom		P.246
17	St.39	Photo/Crime scene		
18		doorway to Quintin's bedroom.		P.246
19	St.40	Photo/crime scene		
20		angle shot from kitchen		P.246
21	St.41	Photo/Crime scene/kitchen		P.246
22	St.42	Photo/Crime scene/living room		P.246
23	St.43	Photo/Crime scene/front porch		P.246
24	St.44	Photo/Crime scene/back wall		
25		mattress to wall		P.246

I-N-D-E-XE-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD.</u>
1			
2			
3			
4	St.45 Photo/crime scene/ back wall to bed . .		P.246
5	St.46 Photo/Crime scene/Quintin's bed		P.246
6	St.47 Photo/Crime scene		
7	bed lifted up		P.246
8	St.48 Autopsy Report - 6 pages.		P.116
9	St.49 Photo/living room		P.246
10	St.50 CD-Coroner video/reenactment.		P.289
11	St.51 CD-Coroner video/reenactment.		P.289
12	St.52 CD-RHPD video/reenactment		
13	@ , Rock Hill		
14	South Carolina (Scene incident.)		P.289
15	St.53 Tailor's Measuring Tape		P.251
16	St.54 Paula Neely's scene sketch		
17	with legend		P.253
18	St.55 CD-Audio/Def. Evans Interview		P.308
19	St.56 CD-reenactment with Linda Evans		P.313
20	St.57 2 CDs-audio/Def. Evans interview. . . .		P.317
21	St.58 Miranda Rights		P.321
22	St.59 Consent to Search Form.		P.338
23	St.60 Images	P.378 . .	P.384
24	St.61 Call Log.	P.378 . .	P.384
25	St.62 Text messages	P.378 . .	P.384

I-N-D-E-XE-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD.</u>
St.63	Internet History	P.378	(not in Evd.)
St.64	CD-St. Exhibit 4-15; 17-30;32047;49;54.		P.384
St.65	RHPD Consent to Search . . .	P.446 . .	P.447
St.66	FSU Consent to Search. . . .	P.446 . .	P.447
Def.1	Photo/bottle of night time cold and flu		P.259
Def.2	Photo/closet.		P.259
Def.3	Photo/closet w. baby items.		P.259
Def.4	Photo/trash can w. diaper		P.259
Def.5	Photo/cook stove.		P.259
Def.6	Photo/table with med's.		P.259
Def.7	DSS Notes/Summary redacted .	P.415 . .	P.465

Reporter's Note: All Exhibits were filed with the York
County Clerk of Court's Office.

1 (JURY ENTERS COURTROOM AT 12:15 P.M..)

2 (COURT IN SESSION MONDAY, MARCH 16, 2015 AT 12:15

3 P.M..)

4 THE COURT: Thank you, be seated.

5 SOLICITOR BRACKETT: May it please the court.

6 THE COURT: Mr. Brackett.

7 SOLICITOR BRACKETT: Your Honor, the State is prepared
8 to draw a jury in Docket Number 2014-GS-46-1-2-2-9 the
9 State of South Carolina versus Quintin Jarvis Evans. This
10 is a True Billed Indictment for homicide by child abuse.

11 The defendant is put to the bar and has entered a plea
12 of not guilty. He is present in the courtroom represented
13 by his counsel Mr. Dave Cook of the York County Bar.

14 THE COURT: All right, Mr. Cook, are you all ready to
15 proceed with the jury selections?

16 MR. COOK: May it please the court, Your Honor.

17 Yes, sir.

18 THE COURT: All right. Do either of you have request
19 for voir dire?

20 SOLICITOR BRACKETT: Nothing specific, Your Honor.

21 MR. COOK: If I may approach, Your Honor.

22 THE COURT: Sure.

23 (DOCUMENTS RECEIVED UP BY THE COURT FROM DEFENSE.)

24 SOLICITOR BRACKETT: Your Honor, I do have a witness
25 list for purposes of voir dire that also lists the location

1 and incident date on it. Thank you.

2 (DOCUMENTS RECEIVED UP BY THE COURT FROM STATE.)

3 THE COURT: All right, Ladies and gentlemen, thank you
4 for your patience. We are ready to begin with jury
5 selection in the first case; it's going to require some of
6 your participation. The title of the case is the State
7 versus Quintin Jarvis Evans. Mr. Evans has been accused by
8 the prosecutor by way of this document which is called an
9 indictment.

10 Mr. Evans is accused of having committed the crime of
11 homicide by child abuse. By this indictment alleges that
12 Mr. Evans did here in York County on or about January the
13 23rd of 2014, commit the crime of homicide by child abuse
14 in that he did cause the death of ----- Minor a
15 child under the age of eleven years while committing child
16 abuse or neglect, and that the death occurred under
17 circumstances manifesting an extreme indifference to human
18 life.

19 Now as to those allegations and as to that charge the
20 defendant has entered a plea of not guilty. A plea of not
21 guilty places upon the state, because they made the
22 accusation, the burden of proving the defendant's guilt
23 beyond a reasonable doubt and therefore we're gonna be
24 selecting twelve of you to serve as jurors. There will be
25 two additional jurors selected to serve as alternate jurors

1 so a total of fourteen will actually be selected.

2 And by way of your participation you're gonna be
3 called upon to listen to the testimony, consider all the
4 evidence introduced during the trial, at the trial
5 conclusion I will instruct you on the law that's applicable
6 in the case of this nature then the jury will go back and
7 begin deliberations and will consider all of the evidence
8 from that evidence you will determine the facts upon
9 determining the facts you will apply the law and the jury
10 will determine whether or not the defendant has been proven
11 guilty beyond a reasonable doubt.

12 And if he has the verdict would be guilty; if he has
13 not the verdict would be not guilty. Before we begin with
14 the jury selection in the case I've got some questions I'm
15 gonna be asking you. I've got some people that I will also
16 be introducing to you. The purpose of the introduction is
17 to find out if any member of the jury panel happens to know
18 anybody involved in the trial of this case in any way
19 whatsoever by blood, marriage, social connection, church,
20 school, employment or any other connection.

21 Then once those people are introduced and we determine
22 if you have any connection with them, I also have some
23 additional questions to ask you in order to determine
24 whether or not there's any reason why anyone one of you
25 jurors should not be selected for service in the trial of

-13-

1 this particular case, and if you have such a reason when
2 those questions are ask at the end I'll ask you if you have
3 any reason whatsoever you can tell me at that time.

4 Now first of all as I told you the defendant, the
5 person who is accused of having committed the crime of
6 homicide by child abuse, is Quintin Jarvis Evans.

7 MR. Evans, if you'll please stand and face the jury
8 panel so that they may see who you are?

9 (DEFENDANT STANDS.)

10 THE COURT: All right. Thank you, be seated.

11 Seated with Mr. Evans at the defense counsel table is
12 David Cook. Mr. Cook is Mr. Evan's lawyer. He will be
13 assisting him in the trial of this case.

14 Presenting the case on behalf of the state are Kevin
15 Brackett who is the Circuit Solicitor for the Sixteenth
16 Judicial Circuit and Willy Thompson who is an Assistant
17 Circuit Solicitor for the Sixteenth Judicial Circuit.

18 The child who is alleged to have been the victim of
19 this homicide by child abuse is Minor

20

21 And Ms. Evans the mother is who is on the list?

22 SOLICITOR THOMPSON: Kierra Banks, Your Honor.

23 THE COURT: Kierra Danyale Banks is the mother of

24 Minor I tell you that so we can

25 find out if you know anybody.

1 Are you Ms. Banks?

2 (BLACK FEMALE STANDS.)

3 A. Yes, sir.

4 THE COURT: Okay. Kierra Danyale Banks is seated on
5 the back row. Can everybody see her on the panel?

6 All right. Thank you.

7 Other potential witnesses to be called during the
8 trial - and I'm gonna list everybody who might be a
9 witness. They won't all necessarily be called but they
10 have to be introduced to you so we can find out if you have
11 any connection with any potential witness. So we also have
12 Trey Amick. And if you are present in the courtroom I'm
13 gonna ask that you please stand so that the jury may see
14 who you are.

15 Talisha Sashay Banks who is in the back.

16 Gwendolyn Banks Coleman, she's also in the back.

17 From the Coroner's Office we have Kelly Fieldings,
18 Sabrina Gast and Chris West over. They are each employed
19 by the Sixteenth - I mean the York County Coroner's
20 Office.

21 We also have the following five witnesses who are
22 employed at the Chester County Department of Social
23 Services. They include Leon Carter, Tammy Cliburn, Calvin
24 Powers, Jeffrey Sanders, Tyeshia Simpson.

25 The following two people are employed by the Emergency

1 Medical Services. They include Steve Pursley and Patrick
2 Quinn. Also employed by 911 are Karen McClure, Adrian E.
3 and Linda Evans.

4 Employed by Forensic Services Unit are John George,
5 Paula Neely, Ebenezer Mante and Cornelius Neal.

6 In addition we have Latona Wylie who is with
7 Northwestern High School.

8 Donald Bowers a registered nurse at Piedmont Medical
9 Center. Jeffrey Warden a medical doctor at Piedmont
10 Medical Center.

11 The following seven witnesses are employed by the Rock
12 Hill Police Department. They include John Aiton, Jake
13 Bangle, Luke Boling, Bruce Haire, Jim Lubber, Zane Smith
14 and Josh Welch.

15 Employed by York County Detention is Cheryl Guzman.

16 Employed by the State Law Enforcement Division are
17 Patricia Crooks and Tim Grambow.

18 And also Craig Hart medical doctor employed with York
19 Pathology Associates.

20 In addition to those we have Rosetta McCoy who is an
21 aunt of the defendant. Alexander Myers, Linda Evans who is
22 the defendant's mother. Doris Castle, Bobby Thompson,
23 Jeanette Richardson McCoy, Jessica Williams and James Carr
24 employed at Northern Tools.

25 Are there any other potential witnesses to be called

1 by the state?

2 SOLICITOR BRACKETT: No, Your Honor.

3 THE COURT: By the defendant?

4 MR. COOK: None, Your Honor.

5 THE COURT: All right. Now I need to know if any
6 juror knows anybody who's just been identified for your
7 benefit or any members of their respective families. If
8 you're connected by blood, marriage, socially, employment
9 wise, school wise, church wise, or any other connection
10 whatsoever, I need to know if you have such a connection
11 with any of the people who have been identified. That
12 includes not just the witnesses but it also includes the
13 lawyers and the lawyers for the state are in the seventh -
14 Excuse me, the Sixteenth Judicial Circuit Solicitor's
15 Office I need to know if you know anybody else who might be
16 employed in the Sixteenth Judicial Circuit Solicitor's
17 Office; if so, please stand?

18 All right, I'm gonna start to my right. I'll work to
19 my left, front to back. If you'll start with you, ma'am,
20 if you'll give me your name and your juror number please.

21 A. Sharon Huffman, Juror One seventeen.

22 THE COURT: And who is it that you know?

23 MS. HUFFMAN: Zane Smith used to be my neighbor. He
24 was one of the police officers that you listed.

25 THE COURT: Okay.

1 MS. HUFFMAN: And - I'm sorry, go ahead.

2 THE COURT: Let me first ask you this. Is there
3 anything about that connection or that fact that would
4 interfere in any way with your ability to be fair and
5 impartial in this case?

6 MS. HUFFMAN: No, sir, I don't believe so.

7 THE COURT: All right. Who else do you know?

8 MS. HUFFMAN: And I also know Jake Bangle. He was a
9 former student at the school where I teach.

10 THE COURT: All right. And the same question
11 regarding Jake Bangle. Would it in any way affect your
12 judgment in the case?

13 MS. HUFFMAN: No, sir.

14 THE COURT: All right. Thank you. You may be seated.
15 Juror one seventeen.

16 Yes, ma'am.

17 A. Danielle Center, forty. I serve my coalition with
18 Kevin Brackett. Quida Dest who also worked in the
19 Sixteenth Circuit and Chris Westover.

20 THE COURT: And is there anything about that
21 connection or those facts or circumstances that would in
22 any way interfere with your ability to be fair and
23 impartial to both sides in this case?

24 MS. CENTER: No, sir.

25 THE COURT: Thank you, be seated.

1 Yes, ma'am.

2 A. I am juror number two three three, Jolyon Vanderhiden.
3 I know Zane Smith. My son went to school with his son and
4 I just - -

5 THE COURT: All right. And is there anything about
6 that circumstance or fact that would in any way interfere
7 with your ability to be fair and impartial in this case?

8 MS. VANDERHIDEN: No, Your Honor.

9 THE COURT: Thank you. Be seated.

10 Anyone else need to respond to any question regarding
11 connection with a witness or party or the lawyers involved?

12 (NO ONE RESPONDS.)

13 THE COURT: All right, now this is an event which the
14 state as I've told you claims occurred back on January the
15 23rd of 2014. The state alleges that it occurred at a
16 residence at in Rock Hill, South Carolina.

17 Does any juror think that you may have heard, seen, or
18 read something that relates to this particular case? In
19 other words have you been exposed to any type of
20 information that relates to this case from any source
21 whether it be media or individuals talking at work, church,
22 anywhere else? Do you think you have heard something or
23 been exposed to information about the case; if so, please
24 stand?

25 (NO RESPONSE.)

-19-

1 THE COURT: All right. Is there anything about the
2 nature of the case itself, that is, what the allegations
3 are and what the crime is alleged to be, is there anything
4 about the nature of the case itself that would prevent any
5 juror from being able to be fair and impartial if called
6 upon to serve as a juror in the case, if so, please stand?

7 (NO RESPONSE.)

8 THE COURT: Is there any member of the jury panel or
9 any member of your immediate family - and any immediate
10 family member would be a parent, spouse, child or sibling -
11 parent, spouse, child or sibling. Are you or are they now
12 or have you or they ever been employed as any type of law
13 enforcement officer whether it be locale, municipal,
14 county, state, federal, any type of law enforcement officer
15 or work in a prosecutor's office; if so, please stand?

16 That would include detention facilities, Department Of
17 Corrections, State Law Enforcement Division. Any type of
18 law enforcement officer, civil or military too; if so,
19 please stand?

20 All right, I have two. Name and number please, ma'am.

21 A. Wendy Helms, number 1-0-8.

22 THE COURT: How does that question relate to you?

23 MS. HELMS: My husband was a ---- for the military
24 and he worked the Moss Justice Center.

25 THE COURT: Worked where?

1 MS. HELMS: He worked here at Moss Justice Center then
2 went through the US Army.

3 THE COURT: Okay. He didn't work for the sheriff's
4 Department or the Rock Hill Police Department? He worked
5 through - He was a military police officer?

6 MS. HELMS: Correct. To the county drug unit.

7 THE COURT: Right. All right, would that in any way
8 affect your judgment in this case?

9 MS. HELMS: No.

10 THE COURT: Thank you. You can be seated.

11 Yes, sir.

12 A. I don't know if it applies to it but my brother works
13 for the Federal Penitentiary in South Carolina down near at
14 the Air Force Base.

15 THE COURT: In Williamsburg County?

16 A. No it's -

17 THE COURT: Lee County?

18 A. It might be. Yeah, it's down near Sumter.

19 THE COURT: Oh, Sumter's got a federal - -

20 A. It's federal.

21 THE COURT: Okay. Excuse me. Sumter's got it. I
22 thought Williamsburg was the one down there.

23 Okay. In any event your name and number's what?

24 A. My number juror number one forty-three.

25 THE COURT: Would that have any bearing upon your

1 decision in this case?

2 A. No. No, Your Honor.

3 THE COURT: Okay. You can be seated.

4 Yes, ma'am.

5 A. Danielle Center, Forty. My husband previously served
6 with the national Guard.

7 THE COURT: And would that have any bearing upon your
8 decision in the case?

9 A. No, sir.

10 THE COURT: Thank you. Be seated.

11 Yes, sir.

12 A. James Oden, juror number one sixty-six. My father
13 was a sheriff's deputy in upstate New York back in the late
14 seventies.

15 THE COURT: In where?

16 A. Upstate New York, sir.

17 THE COURT: And would that have any bearing on your
18 decision in the case?

19 A. No.

20 THE COURT: Thank you. Be seated.

21 Does any member of the jury panel belong to any type
22 of organizations which I'm going to describe for you, or do
23 you contribute time or money to any type of organizations
24 which might be classified or described as law enforcement
25 support organizations or Victim's Advocate organizations or

1 any similar types of organizations? And those would
2 include for instance Mother's Against Drunk Drivers,
3 Citizen's Against Violent Crime, the South Carolina
4 Trooper's Association, the Fraternal Order of Police, the
5 South Carolina Law Enforcement Officer's Association or any
6 type of neighborhood watch program? Do you belong to any
7 or do you contribute time or money to any of those types of
8 organizations; if so, please stand?

9 All right, your name and number please, sir.

10 A. Andrew Robinson, one ninety-three.

11 THE COURT: And how does that question relate to you?

12 MR. ROBINSON: Fraternal Order of Police, just donate.

13 THE COURT: Thank you. Be seated.

14 Yes, sir.

15 A. Walter Ruth, juror one ninety-eight and I contribute
16 to the Trooper's Association in donations.

17 THE COURT: Thank you. Be seated.

18 A. Danielle Center, forty. I'm not sure if this
19 applies, but I work for Keystone Substance Abuse
20 Center.

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

22 Yes, ma'am.

23 A. Chris Zimmerman, two fifty. I donate to Mother's
24 Against Drunk Drivers and I do Neighborhood Watch type
25 stuff.

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1 THE COURT: All right. Thank you, ma'am, you may be
2 seated. Has any member of the jury panel or any member of
3 your immediate family ever been the victim of or ever been
4 accused of having committed any type of child abuse or
5 neglect? Ever been the victim of such or ever been accused
6 of having committed such, you or any immediate family
7 member; if so, please stand?

8 All right. First just give me your name and number
9 please, ma'am.

10 A. Michelle Hallman, number ninety-eight.

11 THE COURT: And was it you or a family member?>

12 MS. HALLMAN: My sister in law.

13 THE COURT: All right. And would you mind answering
14 the question where you are or would you prefer to step down
15 here?

16 MS. HALLMAN: I prefer to step down.

17 THE COURT: All right, step down please, ma'am.

18 (COURT LEAVES BENCH.)

19 THE COURT: Yes, ma'am.

20 Your sister in law was a victim or - -

21 MS. HALLMAN: She was accused.

22 THE COURT: She was accused. And was she charged or
23 arrested?

24 MS. HALLMAN: She's in prison.

25 THE COURT: She is? Okay. All right, is there

1 anything about that fact or that experience that would
2 affect your judgment in this case?

3 MS. HALLMAN: I don't think it would but I don't -
4 It's kind of unsettling to me.

5 THE COURT: Sure. Well do you think you could put it
6 aside and consciously not allow it to influence your
7 judgment?

8 MS. HALLMAN: Yes.

9 THE COURT: Okay. Do you have any other reason why
10 you think you could not serve as a juror?

11 MS. HALLMAN: No.

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

13 Anyone else need to respond to the question, with
14 having you or a family member been the victim of or accused
15 of any type of abuse?

16 Yes, ma'am.

17 A. Amy Thurman, number two twenty-four.

18 THE COURT: 2-2-4. Was it you or a family member?

19 MS. THURMAN: It was a family member.

20 THE COURT: And what relation to you?

21 MS. THURMAN: It was a cousin.

22 THE COURT: All right. Would you prefer to answer the
23 question where you are or step down here?

24 MS. THURMAN: I will step down.

25 THE COURT: Okay. Anybody else gonna need to respond?

1 Okay. All right. Let me ask you, if you need to
2 respond to the question let me ask you to come out and
3 stand so we don't have to keep -

4 Just wait right there for me.

5 All right, you

6 A. My cousin was murdered, she was beaten and murdered by
7 her husband and her husband is serving life in prison.

8 THE COURT: Okay.

9 MS. THURMAN: Except for that - -

10 THE COURT: Okay. Where was that?

11 MS. THURMAN: It was in Virginia.

12 THE COURT: All right.

13 MS. THURMAN: He like mutilated her and desecrated her
14 and beat her.

15 THE COURT: Okay.

16 MS. THURMAN: I don't know if that would influence on
17 this. Also my children too.

18 THE COURT: All right. You say that would influence
19 your judgment?

20 MS. THURMAN: Possibly.

21 THE COURT: Well anything is possible but what I need
22 to know is do you think that you could consciously put
23 those facts and circumstances aside and not allow it to
24 influence your decision in this case?

25 MS. THURMAN: I think I could.

1 THE COURT: You think you could?

2 MS. THURMAN: Yeah.

3 THE COURT: Okay. Good. Thank you. You can have a
4 seat. All right, the next juror is what number?

5 A. Ninety-three.

6 THE COURT: Okay.

7 A. It was me that was abused.

8 THE COURT: It was you?

9 A. Yes.

10 THE COURT: And what was your age at the time?

11 A. Age six to age of eight and I been abused, molested
12 and beaten prior to that.

13 THE COURT: But it had physical and sexual abuse?

14 A. Yes, sir.

15 THE COURT: Is there anything about your experiences
16 that would affect your judgment in this case?

17 A. No. And I just lost my child.

18 THE COURT: All right.

19 A. In a car accident.

20 THE COURT: You think those circumstances would affect
21 your ability to be fair in this case?

22 A. No.

23 THE COURT: Do you think that you could consciously
24 put those circumstances aside and not allow them to
25 influence your judgment?

1 A. Yes.

2 THE COURT: Okay. Thank you. You can have a seat.
3 Next.

4 A. Steve McCarter, juror number thirty-nine.

5 THE COURT: All right. You or a family member?

6 MR. MCCARTER: Me.

7 THE COURT: In what way?

8 MR. MCCARTER: The school said that I bit my son's
9 ear.

10 THE COURT: The school said you bit your son's ear?

11 MR. MCCARTER: Yeah.

12 THE COURT: Okay. Did that result in any kind of
13 criminal charge?

14 MR. MCCARTER: No.

15 THE COURT: It did not?

16 MR. MCCARTER: No.

17 THE COURT: Is there anything about that experience
18 that would affect your judgment in this case ---

19 MR. MCCARTER: No.

20 THE COURT: --- if you're elected?

21 MR. MCCARTER: No.

22 THE COURT: Okay. Thank you. Have a seat.
23 Next. Your name and number?

24 A. Terri Flanagan, number seventy-eight.

25 THE COURT: All right. Was it you or a family member?

1 MS. FLANAGAN: My daughter has a safety plan with DSS
2 right now for possible child neglect.

3 THE COURT: Okay. Is there anything about that fact
4 or circumstance that would affect your judgment or your
5 ability to fair in this case?

6 MS. FLANAGAN: No, sir.

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

8 All right, anyone else need to respond to that
9 question?

10 (NO RESPONSE.)

11 THE COURT: Okay.

12 (COURT RETURNS TO THE BENCH.)

13 THE COURT: All right. I have read the indictment to
14 you so you know what the allegations are. I've introduced
15 the defendant; I've introduced the alleged victim's family
16 or at least some of their members. I've introduced the
17 witness's to you; I've also introduced the lawyer's to you
18 and you know basically what the case is about so
19 considering everything does any juror know of any reason
20 whatsoever why you believe you could not be fair and
21 impartial if you were called upon to serve as a juror in
22 this particular case? If you have any reason whatsoever
23 why you think you could not be fair and impartial if
24 selected I would ask that you please stand?

25 All right. No juror has responded. Are there any

1 other additional questions or questions by the State?

2 SOLICITOR BRACKETT: No, Your Honor.

3 THE COURT: By the Defendant?

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

5 THE COURT: All right. Draw us a jury please, ma'am.

6 MADAM CLERK: When your name is called --

7 THE COURT: Let me -

8 MADAM CLERK: When your name is called please bring

9 all of your belongings and come stand up front by the
10 bailiff and face the back of the courtroom.

11 Number thirty-nine, Steven Carter.

12 (WHITE MALE STANDS.)

13 MADAM CLERK: What say you for the State?

14 MR. COOK: Please seat the juror. I apologize.

15 SOLICITOR BRACKETT: Please excuse the juror.

16 MADAM CLERK: You are excused from this case.

17 Number thirty, Jean Brazzell.

18 (WHITE FEMALE STANDS.)

19 MADAM CLERK: What say you for the State?

20 SOLICITOR BRACKETT: Please present this juror.

21 MADAM CLERK: Defense?

22 MR. COOK: Please excuse the juror.

23 MADAM CLERK: You are excused from this case.

24 Number 1-0-9, Victoria Herron.

25 (WHITE FEMALE STANDS.)

1 MADAM CLERK: What say you for the State?

2 SOLICITOR BRACKETT: May it please the court.

3 Just to clarify, strikes are five and five?

4 THE COURT: Yes, sir.

5 SOLICITOR BRACKETT: Please present the juror.

6 MADAM CLERK: Defense?

7 MR. COOK: Please seat the juror.

8 MADAM CLERK: Please have a seat in the jury box.

9 Number one fifty-nine, Donald Mull.

10 (WHITE MALE STANDS.)

11 MADAM CLERK: What say you for the State?

12 SOLICITOR BRACKETT: Please present the juror.

13 MADAM CLERK: Defense?

14 MR. COOK: Please excuse the juror.

15 MADAM CLERK: You are excused from this case.

16 Number seventy-eight, Terri Flanagan.

17 (WHITE FEMALE STANDS.)

18 MADAM CLERK: What say you for the State?

19 SOLICITOR BRACKETT: Please present the juror.

20 MADAM CLERK: Defense?

21 MR. COOK: Please excuse the juror.

22 MADAM CLERK: You are excused from this case.

23 Number twenty, Patti Bolin.

24 (WHITE FEMALE STANDS.)

25 MADAM CLERK: What say you for the State?

1 SOLICITOR BRACKETT: Please excuse the juror.
2 MADAM CLERK: You are excused from this case.
3 Number 1-0-8 Wendy Helms.
4 (WHITE FEMALE STANDS.)
5 MADAM CLERK: What say you for the State?
6 SOLICITOR BRACKETT: Please present the juror.
7 MADAM CLERK: Defense?
8 MR. COOK: Please excuse the juror.
9 MADAM CLERK: You are excused from this case.
10 Number two eleven, Stephanie Smith.
11 (BLACK FEMALE STANDS.)
12 MADAM CLERK: What say you for the State?
13 SOLICITOR BRACKETT: Please present the juror.
14 MADAM CLERK: Defense?
15 MR. COOK: Please seat the juror.
16 MADAM CLERK: Please have a seat in the jury box.
17 Number one forty-three, Peter Malone.
18 (WHITE MALE STANDS.)
19 MADAM CLERK: What say you for the State?
20 SOLICITOR BRACKETT: Please present the juror.
21 MADAM CLERK: Defense?
22 MR. COOK: Please seat the juror.
23 MADAM CLERK: Please have a seat in the jury box.
24 Number fifty-four, Christine Cutway.
25 (WHITE FEMALE STANDS.)

1 MADAM CLERK: What say you for the State?
2 SOLICITOR BRACKETT: Please present the juror.
3 MADAM CLERK: Defense?
4 MR. COOK: Madam Clerk, is this juror fifty-four?
5 MADAM CLERK: Uh-huh.
6 MR. COOK: Please seat the juror.
7 MADAM CLERK: Please have a seat in the jury box.
8 Number two fourteen, Tina Tannyhill.
9 (WHITE FEMALE STANDS.)
10 MADAM CLERK: What say you for the State?
11 SOLICITOR BRACKETT: Please present the juror.
12 MADAM CLERK: Defense?
13 MR. COOK: Please seat the juror.
14 MADAM CLERK: Please have a seat in the jury box.
15 Number two forty-three, Angela Wilson.
16 (BLACK FEMALE STANDS.)
17 MADAM CLERK: What say you for the State?
18 SOLICITOR BRACKETT: Please excuse the juror.
19 MADAM CLERK: You are excused from this case.
20 Number one nineteen, Billy Hurin.
21 (WHITE MALE STANDS.)
22 MADAM CLERK: What say you for the State?
23 SOLICITOR BRACKETT: Please present the juror.
24 MADAM CLERK: Defense?
25 MR. COOK: Please seat the juror.

1 MADAM CLERK: Please have a seat in the jury box.
2 Number two twenty-four, Amy Thurman.

3 (WHITE FEMALE STANDS.)

4 MADAM CLERK: What say you for the State?

5 SOLICITOR BRACKETT: Please present the juror.

6 MADAM CLERK: Defense?

7 MR. COOK: Please dismiss the juror.

8 MADAM CLERK: You are excused from this case.

9 Number ninety-three, Christina Griffith.

10 (WHITE FEMALE STANDS.)

11 MADAM CLERK: What say you for the State?

12 SOLICITOR BRACKETT: Please present the juror.

13 MADAM CLERK: Defense?

14 MR. COOK: I believe - I just want to verify. I
15 believe I'm at five. Is that correct.

16 MADAM CLERK: Yes.

17 MR. COOK: Please seat the juror.

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

19 Number seventy-six, Charles Fenwick.

20 (WHITE MALE STANDS.)

21 MADAM CLERK: What say you for the State?

22 SOLICITOR BRACKETT: Please present the juror.

23 MADAM CLERK: Defense?

24 MR. COOK: Please seat the juror.

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

1 Number seventy-nine, Francis Foley.

2 (WHITE MALE STANDS.)

3 MADAM CLERK: What say you for the State?

4 SOLICITOR BRACKETT: Please present this juror.

5 MADAM CLERK: Defense?

6 MR. COOK: Please seat the juror.

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

8 Number ninety-eight, Michele Hallman.

9 (WHITE FEMALE STANDS.)

10 MADAM CLERK: What say you for the State?

11 SOLICITOR WEAVER: Please excuse the juror.

12 MADAM CLERK: You are excused from this case.

13 Number ninety-one, Carrie Gordon.

14 (WHITE FEMALE STANDS.)

15 MADAM CLERK: What say you for the State?

16 SOLICITOR BRACKETT: Please present this juror.

17 MADAM CLERK: Defense?

18 MR. COOK: Please seat the juror.

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

20 Number 2-0-2, Kathy Sellers-Tapia.

21 (WHITE FEMALE STANDS.)

22 MADAM CLERK: What say you for the State?

23 SOLICITOR BRACKETT: Please present this juror.

24 MADAM CLERK: Defense?

25 MR. COOK: Please seat the juror.

1 MADAM CLERK: Please have a seat in the jury box.
2 Number one eighty-four, Edna Ratchford.

3 (BLACK FEMALE STANDS.)

4 MADAM CLERK: What say you for the State?

5 SOLICITOR BRACKETT: Please present this juror.

6 MADAM CLERK: Defense?

7 MR. COOK: Please seat the juror.

8 MADAM CLERK: Please have a seat in the jury box.
9 This is for the first alternate.

10 Number two thirty-three, Jolyon Vanderheiden.

11 (WHITE FEMALE STANDS.)

12 MADAM CLERK: What say you for the State?

13 SOLICITOR BRACKETT: Please present the juror.

14 MADAM CLERK: Defense?

15 MR. COOK: I'm sorry, Madam Clerk, what's the juror's
16 number?

17 MADAM CLERK: Two thirty-three.

18 MR. COOK: Please excuse the alternate.

19 MADAM CLERK: You are excused from this case.

20 Number one seventeen, Sharon Huffman.

21 (WHITE FEMALE STANDS.)

22 MADAM CLERK: What say you for the State?

23 SOLICITOR BRACKETT: Please present the juror.

24 MADAM CLERK: Defense?

25 MR. COOK: Please excuse the alternate.

1 MADAM CLERK: You are excused from this case.

2 Number two thirty, Samnang Un.

3 (ASIAN MALE STANDS.)

4 MADAM CLERK: What say you for the State?

5 SOLICITOR BRACKETT: Please present the juror.

6 MADAM CLERK: Defense?

7 MR. COOK: Please seat the alternate.

8 MADAM CLERK: Please have a seat in the jury box.

9 And this is for the second alternate.

10 Number three, Tiffany Anthony.

11 (BLACK FEMALE STANDS.)

12 MADAM CLERK: What say you for the State?

13 SOLICITOR BRACKETT: Please present the juror.

14 MADAM CLERK: Defense?

15 MR. COOK: Please seat the alternate.

16 MADAM CLERK: Please have a seat in the jury box.

17 THE COURT: Now those who have been selected I'll ask
18 you to please go with the bailiff to a jury room and I'll
19 bring you back in just a few minutes to excuse you for
20 lunch.

21 (PETIT JURY EXITS COURTROOM AT 12:59 P.M..)

22 THE COURT: Are there any matters that need to be
23 addressed regarding the jury selection by the state?

24 SOLICITOR BRACKETT: No, Your Honor, none from the
25 state.

1 THE COURT: By the defendant?

2 MR. COOK: None from the defense, Your Honor.

3 THE COURT: All right. Those who were not selected
4 you are excused for the balance of today I think.

5 CLERK OF COURT: Originally we said two, but I want to
6 give them until two fifteen to report back after lunch.

7 THE COURT: Okay. You got to report back at two
8 fifteen. Perhaps you'll be selected in the courtroom next
9 door. So thank you for your participation. Have a good
10 lunch. Report at two fifteen.

11 (JURY EXITS COURTROOM AT 01:00 P.M..)

12 THE COURT: All right. Bring the jury back please,
13 sir.

14 (PETIT JURY REENTERS COURTROOM AT 01:04 P.M..)

15 THE COURT: All right, Ladies and gentlemen, as I
16 promised we're gonna break for lunch right now. We'll
17 resume with the beginning of the trial at two thirty this
18 afternoon. Before I let you go let me caution you.

19 Now that you have been selected you are not permitted
20 to permit yourselves to be exposed to any type of
21 information that relates to the case. You cannot discuss
22 the case with anybody, even with your fellow jurors.
23 Certainly with no one else. You will discuss the case with
24 your fellow jurors at the trials conclusion when you go
25 back to begin deliberations but until that time you're not

1 permitted to even discuss the case with your fellow jurors.

2 You're also not permitted to discuss the case with
3 anybody else outside of the jury room. That includes
4 family and friends. You're also not to permit yourselves
5 to be exposed to any type of media coverage that might
6 relate to the case whether it be from television, radio or
7 newspaper. You can't allow yourselves to be exposed to that
8 type of information.

9 And you're not permitted to conduct your own research
10 or do your own investigation into any issue that might
11 arise during the trial. Under your oath and your
12 obligation as a juror in the case you are to decide the
13 case based upon what's presented during the trial and the
14 law that I will provide you at the trial's conclusion.

15 So with that caution in mind, no discussion, no media
16 exposure, no research, no investigation. Do have a good
17 lunch and please report back to the jury room at two
18 thirty, at two thirty this afternoon. You talk to the
19 bailiff if you're not sure how to get back there.

20 (PETIT JURY EXITS COURTROOM AT 01:07 P.M..)

21 THE COURT: Court is in recess until two thirty.

22 (COURT IN LUNCH RECESS AT 01:10 P.M..)

23 (COURT BACK IN SESSION AT 02:41 P.M..)

24 THE COURT: Thank you. Be seated.

25 All right. The Defendant has some motions, pretrial

1 motions?

2 MR. COOK: Thank you, Your Honor. May it please the
3 court. Your Honor, the defense makes a motion to restrict
4 the photographs of the autopsy that the State may intend to
5 introduce on the grounds that they may be duplicative or
6 that they may be overly prejudicial and that they might
7 shock the conscious of a juror, Your Honor.

8 THE COURT: All right. And do we know which one we're
9 talking about?

10 MR. COOK: Your Honor, actually to be candid the State
11 and the Defense are in discussions about maybe consenting
12 to certain photographs and that I believe their coroner is
13 gonna show up in a little while, I believe that they're
14 going to present - I don't want to speak for the State but
15 I believe that they are planning on presenting a few
16 witnesses and then when their coroner shows up maybe we can
17 recess to address this matter once the coroner is there to
18 shed some light on the necessity to have this or that
19 photograph.

20 THE COURT: You mean you all think you can resolve the
21 issue of photographs, is that what you're telling me?

22 MR. COOK: Perhaps.

23 THE COURT: Okay.

24 SOLICITOR THOMPSON: When the pathologist would be
25 here, Your Honor, which would be just a little bit later

1 this afternoon.

2 THE COURT: Okay.

3 MR. COOK: Otherwise I believe we're ready to go
4 forward, Your Honor.

5 THE COURT: That's the only motion you have?

6 MR. COOK: Beg the Court's brief indulgence.

7 I don't object to Jackson v. Denno Motion, Your Honor,
8 but I would like to put on the record that my client
9 believes that his statement he made in custody was
10 voluntary.

11 THE COURT: Okay. How many statements do you propose
12 to introduce?

13 MR. THOMPSON: There was one statement that was made
14 in custody, Your Honor. It was the last statement the
15 defendant gave to Detective Haire and Jim Lubber with the
16 Rock Hill Police Department. And his rights were read to
17 him at that time, he waived those rights both in writing
18 and on audio tape. It's rather clear that he was wanting
19 to cooperate and talk at that point in time and he was
20 arrested at the end of the interview. It lasted about two
21 hours and twenty minutes or two hours and twenty-five
22 minutes.

23 That would be the only one that the defendant gave
24 while he was in custody. He gave other statements to
25 people, for instance when he was at the hospital and did a

1 reenactment at his house but none of those times was he in
2 custody or under arrest or being detained in any way shape
3 or form.

4 THE COURT: And the one that was given while in
5 custody is video taped, audio taped or written?

6 MR. THOMPSON: It was audio taped, Your Honor. It's
7 audio tape.

8 THE COURT: Audio taped?

9 SOLICITOR THOMPSON: Yes.

10 THE COURT: And is there a written version of it too;
11 was it transcribed?

12 SOLICITOR THOMPSON: There is a written summary of it
13 as well.

14 THE COURT: All right. Mr. Cook, is that an accurate
15 statement?

16 MR. COOK: Yes, sir, I believe it is.

17 THE COURT: And you've talked to your client about his
18 right to have the court determine the voluntariness of any
19 statement that the State might seek to introduce at trial?

20 MR. COOK: Yes, sir, Your Honor, I have explained that
21 to him.

22 THE COURT: All right. Mr. Evans, have you heard the
23 conversation I've had with the prosecutor and your lawyer?

24 MR. EVANS: Yes, sir.

25 THE COURT: They say that you gave a statement after

1 you were in custody. They - Its on audio tape and they've
2 also summarized it in a written form.

3 MR. EVANS: Yes, sir.

4 THE COURT: Do you remember making that statement that
5 was being audio taped by law enforcement?

6 MR. EVANS: Yes, sir.

7 THE COURT: And your lawyer says that you don't
8 contest the voluntariness of that statement. Is that true?

9 MR. EVANS: Yes, sir.

10 THE COURT: Is it your position that the statement
11 that you made while in custody to law enforcement was
12 freely and voluntarily made?

13 MR. EVANS: Yes, sir.

14 THE COURT: Were you subjected to any type of coercion
15 or threat?

16 MR. EVANS: No, sir.

17 THE COURT: Did anyone make you any type of promise to
18 induce your giving a statement?

19 MR. EVANS: No, sir.

20 THE COURT: You gave the statement of your own free
21 will and accord?

22 MR. EVANS: Yes, sir.

23 THE COURT: Nobody made you do it or forced you into
24 it?

25 MR. EVANS: No, sir.

1 THE COURT: And so the statement was freely and
2 voluntarily made?

3 MR. EVANS: Yes, sir.

4 THE COURT: And that was because you wanted to state
5 your position to law enforcement?

6 MR. EVANS: Yes, sir.

7 THE COURT: Okay. And you understood at the time that
8 you gave the statement that it was - you understood the
9 consequences of providing that statement?

10 MR. EVANS: Yes, sir.

11 THE COURT: You had been advised of all of your
12 Miranda rights?

13 MR. EVANS: Yes, sir.

14 THE COURT: Had you been advised more than once?

15 MR. EVANS: No, sir. That was a long time ago.

16 THE COURT: Okay. Did you understand those rights?

17 MR. EVANS: Yes, sir.

18 THE COURT: And did you freely and voluntarily give
19 those rights up when you gave that statement?

20 MR. EVANS: Yes, sir.

21 THE COURT: Okay. Thank you.

22 MR. EVANS: Thank you.

23 THE COURT: All right, anything else we need to
24 address before the jury is sworn?

25 SOLICITOR THOMPSON: No, Your Honor.

1 MR. COOK: Nothing from the defense, Your Honor.

2 THE COURT: Okay. Bring the jury in. And ask Mr.
3 Fenwick, Mr. Fenwick to take the Foreperson's seat.

4 (PETIT JURY REENTERS COURTROOM AT 02:49 P.M..)

5 THE COURT: All right. As I said Mr. Fenwick is to be
6 the Foreperson.

7 Mr. Fenwick, if you will move to the first seat on the
8 front row. And, ma'am, if you will go to the back, that
9 back seat.

10 Good afternoon, ladies and gentlemen. We are now
11 ready to begin with the trial of the case for which each of
12 you have been selected. Mr. Fenwick, I'm gonna ask you to
13 serve as the Foreperson of the jury. As the foreperson you
14 will have three specific duties that none of the other
15 jurors will have. First of all you're gonna be ask to
16 serve as the spokesperson for the jury and that just means
17 that it will be your duty to inform me if you have some
18 issue, problem, or a question that needs to be addressed
19 and you can do that through one of the bailiffs. If you're
20 outside the courtroom you can do it directly with me if
21 you're in the courtroom.

22 Secondly you'll be called upon to preside over jury
23 deliberations when the time comes at the end of the trial
24 after all of the evidence has been received and I have
25 instructed you on the law that is applicable in the case.

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1 When you are ask to begin jury deliberations you will
2 preside over that process in the jury room simply to ensure
3 that those deliberations are carried out in some orderly
4 fashion.

5 And thirdly you will be ask to actually write the
6 verdict or the decision of the jury. You will do that on a
7 verdict form that I will provide you at the trial's
8 conclusion on which you will indicate the jury's unanimous
9 decision. Now the foreperson has no specific duties that
10 I've just indicated. That doesn't mean that he's any more
11 important than any of you other jurors and that's because
12 the decision of a jury is the unanimous consensus opinion
13 of all twelve jurors. And so all of you will have an equal
14 say and equal vote in what the ultimate decision will be in
15 the case.

16 Someone simply has to be delegated those
17 responsibilities that I have just indicated and I have
18 delegated those to Mr. Fenwick in appointing him as the
19 foreperson. But all of you jurors are equally important so
20 far as the ultimate decision is concerned because as I've
21 stated the verdict has to be unanimous, all twelve of you
22 must be in agreement.

23 Now, Mr. Un and Ms. Anthony, each of you have been
24 selected as alternate jurors and the function of an
25 alternate juror is to take the place of one or more of

1 these jurors if for some reason during the trial one or two
2 are unable to continue participating in the trial of the
3 case. And if one, or two, are unable to continue then one
4 or both of you will be called upon to take that juror's
5 place. In that event you would become the twelfth juror
6 and if that occurs then you participate throughout the
7 trial including the jury deliberations at the trial's
8 conclusion. If when the time comes for deliberations all
9 of the original twelve are able to participate then your
10 service as jurors end and you don't participate any further
11 and that's because the decision of a jury is that of twelve
12 and no more than twelve are permitted to engage in that
13 deliberation process.

14 But it is important that you pay just as careful
15 attention as we ask of all of the jurors who have been
16 selected because it does occur from time to time for one
17 reason for another when one or more of these jurors may be
18 called away; in that event one or both of you would be
19 called upon to participate as the twelfth. And so we do
20 appreciate your participation as alternate jurors just as
21 we appreciate the participation of each of you jurors who
22 have been selected for the purpose of deciding the verdict
23 in this particular case.

24 You may swear the panel.

25 MADAM CLERK: Please stand.

(PETIT JURY SWORN AT02:53

P.M..)

MADAM CLERK: Thank you. Please be seated.

THE COURT: Ladies and gentlemen, as you know you have been selected to decide the verdict in the case of the State versus Quentin Jarvis Evans. As you also know Mr. Evans has been accused by the prosecutor by way of indictment with having committed the crime of homicide by child abuse.

The state alleges that on January the 23rd of 2014, that Mr. Evans did commit the crime of homicide by child abuse in that he did cause the death of Minor

, a child who was under the age of eleven years at the time of her death, while committing child abuse or neglect, and, that the death occurred under circumstances manifesting an extreme indifference to human life that resulted in the death of this child.

Now as to those allegations and as to that charge the defendant has entered a plea of not guilty. As I told you prior to your selection a plea of not guilty places upon the state, because they made the accusation, the burden of proving the allegations set forth in the indictment.

The burden of proving each of the essential elements of the crime alleged against the defendant and therefore the burden is upon the state to establish the defendant's

1 guilt to the satisfaction of you twelve jurors beyond a
2 reasonable doubt before any verdict of guilty could be
3 returned. Every person who is accused of a crime is always
4 presumed to be innocent of that charge. That presumption
5 of innocence remains with any defendant as it does with
6 this defendant from the time that he is placed under arrest
7 and throughout the course of criminal process and even
8 throughout the course of the trial in the case.

9 That presumption of innocence will be with Mr. Evans
10 even as you go back to the jury room to begin with your
11 deliberations in this case. And that presumption of
12 innocence will be with him in that jury room and it will be
13 with him forever unless you twelve jurors determine that
14 he's no longer entitled to that presumption of innocence.

15 In other words after you've considered all of the
16 evidence in the case at the trials conclusion and after you
17 have applied the law that I will have provided you then you
18 twelve jurors unanimously determine that his guilt has been
19 proven beyond a reasonable doubt then he would no longer be
20 entitled to that presumption of innocence. But it's only
21 if unless and until you are satisfied of his guilt beyond a
22 reasonable doubt that the presumption of innocence would
23 not longer be applicable.

24 Now the way the trial will proceed is with in a moment
25 the lawyers are going to address you in what are called

1 opening statements. There are two occasions in the trial
2 of a case where lawyers are permitted to address the jury
3 directly. That is at the beginning of the trial before any
4 evidence has been introduced. Then again at the conclusion
5 of the trial after all of the evidence has been received.
6 But please keep in mind what the lawyers tell you is not to
7 be considered by you as any evidence upon which you will
8 base your decision. And that's because the lawyer's don't
9 know anything about this case of their own personal
10 knowledge or perception like witnesses will be testified to
11 who will testify from the witness stand.

12 The lawyers aren't gonna take the witness stand and
13 their not gonna be placed under oath and they're not gonna
14 be subjected to direct and cross examination like each
15 witness that testifies will be. And so what they tell you
16 in their statements is not to be considered by you as any
17 evidence upon which you will base your decision. But you
18 should listen to what the lawyers have to say because those
19 statements do serve a purpose.

20 Now the opening statements serve to provide you with a
21 basic understanding as to what this case is about from most
22 of the perspective of the state and of the defense so that
23 you will have some context in which to place the evidence
24 that we will be receiving shortly thereafter.

25 The closing statements occur after all of the evidence

1 has been received. But again, while those statements are
2 not evidence it does afford the lawyers an opportunity to
3 discuss with you the evidence that you have seen and heard
4 during the course of the trial and through that discussion
5 each will have an opportunity to try to persuade you or to
6 convince you that the evidence in the case does or does not
7 support a particular decision.

8 And it's in between those opening and closing
9 statements that we actually receive the evidence upon which
10 you will base your verdict. The state as you know has the
11 burden of proof. The state has the burden of proving a
12 defendant's guilt beyond a reasonable doubt and so the
13 state will go forward first in it's presentation of
14 evidence.

15 After the state has concluded with that presentation
16 any defendant has the same opportunity to take the witness
17 stand and testify or call witnesses to the witness stand or
18 introduce other evidence in the case, but, a defendant is
19 never under any obligation to testify or call a witness or
20 introduce evidence and that's because the defendant has no
21 burden in the case. The state has the burden of proof
22 because they made the accusation, therefore, they have the
23 obligation to present evidence in support of that
24 allegation.

25 A defendant does not have the same obligation. A

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1 defendant does not have to testify or present evidence
2 because the defendant doesn't have to prove anything. And
3 in some cases a defendant would never be able to prove that
4 he or she was not guilty or prove he or she was innocent
5 and that's why there is no obligation for a defendant to
6 present evidence.

7 But every defendant is afforded an opportunity to
8 present evidence in the event a defendant wishes to do so.

9 So after all of the evidence has been received and you
10 hear the final summations of the lawyers, I will then
11 instruct you fully on the law as it relates to the criminal
12 law generally and as it relates to this particular trial
13 specifically and then you'll be ask to go back and begin
14 with your deliberations. Through that process you're
15 simply going to be called upon through the exercise of good
16 judgment and common sense conscientiously applied to the
17 evidence in the case to decide what you believe to be the
18 facts of the matter once you decide those facts you apply
19 the law and you will determine whether or not the defendant
20 has been proven guilty beyond a reasonable doubt. And if
21 he has then your verdict would be guilty and if he has not
22 been then your verdict will be not guilty.

23 Now all we ask for you to do is to pay careful
24 attention throughout the course of the trial. You have an
25 obligation to pay careful attention to every witness that

1 testifies from the beginning to the end because one of your
2 prerogatives in deciding the facts of the case is to judge
3 the credibility and the believability of witness's
4 testimony. And because you have that prerogative you can
5 believe every thing that a witness testifies to, you may
6 choose to believe none of it. You may believe one portion
7 of a witness's testimony and reject some other portion of
8 that same witness's testimony.

9 In a given case you can believe one witness as opposed
10 to several or several as opposed to one. But in order for
11 you to be in a proper position to be able to fairly
12 evaluate the credibility of witnesses - of a witness's
13 testimony you got to pay attention when they testify to all
14 of them so that in the end when you go back to begin your
15 deliberations you will be in a proper position to judge
16 every witness's testimony in light of not just their
17 testimony but in light of all of the testimony and all of
18 the evidence introduced during the course of the trial.

19 And it's also important that you keep an open mind
20 throughout the course of the trial. And that just means
21 that you are not to begin making up your minds or
22 formulating your opinions as to what you think the ultimate
23 decision in this case ought to be until all of the evidence
24 has been received, until you have been instructed on the
25 law that's applicable, and until you've been ask to begin

1 your deliberations in the case.

2 That is the process that has been designed over the
3 last two hundred and thirty some odd years in order to
4 ensure that you can arrive at a fair and impartial
5 decision. So I do thank you in advance for your
6 participation as well as for your careful attention. I
7 would ask that you please give the lawyers your attention
8 now as they give you their opening statements.

9 Ma'am, would you like a cough drop or?

10 And anybody else who would like one can have one.

11 (COUGH DROP GIVEN TO JUROR.)

12 THE COURT: If you need water let the bailiff know.

13 All right, Mr. Thompson.

14 SOLICITOR THOMPSON: May it please the court, Your
15 Honor. Minor was just six weeks old on January
16 23rd, 2014 when she died. And she died a horrible and
17 violent injuries but not the injuries that you can just
18 look at the child from the outside and say, oh yeah, that
19 looks like a horrible violent injury; the type of injuries
20 that you have to look internally to find. What were those
21 injuries?

22 Well let's start with the outside. And what you can
23 see on the outside is bruising. And what does bruising
24 tell you from a six week old child. Use your common sense
25 and this is something you as jurors can think of yourselves

1 and bring that common sense and use it all the way through
2 this trial because these injuries I submit to you we will
3 show are a spectrum of injuries. Not just one or two but
4 multiple injuries. And they can't be considered one at a
5 time even though we have to explain them one at a time.
6 They have to be considered as a whole because to do
7 anything else would be an injustice to Minor

8 But let's start with the outer injuries. The first
9 injuries that are noticed by some of the people who
10 ultimately investigated the case because at first they just
11 get a call and says there's a child in distress. Words of
12 oh, a child fell from a bed and so there is a child in
13 distress not breathing.

14 So EMT's get there and arrive and they'll testify and
15 they'll tell you when they arrived the child's dead. They
16 make efforts to try and bring that child back but the
17 child's dead, the child's not breathing and she never
18 breaths again. They will tell you that they rush that
19 child to a hospital; at the hospital they try to revive the
20 child, continually trying to revive this child the entire
21 time but unfortunately this baby's gone. And so they
22 pronounce the baby dead even though the baby had been dead
23 for some time at this point.

24 And then as the coroner goes in and the officers start
25 to go in and they start to actually look at the physical

1 outer appearance of this baby they start noticing the
2 bruising. Bruising on the right side on the arm, bruising
3 coming up the arm underneath the arm on the side; bruising
4 on the back of this right arm, bruising on the left arm.
5 Pin point bruises along the neck from one side and several
6 on the other. On the right side of her face you will see
7 that there's a significant bruise right in front of the
8 ear. Bruising that the pathologist will testify are
9 consistent with fingertips, grabbing or grasping.

10 And once again at six weeks old, use your common
11 sense, how does a baby get that type of bruising? It can't
12 do it on it's own, something else has to intervene.

13 And then another bruise. A bruise on the forehead,
14 the right side of the forehead that looks like it's rather
15 large but it's somewhat faint and as you will see most of
16 the bruises are somewhat faint as you look at them on the
17 exterior of this baby.

18 So that's the first indication that the officers and
19 the investigators are getting that there might be something
20 up with this death. We don't know what caused the death
21 yet but there might be something up. The next thing they
22 do is take a scan of the body, of the bones, to see what
23 they can find out from that. And immediately it becomes
24 apparent that the right collar bone is broken. And you
25 will see that, we'll introduce that and show that x-ray

1 view. And even the people who don't read x-rays like me
2 that's an obvious break in the collar bone of that six week
3 old baby. Once again, how does a six week old baby break a
4 collar bone? Not on it's own; not from falling from a bed.

5 So immediately there's some question as there might be
6 fowl pay in this in some form or fashion. We will look
7 further into it an autopsy is ordered and later on that
8 afternoon as they begin an autopsy on this baby and the
9 pathologist Doctor Hart goes through each part of this
10 child's body there are scar wound discoveries.

11 As he looks into the bruise for instance on the scalp
12 and literally reflects back te scalp to see underneath, he
13 finds it's a very large bruise and it's from what he would
14 call blunt force trauma. And blunt force trauma is either
15 being struck with something or striking against something
16 very hard. And so, once again, a baby at six weeks. How
17 does it get blunt force trauma on it's head? Well not by
18 itself. It has to be someone doing it.

19 In addition to that then the autopsy doctor will tell
20 you how he then actually literally lifts up this half of
21 the skull and looks in to see what's going on with the
22 brain. And when he does that he will testify and tell you
23 how there were severe subdural hematomas which are
24 basically bruises on the inside fo the brain underneath the
25 scalp and not just the scalp but the skull within the

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1 brain. And he'll testify how those bruises occur. They
2 don't occur necessarily by striking someone in the head
3 just by itself. That bruising which is throughout the head
4 starting at the top of the head and moving all the way back
5 to the base of the skull all the way along the brain. That
6 bruising is so severe that that's what causes the baby to
7 die.

8 And it's commonly heard or commonly called as people
9 have heard it before a shaken baby case or an abusive head
10 trauma case. And the doctor will testify how that abusive
11 head trauma occurs. Once again it's a violent act that
12 causes this to occur and it's not an accident. You can
13 compare it to a bad car wreck, of course this baby wasn't
14 in a bad car wreck. This baby showed those signs cause
15 what happens a baby's brains are a bit different than an
16 adult's brain. While they're all comforted in there in the
17 skull the baby's brain is little softer, a little easier to
18 move around. Not as set as an adults head because a baby's
19 head at six weeks old is not a set skull like your's and
20 mine. It's a skull that still hasn't developed all the way
21 and all the plates haven't met and formed a solid skull at
22 that point.

23 But the doctor will talk to you and tell you about the
24 rapid acceleration and deceleration of motion then
25 ultimately the blunt force trauma to the head that that

1 back and forth rapid acceleration deceleration that comes
2 of the head and the body going forward and backward and
3 forward and backward and continuing to do that so that each
4 time that happens the brain is from one end of the skull
5 tearing those blood vessels and those things that hook it
6 to the skull itself on the opposite side then bouncing back
7 to the other rheum tearing the blood vessels and the other
8 items that keep it hooked on that side and back and forth
9 it goes as more and more tears which is why you would see
10 such a devastating brain injury. A brain injury that's
11 incompatible with life and obviously in this case was
12 incompatible with life because it caused this child's
13 death.

14 But that's not all that the pathologist finds. That's
15 enough, that is enough to kill a child but there's more.
16 When he ultimately looks at the eyes of the child to find
17 that there is retinal hemorrhaging that's defused and right
18 between both eyes. Retinal hemorrhaging that doesn't
19 happen by accident. Once again we're talking about a six
20 week old child. But even if the child wasn't six weeks
21 old, even if it was someone else, retinal hemorrhaging just
22 doesn't occur like this as the doctor will describe it to
23 you profuse in other words spread out and throughout each
24 eye. It doesn't occur just by small accidents. These
25 are violent injuries and they're commonly noted in

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1 situations where a baby is shaken.

2 And unfortunately it's still doesn't end there because
3 as he looks more into this child he looks specifically at
4 the broken collar bone and he'll say and he'll be able to
5 tell you about the bruising that was around the interior of
6 that collar bone. But yet how you know your collar bone's
7 right here. Everyone can look up and feel it right now.
8 You can feel that collar bone. But there's no bruising on
9 the outside. And what is one of the indications that tells
10 you and the doctor will tell you what one of the
11 indications is it goes along with his ID that all these
12 wounds are fresh; they happened recently. Because they
13 would normally expect it to develop and you would see the
14 big bruise here where this collar bone is broken and it was
15 such a bruise around the actual break. In likeness of the
16 bruising on the exterior of the body, likely would have
17 been much darker had a significant period of time gone by
18 so these bruises are fresh.

19 And the bruises are fresh contemporaneous with the
20 internal head injuries as well as the doctor will tell you.
21 And once again unfortunately it doesn't end there. There's
22 more of the injuries that he continues to find are injuries
23 where the spine and the ribs connect. So in what they call
24 the posterior aspect of the spine where the ribs on the
25 right side hook into your spine you have twelve ribs going

1 up and down each side, six of those twelve ribs, the forth
2 through the ninth rib the doctor will tell you there is
3 severe bruising along that spinal column on the right side.
4 And on the left side there is more bruising. Not quite as
5 bad as the right side but there's still other bruising and
6 that deep tissue bruising that's not caused from a strike
7 from the outside. That's caused from a pressure on the
8 front and back of the body of the child and then a -- from
9 the spine or the ribs against the spine itself.

10 Basically a twisting back pressure that's put on it,
11 that once again, how does a six week old get that? Not by
12 accident and not by falling off a bed.

13 And once again he will say that that's consistent with
14 fracturing of where the ribs meet into the spine because
15 there's a certain laxing of those ribs. In other words
16 they move and they should move. They should be stuck right
17 there to the spine but there's some movement in them and
18 those bruises indicate that fracturing because it's
19 something you can't normally pick up on a CAT-scan or see,
20 you have to determine it by that bruising because that's
21 basically how the pathologist determined that.

22 Once again, let's go back to the spectrum of injuries.
23 Once again, you can't take this one at a time because if we
24 took it one at a time maybe you could try to explain it.
25 Well a head injury that may been the knot on the head. And

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1 then you might say well the brain injuries maybe they could
2 have occurred some other time prior to this and he just
3 didn't know. Those sorts of things I ask you that each
4 time you hear an explanation that it just explains one
5 aspect of it I want you to think of the whole, the entire
6 spectrum that we're looking at because as the pathologist
7 will testify you can't get out of this entire spectrum of
8 injuries because we might be able to explain a little bit
9 or possibly this way or possible that way but when you put
10 them all together it comes down to one thing and it comes
11 down to abuse. It comes down to a violent abuse against
12 this child.

13 This case generally starts out like many cases do. As
14 I mentioned to you they initially get a call and you know
15 that there is a baby in distress. But what happens prior
16 to that? Well we'll introduce to you what happens prior to
17 that. The baby is Mr. Evan's baby; it's his daughter.
18 Also the daughter of Ms. Banks the baby's mother. And
19 Kierra Banks really had taken care of the child most of
20 this child's life in the first six weeks. They did not
21 live together but separately. She lived in Chester, he
22 lived in Rock Hill. She was just going back to work for
23 the first time since having the baby and when this happens
24 on January 23rd that's a Thursday, its in the early morning
25 hours. The baby was actually dropped off on the 22nd.

1 Early in the morning that morning somewhat not too early
2 but nine thirty, ten o'clock, somewhere in that area, that
3 baby's dropped off to be with him and the reason is she's
4 gone back to work. She works a second shift job at the
5 time so Wednesday, Thursday, and Friday he was to take care
6 of that baby for those days and then she would come back to
7 pick the baby up after she finished her second shift job
8 and come back on Saturday and have the baby back.

9 So this is really and while he may watch the baby once
10 or twice before for a small time this is really the first
11 time of going back to work and this baby is his
12 responsibility for those three days in a row.

13 He does something that is very telling and the
14 evidence will show you and you will be able to determine
15 for yourself but it's very telling, because one of the
16 things he does is tell all the people who come about how
17 the baby fell between the bed and the wall. How the baby -
18 He had left the baby because she had woken up in the night
19 he went in to get a bottle and you will hear myriads of
20 times because at some point he will say it was at five
21 o'clock in the morning and at some point he will say it was
22 five thirty-seven and at some point he'll say it was six
23 o'clock in the morning. At some point he'll say it was
24 between two and three in the morning - two thirty - I'm
25 sorry, two and three thirty or three thirty and four thirty

1 this occurs because he moves all around.

2 But when you hear him he will tell you that when he
3 went up to get - when he went out to get the bottle he left
4 the baby on the twin bed on her side and that she was
5 closer to the wall than to the floor on the other side, the
6 empty side of the bed, and that she rolled over.

7 Once again I'm gonna ask you to use your common sense.
8 We're talking about a six week old baby. Anyone who has
9 had a baby or kept a baby, a six week old, will know that
10 it is extremely unlikely that that baby can roll over,
11 because we're talking about a baby who is only nine pounds,
12 four ounces at the time of death, and this baby somehow
13 rolled over and rolled in between the bed and the wall.

14 And once again you'll hear the measurement of this
15 bed. It's very little. You will hear how he says this
16 baby rolled over onto the - in between the wall and the
17 floor and it must have hurt itself when it rolled in there
18 because when he came back into the room he heard crying.
19 He yanked the baby up from between the bed and the wall and
20 then he starts trying to deal with her at that point to see
21 if she's all right.

22 And then you'll hear him say things like well, when I
23 brought her out he head was just kind of back like this.
24 And he'll show because he actually does a reenactment with
25 a doll when the coroner's office ask him to do that. And

1 you might actually be able to see what he says happened to
2 this baby. And he says that head was back and basically it
3 wasn't working. And that he tried to take her and bounce
4 her legs on his but the legs weren't working either. So
5 this baby's head is rolling around and the legs aren't
6 working and what does he do? Well he puts her up and
7 starts patting her. And once again I want you to think of
8 the spectrum of the injuries because we're talking about
9 fractures in the spine, we're talking about a broken collar
10 bone that this baby is suffering. Imagine for her if we're
11 smacking this baby on the back or moving this baby at all
12 imagine the pain this baby suffers each time it's moved
13 after those injuries.

14 So if those injuries had just occurred this baby will
15 be inconsolable. While he's patting he said the baby
16 immediately stops crying and that she seems all right. And
17 he lifts her out and her head's still kind of bobbing
18 around but her eyes are closed so he thinks she's gone back
19 to sleep. Puts her back down on the left side and that the
20 then puts the bottle away and he lays down facing her now
21 because before he was laying down in the bed he had his
22 feet down toward her - toward her and his head was at the
23 other side. Now he's saying I'm laying facing her and I
24 doze off for just a few minutes, maybe ten or fifteen
25 minutes, and I open my eyes and there she is and she's

1 looking at me like she needs help. And this is or course
2 in what he says is -- and you will hear that in the
3 reenactment as well and how things change and the story
4 keeps changing. And they will say at that point he did his
5 test on her. He reached over and he picked up her little
6 arm and lifted it up and dropped it. He lifted it up and
7 dropped it again. He lifted it up and he dropped it again.
8 Okay she's not responding and you're lifting up her arm.
9 Then he says well then I start to listen, I start to put my
10 fingers on her neck and I start to put my head up against
11 her face to see if I can hear her breathe. I rip open her
12 onesie and I start hearing and I don't hear a thing. So
13 now I'm worried and so I go and get my mother and we call
14 911. And you will hear this 911 case. You will hear these
15 calls.

16 And there's some very important things in these calls
17 that will point out to you as the case goes on. But I want
18 you to use your common sense. Your common sense will
19 dictate to you that the fall off the bed could not have
20 caused these injuries. These injuries were caused by a
21 violent physical act against that baby. I want you to use
22 your common sense and think about the fact that the
23 defendant as the evidence will show is the only person that
24 took care of the baby from when the baby is dropped off
25 until that day when 911 is called and that the baby is

1 acting fine according to the defendant. According to the
2 other people in the house there seems to be nothing wrong
3 with the baby by acting normally, eating normally, looking
4 normal, and not acting odd at all and not fussy and not
5 crying. So now we have to wonder when these injuries
6 occurred. Well they have to occur sometime that night
7 because if the baby's fine and eating and all those normal
8 things as the doctor will tell you and others will tell you
9 in the testimony one of the first things that happens with
10 the baby with the baby who is severely injured is that it
11 stopped eating.

12 They get fussy and cranky. If you can imagine for
13 yourself a broken collar bone, fractures in the spine,
14 bruised in the ribs, an adult who has a bruised rib will
15 tell you how difficult it is just to breath with a bruised
16 rib. Imagine a baby on the front and the back with severe
17 injuries and how much difficult that would be to breath if
18 picked up to eat and be patted. Something's wrong.

19 There are two types of evidence that you're gonna see
20 in this case. You have direct evidence and circumstantial
21 evidence. Direct evidence is gonna be some of the
22 testimony from the people who saw certain things. The
23 witnesses themselves. The pathologist who is gonna testify
24 to what he saw in the autopsy. That's direct evidence of
25 the injuries. The fact that the EMT's who go in and treat

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1 the child direct evidence of the injuries. The statements
2 given by the defendant, direct evidence with what the
3 police find. But then there's gonna be circumstantial
4 evidence. And that comes around the time of the
5 circumstances around the entire case. The fact that the
6 defendant is the only one caring for this child at the time
7 these injuries would have occurred so he ultimately becomes
8 the only one who could have committed these injuries
9 against the child.

10 And these injuries could not have been committed
11 against the child without him knowing it since he's the one
12 in his own admission is the one caring completely for this
13 child. Because as an adult once again using your common
14 sense once these injuries occurred even if someone else had
15 done 'em wouldn't the obvious that something horrible had
16 just happened to this child so to then ignore it? Wouldn't
17 that still make you just as responsible for the welfare of
18 that child and the death of that child?

19 Because homicide by child abuse as the judge has read
20 the indictment is not just by abuse. It's by abuse and or
21 neglect. So if you cause the death of a child by abuse and
22 or neglect because neglect is not an outward act it's the
23 act of oh, the baby's head's rolled around and it's legs
24 aren't working but I'm gonna lay it back down and just see
25 what happens. That's neglect. Because all of us know

1 that's not right and that's a serious injury. But that's
2 not all because he's also the one who caused the abuse.
3 The evidence will show you there is no other explanation
4 for it. No other reasonable explanation for that abuse;
5 for the cause of that abuse other than the defendant.

6 And I don't want you to be concerned about the fact
7 that and it's a lot of people will say oh, it's just a
8 certain simply case but its not like that in this case.
9 And sometimes circumstances are more telling than anything
10 else. But you've never had a case where someone watches
11 someone violently shake a child because they're gonna try
12 and stop them or their gonna tell the police right away.

13 This is how the case always happens. And so it's
14 through the body of the child that will speak to you
15 through the pathologist that you learn of the injuries and
16 that you learn of the cause of those injuries.

17 And then you will hear the case from much beyond the
18 defendant own words to the police, much of their
19 investigation of the police as to what occurred in the
20 coroner's office as to what happened and who was where and
21 who did what and who was taking care of that baby.

22 So when it comes down to it this act - this act or
23 omission were a combination of both of the acts of the
24 defendant to cause a child to die. The least he could have
25 done was to sought medical attention as soon as he noticed

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1 something was horribly wrong. But he didn't because he's
2 the one who caused that something horribly wrong. Instead
3 he did something that many people do in that situation; he
4 tried to mislead the police by giving this story and giving
5 some other explanation as to why the baby was hurt.

6 Think again. Use your common sense. Why does someone
7 give a story as to why a child is hurt? Because they know
8 the child is hurt. They're trying to escape people looking
9 at them instead and so you give this factious story one
10 that is just not possible to try and explain these child
11 injuries.

12 Fortunate for us the defendant didn't know the extent
13 of the child's injuries himself because he can't look
14 inside that brain; knowing that the child ultimately died
15 yes, but not knowing the mechanism of that death. So it's
16 hard to explain out all the injuries that you've committed
17 because when you shake a child you don't know how badly
18 you're doing it until it's all said and done.

19 But you know it's violent, you know the act is wrong,
20 you know the act is likely to severely injure this child --
21 and he would have known that at the time. So I ask that
22 you listen closely to the evidence, use your common sense,
23 don't leave it at home bring it with you and look at the
24 spectrum of injuries each time you think of it look at all
25 these injuries and think well how can that be when there's

1 all these injuries? Whenever you hear an excuse as to one
2 injury might be this or that and remember the spectrum
3 because it has to be all of them together cause all of
4 these injuries happened to that child at the same time
5 through a violent vicious act. And I ask that when you
6 consider all of that and you look at it that you find the
7 defendant guilty of homicide by child abuse. Thank you for
8 your patience.

9 THE COURT: Mr. Cook.

10 MR. COOK: May it please the court, Your Honor.

11 Ladies and gentlemen of the jury, my client has
12 adamantly maintained his innocence from the onset; he
13 adamantly maintained his innocence when he was speaking
14 with the officers the day of this terrible accident. He
15 adamantly maintains innocence today. If he were guilty he
16 would plead guilty.

17 I suppose what I want to impart on you during opening
18 arguments is simply to please not make a decision until you
19 hear all of the evidence. Remember what the judge told you
20 the evidence was in this case? The evidence is not the
21 attorneys up here in opening arguments. No evidence was
22 just presented. The evidence is not in closing arguments.
23 I have no evidence to show you today from me.

24 I'm going to let you watch all of the evidence that's
25 presented during the actual trial. And at the end of the

1 trial I am going to make an argument to you and I can
2 imagine that the solicitor is going to make an argument to
3 you. I would submit that at that point you still shouldn't
4 make your mind up. Go into the deliberation room talk
5 amongst yourselves. At some point during this process you
6 will have heard all of the evidence and at that point you
7 can make a decision.

8 And the reason that I dwell on this point is because
9 I'd like to discuss with you the definition of beyond a
10 reasonable doubt as rather nebulous. It's explained in law
11 classes, it's been defined by the Supreme Court of the
12 State of South Carolina, and I choose to use that
13 definition and that definition is that reasonable juror of
14 course you all passed the mustard from both the state and
15 myself. We all believe that you're reasonable jurors.

16 After hearing all of the evidence in the deliberation
17 room if a reasonable juror has heard all of the evidence at
18 that point and at that point only if you're not hesitating
19 to act then the state has met it's burden. And I want to
20 go over that definition again with you in closing
21 arguments. I don't want to dwell on it. I believe that
22 the court will instruct you on these types of issues and of
23 course I submit to you whatever the judge says is the law
24 of the land.

25 You all are the trier's of fact you're going to

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1 determine what the facts are in this case. The judge
2 already understands the law implacably his Honor is going
3 to tell you at the end of the case what you should and
4 shouldn't consider and what perimeters you use. And I
5 submit to please just listen to the court.

6 Extreme. What does that word mean? Extreme
7 indifference to human life. I would submit to you if my
8 client intended to do this, to kill, to murder, his own
9 six-week-old baby that would be extreme indifference to
10 human life certainly. But that's not what happened here on
11 that January morning last year, not at all, and you all
12 will hear that evidence in good time. Thank you very much.

13 SOLICITOR BRACKETT: The state would call Karen
14 McClure. Ma'am, if you would please step forward and be
15 sworn by the clerk.

16 ((WHEREUPON, KAREN MCCLURE,
17 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:))

18 DIRECT EXAMINATION

19 KAREN MCCLURE BY SOLICITOR BRACKETT:

20 Q. Ma'am, would you please state your full name and spell
21 your last for the court reporter?

22 A. It's Karen Grice McClure, M-c-C-l-u-r-e.

23 Q. All right, Ms. McClure, would you please tell the jury
24 where do you work?

25 A. I work for York County 911 Public Safety

KAREN MCCLURE: DIRECT BY SOLICITOR BRACKETT

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1 Communications.

2 Q. And what do you do there?

3 A. I'm the quality assurance manager.

4 Q. All right. And can you give the jury some idea, I
5 think they probably all know but just in case, tell them,
6 give them a quick overview, what is 911 Emergency
7 Operation? What is your job?

8 A. We are the receiving house for all 911 calls in York
9 County. Say you dial 911 you're inside York County it
10 comes to us. If you need emergency services, medical,
11 fire, we dispatch it. If you need law enforcement we
12 dispatch it or we transfer you to the appropriate agency.

13 Q. All right. And how long have you been with 911?

14 A. Four nineteen years, little over nineteen years.

15 Q. And in your role as quality assurance do you have
16 custody and control over the records and the recordings
17 kept by 911?

18 A. I do.

19 Q. All right. Now long does 911 keep recordings?

20 A. Approximately two and a half years.

21 Q. All right. And if somebody calls and says we need
22 to keep it longer?

23 A. We will keep it.

24 Q. All right. In this particular case I want to turn your
25 attention to January 23rd, early morning hours about six

KAREN MCCLURE: DIRECT BY SOLICITOR BRACKETT

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1 thirty, five or so. Did you - Did 911 receive emergency
2 calls, two emergency calls from ---

3 A. Yes, sir.

4 Q. --- in the City of Rock Hill? Okay. I'm showing you
5 what's been marked as State's Exhibit's One and Two.

6 And I ask you can you identify those?

7 A. Yes, sir.

8 Q. What are those?

9 A. These are the two 911 calls that we received in
10 reference to the infant.

11 Q. Okay. How do you know that those discs contain those
12 911 calls?

13 A. I actually listened to the calls and initialed the
14 disc.

15 Q. Okay. So your initials appear on there?

16 A. Uh-huh.

17 Q. And do those calls accurately depict the 911 calls
18 that your office received and are they accurate and true in
19 all respects?

20 A. Yes, sir.

21 Q. All right. One moment.

22 SOLICITOR BRACKETT: Your Honor, at this point I would
23 seek to introduce State's Exhibits One and Two. And for
24 the record State's Exhibit One is a 911 call that's the
25 briefer of the two and it was the one that was received by

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1 from the Defendant Evans and then the second one is the
2 longer call from I believe the Defendant's father Cornelius
3 Neal, we move to admit.

4 MR. COOK: Without objection, Your Honor.

5 THE COURT: They're admitted without objection.

6 (WHEREUPON, STATE'S EXHIBITS ONE AND TWO, IDENTIFIED
7 NAD MARKED, RECEIVED INTO EVIDENCE.)

8 SOLICITOR BRACKETT: And move to publish.

9 THE COURT: You may.

10 (WHEREUPON, STATE'S EXHIBITS TWO PUBLISHED TO THE JURY
11 AT 03:34 P.M..)

12 BY SOLICITOR BRACKETT:

13 Q. And in the middle of that call 911 received a second
14 call from the same location?

15 A. Just a few seconds after that.

16 Q. Okay.

17 SOLICITOR BRACKETT: Move to publish State's One.

18 THE COURT: You may.

19 SOLICITOR BRACKETT: And this would be the call from
20 the Defendant Mr. Evans.

21 (WHEREUPON, STATE'S EXHIBIT ONE PUBLISHED TO THE JURY
22 AT 03:42 P.M..)

23 Q. And I believe these calls were received at 6:36 in
24 the morning?

25 A. Yes, sir.

KAREN MCCLURE: CROSS BY MR. COOK
STEVE PURSLEY: DIRECT BY SOLICITOR BRACKETT

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1 Q. Okay.

2 SOLICITOR BRACKETT: Thank you, Ms. McClure. Please
3 answer any questions Mr. Cook may have for you.

4 CROSS-EXAMINATION

5 KAREN MCCLURE BY MR. COOK:

6 Q. Good afternoon, Madam. Did I make a subpoena of those
7 records also?

8 A. Yes, sir.

9 Q. Thank you.

10 MR. COOK: No further questions. You are relieved
11 from my subpoena.

12 THE COURT: And you may step down.

13 (WITNESS LEAVING WITNESS STAND.)

14 SOLICITOR BRACKETT: I would ask that the witness be
15 excused. The state would call Mr. Steve Pursley.

16 If you would please step forward and the clerk will
17 swear you.

18 (WHEREUPON, STEVE PURSLEY, BEING
19 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

20 DIRECT EXAMINATION

21 STEVE PURSLEY BY SOLICITOR BRACKETT:

22 Q. Sir, would you please state your full name and spell
23 your last for the court reporter can get it right in the
24 record?

25 A. My full name is William Steve Pursley, P-u-r-s-l-e-y.

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1 Q. And where are you employed, sir?

2 A. At Piedmont Medical Center Emergency Medical Services.

3 Q. Okay. What do you do for Emergency Medical Services?

4 A. I'm a paramedic.

5 Q. How long have you been doing that, sir?

6 A. Thirty-three years.

7 Q. All right. What is a paramedic? Most people know but
8 just give us a quick over view. What does your - -

9 A. Our function is basically to respond to emergency
10 calls when people are sick or injured, access the situation
11 and take care of that patient and provide treatment,
12 transport them to a group facility that can give them
13 further care.

14 Q. All right. So you usually operate out of an ambulance
15 and go to emergency situations and -

16 A. Yes, sir.

17 Q. --- and provide ---

18 A. Exactly.

19 Q. --- immediate medical care?

20 A. Yes, sir.

21 Q. All right. Did you have occasion to go to

22 in the city of Rock Hill on January 23rd of
23 2014?

24 A. Yes, sir.

25 Q. And the early morning hours specifically?

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1 A. Yes, sir.

2 Q. All right. What did you - What kind of call were you
3 responding to?

4 A. We had a call for an unconscious child not breathing
5 call. I was actually in a - in what we call a first
6 response vehicle so I was actually by myself and I was
7 coming through town so I heard the call and I responded and
8 when I got there I found the subject flagging me down
9 actually away from the house about a block maybe and he
10 showed me to the residence. I followed him to the resident
11 - at that residence and found - went inside and found an
12 unconscious non-breathing child.

13 Q. All right. About what time did you get the call from
14 EM - or 911?

15 A. Around six thirty.

16 Q. That was the time written down on your -

17 A. Yeah, the time we got was a call received at 6:36.
18 We were on the scene at 6:42:32.

19 Q. You were there pretty quick?

20 A. Uh-huh.

21 Q. All right. Describe what you saw. You say someone
22 met you outside?

23 A. Yes. A gentleman claimed to be the child's father
24 once I got to the scene.

25 Q. All right. Was that this fellow here?

STEVE PURSLEY: DIRECT BY SOLICITOR BRACKETT

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1 (SOLICITOR INDICATED TO DEFENDANT.)

2 A. That was Mr. Evans yes, sir.

3 Q. Okay. And what did he do?

4 A. He was very upset. Very, you know, telling us that
5 we needed to get inside and check his child, that at that
6 time he was just showing me where the child was at in the
7 house when I first walked in.

8 Q. All right. Can you describe for the jury what the
9 scene was in the house as you walked in?

10 A. I walked into the front door, the living room it was
11 very dark inside the house. The child - found a child that
12 was sitting - a gentleman had the child. We found the
13 child right at the couch area beside a coffee table and it
14 was a couch - the child was - he was actually on the couch
15 at the time and then they handed me the baby initially and
16 then that's when I proceeded to do CPR and access and try
17 to find out some - gather some information as much as I
18 could but me being by myself I basically - my trying to
19 access the child and do as much as I can by myself because
20 I don't have anybody with me at the time.

21 Q. Okay. What types of steps do you take when you were
22 doing CPR?

23 A. We do CPR. At that time you know we do the same thing
24 the - they were trying to do, you know, compressions. We
25 do compressions but also we do - we breath for the child

1 with a bag mask device.

2 Q. Like an Ambu bag?

3 A. Yes, sir.

4 Q. Is that what you call it, where you squeeze the air
5 into --

6 A. Right. Its just at that time - We do have advanced
7 life support but at that time being by ourselves we do
8 basic life support until we have other crews that get there
9 and then we go into our ALS procedure.

10 Q. Okay. And where did you - When they handed you the
11 child where did you take the child to do that?

12 A. The baby was placed on a coffee table right beside the
13 couch and that's where I laid the baby at the end of the
14 coffee table kind of and started doing CPR.

15 Q. All right. Was the child completely on the coffee
16 table?

17 A. Yes.

18 Q. Okay. And describe the conditions inside the house.
19 Was it hot or cold?

20 A. It was very warm inside the house I do remember that.

21 Q. Okay. And the child, when you touched the child
22 physically to the touch how was the child?

23 A. The child was warm but the extremities were a little
24 cool but the core - the core extremities.

25 Q. When you say extremities?

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1 A. The arms and legs.

2 Q. Okay.

3 A. The child didn't have no breathing, no - didn't try
4 to breath and had fixed and dilated eyes. You know we look
5 at their eyes kind of and the eyes were dilated.

6 Q. Okay. What does that tell you?

7 A. It kind of tells you that the child probably had been
8 without oxygen for some time. Usually that's an indication
9 of the dilated pupils that they had been down for some
10 time.

11 MR. COOK: I'm gonna object at this time, Your Honor.

12 The witness hasn't been declared an expert to give
13 these opinions.

14 THE COURT: Well is this based on your own knowledge
15 and training or are you relying on somebody else's
16 information?

17 A. I mean that's my knowledge and training.

18 THE COURT: I over rule the objection.

19 BY SOLICITOR BRACKETT:

20 Q. So would the child - You said the child's eyes were -
21 they were open?

22 A. Right, they were open at the time.

23 Q. Okay. So you could see the pupils were fixed?

24 A. Right. We were looking into them yes, sir.

25 Q. Okay. At any point in time - How long were you in the

1 house trying to do the life saving, the advanced life
2 saving, the breathing and the CPR .

3 A. Probably - I was with that patient probably about
4 maybe eight minutes before my other unit arrived and that's
5 when they came in and then I transferred care to my
6 paramedics that came to another unit and Rock Hill Fire
7 Department we - they were there to assist us so basically
8 we were doing CPR, get to a point they come in and we
9 transfer care and then the patient - the ALS procedure -
10 the other advanced procedures would be started then.

11 Q. Okay. Now when you transferred care was the child,
12 how long was the child ultimately at the house from the
13 time you arrived to the time the child was taken out?

14 A. Probably maybe eight minutes, ten minutes at the most.

15 Q. And where was the child taken?

16 A. The child was taken directly to the ambulance. Once
17 we get the other crew there we took them straight to the
18 ambulance and started working on them outside in the
19 ambulance.

20 Q. And how long - Ultimately where was the child taken?

21 A. Ultimately it was taken to the Piedmont Medical Center
22 to the ER after they worked the call and they had got their
23 stuff done there in the truck.

24 Q. At any point in time that you were there working on
25 the child, that you're trying to help this baby, did she

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1 ever display any signs of life at all?

2 A. No signs of life not once.

3 Q. Ever?

4 A. No, sir.

5 Q. Take a breath or anything of that nature?

6 A. No. No, sir.

7 Q. At any point in time did you have occasion to talk
8 to the defendant?

9 A. The dad had made the comment when we were walking
10 in the house - We do have to kind of ask a few questions,
11 we try to ascertain exactly what happened, if the child had
12 a medical history or nothing which there was none and he
13 did say something about the child had fallen earlier in the
14 night.

15 Q. When you say he be specific.

16 A. That would be Mr. Evans.

17 Q. Okay.

18 A. The father.

19 Q. Mr. Evans was telling you.

20 A. And he said that he had fallen earlier in the night.

21 He was saying and I just - he said something around
22 three o'clock in the morning and then he said that he had
23 gone back to feed the child sometime around six which I
24 think was around the hour before we got there but then he
25 went back to check the baby and then the baby was not

1 breathing.

2 Q. Did he say the baby was able to eat?

3 A. He indicated that he tried to feed the baby but he
4 didn't say anything about he had completed the feeding or
5 not.

6 Q. Did hes say what he was doing at the time the baby
7 fell off the bed?

8 A. He said that they were laying in the bed and he
9 thought - he said something about watching TV that night.

10 Q. Okay. When you perform CPR on Minor how do you do
11 that? Can you just demonstrate ---

12 A. Right.

13 Q. --- as you were holding a baby?

14 A. Pardon?

15 Q. If you were holding a baby right now imagine - -

16 A. Oh, if I was holding a baby. You would put 'em in
17 the arms and you do the chest compressions. You would
18 mash between the nipples on the chest about a half inch
19 down and do compressions. Our compression rates when we
20 get there we actually do them. When we're bag masking
21 we're doing thirty compressions to two respirations.

22 Q. Okay.

23 A. And you use a half inch. But we would - I will use
24 my fingertips to do it.

25 Q. And when you say respirations, do you mean squeezing

STEVE PURSLEY: DIRECT BY SOLICITOR BRACKETT
CROSS BY MR. COOK

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1 the bag?

2 A. Right. Squeezing the bag. We have a bag mask system
3 which we would put on the child and then when we would
4 squeeze the bag and it would you know blow a little bit of
5 a puff of air and we use a smaller one for a baby so it's a
6 different size than an adult.

7 Q. Does it make any noise when you do that?

8 A. It does make a little bit of a noise. It has a - it
9 has a valve on it that keeps air from flowing back so it
10 does when you squeeze in it will make kind of a noise
11 coming out like the sound of air escaping.

12 Q. Okay.

13 SOLICITOR BRACKETT: Thank you very much, Mr. Pursley.
14 Please answer any questions that Mr. Cook may have.

15 CROSS-EXAMINATION

16 STEVE PURSLEY BY MR. COOK:

17 Q. Good afternoon, sir.

18 A. Hi.

19 Q. Mr. Pursley, I also have you under subpoena; is that
20 correct?

21 A. Yes, sir.

22 Q. And I wanted to ask you, what is - Again, how many
23 years have you had training? What's your --

24 A. Thirty-three years on the paramedic.

25 Q. But I can imagine you went through a lot of courses

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1 also throughout that amount of time.

2 A. Yes, sir.

3 Q. And I noticed you said that you had administered the
4 two finger compression for your resuscitation after CPR?

5 A. Right. Yes, sir.

6 Q. Have you heard of a new method that involves holding
7 the child and using your thumbs to massage the chest?

8 A. Yes, sir, I have.

9 Q. And why did you not use that new method?

10 A. I was by myself and when you bag a patient its easier
11 to do CPR with one finger and then I have to bag with
12 another hand, sir.

13 Q. I see. I see. How long had you known about the new
14 method as I call it?

15 A. Its been around for a few years now. I mean there's
16 ways you can do it but that's been around for a couple of
17 years.

18 Q. And do you know why it's become in more use?

19 A. They just think that's its basically that you can wrap
20 your fingers and use your fingers and get a lot better
21 compression rate sometimes.

22 Q. Do you ever have the danger of injuring the child
23 while you're compressing a hundred times a minute?

24 A. You can. Sometimes you can be injured there but if
25 you're doing it and then that's just one of the things that

STEVE PURSLEY: CROSS BY MR. COOK

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1 happens sometimes.

2 Q. Now you said my client met you outside the house.

3 It was a ways down the road wasn't it?

4 A. Yes, sir. It was down around the - somewhere around
5 the block. I remember him going down and had to cut
6 through a street there.

7 Q. He was motioning you to show you how to get there?

8 A. Yes, sir.

9 Q. And I believe you characterized at one point in your
10 notes his behavior as hysterical?

11 A. Yes. He was upset yes, sir.

12 Q. And you were there - I believe the baby you said was
13 in the home eight minutes before you transported her out;
14 is that correct?

15 A. Somewhere around there. I'm not exactly sure. My
16 other crew got there so we had some times on the run for
17 it.

18 Q. Is that Mr. Quinn?

19 A. That's Pat Quinn. That's one of the other paramedics
20 yes, sir.

21 Q. Okay. And did Mr. Quinn ever administer and CPR
22 compressions?

23 A. Yes he would have. Yes, out in the truck.

24 Q. Okay. Thank you.

25 MR. COOK: No further questions, sir.

OFFICER JOHN AITON: DIRECT BY SOLICITOR BRACKETT

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1 SOLICITOR BRACKETT: No redirect and ask that this
2 witness be excused.

3 THE COURT: You can step down and also be excused.
4 Thank you.

5 (WITNESS LEAVING WITNESS STAND.)

6 THE COURT: The state would call Mr. John Aiton.

7 (WHEREUPON, JOHN AITON, BEING
8 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

9 DIRECT EXAMINATION

10 OFFICER JOHN AITON BY SOLICITOR BRACKETT:

11 Q. Good afternoon, sir. Would you please state your
12 full name and spell your last for the court reporter?

13 A. Its John Lloyd Aiton, A-i-t-o-n.

14 Q. And we can tell you're a police officer but could
15 you tell the jury where you're employed and in what
16 capacity?

17 A. I'm with the Rock Hill City Police Department. I work
18 as a school resource officer at South Pointe High School.

19 Q. Okay. And how long have you been a police officer?

20 A. In July it will be twenty-six years.

21 Q. Okay. And you said you were a school resource
22 officer?

23 A. Yes.

24 Q. What is that? What do you do?

25 A. I'm assigned - My office is out at South Pointe and

OFFICER JOHN AITON: DIRECT BY SOLICITOR BRACKETT

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1 that's where I patrol and answer calls for service in that
2 area.

3 Q. Okay. And do you also in addition to working out of
4 a school you're a regular police officer, can take calls
5 anywhere?

6 A. Yes, sir.

7 Q. All right. Turning your attention to the early
8 morning hours of January 23rd, 2014. Can you please tell
9 the jury if you were at work or what you were doing at
10 approximately six thirty that morning?

11 A. I was not at work yet. My shift doesn't start until
12 seven thirty but I come in early usually to get the mail.
13 I'll go by Hagen Street Substation and check my box and
14 make sure there's nothing there waiting on me that I need
15 to take care of. So I usually leave my house about six
16 fifteen in the morning.

17 Q. Okay. Did you have occasion or did you get a call
18 for an emergency situation in the City that morning?

19 A. I didn't receive the call. I was listening to the
20 radio and I heard the call go out plus the EMS fire trucks
21 had gone by me because I was at Hagen Street and Wright
22 Street was just down a few blocks from it.

23 Q. Okay. What did you do as a result of hearing that?

24 A. When I over heard the call and the units responding I
25 wasn't that far away so I went ahead to the house to see if

1 I could help.

2 Q. And what did you see when you arrived at the house?

3 A. When I arrived at the house I saw the defendant on the
4 front porch is the first thing I remember seeing and he was
5 crying. He was very distraught.

6 Q. Okay. And what else did you incur?

7 A. Well EMS was already inside. I don't know how many
8 but they were inside. I just went ahead to the defendant
9 and started taking care of him and when EMS even brought
10 the child out I stayed with the father, the defendant, and
11 when they transferred him to - transferred the baby to the
12 ambulance.

13 Q. Okay. So you didn't have occasion to go into the
14 house?

15 A. I never went in the house.

16 Q. All right. You were out on the porch the whole time?

17 A. I was.

18 Q. Okay. And when the EMS came out with the infant,
19 where did they take the infant?

20 A. They took the infant to the ambulance.

21 Q. And then ultimately how long were they there before
22 the ambulance left?

23 A. They were there just a few - They were there a few
24 more minutes. You could see them start to caring for the
25 child on the ambulance. Me and the defendant, the baby's

OFFICER JOHN AITON: DIRECT BY SOLICITOR BRACKETT

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1 father, was there at the back of the ambulance and I was
2 trying to hold him so they could work. He was still very
3 distraught crying so I was trying to talk to him and while
4 - just letting them work and him stand back a little bit.

5 Q. Where did the father go, the defendant, where did he
6 go when the ambulance left?

7 A. He went with me.

8 Q. Okay.

9 A. During talk - While I was talking to him they didn't
10 have a way to get to the hospital so I told him I was gonna
11 take him, he would go with me.

12 Q. Okay. Just as an act of kindness?

13 A. Right.

14 Q. He wasn't in custody?

15 A. No.

16 Q. You were taking him because he wasn't free to leave
17 or anything like that?

18 A. Right.

19 Q. All right. And was anybody else in the car with you?

20 A. No.

21 Q. On the way to the hospital just you and he?

22 A. Yes.

23 Q. All right. Did you have occasion to talk to him
24 during the time you were on the porch and in the car, going
25 to the ambulance? Did you have a chance to discuss with

1 him what had taken place?

2 A. I never ask him what took place. I over heard when
3 EMS had ask him when we were still there at the ambulance
4 EMS personnel or it might a been one of the firemen ask him
5 what had happened.

6 MR. COOK: I would object. I object on the grounds of
7 hearsay. I apologize for this happened precipitous. I
8 thought he was about to say something that he heard a fire
9 person say, Your Honor.

10 BY SOLICITOR BRACKETT:

11 Q. Well just focus on what the defendant told you
12 specifically about the prior evening. What information did
13 the defendant give to you about what took place the prior
14 evening?

15 A. He never - Well the only time he had talked to me
16 about what had happened is when we were in the car going to
17 the hospital.

18 Q. Okay.

19 A. And he said, "I didn't do anything wrong." And he
20 said -

21 Q. Did you - Did you suggest to him that he had done
22 something wrong?

23 A. No. Like I said I never ask him any questions. He
24 was still very distraught even in the car and so he was
25 talking all the way to the hospital.

OFFICER JOHN AITON: DIRECT BY SOLICITOR BRACKETT

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1 Q. Okay. And can you remember specifically exactly
2 what he told you about what he did or didn't do?

3 A. I remember what he had told EMS outside the ambulance
4 but on the way in the car he said, "I didn't do
5 anything wrong." And then a little bit after that he made
6 the statement "I wouldn't hurt my baby."

7 Q. Okay. And what else did he tell you about the prior
8 night?

9 A. Those were the only two statements directed to where
10 I could hear 'em. The other two times I heard him talking
11 about what happened that night. One was the EMS outside in
12 the ambulance. Then when we got to the hospital he was
13 crying in the waiting room and one of the hospital workers
14 had ask him what had happened and so he started telling her
15 what had happened that night.

16 Q. What did he say?

17 A. He said again that - he said that the baby had fallen
18 off the bed.

19 Q. Okay.

20 A. And that the baby had been up all night; that he had
21 only got like fifteen minutes of sleep.

22 Q. Did he say why the baby was up or what the baby was
23 doing?

24 A. Just crying. Just up all night. It wasn't a real
25 specific reason. That he had made a bottle for the baby.

OFFICER JOHN AITON: DIRECT BY SOLICITOR BRACKETT
CROSS BY MR. COOK

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1 But once again he's telling the hospital worker this. And
2 it's the same thing I had heard him tell EMS.

3 Q. Okay.

4 A. But that the baby had fallen.

5 Q. Okay. And about the crying, was that something he
6 told you or just the hospital worker or both you and the
7 hospital worker?

8 A. He told - He told EMS outside the ambulance about
9 the staying up all night crying.

10 Q. Okay.

11 A. And that he had only got fifteen minutes of sleep.
12 And then I heard it again at the hospital that the baby had
13 been up all night.

14 Q. Okay.

15 SOLICITOR BRACKETT: Thank you very much, Officer.

16 Please answer any questions Mr. Cook might have for
17 you.

18 CROSS-EXAMINATION

19 OFFICER JOHN AITON BY MR. COOK:

20 Q. Good afternoon, Officer. I had - To be clear,
21 Officer, I am - Were you going to say a sentence that you
22 heard my client say or that you heard another person say?
23 If you were gonna say a sentence that you heard my client
24 say that wouldn't be hearsay.

25 A. Right. I only repeat what I heard your client say.

OFFICER JOHN AITON: CROSS BY MR. COOK
REDIRECT BY SOLICITOR BRACKETT

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1 Q. Oh. I didnt' mean to interrupt you. I thought you
2 were gonna talk about what you heard other people say.
3 What did you hear my client say that I interrupted you on?
4 I didn't mean to.

5 A. That when we were outside the ambulance ---

6 Q. Uh-huh.

7 A. --- that EMS had ask him what had happened.

8 Q. Okay.

9 A. And that he had said that he had the baby and that
10 the baby had fallen of the bed. That the child had been up
11 all night, that he had only got fifteen minutes of sleep.

12 Q. Okay.

13 A. Even to the point he made a bottle for the child and
14 said that he - the baby had fallen - he checked on it an
15 hour later and that she wasn't breathing. And now he was
16 telling EMS this.

17 Q. Thank you.

18 MR. COOK: No further questions.

19 REDIRECT EXAMINATION

20 OFFICER JOHN AITON BY SOLICITOR BRACKETT:

21 Q. And he said the baby was crying?

22 A. Yes.

23 SOLICITOR BRACKETT: Nothing further. Thank you very
24 much, Mr. Aiton.

25 I ask that this witness be excused.

1 THE COURT: You may step down and you may also be
2 excused.

3 (WITNESS LEAVING WITNESS STAND.)

4 SOLICITOR BRACKETT: Your Honor, we have a matter of
5 law that was hanging we need to address and now might be a
6 good time to take care of that.

7 THE COURT: Okay. Let me ask the jury to please go
8 to your jury room. Don't discuss the case. I'll bring you
9 back after this short break.

10 (JURY EXITS COURTROOM AT 04:06 P.M..)

11 THE COURT: You all need to talk?

12 SOLICITOR THOMPSON: Yes, Your Honor, just briefly.

13 THE COURT: All right. We'll take ten minutes.

14 (COURT IN RECESS AT 04:07 P.M..)

15 (COURT BACK IN SESSION AT 04:25 P.M..)

16 THE COURT: Be seated. All right, you all need my help
17 with anything?

18 SOLICITOR THOMPSON: I don't believe so, Your Honor.

19 We can just put on the record what agreement we've
20 come to.

21 THE COURT: Okay.

22 SOLICITOR THOMPSON: As I discussed with Mr. Cook
23 there were many, many, many photographs of the child right
24 before the autopsy and during the autopsy that we had to
25 choose from. I narrowed those down with the file which is

1 Doctor Craig Hart to the ones that he thought were the ones
2 that he would ask we would want to have to explain those
3 injuries to the jury. Then from those Mr. Cook and I went
4 over those and Mr. Cook has said there were three, we
5 agreed to take out those three that he has the largest
6 objections to. And they were originally marked State's
7 Exhibit Number Three, Sixteen, and Twenty.

8 We've now crossed that out and made them Court's
9 Exhibits One, Two, and Three in that respective order so
10 they will be part of the record but they will not be used
11 within the trial itself.

12 As far as the other ones that after seeing the case
13 law that I presented to Mr. Cook which is State versus
14 Henry Gray which is cited at 408 S.C. 601 at S.E. 2d. I'm
15 sorry, 759 S.E. 2d 160, that case, then State versus
16 Collins also from last year. This one is a Supreme Court
17 case from South Carolina 409 S.C. 524 also cited at 763
18 S.E. 2d 22. And then the final one State versus Gerald,
19 this would be Sharon Gerald, he husband was also convicted
20 in this case. And that is cited at 350 S.C. 90 and 564
21 S.E. 2d 362.

22 Those cases make it clear that the court in allowing
23 these photographs for purposes that we are bringing them in
24 Mr. Cook was able to as well speak with me and Doctor Hart
25 at the same time to see that he agrees that Doctor Hart had

1 for saying that these photos were necessary for him to
2 testify to. He has agreed to allow those photos in. And
3 this would be beginning State's Exhibit Four. And that
4 would be Four, Five, Six, Seven, Eight, Nine, Ten, Eleven,
5 Twelve, Thirteen, Fourteen, Fifteen, and then Sixteen was
6 taken out because that was one of the one's we agreed to
7 take out. And State's Exhibit Seventeen, Eighteen and
8 Nineteen. State's Exhibit Twenty was taken out per our
9 agreement. And then State's Exhibit Twenty-one, Twenty-two
10 and Twenty-three all would be let in.

11 The majority of those pictures are actually of the
12 bruising of the exterior of the child over the graphic.
13 There are only a total of six pictures that would actually
14 be from the autopsy itself where they each depict a
15 specific injury on the victim and the victim had of course
16 multiple injuries in this case. And of course the state's
17 reason for bringing it in is not only does it have the
18 pathologist and the jury to see things like this and
19 something that's just as in the Grey case for instance one
20 of the purposes of putting in the photographs of the
21 interior of the skull when the scalp is reflected, the
22 exterior of the skull, and then when the skull was lifted
23 off of the brain and seeing the interior of the brain
24 itself and the skull cap and the blood clots that were on
25 it at the subdural hematomas one of the main reasons for

1 that too was to prove that it was not an accident; that
2 this was something that had to be done on purpose.

3 And of course one of the things already in the case is
4 that the defendant claims that this occurred from a fall
5 from a bed and it was basically accidental and so we would
6 use these as proof that this was not an accident, this was
7 something intentionally. That's what Doctor Hart would
8 testify to in addition to other things like the dating -
9 you know the freshness of the bruising and the hematomas
10 and things of that nature and the severity of it.

11 That's what we've come to in an agreement on, Your
12 Honor. As well I believe he will allow us to put in the
13 autopsy as part of the evidence after Doctor Hart
14 testifies, however, we will redact from the autopsy the
15 clinical summary which is just a summary of facts that were
16 given to the pathologist before he did the autopsy so we'll
17 take those out.

18 The facts to testimony and not the pathologist as well
19 as at the final summary in the autopsy on the last page
20 there is another basically a fact paragraph of prior facts
21 that led up to this, we will remove that as well and allow
22 the testimony to speak for itself. But other than that the
23 autopsy and the diagram - the initial diagram - just
24 bruising will be allowed in by the defense.

25 And the final thing that we agreed on on break is that

1 Doctor Hart does qualify as an expert in pathology and that
2 the court can qualify him as such by stipulation from the
3 state and the defense.

4 THE COURT: And do I understand correctly that the
5 pathologist would testify that the photographs are
6 beneficial and will assist him in being able to illustrate
7 his testimony for the benefit of the jury?

8 SOLICITOR THOMPSON: Yes, Your Honor.

9 THE COURT: And to establish that the injury is not
10 accidental but in fact was caused by an intentional act?

11 SOLICITOR THOMPSON: That's correct.

12 THE COURT: All right. Mr. Cook, are you in agreement
13 with what Mr. Thompson has told me?

14 MR. COOK: Yes, sir, Your Honor. And I did have a
15 conversation with the pathologist who said as much.

16 THE COURT: And you're satisfied that the probative
17 value is not substantially outweighed by the danger of any
18 unfair prejudice?

19 MR. COOK: After reading the new case law that was
20 presented to me from the Supreme Court and not the
21 Appellate Court.

22 THE COURT: I understand. But that's fact specific.
23 You know what the evidence is, I don't, but are you in
24 agreement with the state's position that the probative
25 value in the admission of these photographs is not

1 substantially outweighed by the danger of any unfair
2 prejudice?

3 MR. COOK: I - For the purposes of consenting to this
4 yes, I do, Your Honor. I don't know the strategy behind
5 that in exchange for - They've taken a lot of photographs
6 out that I thought would be much worse and in exchange for
7 the fact that I wasn't sure how the court would weigh in on
8 this after reading the case law I would - I am - I would
9 answer yes to Your Honor's question.

10 THE COURT: All right. So what ever concessions the
11 state made some of the photographs that you would have
12 objected to they have agreed to remove?

13 MR. COOK: Yes, sir, a lot of them.

14 THE COURT: And so you've discussed that with your
15 client?

16 MR. COOK: Actually I haven't, to be candid. I
17 suppose that I should.

18 THE COURT: Yes.

19 MR. COOK: I discussed that this quarry was going on.
20 I didn't discuss the resolution and my consent.

21 THE COURT: All right. Well just go set with him.

22 MR. COOK: Thank you, Your Honor.

23 THE COURT: How long will the pathologist testimony
24 take?

25 SOLICITOR THOMPSON: I assume, Your Honor, about an

1 hour, maybe an hour and half depending on what the cross -

2 THE COURT: Well shall we start in the morning?

3 SOLICITOR THOMPSON: If at all possible we'd like to
4 be able to not have to force him to come back again.

5 THE COURT: Well if it takes an hour and a half I mean
6 that's six o'clock.

7 SOLICITOR THOMPSON: You're right.

8 THE COURT: Is he not available tomorrow?

9 SOLICITOR THOMPSON: He will make himself available,
10 Your Honor. It's just an inconvenience.

11 THE COURT: He is available? Okay.

12 MR. COOK: I discussed it with my client. He
13 understands and he consents as well, Your Honor. He
14 understands my strategy.

15 THE COURT: All right, now the state's position is
16 they think the pathologist testimony will take an hour or
17 an hour and a half. Is that direct?

18 SOLICITOR THOMPSON: That's correct, yeah.

19 THE COURT: And you obviously - -

20 SOLICITOR THOMPSON: Not on direct. An hour at most
21 on direct and half an hour with - an extra half an hour
22 with cross.

23 THE COURT: Okay.

24 MR. COOK: Before we continue, I will say that in
25 conversations with the solicitor I did indicate that I may

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1 very well be consenting on the notes but I changed my
2 position on that. I'd like for the court to rule on that.
3 And I apologize, not the photographs, this is just the
4 notes that we were talking about, the autopsy notes.

5 So you know I do to be clear consent on all the photos
6 we've talked about. This is specifically what we're
7 addressing now is the notes from the autopsy. I think it
8 would be duplicative and unnecessary. I think that the
9 jury would hear the examiner's testimony and I'm not sure
10 that they would need his notes in to them in deliberation
11 room. I think that they can get the points that they would
12 need from his testimony, Your Honor.

13 So I wouldn't - Actually I withdraw my consent on the
14 examiner's notes going in.

15 THE COURT: Only because it is?

16 MR. COOK: It's duplicative of his testimony.

17 THE COURT: Okay.

18 MR. COOK: And I believe there is a bunch of - quite
19 frankly fancy medical words on there that I'm not sure they
20 would understand without hearing his testimony and I'm not
21 sure he's gonna cover all of those medical words in his
22 testimony.

23 THE COURT: Well I haven't seen them so we'll have to
24 talk about that. I'm gonna let the jury go home and we'll
25 discuss that and then we'll begin with the testimony of the

1 pathologist in the morning.

2 All right, bring the jury back please.

3 (JURY REENTERS COURTROOM AT 04:37 P.M..)

4 THE COURT: Now, ladies and gentlemen, thank you for
5 your patience. I've got some evidentiary matters I need to
6 address with the lawyers and I thought we were gonna be
7 able to get it finished quicker than I'm able to, so I'm
8 gonna finish that this afternoon and we'll resume in the
9 morning so we're gonna excuse you right now.

10 Keep in mind the caution. I've already provided prior
11 to your lunch break. No discussions about the case with
12 any person whatsoever in any fashion whatsoever. No
13 exposure to any type of media coverage, television, radio
14 or newspaper. No media exposure of any kind. No
15 investigation or no research on your own. With that do
16 have a good evening and I'll see you in the morning at nine
17 thirty. Nine thirty in the morning please report to your
18 jury room. Have a good afternoon.

19 (JURY EXITS COURTROOM AT 04:38 P.M..)

20 MR. COOK: Your Honor, if I may, I have one point that
21 we haven't discussed and I don't know what Your Honor's
22 take is on the jurors taking notes during the trial, but I
23 saw one of the jurors just walk out just now and tucked a
24 note pad behind him.

25 THE COURT: Well I'll be happy to hear you all about

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1 that. I don't' object to them taking notes. Sometimes its
2 beneficial. I'll be happy to instruct them on the use of
3 the notes however in the morning.

4 MR. COOK: That would be fine. And I defer obviously
5 to the court.

6 THE COURT: All right. Do you all want to address the
7 pathologist notes?

8 MR. COOK: May I?

9 (PAUSE/SIDE BAR BETWEEN ATTORNEYS.)

10 SOLICITOR THOMPSON: Judge, if I could give you a
11 copy. This is actually the autopsy report. It's not
12 necessarily a note.

13 (DOCUMENT RECEIVED UP BY THE COURT>0

14 SOLICITOR THOMPSON: And that's one we had redacted.

15 THE COURT: This is the actual report prepared by the
16 pathologist?

17 SOLICITOR THOMPSON: Yes it is.

18 THE COURT: It's not notes taken contemporaneous with
19 the autopsy; it's his actual report?

20 SOLICITOR THOMPSON: This is the report and then the
21 last page of it I think the one you have is gonna be a
22 diagram of where he puts the bruising and there are some
23 handwritten notes he does at the time of the autopsy he
24 does contemporaneous with the autopsy. But the - -

25 THE COURT: But he would prepare this during the trial

1 too would he not?

2 SOLICITOR THOMPSON: Yes. Yes. So what we would ask
3 - I'm gonna have him testify of course to what's in his
4 report. We have redacted as I said the summaries of the
5 facts because I understand the facts to be objectionable
6 because there's something that are given to the pathologist
7 and that's needs to be something that we present to the
8 jury outside of that. But I would - we would ask to
9 present the actual autopsy report itself as we commonly do
10 in cases like this to assist the jury. If they have
11 questions later on that they can actually look at the
12 report itself while they're in there recalling the doctor's
13 testimony. And also --

14 THE COURT: It's a summary. It's a summary.

15 SOLICITOR THOMPSON: Right.

16 THE COURT: That's beneficial.

17 SOLICITOR THOMPSON: Right.

18 THE COURT: You object to it? This is a report not
19 notes.

20 MR. COOK: And just ostensibly for the record I would
21 object, Your Honor. Just I believe that that's as I've
22 said dynamite in the hands of children with lay people and
23 perhaps they can take that back there and draw some
24 conclusions from it without an expert further explaining
25 from those terms and that's my concern. I don't want them

1 to have that back in the deliberation room without having
2 an expert to continue to explain.

3 THE COURT: Well as I understand it he's going to be
4 explaining it. Is there anything in this report that he's
5 not gonna be testifying to?

6 SOLICITOR THOMPSON: No, Your Honor.

7 THE COURT: All right. So I haven't had a chance to
8 read it yet. Mr. Cook, I guess I'm inclined to allow it so
9 when the doctor testifies you will have to review the
10 report and if there's something in the report that you
11 believe he has not testified to then that will have to come
12 out.

13 MR. COOK: Yes, sir.

14 THE COURT: Otherwise I don't see any reason to
15 exclude it.

16 MR. COOK: Understood, Your Honor. Thank you, Your
17 Honor.

18 THE COURT: Okay. All right, anything else?

19 SOLICITOR THOMPSON: No, Your Honor.

20 MR. COOK: Nothing, Your Honor.

21 THE COURT: Court's in recess until nine thirty in the
22 morning.

23 (COURT IN RECESS AT 04:45 P.M..)

24 (COURT BACK IN SESSION TUESDAY, MARCH 17, 2015 AT
25 09:37 A.M..) (RACHELL HOUSE PLEA W. ATTORNEY GEOFF DUNN.)

1 (COURT IN SESSION IN THE MATTER OF STATE VERSUS
2 QUENTIN JARVIS EVANS AT 09:45 A.M..)

3 THE COURT: All right. Anything we need to address
4 before we get Mr. Evans out here?

5 SOLICITOR THOMPSON: I don't believe so, Judge.

6 THE COURT: Okay.

7 (DEFENDANT, QUENTIN EVANS, BLACK MALE, REENTERS
8 COURTROOM.)

9 THE COURT: Anyone know where Mr. Cook is?

10 (ATTORNEY DAVE COOK ENTERS COURTROOM.)

11 THE COURT: All right. Any matters we need to address
12 before the jury is brought in?

13 SOLICITOR THOMPSON: No, Your Honor.

14 MR. COOK: No, Your Honor.

15 THE COURT: All right. Bring 'em in please.

16 (JURY REENTERS COURTROOM AT 09:47 A.M..)

17 THE COURT: Good morning, ladies and gentlemen. As
18 you know we recessed yesterday the state had begun with
19 their presentation of evidence so we're gonna continue with
20 that presentation this morning.

21 I understand that one or more jurors prefer to take
22 notes during the course of the trial. There are good
23 reasons for doing that; there's just as many bad reasons
24 for doing that and I don't have a preference one way or
25 another and I do not prohibit it, but, you are instructed

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1 that if you elect to take notes understand that those notes
2 are for the benefit of the note taker. They are not to be
3 relied upon by any other juror as your recollection of what
4 occurred here in the trial, so, if you wish to take notes
5 that's fine but they're for your benefit and no other juror
6 is to rely upon some other juror's note taking. Okay.

7 All right, Solicitor.

8 SOLICITOR THOMPSON: Thank you, Your Honor. May it
9 please the Court, the State would call Doctor Craig Hart to
10 the stand.

11 MADAM CLERK: Please raise your right hand, place your
12 left hand on the Bible.

13 (WHEREUPON, CRAIG FRANKLIN
14 HART, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
15 FOLLOWS:)

16 MADAM CLERK: Thank you. You may have a seat.

17 DIRECT EXAMINATION

18 DOCTOR CRAIG HART BY SOLICITOR THOMPSON:

19 Q. Good morning, Doctor Hart.

20 A. Hello.

21 Q. If you would give your full name for the court please
22 and for the court reporter?

23 A. Craig Franklin Hart, H-a-r-t.

24 Q. okay. And, Doctor Hart, where do you work?

25 A. I currently I work at Piedmont Medical Center and in

1 a capacity with the Coroner's office.

2 Q. Okay. And what are your specialities as a doctor?

3 A. I'm a pathologist. I did training in anatomic and
4 clinical pathology which included autopsy pathology and
5 forensic pathology.

6 Q. And how long have you been doing autopsies and working
7 as a pathologist?

8 A. I started my training at UNC Chapel Hill. Of course a
9 four year degree for Biology followed by a four year MD
10 medical school degree. After that point when I decided to
11 enter a residency in pathology it was a five year program I
12 did four years of specifically APCP training that focused
13 on anatomic pathology which is the study of tissues and the
14 study of autopsy and bodies and diseases. And then also -
15 But that also included clinical pathology which is the
16 study of blood and lab test and the transfusions and things
17 like that which occur at any hospital.

18 And then my fifth year I did a fellowship in anatomic
19 pathology which specializes in more of the tissues and the
20 diagnoses of tissues and diseases. During that training I
21 received during those five years I received standard
22 pathology training an autopsy pathology which is the study
23 of a deceased body in an effort to determine what the cause
24 of death was. Also during that time beginning of my second
25 year I worked for the Medical Examiner's Office. I

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1 moonlighted so to speak. I actually worked as a medical
2 examiner for the Chief Medical Examiner's Office in North
3 Carolina for four years in my spare time and the medical
4 examiner works kind of like the coroner does here in this
5 state but it's a slightly separate system.

6 Also during that time I would work on the weekends for
7 the medical Examiner's Office performing autopsies and
8 determining cause of death which is kind of a separate
9 process. And since that time over that five year period
10 where I worked with the chief medical examiner's office I
11 then got a job here in York County at Piedmont Medical
12 Center in Rock Hill. I work at three hospitals; Springs
13 Memorial, Chester Regional, and Piedmont Medial Center.

14 I also do forensic's for two counties, York and
15 Chester, and sometimes for Lancaster.

16 Q. Would it be fair to say that you've performed a lot
17 of autopsies?

18 A. I've performed very many autopsies in my ten year I
19 guess of about twelve years.

20 Q. As a matter of fact earlier in the week only Tuesday
21 morning had you already performed autopsies this week?

22 A. I did two yesterday.

23 Q. Okay. And can you tell me, do you also in performing
24 autopsies you also have significance experience in
25 performing autopsies of children?

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1 A. Yes, sir. I have performed - I think I went through
2 my records and out of - You know I'm probably getting close
3 to about three hundred autopsies total. And approximately
4 ten percent of those or a little bit less is - have been on
5 child fatalities.

6 Q. All right. And can you tell me just briefly go over
7 some of your licensing and accreditation that you currently
8 have.

9 A. Well I have a medical degree. I'm an M.D., I am
10 boarded in the State of South Carolina for the performance
11 of anatomic and clinical pathology. I am boarded in
12 several other states. Currently right now including
13 Georgia and Tennessee and Ohio and North Carolina of
14 course.

15 The - I'm a member of several academies. The United
16 State's - I'm sorry, Canadian Association of Pathology, the
17 College of American Pathologist, and the American Society
18 of Clinical Pathologist. Does that answer your question?

19 Q. Yes. And I don't know that we mentioned the dates
20 yet. What were the dates that you started your career? In
21 North Carolina when did that start?

22 A. You mean in South Carolina?

23 Q. In North Carolina first and then the other five years
24 that you were talking about.

25 A. I started my pathology residency in 2002 and ended in

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1 2007. I guess I was doing forensic's from 2003 to 2007.

2 And then in 2007 in July I started working in Rock Hill.

3 Q. All right. And so you've been working as a doctor of
4 pathology since early 2000's?

5 A. Yes.

6 Q. Okay. Now you had mentioned you specialize in
7 forensics early on. Can you tell us what specifically that
8 is or what do you mean by that?

9 A. Forensic pathology is the study of - is basically
10 autopsy pathology and the study of a deceased individual in
11 an efforts to determine the cause of death. Specifically
12 forensic pathology typically has to do with unnatural
13 deaths and I can go over the system that we use here.

14 The coroner as you know investigates all deaths on the
15 county and based on their determination of whether or not
16 this is possibly an unnatural death or if they need any
17 help in deciding whether or not this is a natural or
18 unnatural death then they call upon the pathologist to
19 perform an autopsy and help determine that cause of death.

20 Q. And what are some of your training in as a forensic
21 pathologist?

22 A. So there besides the standard training that occurs
23 on any pathology residency I also work with the chief
24 medical examiner's office of North Carolina specifically
25 with the chief medical officer at the time who was Doctor

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1 John Butts. And also I think importantly with Doctor
2 Deborah Radish who has been the chief - I don't know if she
3 currently is right now, but she has been for the past few
4 years and she is one of North Carolina's specialist in
5 child fatalities so I thought that that is certainly
6 important in this case.

7 Q. All right.

8 A. And they were the people who trained me.

9 SOLICITOR THOMPSON: Your Honor, I ask to qualify
10 Doctor Hart at this time as a forensic pathologist.

11 MR. COOK: Without objection, Your Honor.

12 THE COURT: All right. He is so qualified without
13 objection.

14 BY SOLICITOR THOMPSON:

15 Q. Doctor Hart, if you would do you recall when you
16 became involved in this case with Kaidance or Kaidance
17 Evans?

18 A. As with any case I usually show up to work in the
19 morning and will - fortunately they don't call me in the
20 middle of the night - but they usually contact me first
21 thing in the morning and say we've had a situation - a
22 case. The coroner calls me and says specifically these are
23 the details we think we need an autopsy are you available.
24 We set up a time; in this case I think it was that
25 afternoon of the day in question. I don't remember the

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1 exact date.

2 Q. All right. And do you record all of this down and
3 ultimately make an autopsy report at the end of conducting
4 an autopsy?

5 A. Yes. The process goes, the coroner calls me and I
6 write down a lot of the details which becomes a part of my
7 clinical history and for all practical purposes that's
8 their information not mine. And then from that point on
9 when I perform an autopsy you know I take all the facts
10 from that point on. I get all the details and put together
11 a report at the end which has all of my findings.

12 Q. All right. And would you like a copy of your report
13 to review as you testify today?

14 A. I think it would be helpful to get some specific
15 details that I don't remember.

16 Q. State's Exhibit Forty-eight.

17 A. Thank you.

18 Q. And is that a copy of your report that you've done,
19 Doctor?

20 A. Yes, sir.

21 Q. All right. And - -

22 SOLICITOR THOMPSON: Your Honor, that's entered into
23 evidence at this time.

24 THE COURT: Any objection?

25 MR. COOK: Without objection.

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1 THE COURT: It's admitted.

2 (WHEREUPON, STATE'S EXHIBIT NUMBER FORTY-EIGHT,
3 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

4 BY SOLICITOR THOMPSON:

5 Q. Doctor, if you would, I assume or as I see you do
6 some preliminary looks at the body initially and do such
7 things as weight and measurement and that sort of thing; is
8 that correct?

9 A. Yes.

10 Q. And could you tell us what the length of the baby was
11 at the time of autopsy?

12 A. Yes. In any evaluation of an autopsy we get weight
13 and height but specifically for child fatalities we also do
14 things like head circumference, abdominal circumference,
15 chest circumference, foot length; this like that that we
16 can measure against know scales for other children of that
17 age to see how they - to make sure they're growing
18 properly, et cetera. And in this specific instance when we
19 received the body of Ms. Evans we determined that it was a
20 twenty-one inch from head to toe.

21 Q. Okay.

22 A. But we also used measurements like from head to rump
23 which is really your butt. So from head to rump was
24 fourteen inches and there were some other more specific
25 measurements such as head circumference fifteen inches,

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1 chest circumference twelve point five, abdominal
2 circumference twelve and foot length three inches. And
3 those are determined usually by one of those standard kind
4 of tape measures that you would get from a tailor. Head
5 circumference is measured just above the ears. Chest
6 circumference is measured at the nipple and abdominal
7 circumference at the belly button.

8 Q. All right. And how the chest circumference, that
9 would not include the arms. That's underneath the arms.
10 Correct?

11 A. Correct.

12 Q. Okay. And what was the weight of the child?

13 A. In this scenario a nine point four pounds.

14 Q. All right. And again you had said the head
15 circumference was how large?

16 A. Fifteen inches.

17 Q. So that's the distance around the head itself just
18 above the ears as you described?

19 A. Correct.

20 Q. Okay. Now after you do some of these initial
21 measurements what then do you look for next? What do you
22 do then?

23 A. The next thing that we do is an over all external
24 body kind of scan. And actually in this case and often
25 times with a child fatalities or anywhere there might be

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1 some internal injuries we always ask for some x-rays to be
2 performed so we did have Piedmont technicians come up and
3 perform some x-rays. Then I do an examination of the body
4 on the external surface in which case I would note any
5 identifying characteristics like scars or tatoos, obviously
6 not in this case. And then I also note any injuries so if
7 there's any bruising or any lacerations or abrasions or
8 anything of that matter on the surface of the body and we
9 try to cover it from head to toe. At that time the coroner
10 is also taking pictures of everything that we see that
11 helps us document all the evidence of injury.

12 Q. All right. And what stood out to you first as you
13 began to examine the exterior of the body then looking for
14 bruises or other marks?

15 A. In Ms. Evans the first thing that we did notice was
16 several bruises on the surface of the body. Specifically
17 there was a - the largest bruise we saw was on the forehead
18 approximately here.

19 (WITNESS DEMONSTRATED.)

20 Q. There were several other smaller bruises on the face,
21 neck on both sides, some big bruises around the arm
22 and on the back side of this arm. And I think one on this
23 arm. Mostly on the upper extremities, chest and head that
24 we saw the bruises.

25 Q. All right. And what is the significance of a bruise

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1 on a six week old child?

2 A. Unfortunately in any medical field a emergency room
3 physician or a pediatrician would tell you that bruising on
4 an infant of that age is a commonly cause is an inflicted
5 injury because the child at that point cannot control it's
6 arms - I mean it doesn't even know it has arms at that
7 point, you know, so it can't hit itself, it can't hurt
8 itself. In generally speaking it can't walk so there's no
9 falling and in most cases at that point there's just little
10 that the child can do to injure itself so any bruising at
11 that age is usually considered abuse until proven
12 otherwise.

13 Q. All right. And would it assist you - You had
14 mentioned photographs were taken. Would it assist you in
15 explaining these injuries to the jury by showing them some
16 of the photographs that were taken during the time of the
17 autopsy?

18 A. I think it would.

19 Q. And you've had an opportunity I believe to go through
20 all the photographs that were taken; is that correct?

21 A. Yes, sir.

22 Q. And have you picked out the photographs you deem
23 most appropriate to assist you and helping the jury?

24 A. I did.

25 Q. All right. I'm gonna start with the photos of the

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1 bruising which are State's Exhibit Four through Thirteen.

2 If you'll glance at those quickly and just make sure
3 those are the photographs that you had picked out.

4 A. They do appear so.

5 Q. They appear to be?

6 A. Yes, sir.

7 Q. And they fairly and accurately depict as you saw the
8 injuries that day?

9 A. I think, yes, it's easier to see than to hear.

10 Q. All right.

11 SOLICITOR THOMPSON: Your Honor, I'd ask to enter
12 those into evidence at this time. I believe those are
13 State's Exhibit Four through Thirteen.

14 MR. COOK: Without objection, Your Honor.

15 THE COURT: And they're admitted.

16 (WHEREUPON, STATE'S EXHIBIT NUMBERS FOUR THROUGH
17 THIRTEEN IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)
18 BY SOLICITOR THOMPSON:

19 Q. If we could start with the first picture, I believe
20 State's Exhibit Thirteen. And we can have that up on the
21 screen as well.

22 A. I got 'em backwards.

23 Q. I'm sorry. That first one, is it Four?

24 Let's go to Four. All right. And if you could,
25 Doctor, I'm going to give you a pointer, it may help you to

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1 point out the injuries.

2 A. Unfortunately this lighting is difficult to kind of
3 see, you know, the injuries that we're speaking of right
4 now. And I think that's kind of one of the main points of
5 these is that they're so faint right now that they appear
6 to be rather fresh. In this case what you're looking at is
7 kind of a linear little bruise up here on the forehead. It
8 actually extends out on both sides from here to hear.
9 Obviously it's very faint. It's a lot easier to see on
10 these colored photographs here and in better lighting. But
11 I think you can kind of pick out that faint impression, not
12 impression, but that faint discoloration right there which
13 is consistent with a bruise.

14 Q. All right.

15 A. And think it's important to note that it is very
16 faint right at this point and there's no yellowing or green
17 or discoloration. As you would know from any bruising
18 you've suffered, you know, after a couple of days it starts
19 turning different colors. After even several hours it
20 starts to get blue and black and purple or at least after
21 one day you tend to see that. But these bruises appear to
22 be fresh because they're very faint and just a little
23 reddening of the skin.

24 Q. All right. And along those lines, Doctor, does it
25 actually appear better on the actual photograph you have

1 than it does up on the screen here because of the lighting?

2 A. I think it does.

3 Q. Okay. And the - -

4 A. I mean you may not just be able to see that very well.

5 Q. That's fine. And the linear bruising that you talk
6 about, if you'll describe what you mean by that? What do
7 you mean by linear?

8 A. It just appears to have like some direction to it.
9 You know bruising often takes the shape of whatever caused
10 the injury so if you have like a pin point bruise as if you
11 had fallen and you fall down on a flat surface, a big flat
12 surface, you tend to get a bigger bruise, a more solitary.
13 A larger area is affected if you fall on a corner or
14 something you might get liek a little pin point bruise
15 right around a little mark in the skill. If you fall on a
16 rock or something you might get a slightly bigger bruise
17 and so sometimes the pattern of bruising can be useful in
18 us determining, you know, what caused bruises.

19 Q. All right. If we'll go to the next State's Exhibit
20 Number Five I believe. Tell us here.

21 A. This one I think the lighting is a little bit better.

22 The bruise here is this tiny little reddish area on
23 the neck. Again that would be more consistent with a
24 smaller surface area injury, a very specific contact area
25 at that one specific surface. I think in these scenarios

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1 we tend to think of two main causes of an injury that might
2 cause a bruise like that. One would be at that small focus
3 is on - can sometimes be like a fingertip or a very firm
4 grasping can cause that. But another thing that could
5 cause it would be like a projectile with some velocity, it
6 doesn't break the skin. Obviously the baby's not gonna
7 fall and hit something but, you know, a small - I don't
8 know if you can use the term golf ball or something that
9 could cause a little bruise like that that was thrown with
10 some velocity or something like that. I'm just trying to
11 come up with anything that could cause a bruise of that
12 nature.

13 Q. So it could be caused by - I guess if you threw a
14 golf ball and hit that spot just right -

15 A. An impact injury ---

16 Q. Right.

17 A. --- or a grasping injury. I guess that's what I
18 was trying to say. So either something hit that spot or
19 was firmly grasped.

20 Q. Okay. And --

21 A. And with extreme pressure in that one small focus.

22 Q. All right. And will you tell me, as a pathologist
23 is there any protection that's afforded basically to the
24 neck before it gets bruised?

25 A. Yeah. Unfortunately you can - a pattern of bruising

1 becomes apparent especially when you have bruises in these
2 areas that are not - that are not covered by like a bone,
3 you know, and if you were to - it would be very difficult
4 to put a bruise right there without a specific something
5 that's small that can get into that area like a finger if
6 it's a grasp or a - or a small point of something that gets
7 into that spot. But you know mostly if you're gonna slam
8 down against a surface you're gonna hit the outside
9 surfaces first. We've all had fallen down and we hit our
10 elbows or we hit our chins or we hit our eye sockets but we
11 never get our eye if we're real lucky because that's why we
12 have the bones around it to protect us from the internal
13 more delicate parts of our bodies.

14 Q. So is it rare to get an accidental injury on the neck
15 like that?

16 A. Yes.

17 Q. Okay. If we could go to the next slide, please.

18 A. Let me rephrase that. It just needs to be taken into
19 context.

20 Q. Okay. State's Exhibit Number Six. Can you describe
21 the injury here, Doctor?

22 A. This injury is a small bruise right on the arm right
23 there. Again you know in this situation you might say on
24 that tall bruise he's fallen down and hit his arm you might
25 get a bruise like that. But unfortunately at six weeks

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1 this toddler is not walking or ambulating in any way and
2 can't fall very far even if it's rolling over prong and is
3 not - that's not sufficient for it to cause a bruise like
4 that and so again in this situation given the age of the
5 infant this is likely caused by either a grasp being with a
6 firm compression at that site or a specific impact injury
7 which would require some force.

8 Q. And again, is it a little easier to see it on the
9 actual photograph you have than it is on the screen at
10 this point?

11 A. I think so, yes.

12 Q. And again, ---

13 A. Yes.

14 Q. --- you had mentioned with the first photograph
15 that the faintness of the bruise gave you some indication
16 as to the freshness of it. Is that the same with the other
17 bruises that we've seen here on the neck and now on the arm
18 on the right arm?

19 A. Yes, sir.

20 Q. And this is the right arm. Correct?

21 A. Correct.

22 Q. Okay. Go to slide number seven please. Exhibit
23 Seven. Now I believe this is the left arm. Correct?

24 A. Correct. I believe in this situation that the
25 bruise is a little bit easier to see. You see a little

1 linear kind of oblong bruise there. And another bruise
2 right there. Just because of that positioning of these
3 bruises again you know this baby has not fallen in the
4 floor and hitting a specific spot or obviously nothing is
5 being any impacted on the baby. Just based on the location
6 of that injury it kind of fits the position of a grasping
7 injury like if you're thumb was for instance on that spot
8 and with a firm compression.

9 Q. And did you also notice whether or not there was any
10 bruising on the side underneath the arm on that previous
11 side?

12 A. I have noted in my - in my autopsy notes that there
13 was another small bruise on the thorax underneath the arm
14 but I don't see it in the - I haven't been able to see it
15 in any of the pictures.

16 Q. All right. And if we'll go to State's Exhibit Number
17 Eight.

18 A. This picture helps delineate, that's the bruising we
19 just saw that was on this side and right here. And just to
20 point out, there's another bruise on the back side of the
21 arm. And we had another picture that more specifically
22 shows this bruised arm that we're not sharing with you but
23 I just wanted to point out that you see bruises that are
24 kind of pin point on the front side and on the back side of
25 the arm. Again that's kind of firm with a grasping injury.

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1 It takes some - it takes a lot of pressure to create a
2 bruise on the arm more so than just holding firmly as yo
3 would expect in your own experience.

4 Q. All right. And if we'll go to State's Exhibit Nine
5 as well. And I believe this one may be the one you were
6 referring to, the - -

7 A. You're right we did keep that one. So this is on the
8 back of the arm so the other ones were up on the front and
9 this one is on the back. You can see a little bit better
10 in this picture by itself.

11 Q. And again do those show up better on the photographs
12 that you have in front of you than they do ---

13 A. They do.

14 Q. --- than they do on this screen? Then, Doctor, as
15 well I ask you on these particular bruises that we're
16 talking about on the arms now, did they seem to be
17 initially light at the time of the autopsy as well?

18 A. Yes. And you know also note in this situation the
19 blue glove. That means this was probably on the day of the
20 autopsy as opposed to some of the earlier pictures where
21 you might have see fingertips. I think that was more at
22 the time. There were some pictures that were taken when
23 the baby was brought in and sometimes after - after death
24 and setting of lividity in the tissues some bruises kind of
25 show up a little bit better or worse depending on the

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1 lighting. And so just it's been - its noted in this case
2 that all of the bruises are very light. Just a reddish
3 discoloration. There is no green or yellowish tinge to
4 them which would indicate some time after you know forty-
5 eight hours.

6 Q. So they all still appeared fresh to you then?

7 A. Yes.

8 Q. Okay. Now the - Going back to your actual autopsy
9 report, and we're gonna go to them with pictures in just a
10 second, if yo would just clarify for us the date and time
11 of the autopsy as you have done it on your report.

12 A. The autopsy was performed on January 23rd, 2014.

13 Sorry, yeah, that's right.

14 Q. All right. And at the time of the autopsy?

15 A. At 1:30 p.m.

16 Q. Now if we could go to State's Exhibit Number Ten.

17 A. Here we're looking at some injuries on the other side.

18 We had seen that one small bruise on the left side of the
19 neck. Here is a small bruise - -

20 Q. If we can just clarify for the record. The other side
21 is still - the right side is the neck and face?

22 A. We were looking at the left. Now we're looking at the
23 right yes.

24 Q. Okay. All right now.

25 A. On the left side of the neck there's another small

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1 bruise on the neck on the inside right there, surface. And
2 there's this bruise right here anterior to the ear on the
3 face.

4 Q. All right. And if we could as well go to State's
5 Exhibit Number Eleven. Is that the same, is that the neck
6 right -

7 A. This is the same bruise that you can see on the right
8 side in that last picture but this picture also shows some
9 faint bruising on the under side of the chin right there.
10 Two kind of smaller little marks and in that one.

11 Q. And we notice that someone has actually had to lift
12 up the chin at that point. Were these noticeable when the
13 head was just normally in a normal position?

14 A. We had to kind of manipulate under the lighting to get
15 a good view.

16 Q. Okay. And as we look at these are they as well seem
17 to be the same kind of freshness as the other bruises?

18 A. Yes. These are very light, just slight red bruising.

19 Q. And you had mentioned when we talked about the left
20 side of the neck, the forehead, what type of thing makes
21 that bruise? Is that true for these bruises as well on the
22 right side of the neck?

23 A. True.

24 Q. Okay. And as we look at these are they as well
25 seem to be the same kind of freshness as the other bruises?

1 A. Yes. These are very light, just slight red bruising.

2 Q. And you had mentioned when we talked about the left
3 side of the neck and the thought of what type of thing
4 makes that bruise. Is that true for these bruises as well
5 on the right side of the neck?

6 A. True. Each one of these bruises are obviously they
7 are all very small. They're all kind of pin point, they
8 would fit the pattern of a fingertip and a grasping but
9 they also would fit the pattern of a small projectile
10 thrown with some force or - Again I would - Or you know
11 landing on one spot each individual - each individual
12 bruise would have to be accounted for. None of them
13 connect up as to like one larger wound.

14 Q. All right. And if you could State's Exhibit Number
15 Twelve.

16 A. This I think just shows a better picture of the bruise
17 on the side of the cheek there. You can almost see a
18 little bit of that one on the forehead coming across the
19 top.

20 Q. All right. If we could bring the lights up for just
21 a moment.

22 And, Doctor, if I could have the exhibit's we've just
23 went over, Four through Twelve.

24 A. We didn't go over that one.

25 Q. I'm sorry. We have one other?

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1 A. Yeah.

2 Q. Then State's Exhibit Thirteen, if we could that rather
3 quickly.

4 A. I'm sorry, there's just one more small similar bruise
5 on the back of the shoulder there.

6 Q. And that's on the right shoulder; is that correct?

7 A. That is on the right shoulder, yes.

8 Q. Okay. And again, was that seem to be the same
9 freshness as the other bruises?

10 A. Yes, sir.

11 Q. All right. Thank you.

12 If I could have State's Exhibit's Four through
13 Thirteen.

14 SOLICITOR THOMPSON: Your Honor, permission to hand
15 these to the jury at this time.

16 (STATE'S EXHIBITS FOUR THROUGH THIRTEEN, PUBLISHED TO
17 THE JURY AT 10:16 A.M..)

18 Q. Now, Doctor, when you're looking at these bruises on
19 the exterior at this point, I know we haven't gone
20 internally to look at anything else yet, but what if
21 anything did that indicate to you at that point in time?

22 A. At that point in time we were concerned that this
23 might be an abuse case because as I mentioned before any
24 emergency room or pediatrician would tell you bruising on a
25 child at that age is considered abuse until proven

1 otherwise because the child can't hurt itself at that point
2 in it's life.

3 Q. All right. And in your opinion what is the most
4 likely cause of the bruising in this particular case?

5 A. Because of the pattern of the bruising and the small
6 nature of each individual one I think that there's
7 certainly a likely pattern of a possible grasping injury.
8 You know with - You've got some injuries on the shoulder
9 which would fit with a thumb. You've got some injuries on
10 the arms and on the face which would fit with a grasping or
11 fingertip kind of firmly grasping. And this is not just a
12 little bit of grasping.

13 In order to cause a bruise you have to have firm
14 steady grasping of those specific spots if it were indeed
15 caused by fingertips. The other option would be as I said
16 each individual bruise would have to be accounted for for
17 as a projectile like something was thrown at the child and
18 hit it in each of these separate little spots and caused
19 each one of these tiny little bruises. Or the child would
20 have had to have fallen on each one of these different
21 spots individual times. They don't line up, they're not
22 all in the same place. One's on the right side one's on
23 the left side, one's under the chin, one's on the back, so
24 given the pattern of the bruising it seems more likely that
25 it would - that it would fit with a grasping injury but I

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1 could not rule out that it was some kind of projectile
2 injury.

3 Q. All right. And there would have to be numerous
4 projectiles hitting at just the right spot; is that
5 correct?

6 A. Yes.

7 Q. And were numerous falls of some sort not just one fall
8 but number falls to cause the other injuries?

9 A. Each one - Again the child can't fall. The child's
10 not walking or ambulating. I know we've - Each one of
11 those bruises would have to be accounted for individually
12 as a separate incident. There's not a one large wound or
13 injury that kind of connects those.

14 Q. So in your thoughts, Doctor, would it be unreasonable
15 to assume that this child was hit multiple times with
16 something to cause the bruise?

17 A. Well I would hope not.

18 Q. And as well would it seem unreasonable that a child
19 had at this age six weeks multiple falls to cause these
20 injuries?

21 A. That would seem unlikely.

22 Q. As you mentioned when you also did some X-rays
23 before going into the actual autopsy itself. The x-rays
24 that were done did you notice anything, did anything come
25 up on the x-rays that were significant?

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1 A. The most significant finding on the x-ray was a
2 fracture of the right clavicle or collar bone.

3 Q. Okay. And I would ask you to look at State's Exhibits
4 Number Fourteen and Fifteen. Are those photographs of some
5 of the x-rays that were taken of the collar bone?

6 A. Yes, sir.

7 Q. All right. Do they fairly and accurately depict the
8 x-rays that were taken?

9 A. Yes, sir.

10 SOLICITOR THOMPSON: Your Honor, I'd ask to enter
11 those
12 into evidence at this time.

13 MR. COOK: Without objection, Your Honor.

14 THE COURT: They're admitted.

15 (WHEREUPON, STATE'S EXHIBIT NUMBERS FOURTEEN AND
16 FIFTEEN, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)
17 BY SOLICITOR THOMPSON:

18 Q. If you could the first number on that document was
19 - Is 14 I believe; is that correct?

20 A. Fourteen and Fifteen.

21 Q. All right. If we could look at State's Exhibit
22 Fourteen.

23 A. This is a whole body radiograph looked at by the
24 radiologist at Piedmont Medical Center. What we're looking
25 for in these scenarios is fractures of the ribs, fractures

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1 of the collar bones, fractures of the arms or legs, any
2 kind of dislocations or anything like that. In this case
3 the extremities all looked fine. There's just a - and we
4 will be able to - Fortunately a blow up picture of this in
5 a second but there is a fracture of the collar bone right
6 here which we'll see more in detail in a second but
7 importantly there were no other external or injuries or
8 kind of - there is no history - there is no evidence of
9 kind of long standing abuse which is important because if
10 you were to see long standing abuse patterns you would see
11 fractured ribs that tend to heal and so you see calluses on
12 the ribs and things like that. There is no evidence of
13 kind of long standing pattern of abuse or anything like
14 that.

15 Q. All right. If we could see State's Exhibit Number
16 Fifteen.

17 A. So again the only significant finding on the
18 radiograph other than what's not there is this fracture.
19 As you can see this is a bone that's supposed to go from
20 the shoulder to the sternum right here in the front of your
21 neck. And you can all feel that bone right here. You can
22 see that this is a displaced fracture. There's definitely
23 a space in between the jagged edges don't line up. It is a
24 fracture of the mid-portion of the collar bone.

25 Q. All right. So I know often times when I think of a

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1 fracture I think of a bone that's still together with kind
2 of a crack through it. This isn't the case in this.

3 A. This is a displaced fracture, yeah.

4 Q. Okay. So literally the bone is broken apart?

5 A. Right.

6 Q. Okay. So the gap we see is the break in the bone so
7 that it's completely not touching either side of the collar
8 bone?

9 A. Correct.

10 Q. Okay. If you would tell me what if any significance
11 that showed you when you first see the x-ray?

12 A. Well again a child at six weeks can't hurt itself so
13 any fracture seen on a radiograph are considered types of
14 abuse until proven otherwise. In this scenario common
15 things that cause a fracture, the collar bone, you've
16 probably gotten foot ball practice, you've - you know
17 sports where there's big injuries, big clashing of bodies,
18 lots of force.

19 You can get them as a toddler - common time things
20 a=seen in toddlers or people of walking age would be if
21 somebody fell and braced themselves with their right arm as
22 they came down and braced themselves with their arm and
23 that can cause a fracture of the collar bone. That
24 certainly cannot be the case in this scenario. This is a
25 six week old child that doesn't have any control of it's

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1 arms and would not be able to brace itself in that kind of
2 response for - you know - in order to cause the injury.

3 And so in this scenario you would have to expect that
4 it was caused by blunt force trauma and then this is a
5 common fracture site that is described in abuse cases with
6 firm grasping. If you think about it as the child is being
7 held firmly grasping with the thumb right there on the
8 collar bone has been described in several books and
9 literature for pathology forensic, pathology.

10 Q. All right. And so at this point as you're - We'll go
11 over that in a minute.

12 If we could but the lights, Madam Clerk.

13 A. I would say it's important to note that a child's
14 bones are pretty pliable. You know they're kind of
15 rubbery, they're not fully formed yet. That makes it even
16 harder to break a bone at that age. It requires a
17 significant amount of force.

18 Q. All right. And that was my next question actually
19 about the differences between basically a child -
20 especially in an infant's body and in an adult's body so
21 that we have a better idea of what it takes to cause the
22 force needed to break a bone such as a collar bone in a
23 baby.

24 A. Children as you know are very resilient. Even little
25 babies are very resilient. I actually when I was six

1 months old I got dropped on - I fell out of a grocery cart
2 and hit my head and had a little fracture. But the point
3 that I'm trying to say is kids are resilient and they can
4 really take a lot of - a lot of force or without having
5 these injuries show up. So it requires a significant
6 amount of force to actually break a bone especially in a
7 child of this age. And this point in it's life most of
8 these ribs are mostly just cartilage and not even fully
9 formed bone yet and so just . . .

10 Q. So would they bend considerably before they broke?

11 A. They would bend considerably before they broke.

12 Q. As we look at these injuries, Doctor, did you then
13 when you start the autopsy you then specifically look at
14 the break for anything within the autopsy itself for
15 further information?

16 A. Yeah. The next part so we've done our external
17 examination which includes the surface injuries and the
18 radiographs and the x-rays. The next part is actually open
19 the body. Our standard procedure is to do a Y incision
20 from shoulders down to the midpoint of the chest and then
21 down a Y incision. And then we peel back the layers of
22 skin, examine the organs and the bones underneath looking
23 for hemorrhage, signs of trauma. And that includes an
24 incision across the top of the skull in order to peel back
25 and expose the brain to look for injuries in the head.

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1 Q. Before we go to the head let's talk about the injury
2 here on the collar bone first. You had mentioned that you
3 make a cut basically in the body in a V pattern; is that
4 correct?

5 A. Yeah. In this specific case when we did this V
6 incision and I was peeling up the upper layer of the skin
7 of the chest, of note we saw fresh hemorrhage underneath
8 under around this collar bone fracture. Obviously any
9 injuries caused after death don't tend to have a lot of
10 blood or hemorrhage around them because your heart is not
11 pumping and you're not profusing the area with more blood.
12 Everything stays stagnant and stays in place. And as
13 you'll see cause I think we're gonna look at a couple of
14 these pictures.

15 When I do perform an autopsy and I make these
16 incisions it's not like their bleeding you know profusely
17 or anything obviously. But any time we open up and we see
18 areas of hemorrhage we know that those are significant that
19 occurred prior to death.

20 And in this scenario when I opened - when I lifted
21 this flap of skin and noticed the hemorrhage around the
22 collar bone we knew that it was a fresh injury because any
23 - there was no external evidence of injury on the chest.
24 If you remember I didn't see a big bruise right there. As
25 you would know and with any broken bone it's gonna swell up

1 and it's gonna get nasty and blue and none of that was
2 there. That indicates that this injury occurred very close
3 to the time of death but prior to death for sure.

4 Q. So because of the bleeding itself prior to death but
5 because it hasn't manifested itself more, you know, close
6 to death is what you're telling me, very close?

7 A. Yes.

8 Q. So going back and exploring that just a little bit
9 more, you had mentioned I think most people they think of
10 an autopsy and actually cutting into a body of course
11 thinking that it's gross for one thing but for another
12 thing I assume most people think there's just a lot of
13 blood everywhere when you do that on someone who is dead.
14 But you're telling us that's really not the case.

15 A. You know when you start getting down deeper and you
16 start exposing some of the major vessels and removing
17 things like the heart and stuff obviously that's - you're
18 opening up some major vessels and there is a blood spillage
19 at that point but when you're first doing the first
20 incisions and you're just peeling things back it does
21 intend to be a lot of blood. And that all kind of also
22 depends on what time frame you are beyond the cause - the
23 actual time of death cause the blood might be clotted at
24 that point.

25 Q. All right. So you were mentioning that basically

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1 at death when the heart stops, that stops pumping the blood
2 through your body. Right?

3 A. Right.

4 Q. And so basically you go - You don't really bruise
5 after death?

6 A. Right. And any blood that we see at autopsy I can
7 wipe away. And if there's any blood that remains there in
8 the tissues then I know that blood was there prior to
9 death.

10 Q. Okay. And so for instance in this case if the child
11 were dead and someone were performing - trying to perform
12 PCR would there be any noticeable bruising from CPR at that
13 point?

14 A. If there - You can get injuries with CPR. We
15 classically see them anteriorly. Rib fractures often times
16 --

17 Q. And if you'll tell us what do you mean arterially?

18 A. In the front of your body. The classic spot for in
19 all of my experience that I've seen injuries from CPR is
20 from chest compressions cause you're right here in the
21 center and you're pushing there and typically if there's
22 any injuries they tend to be on the anterior ribs. We
23 don't commonly even see that often in a child cause again
24 the ribs are so pliant.

25 Q. So is it rare to actually see those injuries on a

1 child?

2 A. From CPR yeah. And I will say this, that often times
3 if you do see like injuries from defibulator pads or
4 abrasions or chest compressions you might see indentations
5 and abrasions and scrapings of the skin but importantly in
6 the tissue underneath it there's no blood associated with
7 it so as long as there's a - as the heart is not pumping
8 then you don't get tissue hemorrhage, soft tissue
9 hemorrhage in the tissues. So typically if a CPR is
10 occurred after death you won't see the blood in the
11 tissues.

12 Q. So in other words no bruising occurs -

13 A. No bruising. I mean you get a little bit but not to
14 this extent.

15 Q. Okay. And --

16 A. You can get a little bit because obviously when
17 you're doing the chest compressions you're causing a little
18 bit of blood to pump around.

19 Q. And when you were examining Minor for instance, was
20 there any indication of any type of injury from CPR or
21 anything else on the front of the chest?

22 A. Noting in the anterior chest. When we did Minor
23 really the only injury we saw at all anteriorly was that
24 fractured clavicle.

25 Q. All right. I'm gonna show you Exhibits here, State's

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1 Seventeen, Eighteen and Nineteen. And then after that
2 Twenty-one, Twenty-two and Twenty-three.

3 And are those the photographs that you picked out
4 for the purpose of showing the jury these injuries and the
5 actual I guess incision aspects of the autopsy?

6 A. Yes, sir.

7 Q. Okay. And would they help in describing to the jury
8 the injuries that occurred and the significance of those
9 injuries?

10 A. Yes they will. And I apologize for their graphicness.

11 Q. Okay. And I believe the first one we've been
12 discussing which would be the collar bone, is State's
13 Exhibit Number Seventeen. Do they all fairly and
14 accurately depict the injuries as you noted them?

15 A. They do.

16 SOLICITOR THOMPSON: Your Honor, I would ask to enter
17 those into evidence at this time. That's State's Exhibit
18 Seventeen, Eighteen, Nineteen, and Twenty-one and Twenty-
19 two and Twenty-three.

20 MR. COOK: Without objection, Your Honor.

21 THE COURT: They're admitted.

22 (WHEREUPON, STATE'S EXHIBIT NUMBERS SEVENTEEN,
23 EIGHTEEN, NINETEEN, TWENTY-ONE, TWENTY-TWO, AND TWENTY-
24 THREE IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)
25 BY SOLICITOR THOMPSON:

1 Q. Doctor, if you would if we can go to State's Exhibit
2 Number Seventeen.

3 A. Unfortunately this is you know once we begin the
4 autopsy and I've lifted the flap of skin that was on Ms.
5 Evan's chest, the important thing to note here is this is
6 the area where my incision is and you note that there's no
7 blood along those tissues after death. But as soon as we
8 lifted that flap of tissue up we did see all this soft
9 tissue hemorrhage in here which is around that clavicle
10 that was displayed to be fractured by a radiograph.

11 Then the importance of this is that the hemorrhage is
12 fresh and that it occurred prior to death because there's
13 soft tissue hemorrhage around the wound.

14 Q. All right. And in looking at that and having
15 considered we've talked about the exterior bruising that
16 we've now seen, now you're saying that this appears to be
17 fresh as well. Does it appear to be contemporaneous in the
18 same time period that the other bruises would have
19 occurred?

20 A. It's hard to line up everything perfectly obviously
21 but it would certainly fit.

22 Q. Okay. Then, Doctor, if you would if we could go -
23 Before we go to the next exhibit if we could just talk
24 briefly about when you looked for other injuries regarding
25 the ribs or anything with the ribs or spine, what if

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1 anything did you find as you did that?

2 A. So at this point the next step is to remove the chest
3 paper, the anterior ribs, and to basically take out the
4 organs and examine each one of them individually. And for
5 sake of time note that there were not injuries or
6 abnormalities in any of her internal organs and she was a
7 normally formed, well nourished infant.

8 Q. All right. So again anterior is the front.

9 A. Yes.

10 Q. Correct? Okay.

11 A. But - But once we removed all of the organs then it
12 did become apparent that we saw some other injuries in the
13 back along the vertebral column which I believe we're gonna
14 show you.

15 Q. And the vertebral column that we're talking about is
16 the spinal cord. Correct?

17 A. Right. So the ribs they attach to your sternum which
18 is in the front and they go around your body and they
19 attach to your spinal column in the back and their point is
20 to protect obviously all of your internal vital organs that
21 keep us alive. So again this is basically your rib cage
22 and then the ribs connect via several tendons and fibrous
23 tissue to your back bone so to speak very firmly in the
24 back.

25 Q. All right. If we could see State's Exhibit Number

1 Eighteen, please.

2 A. So this is kind of difficult to get your orientation
3 but this is the infant's head at this end and the feet
4 would be over here. We're looking at the child lying down
5 in the middle and these are the - This is the esophagus
6 running down the middle to the stomach. This is the area
7 where the lungs would be. And these are the ribs coming
8 back and attaching to the spinal column which is right
9 here. All of this here that I'm outlining with the laser
10 pointer that's all hemorrhage that's posterior to the
11 membranes that cover the lungs and it's in the soft tissues
12 around this junction of the ribs to the vertebral column.

13 So this indicates a traumatic injury to the junction
14 of the ribs to the vertebral column on the posterior
15 surface. And please note and remember that in the x-rays
16 they didn't see any rib fractures. They can be very small
17 and minute and difficult to maintain. But this injury is
18 classically described as a fracturing of the tips of the
19 backbone where the ribs insert on the back bone and they're
20 classically described from a posteriorly lateral
21 compression - leveraging of the ribs against the backbone.
22 So most commonly - And this is again a very well documented
23 finding in child abuse cases in which there was some firm
24 grasping cause it's leveraging the ribs against the
25 backbone in the back.

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1 There's a lot of muscle in your back between your
2 - between - you know your skin surface and where these -
3 where this injury occurs. There is a lot of muscle there's
4 a lot of bone there's a lot of fibrous tissue in your back
5 between those things. You can't - This kind of injury
6 doesn't come from a blunt force trauma to the back because
7 there's too much there and we don't have any bruising on
8 the back obviously.

9 Q. So by that you mean the blunt force trauma is a
10 striking blow?

11 A. Right. As an impact injury to the back.

12 Q. So that doesn't come from an impact injury to the
13 back?

14 A. This kind of injury does not come from an impact
15 injury to the back. This tissue - This bleeding is much
16 deeper and seeded inward and it's classically described as
17 fracturing of the little tips of the backbone that stick
18 out and join with the ribs and it's caused by the ribs
19 being leveraged against that firm attachment, classically
20 by a firm grasping as you can think of as the ribs being
21 leveraged against that backbone.

22 Q. All right. Now you used some words I want to make
23 sure everyone understands. When you say posterior you're
24 talking about the back. Correct?

25 A. Correct.

1 Q. And then there was a word that combined both the
2 front and the back. What was -

3 A. Posteriol lateral.

4 Q. Okay. So when you were talking about the pressure
5 so you're talking about pressure from the front and the
6 back to help cause this?

7 A. The lateral sides.

8 Q. The lateral.

9 A. So the back and sides.

10 Q. Okay.

11 A. So it's usually a - This injury is classically
12 described with a compression of the posterior lateral ribs
13 or kind of while keeping the backbone stable.

14 Q. So the indication from this deep bruising is
15 indicating that there's fractures of the spine, on the tips
16 of the spinal cord; is that correct?

17 A. On the tip, the little wings of the spinal column
18 bone.

19 Q. All right. And now you were mentioning there's a
20 lot of muscle and tissue that kind of covers and protects
21 that; is that correct?

22 A. In the back yes.

23 Q. In the back. So that's why it wasn't from a strike
24 to the back?

25 A. Yeah, we don't see any kind of injuries to the lower

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1 or mid-back where this sort of the mid-back. We don't see
2 any injuries to the mid-back like bruising or abrasions or
3 anything on the mid back that would cause that.

4 Q. Does that manifested out to the back side of the
5 child? In other words would you ever expect to see
6 bruising on the back of the child at that point?

7 A. No I wouldn't expect this kind of bruising to reach
8 that level.

9 Q. Is that because of how deep the muscles are on the
10 exterior of the back?

11 A. Correct.

12 Q. Okay.

13 A. And I actually note that we only got this one picture
14 here but there is a little bit of that similar hemorrhage
15 on the other side not as much and not as dramatic.

16 Q. While actually that would be the next picture.

17 A. Oh, we do have that one. Sorry.

18 Q. Before we get to that if - On these particular
19 injuries what - You noted I believe in your report the ribs
20 that were affected. Which ribs were affected?

21 A. I counted them. Ribs four through nine on the
22 right side.

23 Q. All right. And what are the total number of ribs
24 altogether on one side?

25 A. There's twelve ribs. The first one is a tiny little

1 circular guy about right there. So if you count 'em you
2 can see at one, two, three, starts at four, five, six,
3 seven, eight, nine, and then there are a couple more.

4 Q. Okay. So basically fourth, fifth, sixth, seventh,
5 eighth, ninth. We're talking about six ribs; half of the
6 ribs having this significant injury?

7 A. Correct.

8 Q. And can you describe - We can see they look - you know
9 a very large area of bruising. How significant is that
10 bruising?

11 A. It's soft tissue hemorrhage. Again its deep in the
12 tissues that occurred prior to death.

13 Q. All right. And I guess what I'm trying to say is
14 that a rather large injury in this area?

15 A. Well yeah it's - What it comes from is little micro
16 fractures from each one of those little insertion sites on
17 all four, five, six, seven, eight, nine. Six ribs. And
18 each one of those is probably contributing to the
19 hemorrhage there.

20 Q. And those type of micro fractures, are they something
21 you had mentioned it didn't - it really doesn't pick it up
22 in the x-ray.

23 A. Right.

24 Q. Is there anything else that picks that up other
25 than the actual autopsy itself?

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1 A. No. It's basically it's more of a - There has been
2 some - I've seen pictures of if where it was, you know, a
3 little bit more dramatic and easy to even see with your
4 eyes, but I couldn't visualize the fractures. And you
5 can't visualize them by a radiograph but you know they're
6 there because there's no reason for the hemorrhage to be
7 there.

8 Q. Okay. So basically that's the only reason that
9 hemorrhage would be there?

10 A. Right. Cause it's too deep seeded for it to be a
11 direct injury from say an impact. And it's - And there is
12 no other real good explanation.

13 Q. As you were saying then the lateral from the side and
14 then the pressure from behind, leveraging basically the
15 ribs against the spine is what causes that?

16 A. Correct.

17 Q. What type of pressure are we talking about that caused
18 that kind of hemorrhaging that would actually fracture the
19 spinal column?

20 A. It's gonna be mainly a compression of the rib cage
21 from posterior and lateral.

22 Q. Well what I'm talking about is how hard this - is this
23 - It would be fairly easy to do it cause this is not
24 typical --

25 A. No. It requires - It requires very - I mean to break

1 bones and tear cartilage or, I'm sorry, tear tendons it
2 requires significant amount of force.

3 Q. All right. And if you could go to the next State's
4 Exhibit Number Nineteen. And this is I believe some of
5 the same thing but at a different angle. If you can kind
6 of orient us some.

7 A. From before in this case the infant's head is here
8 and the feet are at the other side. We were just a second
9 ago looking from here at this view so then this area looked
10 a lot more exaggerated. You can see it. We were looking
11 at it from the side because where you could get a better
12 angle. But this one shows that there was also some
13 hemorrhage on the other side of the spine so it's bi-
14 lateral and just more dramatic on the right side.

15 Q. All right. SO there would have been I guess some
16 fractures on the other side of the spine as well that
17 caused other bruising on the left side. Correct?

18 A. Correct.

19 SOLICITOR THOMPSON: Thank you, Madam Clerk. You can
20 turn the lights and take that down for a moment.

21 Q. Now, looking at those hemorrhages that we had just
22 seen along the spine, were those in your mind also
23 something that was fresh or something that was recent in
24 time?

25 A. Yeah, they appeared to be fresh red hemorrhages. It

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1 was not any organization to them. They hadn't been there
2 for very long.

3 Q. Okay. And would you say around the same amount of
4 time or that these injuries would occur around the same time
5 as the injury to the broken collar bone or clavicle?

6 A. They would be consistent with that.

7 Q. Now, in your experience, Doctor, and just if you can
8 tell me how these injuries seem like they would be rather
9 painful. Is that a fair thing to say?

10 A. Yeah. I mean a displaced clavicular fracture would
11 be very painful. And I don't know about the back ones. I
12 assume it would be.

13 Q. Okay. What - How would you expect the baby to be
14 manifesting these injuries physically if you were around
15 the baby when this happened?

16 A. I would expect the child to be inconsolable.

17 Q. All right. And would that be inconsolable with just
18 about anything you tried to do whether it's laying down,
19 picking the baby up, burping, trying to do anything with
20 it?

21 A. I don't know. Yes. Anybody's experienced a fracture
22 I'm sure would understand that it's a very painful thing
23 cause those jagged edges of bone are not lined up any more
24 and they're poking into your tissue and any movement would
25 cause even more pain.

1 Q. And the break with the collar bone is on the right
2 side so would that have affected her ability to move her
3 right arm?

4 A. Probably.

5 Q. All right.

6 A. I don't think that she would really have much control
7 of her right arm anyway at that age.

8 Q. But I guess would it be - Does it for an adult, does
9 it stop their ability to move an arm if it's broken?

10 A. Sure. Yes.

11 Q. So it would be fair to say that likely her ability
12 as well to move that arm?

13 A. Sure.

14 Q. Okay. Now you had mentioned with the bruising when
15 we talked about the bruising on the outside of the body and
16 the things on the neck, the bruising right in front of the
17 right ear, the bruising on the - within the arm pits and
18 the arms and shoulders, you had mentioned that that was
19 consistent with a grasping. These other injuries that we
20 see with the collar bone as well with the spine and the
21 bruising into the ribs, is that also consistent with the
22 grasping?

23 A. Those injuries have been described in literature as
24 kind of a combination. The bruising from the fingertips
25 and then the grasping posterior lateral compression

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1 injuries of the ribs and then the possible fracture of the
2 clavicle from really firm tight excessive force.

3 Q. All right. If you could, Doctor, now if we can move
4 our attention to as you move to the head of the child. If
5 you could describe what do you do to look for the injuries
6 on the head? I believe you started into it a little
7 earlier. If we could go back to that and try to describe
8 what is necessary to look at the head injuries on the
9 child.

10 A. So our standard procedure obviously after we document
11 all the external injuries is to perform an incision that
12 goes across the top of the head and we reflect the scalp
13 forward kind of across the face and we open up the skull
14 and remove the brain.

15 Q. All right. So you literally I guess take a scalpel
16 and bring the scalp forward ---

17 A. Peel it forward.

18 Q. --- so that it covers the face?

19 A. Uh-huh.

20 Q. So you can look at the top of the skull?

21 A. Uh-huh.

22 Q. And did you do that in this case?

23 A. Yes, sir.

24 Q. All right. And once again people who are not familiar
25 with autopsies as you know this is a horrific bloody mess

1 immediately, can you tell us kind of what you see when you
2 - just someone who is uninjured what you see in a autopsy?

3 A. Generally speaking we would only expect to see any
4 hemorrhage in the tissue. There can be a lot of blood
5 that comes from the incisions of the scalp and from
6 removing the brain but all of that blood is easily wiped
7 away with like a wash cloth or something.

8 Q. All right. So when it's wiped away what's left is
9 something that's a hemorrhage?

10 A. Right. Hemorrhage in the tissue.

11 Q. And in this case when you reflected the scalp of
12 Minor could you see significant injuries at that point?

13 A. We did. When we reflected the scalp underneath that
14 forehead bruise that we saw that was kind of a linear right
15 up here, there's a pretty dramatic area of hemorrhage in
16 the soft tissue underneath.

17 Q. And would the photographs that you - The one
18 photograph that you picked out would assist you in
19 explaining that to the jury?

20 A. I think that it kind of helps. It helps identify
21 the severity of the bruise even though you don't see very
22 much of it on the surface.

23 Q. All right.

24 SOLICITOR THOMPSON: If you could put up State's
25 Exhibit Number Twenty-one, please.

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1 Q. And is this the reflection of the scalp?

2 A. This is the reflection of the scalp. The face is
3 right here. This is the forehead right here. As you can
4 see it's a pretty dramatic area of hemorrhage. Maybe four
5 to five centimeters on the under surface of the scalp so
6 this is deep seeded soft tissue hemorrhage that occurred
7 from an impact injury most likely - Well in this case I
8 think there is no question it was an impact injury because
9 you have the kind of that linear bruise on the forehead and
10 then you've got all this tissue hemorrhage, soft tissue
11 hemorrhage underneath.

12 But you can kind of see I think this is a lot more
13 dramatic than the faint amount of bruising that you saw in
14 the picture before. What that indicates to me is that it
15 just hasn't really developed very long. It's a fresh wound
16 I guess so to speak.

17 Q. All right. So once again we're talking about a ---

18 A. Prior to that.

19 Q. --- bruise that's very fresh.

20 A. The intensity of the hemorrhage in the soft tissue
21 with just the very faint blush of hemorrhage on the surface
22 I think - or blush of bruising on the surface I think
23 indicates that it is a pretty fresh injury.

24 Q. All right. So you would expect that it had had an
25 origin it had much more a pronounced bruise on the outside;

1 is that correct?

2 A. Yeah. And probably a knot as you would know if you
3 hit your forehead on something and you get a - as we've all
4 done you get a big swelling cause there's no room for
5 tissue to expand on top of your skull cause it's just a
6 bone there and your arms and stuff you got you know the
7 swelling can go down into the arm so you might just get a
8 little bit of a lump.

9 But even if any of you had gotten hit on the head
10 before you know that you tend to pretty quickly get a
11 pretty pronounced degree of swelling on the forehead -
12 Sorry - in this case on the forehead over that area of an
13 impact injury.

14 In this case we have a slight blush of bruising on the
15 external surface, no raising of the skin, no knot forming,
16 but obviously a dramatic amount of hemorrhage underneath.

17 Q. All right. And does this also show that it was kind
18 of a linear or in a line type of bruising?

19 A. This is I think consistent with what we saw on the
20 surface that it kind of was - kind of in a linear and this
21 is more oblong in it's shape as opposed to round as opposed
22 to - You know it can - it seems to describe a pattern of
23 injury that was something that was linear.

24 Q. Okay. And you had mentioned I think in your report
25 you call it a blunt force injury. If you can describe that

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1 to us once again.

2 A. Well in this scenario this indicates a rather severe
3 impact injury to the forehead which would require a
4 significant amount of force to cause that kind of bruising
5 and that's also including what other information we're
6 gonna see in a minute.

7 Q. Okay. So the next step of the autopsy and then after
8 you reflected the scalp and you've looked now to see that
9 injury what is the next step that you do as a pathologist?

10 A. Next we actually remove the skull cap here and then
11 once that's removed we're looking for any kind of
12 hemorrhage on the inside of the brain, internal injuries
13 which would require even more force.

14 Q. All right. And when you remove the skull cap you
15 literally take off the top section of the skull; is that
16 correct?

17 A. Uh-huh.

18 Q. Now once again people who aren't familiar with
19 autopsies would assume that there is just a ton of blood
20 involved in the normal procedure itself. What would the
21 brain actually look like if it were unharmed when you
22 lifted the skull cap?

23 A. Again there can be some blood when you lift you know
24 perform the incisions and stuff but that's all easily wiped
25 away. We're expecting to see a smooth glistening surface

1 of the brain with - we call it cerebral foam because it
2 just looks like a brain but I don't know how to describe
3 it to you but it's usually pink and fleshy.

4 Q. Okay. So not really a bloody mess that you would
5 expect to see. Right?

6 A. We don't expect to see any hemorrhage underneath.

7 Q. And in this case if we could look at State's Exhibit
8 Number Twenty-two: I believe this is when you removed the
9 skull cap.

10 A. So as you can see here and this is not showing
11 everything but I think it gets the point across. There is
12 a significant amount of hemorrhage here. There is a
13 significant amount of hemorrhage here. It all appears to
14 be kind of midline.

15 Q. And by midline you mean the center of the head?

16 A. Yeah. Down the center of the brain. I'll explain
17 why that's important in a second. Also when we remove the
18 brain - this is the only picture we were gonna show you -
19 figured that was enough - but also when we removed the
20 brain there was some hemorrhage at the base of the brain
21 underneath it as well. There were no fractures of the
22 skull or importantly of the basilar or temporal bones or
23 any kind of the skull plates to account for any of that
24 hemorrhage.

25 And the hemorrhage appears to be occurring along

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1 what's the called the sagittal sinus which it goes down the
2 midline of the brain. The sagittal sinus is an area where
3 the brain networks with it's blood supply and this type of
4 hemorrhage which is called subdural hemorrhage which means
5 when we open the scalp there is a layer of protective
6 covering over top the brain that we take off. In this case
7 that layer is removed. And you can get different kinds of
8 hemorrhage. You can get an epidermal hemorrhage which
9 occurs on one side of that membrane or covering or you can
10 get a subdural hemorrhage that occurs on the other side of
11 that covering. And the subdurals and epidurals are
12 classically described in different kinds of injuries.

13 In this case what we have is a subdural hemorrhage. A
14 subdural hemorrhage is - can be caused by a massive blunt
15 force trauma and also classically described in child abuse
16 cases where there is a extreme shaking with an impact
17 injury. We had evidence of impact injury on the forehead
18 already. The reason that the shaking becomes important is
19 because in order to get this hemorrhage the way that it is
20 it requires sheering forces along those vessels that are
21 along the midline the brain. And what that means is your
22 head - your skull is like this real constant kind of really
23 firm thing. It protects the really gelatins it's almost
24 like a bowl full of jelly kind of brain material that we
25 have inside and it's even less firm in a baby than it is in

1 an adult.

2 And so what subdural hemorrhages are classically
3 described as coming from is if the head is shaking and
4 stopping then the brain material in there goes forward and
5 slams against the front. And then the head comes back and
6 the skull stops but the brain material comes backwards so
7 basically it's the brain kind of slushing around in there
8 that is required to tear the vessels that are feeding the
9 brain on the midline. You can get these kind of injuries
10 from a motor vehicle accident where there is a whip lash
11 kind of like you're going you're going you're going you
12 stop and your head hits the dashboard.

13 Or you can get these kind of injuries from a fall from
14 like a two story building or something like that. It has
15 to be a very significant amount of force to cause this kind
16 of acceleration deceleration injury that occurs inside the
17 brain in order for the brain to sheer these vessels and
18 cause the hemorrhage that we see here.

19 And it goes along - I messed up my pin - it does along
20 with the - now I got it - it goes along with the - that
21 impact injury on the front. So if you think about it you
22 got a massive acceleration of the brain and then an impact
23 and then that brain material moves forward in the stopped
24 skull and tears those vessels up top. And that would be a
25 violent act that could cause this kind of injury.

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1 Q. Now you mentioned here, you're showing us, I guess you
2 see the blood there, it's kind of clotted up. Is that ever
3 supposed to look like that within a brain?

4 A. No. It would all look like this on the side.

5 Q. It would kind of look pink and glistening. Right?

6 A. Yeah.

7 Q. Okay. Now underneath of the area that we're seeing
8 there in the brain where you showed right there I guess --

9 A. This right here is just the remaining scalp that's
10 been reflected back.

11 Q. Okay.

12 A. That's just blood that's kind of pooled.

13 Q. Okay.

14 A. Right there. That could be partially wiped away.

15 But then as we lift the brain out there was more hemorrhage
16 going all the way along the back and then underneath in the
17 bottom.

18 Q. So the hemorrhage we can see right there is that just
19 on the - is that right on the top of the head?

20 A. What you're seeing right here is like right in the
21 forehead area.

22 Q. Okay.

23 A. And what you're seeing right here is kind of in the
24 posterior occipital area. And there was more not pictured
25 at the base of the brain.

1 Q. Did it look like this basically going from that spot
2 down onto the brain - brain as well?

3 A. I don't remember exactly but yeah.

4 Q. Okay.

5 A. In a patchy fashion.

6 Q. Okay. Now you mentioned you know to get to this
7 point we had to take off the skull cap or part of the
8 skull. Is there any significance on blood within the skull
9 cap itself?

10 A. Yes. On the other surface of it if there's blood
11 that's adherent to that that goes along with the subdural
12 hemorrhages that we're seeing.

13 Q. All right.

14 SOLICITOR THOMPSON: So if we could show State's
15 Exhibit Number Twenty-three.

16 Q. And is this the interior of the skull cap that you
17 removed?

18 A. Correct. So this is that little wedge shaped fragment
19 of skull that was taken from here. You can see all this
20 hemorrhage that's - so this dura has not yet been peeled
21 from the surface of that skull cap and all this hemorrhage
22 is subdural hemorrhage and this is that sinus I was telling
23 you about that has that goes down the middle and has all
24 the vessels in it that get torn classically with this type
25 of acceleration deceleration with an impact injury.

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1 Q. All right. And so with this blood that's kind of
2 adhered to this skull cap, that would have been in addition
3 to the blood we just saw on the brain that had collected.
4 Correct?

5 A. Yes.

6 Q. And what is the mechanism then that causes death when
7 something like this happens?

8 A. So as there's not much space in there and it's a very
9 well you know defined space so when you get any kind of
10 swelling and hemorrhage in that space along with the brain
11 then that tends to cut off some of the vital functions that
12 your brain provides to keep your body alive. Especially
13 down at the base of the brain where that - where some of
14 your more primitive functions of your body like keeping
15 yourself breathing, keeping your heart beating.

16 Those kind of functions are at the brain stem like the
17 connection from the brain to the spinal cord and that area
18 goes through a little hole at the base of the skull so any
19 kind of swelling and hemorrhage and stuff in that area
20 tends to choke off that brain stem and damage vital areas
21 of the brain.

22 Q. And is that what occurred ultimately in this case?

23 A. Yes.

24 Q. All right.

25 SOLICITOR THOMPSON: We can take that off the screen.

1 Q. Doctor, just to get a few terms to kind of understand
2 what they are, you had mentioned what this subdural
3 hemorrhaging was. Can you tell us - I think your report
4 also mentioned some subarachnoid hemorrhaging. Can you
5 tell us what that is?

6 A. There is a very thin delicate membrane that - another
7 membrane that it covers the surface of the brain that you
8 can't even really see but gets picked off and there's
9 hemorrhage that can get kind of - that can occur in that
10 area as well.

11 Q. And did you notice that in this case as well?

12 A. Yes. It was just blood that was filling that entire
13 space.

14 Q. Okay. And one a couple of things you say in your
15 autopsy report I think you - correct me if I pronounce this
16 incorrectly - but the superior calvarium. You talked about
17 there being a subdural hemorrhages through the superior
18 calvarium. Can you tell us what that means, what area that
19 is?

20 A. The midline - the calavarium is the skull plates
21 up on the top and we looked at that picture that calvarium
22 that was on the other side and the hemorrhage which was
23 along the sagittal sinuses there.

24 Q. Okay. So that's the area on the top of the head, the
25 calvarium?

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1 A. Yeah. That's the skull plates that cover the
2 external parts of the brain as opposed to the basilar skull
3 is the stuff at the bottom and we have temporal bones in
4 here and here.

5 Q. All right. And then you mentioned in addition that

6 --

7 A. And these plates of the skull right here are part of
8 the calvarium.

9 Q. So all of those plates, not just one area?

10 A. Right.

11 Q. All of those plates. Okay. And then you mentioned in
12 addition to that at the base of the brain, the subdural
13 hemorrhaging. Correct?

14 A. Correct.

15 Q. Now we were just describing the mechanism that
16 happens when swelling occurs and I believe you referred to
17 it as cerebral edema; is that correct?

18 A. Right. That is -

19 Q. What does that mean?

20 A. If we were looking at the pictures earlier you see
21 the brain that's kind of like a lot of little squiggly
22 pieces and has what's called gyri which are the little kind
23 of wormy things. And then sulci which are the groves in
24 between the different areas. And generally for most
25 infants and adults there is a defined space in between the

1 gyri but as the brain is injured it tends to get edemanus
2 and those - and that space fills up and so the surface
3 looks a little bit more I guess pudgy and those little soli
4 are kind of pressed together and that just means that
5 there's been an injury ---

6 Q. And so --

7 A. --- and its your body responding.

8 Q. So basically this is a swelling within --

9 A. Swelling, yes.

10 Q. Okay. So --

11 A. Is that the easiest way to say it.

12 Q. The area swells not having any place to go because
13 of the skull and down?

14 A. Right.

15 Q. Okay. And I believe as you said then ultimately puts
16 pressure into the area, the small area at the base of the
17 skull?

18 A. Yeah were all your vital functions are ---

19 Q. Okay.

20 A. --- performed.

21 Q. And ultimately in Baby Minor that was cut off by
22 the swelling?

23 A. Yes. You know it's somewhat important I think to
24 mention that in long standing cases where you have that
25 hemorrhage present for a long time, you get more dramatic

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1 visible evidence of that in that you'll have like
2 herniation of parts of your brain down into that little
3 hole at the base of your skull so the parts of your brain
4 will try to squeeze through there and cut off the - and cut
5 off that vital functions. That tends to be the case that
6 there's something that's more dramatic that you can visibly
7 see if the injury has been there for a long period of time
8 which I didn't see in this case.

9 Q. All right.

10 A. So I think that is note worthy.

11 Q. So what you're seeing in this case is this head injury
12 was also a recent head injury?

13 A. It's more compatible with a recent head injury, yeah.

14 Q. All right.

15 A. With a - I think when you kind of combine it with the
16 impact injury on the forehead which obviously appears
17 pretty recent as well I think those all occurred at the
18 same time.

19 Q. And as a pathologist is it important then for you to
20 consider all of these injuries together? In other words
21 the full spectrum of injuries?

22 A. Yes.

23 Q. And what can you tell in this case from the full
24 spectrum of injuries?

25 A. I feel like that the full spectrum of injuries is

1 more consistent with a pattern of abuse cause you can't
2 really pin point one little - You can't pin point one
3 injury to account for all the different things that
4 happened. Each one of those bruises has to be accounted
5 for. The impact injury of the forehead with the subdural
6 hemorrhage has to be accounted for. The broken clavicle
7 has to be accounted for. The leveraging of the ribs
8 against the spinal column has to be accounted for. I mean
9 I can conjecture you know some actions that would put all
10 those things together otherwise you'd have to take each one
11 of those and say it was a string of very bad coincidences
12 or something.

13 Q. Now, let's go to one other area that we haven't
14 discussed yet. Is there anything that you look at in the
15 eyes to help tell you about the injuries that this child
16 suffered?

17 A. Yes. The child had several bilateral retinal
18 hemorrhages so in the eyeball on the posterior surface is
19 your retina and that's the area that's receiving images
20 that our brain perceives.

21 Q. And again, posterior is the back of the eye?

22 A. It's on the back of the eye.

23 Q. Right.

24 A. Correct. In child abuse cases in the emergency
25 room pediatricians the first - one of the first things

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1 they'll do is dilate your eyes and look at the back of your
2 eyeball to look for retinal hemorrhages because they are a
3 classic finding in acceleration deceleration injuries or
4 shaken baby kind of injuries.

5 Q. All right. And describe - You said bilateral. Does
6 that mean in both eyes? Does that --

7 A. Yes. There's multiple hemorrhages in both eyes.

8 And the significance of that is that it requires
9 several shakes so to speak. I mean you can classically get
10 a - You can get a single retinal hemorrhage from some
11 traumatic event like falling down and hitting your head on
12 the sidewalk or something like that. But those are always
13 described as single and not as multiple cause multiple
14 requires constant vigorous injuries in a bunch of different
15 little places not just one big injury.

16 Also you can get some retinal hemorrhages at birth.
17 They're classically described as having occurred at birth
18 however those are easily cleared up within three weeks.
19 And in this case I have a lot of exceptions in the
20 hemorrhages fresh it's not organized and showing - If it
21 had been a - If it had been retinal hemorrhages from birth
22 there would be - You would be able to see your body respond
23 to them kind of like scaring or kind of trying to clean it
24 up and none of that was there. It was just fresh
25 hemorrhage.

1 Q. So really if it had happened in natural child birth
2 it would have been gone by the age of six weeks?

3 A. It should be gone by the age of six weeks and if there
4 was any evidence of it present it would be evidence of your
5 body trying to heal it and clean it up and which wasn't
6 present. All I saw was fresh hemorrhage.

7 Q. All right. And now another terminology - and I can't
8 quite remember exactly what it was - but when you were
9 talking about the eye, you did some other - it was part of
10 your examination. Did you literally - and I guess kind of
11 forget the term right - but do you literally cut into the
12 eye to examine them?

13 A. I did. I felt like it was important to establish -
14 you know we saw the hemorrhages at the autopsy and I felt
15 like it was important to document that hemorrhage and see
16 if it was fresh or if it was something old that could have
17 triggered at child birth so I took representative sections
18 of those eyeballs and I actually turned them into a slide
19 that I was able to visualize and I do that with all of the
20 organs in the body when I do an autopsy. It's another part
21 of the procedure that occurs.

22 And after the first part where I take some tissues and
23 take representative samples of those tissues I have a
24 department that transforms that tissue into a really thin
25 five nanometer slice of tissue that light can go through

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1 and then I can see it through a microscope and make more
2 judgments about what was there.

3 Q. All right. And during that were you able to tell kind
4 of the freshness of the injuries on the eyes?

5 A. Yes.

6 Q. And what did you determine by that?

7 A. Again I took histologic sections which means I was
8 just looking at slides under my microscope. And the
9 hemorrhage that was there was fresh hemorrhage. There was
10 no - After a period of time only a couple of days you would
11 start to see macrophage's and other kinds of cells that
12 come into kind of clean up the mess so to speak. Or to -
13 You know all of our injuries heal over time and there's
14 different mechanisms to heal those injuries and I didn't
15 see any kind of evidence of - I guess it just means to me
16 that it didn't seem to be consistent with retinal
17 hemorrhages from child birth six weeks prior.

18 Q. Okay. So in looking I guess once again as a whole
19 in the spectrum of injuries do these all appear to have
20 been contemporaneous with each other, each of the injuries
21 we've just gone over for the last hour or so?

22 A. I do believe that the injuries seem to be fresh. The
23 collar bone has fresh hemorrhage around it but no swelling
24 over the surface. The forehead impact injury has fresh
25 hemorrhage underneath it in the soft tissues but just

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1 minimal on the surface and no knot forming so to speak with
2 edema. The - The other bruising appears to be light and
3 faint as opposed to deeply seeded. And greener yellow
4 which would be you know a couple of days later.

5 Q. All right. Now you mentioned that you did slides
6 as far as the eyes go. You microscopically examined other
7 parts of the body. Correct?

8 A. I tried to examine most of the major organs with
9 slides.

10 Q. All right. Any problems with any of the other major
11 organs or anything else that could have caused the child's
12 demise?

13 A. All of the main internal abdominal organs appeared
14 fine by my microscopic examination. There was a - I
15 mentioned - You will see if you read the report there is
16 congestion a lot of those tissues. That's a very common
17 postmortem finding. It just means that your heart stops so
18 the blood stopped and so it's got congestion. And - But
19 another thing is I did have several sections of the brain
20 that included and documented that fresh subdural
21 hemorrhage.

22 And I will say again in this case there was no
23 organization or in my sessions any evidence of the body's
24 attempt to clean that up which would occur, you know,
25 within a day or several hours of it would start to occur.

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1 And then after a while it would start to organize and
2 become --

3 Q. So the body would start trying to heal it within ---

4 A. Right.

5 Q. --- a day or several hours of the occurrence? So you
6 would see that microscopically?

7 A. Yeah.

8 Q. And you did not see that in the retinal hemorrhaging?

9 A. I didn't see it in the retinal hemorrhages or in
10 my sub - or in the subarachnoid hemorrhage of the brain.

11 Q. Okay.

12 A. But I think that's a little less common known how
13 quickly that occurs.

14 Q. Okay. Now, as part of your normal testing with an
15 infant but maybe a little different from an adult, do you
16 do any genetic testing or have blood sent off to test
17 certain things for rare diseases or things like that?

18 A. Yes. You know obviously I examined all of the organs
19 of the body to make sure there was no kind of internal or
20 crazy abnormalities of - or diseases of those organs. And
21 we did send a little piece of the pericardium which is the
22 tissue that covers the heart for a site of genetic analysis
23 to a company that just does kind of a chromosome to make
24 sure that the child didn't have any genetic abnormalities
25 like Down Syndrome or something like that where you could

1 see things like that.

2 Q. All right. And was there anything genetically that
3 could have caused any of these injuries from the testing
4 you had done?

5 A. No. It was a normal site of genetics.

6 Q. Now, going back again to this CPR aspect that we
7 talked about earlier. You had mentioned any possible
8 injuries that you've ever seen from CPR have been from the
9 front or around the ribs or in the front and that you saw
10 none of those. As far as the injuries to the spinal
11 column, have you ever present - seen injuries like that
12 caused from CPR?

13 A. I have not.

14 Q. And again if the child were dead at the time CPR was
15 being administered would any type of bruising occur?

16 A. I would not expect it to.

17 Q. Okay. Now as part of the autopsy as well when you
18 examined for instance the contents of the stomach and the
19 bladder and things like that. What if anything did you
20 find when you did that?

21 A. I did open up the stomach and it was empty. There was
22 no curdled milk or any kind of stomach content.

23 Q. All right. And so that would indicate it had been a
24 while before since the baby had eaten?

25 A. I would.

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1 Q. Okay. Now in your knowledge of the injuries to the
2 brain and the other severe injuries to the body, what types
3 of symptoms would you expect this child to exhibit upon
4 receiving these injuries?

5 A. I would expect the child to be somnolent, listless.

6 Q. What do you mean by somnolent?

7 A. Somnolent means not aware kind of almost sleepy or
8 as if sleeping. Listless would be you know not being able
9 to move around normally. I would expect for the brain
10 injuries I would expect it to be kind of like a loss of
11 awareness, sleepiness, laziness, not reacting to anything.
12 But you know that's in contrast to these other injuries of
13 which I would expect to cause the child to be inconsolable
14 because of the pain.

15 Q. All right. Would this affect the child's ability to
16 eat?

17 A. Yes it probably would refuse to eat.

18 Q. All right. And is that true for both sets of
19 injuries? The injuries to the brain and the other injuries
20 that you discussed?

21 A. Nothing more of kind of a brain you know the swelling
22 and the shutting down of brain function will cause just
23 this kind of sleepiness, the listless, it's refusal to eat.
24 This unawareness of the - That age don't have much
25 awareness anyway but you at least expect it to be moving

1 around and kind of following you, tracking you with it's
2 eyes. I wouldn't expect it to be doing any of that. It
3 wouldn't probably even be crying or anything.

4 Q. And how significant - You had mentioned kind of this
5 shaking type of injuries that we're discussing, what type
6 of shaking are we talking about? Is this a little bit of
7 shaking or is this something very significant?

8 A. No this is - This requires an aggressive act. As I
9 mentioned before car wrecks, trauma, big trauma, to get -
10 I'm not a force - I mean we've all fallen down and bumped
11 our head and we don't get subdural hemorrhages especially
12 as a young child your more pliable and resilient.

13 Q. And so when we're talking about a car we're not
14 talking about a little fender bender where everybody gets
15 out and exchanges insurance information.

16 A. No.

17 Q. Right. We're talking about a fairly serious car wreck
18 ---

19 A. Right.

20 Q. --- where we would expect personal injury?

21 A. Where you expect a severe acceleration and then
22 deceleration with impact of the head.

23 Q. Now with these type of injuries, these type of head
24 injuries, and really with any of these injuries as far as
25 the broken collar bone, the fractures within the spine and

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1 the bruising on the ribs, how soon would you expect
2 symptoms to manifest themselves if there is a problem?

3 A. With the collar bone fracture I would expect immediate
4 inconsolability. I mean that's pain that doesn't go away.
5 With the subdural hemorrhages you know there's a lot of -
6 there is a lot of literature that goes different ways. I
7 think that the most common most pediatricians would tell
8 you is that you would expect to see those manifestations of
9 symptoms pretty quick. You know almost acutely if those
10 injuries happened but there have been descriptions of
11 subdural hemorrhages being there for a while.

12 Q. All right. But you don't have any indication from
13 the microscopic examination or otherwise these injuries had
14 been there a while. Correct?

15 A. I just feel along with the impact injury of the
16 forehead which is probably necessary in order to get the
17 subdural hemorrhages to be created and the fact that that
18 impact injury appears to be fresh without any swelling or
19 knot or you know a mass amount of hemorrhage. And the fact
20 that there's also these concurrent retinal hemorrhages
21 which are commonly described in this so called shaken baby
22 I feel like that they're all part of the same process ---

23 Q. All right.

24 A. --- that occurred acutely.

25 Q. All right. So in your opinion would this child

1 have manifested it's symptoms right away after this head
2 injury occurred?

3 A. I think that's likely. Or at least within an hour
4 or two.

5 Q. All right. And again you were talking about the
6 symptoms, you know, somnolent, not eating. Would a baby
7 experience things like nausea, vomiting or things like
8 that?

9 A. I --

10 Q. Is the head injury a serious head injury?

11 A. It's been described in adults.

12 Q. Right. Now once these injuries have occurred what
13 is your opinion on whether the child would have had a --
14 would it survive had the child had immediate medical
15 attention?

16 A. If there was immediate medical - Immediate medical
17 attention then I guess there's a chance that you can
18 decompress the brain and allow to prevent the swelling from
19 cutting off the vital functions but it would have to be
20 pretty quick.

21 Q. All right. And so certainly a better chance of
22 survival if there is immediate medical attention. Correct?

23 A. Correct.

24 Q. Now you have as part of your looking at and making
25 your determinations, you have seen a copy of the

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1 Defendant's re-enactment of what he said occurred of the
2 baby falling off the bed; is that correct?

3 A. I have.

4 Q. All right. And can you tell me in having seen that
5 - these head injuries consistent at all with the fall from
6 that bed?

7 A. I feel like you know you might explain a bruise or
8 two. I mean the bed's pretty low to the ground. I don't
9 think a fall from that height especially in the given area
10 which is proposed that the baby slid into is very tight so
11 that baby wouldn't have necessarily fallen directly. It
12 would have kind of been wedged in which case I don't see
13 how that's possible if there's enough injury to create any
14 of the head injury kind of stuff. Or the clavicular
15 fracture - I'm sorry - or the collar bone fracture or the
16 fractures along the vertebral column. You might explain a
17 couple of the bruises externally but certainly not all of
18 them.

19 I mean cause one fall basically gets one impact unless
20 you fall down stairs and you're falling on multiple things
21 and you're hitting each spot as you go down so you get to
22 explain from one fall. In my mind you get to explain one
23 bruise. And you would require especially with this child
24 with all the different bruises and different places don't
25 line up it would require a bunch of different injuries from

1 different directions first of all. Secondly it's not a
2 massive enough force. I mean we're talking about a fall
3 from a two story building for a subdural hemorrhage not a
4 one and a half foot fall to the floor rolling off the bed
5 in between a wall and a mattress that is very tight. You
6 might explain a bruise if that baby hit the bed frame or
7 the lock boxes may have been proposed but I can't explain
8 all the other injuries..

9 Q. So in your opinion would this spectrum of injuries
10 be completely inconsistent with the fall from the bed?

11 A. These injuries ---

12 Q. To --

13 A. --- were not caused by a fall from the bed.

14 Q. Okay.

15 A. It doesn't explain the retinal hemorrhages at all.

16 Q. And if we could just cover one more time now that
17 we've gone through every injury from the eyes to the
18 clavicle to the spine and the ribs to the multiple head
19 injuries both to the exterior and arterial and all the
20 bruising, do you have in your professional opinion what
21 does it take to cause all these injuries?

22 A. A lot of these injuries are classically described in
23 our forensic literature as evidence of child abuse. And
24 the - And shaken baby and shaken baby with impact.

25 Unfortunately I think that that's what occurred to this

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1 baby.

2 Q. And so in your medical opinion and you believe that
3 the baby had injuries as you've just described from the
4 shaking and other abuse?

5 A. . In my medical opinion the baby died of multiple blunt
6 force injuries to the head and specifically the head and
7 the thorax that would require a lot more force than the
8 baby could have caused on it's own or by falling off a bed.

9 Q. All right. And so as well in your medical opinion
10 the baby died ultimately from abuse?

11 A. Most of the evidence would lead to that opinion.

12 Q. I mean is there any other reasonable explanation?

13 A. No I don't have another reasonable explanation.

14 Q. Okay. And so in your - Once again, in your expert
15 opinion would the - as you said there is no other
16 reasonable explanation other than an assault. Would this
17 as well have been a violent assault?

18 A. It required a lot of force to break the collar bone
19 and to get that amount of - It requires a lot of impact
20 with a lot of force to get that kind of injury in the head
21 and to get those retinal hemorrhages and to get a broken
22 clavicle and to get those other injuries internally.

23 Q. And so to a reasonable - So you've come to a decision
24 of course of the cause of death.

25 A. Correct. .

1 Q. And to a reasonable degree of medical certainty what
2 is the cause of death of Minor ?

3 A. I'm trying to phrase it right. But from my standpoint
4 she died of blunt force trauma to the head and thorax that
5 was not accident, that she could not have done to herself,
6 it had to have been done to her. It was done by abuse,
7 yes.

8 Q. Okay. And you mentioned thorax. Just to define that,
9 what is the thorax?

10 A. The body.

11 Q. Okay. So the body or the chest area is where the
12 bruising is is the clavicle that sort of thing. And the
13 manner of death in your opinion?

14 A. In my opinion given all the findings the manner of
15 death would be homicide.

16 Q. One other thing, Doctor. As you said you had seen
17 the baby, you had seen a re-enactment that the defendant
18 gave. Can you tell me could any of these injuries for
19 instance the broken collar bone, could that have been
20 caused by grabbing the baby picking them up by one arm
21 after they had fallen between a bed and a wall?

22 A. A bone fracture requires usually blunt force or direct
23 force trauma. Pulling up by the arm has been described
24 classically as causing maybe dislocations of elbows and
25 shoulders. And you can sometimes get a twisting injury

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1 that might cause like a spiral fracture of one of these
2 long bones but not --

3 Q. The long bones in the arm?

4 A. In the arm. But I've never heard of anything like
5 that causing a collar bone fracture. Again the most common
6 causes of collar bone fracture are blunt force trauma, One.
7 Two, described in this child abuse case is a compression
8 injury. And, Three, as a bracing for somebody who is much
9 older can use their arms to brace who has fallen down and
10 can put out their arm to try to prevent themselves from
11 getting hurt. But that requires a jolt and impact, not a
12 pulling. A pulling would not - You can't pull a bone apart
13 as I'm glad that's true.

14 Q. So from the spectrum of injuries that you know of in
15 this case, your opinion as to how the clavicle was broken
16 and the collar bone was broken would be when the pressure
17 and --

18 A. If it's more with that.

19 Q. All right.

20 SOLICITOR THOMPSON: I beg indulgence one moment.

21 Thank you. Please answer any questions the defense
22 has for you.

23 THE COURT: Wait on that. We're gonna take a short
24 break before we continue with the examination, so I'll ask
25 the jury to please go to the jury room but do not yet

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1 discuss the case in any fashion. I'll bring you back
2 shortly and continue with the examination.

3 (JURY EXITS COURTROOM AT 11:30 A.M..)

4 THE COURT: You may step down from the witness stand
5 during the break but you cannot discuss your testimony
6 during the break.

7 We'll be at ease for fifteen minutes.

8 (COURT IN RECESS AT 11:31 A.M..)

9 (COURT BACK IN SESSION AT 11:48 A.M..)

10 THE COURT: Thank you. Be seated.

11 THE COURT: All right, bring the jury in please, sir.

12 (JURY REENTERS COURTROOM AT 11:50 A.M..)

13 THE COURT: All right, ladies and gentlemen, we're
14 going to continue with the examination of the witness by
15 the defense counsel.

16 Mr. Cook.

17 MR. COOK: Thank you, Your Honor. May it please the
18 court.

19 CROSS-EXAMINATION

20 DOCTOR CRAIG HART BY MR. COOK:

21 Q. Good morning, Doctor Hart.

22 A. Hi.

23 Q. Doctor Hart, my first question is could the injuries
24 that you described been caused - You mentioned at some
25 point the baby may have been between the bed and the wall.

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1 A. Correct.

2 Q. So you didn't know how much of a space was between
3 there. If somebody ran about ten feet and jumped on the
4 bed and the bed moved pressing the baby against the wall
5 and the bed, could that have caused the injuries that
6 you've described?

7 A. I'm sure it could have caused some injuries and for
8 instance a bruising and some possibly some of the
9 compression injuries but it would not be consistent with a
10 subdural hemorrhages or the retinal hemorrhages that would
11 be required - require a much more violent action with
12 movement of the head. If the baby's wedged in between the
13 bed and the wall I assume that the head's gonna be stable
14 there and I don't see how that's gonna cause any kind of
15 acceleration deceleration that's required in order to form
16 the subdural hemorrhages or retinal hemorrhages.

17 Q. What if the space hypothetically between the wall and
18 the bed was greater than you first imagined and that
19 there's room for play for the bed to move quickly?

20 A. Are you talking about the mattress or the frame or
21 the?

22 Q. I'm talking about a wooden floor board at the bottom
23 of the bed.

24 A. Okay.

25 Q. Pinning the child's head causing the child's head to

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1 bounce back against the wall and then the bed continues to
2 move forward and crushes the baby between the bed and the
3 wall.

4 A. It seems like it would require the child to be sitting
5 up or something cause I remember seeing the pictures. The
6 frame was pretty far off the ground so if there was some
7 distance between the bed and the wall I would assume that
8 the baby's head's gonna be on the ground.

9 Q. Well I understand. If the floor board is not as far
10 off the ground as you remember and it hit the head?

11 A. That might cause the bruise here and that could
12 certainly maybe cause some of the other bruises or one or
13 two of the other bruises but it wouldn't be consistent with
14 all of the other signs of - For instance a retinal
15 hemorrhage is - are something that requires more than one
16 usually by a shake and it requires more than - A subdural
17 hemorrhage requires - I mean I understand what you're
18 saying.

19 But in this case you've got a head that's being
20 crushed so that would be a crushing injury of the skull.
21 You would expect fractures of the skull. Hemorrhages you
22 could get subdural hemorrhages but you would expect them to
23 be kind of on the side where the crush injury occurs, where
24 the fractures occur.

25 Q.. Uh-huh.

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1 A. But we don't see any fractures of the skull. And the
2 hemorrhage pattern is along that sagittal sinus which is
3 the sub - which is where the subdural hemorrhages occur
4 generally speaking from acceleration to deceleration
5 injuries. I don't see how the baby could have been in the
6 position that you're suggesting in order to get that - I
7 would expect if what you had described to occur that the
8 baby's head would have been crushed and there would have
9 been injuries on both sides of the head plus skull
10 fractures plus hemorrhage coming from the mouth and nose,
11 stuff like that.

12 Q. Hemorrhage coming from the mouth and nose, that type
13 of injury?

14 A. Yeah. That's typically what you get from a crushed
15 injury because you get basilar skull fractures and so the
16 base of the skull those fractures open up areas behind in
17 the palate and on the opposite surface of the oral cavity
18 way back in the back. So typically if you get a crush
19 injury with fractures and basilar skull fractures and stuff
20 like that, then hemorrhage from the ears and nose and - I
21 said mouth, right? Ears, nose, mouth. And again that
22 doesn't really, you know, that might explain one retinal
23 hemorrhage, one traumatic, but doesn't explain bilateral
24 diffuse multiple retinal hemorrhages.

25 And I guess-I'm just trying to think this through. I

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1 just - You know what I'm saying. You're saying that the
2 baby's head is slammed between a very massive wooden frame
3 against the wall so I would expect injuries on both sides
4 of the head, not just here. And I would expect fractures
5 of the skull and I would expect more contusions and
6 deformity. I mean cause if that was the head and I'm
7 assuming that that means that the baby's face is gonna be
8 facing the wall. Maybe some - I just - It doesn't seem
9 compatible to me.

10 Q. Let me ask you this. You would expect fractures of
11 the skull from that type of injury but why do you not
12 expect fractures of the skull from the type of injury that
13 caused the subdural hemorrhage?

14 A. Well in my prior testimony I explained that the
15 injuries here are more consistent with an acceleration
16 deceleration injury which is not crushing the skull with a
17 focal impact which is the one bruise right here. Crushing
18 skulls would have more bruising you know fractures of the
19 skulls. I mean I don't quite understand your question if
20 you were listening earlier.

21 Q. Well you said crushing. But again, just to reiterate.

22 A. Sure.

23 Q. That the floor board would hit the head and the head
24 bounces back against wall. Now wouldn't that cause the
25 subdural hematoma on both sides as you mentioned? And

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1 wasn't there a blood clot? And you said there was some on
2 the back and some on the front did you not?

3 A. Yes.

4 Q. Okay.

5 A. And those hemorrhages go along with sheering forces
6 of the brain being inside the skull cavity going back and
7 forth and ripping the bridging vessels of that sagittal
8 sinus and not caused by direct injury. That would cause a
9 brain contusion which I didn't see in this case.

10 Q. How do you go about accessing injuries? Do you look
11 back at past studies?

12 A. I --

13 Q. Past cases that are similar?

14 A. I do a external exam as we discussed before, document
15 all injuries that I see there. We do the x-rays and I get
16 the radiologist to help to see if they see any injuries
17 there. I open up the body and I look for injuries
18 internally. I rely on my previous experiences and
19 training. I often times call my people I trained with or
20 people who trained me in interesting or difficult cases to
21 ask their opinions and see if I'm on the right track to
22 make sure that I'm not, you know, making, you know, that my
23 line of thinking is sound which always has been in the
24 past.

25 Q. Did you consult with anybody on this case, your

DOCTOR CRAIG HART: CROSS BY MR.. COOK

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1 friends in the field?

2 A. Unofficially. Like not with names and details but
3 yeah I talked to the guys - not guys but males and females
4 who helped train me back in my training days so long ago.

5 Q. And is it common practice by forensic pathologist to
6 look back at prior case studies?

7 A. I suppose.

8 Q. Okay. Have you ever heard of a case study where a
9 baby was between the bed and the wall as I described it?

10 A. No.

11 MR. COOK: I beg the court's brief indulgence.

12 Q. So the clinical report that you were reading you get
13 the paragraph that gives I suppose - and correct me if I'm
14 wrong - the detective or the police's synopsis of what they
15 think brought the subject to you?

16 A. Correct. And I try to keep that brief cause I know
17 its not my information.

18 Q. Right. Did - And so but that was basically the case
19 report, the clinical report in this case, did it mention my
20 theory at all or did it mention that we think the child was
21 abused?

22 A. The case report, I think that was not even on my
23 copy but the clinical information I got before I don't
24 remember to be honest. And I did - We did talk about your
25 theory though.

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1 Q. You talked about -- Now --

2 A. I watched the defendant's, you know, re-enactment and
3 but not until yesterday did I hear your theory of him
4 jumping on the bed.

5 Q. Well now -

6 A. That wasn't part of the reenactment.

7 Q. I believe yesterday I was talking more about jerking
8 the child up. And today - Just to clarify.

9 A. Yesterday in the back room you did mention to me that
10 you had a theory that the defendant ran and jumped on the
11 bed and maybe caused some forces and I have talked to some
12 people since then.

13 Q. Okay. So the linear bruise, that was on the forehead.
14 Correct?

15 A. It was kind of oblong, yes.

16 Q. Well didn't you use the word linear?

17 A. I did.

18 Q. Okay. Could that have been from the side of the
19 headboard or footboard on a bed?

20 A. It could have been from anything, yes.

21 Q. Well it could have been from anything that had a
22 linear edge. It couldn't have been from a basketball
23 could it?

24 A. No.

25 Q. Do some people bruise more easily than others?

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1 A. There are some clinical conditions that could cause
2 that, yes.

3 Q. And in fact isn't this disparity between bruised
4 thresholds quite pronounced in the differences in
5 some people?

6 A. I suppose it is.

7 Q. Do you - When you --

8 A. Those would be rare diseases.

9 Q. I'm sorry, sir.

10 A. Those would be rare diseases.

11 Q. Okay. When you were discussing in your testimony
12 some of the similar types of blunt forces that could have
13 caused these types you mentioned a football.

14 A. Football? Golf ball.

15 Q. Did you not say the word football today?

16 A. No.

17 Q. Football injury? You said football injury.

18 A. Oh, for the clavicle.

19 Q. Yeah.

20 A. I was talking about - Yeah, when they - Not the
21 football causing it but --

22 Q. A collision.

23 A. Collision, yeah.

24 Q. At the line of scrimmage or getting tackled.

25 A. Sure.

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1 Q. Something severe. A car accident you said.

2 A. Correct.

3 Q. That would have been?

4 A. That was for the subdural hemorrhage.

5 Q. Right.

6 A. And the point of that was trying to get the idea of
7 a massive acceleration deceleration ---

8 Q. Uh-huh.

9 A. --- so you got a lot of speed going there.

10 Q. Falling and hitting your head on the sidewalk you
11 said.

12 A. I said that in regards to some bruises.

13 Q. I believe it was to the subject - I believe it was
14 to the subdural hematoma you were talking about, maybe
15 retinal hemorrhaging. I can't remember. Can you --

16 A. I can. Don't try to put words on my mouth.

17 Q. Well I apologize, sir, I don't want to try and do
18 that.

19 A. No, that's all right. I - If you want to recite to
20 me some lines I said that would be one thing but I don't
21 remember saying the way that you're reciting. There were
22 some retinal - I did say a child who fell might get one -
23 Someone who had a fall on the sidewalk or something might
24 get one retinal hemorrhage but it doesn't explain multiple
25 bilateral retinal hemorrhages.

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1 Q. You used the phrase landing on one spot when you were
2 talking about the neck injuries I believe.

3 A. I was talking about hwo each one of those bruises
4 were pin point injuries and each had to be accounted for
5 separately. So if you want to talk about, you know, him
6 being - For instance your theory that the child was slammed
7 in between the bed and the sidewall it wouldn't make sense
8 that that chidl would have bruises in all these different
9 areas, just little tiny pin point bruises. You would
10 expect one big large bruise and it would all line up on one
11 side of the body.

12 Q. I apologize.

13 A. No apologies. So each one of the bruises that we
14 see has to be accounted for individually and I can grant
15 you one or two bruises cause each impact has to be
16 considered separately. If the bruises all connected or
17 were in a pattern then you could then have them as - You
18 could say one traumatic injury. But if you want to count
19 for each bruise individually, then you have to have
20 separate impacts at each one of those spots and they don't
21 line up to where it makes sense that they were slammed in
22 between a headboard and a wall which I'm hoping didn't
23 happen either.

24 Q. Yes, sir. And I want to show you slide Number
25 Thirteen and - I just noticed this and I want to ask you,

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1 what - Did you notice this and could you explain what that
2 is?

3 A. That is the from the adhesive of the defibulator pad
4 to determine whether or not the child had a heart beat.

5 Q. Thank you.

6 MR. COOK: You can cut the lights on. He answered my
7 questions about that slide.

8 Q. Could you tell from your review of the stomach how
9 long it had been since the child had ate?

10 A. No. It just was empty. But for most of the autopsies
11 I perform on children I usually see a little curdled milk
12 or something.

13 Q. Could three or four hours have passed?

14 A. Sure.

15 Q. And you said that the child may have lived with
16 immediate medical attention. How immediate is immediately?

17 A. Well in order to get, you know, I don't know the
18 timing of it if the brain is swelling and there is gonna be
19 some time period between which that child becomes
20 symptomatic and somnolent and listless like we were talking
21 about; sleepy, not responding, not eating, there's gonna be
22 a time period there where that child becomes symptomatic
23 where it's not quite yet dead.

24 Q. Uh-huh.

25 A. And I would think if it would have to be pretty,

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1 you know, pretty quick thereafter that you would know
2 something was wrong and hopefully get that child to some
3 medical care.

4 Q. Pretty quick. Could you give me - Is that five
5 seconds or five minutes?

6 A. I can't surmise.

7 Q. I wanted to ask you one last series of questions.

8 The injuries to the back, I guess the spinal
9 hemorrhaging.

10 A. Yes.

11 Q. You were mentioning that that couldn't have come from
12 a blunt force trauma but that you think it was from
13 squeezing. And I wanted to ask how could the squeezing
14 cause the bruises but not a blunt force trauma?

15 A. Because the - Thanks for giving me a chance to explain
16 this. But the way that the ribs are attached to the spinal
17 column there's these little transverse processes that come
18 off of the back of the spine and attach the ribs and there
19 are little tiny pieces of bone and they stick out on one
20 end and the rib sticks out on the other and the - A blunt
21 force trauma injury to the back we would expect to see
22 bruising on the back, some kind of impression or abrasion
23 or something on the back externally. And - And I've never
24 seen unless it was like massive like crazy kind of car
25 wreck injuries I haven't seen, you know, like falling to

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1 the ground or anything some kind of blunt force trauma that
2 can cause that kind of injury. What that injury is
3 classically described as is that these ribs are leveraged
4 against those little tips, those little wings of bone that
5 come out from the spine and because the spine stays
6 straight but the ribs are being bent and so instead of the
7 ribs which are very pliant breaking the little tips of bone
8 at the edge of the spinal column are breaking and it's
9 classically described as from forces that are caused from
10 compression. Could something else cause it? I'm sure but
11 I don't know. That's what it's classically described as in
12 literature and those are the only things I have seen
13 personally.

14 Q. Well then I wanted to on that point ask you about
15 your use of the verb leveraging. You said that the ribs
16 were leveraging against the spinal column. Right?

17 A. So if you got a solid object right here and my rib is
18 attached to it ---

19 Q. Uh-huh.

20 A. --- what we're talking about is a force that's
21 pushing the rib but not the spinal column and so the little
22 tip breaks.

23 Q. Yeah.

24 A. Does that make sense?

25 Q. It does.

1 A. So there is a leveraging of the rib against the
2 spinal column. That little tip breaks and then you get
3 hemorrhage right along the edge. It doesn't go along - And
4 this stuff is covered by a bunch of muscle back here. You
5 don't get that kind of injury from a direct force. It's
6 kind of more of an indirect force on the ribs.

7 Q. So a direct force couldn't cause the small parts of
8 the ribs to detach from the spine?

9 A. There is - I may be using the wrong term direct force.

10 But the injuries to the spine if they would be
11 caused by a direct force would have had hemorrhage in all
12 the tissues from that direct force all the way to that
13 injury see, so there would have been hemorrhage in the
14 tissue on the exterior and in the middle and in between.
15 Instead you've just got a little bit of hemorrhage right
16 there, but right around those spinal processes, and so the
17 theory is that you've got little micro fractures in these
18 vertebral tips and that causes the hemorrhages in the
19 plates.

20 If you were gonna claim that a direct force caused
21 em, the you would expect to see injury. I mean it can't be
22 a direct force from the front. Right? It can't be. But
23 it could be and if it was a direct force from the back you
24 would expect to see some and you would expect to see some
25 injury on the skin and soft tissue between those two areas

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REDIRECT BY SOLICITOR THOMPSON

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1 which is actually pretty thick. I mean that's one of the
2 more muscular parts of your body. From the front what I
3 completely conclude that a compression injury from the
4 front like that child, and I'll give you this that the
5 child was in between say the bed board and the - and the
6 wall, and you had a slamming of the bed, then that would be
7 a compression of the rib cage. And I suppose that you
8 might have like some kind of transverse process, and will
9 give you that, but it doesn't account for all the other
10 injuries.

11 Q. Thank you, sir. I really appreciate your testimony.

12 MR. COOK: Thank you, sir.

13 A. No problem.

14 REDIRECT EXAMINATION

15 DOCTOR CRAIG HART BY SOLICITOR THOMPSON:

16 Q. Doctor Hart, just going on that note, under that
17 theory that the defense has, that child would have to be
18 side ways with that side board of the bed and the wall on
19 the other side for that compression to happen; is that
20 correct?

21 A. In order to get the head and the chest ---

22 Q. Right.

23 A. --- I would expect that to be the case.

24 Q. It would have to be perfectly sideways with that board
25 and the wall and --

1 A. I mean first of all I don't agree with the premise
2 that that could have occurred in the first place so no.

3 Q. Thank you. So I guess that's really the goal of what
4 we're getting at here. You don't agree with the premise at
5 all that the defense has just given you that these injuries
6 occurred from being slammed in between the bed and the
7 wall?

8 A. I just I feel like if the child had fallen down and
9 there was some space between the wall and the headboard
10 then the child would be on the floor. I don't know how
11 much the distance is between the floor and the headboard
12 but the child is not able to sit up or, you know, and stuff
13 like that at this age. And I would - And its not just how
14 he describes it in his re-enactment here. He describes it
15 that the child was wedged in between and he pulls it out.

16 And if it's wedged in between and he pulled it out
17 then the head is stable and if the head is stable then
18 there can't be any kind of acceleration deceleration
19 injury. There could be a crush injury and we described how
20 that would look differently. You would have a whole
21 different consolation of injuries in the head, so I don't
22 buy it.

23 Q. And as --

24 A. And then there's the retinal hemorrhages which again
25 that requires multiple shakes. It doesn't just happen from

DOCTOR CRAIG HART: REDIRECT BY SOLICITOR THOMPSON :

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1 one injury and it doesn't explain all the different bruises
2 in all the different locations.

3 Q. And as you mentioned from the head injury the sheering
4 force that's - By sheering you're talking about like an
5 actual tearing of vessels from the brain; is that right.

6 A. Right.

7 Q. And that's ultimately what causes the bleeding that's
8 so excessive. ---

9 A. Correct.

10 Q. --- that it causes the pressure?

11 A. Yeah. In this case it's not the direct impact that's
12 causing the bleeding in the brain which I would expect if
13 it was a crushed injury. You would have broken fragments
14 of skull and it would cause bleeding in the brain and in
15 this case you've got an impact and acceleration
16 deceleration injury. With an impact that brain sloshes
17 around in there tearing the bridging vessels showing the
18 pattern of bleeding that we have. And I expect because of
19 the retinal hemorrhages that there was more than one shake.

20 Q. And as the matter made you say suspect, you're
21 actually pretty confident in that in what you said before.
22 Correct?

23 A. I feel confident that - I feel confident that the
24 injuries described can't be - could not be explained by
25 things slammed in between the bed and the wall.

DEPUTY CORONER CHRISTINE WEST OVER:

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DIRECT BY SOLICITOR THOMPSON

1 Q. Thank you.

2 SOLICITOR THOMPSON: No further questions.

3 THE COURT: You may step down.

4 A. Thank you.

5 (WITNESS LEAVING WITNESS STAND.)

6 SOLICITOR THOMPSON: May it please the court, Your
7 Honor. The state would call Deputy Coroner Christine
8 Westover.

9 MADAM CLERK: Please raise your right hand, place your
10 left hand on the Bible.

11 (WHEREUPON, CHRISTINE
12 WESTOVER, BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS
13 FOLLOWS:)

14 MADAM CLERK: Thank you. You may have a seat.

15 DIRECT EXAMINATION

16 DEPUTY CORONER CHRISTINE WESTOVER BY SOLICITOR THOMPSON:

17 Q. Deputy Coroner West over, would you give your full
18 name for the court please?

19 A. Yes, sir. My name is Christina Diane West over.

20 Q. And spell your last name for the court reporter
21 please.

22 A. W-e-s-t-o-v-e-r.

23 Q. And how long have you been with the coroner's office?

24 A. I have been with the coroner's office since January
25 2011.

DEPUTY CORONER CHRISTINE WEST OVER:

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DIRECT BY SOLICITOR THOMPSON

1 Q. All right. And as part of your duties there at the
2 coroner's office what - what are some of the general things
3 you do, are you required to do and ask to do by the
4 coroner?

5 A. I investigate - We investigate all deaths in York
6 County. And specifically determining the cause and the
7 manner of death.

8 Q. And so are you trained in determining the cause of
9 death or help to investigate to determine the cause of
10 death?

11 A. Yes I am.

12 Q. All right. And can you tell me how did you become
13 involved in this particular case with Minor ?

14 A. I was on call the day of January 23rd and had gotten
15 a page at I believe it was around 7:29, 7:30 that morning.

16 Q. All right. And when you were paged where did you
17 end up going as a result of that?

18 A. I went directly to Piedmont Medical Center in the
19 Emergency Room.

20 Q. All right. And what did you do as you arrived? What
21 was the scene as you got there?

22 A. As I arrived one of the first things that I do is
23 go into the emergency room and get a little bit of
24 background from the nursing staff there. And then I
25 believe that morning in conjunction with some other

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1 parties, forensics, I would have waited on them and then we
2 would have gone into the room and examined the baby
3 together.

4 Q. All right. Let me just clear a couple of things up
5 real quick. The coroner's office, that's not a police
6 department is it?

7 A. No, sir.

8 Q. Okay. And you all aren't associated with the police
9 department. Correct?

10 A. No, sir.

11 Q. And as a matter of fact while you have authority to
12 investigate some of these death cases and that sort of
13 thing, you don't arrest people. Correct?

14 A. No, sir.

15 Q. All right. So you don't have the power of arrest
16 like a police officer?

17 A. I do not.

18 Q. But often times I would assume you work closely with
19 the police on various things?

20 A. Absolutely yes we do.

21 Q. And on this particular day when you arrived did you
22 come upon the victim first or did you come upon Minor
23 first? Who did you talk with --

24 A. I believe I came upon Minor first, yes.

25 Q. All right. And what did you do when you came in

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1 contact with Minor

2 A. We as in any death the very first thing we do is
3 photograph everything. We photograph everything ever
4 step of the way. I would have together with forensics
5 started with my basic photograph of the baby just like she
6 was when we first walked into the room. And then we
7 proceed with our external examination removing clothes if
8 there would have been clothes to remove and photographing
9 the baby and the body.

10 Q. In her case were there any clothes that you had to
11 remove from her at that time or had that already been done?

12 A. I think that had already been done.

13 Q. All right. What did you first notice as you - of
14 your first view of the baby?

15 A. When I first looked at her she was hooked up to
16 various wires and machines and such.

17 Q. All right. Did you look for anything else on the
18 skin of the baby at that time?

19 A. Yes. I looked for bruising and any kind of marks.

20 Q. And did you recognize any bruising?

21 A. I did, yes.

22 Q. And what kind of bruising did you recognize?

23 A. I recognized the bruise on the forehead, was very
24 evident to me. I noticed a bruise on the - by the ear. I
25 noticed bruising here at the arm pits around the arm pits.

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1 Those were of most evident ---

2 Q. All right. So did you --

3 A. --- at that time.

4 Q. Did you manipulate the baby's body at all to look for
5 bruises or did you just kind of look - -

6 A. Yes we did.

7 Q. Okay.

8 A. We did. Yes, absolutely, uh-huh.

9 Q. And what if anything as the deputy coroner did it
10 indicate to you when you saw bruises on this six week old
11 child?

12 A. That is not typical and that to me told me that there
13 was some kind of trauma that the baby would not have
14 sustained those injuries on her own.

15 Q. All right. As coroner at that point, what else were
16 you required to do? I mean who - I guess who determines
17 that an autopsy should be done on a child?

18 A. That would be me. I was the primary investigator
19 on that case and as with any other child fatality those
20 always require that we do an autopsy.

21 Q. Okay.. And why is that?

22 A. Because the death of a child is not natural; in this
23 instance there was suspicion.

24 Q. So is it I guess basically when it's kind of unusual
25 for a child to die so you ---

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1 A. Yes.

2 Q. --- tend to investigate those?

3 A. Yes.

4 Q. Okay. And in this case what was the next step you
5 took after you noticed the bruising? Did you order
6 anything else to be done at that point?

7 A. Yes. I would have also ordered what we call at the
8 office a non-accidental traumatic series of x-rays. That
9 would have been ordered.

10 Q. Would those basically be x-rays of all the parts of
11 the body?

12 A. Yes.

13 Q. Okay

14 A. On a child it is full body, the array of full body
15 x-rays.

16 Q. And we've seen some of the x-rays earlier. Were you
17 here when some of those x-rays ---

18 A. Yes.

19 Q. --- were shown? Were those some of the x-rays -
20 x-rays like that basically that you would have ordered at
21 that time?

22 A. Yes, sir.

23 Q. All right. And so how far into it were you before
24 you realized it was actually a broken collar bone?

25 A. When we looked at the x-rays.

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1 Q. Okay.

2 A. When we looked at the x-rays.

3 Q. Do you do that fairly soon after you'd gotten there?

4 A. That would have been done probably after the baby had
5 gotten to the morgue.

6 Q. Okay.

7 A. Yes.

8 Q. So a little later in the morning?

9 A. Yes.

10 Q. All right. Now in between that time after you had
11 seen the baby and noticed the bruising, did you have any
12 contact with the baby's family?

13 A. I did. Our next step usually after I examine the
14 baby then is to go and talk with family or anybody that
15 would have participated or been there when this happened,
16 yes.

17 Q. Okay. And do you recall that morning there at the
18 hospital which family members you spoke to?

19 A. I do, yes.

20 Q. And who did you speak with?

21 A. I spoke with the baby's dad Quentin.

22 Q. Is that the defendant?

23 A. Yes, sir.

24 Q. Okay. Who else did you speak with?

25 A. I spoke with the baby's mom, Kierra. And I also

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1 spoke with the baby's grandmother, Quentin's mother Linda.

2 Q. All right. So that's Linda Evans?

3 A. Yes, Linda Evans.

4 Q. All right. Did you note down some of the things
5 that they told you?

6 A. I did, yes.

7 Q. And where was it that you actually spoke to the
8 defendant?

9 A. At the hospital and I believe there was a flurry of
10 activity there so we were trying to find a quite spot which
11 I think we just walked around the corner from the ER into
12 the I think what is considered the heart area, heart
13 catheterization area where we could talk quietly.

14 Q. Okay. Was he in custody at that time?

15 A. No.

16 Q. All right. And once again this was him speaking to
17 you. Were any other law enforcement with you at the time
18 you spoke him?

19 A. I had Detective Bruce Haire I believe was with me
20 that morning.

21 Q. Okay. Were you the person who conducted the
22 interview?

23 A. I did, yes.

24 Q. All right. And again the defendant wasn't in custody
25 at the time?

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1 A. No, sir.

2 Q. And so if he had told you at that point he didn't
3 want to talk to you what would you have done?

4 A. I would have had to not talk to him. I mean if he
5 would have said that he didn't want to talk to me at that
6 time I would have had to honor that.

7 Q. Okay. And when you talked to him what was the purpose
8 of your conversation with him at that time?

9 A. The purpose of my conversation is to find out exactly
10 what happened; some of the circumstances surrounding that
11 we go into. I'll ask medical information, was there any
12 kind of getting a background on the baby's history. I
13 would have ask about any medical issues. I would have ask,
14 you know, when he had custody of the baby. I usually go
15 back within a twenty-four hour time frame and ask them to
16 please kind of go over the last twenty-four hours with me
17 and just in general what happened.

18 Q. And did you do that with the defendant Quentin Evans?

19 A. I did, yes.

20 Q. And what did Quentin Evans tell you?

21 A. Quentin had told me originally that the baby was
22 brought into his custody on Monday which would have been
23 the 20th.

24 Q. Okay. And so the day you're talking to him is the
25 23rd. Right?

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1 A. Yes. Yes.

2 Q. So that would make that a Thursday that you're talking
3 to him?

4 A. Quentin, yeah. Yes, Thursday I am talking to him,
5 yes.

6 Q. All right.

7 A. Yes.

8 Q. And he told you that the baby had come into his
9 custody on Monday?

10 A. Can I refer my notes please.

11 Q. Yes, certainly.

12 A. I brought my narrative with me. According to Quentin
13 he said that the baby's mom Kierra Banks dropped the baby
14 off at around 10:00, 10:30 a.m. on Monday the 20th.

15 Q. All right. And what else did he tell you? Did he
16 tell you they lived with him or where the baby - or where
17 he lived and who lived with him?

18 A. Yes he did.

19 Q. All right.

20 A. He told me that he lived with his mom and Cornelius
21 Neal at the residence.

22 Q. All right. And Cornelius Neal did you later find
23 out is that his mom's ---

24 A. Mom's boyfriend.

25 Q. --- boyfriend?

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1 A. Yes.

2 Q. Okay. And did you ask him for anything else at that
3 point in time for him to consent to anything?

4 A. I did. I ask for him to consent to a drug and alcohol
5 blood test.

6 Q. And is that something that the coroner commonly does
7 in this type of situation?

8 A. Yes. We do that and that is part of our protocol with
9 child deaths.

10 Q. All right.. And what if anything did he tell you at
11 that point in time?

12 A. He did divulge to me that he had smoked some
13 marijuana.

14 Q. Did he tell you when he had smoked it?

15 A. He did not tell me directly when he smoked it.

16 Q. All right. And as you went on after that did you
17 talk more about the incident and what happened that day?

18 A. We did, yes.

19 Q. And what did he say next?

20 A. He stated with the baby's schedule on the 22nd stating
21 that --

22 Q. So the schedule on Wednesday?

23 A. Yes on Wednesday the 22nd. The day before yes because
24 I usually like to start about twenty-four hours previous to
25 the incident. Said that --

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1 Q. And I'm sorry, before we go, did he say why the baby
2 was dropped off with him?

3 A. Because Kierra Banks the baby's mom had gone back to
4 work after child birth.

5 Q. Okay.

6 A. Uh-huh.

7 Q. Continue.

8 A. And he did state to me that morning that he didn't
9 work so there had been arrangements made between the two of
10 them that he would be watching the baby while she worked.

11 Q. All right.

12 A. He said on Wednesday that she had gotten up 5:30,
13 6:30, he got her a bottle.

14 Q. So that's 5:30 or 6:30 a.m.?

15 A. Yes.

16 Q. Okay.

17 A. Uh-huh. And that they had watched movies all day and
18 played games.

19 Q. All right.

20 A. And that she went to sleep around 7:30, 8:00 p.m. that
21 evening on the 22nd.

22 Q. All right. Did he indicate anything wrong with the
23 child during that time?

24 A. No.

25 Q. Any problems he was having?

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1 A. No.

2 Q. What did he say after that?

3 A. He said that he put her on her side on a baby blanket
4 on the twin bed that was up against the wall. He said that
5 he woke - He said she woke around 10:00 p.m. and he fed her
6 a bottle. She woke again around 1:00 a.m. on the 23rd
7 crying and had an attitude.

8 Q. All right. Now when he said that he fed her a bottle
9 at 10:00, did he indicate to you that she ate the bottle,
10 that she consumed it? And is that what he's telling you
11 that basically he fed the baby at 10:00.

12 A. Yeah. Yeah, that's what he is saying, yes.

13 Q. All right.

14 A. Yes, that he fed the bottle to her.

15 Q. And now you're saying that he mentioned the baby woke
16 up at 1:00. And you mentioned the words had an attitude.
17 Is that specifically the words that he used?

18 A. Those are specifically the words he used cause I have
19 it in quotes.

20 Q. All right. And what did he say he did at that time
21 at one o'clock?

22 A. He said he fixed her a bottle and fed it to her and
23 gave her a pacifier to go back to sleep.

24 Q. All right. So he's telling you then he had a second
25 bottle at one o'clock?

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1 A. Uh-huh

2 Q. Okay. What did he say then?

3 A. He said that she was moaning and groaning and at
4 around 2:33 a.m. on the 23rd he went to heat a bottle and
5 came back to the bedroom and she was gone.

6 Q. All right. Did he describe what he meant by her
7 being gone?

8 A. I don't have that in my notes. No, he said that - I
9 recall him saying that she disappeared.

10 Q. All right. And what did he say next what happened
11 next?

12 A. He heard her crying and found her beside the bed on
13 floor slash safe between the bed and the wall.

14 Q. All right. And did he continue to describe to you
15 what he did at that point when he found her?

16 A. He did. He picked her up by her right arm. He said
17 that she did not want a bottle or a pacifier at the time
18 and stated she had spit up on her clothes.

19 Q. All right.

20 A. He said he changed her diaper and clothes and stated
21 it seemed like her head was off track, that she wasn't
22 using her head and her head was limp.

23 Q. All right. And you said now this all occurs between
24 2:30 and 3:00 in the morning?

25 A. Yes.

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1 Q. Okay. What did he say happened next?

2 A. He said Minor had stopped crying and was
3 whimpering. Quentin dozed off for about fifteen minutes
4 and when he woke up at 5:37 a.m.

5 Q. Now is that the specific time he gave you, 5:37?

6 A. That is the specific time yes sir.

7 Q. All right. When he woke up then what did he say
8 happened?

9 A. He said Minor eyes were open and she was looking
10 at him face to face. She was on her left side and he was
11 on his right side.

12 Q. And what happened next?

13 A. Quentin put his ear to her mouth and he could not feel
14 her breathing. He opened the front of her sleeper and he
15 did his own test on her, the knock out count.

16 Q. Is that what he called it the knock out count?

17 A. That's what he called it. I have knock out in quotes.

18 Q. Okay. And what did he describe a knock out count as
19 being?

20 A. He said and she was not responding picking her arm
21 up three times and letting it fall limp.

22 Q. All right. And what did he say he did next?

23 A. He went to get his mom Linda Evans and said something
24 was wrong with the baby.

25 Q. All right. Now at the time that you talked to the

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1 defendant that morning, did you tell him that you had seen
2 any injuries on the baby at that point?

3 A. No.

4 Q. And you're working with the hospital, what is the
5 protocol that is used and required by the coroner's office
6 when you have the possibility of a child being abused and
7 then die? Is it - What are you supposed to do as far as
8 telling the parents the cause of death at that point?

9 A. I don't say anything at that point. What I would
10 have told them would be that we were going to autopsy and
11 that --

12 Q. So in order - Autopsy in order to find out why the
13 baby had passed?

14 A. Yes. Yes.

15 Q. But had you given any hint to them that there were
16 some suspicions that you had at that point?

17 A. No. No I would not.

18 Q. And why is that? Why wouldn't you give that
19 information to them at that time?

20 A. Well because it's just we have to further investigate.

21 Its not just an external or a quick look or a look at
22 the baby at the hospital. It's a continuing process of the
23 investigation and we just - -

24 Q. So basically you don't want them coming into it
25 trying to make excuses where you might already know? Is

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1 that -

2 MR. COOK: I object on the grounds that that's a
3 leading question, Your Honor.

4 THE COURT: Sustained.

5 BY SOLICITOR THOMPSON:

6 Q. And did you talk to - I mean did you mention anything
7 to any of the other family members? The baby's mother, the
8 defendant's mother, anyone else you spoke to?

9 A. About injuries?

10 Q. Right.

11 A. No. No I would not.

12 Q. So at this point what is your next step? You've
13 spoken to him. What do you do next?

14 A. The next person that I interview was the grandmother
15 Quentin's mom Linda Evans.

16 Q. All right. And after her who else did you interview?

17 A. I interviewed Kierra Banks the baby's mom.

18 Q. Okay. And were you able to interview any other family
19 members there at the hospital at that time or -

20 A. That was it at that point.

21 Q. So what was the next step in your investigation? What
22 did you decide needed to be done next?

23 A. The next step in my investigation that same day was
24 that the autopsy was at - it was at 1:00 or 1:30. The
25 autopsy was at 1:30 p.m. on the 23rd, the afternoon of the

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1 23rd. We did the autopsy and then I did the re-enactment
2 at Quentin's residence.

3 Q. All right.

4 A. At 3:30.

5 Q. Now at the autopsy is this the first time that you
6 really find out what caused the baby's death?

7 A. Yes. It's my first look in depth into the injuries
8 of the baby, yes.

9 Q. All right. So you were there as Doctor Hart, the
10 pictures we saw today you saw them in real life?

11 A. Yes.

12 Q. Okay. And so after that began when you go out after
13 you discover the things at the autopsy did you go and did
14 anyone go and tell the family of this victim, did they tell
15 the defendant what the injuries were at that point?

16 A. No.

17 Q. All right. Did anyone - Did you or anyone you know
18 of tell his mother the injuries that the baby had gotten?

19 A. No.

20 Q. How about the baby's mother, Kierra Banks, did anyone
21 tell her?

22 A. No.

23 Q. All right. And once again what is the purpose of
24 that, how does that help your investigation?

25 A. We typically don't even in a death that's not a child

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1 fatality we typically will not give a - I guess a
2 preliminary report just for the simple fact that we like to
3 make sure that we have everything in including the
4 pathology, toxicology, genetic testing, any kind of testing
5 that needs to be done involving that investigation.
6 Typically don't sit down with family and talk with family
7 about that until we have everything in and are able to make
8 a definite determination.

9 Q. All right. And you mentioned a re-enactment.

10 A. Yes.

11 Q. Tell us exactly what you mean by that.

12 A. By re-enactment and it is protocol with any of our
13 child deaths as soon as we are able after the death of that
14 child we as the coroner's office go to wherever it took
15 place or initiated the injuries or where that initiated and
16 we will do a re-enactment with a fake baby doll and reenact
17 the whole incident that happened that morning.

18 Q. All right.

19 A. And get it on video tape. It's video taped.

20 Q. So this is something you do per any child fatality ---

21 A. Yes.

22 Q. --- in other words. All right. And is the person
23 that you're asking to do the re-enactment are you forcing
24 them to do it in any way?

25 A. No.

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1 Q. As a matter of fact they have the right to say yes or
2 no when you come and ask them for the re-enactment?

3 A. That's correct they do.

4 Q. And are there times when someone who says no I'm not
5 gonna do that?

6 A. There could be. I have never - I have never had
7 anybody tell me no.

8 Q. Okay. And the purpose of the re-enactment is what?

9 A. So we can better understand what happened to the baby
10 or the child.

11 Q. Okay. And did you ask the defendant to do a
12 re-enactment?

13 A. I did.

14 Q. Do you recall where you were when you first ask him
15 to do that?

16 A. We were at the hospital.

17 Q. Okay. So was it basically right after you had
18 interviewed him that you ask him -

19 A. Yes it was during that time.

20 Q. Okay. And he agreed to do the re-enactment; ---

21 A. Yes.

22 Q. --- is that right? And you had mentioned that you
23 video taped. Did you use your own video camera to go along
24 and record that?

25 A. Yes.

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1 Q. On this particular day do you recall the time that it
2 was that you went to the defendant's house to do the
3 re-enactment?

4 A. It was 3:30 because it was following the autopsy.

5 Q. All right.

6 A. Yes.

7 Q. And who else went along at that point?

8 A. I had with me another deputy coroner Kelly Fielding
9 and I had one of my care team members Marcy Huck with me
10 that was there for family support.

11 Q. Okay. And anyone else end up going at the same time
12 that you went to observe the re-enactment as well?

13 A. Yes. Rock Hill P.D.

14 Q. All right. So I believe Detective Haire as well?

15 A. Yes. Yes. Uh-huh.

16 Q. Did he have another detective with him?

17 A. He did. Detective Jim Lubber.

18 Q. Okay. And did they record at the same time that you
19 recorded it?

20 A. They did.

21 Q. Now about how long does it usually take to do a
22 re-enactment? For instance in this case about how long did
23 it take?

24 A. I think if I recall it was between twenty and twenty-
25 five minutes all together. That was everybody that

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1 participated in the re-enactment.

2 Q. What if any instructions did you give the defendant
3 regarding the re-enactment?

4 A. I didn't give him any instructions other than I had
5 a baby doll with me and ask him to as closely as we could
6 get it to what had happened as far as setting up the bed
7 and that sort of thing to reenact with the doll.

8 Q. Okay.

9 A. And set the bed up like it was that morning when
10 that all happened.

11 Q. Let me show you this just a minute.

12 Let me show you State's Exhibits that are Fifty,
13 Fifty-one and Fifty-two. If you could take those and look
14 at them for me, starting with State's Exhibit Fifty.

15 A. Yes.

16 Q. Do you recognize that CD?

17 A. I do.

18 Q. And can you tell me what that is?

19 A. This is my video. I recognize it from the number
20 right here.

21 Q. All right.

22 A. This is one of my videos I took.

23 Q. All right. Have you watched that video?

24 A. I have, yes.

25 Q. And does it accurately depict the - what you filmed

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1 that day?

2 A. It does.

3 Q. All right. And I believe as well there's an initial
4 on it. Is that your's?

5 A. That's my initial, yes.

6 Q. And what does that indicate?

7 A. That indicates that I did watch this specific video
8 and this, yes.

9 Q. Okay. And State's Exhibit Fifty-one. If you can tell
10 me what that is?

11 A. This is also one of my videos. This is my number
12 that I recognize here with my check and my initials also.

13 Q. All right. And does that video also fairly and
14 accurately depict what you recorded that day?

15 A. It does.

16 Q. All right. And just a followup question on that.

17 Why two videos? On the ones that you have in your
18 hand what do those do?

19 A. When I had initially come into the residence I had
20 forgotten my baby doll in the car so I had the other deputy
21 go out to my vehicle and get the baby doll for re-enactment
22 purposes. And at that time when she came back in with the
23 baby doll my car alarm was going off so I shut off my
24 camera for just a few seconds, got my car alarm shut off
25 and then started my video camera again.

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1 Q. Okay. So there is a brief beginning and then a
2 stoppage after you - -

3 A. There is.

4 Q. Okay.

5 A. Yes.

6 Q. So that explains the two tapes?

7 A. Yes.

8 Q. Now the third tape, I believe State's Exhibit Number
9 Fifty-three, have you viewed that tape as well?

10 A. It's State Exhibit Fifty-two and yes I have.

11 Q. I'm sorry, Fifty-two. Yes.

12 A. Yes I have.

13 Q. And is that - does that fairly and accurately depict
14 the incident as you recorded it as well?

15 A. It does.

16 Q. All right. But did you actually record this one?

17 A. No I did not. This is Rock Hill P.D.

18 Q. Rock Hill P.D.'s recording?

19 A. Yes.

20 Q. Okay. Does that actually include the first part of
21 yours and the second part of yours?

22 A. It does.

23 Q. So they didn't need two because they kept running the
24 whole time?

25 A. Yes.

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1 Q. Okay. And having watched those videos can you tell
2 me about is there any difference in the quality doing the
3 Rock Hill video and the one that you took?

4 A. There is, yes. My videos are not quite as good a
5 quality as Rock Hill P.D.'s videos. The lighting is darker
6 in mine than it is in Rock Hill P.D.

7 Q. All right. So would you prefer to have the jury see
8 the one that's more clear?

9 A. I would.

10 Q. Okay.

11 A. Sure.

12 Q. But I would ask that - Before we go any further.

13 All of them, you've viewed all of those three CDs
14 you have in front of you. Right?

15 A. Uh-huh.

16 Q. And they all fairly and accurately depict what
17 occurred that day during the re-enactment; is that correct?

18 A. Yes.

19 Q. All right.

20 SOLICITOR THOMPSON: Your Honor, I'd ask to enter
21 those into evidence at this time. That'd be State's
22 Exhibit Fifty, Fifty-one and Fifty-two.

23 MR. COOK: Without objection, Your Honor.

24 THE COURT: They're admitted.

25 (WHEREUPON, STATE'S EXHIBIT NUMBERS FIFTY, FIFTY-ONE

DEPUTY CORONER CHRISTINE WEST OVER:

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1 AND FIFTY-TWO, IDENTIFIED AND MARKED, RECEIVED INTO
2 EVIDENCE.)

3 BY SOLICITOR THOMPSON:

4 Q. All right. And if we could if I can get number
5 Fifty-two from you.

6 A. Sure

7 SOLICITOR THOMPSON: Your Honor, I ask permission to
8 publish this at this time.

9 THE COURT: You may.

10 Q. Now as I wait for that to begin, where is that
11 house located that you did the re-enactment?

12 A. in Rock Hill. Street
13 in Rock Hill.

14 Q. And that's here in York County?

15 A. Yes.

16 Q. Okay.

17 (STATE'S EXHIBIT NUMBER FIFTY-TWO PUBLISHED TO THE
18 JURY AT 12:44 P.M..)

19 (STATE'S EXHIBIT NUMBER FIFTY-TWO STOP AT 01:08 P.M..)

20 Q. All right. Again, Deputy Coroner West over, can you
21 tell me during the course of this at any time did you or
22 the detectives tell him any of the injuries to the child?

23 A. No.

24 Q. All right. Now after this re-enactment was done and
25 you hear at the end of that you mention that you would like

DEPUTY CORONER CHRISTINE WEST OVER:

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DIRECT BY SOLICITOR THOMPSON

1 to have the mother do a brief re-enactment of her portion.

2 Did she do that for you as well?

3 A. She did, yes.

4 Q. All right. And how long was that video?

5 A. Very short.. Very brief.

6 Q. And after that occurred what did you do? Where did
7 you go?

8 A. Well we left the residence and I believe I probably
9 went back to the office that afternoon. I'm not for sure
10 but I think I would have gone back to the office that
11 afternoon.

12 Q. So you didn't go to the police department?

13 A. No. Huh-huh, no..

14 Q. And as part of your investigation is it part of what
15 you do is as the deputy coroner to try and determine
16 through the facts that you gather a time of death of some
17 sort?

18 A. We do, yes.

19 Q. All right. What if any significance is there to the
20 time of death that is placed upon someone at the hospital
21 in a situation like this?

22 A. In a situation like this and I think the time of
23 death for Minor at the hospital that the staff there
24 gave was the time of death. I think it was seven twenty-
25 nine.

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DIRECT BY SOLICITOR THOMPSON

1 Q. All right. And that would have been actually when
2 they stopped life saving measures.

3 Q. All right. So basically the hospital declares a
4 patient on when they stop life saving measures?

5 A. Yes. Yes.

6 Q. All right. But as your investigation continued did
7 you find a different time for the time of death?

8 A. I did. I think in the autopsy report and I think I
9 had put approximately 6:00 a.m. the morning of the 23rd of
10 January.

11 Q. All right. And is it possible the baby was - had
12 passed even sooner than that?

13 A. It could be, yes.

14 Q. So is it an exact science trying to figure out ---

15 A. No ---

16 Q. --- the time of death.

17 A. --- it is not.

18 Q. But per your investigation was there any time that
19 any of the emergency personnel that they had come in
20 contact with the child that the child was actually alive?

21 A. No.

22 Q. Okay.

23 A. Not to my knowledge.

24 Q. And also after that is there anything else that the
25 coroner's office normally does in a child death

DEPUTY CORONER CHRISTINE WEST OVER:

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DIRECT BY SOLICITOR THOMPSON

1 investigation following these initial things that we talked
2 about today?

3 A. There is. The coroner's office does what is called
4 a child death review. And that is a meeting of first
5 responders and anybody that would have had anything to do
6 with that investigation that morning or that afternoon. I
7 think it involved EMS personnel that were involved in the
8 call. It would have been myself, our coroner, it would
9 have been pathologist Doctor Craig Hart, it would have
10 involved any of the detectives with Rock Hill P.D., maybe
11 patrol officers that morning that would have been there
12 down to DSS workers.

13 So basically it's just anybody that's involved with
14 the case to get everybody together so everybody's kind of
15 on the same page and we start from the beginning with the
16 911 call and kind of go through the events that took place.

17 Q. All right. And does everyone kind of share what the
18 others may have found up to that point?

19 A. Yes, they do.

20 Q. So do you remember the day that you all met regarding
21 that?

22 A. We met on February 4th.

23 Q. All right. And that was?

24 A. 2014.

25 Q. 2014?

DEPUTY CORONER CHRISTINE WEST OVER:

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DIRECT BY SOLICITOR THOMPSON

1 A. Yes.

2 Q. And so --

3 THE COURT: Mr. Thompson, how much longer do you
4 anticipate that this examination will take cause we're --

5 SOLICITOR THOMPSON: Maybe two minutes.

6 THE COURT: Okay.

7 SOLICITOR THOMPSON: I'm just about done.

8 Q. And so in that investigation you were able to get
9 other information from other agencies in other words to
10 help you in your investigation?

11 A. Yes.

12 Q. Okay. And following that if you could tell me from
13 your investigation as a whole did you find anything that
14 indicated that this baby was acting abnormally in any way
15 prior to when the defendant alleges the baby fell on the
16 bed?

17 A. No.

18 Q. Thank you.

19 SOLICITOR THOMPSON: No further questions.

20 THE COURT: Okay. We're gonna break for lunch. I
21 caution the jury again remember don't discuss the case.
22 Don't conduct any research, don't do your own
23 investigation, don't let yourselves be exposed to any type
24 of media coverage relating to the case or any other
25 discussions that you might hear around the courthouse.

DEPUTY CORONER CHRISTINE WEST OVER:

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DIRECT BY SOLICITOR THOMPSON

1 Do have a good lunch. Please report to your jury
2 room at two forty-five, two forty-five this afternoon.

3 (JURY EXITS COURTROOM AT 01:13 P.M..)

4 THE COURT: Ms. Westover you may step down but you
5 can't discuss your testimony during the break because
6 you're still on the witness stand.

7 A. Yes, sir. Thank you.

8 (WITNESS LEAVING WITNESS STAND.)

9 THE COURT: Court is in recess until two forty-five.

10 (COURT IN LUNCH RECESS AT 01:15 P.M..)

11 (COURT BACK IN SESSION AT 03:09 P.M..)

12 THE COURT: Thank you. Be seated.

13 All right, you ready for the jury?

14 SOLICITOR BRACKETT: The court's indulgence one
15 moment. I'm sharing something with Mr. Cook so he can show
16 his client.

17 (PAUSE.)

18 SOLICITOR BRACKETT: I believe we're ready, Your
19 Honor.

20 THE COURT: Okay. Bring the jury in please.

21 (JURY REENTERS COURTROOM AT 03:15 P.M..)

22 THE COURT: Good afternoon. We're going to continue
23 with the examination of the witness by the defense counsel.

24 Mr. Cook.

25 MR. COOK: May it please the court, Your Honor. I beg

DEPUTY CORONER CHRISTINE WESTOVER: CROSS BY MR. COOK

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1 the court's brief indulgence.

2 CROSS-EXAMINATION

3 DEPUTY CORONER CHRISTINE WESTOVER BY MR. COOK:

4 Q. Good afternoon, ma'am.

5 A. Good afternoon.

6 Q. Could you state your name again? I apologize.

7 A. Christina Diane Westover.

8 Q. Vester?

9 A. Westover.

10 Q. Westover.

11 A. Uh-huh.

12 Q. Thank you, ma'am. Ms. Westover, what type of degrees
13 do you have?

14 A. I have an Associates in Applied Science in Criminal
15 Justice. I have - am certified by the American Board of
16 Medical Legal Death Investigators.

17 Q. And what was your job title again?

18 A. I am Chief Deputy Coroner at the York County Coroner's
19 Office.

20 Q. And did I hear you say you determine the causes of
21 death?

22 A. We determine the cause and manner of death at the
23 Coroner's office.

24 Q. We. Do you ever make that determination solely on
25 your own officially?

- 1 A. It is under Sabrina Gest who is our coroner.
- 2 Q. And - But it is your job to investigate?
- 3 A. Yes.
- 4 Q. And so you often get interviews?
- 5 A. Yes.
- 6 Q. And do you ever record them with audio recording?
- 7 A. No. The interviews. No. Huh-huh.
- 8 Q. Okay.
- 9 A. No.
- 10 Q. Are your procedures consistent with those of law
- 11 enforcement or do you know?
- 12 A. I don't know that.
- 13 Q. Okay.
- 14 A. I don't know what their protocol is.
- 15 Q. Did you give my client a drug test?
- 16 A. I did not personally no.
- 17 Q. Did - Do - Were you involved in the administration
- 18 of a drug test to my client - administer it?
- 19 A. No.
- 20 Q. Did you request it?
- 21 A. I did request it, yes.
- 22 Q. Okay.
- 23 A. Yes I did.
- 24 Q. And did you ever get the results back from that?
- 25 A. We did, yes.

DEPUTY CORONER CHRISTINE WESTOVER:

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REDIRECT BY SOLICITOR THOMPSON

1 Q. Thank you.

2 MR. COOK: I have no further questions.

3 REDIRECT EXAMINATION

4 DEPUTY CORONER CHRISTINE WESTOVER BY SOLICITOR THOMPSON:

5 Q. What were the results of the drug test?

6 A. They were positive for THC.

7 Q. Which is?

8 A. Marijuana.

9 Q. Thank you.

10 SOLICITOR THOMPSON: No further questions.

11 A. Thank you.

12 THE COURT: Just a minute.

13 MR. COOK: Brief followup, Your Honor.

14 RECROSS-EXAMINATION

15 CHIEF DEPUTY CORONER CHRIS WEST OVER BY MR. COOK:

16 Q. Did the results that were positive for marijuana give
17 you any indication on how recently my client had smoked
18 marijuana?

19 A. They did not, no.

20 MR. COOK: Okay.

21 THE COURT: Thank you. You may step down.

22 A. Thank you.

23 (WITNESS LEAVING WITNESS STAND.)

24 SOLICITOR BRACKETT: The state would call Paula Neely.

25 MADAM CLERK: Please raise your right hand, place your

OFFICER PAULA NEELY: DIRECT BY SOLICITOR BRACKETT

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1 left hand on the Bible.

2 (WHEREUPON, PAULA NEELY,
3 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

4 MADAM CLERK: Thank you. You can have a seat.

5 SOLICITOR BRACKETT: May it please the Court. Before
6 I start the direct examination of Ms. Neely, I just want to
7 clarify, is Ms. West over excused?

8 MR. COOK: She's excused from the defense.

9 SOLICITOR BRACKETT: Very good. Thank you.

10 DIRECT EXAMINATION

11 OFFICER PAULA NEELY BY SOLICITOR BRACKETT:

12 Q. Madam, would you please state your full name and
13 spell your last for the court reporter?

14 A. Paula Stevens Neely. N-e-e-l-y.

15 Q. And where are you employed, ma'am?

16 A. I'm employed with the Fort Mill Police Department.

17 Q. And what do you do with the Fort Mill Police
18 Department?

19 A. I'm assigned to a Multi-jurisdictional Forensic
20 Service Unit here with York County.

21 Q. Okay. This incident took place in Rock Hill and
22 you work in Fort Mill, you work for the Fort Mill Police
23 Department. Can you explain to the jury how that happened?

24 A. Yes, sir. This Multi-jurisdictional Unit is comprised
25 of representatives of every agency within the county. The

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1 Forensic Unit and the Drug Unit are both Multi-
2 jurisdictional Units. The Forensic Unit that I work with
3 we are assigned to investigate all forensic crime scenes in
4 the county for each agency.

5 Q. Okay. Now, so basically you're a crime scene
6 investigator?

7 A. Correct.

8 Q. Okay. Like CSI on TV?

9 A. Similar.

10 Q. Okay. But not exactly - -

11 A. Not exactly the same.

12 Q. But that's science fiction isn't it?

13 A. Correct.

14 Q. All right. But you do the real thing?

15 A. Yes.

16 Q. Okay. Now how long have you been with the Forensic
17 Service Unit?

18 A. Four years.

19 Q. And were you working on January the 23rd, 2014?

20 A. I was.

21 Q. And did you get called out to in
22 the city of Rock Hill in regards to the incident that we're
23 here today?

24 A. I did.

25 Q. Now what was your role in this? What were - What was

1 : - What were you supposed to do?

2 A. As a crime scene investigator my role is to respond
3 to the scene document it, any evidence collect and preserve
4 any evidence and if it's relevant process any evidence for
5 identification purposes.

6 Q. When you arrived on the scene of this incident, what
7 information do you have about what this incident is about?

8 A. The information I had was I was dispatched for an
9 injury to a child call and I had very limited information
10 upon arrival. I was briefed and was informed that the
11 child was deceased.

12 Q. Now you - What did you encounter when you first
13 arrived at the scene?

14 A. I met with Rock Hill Officer Zane Smith. He provided
15 me with a signed consent to search form from the owners of
16 the residence and there were individuals inside the
17 residence, I assume they were family.

18 Q. And you say a signed consent to search. Just tell
19 the jury exactly what - in layman's terms what that is.

20 A. This is a form that is filled out by the owner's of
21 a residence or property that gives permission to law
22 enforcement to search that particular property stated in
23 that form.

24 Q. So Ms. Evans and Mr. Neal, the occupants of the home
25 gave you permission to come into their house?

OFFICER PAULA NEELY: DIRECT BY SOLICITOR BRACKETT

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1 A. Correct.

2 Q. Okay. What did you do, what was your first goal when
3 you entered the house there?

4 A. My main objective when I first enter a scene is just
5 to document the scene as it is upon my arrival so I take
6 photographs. Just over all conditions of how things are
7 within that environment and as the investigation unfolds I
8 detail my photographs and collection beyond that.

9 Q. And what do you use to take the pictures? What kind
10 of camera do you have?

11 A. I have a Nikon D7000. It's a DSLR digital camera.

12 Q. That like a high end fancy professional type camera?

13 A. It is.

14 Q. Are you trained to use it properly?

15 A. I am.

16 Q. Approximately - So you went into the house with
17 your camera. And you said it's a digital camera?

18 A. It is.

19 Q. Okay. So you don't send film off to be developed,
20 it's like most people you it put on a computer.

21 A. Correct.

22 Q. Does your camera have a time date stamp?

23 A. It does.

24 Q. Is the time and date accurately set on it?

25 A. It was.

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1 Q. All right. About - You went in to document the
2 scene as you found it, approximately how long did you spend
3 doing that initially?

4 A. May I?

5 Q. Sure.

6 A. I believe I spent fifteen, twenty minutes on the
7 scene initially.

8 Q. Describe to the jury, since you don't really know
9 what the allegations are or what took place, describe to
10 the jury what you did inside the house just generally?

11 A. How we saw it at the front entrance to the residence I
12 take photograph of any address that might be so we can
13 identify the house later on. I go in through the living
14 room I take over all's of each room that's off of my
15 beginning point. Usually either counter clockwise or
16 clockwise. And I'll focus just on over all shots to gather
17 anything in a particular scene and if I see something of
18 interest then I might come a little close up and then
19 ultimately - very close up for a final photograph of
20 whatever is of interest.

21 Q. All right. And you said you spent about how long
22 doing this initially?

23 A. Fifteen, twenty minutes.

24 Q. Okay. And after you finished the initial sweep
25 through taking pictures of the house, what did you do next

OFFICER PAULA NEELY: DIRECT BY SOLICITOR BRACKETT

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1 in the process of this investigation?

2 A. Rock Hill Police Detective Bruce Haire arrived on
3 scene and he was requesting that I go to Piedmont Medial
4 Center to photograph injuries to the child. And prior to
5 leaving I collected the child's bedding and a shirt that
6 was on the bed.

7 Q. And where did you proceed to from there?

8 A. Piedmont Medical Center.

9 Q. And what did you do at the ER?

10 A. I photographed the injuries that were visible to
11 the baby there in the ER room.

12 Q. How long did you spend doing that approximately?

13 A. Probably about an hour.

14 Q. Okay. And did you speak with anybody else at PMC
15 to get any more information about the case?

16 A. Yes. Deputy Corner Chris West over and Kelly Fielding
17 were there. Sabrina Gast was there. Rock Hill Police
18 Detectives Jim Lubben and Josh Welch and Bruce Haire also
19 responded and met with me.

20 Q. And were you able based on that conversation to get
21 a better idea of where most of the incident had take place
22 and what may have taken place?

23 A. I did.

24 Q. Okay. And based on that information what did you
25 decide to do?

1 A. Return to the scene.

2 Q. And tell the jury what you did when you arrived back
3 at the scene.

4 A. I took additional photographs in the bedroom that was
5 identified as belonging to Quentin and Minor. And
6 I also took more detailed photographs of each item in there
7 and did a scene sketch.

8 Q. All right. I'm showing you a series of photographs
9 that are marked - I'm just gonna go through them. State's
10 Exhibit Forty-three, Forty-nine, Forty-two, Forty-one,
11 Forty, Thirty-nine, Thirty-eight, Thirty-seven, Thirty-six,
12 Thirty-two, Thirty-three, Thirty-four, Forty-five, Forty-
13 six, Forty-four, Forty-seven and Thirty-five.

14 And I do know how to count. I just put them in order
15 that I want to show them. Can you take a look at those and
16 see if you recognize what's depicted in those photographs?

17 A. Yes I do. These are the photographs I took at the
18 scene.

19 Q. Both at 7:20 in the morning and later when you
20 returned ---

21 A. Yes, sir.

22 Q. --- after the hospital? And what time was that
23 approximately that you returned from the hospital? Do you
24 recall?

25 A. We - Maybe around nine o'clock.

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1 Q. Okay. Are those true and accurate depictions of the
2 residence there as you found it that morning?

3 A. Yes, sir, it is.

4 Q. Okay. And are these in fact the photographs you
5 took?

6 A. They are.

7 SOLICITOR BRACKETT: Your Honor, I would move all the
8 aforementioned photographs that are marked for
9 identification into evidence at this time and seek to
10 publish.

11 MR. COOK: Without objection.

12 THE COURT: Are they Thirty-two through Forty-five?
13 Is that what I gathered from that?

14 SOLICITOR BRACKETT: I suspect so, Your Honor, but I
15 can go through and double check that but I believe that's
16 right.

17 THE COURT: Do that for me if you don't mind. Just
18 let me see. Well, are there fourteen?

19 SOLICITOR BRACKETT: Hold on one second. This lady
20 right here may be able to tell you.

21 It's State's Thirty-two through Thirty-seven - Forty-
22 seven, and Forty-nine.

23 THE COURT: Thirty-two through Forty-seven and Forty-
24 nine?

25 SOLICITOR BRACKETT: And Forty-nine.

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1 THE COURT: Okay. No objection?

2 MR. COOK: No objection, Your Honor.

3 THE COURT: All right.

4 (WHEREUPON, STATE'S EXHIBIT NUMBERS THIRTY-TWO THROUGH
5 FORTY-SEVEN AND FORTY-NINE, IDENTIFIED AND MARKED, RECEIVED
6 INTO THE RECORD. PUBLISHED TO THE JURY.)

7 BY SOLICITOR BRACKETT:

8 Q. Can you see the screen from where you're sitting?

9 A. Yes, sir.

10 Q. I'm gonna give you this little do dad. It's got a red
11 button on top, if you'll point it at the wall you'll be
12 able to describe what it is that you're talking about by
13 pointing with the pointer.

14 Madam Clerk.

15 (COURT ROOM LIGHTS TURNED DOWN.)

16 Q. Give us State's Forty-three. Can you tell us what it
17 is we're looking at here?

18 A. That is the front porch of the residence

19 t.

20 Q. ?

21 A. Yes, sir.

22 Q. All right.

23 THE COURT: You're gonna need to speak up a little
24 bit.

25 A. Sorry.

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1 THE COURT: So all the jurors can hear you.

2 Q. And State's Forty-nine.

3 A. That is the living room inside the residence.

4 Q. Okay. Is that with your back to the door back there?

5 A. Turned sideways to the door.

6 Q. Okay. State's Forty-two.

7 A. An additional shot into the living room.

8 Q. Into the living room? I'm sorry your voice dropped
9 off there.

10 A. Yes. I'm sorry. Into the living room.

11 Q. Okay. Very good. State's Forty-one.

12 A. And that's a shot of the kitchen.

13 Q. All right. And where would you back be positioned if
14 you were facing this way?

15 A. My back would be to the living room?

16 Q. Okay. So you basically walk into the living room and
17 straight into the kitchen?

18 A. Correct.

19 Q. All right. State's Forty?

20 A. That is an angled shot from the kitchen showing the
21 entrance to two different rooms. The one on the right is
22 Quentin Evan's room.

23 Q. And State's Thirty-nine.

24 A. This is another shot of the doorway.

25 Q. Let's do State's Forty-five.

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1 A. That is the bedroom of Quentin Evans and this was
2 identified as the bed that Quentin and Minor shared.

3 Q. Okay. And that foot board that's in the lower left
4 corner of the picture?

5 A. This was an additional bed that extended towards us
6 that he shared or he didn't share but his brother occupied.

7 Q. State's Forty-six.

8 A. This is again Quentin's bed. This is the pallet of
9 baby bedding that was collected.

10 Q. State's Thirty-seven.

11 A. That is a side shot from Quentin's bed and baby
12 carrier.

13 Q. Okay. And what's that to the right of the baby
14 carrier?

15 A. There is a small trash can right there.

16 Q. Okay. State's Thirty-six, please.

17 A. It's an additional photo of the trash can.

18 Q. Do you know what is - what's on top of that on top of
19 the trash can?

20 A. I believe it's a baby diaper and wipes.

21 Q. Okay. Did you look inside the trash can?

22 A. I did.

23 Q. All right. State's - And did you look under the baby
24 diaper?

25 A. I did.

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1 Q. State's Thirty-two. What did you locate in that?

2 A. There is tobacco shavings in there.

3 Q. All right. Go to State's Thirty-four.

4 A. That is an ashtray that's located on the TV stand to
5 the right of the same trash can we looked at.

6 Q. And inside that ashtray the brown leafy debris?

7 A. Tobacco shavings.

8 Q. State's Thirty-three.

9 A. That's a photograph of some Clorident HPV that was
10 also in the same TV stand with green plant life material.

11 Q. I'm sorry. With?

12 A. With some green plant like material.

13 Q. All right. Was that green plant like material that
14 was on the TV stand?

15 A. It was. The same location as the ashtray just
16 slightly to the right.

17 Q. Okay. And it appears to be all through this picture,
18 the top of the picture, on the right, on the bottom left.

19 Was it throughout that whole top of the cabinet?

20 A. It was. It was scattered throughout.

21 Q. I'm gonna take you back for just a second to
22 State's Forty-five. This you said was the bed. On the
23 far side of the bed just past the pallets there, was there
24 any space between the bed and the wall?

25 A. Not visible while the pallets were there no, sir.

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1 Q. Okay. Now, did you examine it more closely?

2 A. I did.

3 Q. And what did you discovery?

4 A. I measured the distance between the mattress and the
5 wall out four inches.

6 Q. Okay. Let's take a look at State's Forty-four.

7 And what is that a photograph of?

8 A. That is the back wall of that room. This is the edge
9 of Quentin Evan's bed that is closest to the window wall
10 and looking down into the floor.

11 Q. All right. And where did you measure from?

12 A. From the mattress to the wall.

13 Q. From the edge of the mattress?

14 A. From the edge of the mattress to the wall.

15 Q. Okay. So was the edge of the mattress further from
16 the wall than the bed rail itself?

17 A. It is.

18 Q. And what distance did you say that was from the edge
19 of the mattress to the wall?

20 A. Four inches.

21 Q. All right. Now in my request did you bring a tape
22 measure with you?

23 A. I did.

24 Q. Is that a brand new -

25 MR. COOK: Your Honor, I'm gonna object on the ground

OFFICER PAULA NEELY: DIRECT BY SOLICITOR BRACKETT

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1 of relevance because I believe that the lady testifying has
2 no idea how far that bed was from the wall on the night
3 in question. I believe the state's testimony is directed
4 toward's that.

5 THE COURT: All right. Well you'll be able to follow
6 up with cross examination. I overrule the objection.

7 BY SOLICITOR BRACKETT:

8 Q. Is this the new tape measure?

9 A. Yes, sir.

10 Q. Okay.

11 SOLICITOR BRACKETT: I'd ask that the tape measure
12 be marked on the far end as State's

13 MADAM COURT REPORTER: Right here, Mr. Brackett.

14 Fifty-three.

15 SOLICITOR BRACKETT: Fifty-three.

16 MR. COOK: Thank you, Your Honor. I would just renew
17 the objection for the admission of the evidence on the same
18 grounds.

19 THE COURT: All right. Note your exception.

20 SOLICITOR BRACKETT: All right, State's Exhibit Fifty-
21 three, and you object to it's introduction, because I move
22 to introduce it.

23 THE COURT: He did.

24 SOLICITOR BRACKETT: Very good.

25 (WHEREUPON, STATE'S EXHIBIT NUMBER FIFTY-THREE,

OFFICER PAULA NEELY: DIRECT BY SOLICITOR BRACKETT

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1 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

2 BY SOLICITOR BRACKETT:

3 Q. So can you just show the jury using the tape measure
4 what four inches looks like?

5 (WITNESS DEMONSTRATED USING STATE'S EXHIBIT FIFTY-
6 THREE.)

7 A. This is four inches.

8 Q. Now the condition of the room as you photographed it
9 that morning did you change anything in that room?

10 A. No, sir, I only did a collection..

11 Q. Okay. The photograph that you take that's depicted
12 there State's Exhibit Forty-four, is that the bed and the
13 distance from the wall as you found it that morning?

14 A. Yes, sir.

15 Q. Let's take a look at State's Exhibit Forty-seven.

16 What is this a picture of?

17 A. That is a picture of Quentin Evan's bed lifted up and
18 underneath there is a black fire safe and this is against
19 that same window wall which this was the small edge that
20 was showing in the previous picture.

21 Q. Okay. Can we go back to Forty-four?

22 Can you show us on here?

23 A. There.

24 Q. And that's how it looked when you found it?

25 A. Yes, sir.

OFFICER PAULA NEELY: DIRECT BY SOLICITOR BRACKETT

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1 Q. All right. Going back to Forty-seven again if you
2 don't mind.

3 What kind of flooring is that on there?

4 A. It's a very low carpet.

5 Q. Like an all weather carpet?

6 A. Yes, sir.

7 Q. Now you indicated that you made a sketch of the
8 scene?

9 A. Yes, sir.

10 Q. Now you indicated that you made a sketch of the
11 scene?

12 A. Yes, sir.

13 Q. Do you have the original sketch that you printed
14 off of your file with you?

15 A. I do.

16 SOLICITOR BRACKETT: Your Honor, I'd ask that this be
17 marked as State's Exhibit Fifty-four and move into evidence
18 at this time. I believe without objection.

19 MR. COOK: Without objection, Your Honor.

20 (WHEREUPON, STATE'S EXHIBIT NUMBER FIFTY-FOUR,
21 IDENTIFIED AND MARKED RECEIVED INTO EVIDENCE.)

22 Q. I show you State's Exhibit Fifty-four, is that the
23 sketch you made?

24 A. Yes, sir.

25 Q. And what's the length of the bed over all?

OFFICER PAULA NEELY: DIRECT BY SOLICITOR BRACKETT

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1 A. Seventy-four inches.

2 Q. Okay. And what is the width of Mr. Evan's bed?

3 A. Thirty-seven inches.

4 Q. And you said it was four inches from the wall?

5 A. Yes, sir.

6 Q. Did you - Do you know how high it was from the edge
7 of the mattress on the top to the floor?

8 A. Yes, sir. I believe it was twenty-one inches. Let me
9 just verify. Twenty-one point five inches.

10 Q. Okay. So two and a half inches below two feet?

11 A. Yes, sir.

12 Q. And then you have on here A a legend, A evidence Item
13 Number 3 and that was?

14 A. The baby pallet blankets that were collected.

15 Q. And B evidence Item Number 2.

16 A. Which was a black long sleeved shirt that was
17 collected.

18 Q. And then you have a dotted line there that says
19 safe located under bed?

20 A. Correct.

21 Q. And that's just the outline of it?

22 A. Yes, sir.

23 Q. Dotted and dashes across the top of that. Right.

24 Now did you take note of the temperature inside the
25 house?

OFFICER PAULA NEELY: DIRECT BY SOLICITOR BRACKETT.

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1 A. I did.

2 Q. And what was the temperature?

3 A. Seventy-seven degrees.

4 Q. And did you document that at all?

5 A. I did with a photograph.

6 Q. All right. Let me see State's Thirty-five.

7 You're okay. You don't need to turn it on.

8 Is that the thermostat?

9 A. Yes, sir.

10 Q. And was it on at the time?

11 A. Yes, sir.

12 Q. Okay. Now all the other stuff that you see people

13 do on TV like swabbing for blood and dusting for

14 fingerprints and gathering trace evidence and that sort of

15 thing, did you do any of that at this house?

16 A. No, sir, I did not.

17 Q. And why not?

18 A. This wasn't an instance that we were trying to

19 identify the occupants of the room. We knew specifically

20 who would be in there. We would expect to find their

21 fingerprints, we would expect to find their DNA. That

22 wasn't necessary in the investigation.

23 Q. Okay. So that's something you would do if there was

24 an unknown assailant?

25 A. Correct.

OFFICER PAULA NEELY: DIRECT BY SOLICITOR BRACKETT
CROSS BY MR. COOK

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1 SOLICITOR BRACKETT: Court's indulgence one minute.

2 Your Honor, the only thing I would ask leave of the
3 court - And I wouldn't imagine there would be an objection,
4 I would like to put for these digital photographs as well
5 as for these photographs as well as the other photographs
6 of the autopsy and the child at the hospital I would like
7 to put the actual digital photographs on the CD into
8 evidence. They would be the same photographs and they
9 would be marked with the same exhibits numbers on the CD
10 but I'll do that at a later time if there is no objection.

11 MR. COOK: No objection, Your Honor.

12 SOLICITOR BRACKETT: We usually do that at the end of
13 the case just in case we have any additional photographs we
14 will burn it all on one CD.

15 THE COURT: All right.

16 SOLICITOR BRACKETT: I have no further questions,
17 ma'am. Please answer any questions that Mr. Cook may have
18 for you.

19 CROSS-EXAMINATION

20 OFFICER PAULA NEELY BY MR. COOK:

21 Q. Good afternoon, ma'am.

22 A. Good afternoon.

23 Q. And I'm sorry, I missed your last name.

24 A. Neely.

25 Q. Leely?

OFFICER PAULA NEELY: CROSS BY MR. COOK

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1 A. I'm sorry, Neely.

2 Q. Neely.

3 A. N-e-e-l-y yes, sir.

4 Q. Good afternoon, Officer Neely.

5 A. Good afternoon.

6 Q. I'm just gonna ask you about a few of these photos.

7 Officer Neely, what is this along the bottom of the
8 wall right there? Is that molding?

9 A. Yes, sir.

10 Q. Do - Being an investigator have you - Do you think
11 that if the child was - had fallen between the bed and the
12 wall that - and that the bed was pushed up against the
13 child that her head could have hit that molding?

14 SOLICITOR BRACKETT: Objection. Calls for an opinion
15 and speculation.

16 THE COURT: Sustain.

17 BY MR. COOK:

18 Q. How many years have you been investigating, ma'am?

19 A. Four years specifically crime scenes.

20 Q. And have you attended any of the training from the
21 Academy?

22 A. Yes, sir, I have approximately seven hundred and
23 fifty hours of training in investigations.

24 Q. Have you ever been deemed an expert witness in any
25 court hearings in the past?

OFFICER PAULA NEELY: CROSS BY MR. COOK

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1 A. No, sir.

2 Q. And you have seven hundred hours of training and
3 four years experience?

4 A. Yes, sir.

5 Q. And you graduated from the Academy?

6 A. Yes, sir.

7 MR. COOK: Your Honor, at this time I would move to
8 have the witness deemed an expert witness on investigation.

9 THE COURT: Well she might be an expert in
10 investigations but she's not a deconstructionist.

11 MR. COOK: Yes, sir. I'll move along.

12 Q. Detective, do you have any indication of how or do
13 you know the distance between the bed and the wall the
14 night of the alleged incident?

15 A. The only thing I know is the distance that was
16 measured at the time that I was on the scene.

17 Q. Have you watched the reenactment video?

18 A. I did.

19 Q. Okay. Did you notice in the video where the
20 defendant says that he moved the bed close to the wall
21 after he jerked the child out so that it wouldn't happen
22 again?

23 A. No, sir, I don't recall that.

24 Q. Okay.

25 A. I only viewed it one time.

OFFICER PAULA NEELY: CROSS BY MR. COOK

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1 Q. Thank you.

2 MR. COOK: No further questions.

3 Oh, I apologize, Your Honor, I do have further
4 questions, if I may approach.

5 Q. I want to show you some photographs and I believe
6 that those were also some photographs you took. Would you
7 agree?

8 A. Yes, sir.

9 Q. And do those accurately depict the scene that you
10 found it when you took the photographs?

11 A. They do.

12 Q. And so their true and accurate depictions?

13 A. Yes, sir.

14 MR. COOK: At this time, Your Honor, I would move to
15 enter these as Defense photographs One through Six.

16 SOLICITOR BRACKETT: No objection.

17 THE COURT: They're admitted.

18 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBERS ONE THROUGH
19 SIX, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

20 MR. COOK: And I would request to publish them to the
21 jury.

22 THE COURT: You may.

23 (DEFENDANT'S EXHIBIT NUMBER ONE THROUGH SIX PUBLISHED
24 TO THE JURY AT 03:48 P.M..)

25 Q. Those photographs are just basically photographs

OFFICER PAULA NEELY: CROSS BY MR. COOK
KIERRA BANKS: DIRECT BY SOLICITOR THOMPSON

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1 taken from the defendant's room whiel you were there
2 investigating; is that correct?

3 A. Yes, sir.

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

5 SOLICITOR BRACKETT: Nothing on redirect, Your Honor.

6 THE COURT: You may step down.

7 A. Thank you.

8 (WITNESS LEAVING WITNESS STAND.)

9 SOLICITOR THOMPSON: May it please the Court, Your
10 Honor, the state would call Kierra Banks.

11 MADAM CLERK: Please raise your right hand, place your
12 left hand on the Bible.

13 (WHEREUPON, KIERRA BANKS, BEING
14 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

15 MADAM CLERK: Thank you. You may have a seat right up
16 there.

17 DIRECT EXAMINATION

18 KIERRA BANKS BY SOLICITOR THOMPSON:

19 Q. Hi, Ms. Banks, how are you today?

20 A. I'm fine. How about yourself?

21 Q. I'm doing well. If you could if you could give
22 the court reporter your full name and spell your first and
23 last name for us please.

24 A. Kierra Banks. B-a-n-k-s, last name.

25 Q. All right. And your first name, can you spell that

KIERRA BANKS: DIRECT BY SOLICITOR THOMPSON

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1 as well?

2 A. K-i-e-r-r-a.

3 Q. All right. Ms. Banks, are you Kaiddence mother?

4 A. Yes I am.

5 Q. All right. Can you tell me, when was Minor date
6 of birth?

7 A. Her date of birth was , 2013.

8 Q. 2013. Where was she born?

9 A. At Springs Memorial Hospital.

10 Q. And that's in Chester County?

11 A. No it's in Lancaster.

12 Q. In Lancaster County?

13 A. Uh-huh.

14 Q. But you live in Chester County?

15 A. Right.

16 Q. Okay. But you live closer to Springs Memorial?

17 A. Well I live closer to Piedmont but I had my son at
18 Lancaster and so that's the only place I'm familiar with.

19 Q. Okay. How old is your son?

20 A. He's four now.

21 Q. He's four now? Back at this time he would have been
22 what, three?

23 A. Uh-huh. Yes, sir.

24 Q. And can you tell me at the time of this incident on
25 January 23rd of 2014 what was your relationship with the

1 defendant Mr. Evans?

2 A. He was just my baby's father.

3 Q. Okay.

4 A. That's about it. I mean we close friends like very
5 close friends.

6 Q. All right. Had you separated at that point?

7 A. Yes, sir.

8 Q. All right. And during that period of time after you
9 had had the baby, did you - were you the one mainly
10 responsible for the care of the baby at that time?

11 A. Yes, sir.

12 Q. When you had the baby when you had Minor at Springs
13 Memorial, were there any complications or any problems that
14 you had in the birth of the child?

15 A. No, sir.

16 Q. All right. And have you had - Up to the point of the
17 child's death have you had any problems with your child or
18 any major problems of any sort?

19 A. No, sir.

20 Q. And can you tell me, did you take her to the
21 pediatricians office on a normal basis to see a
22 pediatrician?

23 A. Yes, sir.

24 Q. And what pediatrician did you see?

25 A. Doctor Mante Pediatrics in Chester.

KIERRA BANKS: DIRECT BY SOLICITOR THOMPSON

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1 Q. Mante Pediatrics?

2 A. Uh-huh.

3 Q. And you went to the office in Chester. Correct?

4 A. Yes, sir.

5 Q. He has other officers up in --

6 A. I think he has one in Lancaster as well.

7 Q. Okay. And in visiting him do you recall how many
8 times you took Minor to see Doctor Mante?

9 A. I think it was three. If I'm not mistaken I think it
10 was three times.

11 Q. All right. Would one of them have been soon after
12 the birth of the child?

13 A. Yes, sir. Yes, sir.

14 Q. Was there one that was closest to the time when
15 Minor passed?

16 A. I believe it was that Monday. If not that Monday it
17 was that Friday. It was prior to taking her to Quentin
18 because my son also had a doctor's appointment.

19 Q. Okay.

20 A. So with my son having his doctor's appointment I just
21 scheduled both of theirs at the same time.

22 Q. All right. And any problems when you went to the
23 doctor at that time --

24 A. No cause I took my son because he had a cold so that's
25 why I took him.

1 Q. Okay.

2 A. But it was no complications with her at all.

3 Q. All right. And in taking Minor to the doctor were
4 you the one who took her to the doctor?

5 A. Yes, sir.

6 Q. Did the defendant ever go with you to the doctor
7 one of those times?

8 A. No. Cause he stayed in Rock Hill, I mean and it
9 wasn't nothing you know bad wrong with her so I didn't
10 think you know that it would be you know and with him not
11 having a car he can't drive to Chester so.

12 Q. All right.

13 A. I mean me being the mother I just went and took her.

14 Q. Okay. And in the times that you went to see Doctor
15 Mante and his associates at his office did you cover things
16 like the proper care for an infant child?

17 A. Yes they did.

18 Q. Okay. What kind of things do you recall the doctor
19 or one of the people who talked to you?

20 A. Well she had acid reflux so he let - They - I'm not
21 sure if I talked to him when I went because he had nurses
22 and you know people that step in when he's not there.

23 Q. Right.

24 A. I remember letting them know that she had acid reflux.
25 They changed her milk over cause she was on the Good

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1 Start at first and they changed her milk to the soy milk.
2 And with her having acid reflux they told me that I did not
3 need to lay her on her back because if she was to spit up
4 she could choke.

5 Q. Okay.

6 A. So I would lay her on her stomach with, you know, her
7 head laying to either side, which ever way, you know,
8 that's the way she went to sleep so I laid her on her
9 stomach.. That's the way that I was told to lay her being
10 that she has reflux.

11 Q. Did you ever lay her on her side?

12 A. I have before. I have before.

13 Q. Okay. In the things that the doctor's office
14 instructed you they didn't instruct you know things about
15 how the baby should sleep?

16 A. What do you mean like a schedule?

17 Q. Whether she should sleep with somebody in the same
18 bed or things of that nature?

19 A. No. No, sir.

20 Q. You don't recall that? Okay. And --

21 A. Yes. I actually do. They said for the first few
22 weeks or months that they sleep in a crib or you know like
23 in a bassinet. But you know being that you know people
24 they move around that we shouldn't put the baby in the bed
25 with us being that we could you know crush the baby or

1 anything could happen. So that's about it.

2 Q. Okay. Did he talk to you anything about whether or
3 not a baby should be shaken?

4 A. The baby shouldn't be shaken.

5 Q. I mean did they talk to you about that?

6 A. Yes.

7 Q. Okay. And as well did they talk to you about you know
8 proper ways to prepare the bottle.

9 A. Yes.

10 Q. And did they warn you about micro waving the bottle
11 or doing things like that?

12 A. Yes.

13 Q. And in addition to that did they talk to you about
14 ways to present - possibly prevent a SID's death and things
15 like that?

16 A. We didn't really talk about SID's but I was kind of
17 familiar with it being that I had a child already.

18 Q. Okay. Now at the times you were given these
19 instructions did you forward some of these instructions on
20 to the defendant in any way?

21 A. I did.

22 Q. What things do you recall telling him?

23 A. I let him know about the whole warming the bottle
24 thing. I let him know that you're supposed to put the
25 bottle on top of the stove in which he was aware of cause

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1 he had warmed bottles up before. I let him know that, you
2 know, he couldn't sleep like too close to her, you know.
3 And I also let him know about sleeping in the bed cause we
4 were actually supposed to set a crib up, I mean a bassinet
5 but we never got to that point to actually set it up being
6 that you know I was in Chester he was in Rock Hill you
7 know.

8 Q. Had you already gotten the bassenit at that time?

9 A. Yes I had already gotten the bassinet and transfered
10 it, you know, to his home but I had let him know that I had
11 to get some screws and bring them back up there but I never
12 got, you know, around the time to get to do that.

13 Q. All right. Did you ever relate anything to him or
14 what if anything did you relate to him about the
15 possibility of or not shaking the baby?

16 A. You know I just told him not to play with her rough.

17 Q. Okay. Had he been playing with her rough?

18 A. Not necessarily. You know he would you know bounce
19 her on his leg and I would let him know you know you can't
20 be too rough you know with her. I mean it's a baby you
21 can't be too rough you know bouncing her. But that's -
22 that was about the only thing that I related to him about
23 you know ---

24 Q. All right.

25 A. --- shaking her or anything.

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1 Q. Do you recall that in the last visit to Doctor Mante's
2 office you actually met with Doctor Mante in that visit.

3 Correct?

4 A. I'm not - I'm really not sure. I'm really not sure.

5 Q. All right. Well in the last visit do you recall the
6 length of time that they examined Minor

7 A. It was about thirty minutes. I mean we had been
8 sitting there cause it was other patients there.

9 Q. All right.

10 A. I mean we was in the back so it might a been about
11 thirty minutes.

12 Q. And that's the amount of time he actually --

13 A. No that was not the amount of time that I was there.

14 Probably the amount of time tht he was with her may a
15 been fifteen minutes, fifteen, twenty minutes.

16 Q. Fifteen to twenty minutes.

17 A. Uh-huh.

18 Q. So he spent a fair amount of time looking at her at
19 that point?

20 A. Yes, sir.

21 Q. Now if you would describe to me where you worked at
22 this point in time.

23 A. I was working at Kraft Food in Newberry.

24 Q. In Newberry?

25 A. Uh-huh.

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1 Q. So that's kind of a fair drive away. Correct.

2 A. Yes. It's about forty-five minutes away.

3 Q. From your house in Chester?

4 A. Yes.

5 Q. All right. How far is it to go from Rock Hill? Have
6 you ever done that?

7 A. I've never drove from Rock Hill to Newberry.

8 Q. Okay. So always from your house in Chester to
9 Newberry?

10 A. Yes.

11 Q. So what was the - I believe you work second shift
12 then; is that correct?

13 A. Yes.

14 Q. What were the times of the - the set times that you
15 were supposed to be at work?

16 A. My set time to be at work was my start time is at
17 three thirty and my stop time is twelve thirty.

18 Q. Okay.

19 A. So I would leave home around one thirty to be able to
20 get up the road, you know, if we need to stop and get
21 something to eat or anything like that and be at work on
22 time and clock in at three thirty.

23 Q. Okay. And do they sometimes make you stay later?

24 A. Yes, sir.

25 Q. Than twelve thirty?

1 A. Yes, sir.

2 Q. Now at this point in time, this particular week when
3 all of this occurred, had you been back to work prior to
4 this week since the birth of your baby?

5 A. No. This was the first week of going back to work.

6 Q. All right. And what day did you actually start back
7 to work?

8 A. I actually started back on Monday.

9 Q. On Monday?

10 A. No that Monday.

11 Q. When is it - What day is it that you actually took
12 Minor to --

13 A. I took her that Wednesday.

14 Q. That Wednesday?

15 A. Yes, sir.

16 Q. Did you take her Wednesday right before work or did
17 you take her --

18 A. Right before work. I took her it was like ten that
19 morning maybe ten, ten fifteen that morning.

20 Q. All right.

21 A. And I stayed for a little while there to maybe
22 probably twelve o'clock and I left.

23 Q. All right. And when you were there what were you
24 doing when you were there?

25 A. I was letting him know you know how to give her

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1 her bath, how to brush her hair. Being she had cradle cap
2 you know telling him how to wipe the cradle cap off, how to
3 give her a bath, you know, how much powder to use, what to
4 use when you wipe her off. You know the basic things of
5 how to clean a baby and how to take care of her.

6 Q. All right. Had you brought stuff with you to give
7 to him to help take care of the baby?

8 A. Nothing but her diaper bag.

9 Q. Okay.

10 A. You know the things in her diaper bag.

11 Q. All right. And when you - How long was he supposed
12 to be caring for the baby starting that Wednesday?

13 A. Wednesday, Thursday and Friday.

14 Q. So he would take care of her those full three days.
15 When were you supposed to come back ---

16 A. That Saturday.

17 Q. --- and pick Minor back up? Saturday?

18 A. Uh-huh.

19 Q. After you had finished work?

20 A. Yes.

21 Q. I'm assuming though but not around like two thirty
22 or three in the morning?

23 A. No. No, sir. I was scheduled to go pick her up
24 that morning, that Saturday morning.

25 Q. Okay.

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1 A. That's how we was gonna do it. He was gonna get her
2 Wednesday, Thursday and Friday and I would come back that
3 Saturday morning or whenever he was ready for me to pick
4 her up I would come back and get her.

5 Q. All right. And after you dropped Minor off did you
6 head back to Chester at that point?

7 A. Yes, sir. Yes, sir.

8 Q. Now do you ride to work with anyone else?

9 A. Yes. I ride to work with who is my boyfriend now.

10 Q. All right. And you were riding to work with him then
11 as well?

12 A. Yes.

13 Q. I mean one obvious thing we don't want to mislead -
14 You appear to be pregnant now?

15 A. Yes, sir.

16 Q. Is that with your boyfriend now?

17 A. Yes, sir.

18 Q. And did he work at the same place as you?

19 A. Yes, sir.

20 Q. So you both worked at Kraft in Newberry?

21 A. Yes, sir. We had the same hours as well.

22 Q. All right. So you would travel together to go there?

23 A. Yes, sir.

24 Q. And then come back again?

25 A. Uh-huh.

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1 Q. All right. As you - So normally you would be the
2 person caring for your child other than the times you went
3 to work. Correct?

4 A. Yes, sir.

5 Q. All right. Did you have a sleep schedule of any sort
6 that you used?

7 A. No. She didn't have - I mean she set her own sleep
8 schedule. I didn't you know have like something wrote down
9 on you know where she needs to go to sleep at this time or
10 she need to go to sleep at that time. She basically kind
11 of set her own sleep schedule.

12 Q. All right. So you didn't instruct the defendant
13 to ---

14 A. No, sir.

15 Q. --- put her on a certain schedule of any sort?

16 A. No, sir.

17 Q. All right. And would she generall wake up at least
18 once in the night to eat or something like that?

19 A. Yes, sir. She would wake up you know it probably
20 wasn't but maybe about one or two o'clock she might wake
21 and she'd go right back to sleep. That's only if I'm not
22 working.

23 Q. All right. Now you had mentioned you had gone
24 back to work actually on Monday night, so that would be
25 your first night at work?

1 A. Uh-huh.

2 Q. Who watched the baby while you were at work?

3 A. Either my mom or my sister.

4 Q. And did they both live with you in Chester?

5 A. Yes.

6 Q. And did one of them also watch the baby on Tuesday
7 night as well?

8 A. Yes.

9 Q. So did they kind of split it up between each other?

10 A. Yes.

11 Q. All right. And - But during that time after you would
12 come home tell me how you would start to care for the child
13 again?

14 A. If she was awake when I got home, you know, I would
15 be there, you know to see if she was wet or if she was
16 hungry. I mean more than likely when I got off she was
17 already, you know, sleeping. She may wake up during the
18 middle of the night it just all depends on what time I
19 gotten home that night.

20 Q. All right.

21 A. Cause like I said I nver got home at a right time
22 every night. It might a been, you know, twelve, you know,
23 one o'clock one night or two o'clock, three o'clock. It
24 was all different - different nights on what time I got
25 home.

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1 Q. Now if the baby was asleep would you generally go to
2 sleep as well at that time?

3 A. Yes, sir.

4 Q. In the morning is there a time that the baby would
5 normally wake up or did she have --

6 A. She didn't have a normal time, you know. We have
7 other kids in our home so, you know, she basically got up
8 when they got up.

9 Q. And in fact at that time how old were the other kids?

10 A. My son he was three. I have a nephew he was six at
11 the time or - Yeah he was six at the time and my niece was
12 five at the time.

13 Q. Okay. And can you tell me during that Monday when
14 you took care of the baby, not the time you were at work
15 obviously, and Tuesday and Wednesday morning of that week
16 ---

17 A. Uh-huh.

18 Q. --- was there anything unusual about Minor

19 A. No, sir.

20 Q. Did she eat normally?

21 A. Yes, sir. She ate a lot actually.

22 Q. Okay. Did she sleep normally?

23 A. Yes, sir.

24 Q. Did you notice any bruising of any sort on her?

25 A. No, sir.

1 Q. During that time had you had the opportunity to give
2 her her bath?

3 A. Yes, sir.

4 Q. And when you did that did you notice any marks or
5 bruising on her neck?

6 A. No, sir.

7 Q. All right. Was she seeming lathragic in anyway or - -

8 A. No, everything was normal.

9 Q. Did she seem over cranky or anything of that nature?

10 A. No, sir.

11 Q. I mean was she having problems vomiting or other
12 things like that?

13 A. No, sir.

14 Q. So as far as you could tell everything was fine with
15 Minor

16 A. Yes, sir.

17 Q. Nothing different than the prior month and a half.---

18 A. No.

19 Q. --- that you had been taking care of her?

20 A. None.

21 Q. Okay. And did any - Did either your mother or your
22 sister report any problems to you on the times they kept
23 her?

24 A. No, sir.

25 Q. And if you would tell me your mother's name?

KIERRA BANKS: DIRECT BY SOLICITOR THOMPSON
CROSS BY MR. COOK

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1 A. Gwendolyn Banks Coleman.

2 Q. All right.

3 A. Gwendolyn.

4 Q. And your sister's name?

5 A. Talisha Banks.

6 Q. Back at the time when all of this was going on, what
7 was your cell phone number?

8 A. It was

9 Q. Okay. And that's an 8-0-3 number?

10 A. Yes, sir, 8-0-3.

11 Q. And that's the number you would have used to call
12 back and forth to the defendant?

13 A. Yes.

14 SOLICITOR THOMPSON: Indulgence one moment.

15 (PAUSE.)

16 SOLICITOR THOMPSON: That's all the questions I have.

17 Please answer any questions Mr. Cook may have for you.

18 CROSS-EXAMINATION

19 KIERRA BANKS BY MR. COOK:

20 Q. Good afternoon, Ms. Banks.

21 A. Good afternoon.

22 Q. Do you think that Quentin is capable of doing the
23 things that the state alleges that he did?

24 A. I - I didn't think, you know, that anything like this
25 was capable but like nobody knows what can happen. I mean

KIERRA BANKS: CROSS BY MR. COOK

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1 I don't know, I was not there, so I mean me personally from
2 my personal experience of knowing the type of person he is
3 I - I didn't think that this was capable of happening.

4 Q. Do you know?

5 A. I don't know. I'm just blown from all - seeing
6 everything. I just - I don't know.

7 Q. Did you say after you heard what had happened that
8 you were still willing to have another baby with him?

9 A. I did say that. That was before you know any of this
10 happened. You know I did say that you know when the time
11 was right that it could happen again. But that was before
12 any of - I had heard any evidence or any autopsy or
13 anything like that. This was the same day that this
14 happened.

15 Q. So your mind's changed since then?

16 A. I mean I'm in a relationship now so yeah.

17 Q. Well I understand that.

18 A. Yeah.

19 Q. But you get what I'm getting at. Do you still carry
20 the belief that he is not capable?

21 A. In a way but I still I don't know.

22 Q. Okay. You did talk with him about shaken baby's
23 syndrome -

24 A. You know I did, you know, tell him that you know
25 you're not supposed to shake the baby or of course not to

KIERRA BANKS: CROSS BY MR. COOK

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1 be too rough with her being that she is a small child.

2 Q. What schedule at the time were you willing to allow
3 Quentin to have with the baby?

4 A. With the baby?

5 Q. Yeah, with your exchanges and visitation times?

6 A. I mean we had - We had set a schedule for me going
7 back to work that he would get her Monday, Tuesday. I mean
8 Wednesday, Thursday and Friday.

9 Q. Uh-huh.

10 A. We had that schedule but he had time with her prior
11 to me going back to work.

12 Q. Sure. That's every week or every other week?

13 A. It might a been like every other week cause being
14 that it was cold and she had just turned a month old, I
15 mean my belief is after a month old that's when, you know,
16 they can maybe go out and travel but up until a month old
17 she was at home all the time.

18 Q. Did you let the baby see Quentin the week before this
19 week in question?

20 A. Yes.

21 Q. Okay. Did Quentin call you from the incident
22 while it was happening?

23 A. I got a call from - Yes I did get a call from him.
24 It might a been like three thirty that morning.

25 Q. Uh-huh.

KIERRA BANKS: CROSS BY MR. COOK

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1 A. But I wasn't up and awake to get the call but I
2 seen the call once I woke up that morning I did see the
3 call.

4 Q. Did you get a call around 6:20?

5 A. I got a call from the hospital at - it might a been
6 seven, might a been like 7:29 I got a call from the
7 hospital.

8 MR. COOK: I beg the Court's brief indulgence.

9 Q. Did you ever tell him sentences like its not your
10 fault?

11 A. I did.

12 Q. Do you have people in your house that you allow to
13 sleep with the baby also?

14 A. No, sir.

15 Q. Your mother doesn't sleep with the baby?

16 A. No, sir.

17 Q. She didn't say - She ever tell Quentin he was a great
18 father?

19 A. No. No, sir.

20 SOLICITOR THOMPSON: Objection, Your Honor. It's
21 hearsay.

22 THE COURT: You talking about this witness or someone
23 else?

24 MR. COOK: I'm asking this witness if she ever called
25 the defendant a great father?

KIERRA BANKS: CROSS BY MR. COOK
GWENDOLYN BANKS: DIRECT BY SOLICITOR THOMPSON

1 A. Oh, yes, I have.

2 Q. Okay.

3 A. I have.

4 Q. Were you aware that Quentin smoked marijuana?

5 A. Yes, sir.

6 MR. COOK: Thank you, ma'am. No further questions.

7 SOLICITOR THOMPSON: No further questions.

8 THE COURT: You may step down.

9 (WITNESS LEAVING WITNESS STAND.)

10 SOLICITOR THOMPSON: The state would call Gwendolyen
11 Banks.

12 MADAM CLERK: Please raise your right hand, place
13 your left hand on the Bible.

14 (WHEREUPON, GWENDOLYEN BANKS,
15 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

16 MADAM CLERK: You may have a seat.

17 DIRECT EXAMINATION

18 GWENDOLYEN BANKS BY SOLICITOR THOMPSON:

19 Q. Good afternoon. Could you give your full name for
20 the court please?

21 A. Gwendolyn Coleman Banks.

22 Q. And would you spell your - I guess your last name is
23 B-a-n-k-s?

24 A. Uh-huh.

25 Q. But if you would spell Gwendolyen for the court

1 reporter.

2 A. G-w-e-n-d-o-l-y-e-n.

3 Q. Okay. Now, Ms. Banks, if you would, you're Minor
4 grandmother. Correct?

5 A. Uh-huh.

6 Q. And you're Kierra's momma?

7 A. Right.

8 Q. Kierra we just heard from. Going back to the week
9 when Minor passed but before that in that week but
10 earlier in the week that Monday night, Tuesday night, did
11 you actually take care of the baby during those times?

12 A. Yes, sir.

13 Q. All right. And can you tell me what was the normal
14 course when you took care of the baby? What did you do
15 with the baby during those times?

16 A. We feed her and dried her and played with her. Just
17 normal stuff you do with a baby.

18 Q. All right. Did she ever act odd or unusual during
19 that time?

20 A. Huh-huh.

21 Q. Did she ever show any signs of injuries as far as ---

22 A. No, sir.

23 Q. --- things like that? Did she seem to be alert and
24 awake when she was playing and doing things like that?

25 A. Uh-huh..

GWENDOLYEN BANKS: DIRECT BY SOLICITOR THOMPSON.

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1 Q. Was she overly sleepy at all?

2 A. No not - I mean nothing other than normal.

3 Q. Okay. And was she eating normally at that time?

4 A. Uh-huh.

5 Q. And did you have any problems -

6 MADAM COURT REPORTER: Excuse me, Mr. Thompson.

7 Excuse me, sir. Could I get a verbal response yes or
8 no, please?

9 SOLICITOR THOMPSON: Sure.

10 MADAM COURT REPORTER: Thank you, sir.

11 SOLICITOR THOMPSON: If you could say yes or no.

12 A. Okay.

13 Q. Was she eating well at that time?

14 A. Yes.

15 Q. All right. Did she suffer any injuries during that
16 time?

17 A. No, sir.

18 Q. And during that time as well would there be times
19 that your other daughter Talisha would have cared for the
20 baby?

21 A. Yes, uh-huh.

22 Q. And did you observe most of those times?

23 A. Yes, sir.

24 Q. Or the times that you were actually gone and
25 Talisha ---

GWENDOLYEN BANKS: DIRECT BY SOLICITOR THOMPSON
CROSS BY MR. COOK

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1 A. Yes, sir.

2 Q. --- taking care of the baby? I'm sorry, what? I
3 don't know what your answer was. Did you observed the
4 times that Talisha took care of the baby?

5 A. Yes. Yes.

6 Q. Were there any times that you were gone while
7 Talisha took care of the baby?

8 A. Sometimes but not long.

9 Q. Okay. And you would gone to like to a store or
10 something like that?

11 A. Yeah. Yes, sir.

12 Q. So anything unusual at all that you could tell us
13 as far as that baby ---

14 A. No, no, sir.

15 Q. --- was concerned while you take care for that baby
16 Monday night and Tuesday night?

17 A. Huh-huh.

18 Q. Thank you.

19 SOLICITOR THOMPSON: No further questions.

20 CROSS-EXAMINATION

21 GWENDOLYEN BANKS BY MR. COOK:

22 Q. Ma'am, did you sleep with the baby ever?

23 A. NO.

24 Q. You didn't tell the detective that you slept with
25 the baby during your interview?

GWENDOLYEN BANKS: CROSS BY MR. COOK
TALISHA BANKS: DIRECT BY SOLICITOR THOMPSON

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1 A. I don't think I did.

2 MR. COOK: Thank you.

3 THE COURT: You may step down.

4 (WITNESS LEAVING WITNESS STAND.)

5 SOLICITOR THOMPSON: The state would call Talisha
6 Banks.

7 MADAM CLERK: Please raise your right hand, place
8 your left hand on the Bible.

9 (WHEREUPON, TALISHA BANKS,
10 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

11 MADAM CLERK: Thank you. You may have a seat.

12 DIRECT EXAMINATION

13 TALISHA BANKS BY SOLICITOR THOMPSON:

14 Q. Ms. Banks, if you would give your whole name for the
15 court please.

16 A. Talisha Lashay Banks.

17 Q. All right. And if you would spell your first and
18 middle name?

19 A. T-a-l-i-s-h-a-, L-a-s-h-a-y, B-a-n-k-s.

20 Q. All right. And, Ms. Banks, that was your mother
21 that just testified. Right?

22 A. That's my mother.

23 Q. And your sister before her?

24 A. That's my sister.

25 Q. And back in 2014 you all lived together at the same

TALISHA BANKS: DIRECT BY SOLICITOR THOMPSON

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1 place in Chester?

2 A. We did.

3 Q. All right. And living there you had children as well?

4 A. I did.

5 Q. How old were your children then?

6 A. At the time my son was six and my daughter was five.

7 Q. Okay. And did you at times take care of the baby,
8 Minor during this time?

9 A. I did.

10 Q. And did you have her have anything unusual happen
11 when you took care of the babies?

12 A. I did not.

13 Q. During the time of this week in particular on Monday
14 and Tuesday night, did you all take care of Minor while
15 Kierra went to work?

16 A. We did.

17 Q. And did you experience any trouble with her during
18 that time?

19 A. None at all. She wasn't a cryer. The only time she
20 cried was when she was wet or hungry. That was the only
21 time she ever cried.

22 Q. Did you all have her set on any type of schedule
23 for feeding or sleeping or anything like that?

24 A. No. Usually our house went down about nine o'clock
25 since we had school students in the house so she went down

TALISHA BANKS: DIRECT BY SOLICITOR THOMPSON

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1 right along wiht the rest of the kids.

2 Q. All right. So kind of when the noise stopped she ---

3 A. Right.

4 Q. --- she would settle down too?

5 A. Right.

6 Q. Would generally would she feed at some point during
7 the night?

8 A. She did.

9 Q. Okay. And in the morning did your younger kids get
10 up for school then?

11 A. Right. That's usually when she would get up
12 because the house would get rowdy.

13 Q. Okay. So when things got noisy she ---

14 A. Yes.

15 Q. --- she would get up then? Okay. But no set
16 schedule that you - a specific time for anything?

17 A. Not at all.

18 Q. And again, did you notice any vomiting or other]
19 problems that the baby was having at that time? Anything
20 like that going on?

21 A. The only vomit that she would ever have is like,
22 you know, I guess when ever she was on the milk that wasn't
23 soy, that's the only vomit that she ever really had.

24 Q. So like a lactose intolerance ---

25 A. Right.

TALISHA BANKS: DIRECT BY SOLICITOR THOMPSON

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1 A. --- problem she had?

2 A. Right.

3 Q. Did that pretty much get corrected ---

4 A. When she --

5 Q. --- when she went to soy?

6 A. Right.

7 Q. Okay. Any problems with her sleeping?

8 A. No.

9 Q. Any problems with her playing or seem to do the
10 normal things that a baby that age does?

11 A. No, sir.

12 Q. All right.

13 SOLICITOR THOMPSON: Thank you. No further questions.

14 A. Okay.

15 MR. COOK: No questions, Your Honor.

16 THE COURT: You may step down.

17 (WITNESS LEAVING WITNESS STAND.)

18 SOLICITOR THOMPSON: The state would call Doctor
19 Ebenezer Mante.

20 MADAM CLERK: Please raise your right hand, place your
21 left hand on the Bible.

22 (WHEREUPON, EBENEZER MANTE,
23 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

24 MADAM CLERK: Thank you.

25 DIRECT EXAMINATION

DOCTOR EBENEZER MANTE: DIRECT BY SOLICITOR THOMPSON

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1 DOCTOR EBENEZER MANTE BY SOLICITOR THOMPSON:

2 Q. Doctor Mante, if you would give your full name for
3 the court please and spell it for the court reporter.

4 A. My name is Ebenezer Mante. Ebenezer spelled
5 E-b-e-n-e-z-e-r. Mante spelt as M-a-n-t-e.

6 Q. And Doctor Mante, are you a pediatrician?

7 A. Yes, sir.

8 Q. And in what pediatric group do you work with? What's
9 the name of the group where you work?

10 A. Mante Pediatrics.

11 Q. So it's your group?

12 A. Yes, sir.

13 Q. All right. What other doctors or pediatricians
14 work with you?

15 A. I have nurse practitioners and physician assistants
16 as well.

17 Q. Okay. And as the head of Monte Pediatrics are you
18 also in charge of the records that are kept by Monte
19 Pediatrics?

20 A. Yes, sir.

21 Q. All right. And have you brought the records with you
22 today of the visits that Minor had with Monte
23 Pediatrics?

24 A. Yes, sir.

25 Q. And could you tell us just glancing at those

1 records when the first time was that she was seen by Monte
2 Pediatrics?

3 A. Minor first visit was on the thirteenth of December
4 and she was four days old at that time. And she came right
5 four days after birth she was seen by my physician
6 assistant Ms. Christine Boost. The history went through
7 the birth where baby was born at Springs Memorial. The
8 birth weight was five pounds and five ounces. Was born at
9 thirty-eight week gestation. Was normal spontaneous
10 vaginal delivery without complications. Initially started
11 feeding on breast milk which was supplemented with Gerber
12 Good Start and then later on it was switched to formula
13 feeding.

14 Baby had normal bowel movement and was sleeping well
15 as well. There weren't any other complaints at the initial
16 time.

17 Q. All right. And at that time as well does it indicate
18 what the weight was of Minor at that point?

19 A. Yeah, at the time of the first visit baby had gained
20 weight to six pounds, six point one - six point one
21 pounds.

22 Q. Okay. And again this was on December 13th of 2013?

23 A. This was December 13th.

24 Q. Okay. And at that time were instructions given to
25 the mother as to certain guidance or guidelines that you

DOCTOR EBENEZER MANTE: DIRECT BY SOLICITOR THOMPSON

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1 give mothers of small children?

2 A. Sure. Yes, sir.. Baby had a little bit of jaundice
3 so blood test was requested to repeat a jaundice test. And
4 then a full anticipated guidance was done by my physician
5 assistant.

6 Q. All right.

7 A. And everything was documented here.

8 Q. All right.

9 A. Sleep position and environment to place infant on the
10 back to sleep for SID's prevention. Avoid closely playing
11 with baby on the same bed. Skin care, breast and vaginal
12 discharge for - with female babies. How to handle family
13 of visits, usual we advise that you leave - you prevent
14 excessive contact with other family members at first
15 especially people younger children who have cough and
16 running nose and congestion. Jaundice injury prevention
17 was talked about. The mother was advised not to use
18 microwave to heat bottles, car safety seats. No shaking of
19 the baby.

20 Q. All right. So all of those she was instructed as
21 to all of those in that first visit?

22 A. Yes. In the first visit.

23 Q. As well when was the second visit for Minor in your
24 pediatrics office?

25 A. The second visit was on the 27th December. And at

1 that time baby was eighteen days old.

2 Q. So that would be December 22nd, 2013?

3 A. December 27th.

4 Q. All right. And just going back one minute, you have
5 more than one office do you not, Doctor?

6 A. Yes. This was out of same office.

7 Q. Okay. Where are your offices located?

8 A. Our office in Chester and in Lancaster. The Chester
9 office is on the ride by the 9 Bypass. The address is 509
10 Beltline Road. And the Lancaster office is at the West
11 Meeting Street. We now have a new office that we just
12 opened in Rock Hill.

13 Q. All right. So three places now but back then you had
14 those two places?

15 A. It was two, yeah.

16 Q. And she came to see you in the Chester office?

17 A. Yes, sir.

18 Q. Now on that second visit was there anything of note
19 with the baby on that visit?

20 A. There was a complaint of baby spitting up her formula.

21 The second visit was my nurse practitioner who was
22 seen Ms. Catherine Fisher. And other time baby was
23 drinking five ounces per feeding according to mother and
24 had some spit up as well but was gaining weight very well.

25 Q. What was her weight gain from the first time she had

DOCTOR EBENEZER MANTE: DIRECT BY SOLICITOR THOMPSON

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1 . come in and now?

2 A. This time baby was six pounds, six point eight pounds
3 which means that baby had gained point seven pounds.

4 Q. All right. And is that sufficient weight gain during
5 that period of time?

6 A. Yes, sir.

7 Q. As well in the examinations done in your office for
8 infants you all completely checked the baby from head to
9 toe?

10 A. Yes, sir. We do examine - examination of baby always
11 starts from the weight. For a new born you can tell so
12 much by the weight that they are gaining. The baby was
13 born at fifteen pounds and fifteen ounces and the baby
14 showed steady weight gain which is a sign that baby was
15 doing well.

16 Q. I believe it was five pounds, five ounces. Right?

17 A. Sir. Five pounds and fifteen ounces at that time.

18 Sorry. So baby had gained. The last visit baby was
19 seven pounds fourteen ounces. So there was steady weight
20 gain which is a sign of a healthy baby. Plus the fact that
21 baby was also drinking its milk very well. So those are
22 the beginning even before we start to look at baby these
23 are things that we pay attention to. It gives us a good
24 sign of what is going on and then we go on to give a baby a
25 full head to toe examination.

1 Q. All right. Before we get into that let's go to the
2 next time you saw her and then we can go into the
3 examination.

4 A. Yes, sir.

5 Q. When is the final time that you saw her?

6 A. That was January 16th.

7 Q. Okay. And that was?

8 A. 2014.

9 Q. All right.

10 A. And at that time baby was five weeks old.

11 Q. All right. And at that time describe the condition
12 of the child at that point.

13 A. Baby was gaining weight that which was five pounds,
14 fifteen ounces. Baby was seven point eight pounds.

15 Q. All right, so at this visit seven point eight pounds?

16 A. Seven point eight pounds.

17 Q. All right. And if I were to tell you that the
18 following week the baby was nine point four pounds would
19 that be a good weight gain for the baby?

20 A. Yes. I wouldn't be surprised at that because
21 babies go through phases of rapid weight gain.

22 Q. All right. And so the baby seems to be progressing
23 well at this point when you see her on January 16th?

24 A. Yes, sir.

25 Q. And can you tell me what type of examination did you

DOCTOR EBENEZER MANTE: DIRECT BY SOLICITOR THOMPSON

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1 do on her at that time and how much time did you spend with
2 her?

3 A. It was a well child examine. We spent more than
4 twenty-five minutes.

5 Q. You were doing this exam yourself. Correct?

6 A. Yes, sir.

7 Q. Okay. And go ahead and tell me what you did in that
8 exam.

9 A. We start it's head to toe. First we feel for the
10 soft spot, the fontanel, to make sure that its not sunk in
11 or is not bulging. And then we shine light into the eyes
12 to make sure there are no hemorrhages, there are no
13 cataracts. We check the ears, the throat, the neck to make
14 sure there are no neck masses. And then we listen to the
15 chest. We also do check for reflex something we call Moros
16 reflex and we hold both arms and we pull it up and we
17 spread the baby to open the arms out.

18 And then we listen to the heart the make sure that
19 there are no extra heart sounds. And we go down and feel
20 the belly and look at the diaper area check the legs and
21 look for the tone of the muscle to make sure everything is
22 okay. Turn the baby and feel the spine to make sure that
23 spine is not curved and it's all straight.

24 Q. And you did all of those things with Minor.

25 A. Yes, sir.

1 Q. Did anything seem out of the ordinary?

2 A. No, sir.

3 Q. When you did the - I think you were talking about
4 was it reflexes when you motioned up? Describe that to me
5 again, how does that happen?

6 A. It's called the Moros. You hold both arms up, hold
7 it up and you release it and it goes that way. Now if the
8 baby has a fractured - part of a fractured clavicle or
9 fractured arm that arm is not gonna go up that way. It's
10 gonna be limpy. Or if the baby has a weakness of the arm
11 its not gonna be able to open it up.

12 Q. Okay. And did you see any indication of any injury
13 like that on the baby?

14 A. No, sir.

15 Q. If a baby does have a fractured clavicle in your
16 experience as a pediatrician, how would they act with a
17 break in a clavicle?

18 A. The baby will be in pain. There is something called
19 an inconsolable cry. These babies will cry and it will be
20 almost impossible to console them. You won't be able to
21 comfort baby. The cry is just continues. And yes
22 mother's call with a complaint Doctor, my baby keeps crying
23 and he just doesn't stop. There is another kind of cry
24 that baby may have. We call it miserable cry. That is why
25 baby is in so much pain that the cry doesn't come out.

DOCTOR EBENEZER MANTE: DIRECT BY SOLICITOR THOMPSON

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1 It's misery. You know that baby is in distress.

2 Q. All right. Now, do you know certain milestones as
3 far as a baby's development during these visits?

4 A. Yes, sir.

5 Q. All right. And what milestones did you note in your
6 notes for her last visit to you?

7 A. The last visit baby was five weeks old and baby
8 could support the baby prong and baby could hold their head
9 up for some time.

10 Q. Okay. So she could hold her head up a little bit?

11 A. Yes, sir.

12 Q. Did you notice any other things as far as her
13 advancement at that time?

14 A. The baby could also smile. Give us a smile at that
15 time.

16 Q. Okay. Now a baby at five weeks or going to six weeks
17 old is it common for a baby of that age to be able to roll
18 over?

19 A. No, sir. Rolling over is a four month milestone.

20 Q. And in this case could this baby roll over in your
21 examination?

22 A. No, sir.

23 Q. All right. And did anyone relate to you that the
24 baby could roll over during that examination?

25 A. No, sir.

DOCTOR EBENEZER MANTE: DIRECT BY SOLICITOR THOMPSON
CROSS BY MR. COOK

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1 Q. And Doctor Mante, as you said you kind of looked
2 through - do you also look to see if there's any bruising
3 or anything of that nature on the baby?

4 A. Yes, sir.

5 Q. If there had been would you have noted it?

6 A. Yes, sir.

7 Q. And were there any bruises on this child?

8 A. There was no bruise on the child.

9 SOLICITOR THOMPSON: Thank you, Doctor. Please
10 answer any questions the defense has for you.

11 CROSS-EXAMINATION

12 DOCTOR EBENEZER MANTE BY MR. COOK:

13 Q. Good afternoon, Doctor. When again was your last
14 visit with the child?

15 A. It was on January 16th, 2014.

16 Q. Okay. So - Understood. Do you know what a subdural
17 hematoma is?

18 A. Yes, sir.

19 Q. What does the word somnolent mean?

20 A. Somnolence?

21 Q. Uh-huh.

22 A. That means baby is - they wail, they lethargic, not
23 really responsive.

24 Q. Okay.

25 A. And sleepy and drowsy.

DOCTOR EBENEZER MANTE: CROSS BY MR. COOK

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1 Q. Do you think that a baby would have - would be
2 somnolent if they received a injury - the kind of
3 injury that would cause a subdural hematoma?

4 A. Possible, yes, sir.

5 Q. If a baby had a subdural hematoma would they be
6 exhibiting the insoluble - inconsolable cry you were
7 discussing?

8 A. They would be miserable. They would have a miserable
9 cry. They would want to cry which shows that they are in
10 pain.

11 Q. With a hematoma?

12 A. With a hematoma yes, sir.

13 Q. Okay. I thought that there would be somnolent with
14 a hematoma?

15 A. It's two things. If you - If you disturb this baby
16 like you start and somnolent this baby this baby will give
17 you a miserable cry. It's like I'm in pain don't touch me.
18 Yeah. And there is also the child that because there are
19 multiple things happen there is also the possibility that
20 this baby will be totally lethargic to the point that he
21 won't be able to offer any resistance.

22 Q. Last question is, do you have any training whatsoever
23 in forensic pathology?

24 A. No, sir.

25 MR. COOK: Thank you.

1 SOLICITOR THOMPSON: No further questions.

2 THE COURT: You may step down.

3 (WITNESS LEAVING WITNESS STAND.)

4 SOLICITOR BRACKETT: Your Honor, may we take a break
5 before our next witness.

6 THE COURT: All right, let's take a few minutes.

7 Please go to your jury room. Do not discuss the case.
8 I'll bring you back after that short break.

9 (JURY EXITS COURTROOM AT 04:31 P.M..)

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

11 (BENCH CONFERENCE OFF THE RECORD AT 04:32 P.M..)

12 THE COURT: Bring the jury back please.

13 (JURY REENTERS COURTROOM AT 04:38 P.M..)

14 THE COURT: Ladies and gentlemen, the state
15 anticipates two additional witnesses, either one of those
16 would take longer than what we have left of the afternoon,
17 so rather than keep you here late or break it up we'll just
18 begin in the morning at 9:30. So again, keep in mind my
19 caution, no discussions, no research, no investigation, no
20 media exposure, television, radio, or newspaper. Do have a
21 good evening. Please report to your jury room at 9:30 in
22 the morning, 9:30 in the morning. Have a good afternoon.

23 (JURY EXITS COURTROOM AT 04:39 P.M..)

24 THE COURT: Anything we need to address before we
25 recess?

1 MR. COOK: I don't believe so, Your Honor.

2 SOLICITOR BRACKETT: Not from the state.

3 THE COURT: All right. Court's in recess until 9:30
4 in the morning.

5 (COURT IN RECESS AT 04:40 P.M..)

6 (COURT BACK IN SESSION WEDNESDAY, MARCH 18, 2015 AT
7 09:37 A.M..)

8 THE COURT: Thank you. Be seated.

9 All right, any matters to address before the jury
10 is brought in?

11 SOLICITOR THOMPSON: No, Your Honor.

12 MR. COOK: Nothing from the defense, Your Honor.

13 THE COURT: Okay. Bring 'em in please, sir.

14 (JURY REENTERS COURTROOM AT 09:50 A.M..)

15 THE COURT: Good morning, ladies and gentlemen.

16 As you know when we recessed yesterday the state
17 was in the mist of their presentation so we'll continue
18 with the presentation of the evidence this morning.

19 Mr. Thompson.

20 SOLICITOR THOMPSON: May it please the court, Your
21 Honor. The state would call Detective Bruce Haire to the
22 stand.

23 (WHEREUPON, BRUCE HAIRE,
24 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

25 MADAM CLERK: Thank you.

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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DIRECT EXAMINATION

DETECTIVE BRUCE HAIRE BY SOLICITOR THOMPSON:

Q. Good morning, Detective Haire.

A. Good morning.

Q. Could you give your full name for the court and spell your last name please?

A. Bruce Darrell Haire, H-a-i-r-e.

Q. And, Detective Haire, where do you work?

A. I work at the Rock Hill Police Department.

Q. How long have you worked there?

A. Twenty years.

Q. And in your duties there what is your current status in the Rock Hill Police Department?

A. Currently I'm assigned to the homicide unit.

Q. How long have you been a detective?

A. Thirteen of those twenty years.

Q. And how long have you been with the homicide unit or some version of the homicide unit?

A. Well it's a newly formed unit.

Q. Okay.

A. It's a little over a year old and I been with it almost the whole time.

Q. Before that have you worked a number of homicides prior to that as well?

A. Yes.

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 Q. And, Detective Haire, can you tell me, now did you
2 become involved in this case when Minor passed
3 away?

4 A. The morning of January 23rd, 2013, I was paged out
5 to respond to in reference to a possible -
6 well to a child that was unresponsive and not breathing.

7 Q. All right. And when you were called out do you
8 remember when you arrived on scene?

9 A. I believe it was between 7:30 and 7:40 a.m.

10 Q. All right. Was the defendant still on scene when
11 you arrived?

12 A. No he was not.

13 Q. All right. Who was there when you got there?

14 A. There was a couple of officers, Forensic Investigator
15 Paula Neely, defendant's mother, her boyfriend and I
16 believe the defendant's brother.

17 Q. All right. And while you were there what did you
18 do? When you first arrived what is the first thing that
19 you do?

20 A. When I first arrived I spoke with Officer Zane Smith
21 and gathered what little information that he had and he
22 basically told me that there was a baby that was taken to
23 the hospital at the time was not breathing and
24 unresponsive. The information he had was that the baby had
25 fallen off the bed.

1 Q. Okay. So you got that information from one of the
2 officers on the scene?

3 A. Yes.

4 Q. And did you have any idea at that point whether the
5 baby was still alive at that point or had passed away?

6 A. I believe it was known then that the baby had not
7 survived.

8 Q. Okay. What did you do then as part of your duties
9 there at the house?

10 A. I went inside the house and talked with Investigator
11 Neely and then looked around the house. Went into the
12 bedroom where the supposed incident took place and got a
13 good view of the incident location.

14 Q. At this time did you even really know that this would
15 be ultimately a homicide case?

16 A. No.

17 Q. And can you tell me as you're there at the house
18 what did you decide to do next? Where did you go from
19 after you talked with the folks there at the house? Tell
20 me this, did you talk to any of the residents of the house
21 at the time while you were there?

22 A. I did. I talked with Ms. Linda Evans the defendant's
23 mother and spoke briefly to her boyfriend Mr. Neal.

24 Q. Okay. And then after that what did you do?

25 A. After that I knew I was gonna need some assistance

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 so I called Detective Josh Welch and ask him to respond to
2 the hospital and meet me up there.

3 Q. All right. And did you go to PMC at that point in
4 time?

5 A. Yes.

6 Q. Do you recall when it was that you arrived at Piedmont
7 Medical Center?

8 A. I believe it was approximately 8:30.

9 Q. Okay.

10 A. Between 8:20 and 8:30.

11 Q. So 8:30 that morning?

12 A. Yes, sir.

13 Q. What did you first do when you arrived there?

14 A. We responded to the ER room where Minor was at and
15 met with Deputy Coroner Chris West over and Kelly Fieldings
16 was in there as well as Paula Neely.

17 Q. Okay.

18 A. And some of the staff.

19 Q. And what if anything did you observed of Minor
20 at that time?

21 A. Immediately observed some bruising on the exterior
22 of her body. She had a linear bruise on her forehead with
23 a little bit of swelling. Some bruising on each side of
24 her body and also a bruise on the right side of her face.

25 Q. All right. And what did you do after that? After you

1 noticed that as a detective what if anything did that
2 indicate to you?

3 A. By the age of the child it was pretty obvious that
4 those were not done in an accidental manner.

5 Q. And can you tell me, what did you do next?

6 A. From there Detective Welch and myself went to a
7 waiting area where the defendant was being kept aside and I
8 believe there was one other person in there with him, I
9 don't recall who that was.

10 Q. Was it some place at the hospital, the place for the
11 family, the defendant?

12 A. Yes it was.

13 Q. Okay. And what was your purpose then in going to
14 speak with him at that time?

15 A. Just to gather information about what happened, how
16 the baby ended up falling off the bed. Just gathering
17 information basically.

18 Q. And was he in custody at that time?

19 A. No he wasn't.

20 Q. Did you place him in custody?

21 A. No.

22 Q. All right. Was he free to leave at any time after
23 that ---

24 A. Yes.

25 Q. --- if you talked to him? Did he in fact after

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 you spoke with him did he leave there?

2 A. Yes.

3 Q. And so you had not intended to arrest him at that
4 point. Correct?

5 A. Correct.

6 Q. As a matter of fact when you didn't have information
7 enough to arrest anybody at that point.

8 A. No. Huh-huh.

9 Q. So when you went to speak with him what other
10 detective was with you at that time?

11 A. Detective Welch.

12 Q. And did you record the conversation that you all had
13 with him?

14 A. Yes we did.

15 Q. And where was it that in the hospital again that you
16 all had a conversation with him?

17 A. It was a room set aside for family. I'm not sure
18 what they call it but it's a separate room away from the
19 normal waiting room for privacy matters.

20 Q. All right. Let me show you State's Exhibit Number
21 Fifty-five. If you could tell me what that is?

22 A. That's the interview with Mr. Evans in the room.

23 Q. Okay. And you've listened to the interview of course
24 after you recorded it. Correct?

25 A. Yes.

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 Q. And does it fairly and accurately depict the
2 interview that you had with Mr. Evans?

3 A. Yes.

4 Q. Now I believe there's a little bit of I don't know
5 static or something in it at one point. Do you recall what
6 that's from?

7 A. Detective Welch had the recorder in his pocket so
8 kind of ruffled around a little bit.

9 Q. And so it kind of ruffles in the pocket at points?

10 Okay. And - But other than this fairly and accurately
11 depicts the conversation you all had with the defendant?

12 A. Yes.

13 SOLICITOR THOMPSON: Your Honor, I'd ask to enter
14 State's Exhibit Fifty-five into evidence at this time.

15 MR. COOK: Without objection, Your Honor.

16 THE COURT: It's admitted.

17 (WHEREUPON, STATE'S EXHIBIT NUMBER FIFTY-FIVE,
18 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

19 SOLICITOR THOMPSON: And ask permission to publish.

20 THE COURT: You may.

21 (STATE'S EXHIBIT NUMBER FIFTY-FIVE PUBLISHED TO THE
22 JURY AT 09:55 A.M..) (STOP AT 10:13 A.M..)

23 BY SOLICITOR THOMPSON:

24 Q. And I believe the interview obviously concluded at
25 that point, Detective?

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 A. Yes.

2 Q. All right. And the voices that we heard at the end
3 obviously those were not yours. Who had come into the room
4 at that point in time?

5 A. It was the doctor. I believe it was a ER doctor and
6 a nurse.

7 Q. Okay. And so they were the ones telling the defendant
8 for the first time that the baby has not made it; is that
9 correct?

10 A. Yes.

11 Q. Okay. And while they were there did they ever
12 explain to him any of the injuries the baby had suffered or
13 why the baby did not live?

14 A. No.

15 Q. At any point had you told the defendant anything
16 that you had seen up to this point, the bruising at that
17 point, had you mentioned anything to him?

18 A. No.

19 Q. All right. And during that interview this was not
20 the same interview that Deputy Coroner West over did is it?

21 A. No. She was not - - -

22 Q. Okay. So she was not in there when you - at this
23 interview?

24 A. Correct.

25 Q. Okay. So this is something different than what she

1 testified to earlier?

2 A. Yes.

3 Q. And just to make things clear, I believe at the
4 beginning of it when some of the rustling is going on, was
5 he telling when the baby had arrived that week to his
6 house?

7 A. Yes. He told us the baby had been dropped off the
8 Monday prior to that Thursday.

9 Q. Okay. So he wasn't saying the baby had been
10 dropped off Wednesday the day before he was saying on
11 Monday?

12 A. Yes.

13 Q. All right. And as you said the purpose of that
14 interview was just to kind of find out what happened; is
15 that correct?

16 A. It was just for the purpose of getting information.
17 Correct.

18 Q. Okay. Now after that interview did you stay at the
19 hospital for a little while longer at that point?

20 A. After that interview that was when Deputy Coroner
21 West over talked to the mother and also Quentin and we were
22 there for a little bit of that and then we left.

23 Q. Okay. So your interview was actually in time before
24 the Deputy Coroner's interview?

25 A. Yes.

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 Q. Okay. And did you discuss with the deputy coroner
2 what he had told her in her interview as well?

3 A. Yes.

4 Q. And do you recall what time it was that you left
5 there? Did you stay around long enough for when the x-rays
6 were taken before you left?

7 A. I believe the first time I saw the X-rays was in the
8 autopsy as well.

9 Q. Okay. So you didn't realize any of the - as far as
10 the broken clavicle at that time?

11 A. Right.

12 Q. All right. So then after this where did you go?
13 What did you do from the hospital on?

14 A. From there went back to the police department met with
15 Sergeant Lubben told him what information we had at that
16 time. And a little bit later got a phone call from the
17 coroner's office saying the autopsy would be at one thirty
18 that afternoon.

19 Q. Okay. And I know you then ultimately went to the
20 autopsy. Correct?

21 A. Yes.

22 Q. And had you also talked to Deputy Coroner Chris
23 West over about the possibility of them doing a re-
24 enactment at that time or she told you --

25 A. She had mentioned it, yes.

1 Q. All right. So is that something you all do or is
2 that something they usually do?

3 A. In a child infant death the coroner's office is -
4 that's usually their protocol.

5 Q. All right. So had she informed you that they intended
6 to I guess try to have a re-enactment?

7 A. Yes.

8 Q. Now when you go to the autopsy is that the first time
9 you learn of the severity of the full injuries on the
10 child?

11 A. Yes.

12 Q. And at that point what do you decide to do after
13 attending the autopsy?

14 A. After attending the autopsy we - Detective Welch and
15 Detective Lubben and myself went back to the police
16 department and discussed with Lieutenant Vaughn everything
17 that we had observed at the autopsy and then we decided we
18 were gonna go and meet Deputy Coroner at the re-enactment
19 at the incident location.

20 Q. Okay. And did you do that?

21 A. Yes we did.

22 Q. And who went with you there?

23 A. Detective Lubben.

24 Q. All right. And the video that we watched earlier
25 in the week was that something that was taken while you

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 were there?

2 A. Yes.

3 Q. All right. And who was the detective or person
4 behind the police department camera?

5 A. That was Detective Lubben.

6 Q. All right. I know that they did a re-enactment with
7 the defendant, and at the end of that we hear that - I
8 believe it's Chris West over saying that she plans to have
9 a re-enactment with the defendant's mother as well as far
10 as what her part was. Was that filmed by the Rock Hill
11 Police Department as well?

12 A. It was.

13 Q. I show you State's Exhibit Fifty-six. If you can tell
14 me what's on that DVD?

15 A. That's the video re-enactment with Ms. Evans.

16 Q. All right. And did that fairly and accurately depict
17 the re-enactment as it happened in front of you?

18 A. Yes.

19 Q. All right.

20 SOLICITOR THOMPSON: Your Honor, I'd ask to put
21 State's Exhibit Number Fifty-six into evidence at this
22 time.

23 MR. COOK: Without objection, Your Honor.

24 THE COURT: It's admitted.

25 (WHEREUPON, STATE'S EXHIBIT NUMBER FIFTY-SIX,

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

2 SOLICITOR THOMPSON: As we prepare to publish that
3 Detective, I'm gonna ask just a few more questions.

4 Q. Did it take a long time to decide this second
5 re-enactment, did it take near as long as the first one?

6 A. No.

7 Q. No? Okay. And while you were back with at the
8 house at that time did you re-interview anyone at the house
9 during the time there when you went back with the Deputy
10 Coroner?

11 A. As far as a formal interview, no. I did ask the
12 defendant a couple of questions during his re-enactment.

13 Q. Okay. And again, at that time was the defendant in
14 custody during the time that he was at his house doing the
15 re-enactment?

16 A. No.

17 Q. Had you arrested him or planned to arrest him at
18 that point in time?

19 A. No.

20 Q. And I believe at the end of that as well I think we
21 heard you ask about him doing a formal statement; is that
22 correct, ---

23 A. Yes.

24 Q. --- down at Rock Hill? And we'll get to that in just
25 a moment as soon as we plug this.

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 (STATE'S EXHIBIT NUMBER FIFTY-SIX PUBLISHED TO THE
2 JURY AT 10:20 A.M..) STOPS AT 10:22 A.M..)

3 Q. That obviously a rather short re-enactment by the
4 defendant's mother. Is that Linda Evans?

5 A. Yes.

6 Q. Okay. And that's the person you had spoken to
7 originally when you first went to the house. Correct? And
8 talked to her about some of the facts of the case.

9 A. Yes.

10 Q. Now, Detective, as we saw and then we were speaking
11 about at the end of the re-enactment by the defendant you
12 had mentioned asking him to go down to the station and give
13 a formal statement. What was your purpose of doing that at
14 that point in time?

15 A. At that point based on what we had seen at the
16 autopsy and after speaking with him at the interview it was
17 quite obvious that things didn't happen the way that he had
18 described so we wanted him at the police department and get
19 an interview and get more information from him at that
20 time.

21 Q. All right. Would this be the first time that you
22 would confront him with some of the injuries that were
23 actually caused to the child?

24 A. Yes.

25 Q. So up to that point no one had confronted him with

1 any of the injuries that the child had; is that correct?

2 A. Yes.

3 Q. Now, when you took him to the police department and
4 I guess he needed a ride; is that correct? He didn't have
5 his own.

6 A. Yes. We brought him up to the police department.

7 Q. Did he go freely and voluntarily at that time?

8 A. Yes.

9 Q. Did you all force him in any way to go with you to
10 the police department?

11 A. No.

12 Q. And when you got to the police department what did
13 you do then while the defendant was there?

14 A. While the defendant was there we brought him to the
15 interview room and then myself, Detective Lubber, Detective
16 Welch had a discussion and we felt we had enough probable
17 cause at that time to go ahead and charge him so we
18 instructed Detective Welch to go ahead and start typing up
19 a warrant while we were conducting the interview.

20 Q. Was the defendant aware that you all were now starting
21 to get a warrant for his arrest or starting that process?

22 A. I don't believe so.

23 Q. Okay. When you went to the interview room with him
24 did you at that time then give him his *Miranda* rights?

25 A. Yes.

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 Q. And could you explain to the jury - This is State's
2 Exhibit Number fifty-seven first - Let me go to that - what
3 that is is two CDs and what's on those CDs.

4 A. It's the interview Detective Welch - I'm sorry,
5 Detective Lubber and myself conducted.

6 Q. All right. And that's with the defendant Mr. Evans?

7 A. Yes.

8 Q. And this is the interview that starts that afternoon
9 after he goes back to the station; is that right?

10 A. Yeah.

11 Q. All right. And you've had an opportunity to listen
12 to that interview and determine that it was fair and
13 accurate; is that correct?

14 A. Yes.

15 Q. All right.

16 SOLICITOR THOMPSON: Your Honor, we'd ask to inter
17 the interview into evidence at this time.

18 MR. COOK: Without objection, Your Honor.

19 THE COURT: It's admitted.

20 (WHEREUPON, STATE'S EXHIBIT NUMBER FIFTY-SEVEN,
21 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

22 BY SOLICITOR THOMPSON:

23 Q. Now how long is this interview, this process, do you
24 recall?

25 A. Approximately two hours and fifteen, twenty minutes.

1 Q. Okay. So it was a fair amount of time that you
2 talked to him at that point. Does it include other things
3 other than the interview in it as far as the things that
4 you're doing during that point in time? I mean in other
5 words would it include the Miranda rights being read to
6 him?

7 A. That's how we began the interview is reading him his
8 *Miranda* rights.

9 Q. All right. Now and I believe as well this is State's
10 Exhibit Fifty-eight, if you can tell me what that is?

11 A. This is the *Miranda* form that we read and have the
12 defendant sign.

13 Q. And then attached to that as well if you'll look
14 underneath.

15 A. That's a summary of his statement.

16 Q. All right. And that's something that you typed up?

17 A. Yes.

18 Q. And did he sign that as well and have an opportunity
19 to read over it?

20 A. Yes he did.

21 Q. All right. And then the last page on that if you
22 will tell us what that is?

23 A. This is a notary page basically says that they're
24 agreeing that we did not force the statement from them,
25 didn't mistreat them.

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 Q. Okay. Now is this - Did he sign those as well, the
2 forms there?

3 A. Yes.

4 Q. And is this something that you all did during the
5 course of the actual recorded interview as far as typing it
6 up?

7 A. Yes.

8 Q. So we might hear some typing going on in there at
9 some point and is that you?

10 A. Yes.

11 Q. All right. Typing up that statement?

12 A. Yes.

13 Q. Okay. If you would let's start with the beginning
14 of that with the Miranda rights. If you would read down
15 them to the jury as you read them to the defendant that
16 day.

17 A. "Before we ask you any questions you must understand
18 your rights. You have the right to remain silent, anything
19 you say can be used against you in court. You have the
20 right to talk to an attorney for advice before we ask you
21 any questions and to have them with you during questioning.
22 You have this right to the advice and presence of an
23 attorney even if you cannot afford to hire one. We have no
24 way of appointing you an attorney but one will be appointed
25 by the court for you if you wish. If you wish you may

1 answer questions without the presence of an attorney and
2 you may stop answering any time you desire until an
3 attorney is present." And then we have them sign that and
4 then there is another paragraph attached to that which we
5 read.

6 Q. And so the defendant did sign that at that time?

7 A. Yes he did.

8 Q. That he understood his rights?

9 A. Yes.

10 Q. And did he indicate to you at the end of that that
11 he still wished to speak with you at that time?

12 A. Yes.

13 Q. And I believe there's two paragraphs. Is that the
14 first paragraph that you went through just now?

15 A. Yes.

16 Q. If you would go through the second paragraph as well.

17 A. You want me to read it the same?

18 Q. As you did with the defendant, yes.

19 A. "I have read or had read to me the statement of my
20 rights show above. I understand what my rights are and I
21 am willing to make a statement. I do not want an attorney
22 at this time. I understand and know what I'm doing. I
23 know that the persons talking to me are police officers and
24 I understand what he is talking about."

25 Q. All right. And did the defendant sign under that as

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 well that he understood?

2 A. He did.

3 Q. And did he indicate that he still wished to speak with
4 you at that point in time?

5 A. Yes.

6 SOLICITOR THOMPSON: Your Honor, at this point I'd ask
7 to enter into evidence State's Exhibit - -

8 I believe it's Fifty-eight, is that correct,
9 Detective?

10 A. Yes.

11 MR. COOK: Without objection, Your Honor.

12 THE COURT: It's admitted.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER FIFTY-EIGHT,
14 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

15 BY SOLICITOR THOMPSON:

16 Q. Now, Detective, tell me kind of what's different with
17 this interview as compared to when you talked to him
18 earlier at the hospital or when you just observed the re-
19 enactment? As a detective what makes this interview a
20 little different than the others?

21 A. The initial interview was just to gather information,
22 try to get as much information about the facts as we can.
23 And then once we feel we have enough information then we
24 bring the person in that we believe may be responsible and
25 then at that point it becomes an interview interrogation

1 where an interrogation is more of a accusatory interview
2 rather than just gathering information cause you already
3 have some information. But enough information where you
4 can confront the person with some allegation.

5 Q. All right. And another difference would be anything
6 to do with the custody status of the defendant at that
7 time?

8 A. I'm sorry.

9 Q. Would another difference be something to do with the
10 custody status of the defendant at that time?

11 A. Yes.

12 Q. And if you would explain that to us.

13 A. At that point we went into interrogating in this case
14 especially in our minds we know the person is not free to
15 leave at that point and he is in custody even though he is
16 not aware that he is under arrest yet but he is in custody
17 and is not free to leave.

18 Q. So is that why you read the Miranda rights at that
19 time cause its considered a custodial interview at that
20 point?

21 A. Yes.

22 Q. All right. But the other times the defendant was not
23 in custody; is that correct?

24 A. Correct.

25 Q. And was free to leave you would have taken him any

DETECTIVE BRUCE HAIRE: DIRECT BY SOLICITOR THOMPSON

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1 of those times; is that correct?

2 A. Yes.

3 Q. Okay. Now, Detective, if you would you mentioned
4 that there was a summary of the interview that the
5 defendant signed. And is it common for you when even
6 though you're recording something to do kind of a summary
7 of the interview during the interview?

8 A. It is.

9 Q. And in this particular case did the defendant read
10 the interview after you had typed it out and agreed to it
11 and signed it?

12 A. Yes.

13 Q. Did you give him an opportunity to change anything
14 before it was signed?

15 A. Yes.

16 Q. And if you would, Detective, during this course at
17 any point did you threaten him or coerce him in any way to
18 give the statement?

19 A. No.

20 Q. Or talk to you that afternoon?

21 A. No.

22 Q. Did you promise him any hope of reward to talk to you?

23 A. No.

24 Q. Did you threaten him in any way to talk to you?

25 A. No.

1 Q. Was this something that he did freely and voluntarily?

2 A. Yes.

3 Q. If you would, Detective Haire, go through the summary
4 that you typed up and the defendant signed that day.

5 Before though let's go to just a couple of things that you
6 go over with the defendant prior to. Do you record his
7 date of birth at the or on the paperwork that you do?

8 A. Yes.

9 Q. Okay. What was his - What is his date of birth?

10 A.

11 Q. Would he have been about twenty-five at the time of
12 his interview?

13 A. Yes. Twenty-four, twenty-five.

14 Q. Now, what is - Go ahead and tell us what he said in
15 that interview. If you would read it to the jury for us.

16 A. "I laid Minor down around 9:30 last night. She
17 didn't really fall asleep until around 10:30. I last fed
18 her about ---- 40. I fixed her a bottle of milk
19 and a little cereal. She drank about three quarters of it.
20 She slept from 10:30 to about two this morning. She was
21 making little noises. I laid her down in my bed on her
22 left side. Her back was facing the wall. I laid down on
23 the bed but my head was toward her feet. I didn't want to
24 lay next to her face to face because I have a cold. I gave
25 her her pacifier and she went back to sleep. Sometime

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1 between 3:30 and 4:30 Minor woke back up. I went to the
2 kitchen to make her another bottle. Before I walked out of
3 the bedroom I made sure Minor was on her left side. I
4 made the bottle and started to warm it up. I heard
5 Minor starting to cry. I went back to check on her, I
6 walked in the bedroom and I didn't see her but I could hear
7 her crying. I looked down beside my bed and she had
8 somehow fallen between the wall and the bed. I reached
9 down and jerked her up by her arm by her right arm. I held
10 her in front of me and her head was real loose like nothing
11 was holding her head up. If I move Minor one way her
12 head would flop to one side or straight back. She wasn't
13 really crying but making little sounds. I thought she was
14 going back to sleep. I tried bouncing her on my lap but
15 they were real loose too. I laid Minor back down on her
16 left side and laid down next to her but this time we were
17 laying face to face. I don't know how long I fell asleep
18 for maybe five, ten or fifteen minutes. I opened my eyes
19 and saw Minor staring at me her eyes were wide open. I
20 looked at her and felt that something wasn't right. I put
21 my ear to her mouth but I didn't hear her breathing. Then
22 I put my fingers on her neck and didn't feel a pulse. I
23 opened up her sleeper and onesie and I put my ear to her
24 chest. I still didn't hear anything. I ran to my mom's
25 room and told her something was wrong with Minor My

1 mom went and picked Minor up and she was limp. My mom
2 brought her into the living room and told me to call 911.
3 I would never intentionally hurt my daughter. Sometimes I
4 play too rough with her by tossing her up in the air. I
5 did that to her yesterday when we were watching *Fast and*
6 *Furious*. I tossed her up about four times and then sat her
7 down on my lap to watch the movie. If playing rough with
8 her caused this then I did it but I didn't shake my baby.
9 I never even spanked her. I don't drink or do any pills
10 but I do smoke a blunt now and then. The last time I
11 smoked one was yesterday between 1:00 and 2:00 p.m.."

12 Q. All right. Now, Detective, going back to kind of the
13 middle of the statement where the defendant said "I tried
14 to bounce her on my lap but they were loose too". What is
15 he referring to being loose?

16 A. Her legs.

17 Q. Her legs? Okay. And as well if we could go to the
18 part where he mentions that he was playing rough with her
19 and tossing her in the air, you know the bottom of the
20 statement. Did he describe to you or showed you what he
21 meant by tossing her in the air?

22 A. Yes he did.

23 Q. And what did he show you?

24 A. He demonstrated with his arms throwing her up in the
25 air. I ask him how far he threw her and he demonstrated

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1 and showed me about eight or nine inches.

2 Q. All right. And did you ask him specifically eight
3 or nine inches when you were talking to him?

4 A. Yes I did.

5 Q. And he said that's how high he would throw the baby
6 up?

7 A. Yes.

8 Q. And in addition to that did he mention anything to you
9 regarding any instruction anyone had given him regarding
10 either shaking or tossing the baby?

11 A. Yes. He had - He had said that a couple of weeks
12 prior to that that Kierra Banks the baby's mother had
13 warned him about throwing or tossing Minor up in the
14 air, that it could cause a neck injury or he said that it
15 was the first time that he had heard the term shaken baby
16 syndrome.

17 Q. Okay. So the baby's mother Kierra had told him. Is
18 that what he said?

19 A. Yes.

20 Q. Okay. And what if anything did he say he did as a
21 result of that conversation?

22 A. He said in his words he said he slowed down meaning
23 I guess he didn't do it as much but he still continued
24 doing it now and then.

25 Q. Okay. Now if you would, this as you said before

1 and showed me about eight or nine inches.

2 Q. All right. And did you ask him specifically eight
3 or nine inches when you were talking to him?

4 A. Yes I did.

5 Q. And he said that's how high he would throw the baby
6 up?

7 A. Yes.

8 Q. And in addition to that did he mention anything to you
9 regarding any instruction anyone had given him regarding
10 either shaking or tossing the baby?

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12 prior to that that Kierra Banks the baby's mother had
13 warned him about throwing or tossing Minor up in the air,
14 that it could cause a neck injury or he said that it was
15 the first time that he had heard the term shaken baby
16 syndrome.

17 Q. Okay. So the baby's mother Kierra had told him. Is
18 that what he said?

19 A. Yes.

20 Q. Okay. And what if anything did he say he did as a
21 result of that conversation?

22 A. He said in his words he said he slowed down meaning
23 I guess he didn't do it as much but he still continued
24 doing it now and then.

25 Q. Okay. Now if you would, this as you said before

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1 - Before we do that we'll go on to a couple of other
2 things. He had mentioned to you that he had smoked a
3 blunt. For those who might not know can you describe as a
4 detective do you know what a blunt is?

5 A. Yes.

6 Q. And can you describe what that is exactly?

7 A. Typically a blunt is a hollowed out cigar or cigarette
8 where somebody that's smoking marijuana they will take out
9 the tobacco from the cigar or the cigarette and then fill
10 it with marijuana and they roll it back up and smoke it.

11 Q. Okay. So basically a cigar or cigarette that you
12 empty out the tobacco and put marijuana in it and smoke it?

13 A. Yes.

14 Q. So he's admitting that he smoked marijuana the day
15 before; is that correct, ---

16 A. Yes.

17 Q. --- the day before this occurred? And can you tell
18 me as well, it mentions here that he did not drink or do
19 any pills. Did he talk about at any point whether he also
20 smoked cigarettes?

21 A. Yeah. He said he didn't smoke cigarettes as well.

22 Q. All right. So he said he didnt' smoke any cigarettes?

23 A. Yes.

24 Q. Did he deny the use of any other drugs or alcohol at
25 that point?

1 A. Yes.

2 Q. All right. So basically the only thing he tells you
3 he does is he smoked a blunt every once in a while?

4 A. Yes.

5 Q. All right. Now as you mentioned this is just kind
6 of a summary cause it was a fairly lengthy interview.
7 Correct?

8 A. Yes.

9 Q. And so would this include everything that was in the
10 interview?

11 A. No it's just a summary.

12 Q. All right. Can you tell me where there any other
13 things that kind of stood out to you in the interview in
14 your mind that you think would be important for the jury to
15 know?

16 A. Some of the things that came to my attention was
17 the fact that he had to open the door when he ran back in
18 or went back into the room after making a bottle meaning
19 that the door was shut and then having to open the door or
20 reopen the door to go back in.

21 Q. So that's the door to his bedroom?

22 A. Yes.

23 Q. So when he went to make a bottle for Minor he
24 was saying that he shut the bedroom door?

25 A. Yes.

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1 Q. Okay. What else stood out to you in that interview?

2 A. There was some unsolicited comments that he made
3 which kind of peaked my curiosity and interest was he
4 volunteered some information such as I did not choke her, I
5 did not do that, I wouldn't grab her head and shake it and
6 I had never mentioned - I told him that I didn't say that
7 she was choked or, you know, I didn't mention anything
8 about her face being grabbed or shaken.

9 Q. Now you would have mentioned something about the baby
10 being shaken at one point. Correct?

11 A. Yes.

12 Q. But you didn't say anything about grabbing the face
13 and shaking?

14 A. Correct. He also mentioned - I did mention at one
15 point about her clavicle - collar bone being broken and
16 when I mentioned that he made the comment somewhat to the
17 effect that I knew her collar bone was broken I even told
18 my Aunt Rosetta that. I don't know how he would have had
19 any inclination that she had that type of injury. He
20 admitted more than once that Minor was playing and acting
21 normal. They were watching movies, they were playing the
22 bouncing game, he was tossing her up in the air playing
23 with her that way. He mentioned a couple of times about
24 Kierra Banks warning him about tossing the baby up and
25 maybe causing a neck injury.

1 Q. Going back just briefly to when he said he had smoked
2 the marijuana between 1:00 and 2:00 p.m. on that Wednesday
3 before, had he mentioned anything to you about where the
4 baby was or what was happening with the baby at that point
5 in time?

6 A. He said the baby was in his care the whole time with
7 the exception of about thirty minutes and during that
8 thirty minutes he said either his mom or his brother would
9 probably been watching him, or watching her.

10 Q. Did he say - At that time did he say who was or what
11 was the baby doing the time that he smoked marijuana?

12 A. Sleeping.

13 Q. Sleeping? Okay. Did he say whether he smoked the
14 marijuana inside or outside?

15 A. He said he smoked it outside.

16 Q. So he would have left the baby alone in the bed
17 sleeping?

18 A. Yes.

19 Q. And would that have been one of the times that either
20 his mom or brother was supposed to be watching the baby?

21 A. Yes.

22 Q. And through your investigation was there ever a time
23 that you had any indication that there was anything wrong
24 with the baby prior to when the defendant says the baby
25 falls off the bed?

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1 A. No.

2 Q. All right, Detective, were there any other things that
3 kind of stood out to you during the - during your interview
4 with the defendant at that point?

5 A. There was one other comment that he made that he said
6 "when I put her back to the bouncing on her legs she was
7 right because she had my thumbs with her hands when they
8 were playing the bouncing game."

9 Q. And did he indicate to you or show you what he meant
10 by that?

11 A. Yes. He demonstrated how she was holding his thumbs.

12 Q. Okay. Can you describe that to the jury?

13 A. I guess he had her like this.

14 (WITNESS DEMONSTRATED.)

15 A. And then she had a hold of his thumbs while he was
16 bouncing her on her knees.

17 Q. Okay. And he said she was doing fine with that at
18 the time he had done that?

19 A. Yes.

20 Q. And when did he say he had done that?

21 A. I believe it was when they were - later that night
22 when they were watching the *Fast and Furious* movie.

23 Q. Okay. Now, Detective, when you were interviewing
24 in a situation like this you said at this point you have
25 given him some of the information as to what has occurred

1 and the injuries that the child now at this point during
2 this interview what else did you do as a detective to try
3 and get him to tell you things? What do you do? I mean
4 what is the technique you try to use to get someone who
5 doesn't know you from Adam to suddenly talk to you?

6 A. Well there's different techniques that we use. One
7 technique to try to gain their trust or, you know, show
8 we're on their friendly side. We try to minimize the
9 situation. For example if we have somebody that we know
10 shot and killed somebody and it was a straight out murder
11 we may try to minimize it by saying we know you shot the
12 person but we believe it was in self defense. You know try
13 to minimize it, try and get 'em to talking cause if they
14 hear well we know you shot that guy in cold blood they're
15 less likely to give us any information so we try to
16 minimize the situation and try to elicit more information.

17 Q. And did you do things of that nature during this
18 interview as well?

19 A. I did.

20 Q. All right. And what kind of things did you tell
21 him during this interview?

22 A. I was basically telling him that I knew he was a good
23 father and I did not believe this was intentional and that
24 accidents do happen. Just trying to minimize it in that
25 way.

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1 Q. So not necessarily something that you believe but
2 rather something to try and minimize the situation to get -
3 to see if information could be obtained?

4 A. Yes.

5 Q. And some of this information you told us and you've
6 gone over, that I guess was obtained as a result of some of
7 the tactics or some of the things that you did?

8 A. Yes.

9 Q. So should we be shocked that those things are being
10 said at some points during the interview?

11 A. I believe it was said several times.

12 Q. Okay. Now, Detective, following that interview or
13 near the end of that interview, was the defendant
14 ultimately served with a warrant at that point in time?

15 A. He was.

16 Q. But did you also allow him to use his phone there at
17 the end of the interview as well?

18 A. Yes. He had received a couple of phone calls
19 during the interview and I think maybe a couple of text
20 messages.

21 Q. All right. So we would hear a phone kind of going
22 off every once in a while in the interview; is that
23 correct?

24 A. Yes.

25 Q. And that's not your phone?

1 A. No.

2 Q. Okay. Is that the defendant's phone during that
3 period of time?

4 A. Yes.

5 Q. All right. And at the end of that interview did you
6 discuss anything with him regarding taking his phone?

7 A. Yes I did.

8 Q. And what did you ask him at that point?

9 A. I ask him if we could take his phone to search his
10 phone, getting information off his phone that might be
11 relevant to the investigation.

12 Q. And did he agree to give consent to search the phone?

13 A. He signed a consent to search for it.

14 Q. I show you State's Exhibit Number Fifty-nine.

15 If you could tell me what that is?

16 A. It's a consent to search form that we typically use
17 at the police department. It states on here what we intend
18 to search and noting more and what's stipulated on here and
19 the defendant did sign it.

20 Q. All right. So you were able to get the defendant's
21 phone at that time?

22 A. Yes.

23 Q. And did you then put the defendant's phone into
24 evidence?

25 A. Yes.

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1 Q. All right. And, Detective Haire, after this
2 particular interview and after the defendant's arrest did
3 you continue to investigate in this case?

4 A. Yes.

5 Q. And can you tell us what are some of the things that
6 you did following that to continue your investigation?

7 A. Following this a few days later we had a baby death
8 review at Piedmont Medical Center.

9 Q. All right. And was that the one that Deputy Coroner
10 West over was talking about?

11 A. Yes.

12 Q. And who all or do you recall who all as far as
13 agencies that were there or representatives from those
14 agencies?

15 A. The coroner's office of course, pathologist office,
16 EMS personnel, fire department, police department, DSS,
17 maybe one or two other agencies that I can't recall right
18 now.

19 Q. All right. And do you all share the information that
20 each one gained at that point in time?

21 A. Yes.

22 Q. So you were able to help expand your investigation
23 by getting information from others then; is that correct?

24 A. Yes.

25 Q. And as a result of that did you actually go out and

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1 perform more interviews?

2 A. I did.

3 Q. And do you recall who some of the people that you
4 since that time have interviewed?

5 A. Since that time I interviewed the defendant's brother,
6 Ms. Banks mother and sister, as well as Ms. Banks herself.

7 Q. Okay. And do you go back at some times and I know as
8 things are getting prepared for trial do you go back again
9 and reinterview some of the people at that point in time?

10 A. Yes we do.

11 Q. And have you done that in this case as well?

12 A. Yes.

13 Q. All right. Just to cover --

14 SOLICITOR THOMPSON: I just want to make sure
15 that the audio tapes have been moved into evidence at this
16 time. Madam Court Reporter, have they?

17 MADAM COURT REPORTER: All but Fifty-nine.

18 SOLICITOR THOMPSON: All right. And, Your Honor, I'd
19 ask that State's Number Fifty-nine be entered into evidence
20 at this time.

21 MR. COOK: I apologize, Your Honor. Fifty - Is it
22 Fifty-nine the full interview that was given at the police
23 -

24 SOLICITOR THOMPSON: No. That's already in. Fifty-
25 nine is the consent form.

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1 MR. COOK: Oh. Without objection.

2 THE COURT: It's admitted.

3 (WHEREUPON, STATE'S EXHIBIT NUMBER FIFTY-NINE,
4 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

5 SOLICITOR THOMPSON: Thank you, Detective. Please
6 answer any questions the defense has for you.

7 CROSS-EXAMINATION

8 DETECTIVE BRUCE HAIRE BY MR. COOK:

9 Q. Good morning, Detective.

10 A. Good morning.

11 Q. Detective, at what point again did you determine to
12 pursue an arrest on my client in your investigation?

13 A. After we got back to the police department with the
14 interview.

15 Q. So you didn't go to the scene necessarily thinking
16 that a crime had happened when you received that call 7:30
17 that morning?

18 A. Correct.

19 Q. You were testifying just a minute ago that you got a
20 call for a possible and then you paused. Were you about to
21 say a possible homicide?

22 A. I don't believe so.

23 Q. In your job as a detective its basically your job to
24 investigate matters; is that correct?

25 A. Yes.

1 Q. Crime scenes, alleged crimes. As part of your
2 investigation do you try to reconstruct the crime as it
3 happened, the alleged crime as you believe it happened?

4 A. Physically reconstruct it?

5 Q. Yes, sir.

6 A. Not necessarily.

7 Q. What I'm getting at, you took a re-enactment video;
8 is that correct?

9 A. Yes.

10 Q. And what was the purpose of the re-enactment video?

11 A. Well like we said earlier it was protocol of the
12 coroner's office.

13 Q. Uh-huh.

14 A. And we just wanted to record it as long as they were
15 doing it as well.

16 Q. If the coroner's office had not done a re-enactment
17 video would you have considered doing one?

18 A. Probably not.

19 Q. Wouldn't a re-enactment video be good police work?

20 A. Yes.

21 Q. Then why wouldn't you have considered to do one?

22 A. We don't do one in ever case. It's rare that we do
23 do a video re-enactment.

24 Q. In the re-enactment video at seven minutes and fifty
25 seconds my client says "they had come back and moved the

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1 bed". Did you or did Detective Neely or Lubber or any of
2 the detectives that were in that bedroom that day move the
3 bed any?

4 A. I don't believe that it was referring to that. I
5 think it was referring to the safe under the bed.

6 Q. I believe he was referring to the bed. But my
7 question remains, did you remove the bed any?

8 A. No.

9 Q. Did you move the bed any?

10 A. I'm not aware that we did.

11 Q. Did you move the bed before you took the photograph of
12 the four inch space between the bed and the wall?

13 A. I did not.

14 Q. Did any of your detectives or police officers that
15 you're aware of under your duty move that bed?

16 A. Not that I'm aware of. I mean obvious by the
17 picture it's obvious it was moved.

18 Q. You were present in the courtroom yesterday; is that
19 correct?

20 A. Yes.

21 Q. You heard my cross examination of Doctor Hart the
22 forensic pathologist for the state?

23 A. Yes.

24 Q. Do you - You use the word linear today. You heard
25 him discuss the linear wound to the forehead?

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1 A. Yes.

2 Q. When did you first become aware of this wound?

3 A. In the emergency room.

4 Q. Did you do the re-enactment video after you were in
5 the emergency room?

6 A. Yes.

7 Q. And did you not take into account my client's
8 portrayal of the events when you were doing your
9 investigation?

10 A. Sure.

11 Q. Did you hear him say in the interview "I ran and
12 jumped on the bed boom?"

13 A. Yes.

14 Q. Did that not make you think in addition with the
15 linear knot on the head that possibly the child could have
16 been wedged in between the bed and shoved it up against the
17 headboard or of the floor molding?

18 A. Not in conjunction with all of the other injuries she
19 suffered.

20 Q. How would you explain at that point linear injury
21 then? Wasn't your main premise a baby shaken case?

22 A. I couldn't explain it then I can't explain it now.

23 Q. What were some of the things that my client Mr Evans
24 said that didn't make - gave you some concern or didn't
25 happen how he described it that wasn't consistent I

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1 suppose?

2 A. He gave inconsistencies of the times. One time he
3 stated it happened between two and three and another time
4 he said it happened between 4:30 and 5:00. Another time he
5 said it happened - he fed the baby at six.

6 Q. Are you done? I'm asking are you done listing them
7 all, sir.

8 A. Those are some of the major ones, yes.

9 Q. Those are the things that you said were quote unquote
10 quite obvious that his story didn't add up and warranted an
11 arrest for homicide?

12 A. Those were some of the red flags.

13 Q. Are there others?

14 A. There were some, yes.

15 Q. Can you name them?

16 A. Sure. As I previously stated he had mentioned the
17 collar bone being broken to his aunt. How would he know
18 that the collar bone had been broken? As I mentioned he
19 said there were several different times that this occurred.
20 There was an hour difference between - He was adamant the
21 time that he ran to get his mother as 5:37 but then there
22 is an hour delay before they call 911.

23 Q. In regards to the collar bone did you hear him say
24 he gave the three count test when he was on the bed?

25 A. Yes.

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1 Q. Do you remember when he raised the arm up and it fell
2 down three times like wrestling and calls that the three
3 count test?

4 A. Yes.

5 Q. Do you - Do you think that that's perhaps how he
6 thought maybe the collar bone was broken when he said yeah
7 I thought that might be broken?

8 A. I think he thought that because he knew the baby
9 wasn't alive at that time.

10 Q. So it had nothing to do with the three count test with
11 the baby's arm then his assumption about the collar bone?

12 A. His correlation the collar bone?

13 Q. Yes, sir.

14 A. He never mentioned that he did.

15 Q. He never mentioned - I'm sorry. What didn't he ever
16 mention?

17 A. Can I ask what you're trying to get to cause I don't
18 understand what you're saying.

19 Q. Sure. Let me rephrase it. I don't mean to be
20 ambiguous. I believe you said that you have no idea how my
21 client could have known the collar bone was broken when he
22 mentioned it to somebody. And I ask you do you remember
23 him talking about giving the baby the three count test.

24 A. Sure.

25 Q. And my question is do you think that that is a way

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1 that a person could assume that a collar bone has been
2 broken when the arm doesn't function?

3 A. I don't see how an untrained person would be able
4 to know that.

5 Q. I'll move along. In regards to 5:37 that's rather
6 accurate with the minutes. Wasn't the testimony that the
7 ambulance was called at 6:37?

8 A. Yes.

9 Q. Okay. Does the number five and the number six
10 look alike especially on a digital clock?

11 A. I suppose it could.

12 Q. Do you think after somebody has had fifteen hours -
13 fifteen minutes sleep through an entire night and during
14 the middle of the worst tragedy they've even been through
15 they might get the time wrong when they glance at a clock
16 while they're running to get their mother?

17 A. I can't testify to what his demeanor was at the time.

18 Q. Well these are the things, sir, that you said were
19 quite obvious in the contradictions. Am I correct?

20 A. Uh-huh.

21 Q. Are there any others?

22 A. Yes there are some. The fact that the baby appeared
23 to be fine prior to the incident. The falling of the baby
24 between the bed he was playing the bouncing game and
25 tossing the baby up in the air.

1 Q. Did he not say I was tossing the baby - Wasn't it
2 your testimony that he said I was tossing the baby up in
3 the air during the Fast and the Furious?

4 A. Not during. It was before that and then they settled
5 down and watched the movie.

6 Q. Okay. Did he watch the Fast and the Furious between
7 the time he jerked the baby up from the bed and he went to
8 go get his mother?

9 A. No.

10 Q. Do you think that its strange that the baby was fine
11 along about perhaps 3:00 p.m. the day before when they're
12 watching a movie? That's one of the things that you say
13 are quite obvious?

14 A. I don't understand your question.

15 Q. I'll move along. He shut the bedroom door. What part
16 of the interview did he say that?

17 A. It was in the two hour one.

18 Q. Okay. Do you remember specifically what minute?

19 A. Approximately around fourteen minute twenty second.

20 Q. Okay. Did my client know before he was taken into
21 custody that he was being audio recorded? I noticed that
22 you said that the recorder was in one of your detective's
23 pockets.

24 A. No.

25 Q. Were there any other drugs detected in his system

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1 as a result of the drug test that was given to him?

2 A. No.

3 Q. And again, can you tell from the results of your
4 test how recently he had smoked the blunt?

5 A. Only from what he said. One to two o'clock that
6 afternoon.

7 Q. Did my client ever say that he grabbed the baby's face
8 pawing the face? I believe the coroner indicated to
9 something of that effect as well. Did my client ever say
10 that?

11 A. He said I wouldn't grab her head and shake it.

12 Q. And you noticed that he volunteered and you thought
13 as according to your testimony that it was strange that he
14 kept volunteering that he was innocent. Correct?

15 A. I didn't say that.

16 Q. Oh, I'm sorry. If someone was in this situation had
17 already been to a hospital and back, had a room full of
18 police officers around him, regardless of whether he had
19 been taken into custody at that point or not, do you think
20 that that person should assume that they're under
21 investigation after their child had passed away with
22 bruises on it?

23 A. I can't testify to what he assumed at that time.

24 Q. If someone believed that they were a suspect is it
25 normal for them to offer statements to the contrary in an

1 attempt to try to persuade you not to arrest them?

2 A. Will you rephrase that, please?

3 Q. I'm sorry. If someone is - believes that they are
4 under investigation, with all of your years of experience,
5 don't you think it would be typical and normal that they
6 would try to offer an explanation to persuade you not to
7 arrest them?

8 A. Quite the contrary. It's rare that we get people
9 to cooperate with us. We get people lying to us all the
10 time. That's just part of the business.

11 Q. Well you arrest a lot of guilty people don't you?

12 A. Yes.

13 Q. You heard Doctor Mante's testimony yesterday.
14 Correct?

15 A. Yes.

16 Q. Didn't he say that he preps all of his mothers and
17 Ms. Banks was one of them in regards to shaken baby?

18 A. Yes.

19 Q. And didn't Ms. Bank's testimony that she talked with
20 my client about shaken baby weeks before this happened and
21 she didn't like him throwing him up like that?

22 A. Yes.

23 Q. Didn't - Did my client say the word shaken baby during
24 the interview?

25 A. Yes.

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1 Q. Did you take that as he was trying to misrepresent
2 something in order to throw you off the chase, the
3 investigation?

4 A. No.

5 Q. Again, regarding the unsolicited comments as you
6 said where he was trying to describe that I didn't shake
7 her or choke her or anything, hadn't you already at that
8 point told him that there were bruises on the child?

9 A. Yes.

10 Q. Where did my client go when he was free to leave
11 from the hospital?

12 A. You'd have to ask him. I don't know.

13 Q. Was it the first officer's testimony that he didn't
14 even have a ride to the hospital and the officer had to
15 give him a ride?

16 A. You ask me where he went after the hospital. I don't
17 know.

18 Q. Do you - I'm just asking do you know how he got home?
19 Did anybody give him a ride back home?

20 A. There were several family members there so I assume
21 one of them did.

22 Q. I see. I understand. You said in your testimony
23 that it was obvious to you during the course of your
24 investigation that these injuries were not accidental; is
25 that correct?

1 A. I believe I testified they could not have occurred
2 the way he portrayed it.

3 Q. If I said you used the phrase its obvious they were
4 not accidental would you disagree with me?

5 A. I could have said that.

6 Q. Again, I ask you, you were aware of the linear injury
7 and you were aware that he stated the baby was between the
8 bed and the wall before you came to the conclusion to
9 arrest him; is that correct?

10 A. Yes.

11 Q. Is this a bad neighborhood where this incident took
12 place? For lack of a better word a high crime area.

13 A. Not as bad as it used to be. It's gotten a lot
14 better over the years.

15 Q. It's gotten a lot better over the years. Do you make
16 a lot of arrest out of this neighborhood on a daily basis?
17 Or any arrest on a daily basis?

18 A. Not a daily basis, no.

19 Q. When you were preparing Quentin's statement and you
20 were typing it up, did you add or change, add to anything
21 he said or changed anything he said?

22 A. I believe there was one correction that he made. I
23 mistaken and typed left arm instead of right arm and he
24 corrected that.

25 Q. All right. So and then my client read it and signed

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1 it and affirmed it.

2 A. Correct.

3 Q. Correct? Is the verb jerked in your statement, the
4 statement that you typed regarding the verb as to how he
5 lifted the child from the space between the bed and the
6 wall?

7 A. Yes.

8 Q. Again, sir, how many years experience, sixteen as
9 a detective, twenty at Rock Hill; is that correct?

10 A. Thirteen as an investigator.

11 Q. And did you work anywhere before Rock Hill? How long
12 have you been in law enforcement?

13 A. Twenty years.

14 Q. Okay. Have you come across what's classified as
15 shaken baby cases on the past?

16 A. I have not been a case agent over such a case but I've
17 been involved in other cases.

18 Q. How many have you been involved in?

19 A. Maybe three.

20 Q. Have you ever seen an incident where the child has
21 fallen off of a bed in between the bed and the wall in any
22 of those prior cases?

23 A. No, sir.

24 Q. Have you ever seen an incident when a child has fallen
25 off of a bed not in between the bed and the wall?

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1 A. I've had incidents where I've investigated cases where
2 babies have fallen off beds and off changing tables ---

3 Q. Okay.

4 A. --- that did not result in serious injury.

5 Q. I understand that but in none of those cases was the
6 baby between the bed and the wall, am I correct?

7 A. Yes.

8 Q. Did my client - Or he gave you during the course of
9 this interview back at the police station a couple of
10 hypotheses as to how he thought the injuries could have
11 been sustained; is that correct, when he was trying to
12 explain to you?

13 A. A couple of different ones?

14 Q. Well I'm just - He was trying to explain it to you.

15 You mentioned that that he said it, that you thought
16 that was rare; is that correct?

17 A. I'm not sure.

18 Q. Did he ever try to explain to you what happened?

19 A. Yeah.

20 Q. Okay. Did he ever in his explanation say what caused
21 the decedent to pass was me running and jumping on the bed
22 and the bed wedged the baby between the bed and the wall?
23 Did my client ever come up with that to you?

24 A. No.

25 Q. You said since that interview, the interview to which

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1 I referred, you have investigated other people, for
2 instance, Ms. Banks, her mother, and Ms. Banks' sister; is
3 that correct?

4 A. I didn't investigate them as part of the
5 investigation. I interviewed them.

6 Q. I understand. When was the first time you interviewed
7 them?

8 A. As far as a formal interview?

9 Q. Yes.

10 A. A few weeks ago or a week to two weeks ago.

11 Q. And when did this alleged crime occur?

12 A. January 23rd, 2013.

13 Q. Why would you wait a year?

14 A. Like I said these types of interviews where we have
15 information that leads directly to one person ---

16 Q. Uh-huh.

17 A. --- right at the time and we have enough evidence
18 at the time. There's other types of investigations where
19 we start down the road gathering information that leads to
20 a dead end or a different person so we go in that direction
21 and continue to interviewing people and in this case it was
22 more or less just a followup investigation type interview.

23 Q. Did you ever have cause recently to think that the
24 defense might put forth the theory of that there was a
25 larger window than just a twenty-four hours that the child

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1 was at my client's house or perhaps maybe more forty-eight
2 hours?

3 A. Yes there was some speculation.

4 Q. Do you think that's what caused you to out a year
5 later to interview the Banks' family?

6 A. As far as the investigation just to cover the bases
7 sure.

8 Q. Okay. Did it upset them that you were going out to
9 interview them and had questioned them as suspects?

10 A. They weren't being questioned as suspects.

11 Q. I thought that you just said that one of the reasons
12 you went out there was because you thought maybe that the
13 time between the injury and the autopsy might have been
14 forty-eight hours and you had to cover that base. Were
15 they not suspects?

16 A. No, sir.

17 Q. Then why did you ride out and talk with them about it?

18 A. To find out what the condition of the child was to
19 make sure that the child was okay as the defendant had
20 testified.

21 Q. Did Ms. Coleman lie on the stand yesterday when I ask
22 her if she slept with the child or whether she made that
23 statement to you?

24 SOLICITOR THOMPSON: Objection to that
25 characterization, Your Honor. He can ask what Ms. Coleman

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1 said to him if there's any impeachment issue he wishes to
2 get to. He can't say did she lie. That's a mis-
3 characterization.

4 THE COURT: Sustain.

5 BY MR. COOK:

6 Q. Did you interview Gloria Coleman the maternal
7 grandmother of the decedent?

8 A. I interviewed Gwendolyen Coleman.

9 Q. I apologize I missed her name. During the course of
10 your interview did she tell you that she slept with the
11 child?

12 A. Yes.

13 Q. And on her stand yesterday was there testimony that
14 she doesn't sleep with the child?

15 A. Yes.

16 Q. Was it her daughter's testimony that nobody in my
17 house sleeps with the child?

18 A. Yes.

19 Q. Do you know when Ms. Kierra Banks was made aware
20 of the evidence against my client?

21 A. I had a meeting with her the next day after the
22 defendant's bond hearing and made her aware of the injury.

23 Q. Did you hear her say on the stand yesterday that
24 initially I didn't think Quentin was capable of this but
25 after I saw the evidence I've started to change my mind?

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1 Did you hear her say that statement?

2 A. I did.

3 SOLICITOR THOMPSON: Your Honor, I'm going to object
4 to this line of questioning. The jury's already heard what
5 her testimony is. I don't understand how this is relevant.

6 MR. COOK: I'm -

7 THE COURT: Over ruled. Go ahead.

8 BY MR. COOK:

9 Q. Did you hear her say that statement?

10 A. Yes.

11 Q. But you said that she first heard about the evidence
12 the day after the death.

13 A. She did not hear about the evidence. She - I
14 described some of the injuries but as far as all the
15 evidence no.

16 Q. Thank you. Did you hear Ms. Banks, Kierra Banks say
17 that she never received a phone call from my client the
18 morning that this was transpiring?

19 A. I don't recall what her exact testimony was.

20 Q. In the call logs is there a call made from my client
21 to Ms. Banks that hour that morning?

22 A. Yes.

23 MR. COOK: Thank you, Your Honor. No further
24 questions.

25 I apologize, Your Honor, I do have if I may before the

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1 state begins.

2 Your Honor, I am proposing at this time to play the
3 second interview and it is quite lengthy and I was hoping
4 that given that, Your Honor, might be inclined to give a
5 break before the jury -

6 THE COURT: Well I am most definitely inclined to give
7 a break.

8 MR. COOK: Yes, sir.

9 THE COURT: Let me ask the jurors, please go to your
10 jury room but do not yet discuss your case. I'll bring you
11 back shortly.

12 (JURY EXITS COURTROOM AT 11:16 A.M..)

13 THE COURT: Mr. Cook, which exhibit is that?

14 MR. COOK: I apologize, Your Honor. I was just
15 trying to ask, Fifty-eight I believe. The second one.

16 SOLICITOR THOMPSON: Its Fifty-seven, Your Honor.

17 MR. COOK: Fifty-seven.

18 THE COURT: Okay. We're gonna take a ten minute.

19 You can step down but you can't discuss your testimony
20 during the break cause you're still on the witness stand.

21 MR. COOK: And, Your Honor, while the jury is still
22 out this interview is two hours and five minutes long. If
23 it starts at eleven thirty that will be one thirty. I was
24 seeing if Your Honor would want to take a break during the
25 middle of the interview for lunch or not. I just wanted to

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1 bring that --

2 THE COURT: Yeah, I'm not gonna go to one thirty.

3 MR. COOK: Yes, sir. One thirty I believe will be -

4 THE COURT: We'll break it up.

5 MR. COOK: Yes, sir.

6 THE COURT: If we need to. Do you want to play it in
7 it's entirety?

8 MR. COOK: Yes, sir.

9 THE COURT: Okay. We'll be at ease for ten minutes.

10 (COURT IN RECESS AT 11:17 A.M..)

11 (COURT BACK IN SESSION AT 11:34 A.M..)

12 THE COURT: Thank you. You can be seated.

13 All right, and it is Exhibit Fifty-seven?

14 MR. COOK: Yes, sir, Your Honor.

15 THE COURT: All right. Bring the jury in please.

16 (JURY REENTERS COURTROOM AT 11:36 A.M..)

17 THE COURT: All right, Mr. Cook.

18 CROSS-EXAMINATION - CONTINUES

19 DETECTIVE BRUCE HAIRE BY MR. COOK:

20 Q. Detective Haire, earlier the solicitor introduced
21 into evidence State's Exhibit Number Fifty-seven. And I
22 believe you've already authenticated that but I just want
23 to ask you once again, is this the copy of the - two
24 interviews. The first disc is the interview that we've
25 already heard and the second disc is one that we haven't

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1 heard yet; is that correct?

2 A. Yes.

3 Q. And you've had an opportunity to listen to both?

4 A. I have.

5 Q. And they're a true and accurate representation of the
6 interview; is that correct?

7 A. Well both of these are actually the second interview.
8 There was two disc.

9 Q. Oh. Thank you for telling me that.

10 MR. COOK: At this time, Your Honor, I request the
11 permission to publish this to the jury.

12 THE COURT: You may.

13 (WHEREUPON, STATE'S EXHIBIT NUMBER FIFTY-SEVEN
14 PUBLISHED TO THE JURY AT 11:37 A.M..)

15 THE COURT: Are you all sure this is the correct disc?

16 SOLICITOR THOMPSON: It's correct, Your Honor.

17 (STATE'S EXHIBIT NUMBER FIFTY-SEVEN STOPS AT 12:49
18 P.M..)

19 THE COURT: Have you got another disc?

20 MR. COOK: Yes, sir.

21 THE COURT: Let's break for lunch. We'll play it when
22 we come back.

23 MR. COOK: Yes, sir.

24 THE COURT: All right, we're gonna recess for lunch.

25 Let me caution you again no discussions, no research, no

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1 investigation, no media exposure. Do have a good lunch,
2 please report to your jury room at 2:15, at 2:15 this
3 afternoon. Have a good lunch.

4 (JURY EXITS COURTROOM FOR LUNCH RECESS AT 12:50 P.M..)

5 THE COURT: You may step down from the witness stand
6 but you cannot discuss your testimony during the break
7 because you're still on the witness stand.

8 (WITNESS LEAVING WITNESS STAND.)

9 THE COURT: Court is in recess until 2:15.

10 (COURT IN LUNCH RECESS AT 12:51 P.M..)

11 (COURT BACK IN SESSION AT 02:30 P.M..)

12 THE COURT: Thank you, be seated.

13 All right, we ready for the jury?

14 MR. COOK: Yes, sir, Your Honor.

15 THE COURT: You got the other thing ready to go?

16 MR. COOK: Not yet, Your Honor. I can get it real
17 quick.

18 THE COURT: Bring 'em in please.

19 (JURY REENTERS COURTROOM AT 02:31 P.M..)

20 THE COURT: Good afternoon, ladies and gentlemen.

21 We're going to continue with the recorded interview
22 in Exhibit Fifty-seven. It should be twenty or thirty
23 minutes left I think.

24 MR. COOK: May I, Your Honor.

25 THE COURT: Sure.

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REDIRECT BY SOLICITOR THOMPSON

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1 (STATE'S EXHIBIT NUMBER FIFTY-SEVEN CONTINUES TO BE
2 PUBLISHED TO THE JURY.)

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

4 (BENCH CONFERENCE OFF THE RECORD OUT OF THE HEARING OF
5 THE JURY AT 02:49 P.M., STATE'S EXHIBIT FIFTY-SEVEN STILL
6 BEING PUBLISHED TO JURY.)

7 CROSS-EXAMINATION - CONTINUES

8 DETECTIVE BRUCE HAIRE BY MR. COOK:

9 Q. Was that essentially all of the interview, Detective?

10 A. Yes, sir.

11 MR. COOK: Thank you, Your Honor. I have no further
12 questions for this witness.

13 SOLICITOR THOMPSON: Thank you.

14 REDIRECT EXAMINATION

15 DETECTIVE BRUCE HAIRE BY SOLICITOR THOMPSON:

16 Q. If I heard it right it was about twenty-five to
17 thirty minutes into the interview before you ever mention
18 anything about shaking the baby to the defendant; is that
19 correct?

20 A. Yes.

21 Q. Okay. As a detective you've spent time with people
22 before who have been up for long periods of time have you
23 not?

24 A. Yes.

25 Q. And you're familiar with some of these symptoms or

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1 what someone might look like if they had been up for more
2 than twenty-four or thirty-two hours or something like
3 that?

4 A. Yes.

5 Q. Did the defendant appear to be someone who had been
6 up for more than a day ---

7 A. No.

8 Q. --- when he dealt with you?

9 A. No, sir.

10 MR. COOK: I'm gonna object, Your Honor. I don't think
11 - I think that calls for speculation. I don't think he's
12 an expert on determining how long somebody's been up.

13 THE COURT: Sustain.

14 BY SOLICITOR THOMPSON:

15 Q. Detective, if I could you had mentioned at one spot
16 I believe Mr. Cook was saying the defendant said that the
17 bed had been moved and you mentioned that - you know he was
18 talking about a safe and I believe that was in the
19 reenactment; is that correct?

20 A. Yes, sir.

21 Q. If we could now - Now this is actually State's Exhibit
22 Number Fifty-one. I'm gonna show you just a clip of that
23 and a small part of that. This is actually the coroner's
24 video. It's a little bit different angle than we saw
25 before but the same audio and the same interview.

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1 If you could deem the lights for me.

2 (STATE'S EXHIBIT NUMBER FIFTY-ONE PUBLISHED TO THE
3 JURY AT 03:35 P.M..)

4 Q. I believe that was the clip that you were referring
5 to; is that correct?

6 A. Yes it is.

7 SOLICITOR THOMPSON: Madam Clerk, if you can turn the
8 lights back up please. Thank you.

9 Q. Now, you heard there in that clip the defendant's
10 talking about a safe. Correct? And maybe the baby hit the
11 head on the safe.

12 A. Yes.

13 Q. And also mentions the side rail on the bed and maybe
14 that piece of wood the baby hit her head on the wood. He
15 talks about that. Correct?

16 A. Yes.

17 Q. Now that's in the re-enactment. When you press him on
18 things in the interview that we just listened to, I believe
19 at that point that's when he started talking about tossing
20 the baby or playing too rough with the baby; is that
21 correct?

22 A. Yes.

23 Q. All right.. So he came up with - It appears like he
24 came up with reasons when you're trying to ask him about
25 injuries but those were the reasons he gave. Right?

1 A. Correct.

2 Q. Did he ever give you a reason that he's saying that
3 the bed slammed against the baby and smashed the baby
4 between the bed and the wall?

5 A. No, sir.

6 Q. As a matter of fact we just listened to almost - well
7 a little over two hours of which the times are excruciating
8 trying to listen to that interview and does he mention any
9 where in there that he thought the baby was slammed between
10 the bed and the wall?

11 A. No, sir.

12 Q. Anywhere in there does he mention that the bed had
13 moved?

14 A. No.

15 Q. As a matter of fact you were there during the
16 re-enactment. How many people got on that bed when that
17 video taping was occurring down the side of the bed?

18 A. There was the defendant, Ms. West over, and Sergeant
19 Lubber.

20 Q. So three adults had gotten on that bed. Correct?

21 A. Yes.

22 Q. Did it move at all while they were getting on it?

23 A. Yeah it seemed pretty sturdy.

24 Q. Is there any other time that he said that in any of
25 the interviews you had done where he said oh the bed moved?

DETECTIVE BRUCE HAIRE: REDIRECT BY SOLICITOR THOMPSON

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1 A. No.

2 Q. Any other time in any of the interviews you did where
3 he said that baby got smashed between the bed and the wall?

4 A. No.

5 Q. Mr. Cook was going over some contradictions as he
6 called them with you, and you mentioned a few, but I'd like
7 to just discuss just a few more. In the interview we just
8 listened to correct me if I'm wrong, I believe he said the
9 last time early in the interview, the last time he had fed
10 the baby was when she had about three quarters of a bottle
11 around 8:50 something or forty something; is that correct?

12 A. Yes, 8:40.

13 Q. Okay. Now, you recall the 911 tape that was gained
14 as part of your investigation?

15 A. Yes.

16 Q. And I believe in that he said at 6:00 p.m. he fed,
17 burped and that he had fed her and burped her and
18 everything; is that right?

19 A. 6:00 a.m.

20 Q. Okay. And is that a contradiction from what he said
21 in his statement he just gave to you here, the second one
22 we just listened to?

23 A. Yes.

24 Q. I believe in the re-enactment he said it was ten
25 o'clock when he fed the last bottle to the baby that

1 evening; is that correct?

2 A. Yes.

3 Q. And does that seem as if it's a contradiction from
4 what he said here in this interview that we just heard?

5 A. Yes.

6 Q. And I believe from what the coroner said it was
7 1:00 a.m. when he fed the last bottle to the baby. Do you
8 recall that?

9 A. Yes.

10 Q. Does that seem to be a contradiction from what he
11 told you?

12 A. Yes.

13 Q. Let's look now just a little farther into this
14 interview and I believe you said it was somewhere between
15 3:30 and 4:30 in the interview sheet you have.

16 A. Yes.

17 Q. That he went up and what does he say happens between
18 3:30 and 4:30?

19 A. It says Minor woke up he went to the kitchen and
20 fixed a bottle. Minor wasn't crying at the time but
21 making baby noises.

22 Q. All right. Does he then say it's at that period
23 of time that when he goes to get the bottle the baby falls
24 off the bed?

25 A. Yes.

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1 Q. All right. But now if you recall from the coroner's
2 interview I believe she said it was between 2:30 and 3:00
3 when he told her; is that correct?

4 A. Correct.

5 Q. Does that seem like a contradiction to you?

6 A. Yes.

7 Q. And on the re-enactment the one that we just saw a
8 piece of. I believe early on in the re-enactment he says
9 something about this happening at five o'clock in the
10 morning. Do you recall that?

11 A. Correct.

12 Q. And does that seem like a contradiction to you as to
13 what time this is here in this interview?

14 A. Yes.

15 Q. And then later in the re-enactment I believe he says
16 between 2:00 and 2:30 in the morning is when it happened.
17 Do you recall that?

18 A. Yes.

19 Q. Does that seem to be a contradiction from the 3:30
20 to 4:30 here in this interview?

21 A. Yes.

22 Q. And I believe in the first statement that we listened
23 to early on in your testimony, that short about thirteen
24 minute statement, he said it was around 4:40 that this
25 happened. Do you recall that?

1 A. Yes.

2 Q. So is that a little bit of a contradiction from what
3 he says here?

4 A. Yes.

5 Q. And finally again in the 911 call I think there were
6 basically two things that might have been said there. Six
7 o'clock and about an hour ago. Does that seem like a
8 contradiction if you recall in the 911 call was?

9 A. Yes.

10 Q. And when was that, the time of the 911 call?

11 A. 6:36, 6:37 I believe.

12 Q. Okay. 6:36 or 6:37. And so in the 911 call saying
13 that it happened at six our about an hour ago, does that
14 appear to be a contradiction to what he told you in this
15 statement?

16 A. Yes.

17 Q. I won't go into any more, Detective. Oh, one more.

18 Going back to one of the first questions I had ask you
19 here just a moment ago. You said that about somewhere
20 between twenty-five or thirty minutes into the interview is
21 about - was the first time he mentioned shaken baby. Was
22 there any time prior to that that you had mentioned
23 anything about shaken baby to the defendant?

24 A. No.

25 Q. Any other interviews where you mentioned that?

DETECTIVE BRUCE HAIRE: REDIRECT BY SOLICITOR THOMPSON
RECROSS BY MR. COOK

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1 A. No.

2 Q. Anyone else that mentioned that to the defendant prior
3 to this point of the interview or you mentioned it to him?

4 A. Not in my presence.

5 Q. Thank you.

6 SOLICITOR THOMPSON: No further questions.

7 RECROSS-EXAMINATION

8 DETECTIVE BRUCE HAIRE BY MR. COOK:

9 Q. Detective, did you also hear in the interview several
10 times my client say I'm not sure about the time it was
11 late?

12 A. I don't specifically recall that.

13 Q. You say you don't specifically recall that? I'm sorry
14 I couldn't hear you.

15 A. That's what I said.

16 Q. Would that be one hour and twenty-three minutes and
17 thirty seconds into the interview? Also at three minutes?

18 SOLICITOR THOMPSON: Your Honor, I'm going to object.

19 I ask that he specify what time this is supposed to
20 be.

21 MR. COOK: Well we're -

22 THE COURT: The witness has already said he didn't
23 specifically recall. But it's on that interview I'm
24 certain if it is in existence it's on there we've listened
25 to it.

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RECROSS BY MR. COOK

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1 BY MR. COOK:

2 Q Did the coroner say the last time that the defendant
3 fed the baby was 1:00 a.m.? You said that you remember her
4 saying that.

5 A. I believe so.

6 Q. Did the forensic examiner say that you he didn't find
7 any food in the belly?

8 A. That's correct.

9 Q. Did the coroner record her interview or did she just
10 take notes and make quotation marks on occasion?

11 A. I'm not sure she recorded it or not.

12 Q. Did the three people who were on the bed did they
13 run ten feet and jump onto the bed when you were there?

14 A. No.

15 Q. They did not? Is it possible that my client didn't
16 come up with the theory that he ran and jumped on the bed
17 and squished the child at all? You said you never heard
18 him say that.

19 Q. What's your question again?

20 A. Is it possible that he wasn't the person that came
21 up with that theory?

22 A. I guess so.

23 MR. COOK: Thank you, Your Honor. No further
24 questions.

25 THE COURT: You may step down.

INVESTIGATOR TREY AMICK: DIRECT BY SOLICITOR BRACKETT

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1 (WITNESS LEAVING WITNESS STAND.)

2 SOLICITOR BRACKETT: The state would call Trey Amick.

3 MADAM CLERK: Raise your hand.

4 (WHEREUPON, TREY AMICK, BEING
5 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

6 DIRECT EXAMINATION

7 INVESTIGATOR TREY AMICK BY SOLICITOR BRACKETT:

8 Q. Sir, would you please state your full name and spell
9 you last for the court reporter?

10 A. Harold Cirenba Amick, III. A-m-I-c-k.

11 Q. All right, sir. Where are you employed right now?

12 A. Right now I'm currently employed with Black Bag
13 Technologies. It's a forensic company, also a reserve
14 officer with Rock Hill Police Department.

15 Q. How long have you been with - Did you say Black Bag?

16 A. Black Bag Technologies.

17 Q. How long have you been there?

18 A. Fourteen months now.

19 Q. And prior to working for Black Bag Technologies
20 who did you work for?

21 A. I was full time with the city of Rock Hill. Also with
22 the United States Secret Service as a Task Force officer.

23 Q. Okay. What did you do for the city of Rock Hill and
24 the Secret Service employment?

25 A. I was a --

1 Q. What kind of officer were you?

2 A. I was a detective and I was also a computer crimes
3 specialist so I handled data extractions, computer
4 extractions. I worked for the city as well as the secret
5 service.

6 Q. How long did you do that for those two law enforcement
7 agencies?

8 A. I was with the city of Rock Hill full time for five
9 years before I left.

10 Q. Okay. And how long were you with the Secret Service
11 Task Force?

12 A. I was sworn in as a Special Deputy US Marshall
13 November, December of 2013.

14 Q. Okay, sir. Can you give us some kind of idea what
15 kind of training you needed to have in order to do forensic
16 data extractions from cell phones and such?

17 A. Absolutely. So when you join the Secret Service Task
18 Force they send you to what's called NCFI which is the
19 National Computer Forensic Institute, Alabama. It's a five
20 week course, it's full time, you have to be invited to come
21 to the course and it's test every week and if you don't
22 pass a test they send you home. Completed that in 2013. I
23 also attended the PITC Text Smart Plus Certification
24 Program which is a certification for Smart Phone
25 extractions for forensics. Let's see - Also attended the

INVESTIGATOR TREY AMICK: DIRECT BY SOLICITOR BRACKETT

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1 American Academy of Applied Forensics, their hardware
2 fundamentals class as well.

3 Q. Okay, sir. And what are you learning? We're talking
4 about data extraction and cell phone forensics and so
5 forth. Can you give in laymen's terms explain to the jury
6 what it is that you've learned in all of these schools?

7 A. Exactly. Learning how to extract data off these
8 devices. The Smart Phones especially these days are pretty
9 much computers. They have operating systems and we're
10 learning how to extract as much data off of these systems
11 for evidentiary purposes and preserving that data and
12 without corrupting it and without, you know, losing that
13 data. So these classes primarily teach us how to handle it
14 safely and get as much data off these devices as possible.

15 Q. Okay. What kind of - You went to a number of
16 different schools that out lined. Did you receive any
17 certifications in those schools or any others?

18 A. I did. I did. National - I'm B certified which is
19 the basic certification for the federal government. My CFE
20 which is the Macintosh IOS Certified Forensic Examiner,
21 that's a process that's six test a hundred and fifty
22 questions total. If you fail each test if you fail you're
23 out. I passed all those test as as the practical exam
24 which was a sixty-nine month process. I am a certified
25 Black Light examiner, certified mobilize examiner and also

1 a Ace examinerhjdhd as well which is a different software
2 program as well.

3 Q. Okay. Black Light Mobilize, those are different
4 software programs?

5 A. Yes, sir.

6 Q. Okay, sir. And you said you work for Black Bag
7 Technologies. That sounds kind of spooky. Tell us a
8 little bit about that.

9 A. Black Bag Technologies is out of San Hosea California.
10 We got our start working out of Apples Labs. My team right
11 now is several - we're six strong and we are forensic
12 analyst instructors so we go around the country we teach
13 law enforcement the basics of how to handle IOS and really
14 any Smart Phone devices to teach them how to learn
15 forensics and what they need to do to be able to get these
16 extractions completed.

17 Q. So you currently teach other officers how to
18 extract data?

19 A. I do. Last year I believe my team of six we taught
20 right at eleven hundred officers not including conferences
21 and everything else we spoke at but actually in classrooms.

22 Q. All right, sir. Approximately in the length of time
23 that you've been involved in extracting data from mobile
24 devices how many different devices your best guesstimate
25 would you say you have successfully pulled data out of?

INVESTIGATOR TREY AMICK: DIRECT BY SOLICITOR BRACKETT

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1 A. Easily in eight nine hundred if not into the thousands
2 at this point including several extractions a day just
3 about.

4 SOLICITOR BRACKETT: Your Honor, at this time I would
5 move to qualify Mr. Amick as an expert in forensic data
6 recovery from mobile devices.

7 MR. COOK: Without objection, Your Honor.

8 THE COURT: He is so qualified.

9 SOLICITOR BRACKETT: Thank you, Your Honor.

10 Q. Can you give the jury again - You touched on it
11 briefly, but what kind of data, you say you're extracting
12 data from a mobile device.

13 A. Uh-huh.

14 Q. So I don't have a cell phone here because I'm not
15 allowed to have a cell phone in the courtroom, but can you
16 give the jury - What - an idea. What kind of information
17 are we talking about that you can pull out of a cell phone?

18 A. Actually Smart Phones now are pretty much computers so
19 we're talking actual phone calls which is what they're
20 designed to do. Text messages, multi media messages,
21 application data such as Facebook, all the different ASAP
22 data that are pertaining to them potentially, getting
23 emails as well. There's a whole multitude. You know
24 videos, pictures, you know whether you save those pictures
25 or taken them with your phone. All the data is actually

1 retrievable to be used later.

2 Q. Okay, sir. And is there sort of a slang term for --

3 A. Ripping.

4 Q. Is that what it's known as when you pull the data out
5 of a phone you call it ripping a phone?

6 A. Ripping.

7 Q. Okay. Were you ask to recover some data or recover
8 what data you could from a cell phone in this particular
9 case the investigation into the death of Minor ?

10 A. I was.

11 Q. Okay, sir. And when you search for data and you're
12 pulling data out of somebody's phone, of course that's
13 their personal information on the phone is it not?

14 A. It is.

15 Q. And does that usually require some sort of legal
16 basis to go into somebody else's phone?

17 A. Absolutely.

18 Q. Okay. And what was the legal basis that you had
19 going into the cell phone in this case?

20 A. The client had actually given a statement saying he
21 was allowing consent to search.

22 Q. Just for the record I'm showing you what's been
23 marked as State's Exhibit Fifty-nine. Is that the form -
24 consent form that the defendant signed authorizing you to
25 search his phone and pull data from it?

INVESTIGATOR TREY AMICK: DIRECT BY SOLICITOR BRACKETT

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1 A. It is.

2 Q. How do you do this? How do you pull the data from
3 the phone? What do you do with it?

4 A. So different types of phones require different
5 methods. This phone specifically was a Samsung and it was
6 a Samsung SGHT989 which is a Samsung Galaxy S2. And with
7 the Galaxies you actually have to go into the phone and put
8 in it what's called a USB debugging which allows for two
9 way communication between a computer and the device so
10 that's pretty standard when contained with phones. So - -

11 Q. I'm gonna back it up and make it even simpler.

12 A. All right.

13 Q. So you hooked that phone up to your computer?

14 A. I did.

15 Q. Okay. And what do you use to do that?

16 A. A standard micro USB - USB cable.

17 Q. Okay. And then the software that you were talking
18 about earlier the different types of software.

19 A. Yes.

20 Q. You said mobilize and all that.

21 A. Yes.

22 Q. Which one did you use for this?

23 A. This extraction was used on Forensics Lantern.

24 Q. Okay. And so the software resides on the computer?

25 A. It does.

1 Q. All right. Now go ahead. I'm sorry. I just want to
2 make sure the jury understands the process.

3 A. Yes, sir. So once you put the phone in the USB
4 debugging and you connect the micro USB cable and plug it
5 into your computer you will launch the program which like I
6 said was Lantern Three. Once you launch the program you
7 enter your basic information about the case and you select
8 what types of information you want and you hit collect and
9 elect it and begin the acquisition of the device.

10 Q. Okay. Now were you able to successfully use the
11 technique you just described on the phone of the
12 defendant's phone?

13 A. I was.

14 Q. And where does it pull the data from? It pulls it
15 from the phone itself?

16 A. It does.

17 Q. Where does it put the data?

18 A. It puts it in a case file on my computer.

19 Q. Okay. And so there is a lot of data you went through
20 and describe some of the things that are on the phone ---

21 A. Correct.

22 Q. --- the pictures and text and the phone calls and all
23 that data.

24 A. Correct.

25 Q. How does it organize it on the computer?

INVESTIGATOR TREY AMICK: DIRECT BY SOLICITOR BRACKETT

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1 A. It organizes it in different categories so you have
2 an over view. You have your contacts, your messages, your
3 calendar, your internet history, your call logs, your text
4 messages. They're all broken up in individual categories
5 so I can go through and look at them separately.

6 Q. And are you able to use that software to generate
7 a report for the different categories of data?

8 A. I am.

9 Q. And did you in fact at my request get some reports
10 together from the data that you abstracted from Mr. Evans'
11 phone?

12 A. Yes, sir.

13 SOLICITOR BRACKETT: The court's indulgence one
14 minute.

15 Madam Court Reporter, if I could get these three.

16 (WHEREUPON, STATE'S EXHIBIT NUMBERS SIXTY, SIXTY-ONE
17 AND SIXTY-TWO PREMARKED FOR IDENTIFICATION.)

18 Q. All right, I'm showing you what's been marked as
19 State's Exhibits Sixty, Sixty-one and Sixty-two for
20 identification. If you would please, sir, review those
21 reports and tell me if you recognize them.

22 A. I do.

23 Q. Okay. What are those three reports?

24 A. The first report which is Evidence Sixty is pictures
25 from the device. The second one which is Sixty-one is call

1 log from this device. And the last one it looks to be text
2 messages from the device which is State Exhibit Sixty-two.

3 Q. Okay. Now is that all of the phone calls that are on
4 that device or did we limit it down to one individual?

5 A. I believe we've narrowed it down at this point.

6 Q. Okay. How about the text? I'm sorry, I said phone
7 calls. Let me take a look just to make sure we're on what
8 I've given you.

9 Okay. The text. How many different people are those
10 text to and from?

11 A. These text are all to one specific phone number.

12 Q. And what phone number is that?

13 A. It is saved in the phone contact as Baby Momma.

14 Q. Okay. What is the actual phone number associated with
15 the contact identified as Baby Momma?

16 A.

17 Q. Okay. And so all of the text on this report are back
18 and forth between the defendant's phone and Baby Momma?

19 A. Correct.

20 Q. All right. Now I'm showing you State's Sixty-one.

21 These are phone calls. How many different
22 approximately or is there more than one phone call
23 identified on that?

24 A. Yes. There are several different numbers being
25 called on this one.

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1 Q. Okay. And what time period does that - Did I ask you
2 to kind of narrow it down? What time period does that
3 report focus on?

4 A. This is January 23rd, 2014, 18:49 hours which is
5 6:49 back to January 21st, 2014, 16:39 hours.

6 Q. Okay. So basically about a three - two day period?

7 A. Yes, sir.

8 Q. And then finally State's Exhibit Sixty. What - Are
9 those all the images that were on the phone or did we limit
10 it down again by a time frame?

11 A. I believe we limited it down. I'm showing that I
12 pulled approximately seven hundred and five images off the
13 device total so this is a narrowed down subset of this.

14 Q. Okay. Now let's take these in turn. State's Exhibit
15 Sixty-two; if you would describe for the jury the text on
16 January 22nd, 2014, at 8:56 in the morning, who was the
17 text from and who was the text to?

18 A. So at 8:56 in the morning he received a phone or a
19 text message from Baby Momma abbreviated OMW.

20 Q. Okay. And how do you know it was from that person?

21 A. There is a little arrow that stipulates when its
22 coming in versus when it's going out.

23 Q. Okay. Can you just so that the jury will have
24 reference when they're looking at this in the back, can you
25 write a ledger on the back just to - Mimic the arrow that

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1 this uses and say coming in or text going out.

2 A. Sure.

3 Q. So that they will have that as a ledger.

4 (WITNESS COMPLIES.)

5 Q. All right. Now State's Sixty-one also has some
6 symbols to the left of the time and the date. What are
7 those symbols?

8 A. The first one is a exclamation mark which means that
9 the phone calls are not connected.

10 Q. Okay.

11 A. The second one means there was a phone call going
12 from the phone out. And the third one is a arrow pointing
13 to the phone so there was actually a call coming in to the
14 phone in question.

15 Q. Okay. And can you do the same thing that you did for
16 this?

17 A. Sure.

18 Q. And so that on the back of that one.

19 (WITNESS COMPLIES.)

20 A. You will have to forgive my drawing.

21 Q. That's all right. As long as we can figure it out
22 and that'll work. Okay. And then on the far in the center
23 it says to from so if we use the legend to see whether it
24 was an incoming call or an outgoing call that's what that's
25 for?

INVESTIGATOR TREY AMICK: DIRECT BY SOLICITOR BRACKETT

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1 A. Sure.

2 Q. And then the number ---

3 A. Correct.

4 Q. --- on the - in the second to the last column?

5 A. The number being called or being received from.

6 Q. I see. And then finally the last column duration?

7 A. Yes. How long the call lasted.

8 Q. All right. So if there's a call in here that appears
9 to have one or either the like the incoming or the outgoing
10 but it says zero duration what does that mean?

11 A. Hung up.

12 Q. Before the call connected?

13 A. Correct. If it went to voice mail he hung up versus
14 it is not connect at all.

15 Q. Okay. I see. And last State's Exhibit Sixty.

16 If you would take a look at that and tell me what
17 kind of - What is the information that's on this report and
18 what does that report depict?

19 A. So it's showing previews of the pictures. It's giving
20 a file name for the picture. A file time and a Exif time
21 which Exif is exchangeable image file. So Exif is when you
22 take a picture with a - whether it be a regular camera like
23 an Nikon or a cell phone it actually captures a lot of
24 information about that shot such as your aperture your,
25 you know, your lighting, what F Stop your camera was using

1 and it captures that and brings that into the file kind of
2 behind the scenes of that image. So it's capturing some of
3 that Exif information with this as well. Camera type -

4 Q. I'm sorry. What kind of - GO ahead. Keep going,
5 you're probably gonna answer my next question.

6 A. Okay. Showing the camera that took the picture. The
7 source as to the location on the cell phone as to where
8 that picture was stored and the hashes for that picture as
9 well. Which hashes are a signifier as to being able to
10 distinguish that picture from any other picture. It's a
11 string of numbers and letters that are used to associate
12 that file with that picture.

13 Q. Does the Exif file or any of the files that are
14 attached to the photograph does it indicate the date and
15 time that the photograph was taken?

16 A. It does. On this first page the Exif time on this is
17 January 23rd, 2014. at 11:09 which matches the file time as
18 well.

19 Q. All right. And I believe I mentioned to you earlier
20 or you said earlier that the report itself just encompassed
21 this specific period of time.

22 A. Correct.

23 Q. For photographs that were on the phone?

24 A. Correct.

25 Q. Okay. I'm showing you - Set that down for just one

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1 minute and we'll come back to it. I'm showing you a series
2 of photographs that are marked State's Exhibit Twenty-four,
3 Twenty-five, Twenty-six, Twenty-seven, Twenty-eight,
4 Twenty-nine and Thirty. Would you take a look at those and
5 tell me if you recognize those?

6 A. I do.

7 Q. Then what are those photographs?

8 A. The defendant smoking.

9 Q. Not exactly what they are but where are they from?

10 A. From the device. From the Samsung.

11 Q. Are they depicted on the report that you were just
12 referencing, State's Exhibit Sixty I believe?

13 A. This is Sixty. And I believe they are, yes.

14 Q. Okay.

15 SOLICITOR BRACKETT: Your Honor, at this time I would
16 seek to introduce State's Exhibits Twenty-four through
17 Thirty, Sixty, Sixty-one and Sixty-two into evidence.

18 MR. COOK: Without objection, Your Honor.

19 THE COURT: They're admitted.

20 (WHEREUPON, STATE'S EXHIBIT NUMBERS TWENTY-FOUR
21 THROUGH THIRTY, SIXTY THROUGH SIXTY-TWO, IDENTIFIED AND
22 MARKED, RECEIVED INTO EVIDENCE.)

23 Q. Okay. I want if you could, sir, take a look at the
24 report. I'm gonna put some pictures up on the wall.

25 A. Okay.

1 (EXHIBITS DISPLAYED ON COURTROOM OVER HEAD.)

2 Q. I'll start with State's Exhibit Thirty. Is that
3 depicted in the report?

4 A. Yes, sir, let me find it. Yes it is.

5 Q. Okay. And what time was that - Well tell us what
6 kind of information you can - Tell us about that picture.

7 A. Pictures that are - Okay. There are several pictures
8 that are very similar to this one but I believe I matched
9 it up with everything. I'm giving the file a name, file
10 time and the Exif time as well as the camera that took this
11 picture.

12 Q. Okay. And what time was the picture taken??

13 A. According to this January 23rd, 2014, at 10:43 locale
14 time.

15 Q. Is that a.m. or p.m.?

16 A. I believe that's a.m.

17 Q. Are these times expressed in military time or?

18 A. They are. The phone logs you will see they will
19 start going into the 16, 17, 18 hundred hour period.

20 Q. Okay. Now let's turn our attention to State's
21 Exhibit Twenty-four.

22 A. All right.

23 Q. What can you tell us about this picture?

24 A. I have the file time the source from where I pulled
25 this picture as well as the file name.

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1 Q. Okay. What was the date that the photograph was
2 taken?

3 A. This one is showing January 22nd, 2014, at 10:46 which
4 is shown as 22:46 hours which is 10:46 at night.

5 Q. 10:46 at night. Okay. And State's Exhibit Twenty-
6 five, what time?

7 A. This one I'm showing the file time as January 22nd,
8 2014, at 22:46 hours which is 10:46 at night.

9 Q. State's Twenty-seven.

10 A. This one I'm showing file time Exif time camera and
11 source. Exif time on this one is showing January 22nd,
12 2014, at 22:46 thirty-eight seconds which would be 10:46:38
13 seconds.

14 Q. Again, January 22nd is that what you --

15 A. Correct, January 22nd.

16 Q. State's Twenty-eight.

17 A. That one is from the file, the file time Exif time
18 as well as the camera which confirms the camera or the
19 device that I did the acquisition on Exif time shows
20 January 22nd, 2014, at 22:46:49 which would be 10:46 forty-
21 nine seconds.

22 Q. And finally Twenty-nine.

23 A. This one is showing an Exif time of January 22nd,
24 2014, at 22:47 five seconds which would be 10:47 five
25 seconds local time.

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1 Q. Okay.

2 SOLICITOR BRACKETT: Thank you, Madam Clerk.

3 (COURTROOM LIGHTS TURNED UP.)

4 Q. Now how are you able to determine if the clock on the
5 phone is accurate so - Cause I assume that's where the
6 photo times comes from is the clock on the phone.

7 A. Correct.

8 Q. How do you know that that time is accurate?

9 A. I confirmed on this case specifically using the call
10 logs and I looked up the 911 phone log and our 911 log at
11 the police department was showing 6:36 and the phone log on
12 this outgoing call was also 6:36 matching the phone times.

13 Q. All right, sir. Now the reports that I've introduced
14 and let me just confirm one thing with...

15 SOLICITOR BRACKETT: Madam Court Reporter, I ask that
16 this be marked as State's Sixty-two for identification. Or
17 Sixty-three. I'm sorry, for identification purposes only.

18 (WHEREUPON, STATE'S EXHIBIT NUMBER SIXTY-THREE
19 PREMARKED FOR IDENTIFICATION.)

20 Q. I'm showing you what's been marked as State's Exhibit
21 Sixty-three for ID only. If you would take a look at the
22 report that I just handed you and tell the jury what that
23 is a report of.

24 A. This is a report of a internet history off the device
25 from January 23rd, 12:10 back to January 21st of 2014 at

INVESTIGATOR TREY AMICK: DIRECT BY SOLICITOR BRACKETT

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1 8:55 hours.

2 Q. Again, just confined to that relevant time period?

3 A. Correct.

4 Q. And what is the report detailed without saying what it
5 actually says but what generally does it detail?

6 A. It's showing the time, the visits as far as the number
7 of times you go to the same web site and the title of the
8 web site that you go to.

9 Q. Okay. And now I'm not concerned about where he was
10 surfing to but can you give us some idea from between
11 approximately 9:00 p.m. on January the 22nd, 2014, until
12 about 6:00 a.m. January 23rd was there internet activity on
13 the phone?

14 A. There was. January 23rd 2014 at 04:22 hours. There
15 is a hit on the site -

16 Q. Not which site.

17 A. Okay.

18 Q. You don't need to go into details of where he was
19 going, that's not relevant. But just the fact that there
20 was activity.

21 A. There was a hit on the phone at 4:22 at 2:43 in the
22 morning the same day January 23rd. Let's see, at midnight
23 there was a hit. January 22nd at 21:35 hours there is also
24 a hit as well.

25 Q. So there was sporadic internet activity on the phone?

1 A. There was.

2 Q. All right, sir. Then finally, Investigator Amick,
3 turning your attention back to State's Exhibit Sixty-one.

4 Between the hours of - after midnight but before the
5 911 call at 6:36 a.m., was there any telephone activity?

6 A. 21:00 hours? I'm sorry.

7 Q. I'm sorry, between the hours of midnight or say
8 11:59 January 22nd, that Wednesday night right at 11:59
9 p.m., and what time did you say the 911 call was reflected
10 on that report?

11 A. The 911 call is January 23rd, 2014, at 6:36:49
12 seconds.

13 Q. Okay. After midnight but before the 911 call were
14 there any telephone calls made by the defendant?

15 A. There was. On this one its showing one call.

16 Q. One call? What time was that call, sir?

17 A. January 23rd, 2014, at 3:44 in the morning.

18 Q. And who did he call at 3:44 in the morning, sir?

19 A. Like I said before it was in the contacts as Baby
20 Momma. The phone number

21 Q. And how long did that call last?

22 A. There was not a duration so it looked like it hung up.

23 Q. What time was that again?

24 A. That was at 3:44 in the morning.

25 SOLICITOR BRACKETT: Thank you very much, Investigator

INVESTIGATOR TREY AMICK: CROSS BY MR. COOK

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1 Amick. Please answer any questions Mr. Cook may have for
2 you.

3 CROSS-EXAMINATION

4 INVESTIGATOR TREY AMICK BY MR. COOK:

5 Q. Good afternoon, sir.

6 A. Hey.

7 Q. Uh - So essentially my client consented to having his
8 phone ripped; is that correct?

9 A. Correct.

10 Q. Thank you.

11 MR. COOK: No further questions.

12 THE COURT: You may step down.

13 (WITNESS LEAVING WITNESS STAND.)

14 SOLICITOR BRACKETT: Your Honor, now might be a good
15 time for a quick break.

16 THE COURT: All right, I'll ask the jury to please go
17 to your jury room and do not yet discuss the case. I'll
18 bring you back after a short break.

19 (JURY EXITS COURTROOM AT 04:16 P.M..)

20 SOLICITOR BRACKETT: Your Honor, I believe that is
21 going to be the state's case subject to our reviewing the
22 evidence and making sure that everything has been admitted.
23 And also I believe that I mentioned earlier during the
24 testimony of Ms. Neely as I introduced a significant number
25 of photographs, I will take - I will have a CD prepared of

1 all the State's exhibits that were entered and all the
2 photographs of the State's exhibits, the digital files
3 themselves burned to a CD and I will introduce those as
4 well as they are the actual original files. But other than
5 that I believe that will be the State's case.

6 MR. COOK: And, Your Honor, if we're on the record, I
7 will make the --

8 THE COURT: We're on the record.

9 MR. COOK: Yes, sir. I will make the perfunctory
10 directed verdict motion if this is the appropriate time.

11 THE COURT: It is. They're going to rest and we might
12 as well do that rather than send the jury back out.

13 MR. COOK: Yes, sir. And, Your Honor, just in the
14 light most favorable to the non-moving party I submit that
15 the state has failed to prove beyond a reasonable doubt
16 every element of the crime charged, Your Honor, and request
17 a directed verdict.

18 THE COURT: What element do you feel like there is
19 evidence lacking?

20 MR. COOK: The element for extreme - The element for
21 extreme disregard for human life given the fact that even
22 the state's evidence from their own forensic examiner says
23 that there is a linear injury to the decedents forehead and
24 can't offer any evidence as to where it came from.

25 I believe that they've submitted the entire time that

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1 my client has shaken the baby which wouldn't explain that
2 whereas the defendant has offered a theory to the contrary
3 that would preclude any extreme indifference for human
4 life. I believe that the state's failed to meet that
5 element, Your Honor.

6 THE COURT: All right, who wants to address that for
7 Mr. Cook?

8 SOLICITOR BRACKETT: Your Honor, I believe from the
9 pathologist's testimony alone there is ample evidence of
10 extreme indifference to human life in his description of
11 how a subdural hematoma is inflicted and the requirement
12 that there be a tremendous acceleration and deceleration
13 and in this case there would be more than one acceleration
14 and deceleration and due to the fact that there were
15 multiple retinal hemorrhages bilateral and that evidence in
16 and of itself would manifest extreme indifference. By even
17 shaking a baby would of course required to inflict those
18 kinds of injuries would automatically know that they were
19 doing harm to a six weeks old.

20 THE COURT: All right. Well having considered all the
21 evidence that has been introduced, Mr. Cook, I find that
22 there is more than sufficient evidence to establish each of
23 the essential elements of this crime, if the jury finds it
24 to be believable and credible, and therefore your motion
25 for a directed verdict is denied.

1 MR. COOK: Yes, sir, Your Honor.

2 To continue on and this isn't a formal motion, it's
3 just a house keeping matter, Your Honor, but I would
4 propose if Your Honor is inclined perhaps we can break for
5 the day simply being that I think my client's testimony is
6 gonna be more than the time that we have left and I
7 wouldn't want to have to break. I just wanted to mention
8 that to Your Honor at five.

9 THE COURT: Well is he the only witness?

10 MR. COOK: No, sir, he's not the only witness. But --

11 THE COURT: Don't you have some other witnesses that
12 are of a shorter duration?

13 MR. COOK: Yes, sir. I do and I don't think I was
14 going through whether I should call the character witnesses
15 first or my client. I don't really think it really
16 matters, I can call a few character witnesses first, Your
17 Honor, to move along.

18 THE COURT: Okay.

19 MR. COOK: Could we take a maybe a ten minute break?

20 THE COURT: Sure. We'll take a ten minute break.

21 (COURT IN RECESS AT 04:21 P.M..)

22 (COURT BACK IN SESSION AT 04:33 P.M..)

23 THE COURT: Thank you, be seated.

24 All right, we ready for the jury?

25 SOLICITOR BRACKETT: Yes, sir.

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1 MR. COOK: Yes, sir, Your Honor.

2 THE COURT: Bring 'em in.

3 Who is your first witness, Mr. Cook?

4 MR. COOK: Your Honor, I want to call Bobbie Thompson.

5 I'm also going to call next Alexander Myers and try to
6 get them in today.

7 (JURY REENTERS COURTROOM AT 04:34 P.M..)

8 THE COURT: All right, the jury is present.

9 You may proceed.

10 MR. COOK: May it please the court.

11 SOLICITOR BRACKETT: Your Honor, the state has taken
12 the digital images, the original digital images, all the
13 photographic evidence that has been introduced by the state
14 and taken those digital images and burned them onto a disc
15 which we have had marked and would introduce as State's
16 Exhibit Sixty-four.

17 MR. COOK: Without objection, Your Honor.

18 THE COURT: It's admitted.

19 (WHEREUPON, STATE'S EXHIBIT NUMBER SIXTY-FOUR,
20 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

21 SOLICITOR BRACKETT: And upon that the state would
22 rest.

23 THE COURT: All right, ladies and gentlemen, that is
24 all of the testimony or other evidence to be offered by the
25 state at least in their case in chief, so we're now going

BOBBY THOMPSON: DIRECT BY MR. COOK

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1 to proceed with any to be offered by the defense.

2 Mr. Cook.

3 MR. COOK: If it please the court, Your Honor.

4 I would call - Defense would call Bobbie Thompson,
5 Your Honor.

6 MADAM CLERK: Raise your right hand, place your left
7 hand on the Bible.

8 (WHEREUPON, BOBBY THOMAS,
9 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 MADAM CLERK: Thank you. Please have a seat.

11 DIRECT EXAMINATION

12 BOBBY THOMAS BY MR. COOK:

13 Q. Good afternoon, sir.

14 A. How you doing?

15 Q. Doing well. Could you state your name for the record
16 please?

17 A. Bobby Thomas.

18 Q. Okay. Mr. Thompson. Mr. Thompson, are you related
19 to the defendant Mr. Evans in any way?

20 A. Not by blood but I have a daughter by his sister.

21 Q. And could you explain that a little bit?

22 A. She's fifteen years old.

23 Q. Your daughter is?

24 A. Right.

25 Q. And the mother of your daughter is Mr. Evans' sister?

BOBBY THOMPSON: DIRECT BY MR. COOK

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- 1 A. Niece.
- 2 Q. I apologize.
- 3 A. Niece.
- 4 Q. So the mother of your daughter is the niece of Mr.
- 5 Evans?
- 6 A. No, I mean my daughter ---
- 7 Q. Uh-huh.
- 8 A. --- is his niece.
- 9 Q. He's her uncle?
- 10 A. Right.
- 11 Q. Okay. I understand.
- 12 A. Okay.
- 13 Q. Do you live in the house on ?
- 14 A. No.
- 15 Q. Do you have occasion to go there because I suppose
- 16 you're an in law; is that correct?
- 17 A. Right. I'm pretty much there everyday cause she
- 18 watches my younger daughter.
- 19 Q. Who's she?
- 20 A. Kadesha. I mean Nabrea Thomas.
- 21 Q. Okay. But you said she watches your younger daughter.
- 22 Who is she?
- 23 A. His mother.
- 24 Q. And who is - What's his mother's name?
- 25 A. Linda Evans.

1 Q. And when you say - I apologize for the pronouns, but
2 when you say his mother you're referring to the defendant
3 Quentin Evans?

4 A. Right.

5 Q. And again, Quentin Evans' mother is Linda Evans?

6 A. Right.

7 Q. And on occasion she watches your children?

8 A. Right.

9 Q. And so you're over there at the house a good bit?

10 A. Pretty much every day.

11 Q. Okay. Were you at the house on the date in incident?

12 I believe that would be January 22nd?

13 A. Right, I was.

14 Q. 2014?

15 A. I was.

16 Q. What time frame were you there at the house?

17 A. I came in twice so I was there early, probably about
18 eleven then I left and I came back that evening at about
19 five thirty or six o'clock.

20 Q. Okay. So eleven in the morning about five or six
21 o'clock that afternoon?

22 A. Right.

23 Q. How long were you there for those two periods?

24 A. I think I left the second time probably ten thirty
25 eleven o'clock.

BOBBY THOMPSON: DIRECT BY MR. COOK

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1 Q. Oh, so you were there from about five or six till
2 ten thirty or eleven?

3 A. Right.

4 Q. All right. And how long were you there for the eleven
5 o'clock hour?

6 A. About forty-five minutes.

7 Q. Okay. Was the baby in the house that we've been
8 discussing today?

9 A. Well when I first got there I didn't know. The
10 grandmother Linda Evans she told me she was back there.

11 Q. Okay.

12 A. So I sat there probably another thirty minutes and
13 I left.

14 Q. But she was quiet?

15 A. Right. I didn't hear no noises or anything.

16 Q. And did you hear any noises or crying for the entire
17 time you were there in the afternoon?

18 A. No.

19 Q. Is there anything else you would like to tell the
20 jury?

21 A. No. He came out that evening to get a bottle to
22 feed her went back in the room with her fed her came back
23 out probably ten, fifteen minutes later.

24 Q. Do you remember exactly and specifically what times
25 that was?

BOBBY THOMPSON: DIRECT BY MR. COOK

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1 A. Seven. About seven o'clock. It was dusk dark.

2 Q. Okay. And how long have you known Mr. Evans?

3 A. About eighteen years.

4 Q. And I suppose you've come to know him well over that
5 long period of time; is that correct?

6 A. Yeah. He's a good kid though.

7 Q. Do you say he's a good kid?

8 A. Yeah.

9 Q. Do you think that he's capable of committing the
10 crime that he's charged with?

11 A. No, huh-huh. No way.

12 SOLICITOR BRACKETT: Objection. Relevance and
13 speculation. This isn't - It's an opinion ---

14 THE COURT: Over ruled.

15 SOLICITOR BRACKETT: --- he's asking for.

16 THE COURT: Over ruled.

17 BY MR. COOK:

18 Q. Anything else you would like to tell the jury?

19 A. He's a good kid. You know, fun, he talked to
20 everybody, you know never seen him get real mad or
21 anything.

22 Q. Okay. Thank you, sir.

23 A. All right. Thank you.

24 Q. I appreciate it.

25 MR. COOK: Please answer any questions the state might

BOBBY THOMPSON: CROSS BY SOLICITOR BRACKETT

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1 have for you.

2 A. Okay.

3 SOLICITOR BRACKETT: The court's indulgence one
4 minute.

5 CROSS-EXAMINATION

6 BOBBY THOMPSON BY SOLICITOR BRACKETT:

7 Q. So you - Let me get this straight cause that was a
8 little confusing. First of all, is it Thompson or Thomas?

9 A. Thomas.

10 Q. Thomas. Okay. Mr. Thomas, your daughter is the
11 defendant's sister's niece?

12 A. My daughter is his niece.

13 Q. His niece?

14 A. Right.

15 Q. Okay.

16 A. His sister is my daughter's mother.

17 Q. Okay. So you were related - You were connected with
18 his ---

19 A. Right.

20 Q. --- sister at some in time?

21 A. Right.

22 Q. I see. Okay. All right. So you're good friends
23 with the family ---

24 A. Right.

25 Q. --- and have been for a number of years. How old

BOBBY THOMPSON: CROSS BY SOLICITOR BRACKETT

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1 is this daughter?

2 A. His daughter?

3 Q. Your daughter.

4 A. My daughter is fifteen.

5 Q. She's fifteen?

6 A. Right.

7 Q. Okay. So you've been - Basically you're part of the
8 family?

9 A. Right.

10 Q. Okay. You left at about eleven o'clock that night?

11 A. Somewhere around that time, yeah.

12 Q. You got there about five thirty or six and you left
13 ten thirty or eleven?

14 A. Right.

15 Q. Do you remember what - Were you with the defendant at
16 any point during that time?

17 A. While he was back and forth - back and forth out the
18 room.

19 Q. Okay.

20 A. You know he even got on - One time we got too loud
21 he told us to be quiet.

22 Q. Okay.

23 A. Cause the baby was trying to sleep.

24 Q. Did you - Do you remember about when that was?

25 A. I didn't say. No.

BOBBY THOMPSON: CROSS BY SOLICITOR BRACKETT

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1 Q. Close to when you were leaving, when you came?

2 A. Right in the middle in between. In between.

3 Q. About in the middle?

4 A. Right.

5 Q. So probably - Do some quick math. This is always
6 dangerous. Seven thirty, eight o'clock?

7 A. About around ---

8 Q. Eight thirty?

9 A. --- eight thirty or nine, somewhere in there in
10 between somewhere.

11 Q. The baby couldn't sleep?

12 A. Uh-huh.

13 SOLICITOR BRACKETT: Thank you, sir.

14 MR. COOK: No further questions.

15 THE COURT: You may step down.

16 (WITNESS LEAVING WITNESS STAND.)

17 MR. COOK: Your Honor, may the witness be excused?

18 THE COURT: He may be.

19 MR. COOK: Your Honor, the defense would call Mr.
20 Alexander Myers.

21 MADAM CLERK: Raise your right hand.

22 (WHEREUPON, ALEXANDER MYERS,

23 BEING FIRST CALLED AND DULY SWORN; TESTIFIED AS FOLLOWS:)

24 MADAM CLERK: Thank you. Please have a seat.

25 DIRECT EXAMINATION

ALEXANDER MYERS: DIRECT BY MR. COOK

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1 ALEXANDER MYERS BY MR. COOK:

2 Q. Good afternoon, sir.

3 A. Good afternoon.

4 Q. If you could state your name for the record, please?

5 A. Alexander Myers, Junior.

6 Q. Mr. Myers, how do you know Mr. Evans?

7 A. My wife is his aunt.

8 Q. Okay. Your wife is his aunt?

9 A. Uh-huh,

10 Q. So you're an in-law also; ---

11 A. Yes.

12 Q. --- is that correct? What is it that you do for a
13 living, sir?

14 A. I own my own screen printing business.

15 Q. I'm sorry.

16 A. I own my own screen printing business.

17 Q. Okay. Are you active in the community?

18 A. Yes.

19 Q. How so?

20 A. I'm an elder at my church.

21 Q. And what church would that be?

22 A. True Word Outreach Ministries.

23 Q. True Word Outreach Ministries.

24 A. Uh-huh.

25 Q. And what do you do there in your church in your

ALEXANDER MYERS: DIRECT BY MR. COOK

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1 capacity as a deacon or an elder?

2 A. I back up my pastor. I does things that he can't do.
3 When he can't make an engagement I go forward. And I also
4 do a lot of different things.

5 Q. So you're an associate lay minister; is that correct?

6 A. Yes, sir.

7 Q. How long have you known Quentin?

8 A. I been knowing Quentin for a long long time. Me and
9 his aunt started dating around 2002 but I actually know him
10 a little bit before that. But I really got to know him
11 after we started dating.

12 Q. Somewhere in the neighborhood of fifteen, sixteen
13 years?

14 A. Uh-huh.

15 Q. During that time have you ever observed him - Well let
16 me ask you. Do you think that he's capable of committing
17 the crime that he's charged with?

18 A. If I had to say my own opinion no.

19 Q. Okay. Is there anything else you would like to tell
20 the jury while we have you?

21 A. Uh - -

22 THE COURT: We can't ask a question like that. You
23 will have to ask him a question that you want to ask him
24 but he just can't give a narrative.

25 MR. COOK: Yes, sir.

ALEXANDER MYERS: DIRECT BY MR. COOK
CROSS BY SOLICITOR BRACKETT

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1 Q. So do you think you've spent enough time with him to
2 form an opinion as such objectively?

3 A. I do.

4 Q. Okay. Thank you, sir.

5 MR. COOK: No further questions. Please answer any
6 questions the state might have.

7 A. Yes, sir.

8 CROSS-EXAMINATION

9 ALEXANDER MYERS BY SOLICITOR BRACKETT:

10 Q. Mr. Myers?

11 A. Yes.

12 Q. Yes, sir. And you're married to his aunt?

13 A. Yes, sir.

14 Q. So you're kind of his uncle?

15 A. Sort of, yeah.

16 Q. Sort of? Okay. And you've been really dating her
17 since 2002 so you've been more or less part of the family
18 for about ten years?

19 A. Been knowing him a long time.

20 Q. And you're a deacon at your church?

21 A. Elder.

22 Q. An elder?

23 A. Uh-huh.

24 Q. Okay. And how old are you, Mr. Myers?

25 A. Forty-eight.

ALEXANDER MYERS: CROSS BY SOLICITOR BRACKETT
DORIS CASTLE: DIRECT BY MR. COOK

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1 Q. Forty-eight?

2 A. Forty-nine.

3 Q. And that's old enough to know that you really don't
4 know what somebody's capable of; isn't that right?

5 A. Well one think I can say is everybody's capable but
6 the fact still remains is two different versions.

7 Q. Okay. But now you're not talking about his
8 reputation, you're talking about the evidence.

9 A. Everybody.

10 Q. No, but the evidence is different from what you think
11 of him. Nobody knows what somebody's capable of.

12 A. Right.

13 Q. Right? Okay.

14 SOLICITOR BRACKETT: Thank you.

15 THE COURT: You may step down.

16 (WITNESS LEAVING WITNESS STAND.)

17 MR. COOK: The defense would call Doris Castle,
18 Your Honor.

19 (WHEREUPON, THE WITNESS BEING
20 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

21 MADAM CLERK: Thank you. Please have a seat.

22 DIRECT EXAMINATION

23 DORIS CASTLE BY MR. COOK:

24 Q. Good afternoon, ma'am.

25 A. Good afternoon.

DORIS CASTLE: DIRECT BY MR. COOK

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1 Q. Could you state your name for the record, please?

2 A. My name is Doris Castle.

3 Q. Ms. Castle, are you related to Mr. Quentin Evans in
4 any way shape or form?

5 A. I'm not related to Quentin.

6 Q. Okay. How do you know Quentin?

7 A. Quentin momma is a friend of mine and I been knowing
8 Quentin for a long time.

9 Q. Where do you live, ma'am?

10 A. I stay at

11 Q. Is that near Wright?

12 A. Yes, sir.

13 Q. Okay. Is it - About how far a walk would it be to
14 get to Quentin's house?

15 A. It's about a little block.

16 Q. Okay. And you said you'd known Quentin for a long
17 time. How long would that be?

18 A. Well I met Quentin's mother been about a good long
19 time ago. But I'm gonna tell you like this here, Quentin
20 is not a bad guy. Quentin is a nice guy and he never got
21 in no trouble. And I don't think that he did what
22 everybody's saying he did but he is real nice.

23 Q. Okay. He hadn't never given you any trouble or
24 anything like that?

25 A. No, sir.

DORIS CASTLE: DIRECT BY MR. COOK

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1 Q. Always been respectful?

2 A. Cause if I see Quentin walking anywhere he have a
3 brother and he will tell his brother to go back home don't
4 follow me.

5 Q. Uh-huh.

6 A. And that's all I got to say.

7 Q. Thank you, ma'am.

8 MR. COOK: Please answer any questions the state might
9 have for you.

10 SOLICITOR BRACKETT: May we approach, Your Honor?

11 THE COURT: Sure.

12 (SIDE BAR CONFERENCE OFF THE RECORD OUT OF THE HEARING
13 OF THE JURY AT 04:48 P.M..)

14 SOLICITOR BRACKETT: No questions, Your Honor.

15 THE COURT: You may step down.

16 (WITNESS LEAVING WITNESS STAND.)

17 MR. COOK: Your Honor, may I suggest that if the
18 court's inclined could we perhaps break there. We got
19 about ten minutes till five and - - -

20 THE COURT: Yeah. Well I'm gonna break.

21 MR. COOK: --- the witnesses I have, yes, sir.

22 THE COURT: All right, we'll break for the afternoon,
23 ladies and gentlemen, and remember again my caution no
24 discussions, no media exposure, no research, no independent
25 investigations. Have a good evening and we'll see you in

1 the morning at 9:30, 9:30 in the morning please report to
2 your jury room. Have a good afternoon.

3 (JURY EXITS COURTROOM AT 04:51 P.M..)

4 THE COURT: Any matters to address before we recess?

5 SOLICITOR BRACKETT: No, Your Honor.

6 THE COURT: Court's in recess until 9:30. Let me see
7 you all before you go, please.

8 (COURT IN RECESS AT 04:52 P.M..)

9 (COURT BACK IN SESSION THURSDAY, MARH 19, 2015 AT
10 09:42 A.M..)

11 THE COURT: Thank you. Be seated.

12 (DEFENDANT, QUENTIN EVANS, BLACK, MALE, REENTERS
13 COURTROOM.)

14 THE COURT: Mr. Cook, is Mr. Evans intending to
15 testify in his trial?

16 MR. COOK: Yes, sir, Your Honnor..

17 THE COURT: Have you talked to him about his right to
18 testify as well as not testify?

19 MR. COOK: I have, Your Honor, but it wouldn't hurt
20 for me to review it one more time just to explain to him
21 that it's his decision entirely. These are the things I've
22 been telling him, that I can't help him with that decision
23 and that the has the constitutional right to not testify;
24 that the state couldn't draw that into light in their
25 closing arguments as to why he didn't testify. And that -

1 I believe he understands all of his rights, Your Honor. I
2 believe he wants to go forward and testify.

3 THE COURT: All right. Mr. Evans, you've heard my
4 conversation with your lawyer about whether or not you're
5 gonna testify in the trial of this case?

6 MR. EVANS: Yes, sir.

7 THE COURT: Do you understand that you have that
8 decision to make and only you can make it?

9 MR. EVANS: Yes, sir.

10 THE COURT: You have - Anytime you're charged with a
11 crime you have an absolute right to remain silent which
12 simply means that nobody can ever make you take the witness
13 stand and testify. Nobody can ever require that you make
14 any statement or answer any questions that relate to the
15 charge that has been brought against you by the prosecutor.

16 MR. EVANS: Yes, sir.

17 THE COURT: You have an absolute right to remain
18 silent even during the trial of the case. Do you
19 understand you have a right to remain silent?

20 MR. EVANS: Yes, sir.

21 THE COURT: At the same time if you want to testify
22 you have an absolute right to do so, it's your choice. Now
23 if you elect to take the witness stand and testify you will
24 have to answer all of the questions to the extent that they
25 are relevant in the case that the lawyers ask you and not

1 just your lawyer's questions but you will have to answer
2 the prosecutors questions too.

3 MR. EVANS: Yes, sir.

4 THE COURT: Even if the responses to those questions
5 might tend to prove you guilty of the crime they claim you
6 committed.

7 MR. EVANS: Yes, sir.

8 THE COURT: Now have you had an opportunity to discuss
9 with Mr. Cook your right to testify as well as not testify?

10 MR. EVANS: Yes, sir.

11 THE COURT: And has he gone over with you the
12 advantages and disadvantages of testifying as well as not
13 testifying?

14 MR. EVANS: Yes, sir.

15 THE COURT: And do you appreciate what those
16 advantages and disadvantages are?

17 MR. EVANS: Yes, sir.

18 THE COURT: Do you understand that if you elect not
19 to testify that I will instruct the jury that they can't
20 hold that against you. They can't even consider it in
21 their deliberations.

22 MR. EVANS: Yes, sir.

23 THE COURT: They can't even discuss it during their
24 deliberations. Do you understand?

25 MR. EVANS: Yes, sir.

1 THE COURT: And of course if you elect to testify as
2 I say the jury will be accessing your credibility just as
3 they do any other witness.

4 MR. EVANS: Yes, sir.

5 THE COURT: Have you had plenty of time to reflect
6 upon your decision as to whether or not you will testify?

7 MR. EVANS: Yes, sir.

8 THE COURT: Now have you made a decision?

9 MR. EVANS: Yes, sir.

10 THE COURT: And what is that decision?

11 MR. EVANS: I will.

12 THE COURT: You will testify?

13 MR. EVANS: Yes, sir.

14 THE COURT: And is that a decision that you have made
15 of your own free will and accord?

16 MR. EVANS: Yes, sir.

17 THE COURT: Has anybody forced you into it?

18 MR. EVANS: No, sir.

19 THE COURT: Has anybody pressured you into it?

20 MR. EVANS: No, sir.

21 THE COURT: Has anyone even suggested that's the
22 decision that you ought to make?

23 MR. EVANS: No, sir.

24 THE COURT: You made that decision on your own?

25 MR. EVANS: Yes, sir.

1 THE COURT: And after you've had plenty of time to
2 reflect upon it?

3 MR. EVANS: Yes, sir.

4 THE COURT: And are you satisfied with your decision
5 to testify?

6 MR. EVANS: Yes, sir.

7 THE COURT: Okay. Thank you, you may be seated.

8 All right, any other matters we need to address before
9 the jury is brought in?

10 SOLICITOR BRACKETT: Just briefly, Your Honor. Mr.
11 Cook and I have discussed earlier and I believe I provided
12 him with a redacted copy of a report from DSS. He inquired
13 of the state whether we would be willing to allow for the
14 introduction of this report which is basically just a
15 summary of the interview done by the DSS case worker of the
16 defendant. The DSS case worker is not available to come to
17 court this particular time so I agreed to allow him to
18 introduce this summary which he will. We've redacted
19 certain portions of it that are not relevant and we've come
20 to an agreement on that. It's been blacked out and it's
21 been photo copied so that can't hold it to the light and
22 see what it said.

23 In addition to that as part of our agreement there
24 were other interviews done by this case worker of other
25 people involved in this case or potentially involved in

1 this case who may or may not be called to testify and it
2 was our agreement at the time that we agreed to allow this
3 piece of evidence to come in that in the event that it was
4 necessary to cross examine another witness with statements
5 that they made to the same case worker but we would be
6 allowed to use that case - that report from DSS and to
7 cross examine and impeach as if the witness were actually
8 here, the case worker.

9 MR. COOK: That's correct, Your Honor. I agree with
10 everything Mr. Solicitor said.

11 THE COURT: Okay.

12 MR. COOK: And just by way of procedure if it pleases
13 the court I just intend before I begin my direct
14 examination this morning to simply say that the state and
15 the defendant - two - I suppose the open court that the
16 state and the defense have agreed to enter this into
17 evidence simply because the DSS worker is not available and
18 that this is the notes from the interview with that worker
19 and my client. And I'll let Your Honor's redaction charge
20 cover this at the close of the trial and I'll just simply
21 put that into evidence if it please the court.

22 THE COURT: So the information that this case worker
23 obtained from the defendant is not going to just be read,
24 it's going to be actually introduced?

25 MR. COOK: Yes, sir, Your Honor. I wasn't going to

1 read it. I was just in closing going to tell the jury that
2 they're free to look at it in their evidence if they wish.
3 It's just a simple summary of a lot of what we've heard
4 today or during this trial.

5 THE COURT: I understand but no other witness's
6 summaries are being introduced. I'm just trying to find -
7 You all are in agreement that this is gonna be an exhibit?

8 SOLICITOR BRACKETT: Yes, sir.

9 THE COURT: Okay.

10 MR. COOK: And it's simply, Your Honor, I subpoenaed
11 Tammy Cliburn, the agent, and the Department told me she is
12 on administrative leave and didn't want to go into too much
13 detail and so I just left it at that.

14 THE COURT: I'm not suggesting there's anything wrong
15 with ---

16 MR. COOK: Yes, sir.

17 THE COURT: --- using it. I just thought maybe
18 you would read it to the jury as if she were testifying but
19 I understand you all agreed to the introduction of it so
20 that's fine.

21 MR. COOK: Thank you, Your Honor. And I'll make this
22 Defense Exhibit?

23 MADAM COURT REPORTER: Seven.

24 MR. COOK: Seven, Your Honor.

25 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER SEVEN,

LINDA EVANS: DIRECT BY MR. COOK

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1 IDENTIFIED AND MARKED.)

2 THE COURT: Okay.

3 MR. COOK: And I'll walk it up, if that's okay.

4 THE COURT: All right, anything else we need to
5 address?

6 SOLICITOR BRACKETT: Nothing from the state, Your
7 Honor.

8 MR. COOK: Nothing from the defense, Your Honor.

9 THE COURT: All right. Bring the jury in please.

10 (JURY REENTERS COURTROOM AT 09:51 P.M..)

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know when we recessed yesterday the defense had
13 begun with it's presentation of evidence so we're going to
14 continue with that presentation this morning.

15 Mr. Cook.

16 MR. COOK: If it please the Court, Your Honor.

17 Defense calls Linda Evans.

18 MADAM CLERK: Ma'am, please raise your right hand,
19 please your left hand on the Bible.

20 (WHEREUPON, LINDA EVANS,
21 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

22 MADAM CLERK: You may have a seat.

23 DIRECT EXAMINATION

24 LINDA EVANS BY MR. COOK:

25 Q. Good morning, ma'am.

LINDA EVANS: DIRECT BY MR. COOK

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1 A. Good morning.

2 Q. Could you state your name for the record, please?

3 A. Linda Evans.

4 Q. And I was gonna ask you if you could maybe move that
5 microphone a little closer to you.

6 MADAM COURT REPORTER: The microphone won't move, Mr.
7 Cook.

8 MR. COOK: I thank you.

9 Q. Make sure you speak into it.

10 A. Linda Evans.

11 Q. Thank you, ma'am. And, Ms. Evans, are you related
12 to Quentin?

13 A. Yes. He's my son.

14 Q. Okay. And you're his biological mother?

15 A. Yes.

16 Q. Do you live in the house on that we've
17 been discussing during the trial?

18 A. Yes.

19 Q. Were you present in your house on the night of
20 January 22nd, 2014?

21 A. Yes.

22 Q. Ms. Evans, did you sign a consent for the police to
23 search your house?

24 A. Yes.

25 Q. Okay. Have you ever been investigated by the

LINDA EVANS: DIRECT BY MR. COOK

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1 Department of Social Services in the past?

2 A. No, sir.

3 Q. Do you remember that night?

4 A. Yes I do.

5 Q. Do you have any memory of the baby crying?

6 A. No. She slept all day.

7 Q. Could you talk about that?

8 A. Yeah. I mean I don't remember hearing her crying or
9 anything all day that day. Quentin came down and I was
10 sitin up that morning when Kierra dropped her baby off and
11 after he went to take a shower he said, Momma, would you
12 watch her for me while I go take a shower?" And so I did,
13 I went back there and picked at her but I didn't pick her
14 up none that day cause I didn't feel well.

15 Q. Okay.

16 A. And also later on that night I don't recall him
17 getting up and fixin her a bottle because I was in the
18 living room at the time and him fixin her a bottle. But
19 that morning that morning when I got up and there was a
20 paramedic was stopped out there I noticed that the bottle
21 was in the refrigerator but I didn't - I don't recall that
22 Kaidenace wanted the bottle. She slept all day. I mean
23 she wouldn't wake up at all.

24 Q. Have you ever been around a sick baby before?

25 A. No, sir.

LINDA EVANS: DIRECT BY MR. COOK

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1 Q. Have you ever been around a baby that's had colic?

2 A. Yes.

3 Q. What does a baby that has colic do?

4 A. They squelch up a lot and they pass gas a lot and they
5 scream like they in excruciating pain.

6 Q. Did Minor have colic that week?

7 A. Not for us to our knowledge she didn't.

8 Q. Did you ever have her - memory of her ever having
9 any type of illness?

10 A. No, sir.

11 Q. Have you had the opportunity to see how your son
12 carries for Minor?

13 A. Yes. He's a very loving father. Quentin will hover
14 over that baby. He wouldn't really let nobody hold her. I
15 mean I got a chance to hold her like twice since she was
16 born. And he really wouldn't let nobody hold her but him.
17 He was real particular about who he let holds his baby.
18 But you know I have never seen him being rough with her at
19 all, never.

20 Q. Okay. Do - Have you ever seen him purchase diapers or
21 formula or anything like that?

22 A. Well before she was born we already had prepared her
23 for everything so we didn't have to go out and buy anything
24 cause she had everything she needed.

25 Q. I imagine that it was exciting to have a new

LINDA EVANS: DIRECT BY MR. COOK

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1 granddaughter?

2 A. Yes it was.

3 Q. Ma'am, do you allow Quentin to smoke marijuana in the
4 house?

5 A. Yes I do.

6 Q. You're aware of his use of marijuana?

7 A. Sir?

8 Q. You're aware of his use of marijuana?

9 A. Yes I do.

10 Q. What are your thoughts on that?

11 A. Well I will always tell him that I didn't like him
12 smoking in the house, that - you know he would smoke in the
13 house sometime. From time to time he would smoke.

14 Q. Do you smoke marijuana?

15 A. Every once in a while like maybe once or twice a
16 month. I mean it's not no habit for me. I mean I don't
17 like it like that.

18 Q. Do you remember seeing Quentin smoking marijuana on
19 the 22nd of January?

20 A. No, sir, I don't. I don't recall him smoking that
21 day because he was laying in the bed most of the day cause
22 it was that morning when Kierra brought the baby. I don't
23 recall him smoking that day. I mean at least I didn't see
24 him smoke.

25 Q. Thank you, ma'am.

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 MR. COOK: Please answer any questions the state may
2 have for you.

3 A. Okay.

4 CROSS-EXAMINATION

5 LINDA EVANS BY SOLICITOR THOMPSON:

6 Q. Ms. Evans, do you remember what time you went to bed
7 that day?

8 A. No, sir, I don't.

9 Q. What time do you normally go to bed?

10 A. Between twelve and one.

11 Q. Between twelve and one?

12 A. Yes, sir.

13 Q. So that would be about the time you would go to bed
14 on this particular day. Right?

15 A. Well like I said that day I wasn't feeling well so I
16 kind of turned in a little earlier like maybe about twelve
17 or twelve thirty, somewhere. I wasn't paying any attention
18 to the time.

19 Q. But you had some sort of cold this day?

20 A. Yes.

21 Q. Did you take some medication for your cold?

22 A. I just - I can't remember. It's an off brand kind
23 from the Family Dollar Store. It's not that strong. I
24 had really like took it like two hours before I go to bed.

25 Q. Is it like the equivalent to Nite Quil?

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 A. No. No. No Nite Quil. This was only just cough
2 medicine.

3 Q. Okay. Just cough medicine?

4 A. Yeah.

5 Q. Nothing to help you sleep with that either, not a PM
6 medicine?

7 A. No. I mean I didn't take nothing but like two
8 tablespoons full of it.

9 Q. And you didn't hear anything that happened during the
10 night?

11 A. No, sir.

12 Q. Did you hear anyone get up?

13 A. No. They was asleep. At that time in the morning
14 we was asleep.

15 Q. Okay. So you were up the entire night after you
16 went to bed you didn't hear anything else until Quentin
17 came and woke you up and you all called 911?

18 A. Yes, sir.

19 Q. Okay. So you didn't hear the baby cry during that
20 time?

21 A. No, sir.

22 Q. Did you hear any loud bang?

23 A. No, sir.

24 Q. Now, you had just mentioned that since the baby's been
25 born you've only held her like twice?

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 A. Like twice.

2 Q. But you're the grandmother. How do you not hold
3 that baby more than twice?

4 A. Because she lives in Chester and Kierra would like
5 when she did bring her down there that's the only time we
6 get a chance to hold her. I got - I didn't get to hold her
7 when she was born and when Kierra did bring her down there
8 after them three or four days after she was in the hospital
9 I got to hold her then. And I got to hold her again she
10 brought her down there one morning, I can't remember
11 exactly what day it was but I got to hold her. I got to
12 hold her twice since she was born cause she live in
13 Chester.

14 Q. So when Quentin was watching the baby this night he
15 hadn't watched the baby much before this had he?

16 A. Yeah she was always - I mean when Kierra would bring
17 her down to the house and Quentin would hover his daughter.
18 He wouldn't let nobody else hold her so when she bring her
19 to the house I would always give them their free time you
20 know to love his daughter while she's there and you know
21 before she took her back to Chester.

22 Q. But I mean staying over night, that didn't happen very
23 often did it?

24 A. No.

25 Q. Okay. Is this the first night that the baby spent

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 the night?

2 A. No. She - I can't remember exactly what month or
3 what day it was but it was - she was probably like three,
4 four weeks old somewhere along there.

5 Q. So she spent the night when she was about three of
6 four weeks old and then this would be the next time?

7 A. Yes.

8 Q. Okay. So you didn't hold her the time that she
9 spent the night before?

10 A. No. I didn't - No. I didn't because like I said I
11 had a cold, I didn't feel good, I don't touch babies when
12 I'm sick.

13 Q. Well how about when the baby was three or four weeks
14 old?

15 A. Yes I did I got to hold her just that one time when
16 Kierra brought her down to the house.

17 Q. Okay. But generally you don't hold her when they
18 just came to visit for a little while?

19 A. No I didn't.

20 Q. Okay. And you said that you had let Quentin use
21 marijuana in the house. Correct?

22 A. Yes, sir.

23 Q. Did you tell him it was okay to use marijuana when
24 he was watching this child?

25 A. No it never was okay for him to use - No he never

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 used it around the baby at all period. No I didn't agree
2 with him using a little weed in the house. I always tell
3 him I'd rather for him to smoke outside and not in the
4 house.

5 Q. But he did smoke in the house sometimes didn't he?

6 A. Yes, sir.

7 Q. Generally where would he be in the house when he
8 smoked?

9 A. In my bathroom or either in his room.

10 Q. Okay. And now your room is actually right next to
11 Quentin's is it not?

12 A. Excuse me.

13 Q. Your room is right next to Quentin's is it not?

14 A. Quentin - -

15 Q. You share a wall. Your bedroom and Quentin's bedroom.
16 Correct?

17 A. Yeah. Yeah.

18 Q. Cause you're right next door to him.

19 A. Yeah.

20 Q. And that's where you stayed with - is it Mr. Neal?

21 A. Uh-huh.

22 Q. And we heard him called Guy in some of the things;
23 is that correct?

24 A. Guy?

25 Q. He went by Guy.

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 A. That's his father.

2 Q. Okay. And now he was there that night as well?

3 A. Yes, sir.

4 Q. Now does he take care of the baby at all while he's
5 there?

6 A. No, sir.

7 Q. No. Okay. So is he timid about taking care of
8 children or babies?

9 A. Who, Guy?

10 Q. Yeah.

11 A. No he's - He don't hold infants. He don't hold
12 babies.

13 Q. He doesn't hold babies so he's a little nervous
14 around babies?

15 A. Yes, sir.

16 Q. Okay. And so Quentin generally would take care of
17 the baby all on his own then. Right?

18 A. Yes he was pretty good at it. He would make sure
19 that she have a bath and get her dressed and everything.
20 And every time I would walk past his room and look at him
21 they would always be facing looking at each other in the
22 eyes.

23 Q. Now your other son Adrian E. he didn't take care of the
24 baby did he?

25 A. No, sir. He was fifteen at the time, Quentin was

1 real afraid about him holding her cause he was too young.

2 Q. Okay. So he wouldn't let - Quentin wouldn't let
3 Adrian E. hold the baby?

4 A. Right. If he be letting her hold the baby it was not
5 I don't know anything about it cause it's their room and if
6 he did let her hold her I didn't see it.

7 Q. Okay. Now when he was in his room would he generally
8 keep the door shut as he kept the baby?

9 A. No. His door always stayed open at all time.

10 Q. Okay. So he would never shut his door?

11 A. No.

12 Q. All right. Now you all kept it fairly warm in the
13 house; is that right?

14 A. Yeah because that particular night it was kind of
15 cool cause my living room stays cool but if they would shut
16 that - Quentin and them would shut their bedroom door it
17 would get warm in there. But he kept that bedroom door
18 open. I would say always keep it open so that it won't be
19 as hot. But it's on 77 - I mean my room don't - my room
20 and their room get warm but it don't get that - if he would
21 close the door it would get hot in there but he would leave
22 it open it won't be like that it won't get hot.

23 Q. Well now taking your attention back you recall the
24 reenactment that you did for the coroner. Correct?

25 A. Yes, sir.

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 Q. All right. And you described in that that when you
2 picked up Minor Minor was limp at that time; is that
3 right?

4 A. Yes. When I went in his room after he had came in
5 and ask me he said, Mom, he said something is wrong. I
6 came and I went in his room in there and I noticed that her
7 lips was purple around there. And I picked her up like
8 this here and I carried her to the living room and I said
9 call 911. That's when I commence to give her CPR. Yeah,
10 but she was still warm when I picked her up. I mean I'm
11 not professional about whether babies or something is going
12 on with em or not. I didn't know. I didn't know.

13 Q. Okay.

14 A. All I know is -

15 Q. Were tehre any lights on when you came out of your
16 room that night?

17 A. Yeah. We had lights on.

18 Q. Well which lights were on?

19 A. Uh --

20 Q. I mean already you got - not that you would turn -
21 You might have turned one on when you came out but were
22 there any lights on when you first came out?

23 A. Out my room?

24 Q. Yeah.

25 A. Yes. Quentin's bedroom light was on. He was up.

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 Q. Okay. And so that's how you could tell that the
2 baby's lips were somewhat discolored?

3 A. Yeah. I turned on all the lights when I gets up.

4 Once I get up I'm turning on the lights so I can be
5 able to see.

6 Q. All right. And as soon as you saw that baby you knew
7 something was definitely wrong?

8 A. I knew - I noticed that she was not getting any air I
9 did know that. And I said when I seen that that's when I
10 said call 911 cause he didn't know what was going on with
11 Minor and so when I started giving her CPR that's when he
12 was out of it cause he thought that she was just - she was
13 fine. And so she was still warm when I picked her up and
14 that's when once we got 911 on the phone they told us to
15 lay her on the floor. That's when me and my boyfriend
16 commenced to give her CPR.

17 Q. But what I'm trying to ask is you knew that baby
18 needed immediate medical attention as soon as you saw that
19 baby didn't you?

20 A. Yes I did.

21 Q. And the baby wasn't breathing when you first saw
22 that baby. Right?

23 A. No she was not.

24 Q. Now you spoke to some of the law enforcement officers
25 as well as I think Ms. West over during the course of

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

-430-

1 this investigation did you not?

2 A. Who is that?

3 Q. You spoke to some law enforcement officers. Correct?

4 A. I don't know. I can't remember.

5 Q. Do you remember speaking with Detective Haire at
6 any point when he arrived at the house?

7 A. Oh, yeah. When he brought the subpoenas to the house.

8 Q. All right. And the day of the incident he came to
9 your house too. Right?

10 A. Yes I remember him.

11 Q. And he spoke to you briefly at that time as well?

12 A. I don't remember him talking to me. I know that
13 Quentin's phone just kept ringing and I didn't know how to
14 answer it and he showed me how to answer the phone.

15 Q. Okay.

16 A. So I don't recall having a conversation with him
17 that morning.

18 Q. Okay. But you recall having a conversation with
19 Chris Westover with the coroner's office. Right?

20 A. Yes, sir.

21 Q. She was the lady who came and did some of the
22 reenactment video at your house.

23 A. Yeah, I was thinking that it was Ms. - Ms. Gest cause
24 I got their cards.

25 Q. Right. But you spoke with the coroner's office

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 while you were there and Ms. Westover. Correct?

2 A. Yes.

3 Q. All right. And when you spoke to Ms. Westover you
4 told her that the baby would wake up every three to four
5 hours and fed did you not?

6 A. No I didn't.

7 Q. You didn't tell Ms. West over that?

8 A. Minor like I said Minor slept all day that day.
9 I remember her waking up period for no bottle. I did not
10 say that.

11 Q. All right. So when you talked to Ms. Westover and
12 I believe you talked to her probably both at the house and
13 at the hospital that morning, you didn't tell her that that
14 baby woke up every three to four hours to feed?

15 A. No I didn't. She slept all day. I was there at the
16 house and I knows for a fact she - Quentin didn't fix her
17 no bottle. I did not say that.

18 Q. Do you recall telling her that the baby could not
19 roll from back to front?

20 A. No I didn't.

21 Q. Is it your opinion that baby could roll?

22 A. In my opinion infants yes they can when they little
23 like that. I mean I got eleven nieces, I been having small
24 children; raising children for a very long time and they do
25 have commence to roll.

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 Q. But you didn't actually ever see Minor roll did
2 you?

3 A. No because I never - I didn't.

4 Q. And you also mentioned to Chris Westover that Quentin
5 never lays Minor on her side did you not?

6 A. No I didn't say that.

7 Q. So you didn't say any of those things?

8 A. No, sir, I didn't.

9 Q. Well do you remember calling the coroner's office
10 back that Saturday and speaking to Ms. West over again?

11 A. Yeah, I remember calling her. I was so upset cause
12 they had locked my son up and I didn't know why they had
13 locked him up. And I kept - And I ask her they had my son
14 locked up and she replied that she said well why they got
15 him locked up. I told her I didn't know. We was sitting
16 there at the house the whole time waiting on my son to call
17 to come back and the next thing I know that he was
18 arrested. I didn't know what was going on.

19 Q. All right. But this is on Saturday. This is a few
20 days after his arrest. Correct?

21 A. Uh - That was - No. Quentin went to jail the same
22 day.

23 Q. Right. He went to jail the same day but the time
24 that you talked to - called the coroner's office again was
25 on Saturday after --

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 A. I can recall yes, sir. I mean I wasn't counting
2 the days. I don't recall.

3 Q. And in that call did you not tell the coroner's office
4 that you thought that maybe the mother Kierra Banks that
5 something happened to the baby while the mother was taking
6 care of the baby before the baby was ever dropped off?

7 A. I may have made that statement.

8 Q. But you did not say anything like that on the day
9 that the actual incident occurred did you?

10 A. No I didn't.

11 Q. Do you remember talking on February 7th of 2014 to a
12 DSS worker? I believe her name was Tyeshia - Get the right
13 name here. Tyeshia Simpson.

14 A. Yes I do.

15 Q. And she interviewed about the case did she not?

16 A. Yes she did.

17 Q. And when you talked to her you said that since the
18 baby was three days old that you'd been keep - that you all
19 had been keeping the baby since the baby was three days
20 old?

21 A. No that's not correct. Kierra is not gonna let us
22 keep her baby like that. When Minor got out the
23 hospital she brought the baby down for us to see the baby.
24 I never made that statement.

25 Q. Ms. Evans, the truth is that baby Minor was

LINDA EVANS: CROSS BY SOLICITOR THOMPSON

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1 actually

2 fine the entire day before this happened wasn't she?

3 A. I didn't see her the day before and the day before
4 that. I didn't see her Monday or Tuesday. The only time
5 we could - The last time I seen her was that Wednesday
6 morning when she brought her to the house.

7 Q. So you only saw her Wednesday morning when she was
8 brought to the house?

9 A. The only time I saw her.

10 Q. Okay. So then what you're telling us is you really
11 don't know what her condition was during that day do you?

12 A. Well when Kierra brought the baby she always have a
13 cold so I didn't get to see her that morning cause I was
14 sitting in the chair and when I got - happen to get up and
15 I walked past Quentin's room he was taking her clothes off.
16 Kierra was still there at the present time her and her son.

17 Q. Did Quentin give her a bath that day?

18 A. He always wipe her up and Kierra was present at the
19 time when he was doing it.

20 Q. All right. And so she stayed a little while?

21 A. Yes she didn't stay long but she stayed a little
22 while till Quentin got through giving her her bath and
23 everything and then her and her son left.

24 Q. So as far as you know the baby was fine while
25 everyone was there?

CORNELIUS NEAL: DIRECT BY MR. COOK

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1 A. As far as I know but you know like I said I didn't
2 get to see her. I just had a glass I just walked past my
3 son's room and just happen to see 'em and everything.

4 Q. Thank you.

5 SOLICITOR THOMPSON: No further questions.

6 MR. COOK: No further questions, Your Honor.

7 THE COURT: You may step down.

8 (WITNESS LEAVING WITNESS STAND.)

9 MR. COOK: Defense calls Cornelius Neal.

10 MADAM CLERK: Please raise your right hand, place
11 your left hand on the Bible.

12 (WHEREUPON, CORNELIUS NEAL,
13 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

14 MADAM CLERK: Thank you. You may have a seat.

15 DIRECT EXAMINATION

16 CORNELIUS NEAL BY MR. COOK:

17 Q. Good morning, sir.

18 A. Good morning.

19 Q. If you could state your name for the record?

20 A. Cornelius Guy Neal.

21 Q. And people generally call you Guy; is that correct?

22 A. Yes, sir.

23 Q. And are you the biological father of Mr. Quentin
24 Evans?

25 A. Yes, sir.

CORNELIUS NEAL: DIRECT BY MR. COOK

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1 Q. How long have you been living with Linda Evans?

2 A. Approximately thirty years.

3 Q. Okay. Do you have any other children together with
4 Ms. Evans?

5 A. Yes, sir. Adrian E.

6 Q. Okay. You were present at your house on the night
7 of January 22nd.

8 A. 22nd, 23rd, yeah, I was there.

9 Q. What's your schedule? Did you - Were you on - The
10 22nd was a weekday I believe; is that correct?

11 A. Yes, sir.

12 Q. Were you there all day or did you work?

13 A. All day.

14 Q. Do you work?

15 A. Yes, sir.

16 Q. What do you do for a living?

17 A. I work at Metrolina Green House.

18 Q. And in what capacity?

19 A. I'm a crew leader out there at Metrolina in Clover,
20 close to Clover.

21 Q. Okay. Do you have any college education?

22 A. Yes, sir. Two years.

23 Q. Where did you attend?

24 A. Clinton Junior College, Spartanburg Methodist College.

25 Q. Did you ever serve in any of the armed forces?

CORNELIUS NEAL: DIRECT BY MR. COOK

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- 1 A. Yes, sir, United States Navy.
- 2 Q. Was your discharge honorable?
- 3 A. Yes, sir.
- 4 Q. Did you sign a consent form to let this police search
- 5 your house?
- 6 A. No. No one talked to me actually.
- 7 Q. I thought that you signed some consent to be able
- 8 to search?
- 9 A. If I did under the circumstances you know right then
- 10 and there if I did ---
- 11 Q. Yeah.
- 12 A. --- if I got my signature on there I would say yes.
- 13 Q. Gotha.
- 14 A. But under the circumstance you know the tragedy and
- 15 all that.
- 16 Q. It was a tragic day was it not?
- 17 A. Yes, sir.
- 18 Q. You were the one that was administering CPR on the
- 19 minor child during the 911 call?
- 20 A. Yes, sir.
- 21 Q. You were the one that made the 911 call?
- 22 A. Yes, sir.
- 23 Q. Well I believe Adrian E. made the call but you took the
- 24 phone back over quickly?
- 25 A. Yes, sir.

CORNELIUS NEAL: DIRECT BY MR. COOK

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1 Q. Have you had an opportunity to view your son with the
2 baby?

3 A. Oh, yeah, with loving care. He has a girlfriend that
4 has a big family.

5 Q. Uh-huh.

6 A. I mean she got thirty to forty nieces just under the
7 age of twenty-five. I'm not talking about they all
8 inactive and stuff like that. He has always been around
9 young kids nothing but loving and tender.

10 Q. Have you had the opportunity to see him or helped
11 him purchase things like diapers, baby formula?

12 A. When he needed money I would give it to him.

13 Q. Did you hear the baby on the 22nd screaming
14 excessively?

15 A. No, sir.

16 Q. Did she have colic?

17 A. I wouldn't know.

18 Q. You don't?

19 A. Actually to me when the baby came in it was like
20 she wasn't doing nothing.

21 Q. Uh-huh.

22 A. She was just in the crib. I mean no - I mean for
23 hours no crying no nothing. Like I said I been around a
24 lot of young kids.

25 Q. Uh-huh.

CORNELIUS NEAL: DIRECT BY MR. COOK
CROSS BY SOLICITOR THOMPSON

-439-

1 A. And usually when you have seven week old ---

2 Q. Uh-huh.

3 A. --- you gonna cry, you gonna do something. It just
4 odd for me to see a baby not cry.

5 Q. Thank you, sir.

6 MR. COOK: I have no further questions. Please answer
7 anything the state might have for you.

8 CROSS-EXAMINATION

9 CORNELIUS NEAL BY SOLICITOR THOMPSON:

10 Q. Mr. Neal, you described that you didn't hear any
11 crying or screaming from the baby that day?

12 A. I didn't hear her cry. I didn't hear nothing since
13 she got in the house actually I haven't.

14 Q. Weren't you working that day?

15 A. No, sir.

16 Q. You didn't work that day? So were you at home all
17 day?

18 A. Ys

19 Q. Now did you take care of the baby when you were at
20 home?

21 A. No, sir, I don't take care of babies.

22 Q. Okay. So you don't even hold the baby?

23 A. No I don't hold babies.

24 Q. They make you nervous to hold a baby?

25 A. Yes, sir, I don't hold babies.

CORNELIUS NEAL: CROSS BY SOLICITOR THOMPSON

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1 Q. And Minor was kind of a small baby. Correct?

2 A. Yes, sir..

3 Q. Would that make you even a little more nervous to
4 hold her?

5 A. No I don't hold no baby.

6 Q. So you didn't even spend time basically in Quentin's
7 room with the baby. Correct?

8 A. Oh yeah, observing her and stuff like that what a
9 grandfather would do.

10 Q. All right.

11 A. And everything but picking the baby up.

12 Q. When you just mentioned she was in the crib for
13 hours, what crib --

14 A. Not a crib. A little baby car seat type thing.

15 Q. Oh, a baby car seat.

16 A. Like when she brought the baby in and stuff like
17 that.

18 Q. All right. So did she spend most of the day in that?

19 A. No. She spent the most of the day in his room in the
20 car seat, stuff like that you know. As I'm walking around
21 the house, taking a shower, I would get something to eat, I
22 would go over there and look at the baby cause its actually
23 my first grandbaby.

24 Q. Okay. But I'm trying to clarify. You said the baby
25 was in the crib for hours.

1 A. I meant to say - We don't have a crib. I meant to
2 say a car seat.

3 Q. Okay.

4 A. I didn't say the baby was in there for hours but I'm
5 saying the baby did not cry. The baby didn't do nothing
6 for me. It's like the baby was in like a zone like she
7 just laid there especially in the car seat she just ---

8 Q. Now --

9 A. --- sitting up.

10 Q. Quentin played wiht the babby did he not?

11 MR. COOK: Your Honor, I would request that the
12 witness be able to finish his answer please.

13 THE COURT: Okay. If he didn't you may finish it.

14 A. Like I was saying with the baby just - Like I said
15 I been around a lot of babies. My old lady has a huge
16 family. She got approximately fifteen right now of nephews
17 and nieces under the age of six and we been around babies
18 all our life. All the babies been spending night at our
19 houses and stuff like that. My son would interact with
20 them and stuff like that but this particular day it was odd
21 to me that a baby not crying. I been around a lot of
22 babies. Seven week old baby you gonna cry if you want your
23 pamper changed. You gonna cry if you hungry. To me this
24 baby didn't do nothing but sat there.

25 Q. The baby ate during the day didn't she?

CORNELIUS NEAL: CROSS BY SOLICITOR THOMPSON

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1 A. I did not observe that.

2 Q. Okay.

3 A. I talk about what I seen personally.

4 Q. Okay. But Quentin didn't mention anything about the
5 baby that day did he?

6 A. You got to ask him that.

7 Q. What's that?

8 A. You got to ask Quentin that.

9 Q. Okay.

10 A. Like I said as I'm walking around taking a shower - -

11 Q. He didn't mention anything to you about that though
12 did he?

13 A. No he didn't mention it to me.

14 Q. Right. And as far as the baby goes you didn't find
15 anything - Other than not crying you didn't find anything
16 else odd about the baby did you?

17 A. That was odd enough for me being around babies all
18 my life ---

19 Q. Well what's --

20 A. --- for a long period of time. Like I said a baby
21 not crying to me was something. I'm very observant. I
22 used to be a communication in United State's Navy. I got
23 my service record, I had top secret clearance while I was
24 in the service. I carried a .45, I'm always observant of
25 certain things.

1 Q. And so then you would have observed then that
2 Quentin was playing with the baby during the day. Right?

3 A. Yes. He would play with the baby.

4 Q. And she --

5 A. But as I'm strolling the house --

6 Q. And she was active and playing with him wasn't she?

7 A. Yes.

8 Q. Okay.

9 A. Compare what you talking about playing. When you have
10 a baby on the bed you know you smiling that's what I call
11 playing. Wasn't no physically playing you know gige gige
12 gige you know stuff like that.

13 Q. Yeah.

14 A. Now that's what I call playing.

15 Q. Right. So she responded to him appropriately when
16 they were playing.

17 A. Yes, sir.

18 Q. Okay. And that night you didn't hear any crying
19 that night. Right?

20 A. No.

21 Q. You didn't hear any noises that night. Right?

22 A. None.

23 Q. And so the first time you woke up and knew something
24 was wrong was when Quentin came in the room saying that
25 there was something wrong with the baby?

CORNELIUS NEAL: CROSS BY SOLICITOR THOMPSON

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1 A. Yes, sir.

2 Q. And do you also allow Quentin to smoke marijuana at
3 the house?

4 A. From time to time.

5 Q. All right. Well what do you mean from time to time?

6 A. Just knowing a young while me and his momma might
7 be in the back bedroom you know he might be in his room
8 and we tell him not to do it he went ahead and did it
9 anyhow, you know, being a young man.

10 Q. Do you think it's all right for Quentin to smoke
11 marijuana while ---

12 A. No, sir.

13 Q. --- he takes care of his baby?

14 A. I didn't see him smoking reaser. I just take care of
15 his baby.

16 Q. All right. So you didn't see that happen that day?

17 A. No.

18 Q. You don't remember him smoking any marijuana that
19 day?

20 A. No not in the presence of his baby or while the
21 baby was there.

22 Q. But you were very observant as to what was going on?

23 A. Yes, sir.

24 Q. Thank you.

25 SOLICITOR THOMPSON: No further questions.

CORNELIUS NEAL: REDIRECT BY MR. COOK

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1 A. All right.

2 REDIRECT-EXAMINATION

3 CORNELIUS NEAL BY MR. COOK:

4 Q. Do you think its okay that your son smokes marijuana
5 in the house against your wishes?

6 SOLICITOR THOMPSON: Objection. Leading, Your Honor.

7 A. No I don't think it's okay.

8 MR. COOK: Hold on one second, the judge has --

9 THE COURT: Over ruled. Go ahead.

10 A. I don't think it's okay.

11 Q. Have you ever had conversations with him about that?

12 A. Yes, sir.

13 Q. What were the nature of those conversations?

14 A. That I wouldn't do it again, dad.

15 Q. So you fussed at him?

16 A. All the time. Not all the time but when he does it.

17 When he usually does it he goes outside away from
18 his parents, you know, have somewhat respect.

19 Q. Do you smoke marijuana?

20 A. I have. I no longer do it cause I take test at
21 where I work at.

22 Q. Okay. And you passed your test?

23 A. Yes, sir.

24 Q. Thank you.

25 MR. COOK: No further questions.

CORNELIUS NEAL: RECROSS BY SOLICITOR THOMPSON

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1 A. All right.

2 THE COURT: Wait just a minute, Mr. --

3 SOLICITOR THOMPSON: Just a followup.

4 SOLICITOR THOMPSON: Madam Court Reporter, number
5 these for identification, please.

6 MADAM COURT REPORTER: Yes, sir. Sixty-five and
7 Sixty-six.

8 (WHEREUPON, STATE'S EXHIBIT NUMBERS SIXTY-FIVE AND
9 SIXTY-SIX PREMARKED FOR IDENTIFICATION.)

10 RECROSS-EXAMINATION

11 CORNELIUS NEAL BY SOLICITOR THOMPSON:

12 Q. I'll have you look at State's Exhibit Number Sixty-
13 f I've. And I believe that's dated January 23rd, 2014, at
14 7:02 a.m. If you'll just have a look at that.

15 A. Yeah, that's my signature.

16 Q. And that's your signature on a consent form to
17 search the house?

18 A. Yes, sir.

19 Q. Okay. So you did sign that?

20 A. Yes, sir, that's my signature.

21 Q. All right. And then on State's Exhibit Sixty-six if
22 you'll look at that as well I believe it's a different
23 time, same day, but a little different time.

24 A. All right.

25 Q. And is that your signature on that as well?

CORNELIUS NEAL: RECROSS BY SOLICITOR THOMPSON

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1 A. Yes, sir.

2 Q. All right. So you consented to the search of the
3 house that day too?

4 A. Yes, sir, like I said under the tragedy of what
5 happened.

6 Q. Right.

7 A. You know you going through a whole lot of things
8 emotions arise. I don't remember signing it but that is
9 my signature. Apparently I did sign it.

10 Q. Thank you.

11 SOLICITOR THOMPSON: No further questions.

12 A. You're welcome.

13 (WITNESS LEAVING WITNESS STAND.)

14 SOLICITOR THOMPSON: Your Honor, I'd ask to put these
15 into evidence at this time State's Exhibit Sixty-five and
16 Sixty-six.

17 MR. COOK: Without objection, Your Honor.

18 THE COURT: They're admitted.

19 (WHEREUPON, STATE'S EXHIBIT NUMBERS SIXTY-FIVE AND
20 SIXTY-SIX, IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

21 MR. COOK: Defense calls Adrian E.

22 MADAM CLERK: Raise your right hand, place your left
23 hand on the Bible.

24 (WHEREUPON, Adrian E.

25 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

Adrian E. DIRECT BY MR. COOK

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1 MADAM CLERK: Thank you. You may have a seat.

2 DIRECT EXAMINATION

3 Adrian E. BY MR. COOK:

4 Q. Good morning, sir.

5 A. Good morning.

6 Q. If you could speak up a little bit and towards the
7 microphone.

8 A. Good morning.

9 Q. Very well. Could you state your name for the record?

10 A. Adrian E. Adrian E.

11 Q. Mr. Evans, how old are you, sir?

12 A. I'm seventeen.

13 Q. Seventeen. Do you attend school?

14 A. No, sir, I do not.

15 Q. Have you attended school?

16 A. Yes, sir.

17 Q. All right. Were you present at the house - You live
18 on house?

19 A. Yes, sir.

20 Q. Was that your mother and father that just took the
21 stand?

22 A. Yes, sir.

23 Q. Is this your brother right here?

24 A. Yes, sir.

25 Q. Were you at your house on the night that we've been

Adrian E. DIRECT BY MR. COOK

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1 talking about January 22nd 2014?

2 A. Yes, sir.

3 Q. Okay. Do you have a memory of the child Baby Minor
4 screaming or acting - being loud that night?

5 A. No, sir.

6 Q. Okay. Do you remember the morning when all this
7 happened?

8 A. Yes, sir.

9 Q. Did you leave the room at any time?

10 A. Yes, sir.

11 Q. And just to - You were sleeping in the room with
12 your brother; is that correct?

13 A. Yes, sir.

14 Q. And the baby?

15 A. Yes, sir.

16 Q. Okay. Why did you leave the room?

17 A. Because it was kind of hot in the room.

18 Q. Okay. You sure you didn't leave the room cause
19 the baby was crying and keeping you up all night?

20 A. No, sir. She is not a crier.

21 Q. And when you left the room where did you go?

22 A. In the living room.

23 Q. Were the individual that first called 911?

24 A. Yes, sir.

25 Q. Thank you.

Adrian E.

CROSS BY SOLICITOR THOMPSON

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1 MR. COOK: I have no further questions. Please answer
2 anything the state may have.

3 CROSS-EXAMINATION

4 Adrian E. BY SOLICITOR THOMPSON:

5 Q. Mr. Evans, when was it that you left the room because
6 it was too hot?

7 A. I really - I really don't remember.

8 Q. You don't remember what - -

9 A. But I know it was before four o'clock to five
10 o'clock. Around about four or five o'clock in the morning.

11 Q. Between four and five o'clock in the morning?

12 A. Yes, sir.

13 Q. And as a matter of fact you gave a statement on the
14 10th of February of 2014 to Detective Haire that you left
15 at 5:00 a.m. that morning out of the room. Correct?

16 A. Yes, sir.

17 Q. And you also said that you walked out at the same
18 time that your brother did when he went to get a bottle for
19 the baby didn't you?

20 A. No, sir, I did not.

21 Q. You didn't say that to the detective?

22 A. No, sir.

23 Q. You didn't tell him that the two of you walked out
24 at the same time?

25 A. No, sir.

Adrian E. CROSS BY SOLICITOR THOMPSON

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1 Q. But then you went on to tell him - --

2 A. We was in the same area but I didn't walk out with
3 my brother. No I did not.

4 Q. But was your brother up at that time?

5 A. Yes, sir.

6 Q. And was he going out to get a bottle?

7 A. Yes, sir.

8 Q. So basically you walked out of the room ---

9 A. Well not with - - -

10 Q. --- close to the same time?

11 A. Yeah when I walked out of the room my brother was
12 over the stove fixin Minor a bottle.

13 Q. Okay. And you said that not even ten seconds later
14 that he started yelling for your mom that there was
15 something wrong with the baby.

16 A. Yes, sir.

17 Q. Okay. So at about between four and five o'clock in
18 the morning your brother ended up yelling to get your
19 mom because there was something wrong with the baby?

20 A. Yes, sir.

21 Q. Now, did it get hot in the room cause the door was
22 shut?

23 A. No, sir.

24 Q. He didn't shut the door when he went to get the
25 bottle?

Adrian E. CROSS BY SOLICITOR THOMPSON

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1 A. No, sir.

2 Q. He didn't have any lights on though did he?

3 A. Yes, sir.

4 Q. What light did he have on?

5 A. The kitchen light. We have like two sets of lights
6 so it's not the light that shines in front of my room, it's
7 the light that shines in front of the bathroom.

8 Q. So you're okay with him turning the light on when
9 you're trying to sleep in the living room?

10 A. Yes, sir.

11 Q. Now, where do you go to school, Adrian E.?

12 A. Northwestern High.

13 Q. At the time you went to Northwestern. Right?

14 A. Yes, sir.

15 Q. And you were at Northwestern the Wednesday when the
16 baby was dropped off. Correct?

17 A. Yes, sir.

18 Q. So you were at school that day. You generally get out
19 about what time out of school?

20 A. Four o'clock on the head.

21 Q. All right. And when you go to school in the morning
22 what time do you have to be at school?

23 A. My bus comes around 7:10, 7:15 and class starts
24 around about 8:20.

25 Q. And so what time do you have to get up?

Adrian E.

CROSS BY SOLICITOR THOMPSON

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1 A. Around about 6:30, 6:30ish.

2 Q. You have to get up about 6:30ish? Okay. You're
3 dad ever have to be the one who wakes you up?

4 A. No. My mother is always the one who wakes me up or
5 my brother.

6 Q. Okay. So one of the two of them wake you up to go
7 to school?

8 A. Yes, sir. Majority of the time it's my brother.

9 Q. Now the Thursday that this happened that would have
10 been a school day. Right?

11 A. Yes, sir.

12 Q. And so either your mother or your brother would
13 have gotten you up at 6:30?

14 A. Yes, sir. But that particular night no one got me up.
15 It was hot in the room so that's why I had got up.

16 Q. Yeah but you got up because it was hot and moved
17 to the other room to go back to sleep.

18 A. Yes, sir.

19 Q. Cause it wasn't time to get up for school when you got
20 up. Right?

21 A. Yes, sir.

22 Q. So no one called you that morning to wake up?

23 A. No, sir.

24 Q. So you're saying that your dad didn't call out to
25 tell you to wake up?

Adrian E.

CROSS BY SOLICITOR THOMPSON

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1 A. No, sir.

2 Q. Now do you remember the day prior to this on Wednesday
3 when you came home from school do you recall that Quentin
4 was taking care of the baby at that time?

5 A. Yes, sir.

6 Q. Do you recall if he gave the baby a bath during that
7 time?

8 A. No, sir, I do not remember.

9 Q. All right. Did you spend a lot of time with the baby?

10 A. Yes, sir.

11 Q. All right. And the baby appeared fine that night
12 didn't it?

13 A. Yes, sir. I mean the baby would just like it wasn't
14 even there it would just lay in there like a regular baby.
15 It was just not moving at all. It was just sleeping the
16 whole entire day like I don't know no baby that does that.
17 It was just sleeping just all day, all day.

18 Q. And how many babies do you stay around?

19 A. I have about six nieces and I got about four nephews.
20 I got a lot of little cousins.

21 Q. Do you ever take care of them?

22 A. Yes.

23 Q. You baby sit 'em?

24 A. Yes, sir.

25 Q. But you physically take care of those babies?

Adrian E.

CROSS BY SOLICITOR THOMPSON

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1 A. Yes, sir.

2 Q. But your brother won't let you take care of his baby?

3 A. No, sir, cause it's an infant like he won't even let
4 me like hold the baby but like play with the baby like rub
5 the baby on the back or something like that. He'll let me
6 do that but besides like playing with the baby no he no.

7 Q. So what's the differentiation you draw between what an
8 infant is and what a baby is?

9 A. A infant is a very small baby and then whatever you
10 just said it's like a baby - the baby that I watch they be
11 like older like two or three or four babies like that but I
12 don't get to watch infant babies.

13 Q. So you watch toddlers?

14 A. Yes, sir.

15 Q. So it's kind of unusual for a toddler to be asleep a
16 lot?

17 A. Yes, sir.

18 Q. Okay. But you don't watch infants?

19 A. No, sir, I do not.

20 Q. You really don't know if its unusual for an infant
21 to sleep a lot at six weeks old do you?

22 A. Yes, sir, I do not know that.

23 Q. Okay. Now was the baby on a sleep schedule? Did
24 Quentin have this baby on a sleep schedule?

25 A. Yes, sir.

Adrian E.

CROSS BY SOLICITOR THOMPSON

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1 Q. What kind of sleep schedule did Quentin have this
2 baby on?

3 A. Oh, I don't know. That's something you gonna have to
4 ask him. I don't know.

5 Q. Okay. Do you recall that night that the baby didn't
6 go to sleep until after ten o'clock?

7 A. Yes, sir.

8 Q. All right. So the baby was up and so the baby wasn't
9 sleeping at that point. Right? You had said the baby was
10 sleeping all the time.

11 A. No. When the baby was sleeping the whole time it
12 was around about nine thirty and I had walked in the room
13 and then my brother and the baby they was watching Fast and
14 the Furious. We was sittin in there watching the Fast and
15 the Furious I think - I don't really remember - I think he
16 gave her a bottle. I don't know. And then he laid her
17 back down and then that was it. She just slept the rest of
18 the night.

19 Q. When all the lights are turned off it's pretty pitch
20 black in that room that you sleep in isn't it?

21 A. Yes, sir.

22 Q. Okay. And the baby couldn't really roll over at that
23 time as far as you know could it?

24 A. No, sir, it - Like laying on it's side yes it could
25 have.

Adrian E.

CROSS BY SOLICITOR THOMPSON

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1 Q. The baby could roll over?

2 A. Yes.

3 Q. - - - at six weeks?

4 A. Yes, sir.

5 Q. You've seen the baby roll over?

6 A. Yes, sir, I done seen the baby move before.

7 Q. You've seen the baby move. Have you seen the baby
8 roll over?

9 A. No, sir, I haven't like physically seen the baby
10 roll over but I done seen when the baby's been on it's side
11 I done seen it like move it's arm back or something like
12 that. If she's on her side like if he ever has her in the
13 middle of the bed and she's laying on her side she might
14 roll to her back or something like that but I never seen
15 --

16 Q. But she can't roll from her back to her side can she?

17 A. No. Like she's laying on her side and then when she
18 rolls like this she's gonna fall on her back. Am I
19 correct?

20 Q. I'm asking you, have you seen the baby roll over?

21 A. Yes, sir.

22 Q. Okay. From the back to its side to the back?

23 A. No. From the side to the back not from the side to
24 the back to the side no. From the side to the back.

25 Q. Well that's what I was asking. You seen the baby

Adrian E.

CROSS BY SOLICITOR THOMPSON

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1 roll from the side to the back but not from the back to the
2 side?

3 A. Yes, sir. I never seen a baby roll from the back to
4 the side no.

5 Q. And you've never seen the baby roll from the stomach
6 to the side?

7 A. No, sir.

8 Q. Now do you remember what time you all went to sleep
9 that night?

10 A. No, sir, I do not remember.

11 Q. All right. Do you remember when Quentin was smoking
12 marijuana that night?

13 A. No. I don't recall him smoking marijuana while
14 Minor was in the present.

15 Q. You don't remember him that night around 10:45
16 smoking marijuana?

17 A. No, sir, I do not.

18 Q. Now, you don't recall - So you're saying you're not
19 the one who then took the pictures of him smoking marijuana
20 with his phone?

21 A. No I'm not.

22 Q. All right. Was there someone else with him around
23 10:45?

24 A. Yeah, I think my other - my brother - well it's not
25 my brother but that's my brother's brother and they been

Adrian E.

CROSS BY SOLICITOR THOMPSON

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1 close friends for a long time. I think he was the one that
2 took the pictures. I don't know.

3 Q. Bobby Thomas?

4 A. No not Bobby Thomas. His name is Terrance Trappier.

5 Q. Terrance Trapier?

6 A. Yes, sir.

7 Q. Now that night you didn't see or hear anything as far
8 noises. Right?

9 A. No, sir.

10 Q. So no crying?

11 A. No crying.

12 Q. No banging against the wall?

13 A. No, sir.

14 Q. Now you recall that the baby ate before the baby went
15 to bed; is that right?

16 A. Yes, sir. I don't really know but most likely yes,
17 sir.

18 Q. Well I believe when you spoke with DSS you told them
19 that the baby did eat.

20 A. Yes, sir.

21 Q. Okay. I'm just curious. When your brother would
22 go out in the community, there ever a time that you would
23 follow him and he would tell you to go home?

24 A. Often. Matter of fact every time I wanted to follow
25 him.

Adrian E.

CROSS BY SOLICITOR THOMPSON

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1 Q. And why would he tell you to go home?

2 A. I'm too young.

3 MR. COOK: I object. That calls for speculation,
4 Your Honor.

5 THE COURT: Over ruled.

6 A. I'm too young. He's a twenty-five year old man and
7 I'm a fifteen year old boy. No.

8 Q. You're too young to follow him down the street?

9 A. Yes, sir.

10 Q. Is he going somewhere to do something that you're not
11 old enough to do?

12 A. No. He like - -

13 MR. COOK: I object. That calls for speculation, Your
14 Honor.

15 THE COURT: Well he can testify as to what his
16 knowledge is and if he doesn't know he can just say I don't
17 know. Over ruled.

18 A. Can you repeat that question again?

19 Q. Was he going to do something that you were too young
20 to do?

21 A. No, sir.

22 Q. But yet he wouldn't let you go with him?

23 A. Right.

24 Q. He wasn't going to do something bad was he?

25 A. No, sir.

JEANETTE MCCOY: DIRECT BY MR. COOK

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1 Q. Thank you.

2 SOLICITOR THOMPSON: No further questions.

3 MR. COOK: No further questions, Your Honor.

4 THE COURT: You may step down.

5 (WITNESS LEAVING WITNESS STAND.)

6 MR. COOK: Defense calls Jeanette Richardson McCoy.

7 (WHEREUPON, JEANETTE

8 RICHARDSON MCCOY, BEING FIRST CALLED AND DULY SWORN,

9 TESTIFIED AS FOLLOWS:)

10 MADAM CLERK: Have a seat.

11 DIRECT EXAMINATION

12 JEANETTE MCCOY BY MR. COOK:

13 Q. Good morning, ma'am.

14 A. Good morning.

15 Q. Could you state your name for the record, please?

16 A. Jeanette Richardson McCoy.

17 Q. And, Ms. McCoy, how do you know Quentin?

18 A. Well I've known the whole family since 1992. I
19 married Quentin's cousin.

20 Q. Okay. So you've known Quentin practically his entire
21 life?

22 A. Yes. I - They actually call me his second mom. I
23 baby sitted him when he was four and then I think it was
24 2000 he moved in with me and my family.

25 Q. I don't normally ask a lady but you appear young. How

JEANETTE MCCOY: DIRECT BY MR. COOK
CROSS BY SOLICITOR BRACKETT

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1 old are you, ma'am?

2 A. Forty-one.

3 Q. Forty-one?

4 A. Yes.

5 Q. Okay. Have you had the opportunity to view Quentin
6 with babies?

7 A. Yes. I have a - she's now nine - but he was living
8 with me when I had my youngest daughter and she loves him to
9 death. She actually has him wrapped around her finger.

10 Q. Thank you, ma'am. Would he - Would you let him nurse
11 the baby with a bottle?

12 A. Yes.

13 Q. Did you ever see him change diapers?

14 A. Yes. He didn't like to change the number two pampers
15 but he did.

16 Q. Have you ever met a man that likes to change number
17 two pampers?

18 A. No, sir.

19 Q. Thank you.

20 MR. COOK: No further questions. Please answer any
21 anything the state may have.

22 CROSS-EXAMINATION

23 JEANETTE MCCOY BY SOLICITOR BRACKETT:

24 Q. Ma'am, did you say that Mr. Evans was living with
25 you?

JEANETTE MCCOY: CROSS BY SOLICITOR BRACKETT
REDIRECT BY MR. COOK

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1 A. Yes.

2 Q. At some point?

3 A. Yes.

4 Q. When was that?

5 A. He moved in with me and my family in 2000.

6 Q. And how long did he live with you?

7 A. To he got a job and was able to afford his own
8 apartment.

9 Q. So he considers you his second mom?

10 A. Yes.

11 Q. And do you consider him like a son?

12 A. As my baby.

13 SOLICITOR BRACKETT: Nothing further.

14 THE COURT: You may step down.

15 MR. COOK: Your Honor, if I may.

16 THE COURT: Sure.

17 REDIRECT EXAMINATION

18 JEANETTE MCCOY BY MR. COOK:

19 Q. So, you consider him like a son; is that correct?

20 A. Yes, sir.

21 Q. Have you ever given him advice?

22 A. All the time. All the time. I know I told - Well the
23 week before all this happened I picked him up one day he
24 was walking and we was talking about everything and the
25 baby, him working, him smoking, all of that. And the - We

JEANETTE MCCOY: REDIRECT BY MR. COOK

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1 was talking about when we was talking about the baby, you
2 know, he had some people telling him that the baby wasn't
3 his but when we was talking about it you noticed his dad
4 has very very blue eyes. So I ask him I said well what
5 color is the baby's eyes? He's saying their not blue but
6 they funny looking and they look like to me they change
7 colors. And I was like so you know she's yours? And he'd
8 say yeah she's mine. And then so I said you need to do
9 better than what you're doing. He day I know. I say you
10 need to get a job and stop smoking. And he say I know, I
11 know. As a matter of fact he wanted me to take him to put
12 in some job applications that following Monday before all t
13 his happened but I work on Monday and Tuesday.

14 Q. Thank you, ma'am.

15 SOLICITOR BRACKETT: Nothing further.

16 THE COURT: You may step down.

17 (WITNESS LEAVING WITNESS STAND.)

18 MR. COOK: If it please the court, Your Honor, I would
19 like to move this document into evidence as Defendant's
20 Exhibit Number Seven. It is an interview - the notes from
21 an interview from a DSS worker with the defendant. And I
22 would just like to say that the state and the defense have
23 agreed that I can just enter this into evidence, the DSS
24 worker's unavailable to testify today. So I would offer
25 this as Defense Exhibit Number Seven.

QUENTIN EVANS: DIRECT BY MR. COOK

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1 SOLICITOR BRACKETT: Without objection, Your Honor.
2 We've redacted certain portions of it that are not relevant
3 to this case and other than that we will ask for a charge
4 on redactions later but other than that we agree to the
5 introduction.

6 THE COURT: All right, it's admitted.

7 MR. COOK: Thank you, Your Honor.

8 (WHEREUPON, DEFENDANT'S EXHIBIT NUMBER SEVEN,
9 IDENTIFIED AND MARKED, RECEIVED INTO EVIDENCE.)

10 MR. COOK: Defense calls Quentin Evans.

11 MADAM CLERK: Raise your right hand, place your left
12 hand on the Bible.

13 (WHEREUPON, QUENTIN EVANS,
14 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

15 MADAM CLERK: Thank you. You may have a seat.

16 DIRECT EXAMINATION

17 QUENTIN EVANS BY MR. COOK:

18 Q. Good morning, sir.

19 A. Good morning.

20 Q. If you could state your name for the record?

21 A. Quentin Jarvis Evans.

22 Q. Mr. Evans, did you cause your daughter's death by
23 child abuse?

24 A. No, sir.

25 Q. Did you exhibit extreme disregard for human life at

QUENTIN EVANS: DIRECT BY MR. COOK

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1 any point in your life?

2 A. No, sir.

3 Q. Do you have two convictions on your record for
4 simple possession of marijuana?

5 A. Yes, sir, in 2008 and I believe 2000 - 2012.

6 Q. If I could correct you. Those are misdemeanors and
7 they are in 2010 and 2012; is that correct?

8 A. Yes, sir.

9 Q. Are those the only convictions you ever had on your
10 record?

11 A. Yes, sir.

12 Q. Do you smoke marijuana?

13 A. Very - sometimes when I'm by myself. I mean it ain't
14 like no habit type thing.

15 Q. Do you smoke marijuana every day?

16 A. Not like if it's like - Okay, I put it like this. If
17 it's a thirty day month two weeks. Every other day or two
18 days in a row. It ain't like no - they - they - they -
19 they three hundred and sixty-five days a week.

20 Q. You testified that you smoked marijuana or you had
21 made statements to the effect that you've smoked marijuana
22 on the day of January 22nd, the day before?

23 A. Yes, sir.

24 Q. This was the day while Minor was in your house?

25 A. Yes, sir.

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1 Q. Do you smoke it in her presence?

2 A. No, sir.

3 Q. Do you get high and then go into her presence shortly
4 after you get high?

5 A. Yes, sir.

6 Q. You saw the photographs the state put on the board
7 yesterday of you smoking. Was that marijuana that you were
8 smoking in that picture?

9 A. Yes, sir.

10 Q. Do you agree with the state's expert that you took
11 that picture the night on January 22nd, at ten - around
12 the ten o'clock hour whenever the picture was they said?

13 A. No, sir, I have a application on my phone. I thank
14 it's called Avery if I'm not mistaken. So after I snapped
15 the picture it goes to my application in order for it to
16 get on my SD card I have to copy it from my application
17 over to my SD card and me being chillin it with my daughter
18 in the bed like I'm doing all kind of little nic nak's on
19 my phone and I'm coping photos over and puttin 'em on Face
20 book. And maybe 10:44 that night that's when I copied from
21 Avery over to my SD card so I could save it for later
22 purposes.

23 Q. You realize that the state put up an expert witness?

24 A. Yes, sir.

25 Q. You realize that I agreed that that was an expert

QUENTIN EVANS: DIRECT BY MR. COOK

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1 witness?

2 A. Yes, sir.

3 Q. This man says that there's some ethic's file on
4 your phone that proves you took that picture at ten
5 something p.m. the night of January 22nd?

6 A. Yes, sir.

7 Q. Do you agree with their expert - Do you disagree with
8 their expert witness?

9 A. No, sir, not really. I mean I remember smoking and
10 I remember taking those pictures.

11 Q. Uh-huh.

12 A. But I cannot recall that that was exactly that night
13 at that specific time.

14 Q. Did you take - Why did you take pictures of yourself
15 smoking and putting them on Face book?

16 A. More of a flashy type thing like this is what I'm
17 currently do'in or customizing photos like what's up, hey,
18 how you'll doing or you know just snapping pictures cause I
19 ain't no big picture person so I had got my Galaxy II and
20 really turned into a picture person just started taking
21 self pictures.

22 Q. Is it common for your friends to do the same thing?

23 A. Nah, they don't really. They don't. Some of 'em -
24 some of 'em do it but the majority of 'em they don't really
25 like self pictures.

QUENTIN EVANS: DIRECT BY MR. COOK

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1 Q. Those are all the photographs that you took during
2 that time of you smoking that blunt?

3 A. No, sir, I got way more than just those pictures that
4 eh showed. I got pictures with me having my shirt off, me
5 twisting around, you know me - -

6 Q. I'm sorry, not meaning to interrupt you.

7 A. Me throwing up peace sign. I just got a whole variety
8 of a whole lot of pictures not just the one that was just
9 projected on the screen.

10 Q. Do you - I'm talking about the time that you were
11 smoking pot when you took - Did somebody else take that
12 photographs of you or did this Terrance take the photograph
13 of you?

14 A. No, sir. Terrance had done left and if you said all
15 Smart Phones are Phones or whatever the phone you got if
16 you got a picture App then you can go in before you snap
17 the picture instead of a cell snap like five second pause
18 then you set the camera, you set the camera up - I mean set
19 the phone up - hype it up on something and then stand back
20 and pose and it'll snap itself.

21 Q. Does it automatically go to your SM card?

22 A. No, sir.

23 Q. You have to import it into your SM card?

24 A. I have to copy it over to my SD card cause the SD
25 card is not the phone memory. It's a separate memory unit

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1 that you got to buy from Walmart or Walgreens of something
2 like that.

3 Q. Were you smoking pot that day of January 22nd?

4 A. Yes, sir.

5 Q. Explain.

6 A. I took a brief break and I - I mean I ain't smoked
7 a whole - you know a couple a puff cause I don't like - I
8 like - Like my family was saying I don't really like nobody
9 to watch my daughter or just in case anything happened I
10 don't want no but no I rather do everything on my own. So
11 take a brief break come back in the house sit in chair.

12 Q. Was this during the *Fast and the Furious* time?

13 A. Yes, sir. Well I watch the *Fast and Furious* more than
14 one. The *Fast and Furious* was my favorite movie all time.
15 I watched that more than - numerous times during that day.

16 Q. What time - Are you real good with time?

17 A. Not really cause I don't really pay attention to the
18 time.

19 Q. What time do you think you were watching the *Fast*
20 *and the Furious*?

21 A. Probably about 1:45, 2:00.

22 Q. Okay. Did you smoke pot at your house at 10:00 p.m.
23 Or any time thereafter that night of the 22nd of January?

24 A. 10:00 p.m. at night? No, sir.

25 Q. Are you saying that the only time you smoked pot that

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1 day was before the *Fast and Furious*?

2 A. Correct.

3 Q. How do you explain the photo with the date?

4 A. Cause I took the picture and I smoke - I smoked the
5 - but I don't remember it being exactly - you know - like I
6 say you got a take the picture and go to my application.

7 Q. When did you - What date, time, and date was it that
8 you - When you were smoking the marijuana that was on that
9 picture?

10 A. One - What is 01:21 or 14 or maybe like - I think it
11 was about 10:40. About 10:40.

12 Q. You say 1:21. That's the day before the 22nd when
13 we been discussing. That was probably a Tuesday.

14 A. Yes, sir, the day before, cause I have to . . .

15 Q. Did you consent to have all of that ripped off of
16 your phone?

17 A. Yes, sir.

18 Q. You signed a consent form for the police?

19 A. Yes, sir, I ain't got nothin to hide.

20 Q. Have you seen your phone since then?

21 A. No, sir.

22 Q. Has it been in evidence?

23 A. I think they gave it back. I think they gave it back
24 to my mom after they took the rippin thing.

25 Q. Did the photo that you took on the wall were you

QUENTIN EVANS: DIRECT BY MR. COOK

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1 inside your house or were you in somebody else's house
2 when you took it?

3 A. I was at my mom's house in our kitchen and our
4 laundry room connected. I was in the laundry room.

5 Q. How far did you go in school?

6 A. I went to tenth grade but I took a class. It's not
7 a class it's like a course. It's a Job Corp in Kentucky.
8 I don't remember the name of it but that's where I went and
9 got my GED and then I left because the weather there and
10 the thing I went for was painting and they had electricity.
11 They had shut those two trades down so they tried to give
12 me masonry and I ain't wanten masonry and the weather - the
13 snow got up to my waist so I ain't really liken it so I ask
14 my dad - my daddy was in Hawaii doing roofing. So I ask my
15 dad, "Dad can you send me seven hundred dollars for a plane
16 ticket?" You know he go crazy "Boy, I know you ain't" but
17 I said, "Dad, I'm really ready to go home I don't want to
18 be here no more." So after I got that - After I got my
19 certificate I ask my dad for the money for the plane ticket
20 and my daddy wired me the money through Western Union and
21 the people from Job Corp took me and I got the money and
22 went home.

23 Q. Did you get your GED while you were in the Job Corp?

24 A. Yes, sir.

25 Q. Do you consider that graduating?

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1 A. Yes, sir.

2 Q. Why did you tell the police that you graduated from
3 Northwestern High School?

4 A. To avoid the whole story I just told you. So like
5 numerous of people ask me. Like one person ask me and I
6 say - people like that "Do you got your high school
7 diploma?" I say yeah to avoid the whole history. And then
8 I may walk five minutes and somebody ask me - I may come
9 into two three interviews or to avoid saying the same story
10 that takes me time.

11 Q. Do you think it might be best if you say no but I have
12 my GED?

13 A. Yes, sir.

14 Q. You think that might have to do with your ego?

15 A. Yeah.

16 Q. Did you help take care of Jeanette's babies?

17 A. A lot of times. Her oldest two sons, Arthur McCoy,
18 James the III and Bram McCoy and then she had a third
19 daughter Bee. They call her Bee. Her name Brenda. She I
20 think - She's seven now. I think she's seven or eight.
21 She may be eight. I ain't for sure. But all through their
22 life I done been - They look up to me. We call each other
23 brother and all.

24 Q. Have you taken care of other people's babies?

25 A. Yes. Some of my sister's got five girls and one boy.

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1 Q. How - Were these babies that you were taken care of
2 ever new borns?

3 A. Kadashia her first one.

4 Q. Uh-huh.

5 A. She I think fourteen or thirteen now her first one
6 baby I got pictures at home would be holding Dada or I
7 remember one day me and Dada fell asleep on the couch from
8 me watching her.

9 Q. Do you remember the night in question? Were you
10 in your room smoking marijuana throughout the night?

11 A. No, sir.

12 Q. Were you figeting with your - using your text - your
13 phone throughout the night?

14 A. All throughout the night.

15 Q. Did you only have fifteen minutes of sleep?

16 A. The whole day calculation of maybe a hour but that
17 particular session that you talkin about maybe fifteen
18 minutes. Ten. I ain't for sure how many minutes.

19 Q. Do you remember the detective asking you that question
20 about the fifteen minutes?

21 A. Yes, sir.

22 Q. Did you say you were in and out but you were never
23 really got sleep?

24 A. Right.

25 Q. Did you lay and rest?

1 A. Laid down and rest or like I said I might be on my
2 phone. I might doze and then wake back up.

3 Q. Why wouldn't you fall asleep?

4 A. Because I'm afraid of my daughter she laying down on
5 her side and I don't want to kick her or if I'm asleep she
6 may get up and cry and I don't hear her she be over there
7 belligerently crying so I try not to go to sleep while
8 Minor is there.

9 Q. Did you hear her belligerently crying any on this
10 night in question?

11 A. Oh, no my daughter don't - she don't cry like that.
12 She - I say not a cry baby she pretty.

13 Q. Let me ask you, do you think there was anything wrong
14 with Minor that day or do you think she was okay the
15 22nd?

16 A. Minor she seemed okay but I mean it wasn't nothing
17 -

18 I don't think nothing was wrong. I ain't think nothing was
19 wrong with her.

20 Q. Sure. She was taking milk. Correct?

21 A. Yeah she was taking milk and going to sleep. You know
22 using the bathroom. That's normal things I thought a six
23 week old baby would do.

24 Q. Can you walk me through - There seems to be a lot of
25 speculation as to when you fed the child each time. Do you

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1 remember?

2 A. Yes, sir, I do.

3 Q. Okay. Let's hear it. But when's the last time that
4 the baby took what would be considered a full bottle?

5 A. She took the last full bottle at about nine, between
6 9:30 and 9:00. I know it was - I think it was mid nine or
7 early nine o'clock.

8 Q. All right. When's the next time you fed her?

9 A. I didn't. She drunk it all the way down to this
10 much right here.

11 (WITNESS DEMONSTRATED.)

12 A. And I put it in the refrigerator. But I didn't get
13 to feed her, physically feed her like I always feed her and
14 burp her. The whole process I never got to do that again.

15 Q. You didn't feed her at say one in the morning or try
16 to?

17 A. I tried to but she ain't want a bottle. I just gave
18 her a pacifier.

19 Q. You - Do you realize the importance of keeping a new
20 born on a feeding schedule?

21 A. Yes, sir, because when they wake up they either gonna
22 be wet or - or hungry. They ain't gonna be sleepy so I
23 figure she hungry.

24 Q. Have you ever taken any classes, parenting classes,
25 anything of that effect?

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1 A. No I ain't never had to go through all that before.

2 Q. Do you love your daughter?

3 A. Very very much. She was like a - a - a memorial
4 to people cause I named her after my sister and my sister
5 passed away and my daughter came so I named - I gave my
6 daughter my sister's name.

7 Q. Try to explain to me what happened that morning?

8 A. Of the 23rd?

9 Q. Yes, sir.

10 A. The morning of the 23rd - Well what do you - I start -

11 Q. When did you - So you gave her a bottle at - Tried to
12 one. Did you try again at 4:00 a.m. or somewhere around
13 there?

14 A. No. She's asleep. She laying down she sleep and
15 she's chillin and I'm chillin on my phone, Facebookin or
16 photo customizing, whatever you want to call it or watching
17 videos on YouTube and she laying there right beside me. We
18 laying my feet by her head and her feet by my head but she
19 ain't long enough as me. But we sleepin head to toe so my
20 little brother sleep right there on the bed beside us so as
21 I'm playing on the phone I mean she wake up but you know
22 seh ain't on - she ain't really cry like that so all you
23 got to do is put the pacifier in her mouth and she be calm.

24 Q. When did you first notice something - I didn't mean to
25 interrupt you. Were you about to say something?

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1 A. No I mean I was about to say I just lean - I'm laying
2 on my back so I just lean over my cell phone and put it
3 over her face to see if her eyes open and if she really
4 like actually woke or she just making noises for me to
5 notice to put her pacifier in her mouth.

6 Q. When did you first notice that something was wrong?

7 A. After I came back from the kitchen.

8 Q. Tell me.

9 A. Well the night of that when I first noticed something
10 was wrong with my daughter after my brother left out of the
11 room and I'm in there making a bottle and as I'm coming
12 back in the room I got to push the door knob of course, I
13 ain't got to turn it cause it ain't actually locked closed.
14 It's just closed up like that. Cause if you sway by my
15 door it will just close in it's own slowly. But as I'm
16 opening the door I hear my daughter crying. I know she
17 really don't cry like that so I'm really thinking she must
18 really be woke now and hungry. Pacifier done fell out of
19 her mouth or whatever the case may be at. So as I'm walk -
20 It's dark in my room but as I tell you you got a light that
21 shines from the kitchen into the bedroom. You can see the
22 bedroom and if it's dark if you laying in the dark and of
23 course you can see cause your eyes adjust to the dark and
24 as I'm opening the door I hear my daughter crying but I'm
25 not really aware that she done fell. So as I'm opening the

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1 door I actually look on my daughter's pallet that where I
2 lay her at and that's when I noticed she wasn't there so I
3 reacted. I ran and I jumped on the bed and I looked down
4 and she was down like this little slump right here and I
5 grabbed her with my left arm and I jerked her up like this.

6 (WITNESS DEMONSTRATED.)

7 A. And I got her and that's when I seen she was crying.
8 And I sat on the right side of my bed and I patted her back
9 telling her baby it's okay I got you. And I didn't know
10 cause I was in the kitchen. Baby I got you now so you in
11 good hands now you can calm down. So after she calmed down
12 that's when I looked at her like this and it seemed like
13 her eyes was half dazed me being the first time dad I ain't
14 thank that she was knocked out cold or injured real
15 seriously so I look at her like this. And I'm looking at
16 her and I'm looking at her. I say she must want to go to
17 sleep. So what I did while the bottle is on the stove in
18 the kitchen so as I'm looking at her I'm thinking she must
19 want to go to sleep. So I laid her back on her left side
20 put her covers over her.

21 Q. Why did you lay her on her side?

22 A. Cause I don't want - If I lay her on her face and I
23 could possibly go to sleep then the covers would smother
24 her face and her mouth and it kill her I don't want that to
25 happen and I don't want to lay her on her stomach or I

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1 don't want to lay her on her back cause if she spit up or
2 something it would choke her in her throat and I ain't want
3 that to happen cause then I really be in trouble so I do
4 the logic thing is you can't lay her on her stomach and
5 can't lay her on her back lay her on her side.

6 Q. Does she have acid reflux?

7 A. Yes, sir.

8 Q. Then what happened next? You said after you - -

9 A. Well after I looked at her and laid her back down to
10 go I ran in the kitchen cuase the bottle you know I get the
11 bottle put it in the refrigerator cause she just fell so I
12 know she ain't gonna want no - she's not gonna want her
13 bottle. I would turn back to the room I lay down with my
14 daughter face to face.

15 Q. What time was this?

16 A. Boy this was deep in the night. Uh - five, I think
17 five, about 5:20.

18 Q. All right. What happened next?

19 A. After I lay down with her face to face I threw my
20 arm over her cause I feel drowsy cause I been up all night.
21 I feel drowsy so I throw my arm over her just so - That
22 won't even happen no more. I'm gonna cancel that all the
23 way out the equation so that won't happen no more so I
24 throw my arm over her. I end up dozing off from watching
25 her face to face. I end up dozing off and it - people have

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1 dreams, you know, you have dreams so as I'm sleeping my
2 daughter falling pops in my brain and that's what makes me
3 - my eyes pop open from being sleepy. So as I'm looking
4 face to face with my daughter I can see her eyes and my
5 eyes they lock. I mean you looking - my eyes lock with her
6 eyes and that's when I say Minor baby, Minor She
7 normally like if she woke she normally do something. You
8 know what I'm saying? Might be a little figet or a woo or a
9 twist or something but she normally do something. So I
10 noticed she wasn't really responding so I got up on my
11 elbow and that's when I put my ear to her mouth to see if
12 she was breathing but I weas like she's a baby ain't no baby
13 breathing so I put these two fingers on her neck right here
14 to feel her pulse. I learned that from Coach T. Coach
15 Tucker from Northwestern High School if you wonder. I
16 learned that from him. Put your fingr right there you feel
17 a pulse, a heart beat. I put my finger right there and I
18 sat it there for a little second and I was like, "Shit,
19 baby, what you doing?" Shit, her pulse ain't gonna be that
20 big. So that's when I looked at her. I was like Baby I'm
21 thinking what's wrong. So I get up and I stand on my feet
22 and I rippen open her sleeper in her onesy the thing she
23 sleep in that I had put on her from taking her bath. I
24 ripped that open and I put my head to her chest I ain't
25 feel no breathing. That's when I did the arm like the arm

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1 thing. One, two, three, you know like normally when
2 somebody knocked out or their arm ain't moving you know you
3 do three count and that's - Once I noticed that the three
4 arm thing didn't work and her arm ain't - she ain't
5 resisted back that's when I snowed that something was like
6 seriously wrong with my daughter. So my next to my nurse
7 is my mom but every time something happens or I get scared
8 up or something I run to my momma. I run directly to my
9 momma's room. I run past the clock, run past my little
10 brother sleepin right there on the couch, I run past him I
11 run into my momma's room and my daddy sleepin beside my
12 mom. I wake my mom. I shake my mom's leg and say mom
13 something wrong with Minor I'm like daddy get up with
14 my mom. So my mom comes running in the room I flick on the
15 lights switch and my daughter you know I got her laying -
16 her legs like toward the end of my bed like she laying this
17 way. My bed this way she laying this way so that's when my
18 mom scooped her up like this and I really snowed - really
19 really really snowed that's when I start going belligerent
20 and crazy when my mom picked her up cause her head and her
21 arms was like - went back like . . .

22 Q. You said you went ballistic?

23 A. I went beliegerant.

24 Q. Okay.

25 A. And that's when my daddy --

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1 Q. What's belligerent mean?

2 A. Abnormal activity.

3 Q. Yeah. You got excited is what you're trying to say?

4 A. I got excited. Yeah I got - I got -

5 SOLICITOR BRACKETT: Object to the leading.

6 THE COURT: Sustained.

7 A. I got out of control. I am no longer controlling my
8 body. Adrenaline and fear. So when my mom pick her up and
9 take her into the living room that's when I really knew -
10 really really knew something was really wrong and my dad
11 telling me to call the ambulance but I couldn't cause I was
12 crying and going crazy and too much - so much going on at
13 the time. So after they talking I see my dad pushing on
14 her chest. And I was like no not my baby, not - not
15 Minor cause that was a special person. I mean like not
16 my first daughter. So after I watched my dad do the chest
17 pushes I'm crying and everything and something just tell me
18 in my mind just run in the room and call the ambulance. So
19 that's where my 911 call come in at. I run in the room I
20 get my cell phone and I call 911. Me and the 911 lady
21 talking and I'm crying and my bedroom window's was right
22 there. It used to be houses behind our house but they done
23 cleared it out now so it's a lot of open field. And you
24 can look like way down the street so as I'm looking way
25 down the street crying I can see the ambulance guy driving

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1 around searching for our house so me thinking in my mind my
2 daughter hurt adrenaline running and he don't know where my
3 house at why not run outside and go chase him down on my
4 feet cause I can run pretty fast. So I ran past everybody.
5 My dad still doing the child and I run past everybody while
6 they crying and everything and I run past everybody. Run
7 outside and run around the block ran down the street and
8 that's when he seen me and he mashed the gas cause I was
9 doing like this right here.

10 (WITNESS DEMONSTRATED.)

11 A. He mashed the gas I turned around and started running.
12 I took off running and he was following me and I turned the
13 corner he turned the corner behind me. I turned the next
14 corner he pull up at my house and then that's when they
15 took over.

16 Q. Thank you.

17 A. Thank you.

18 MR. COOK: That's all the questions I have. Answer
19 anything else the state might have.

20 A. Thank you.

21 SOLICITOR BRACKETT: May it please the Court, Your
22 Honor. We been going about an hour and forty minutes.

23 THE COURT: Does anybody on the jury need a break?

24 We got one that needs a break? Okay.

25 Please go to your jury room. Don't discuss the case,

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1 I'll bring you back shortly.

2 (JURY EXITS COURTROOM AT 11:08 A.M..)

3 THE COURT: All right, we'll take ten minutes.

4 You can step down. You can't talk to anybody.

5 A. Yes, sir.

6 THE COURT: Ten minutes.

7 (COURT IN RECESS AT 11:08 A.M..)

8 (COURT BACK IN SESSION AT 11:25 A.M..)

9 THE COURT: Thank you. Be seated.

10 All right. Bring the jury in please, sir.

11 (JURY REENTERS COURTROOM AT 11:26 A.M..)

12 THE COURT: Mr. Brackett.

13 SOLICITOR BRACKETT: May it please the court.

14 CROSS-EXAMINATION

15 QUENTIN EVANS BY SOLICITOR BRACKETT:

16 Q. Mr. Evans, good morning. How are you?

17 A. Good morning. I'm fine. How about yourself?

18 Q. Good. Thank you. How old are you, Mr. Evans?

19 A. I'm currently twenty-six.

20 Q. And was Minor your only child?

21 A. Yes, sir. But I have step daughter. She's the age
22 of two.

23 Q. Okay. But your biological?

24 A. Yes, sir, she's the only one.

25 Q. You have a step daughter. Are you married?

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1 A. No, sir. It's my girlfriend's daughter.

2 Q. Okay. I see. Not Kierra. A different girl?

3 A. Yes, sir.

4 Q. Okay. So she's two?

5 A. Yeah, she's two.

6 Q. All right. But she's not your biological daughter?

7 A. Oh, no, sir.

8 Q. Okay. So did you - Was Minor planned? Did you all
9 intend to have a child or was she a surprise?

10 A. Yeah, she a surprise party.

11 Q. Okay. And I believe it was testified earlier that
12 you didn't really have a lot of experience with her at the
13 house.

14 A. Who, Minor

15 Q. Yes. At your house. She had mostly stayed in Chester
16 while you --

17 A. Yes. Cause she was just born. It's the winter
18 season so me I prefer her not to come outside until her
19 mother felt like it was okay for her to come to the house.

20 Q. Right. And Kierra had been taking care of her up to
21 that point but she just got a job?

22 A. No. She been had the job before she was pregnant
23 but --

24 Q. Now she had gone back to the job?

25 A. Now she's going back yes, sir.

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1 Q. Okay.

2 A. Yes, sir.

3 Q. Okay. So she needs to figure out a plan to who's
4 gonna watch baby?

5 A. Yes, sir. I mean she probably had the plan already
6 figured out to talk me the dad about it but I'm pretty sure
7 she talked to her mom or her sister or ---

8 Q. Yeah.

9 A. --- whoever she informed.

10 Q. I guess what I'm saying is, the plan was she's going
11 back to work, somebody needs to watch the baby. So your
12 part of the plan was you were gonna start watching the baby
13 Wednesday through Friday?

14 A. Yes, sir, because I'm fifty percent - fifty fifty. I
15 can't do not being ---

16 Q. That's right.

17 A. --- in her life.

18 Q. And this is your child?

19 A. And this is my child.

20 Q. So your responsibility?

21 A. My responsibility.

22 Q. You are the one who is responsible for making sure
23 she's fed, clothed, taken care of. Right?

24 A. Yes, sir.

25 Q. That's a big responsibility?

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1 A. Very big.

2 Q. And this is the first sort of time she drops her
3 off that Wednesday?

4 A. No. This is the second time that I done had her
5 for three - supposed to have her for a three day span. The
6 first time was Wednesday, Thursday, Friday. And then the
7 weekend Saturday, Sunday, Monday, Tuesday and then this
8 Wednesday the 23rd.

9 Q. So she was there the week before for three days?

10 A. Yeah, she was there for the week before for three
11 days. But then like I say before she might bring her for a
12 couple of hours so I can see her cause I always would call
13 Kierra back and can see my daughter ---

14 Q. Uh-huh.

15 A. --- cause you keep her all the time. Uh-huh.

16 Q. Now, you heard Ms. Banks testify. She was in the
17 courtroom. Right?

18 A. Yes, sir.

19 Q. And you heard the cell phone expert testify about
20 the records from your cell phone?

21 A. Yes, sir.

22 Q. And there was some text back and forth between you
23 and Kierra. And I'm referring you to State's Exhibit
24 Sixty-two. And specifically at 1/22/2014 at 8:56 in the
25 morning you get a text from Baby Momma.

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1 A. Which is Kierra.

2 Q. Which is Kierra.

3 A. Yes, sir.

4 Q. And that's her number ?

5 A. Yes, sir.

6 Q. And she says OMW.

7 A. On my way.

8 Q. On my way. Right. So we know that she was coming
9 from Chester about about 8:56.

10 A. Yes, sir.

11 Q. It takes about an hour to get there?

12 A. About forty-five minutes. I mean it depends on how
13 fast - You use the speed limit it take about twenty or
14 thirty minutes.

15 Q. So she got there just a few minutes before ten?

16 A. Yeah.

17 Q. Nine forty-five?

18 A. Yeah by nine forty-five.

19 Q. Something like that?

20 A. Yeah.

21 Q. And what did she bring? She brought - Obviously
22 she brought Minor

23 A. She brought Minor you know the car seat, the
24 - We share - Well she got plenty of diaper bags but we
25 share one that was red with - -

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1 Q. Minnie Mouse?

2 A. Yeah, I thank it was Minnie Mouse with white - with
3 white dots on it I think. Yeah, white dots. We shared
4 that one right there.

5 Q. That's the one that's in the pictures on your head
6 board?

7 A. Yeah, that's the one that's in the - Yeah.

8 Q. Okay.

9 A. Yeah.

10 Q. And did she bring anything else?

11 A. She bring like - like - See how we do is the day
12 Minor like if Minor leaves Friday. Right?

13 Q. Uh-huh.

14 A. I put the - She washed Minor clothes so I put all
15 the clothes Minor done used - I have a thing in my
16 closet where I put diapers in the bag so I know she going
17 back to work - just started going back to work so I would
18 put - no wipes in there or something - or on the same
19 occassoin if she bring Minor she bring diapers, she
20 bring information for me that I supposed to know.

21 Q. But generally she brought and you had all the things
22 you needed to take care of Minor

23 A. Yes, sir.

24 Q. Which would be food?

25 A. Yes, sir.

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1 Q. Diapers?

2 A. Yes, sir.

3 Q. Wipes?

4 A. Yes, sir.

5 Q. Clothes?

6 A. Clothing.

7 Q. Did she bring the clothes?

8 A. No I got clothes already but you know she might
9 bring two or three outfits and I put 'em in the closet.

10 Q. So you add that to your clothes and now you got
11 onesies and stuff. And she doesn't ---

12 A. One.

13 Q. --- need sneakers. She's not running around.

14 A. Yeah, right.

15 Q. Okay.

16 A. Yes, sir.

17 Q. And she gave you some instructions too. Right?

18 A. Yes, sir.

19 Q. What did she tell you?

20 A. She told me more like I was feeding my daughter the
21 bottle. You know she got a long bottle and she got a short
22 bottle.

23 Q. Yeah.

24 A. She was telling me to feed her the short bottle
25 instead of the long bottle but I was like well my daughter

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1 just loves so I want to help her grow so that's why I was
2 feeding her the big bottle. And her momma told me don't
3 really be feeding her the whole - the whole bottle cause it
4 may swell her stomach.

5 Q. But it doesn't really matter she's gonna stop eating
6 when she's full. Right?

7 A. Yeah she's gonna stop eating when she's full.

8 Q. You could hold up a two gallon container she's not
9 drinking two gallon.

10 A. Yeah, she's not gonna drink it. Right.

11 Q. She's gonna eat and then she's gonna get full and
12 then she's gonna stop eating?

13 A. Yes, sir.

14 Q. Babies are good that way.

15 A. Yes, sir.

16 Q. So we know she had left the house by about 10:50.

17 Right? Cause you texted you and said can you find
18 out how much that guy selling the car for down the road.

19 Right?

20 A. Yeah, there was a guy - -

21 Q. She's gone by 10:15?

22 A. Yeah, she -

23 Q. Now Minor is in your care?

24 A. All mine.

25 Q. Okay. And you talked to a variety of people about

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1 what happened during that day into the night and over into
2 the early morning hours of the 23rd. We're talking about
3 Wednesday, January 22nd through the day. Right?

4 A. Uh-huh. Okay.

5 Q. Into the evening and then she goes to bed and now
6 we're into past midnight into the early morning hours right
7 up until the 911 call is made.

8 A. Okay.

9 Q. Right? You talked to a bunch of different people
10 about that?

11 A. Yeah, I talked to - On my cell phone?

12 Q. No. Just in general.

13 A. In general?

14 Q. Yeah.

15 A. Did I have communication with 'em?

16 Q. Since Minor died?

17 A. Did I have communication with others?

18 Q. Yes with all these people, we've seen many of them
19 come into the courtroom and testify.

20 A. Yes, sir.

21 Q. Right?

22 A. Right.

23 Q. Now you've spoken to a lot of people about what
24 happened?

25 A. Yes, sir.

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1 Q. Okay. Now, from the start the 911, that's the first
2 time you talked to somebody outside your family about
3 Minor

4 A. Yes, sir.

5 Q. EMS, to the officers who drove to the hospital.

6 A. To the hospital.

7 Q. To the officer who questioned you at the hospital
8 about what happened, what happened. People at the
9 hospital, the doctors and nurses, the coroner's office, the
10 detective's afterwards.

11 A. Yes, sir.

12 Q. All these people are asking you these questions and
13 many of them they're important questions aren't they?

14 A. Very important.

15 Q. And you wanted to be truthful. Right?

16 A. Very truthful.

17 Q. Okay. Because like you don't know at the beginning
18 is my daughter gonna live or die.

19 A. In the beginning I really didn't know.

20 Q. So you knew it was important to be truthful the
21 whole time.

22 A. I knew it was important to be very truthful.

23 Q. All these people that you talked to that I just
24 described, everything you said to them was true and
25 accurate?

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1 A. True and accurate as I can remember.

2 Q. And the testimony you've given here today, true and
3 accurate?

4 A. Yes, sir.

5 Q. Okay. Now, when you talked to Detective Haire at the
6 police department, cause you spoke to him at the hospital,
7 and then there was a long interview at the police
8 department and you heard it played?

9 A. Yes, sir.

10 Q. He ask you specifically because it's important how
11 was the baby through the day. And you said, "She was fine,
12 she was playing, we watched movies." Right?

13 A. Correct.

14 Q. And you even told her some of the games you played.

15 You bounced her on the knee, peek a boo, you - she
16 grabbed your thumb sometimes when you would bounce her.
17 And you fed her and she slept some and you fed her some and
18 you played some and you watched movies together.

19 A. Yes, sir.

20 Q. You were interacting normally with her throughout the
21 day.

22 A. Yes, sir.

23 Q. Right. Did you bath her through the day?

24 A. No I ain't bath her through the day. I might wipe her
25 down but bath her I get a bowl - I don't use no soap

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1 though.

2 Q. Okay.

3 A. Cause I don't know how her momma wash her and I
4 don't know her skin is allergic to whatever so I just
5 normally use water.

6 Q. Yeah. But she expected you to bath her didn't she?

7 A. Yeah, she told me to bath her.

8 Q. And she told you for example "Wash her hair tonight
9 and use that brush to brush off the dead skin in her hair.
10 Got to be a little rough if not her hair won't grow." That
11 was a text she sent to you at 10:30 in the morning January
12 22nd that Wednesday morning.

13 A. Yes, sir.

14 Q. So she's doing what a momma does. She's telling you
15 that ---

16 A. And do it ---

17 Q. --- is how it's got to be.

18 A. --- and telling me what to do. Yeah, she's telling
19 me --

20 Q. So did you bath her that night?

21 A. Yes, sir.

22 Q. All right. Where do you bath Minor Where do
23 bath her?

24 A. On my bed. I put a pallet - slide a pallet to me.

25 While she laying on her pallet I grab her pallet and turn

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1 it towards me. That's when I take her clothes off.

2 Q. Okay. But I mean when you give her a bath you don't
3 give her a bath on your lap do you?

4 A. Yeah, I give her a bath - I ain't had no baby tub
5 thing, whatever you put - what is it? I don't know what
6 it's called but --

7 Q. But you had a little tub?

8 A. No I don't have a little tub so I have to take her
9 clothes off of her ---

10 Q. Okay.

11 A. --- and she lay there and I take one arm and wipe
12 it. Wipe this side.

13 Q. So you gave her a bath with baby wipes?

14 A. No. With a baby - She got a pink baby cloth that
15 her grandmother bought for her while we was shopping at
16 Family Dollar and stuff like that. Bought her a variety of
17 rags so I wash her on one side and grab her and wash her on
18 the other - grab her leg.

19 Q. You don't put her in the bathtub or sink?

20 A. Oh, no. I don't put - - -

21 Q. Nothing like that?

22 A. No, sir, cause it was cold so I ain't really wantin
23 to do that.

24 Q. Well how did you wash her hair? She said you need
25 to wash her hair.

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1 Q. I didn't wash her hair cause I ain't - she got a
2 soft spot right here on top of her - She had a soft spot
3 right here.

4 (WITNESS DEMONSTRATED.)

5 A. And I ain't - I ain't want to be rubbing it like that
6 washing it and it - you know.

7 Q. Did Minor like taking a bath?

8 A. I mean she --

9 Q. She tolerate it pretty well?

10 A. Yeah. Yeah.

11 Q. Okay.

12 A. I mean she do what normal baby do supposed to cry.

13 Q. Okay. And when you wiped her down with the wash
14 cloth, I mean she didn't get upset or anything like that?

15 A. No not really. She - I mean cry but I don't count
16 that as being upset. I figured that's what babies supposed
17 to do.

18 Q. Might have been cold or something?

19 A. Yeah might a been cold that's what babies do so.

20 Q. But nothing unusual?

21 A. Nothing, naw.

22 Q. Okay. Did you see anything unusual about her body
23 when you were bathing her? Nothing that stuck out to you?

24 A. Naw. I ain't really paid - I'm not suspecting nothing
25 so I'm not paying ---

1 Q. Yeah.

2 A. --- attention. I'm just doing what I supposed to
3 do.

4 Q. Okay. But you didn't see anything that caused you to
5 be concerned?

6 A. Naw I ain't seen nothing like oh out the ordinary.

7 Q. Okay. How many baths did you give her like that?
8 Just one?

9 A. One. I gave her one full bath but I gave two. I gave
10 her one little small mini wash up earlier that day and then
11 I gave her an actual washing, full body wash.

12 Q. How many times did you have to change her diaper
13 through the day?

14 A. I think -- I think two. Or three. Two.

15 Q. Okay.

16 A. Two I think.

17 Q. And that involves taking off her onesy?

18 A. Naw she got a onesy to where the button on her leg,
19 is a button all the way to the leg and ---

20 Q. Okay.

21 A. --- a button right across it. You can just take that
22 and ---

23 Q. And you just slip it off?

24 A. --- pop it off and just lift it up.

25 Q. And wipe her off and put a new diaper on and pop her