

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville County
Edward W. Miller, Circuit Court Judge

ORIGINAL

RECEIVED

SFP 21 2016
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TARRAN MARTEIOUS EDWARDS,

APPELLANT

APPELLATE CASE NO 2016-000333

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

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

J. BENJAMIN APLIN
Senior Assistant Deputy Attorney General
Office of the Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED FEBRUARY 8 - 9, 2016	1
MOTION REGARDING ADMISSIBILITY OF STATEMENT.....	8
MOTION TO EXCLUDE PHOTOGRAPHS	10
JURY QUALIFICATION	12
JURY SELECTION	16
OPENING REMARKS BY THE COURT	23
MOTION TO EXCLUDE PHOTOGRAPHS	30
OPENING STATEMENT BY MS. PAOLETTI.....	35
OPENING STATEMENT BY MS. WICKER	39
TESTIMONY	
RENE BUFORD	
Direct examination by Ms. Paoletti	40
HENRY CHRISTOPHER HAMMETT	
Direct examination by Ms. Paoletti	44
Cross examination by Ms. Wicker	53
JOSHUA BROWN	
Direct examination by Ms. Paoletti	57
Cross examination by Ms. Wicker	62
STAN WHITTEN	
Direct examination by Ms. Paoletti	63
Cross examination by Ms. Wicker	66
EMMANUEL DAVIS	
Direct examination by Ms. Paoletti	68

JONATHAN HOWARD	
Direct examination by Ms. Paoletti	72
Cross examination by Ms. Wicker	77
AL HARRISON	
Direct examination by Ms. Paoletti	79
MICHAEL FORTNER	
Direct examination by Ms. Paoletti	85
Cross examination by Ms. Wicker	90
TANGELA KENNEDY	
Direct examination by Ms. Paoletti	91
Cross examination by Ms. Wicker	106
Redirect examination by Ms. Paoletti	108
DANIELLE SAMPLES	
Direct examination by Ms. Paoletti	109
Cross examination by Ms. Wicker	121
COLLOQUY ON DEFENDANT'S RIGHT TO TESTIFY	
124	
TESTIMONY	
MICHAEL AVANT	
Direct examination by Ms. Paoletti	127
Cross examination by Ms. Wicker	162
Redirect examination by Ms. Paoletti	164
BRITNI BRADSHAW	
Direct examination by Ms. Paoletti	166
Cross examination by Ms. Wicker	178
ANTHONY JOHNSON	
Direct examination by Ms. Paoletti	180
Cross examination by Ms. Wicker	193
MICHAEL WARD	
Direct examination by Ms. Paoletti	195
CLOSING ARGUMENT BY MS. PAOLETTI	
215	
CLOSING ARGUMENT BY MS. WICKER	
225	
CHARGE ON THE LAW	
229	

VERDICT	238
SENTENCING	240
COURT'S EXHIBIT # 2 (JURY NOTE)	242
INDICTMENT.....	243
SENTENCE SHEET.....	245
CERTIFICATE OF COUNSEL	246

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	2014-GS-23-0467
COUNTY OF GREENVILLE	)	
	)	
	)	
	)	
THE STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
TARRAN MARTEIOUS EDWARDS,	)	
DEFENDANT.	)	

February 8 and 9, 2016
Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD W. MILLER, JUDGE

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

LEIGH BOOTH PAOLETTI, ESQ.
Attorney for the Plaintiff

AMANDA L. WICKER, ESQ.
PARKER ANN BAXLEY, ESQ.
Attorney for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

INDEX

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness

PAGEMONDAY, FEBRUARY 8, 2016

Pretrial Motions	5
Jury Qualification	12
Jury Selection	16
Introductory Remarks by the Court	23
Pretrial Motions	30
Opening Statement by Ms. Paoletti	35
Opening Statement by Ms. Wicker	39
<u>(SW) RENE BUFORD:</u>	
Direct Examination by Ms. Paoletti	40
<u>(SW) HENRY CHRISTOPHER HAMMETT:</u>	
Direct Examination by Ms. Paoletti	44
Cross-Examination by Ms. Wicker	53
<u>(SW) JOSHUA BROWN:</u>	
Direct Examination by Ms. Paoletti	57
Cross-Examination by Ms. Wicker	62
<u>(SW) STAN WHITTEN:</u>	
Direct Examination by Ms. Paoletti	63
Cross-Examination by Ms. Wicker	66
<u>(SW) EMMANUEL DAVIS:</u>	
Direct Examination by Ms. Paoletti	68
<u>(SW) JONATHAN HOWARD:</u>	
Direct Examination by Ms. Paoletti	72
Cross-Examination by Ms. Wicker	77
<u>(SW) AL HARRISON:</u>	
Direct Examination by Ms. Paoletti	79
<u>(SW) MICHAEL FORTNER:</u>	
Direct Examination by Ms. Paoletti	85
Cross-Examination by Ms. Wicker	90

INDEX (CONTINUED)

(SW) TANGELA KENNEDY:

Direct Examination by Ms. Paoletti	91
Cross-Examination by Ms. Wicker	106
Redirect Examination by Ms. Paoletti	108

(SW) DANIELLE SAMPLES:

Direct Examination by Ms. Paoletti	109
Cross-Examination by Ms. Wicker	121

TUESDAY, FEBRUARY 9, 2016

(SW) DR. MICHAEL AVANT:

Direct Examination by Ms. Paoletti	127
Cross-Examination by Ms. Wicker	162
Redirect Examination by Ms. Paoletti	164

(SW) DR. BRITNI BRADSHAW:

Direct Examination by Ms. Paoletti	166
Cross-Examination by Ms. Wicker	178

(SW) DR. ANTHONY JOHNSON:

Direct Examination by Ms. Paoletti	180
Cross-Examination by Ms. Wicker	193

(SW) DR. MICHAEL WARD:

Direct Examination by Ms. Paoletti	195
------------------------------------	-----

State Rests	212
-------------	-----

Motion	212
--------	-----

Closing Arguments by Ms. Paoletti	215
-----------------------------------	-----

Closing Arguments by Ms. Wicker	225
---------------------------------	-----

Charge on the Law by the Court	229
--------------------------------	-----

Note from the Jury	236
--------------------	-----

Verdict	238
---------	-----

Sentence	240
----------	-----

Certificate of Reporter	241
-------------------------	-----

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
(State's Exhibits)			
S-1	Photo	5	87
S-2	Photo	5	87
S-3	Photo	5	N/A
S-4	Photo	5	N/A
S-5	Photo	5	88
S-6	Photo	5	88
S-7	Photo	5	88
S-8	Photo	5	89
S-9	Photo	5	89
S-10	Photo	5	89
S-11	Photo	5	144
S-12	Photo	5	53
S-13	Photo	5	53
S-14	Photo	5	N/A
S-15	Photo	5	N/A
S-16	Photo	5	133
S-17	DVD - Death Investigation	5	83
S-18	DVD - 9-1-1 Phone Call	5	43
(Court's Exhibits)			
C-1	Jury Note	240	
C-2	Jury Note	240	

P R O C E E D I N G S

Monday, February 8, 2016

(WHEREUPON, State's Exhibit Nos. 1 through 18 were
premarked for identification.)

THE COURT: All right. Anything before we bring the
jury up?

MS. PAOLETTI: Your Honor, the defense has provided to
me some proposed voir dire, and I think she's provided a
copy to you as well. Your Honor, I don't have any
objection to No. 2 or No. 5, but the questions about
whether or not any of the jurors have been a witness to
murder, I just don't know that that's necessary. It's not
a murder case. Same with the question about domestic abuse
or any crime of violence. I just would object to those as
just being too general and not relevant for this case.

And then No. 6, Your Honor, I sort of have the same
objection to that. It's just a little bit general in
nature and would ask that you consider not asking that
question. And, Judge, I believe that that issue would
likely come to light anyway if you ask a general question
about whether someone can be fair and impartial, if that's
an issue.

THE COURT: So you don't object to which ones?

MS. PAOLETTI: No. 2 and No. 5.

THE COURT: And you object to the others; is that

1 right?

2 MS. PAOLETTI: Yes, sir.

3 THE COURT: Okay. Yes, ma'am.

4 MS. WICKER: Your Honor, I would just ask that, given
5 the nature of the charge and the severity of the crime, you
6 consider asking those questions, but I will leave it in
7 your discretion, Your Honor.

8 THE COURT: All right. Thank you.

9 Okay. Anything else? Do you have a witness list?

10 MS. WICKER: No, Your Honor. We do not.

11 THE COURT: All right. Okay. Well, let's get the ---

12 THE CLERK: How many would you like?

13 THE COURT: What is this, 5 and 10 or 5 and 5?

14 MS. PAOLETTI: I can't say I know the answer, Your
15 Honor.

16 THE COURT: It looks like 5 and 5. Okay. All right.
17 Let's get 30, I guess. Are there enough? 32, or something
18 like that.

19 THE CLERK: Okay.

20 MS. WICKER: Your Honor, we have a few pretrial
21 matters, but we can take them up after the jury's sworn ---

22 THE COURT: All right.

23 MS. WICKER: --- if you prefer to do that.

24 THE COURT: Okay. Whatever's -- what do you have,
25 just while we're ---

1 MS. WICKER: Just a few housekeeping matters, Your
2 Honor. I was going to ask to voir dire the State's experts
3 outside the presence of the jury. I don't think the
4 State's calling them -- any of them until tomorrow anyway.

5 THE COURT: Okay.

6 MS. WICKER: And my client gave a statement to law
7 enforcement. I don't know if the State intends to
8 introduce it, but I didn't know if we need to do a Jackson
9 v. Denno hearing as a ---

10 MS. PAOLETTI: No. Not at the time, Judge. And I
11 have a motion related to that as well.

12 THE COURT: All right. What's your motion?

13 MS. PAOLETTI: I would just move in limine that there
14 not be any questions from the defense that elicit
15 statements made by the defendant during his interview.
16 Your Honor, I'll make the contemporaneous objection if that
17 happens, but sometimes, Your Honor, it's too late if the
18 question on -- from the defense is -- contained statements
19 that the defendant made and an objection is too late, so
20 I'm asking in limine that the defense not testify about
21 what the defendant said in the statement in their question.
22 That's it.

23 THE COURT: Are y'all going to testify? Is that what
24 I heard?

25 MS. WICKER: No, Your Honor.

1 THE COURT: All right. I don't know what the
2 statements are. They must be exculpatory.

3 MS. PAOLETTI: Well, Your Honor, the State's position
4 is that they're self-serving, and for the defense to be
5 able to elicit those in their questions of my witnesses
6 prevents me from being able to cross-examine the defendant
7 on those statements. And that's why they're hearsay, and
8 it's not admissible from the defense. Your Honor, if
9 Investigator Hammett, who interviewed the defendant, is on
10 the stand, and on cross-examination Ms. Wicker were to ask
11 him, "Isn't it true the defendant told you in his
12 interview, X, Y, Z," it's hearsay. It's not admissible.
13 And it allows the ---

14 THE COURT: He's a party defendant.

15 MS. PAOLETTI: No, sir, Your Honor. It's not. It's a
16 party opponent if the State elicits that testimony. It has
17 to be offered against the party. Yes, sir, Your Honor.
18 And it's the rule. It's hearsay if it's elicited by the
19 defense.

20 THE COURT: Have you got case law to that effect?

21 MS. PAOLETTI: I have the rule of evidence, Your
22 Honor. And, Your Honor, the effect would be that the
23 defense could ask Investigator Hammett everything the
24 defendant did, isn't it true the defendant said everything
25 he said in the statement, and that effectually lets the

1 jury hear his entire statement without him being
2 cross-examined. And it's -- and it's hearsay.

3 THE COURT: Show me your authority. I may need to
4 hear what the statement is out of the jury's presence.

5 MS. PAOLETTI: Your Honor, in Rule 801(d)(2), a
6 statement is not hearsay if it's an admission by a party
7 opponent and it's offered against a party and the party's
8 own statement is in their individual capacity. But it has
9 to be offered against the party. And that's why the State
10 has permitted it's not hearsay. It's offered against the
11 party. But if it is the defense offering the statements of
12 the defendant through cross-examination questions of a
13 witness to those statements who heard all those statements,
14 then it is hearsay. It's an out-of-court statement offered
15 for the truth of the matter asserted and for which there is
16 no exception. It's not a party opponent if it comes from
17 the defense.

18 THE COURT: Well, we'll just see what the statement is
19 in camera and we'll see how it develops. I don't think the
20 rule's quite as black-and-white as you indicate.

21 MS. PAOLETTI: And, Your Honor, I would request that
22 before any questions like that are answered, that we --
23 that we be heard on that. Because ---

24 THE COURT: We're going to do it outside of the
25 presence of the jury. We'll have the statement read into

1 the record so I know what you're talking about. I don't
2 know anything about this case. This is the first I've
3 heard of it.

4 MS. WICKER: Your Honor, we have one more issue
5 regarding the autopsy photos, whenever you're ready.

6 THE COURT: Well, just generally tell me what it is
7 right now.

8 MS. WICKER: We have a motion to exclude the pictures
9 and a picture of the deceased baby. We stipulate the
10 autopsy and the cause of death in this case.

11 THE COURT: Okay. Well, we'll have to check that out
12 later.

13 (Pause in proceedings.)

14 (WHEREUPON, the jury entered the courtroom at 11:33 a.m.)

15 THE COURT: Ladies and gentlemen, I want to welcome
16 you all up to Courtroom No. 4. Let me introduce myself.
17 My name is Ned Miller. I am one of your local circuit
18 court judges. I am holding a term of General Sessions
19 court this week which is commonly known as criminal court.
20 And Judge Hill has qualified you all to serve as jurors
21 generally for the week, and now we are going to begin the
22 process of qualifying you to serve specifically for this
23 case. So please remember you're under oath and answer all
24 questions fully and truthfully.

25 So the first thing I need to do is to introduce this

1 case to you. This case is the State of South Carolina vs.
2 Tarran Marteious Edwards. It's Indictment No. 2014-467.
3 It's an indictment for homicide by child abuse.

4 This indictment alleges that Tarran Marteious Edwards
5 did, in Greenville County, on or about the 17th or 18th day
6 of November 2013 cause the death of Minor [REDACTED] a child
7 under the age of 11, while committing child abuse or
8 neglect, and the death occurred under circumstances
9 manifesting an extreme indifference to human life.

10 Now, ladies and gentlemen, to this offense,
11 Mr. Edwards has pled not guilty, and as such, certain
12 rights attach to every person who is charged with a crime
13 in this country. And that is that every defendant charged
14 with a crime is presumed to be innocent unless and until
15 the State, who is the charging body in this case, can prove
16 to a jury beyond a reasonable doubt each and every element
17 of the offense that that person or defendant is charged
18 with. Please keep that in mind throughout the course of
19 these proceedings.

20 I would also instruct you that this indictment, which
21 I have read to you, is nothing more than it appears to be,
22 and that is a piece of paper. It's just a formal document
23 which allows this case to wind its way through our system
24 to arrive here in court for resolution. And you should
25 take no inference or make any presumption from the fact

1 that this document has issued with respect to guilt or
2 innocence.

3 Guilt or innocence is proved in this courtroom based
4 on evidence presented in this courtroom and the law as I
5 will give it to you in this courtroom. So please keep that
6 in mind throughout the course of these proceedings.

7 JURY QUALIFICATION

8 THE COURT: Before I get started with the questioning,
9 qualification questioning, I would ask the attorneys to
10 stand and introduce themselves.

11 MS. PAOLETTI: My name is Leigh Paoletti. I'm an
12 assistant solicitor here in the Greenville office of the
13 13th Circuit Solicitor's Office.

14 THE COURT: Thank you.

15 MS. WICKER: My name is Amanda Wicker. I represent
16 Mr. Edwards. And this is my colleague Parker Baxley.

17 THE COURT: All right. Thank you very much.

18 Ladies and gentlemen, is there any member of the jury
19 panel who is related by blood or marriage or who has a
20 business, personal or social relationship with any of the
21 attorneys involved in this case or any member of the 13th
22 Circuit Solicitor's Office? If so please stand.

23 (No response.)

24 THE COURT: Is there any member of the jury panel who
25 is related by blood or marriage or who has a business,

1 personal or social relationship with Mr. Tarran Edwards?

2 If so, please stand.

3 (No response.)

4 THE COURT: Is there any member of the jury panel
5 related by blood or marriage or who has a business,
6 personal or social relationship with Minor [REDACTED] If so,
7 please stand.

8 (No response.)

9 THE COURT: Is there any member of the jury panel who
10 has any knowledge about the events that are alleged in this
11 indictment? If so, please stand.

12 (No response.)

13 THE COURT: Is there any member of the jury panel who
14 is aware of any bias or prejudice towards either the State
15 or the defense? If so, please stand.

16 (No response.)

17 THE COURT: Is there any member of the jury panel or
18 family member who has ever been a victim of or a witness to
19 child abuse? If so, please stand.

20 All right. Yes, ma'am. Okay. Hang on one second.
21 Your name and number, please.

22 JUROR NO. 35: Crystal Chadwell.

23 THE COURT: All right.

24 Sir, your name and number?

25 JUROR NO. 209: One moment, sir. My name is John

1 Yeary. 209.

2 THE COURT: Okay.

3 Yes, sir?

4 JUROR NO. 207: Paul Wright. 207.

5 THE COURT: All right. Now I would ask you if the
6 fact that you have that experience, would that impair your
7 ability to be fair and impartial to either the State or the
8 defense, and could you rule on this case, resolve this case
9 based solely on the evidence presented in this courtroom
10 and the law as I would give it to you in this courtroom?
11 If there is anyone who cannot do that, please tell me now.

12 (No response.)

13 THE COURT: All right. Thank you very much.

14 Is there any member of the jury panel or a family
15 member who has been the victim of a crime of violence? If
16 so, please stand.

17 (No response.)

18 THE COURT: Is there any member of the jury panel who
19 is a member of or a contributor to a group whose primary
20 concern is the promotion of victims rights or law
21 enforcement? And examples would be MADD, SADD or CAVE. If
22 so, please stand.

23 (No response.)

24 THE COURT: Is there any member of the jury panel who
25 knows of any reason whatsoever why you should not serve in

JURY QUALIFICATION

15

1 this case -- well, before I ask that final question, I
2 forgot one important question. I'm going to read a list of
3 potential witnesses in this case. Please listen. I'm
4 going to need to know if you have any connection with these
5 people: Investigator Chris Hammett with the Sheriff's
6 Office; Sergeant Mike Jarvis with the Sheriff's Office;
7 Investigator Mike Fortner with the Sheriff's Office; Joshua
8 Brown, formerly with EMS; Deputy Emmanuel Davis with the
9 Sheriff's Office; Investigator Jonathan Howard with the
10 Sheriff's Office; Deputy Stan Whitten with the Sheriff's
11 Office; Rene Buford with the Greenville County Dispatch;
12 Sergeant Jonathan Hamilton with the Greenville County
13 Department of Public Safety, Forensics Division; Officer Al
14 Harrison with the Greenville Health System; Dr. Mike Ward;
15 Dr. Britni Bradshaw; Dr. Michael Avant; Dr. Mary Fran
16 Crosswell; Dr. Anthony Johnson; Dr. Chris Troup; Tangela
17 Kennedy; Danielle Samples; Sergeant John Vandermosten with
18 the -- and Charles Moore. Is there any member of the jury
19 panel related by blood or marriage or who has a business,
20 personal or social relationship with any of those potential
21 witnesses in the case? If so, please stand.

22 (No response.)

23 THE COURT: All right. Is there any member of the
24 jury panel who knows of any reason whatsoever why you
25 should not serve on this case with particular emphasis on

1 your ability to be fair and impartial to both the State and
2 the defense and to judge this case solely on the merits of
3 the evidence presented in this courtroom and the law as I
4 would give it to you? If you cannot do that, please stand.

5 (No response.)

6 THE COURT: All right. Anything further from the
7 State?

8 MS. PAOLETTI: If we could approach briefly, Your
9 Honor.

10 THE COURT: All right.

11 (WHEREUPON, a bench conference was held off the record.)

12 THE COURT: Anything further from the State?

13 MS. PAOLETTI: No, sir, Judge.

14 THE COURT: From the defense?

15 MS. WICKER: No, sir, Your Honor.

16 THE COURT: All right. Ladies and gentlemen, we're
17 going to begin the process of what we call striking the
18 jury. Totally no physical contact involved, I promise you.
19 But when your name is called, if it is called, please stand
20 in place and await further instructions. Thank you very
21 much.

22 JURY SELECTION

23 THE CLERK: Juror No. 125, Amanda Martin.

24 (WHEREUPON, Amanda Martin, a white female, stood.)

25 THE CLERK: And what says the State?

1 MS. PAOLETTI: Please excuse Ms. Martin.

2 THE CLERK: Thank you.

3 You may be seated. You are excused from the trial of
4 this case.

5 Juror No. 35, Crystal Chadwell.

6 (WHEREUPON, Crystal Chadwell, a white female, stood.)

7 MS. PAOLETTI: Please present Ms. Chadwell.

8 THE CLERK: Thank you.

9 What says the defendant?

10 MS. WICKER: Please excuse the juror.

11 THE CLERK: Thank you.

12 You may be seated. You're excused from the trial of
13 this case.

14 Juror No. 13 Sushama Athavale.

15 (WHEREUPON, Sushama Athavale, an oriental female, stood.)

16 MS. PAOLETTI: Please present Ms. Athavale.

17 THE CLERK: Thank you.

18 What says the defendant?

19 MS. WICKER: Please swear the juror.

20 THE CLERK: Thank you.

21 You may be seated in the jury box.

22 Juror No. 207, Paul Wright.

23 (WHEREUPON, Paul Wright, a white male, stood.)

24 THE CLERK: What says the State?

25 MS. PAOLETTI: Please present Mr. Wright for service.

1 THE CLERK: Thank you.

2 What says the defendant?

3 MS. WICKER: Please excuse the juror from the trial in
4 this case.

5 THE CLERK: Thank you.

6 You may be seated. You're excused from the trial of
7 this case.

8 Juror No. 117, James Landrum.

9 (WHEREUPON, James Landrum, a white male, stood.)

10 MS. PAOLETTI: Please present Mr. Landrum for service.

11 THE CLERK: Thank you.

12 MS. WICKER: Please swear the juror.

13 THE CLERK: Thank you.

14 You may be seated in the jury box.

15 Juror No. 185, Mary Thomas.

16 (WHEREUPON, Mary Thomas, a white female, stood.)

17 THE CLERK: What says the State?

18 MS. PAOLETTI: Please present Ms. Thomas for service.

19 THE CLERK: Thank you.

20 What says the defendant?

21 MS. WICKER: Please swear the juror.

22 THE CLERK: Thank you. You may be seated in the jury
23 box.

24 Juror No. 122, Mark Luebbert.

25 (WHEREUPON, Mark Luebbert, a white male, stood.)

1 THE CLERK: What says the State?

2 MS. PAOLETTI: Please excuse the juror from service.

3 THE CLERK: Thank you.

4 You may be seated. You're excused from the trial of
5 this case.

6 Juror No. 143, James Myers.

7 (WHEREUPON, James Myers, a white male, stood.)

8 THE CLERK: What says the State?

9 MS. PAOLETTI: Please present Mr. Myers for service.

10 THE CLERK: Thank you.

11 What says the defendant?

12 MS. WICKER: Please swear the juror.

13 THE CLERK: Thank you. You may be seated in the jury
14 box.

15 Juror No. 216, Marilyn Gantt.

16 (WHEREUPON, Marilyn Gantt, a black female, stood.)

17 MS. PAOLETTI: Please present Ms. Gantt for service.

18 THE CLERK: Thank you.

19 What says the defendant?

20 MS. WICKER: Swear the juror.

21 THE CLERK: Thank you. You may be seated in the jury
22 box.

23 Juror No. 105, Renju Joseph.

24 (WHEREUPON, Renju Joseph, an Asian male, stood.)

25 THE CLERK: What says the State?

1 MS. PAOLETTI: Please present Mr. Joseph for service.

2 THE CLERK: Thank you.

3 MS. WICKER: Please excuse the juror.

4 THE CLERK: Thank you.

5 You may be seated. You're excused from the trial of
6 this case.

7 Juror No. 215, Todd Fishner.

8 (WHEREUPON, Todd Fishner, a white male, stood.)

9 THE CLERK: What says the State?

10 MS. PAOLETTI: Please present Mr. Fishner for service.

11 THE CLERK: Thank you.

12 What says the defendant?

13 MS. WICKER: Please swear the juror.

14 THE CLERK: Thank you.

15 You may be seated in the jury box.

16 Juror No. 168, Frances Rizzo.

17 (WHEREUPON, Frances Rizzo, a white female, stood.)

18 THE CLERK: What says the State?

19 MS. PAOLETTI: Please present Ms. Rizzo for service.

20 THE CLERK: Thank you.

21 What says the defendant?

22 MS. WICKER: Please swear the juror.

23 THE CLERK: Thank you.

24 You may be seated in the jury box.

25 Juror No. 186, Hong Tran.

JURY SELECTION

21

1 (WHEREUPON, Hong Tran, an Asian male, stood.)

2 THE CLERK: What says the State?

3 MS. PAOLETTI: Please excuse this juror from service.

4 THE CLERK: Thank you.

5 You may be seated. You're excused from the trial of
6 this case.

7 Juror No. 18, Deborah Bishop.

8 (WHEREUPON, Deborah Bishop, a white female, stood.)

9 THE CLERK: What says the State?

10 MS. PAOLETTI: Please present Ms. Bishop for service.

11 THE CLERK: Thank you.

12 What says the defendant?

13 MS. WICKER: Please swear the juror.

14 THE CLERK: Thank you.

15 You may be seated in the jury box.

16 Juror No. 197, Sharon Waynick.

17 (WHEREUPON, Sharon Waynick, a white female, stood.)

18 THE CLERK: What says the State?

19 MS. PAOLETTI: Please present Ms. Waynick for service.

20 THE CLERK: Thank you.

21 What says the defendant?

22 MS. WICKER: Please swear the juror.

23 THE CLERK: Thank you.

24 You may be seated in the jury box.

25 Juror No. 60, Amy Fortune.

1 (WHEREUPON, Amy Fortune, a white female, stood.)

2 THE CLERK: What says the State?

3 MS. PAOLETTI: Please present Ms. Fortune for service.

4 THE CLERK: Thank you.

5 What says the defendant?

6 MS. WICKER: Please swear the juror.

7 THE CLERK: Thank you.

8 You may be seated in the jury box.

9 Juror No. 61, George Fox.

10 (WHEREUPON, George Fox, a white male, stood.)

11 THE CLERK: What says the State?

12 MS. PAOLETTI: Please present Mr. Fox for service.

13 THE CLERK: Thank you.

14 What says the defendant?

15 MS. WICKER: Please swear the juror.

16 THE CLERK: Thank you.

17 You may be seated in the jury box.

18 Juror No. 120, Timothy Lollis.

19 (WHEREUPON, Timothy Lollis, a white male, stood.)

20 THE CLERK: What says the State?

21 MS. PAOLETTI: Please present Mr. Lollis for service.

22 THE CLERK: Thank you.

23 What says the defendant?

24 MS. WICKER: Please swear the juror.

25 THE CLERK: Thank you. You may be seated in the jury

1. box.

2. THE COURT: One alternate.

3. THE CLERK: Juror No. 217, Amma Kelley.

4. (WHEREUPON, Amma Kelley, a white female, stood.)

5. MS. PAOLETTI: Please present Ms. Kelley for service.

6. THE CLERK: Thank you.

7. What says the defendant?

8. MS. WICKER: Please swear the juror.

9. THE CLERK: Thank you.

10. You may be seated in the jury box.

11. THE COURT: All right. Any exception or objection to
12. the jury as empaneled pursuant to Batson or JEB from the
13. defense?

14. MS. WICKER: No, sir, Your Honor.

15. THE COURT: From the State?

16. MS. PAOLETTI: No, sir, Judge.

17. THE COURT: Okay. All right. Ladies and gentlemen, I
18. would excuse you all down back to the jury assembly room.
19. Thank you very much.

20. (WHEREUPON, the remaining jury panel exits the courtroom at

21. 11:55 a.m.)

22. INTRODUCTORY REMARKS

23. THE COURT: All right. Ladies and gentlemen, I want
24. to thank you all for your service. I didn't get the
25. opportunity to speak with you downstairs and express my

1 appreciation for the sacrifices that you all make to be up
2 here and to serve your fellow citizens.

3 I want to tell you that we have a dispute about the
4 facts in this case which can't be resolved in any fashion
5 other than to ask a jury to come up and listen to the
6 evidence presented in this courtroom and the law presented
7 in this courtroom and render a decision which will resolve
8 that dispute. So that is our job today, and we appreciate
9 you being here to do that.

10 I would remind you that every person in this country
11 who is charged with a crime is presumed to be innocent
12 unless and until the State, who is the charging body in
13 this case, can prove to you all beyond any reasonable doubt
14 each and every element of the offense that is charged.
15 Please keep that in mind throughout the course of these
16 proceedings.

17 I also remind you that the fact that this indictment
18 that I read to you has been issued is not evidence, and you
19 should not take any inference or make any presumption from
20 the fact that it has issued. It is simply the formal
21 written instrument which allows this case to wind its way
22 through our system to arrive here in court so that you all
23 can resolve this matter based on the evidence and the law.

24 I generally break a trial into five parts, just so you
25 all have sort of a procedural road map as to where we are

1 and what's coming next. The first part will be when -- I
2 guess we're sort of engaged in it now, but I call it the
3 opening statements to you by the lawyers where they make
4 brief and non-argumentative statements to you about their
5 view of the case.

6 The second part of the trial is the meat and potatoes
7 of every case, and that's the presentation of the testimony
8 and the evidence in the case. And that will -- generally,
9 the evidence will come to you in one of three ways.
10 The first most common way that I think springs to our mind
11 first is through the oral testimony of a witness here in
12 this witness chair. Second most common way is through the
13 introduction of tangible items or documents.. And the third
14 most common way is through -- when the parties and the
15 lawyers all agree that some fact is so beyond dispute that
16 you should consider it to be true, which is what we call a
17 stipulation of the parties. I don't know the combination
18 that the evidence will be presented to you in, but it will
19 generally come to you in one of those three ways.

20 The third part of the trial will be after all of the
21 evidence has been presented, the lawyers make their closing
22 arguments to you. And it's a difference between an opening
23 statement and a closing argument.. In their arguments, they
24 advocate their position based on the evidence that's been
25 presented in the law and urge you to resolve the dispute in

1 their favor.

2 The fourth part of the trial will be when I give you
3 the charge on what the law is as it relates to this case.

4 And the fifth part of the trial will be when you all
5 retire to your jury room to deliberate this case and
6 resolve this dispute.

7 Parts are not of equal length, and, as you can
8 imagine, generally, the longest part is the second part,
9 and that is the presentation of the evidence in the case.

10 Now, I will ask you to do many things throughout the
11 course of the trial, I'm sure. There are three main things
12 I ask you to do. The first one is to keep an open mind.
13 We go through all the qualification questions to ensure
14 that we have a fair and impartial jury, a jury that doesn't
15 come in here with a predisposed notion of how the case
16 should be decided. We want a jury who will listen to the
17 evidence and the law and make a reasoned impartial decision
18 at the close of the case when it's time to do that.

19 The second thing I ask you to do is pretty simple, and
20 that is to pay attention. If you are to let your mind
21 wander off, you may miss a reaction of a witness on the
22 witness stand or what we call a witness's demeanor which
23 might become important in your deliberations at the close
24 of the trial. And so if you're not paying attention, you
25 would be at a disadvantage at that time.

1 The third thing that I ask you to do and instruct you
2 to do, and this is vital, is that you not discuss this case
3 with anyone until you are free to deliberate at the end of
4 the trial in that fifth part of the trial, which means we
5 break for lunch and you see a family member or friend, a
6 coworker, they're going to be curious and want to know what
7 you're doing and want to talk about it. And we all know
8 it's human nature that you would want to talk about it, but
9 you can't do that. Because even an innocent comment from
10 someone who you like and trust could impact your state of
11 mind in this case, and that wouldn't be fair to the parties
12 involved, it would not be fair to your fellow jurors, and,
13 most importantly, it would not be fair to yourself to allow
14 someone who is not making the sacrifices that each of you
15 are making to have any input in the outcome of this trial.
16 We don't care what they think. They are not watching the
17 evidence, they are not hearing the law, and they should
18 have no input in how this case is resolved. So please
19 remember that.

20 And it's going to be -- as the case goes on, it's
21 going to be more difficult. If you're like me, I can't
22 decide what to have for dinner without talking with my wife
23 about it, and so I'm sure that you all have the same human
24 tendencies to do the same, but you just can't do it. It's
25 part of our system. So thank you for that.

1 I will tell you that you all are the sole judges of
2 the facts in this case. I'm not allowed by law, a trial
3 judge is not allowed by law to have an opinion about the
4 facts, so don't think by anything I say or do throughout
5 the course of the trial that I have such an opinion. It is
6 entirely up to you all as jurors to decide what is true and
7 what is not true, who to believe and who not to believe.
8 So keep that in mind.

9 That same law that makes you the sole judge of the
10 facts makes me the sole judge of the law. So if you have
11 any idea as to what you think the law is or what the law
12 should be and it disagrees with what I tell you the law is
13 throughout the course of the trial, at the close of the
14 case, you're going to swear an oath in just a second to set
15 aside your own opinion and apply the law precisely as I
16 state it to you. And that ensures that every person in
17 this country is tried under the same law. So that's the
18 reason for that.

19 I would tell you, you may have noticed the lawyers
20 came up and spoke with me out of your presence. We may --
21 that will happen occasionally from time to time throughout
22 the course of the trial. It may be that I excuse you to
23 your jury room so that we can discuss some matter out of
24 your presence. And I will tell you that we may be trying
25 to keep something from you, but in no way are we trying to

1 deceive you. And the reason for sending you out is that we
2 may be discussing some piece of evidence that you shouldn't
3 hear that's not admissible, and so you can understand why
4 we need to do that out of your presence.

5 The only other thing I'm going to ask you to do, in
6 just a second, I'm going to ask you to stand and take the
7 oath. I'm going to excuse you back to your jury room and
8 ask you all to see if you can determine who you would like
9 to be your foreperson. And the foreperson, it's a job, a
10 promotion without a raise in pay. And it is the person who
11 moderates the discussions during your deliberation, and is
12 also the jury spokesperson in the courtroom should that
13 become necessary.

14 If you all can decide who you would like to serve as
15 your foreperson, I always like to give you all an
16 opportunity to do that. If you can't, it's not a big deal.
17 I can pick one of you out. It's a scientific process. I
18 cover my eyes and put my finger down on the jury list and
19 somebody gets lucky.

20 In any event, I'm going to ask you all to stand now,
21 take the oath, and we will excuse you to your jury room for
22 that.

23 THE CLERK: Will you please raise your right hand.
24 The answer to the oath is "I will."

25 (WHEREUPON, the jury is sworn at 12:04 p.m.)

1 THE COURT: All right. Don't sit down. Get you all
2 to . . .

3 (WHEREUPON, the jury exits the courtroom at 12:04 p.m.)

4 THE COURT: All right. Anything? You've got some
5 motions or something?

6 MS. WICKER: Your Honor, just I think the last thing
7 we had was just regarding the -- I have a motion to exclude
8 the autopsy photos and the pictures of the deceased child
9 pursuant of Rule 403. We stipulate the autopsy and the
10 cause of death, Your Honor. I don't think they're relevant
11 or necessary.

12 THE COURT: All right.
13 What have you got?

14 MS. PAOLETTI: Your Honor, I'll go ahead -- the photos
15 that are -- that the defense is referring to, I'll go ahead
16 and hand up for your review, Judge. They have been marked
17 as State's Exhibits 12, 13, 14 and 15.

18 All four of those?

19 MS. WICKER: Yes.

20 MS. PAOLETTI: And, Your Honor, I think that the
21 photographs are relevant to show the grave injuries that
22 this child had. The doctors can get up, and they can talk
23 about subdural hematomas and subarachnoid bleeding and
24 being on a -- you know, the child being on a ventilator,
25 but I believe that for them to understand why these doctors

1 are going to testify that the injuries to this child were
2 very violent and very forceful in nature, that they need to
3 see what the injuries looked like.

4 THE COURT: Well, let me ask you this. You've got 12,
5 13, 14 and 15. There's just four of them; is that right?

6 MS. PAOLETTI: Yes, sir, Your Honor.

7 THE COURT: Why is 15 necessary? That is pretty
8 gruesome.

9 MS. PAOLETTI: And is that the -- from the autopsy?
10 Your Honor, if the defense doesn't have any intention of
11 disputing the findings by Dr. Ward in the autopsy about
12 whether or not there was bleeding on this child's brain,
13 then we won't seek to introduce that photo.

14 THE COURT: Okay. And Exhibit 14?

15 MS. PAOLETTI: And, Your Honor, that is a photo that
16 Dr. Ward will testify about is a specific photo of the
17 subdural hematoma that this child had.

18 THE COURT: The skin is severed. Is that part of the
19 injury or is that something that's done ---

20 MS. PAOLETTI: No, sir. That was something that would
21 have happened -- well, you know, honestly, Your Honor, that
22 would be a question for Dr. Ward. I don't believe that
23 that was before he ---

24 THE COURT: Is that a surgical incision or is that an
25 injury from this alleged conduct?

1 MS. PAOLETTI: Your Honor, I would have to ask
2 Dr. Ward that specifically because I haven't asked him that
3 question.

4 THE COURT: Okay.

5 MS. PAOLETTI: But I believe that what his answer
6 would be is that that was a -- that was the way that the
7 dura of the brain was found when he took the skull off.
8 But I would have to ask him specifically before I told you
9 that for sure.

10 THE COURT: Okay. Yeah. We'll need -- we'll need --
11 there's nothing in my mind objectionable about 12 and 13.

12 14, do you intend to contest the findings of Dr. Ward
13 that there was bleeding in the brain?

14 MS. WICKER: No, sir.

15 THE COURT: Well, I'm going to find that -- I mean,
16 that -- the autopsy photo is ---

17 MS. PAOLETTI: I understand. And I don't dispute that
18 it is awful, Judge. I just, depending on the direction
19 that this goes, need to make sure that the jury understands
20 how that ---

21 THE COURT: Okay. In Exhibit 14, you need to talk to
22 him and find out. I mean, if that's photos of the injury,
23 that's entirely different than photos of ---

24 MS. PAOLETTI: Well, the -- what -- what's -- the
25 injury that he will testify to about in that specific photo

1 is the -- is not ---

2 THE COURT: Well, we'll have to discuss it out of the
3 jury's presence.

4 MS. PAOLETTI: There's no skull fracture.

5 THE COURT: You don't ---

6 MS. PAOLETTI: No, sir. No.

7 THE COURT: Okay. We just -- that one we can't rule
8 on yet.

9 MS. PAOLETTI: And, Your Honor, even if -- honestly,
10 if I was going to admit them, if they are admitted, I don't
11 intend to publish them on the overhead or any big format.

12 THE COURT: Okay. All right.

13 Anything else?

14 MS. WICKER: Nothing from the defense, Your Honor.

15 THE COURT: Okay.

16 MS. PAOLETTI: Nothing.

17 THE COURT: All right. Well, tell me what you've got,
18 try to decide how we're going to proceed.

19 MS. PAOLETTI: Judge, I have about five or six law
20 enforcement type witnesses that are here ready to go.
21 After we get through those -- and I understand that they
22 may go relatively quickly, some of them aren't very long
23 and there won't be a lot of cross-examination for them.

24 And then in the order of witnesses, Tangela Kennedy, I
25 believe, is about No. 7 or so on the list. She is a lay

1 witness, Your Honor. She works, and she is working this
2 afternoon. She is prepared to come in if we get to a point
3 where we need to call her this afternoon if it goes that
4 quickly, but she is going to be one of the lengthier
5 witnesses in this case. And my thought was if we could
6 prevent her from having to leave her job. She takes care
7 of a developmentally delayed 6-year-old little girl, so
8 it's not like she can walk out of the store. It would be
9 pretty disruptive to her. So if we could get to a point in
10 the day before she testifies and call her first thing
11 in ---

12 THE COURT: Well, she's listed No. 17 on your list.

13 MS. PAOLETTI: Yes, sir.

14 THE COURT: You think we're going to get through
15 16 witnesses?

16 MS. PAOLETTI: No. That's -- I'm not calling ---

17 THE COURT: We might.

18 MS. PAOLETTI: I'm not calling that many, Your Honor.
19 That is totally exhaustive. And in the order of witnesses
20 that I plan to call her, she is about seven or eight.

21 THE COURT: All right. Well, let's just take about a
22 five-minute break and then come back and we'll do opening
23 statements.

24 (WHEREUPON, a recess is taken at 12:11 p.m.)

25 THE COURT: All right. Are y'all ready?

OPENING STATEMENTS

35

1 MS. PAOLETTI: Yes, sir, Judge.

2 MS. WICKER: Yes, sir.

3 THE COURT: Okay.

4 (WHEREUPON, the jury entered the courtroom at 12:22 p.m.)

5 THE COURT: All right. Ms. Rizzo, I want to thank you
6 very much for agreeing to serve.

7 And at this time, we will proceed with opening
8 statements.

9 OPENING STATEMENTS

10 MS. PAOLETTI: Thank you, Judge. May it please the
11 Court.

12 THE COURT: Yes, ma'am.

13 MS. PAOLETTI: Ladies and gentlemen, usually on Monday
14 mornings when we start jury trials in this courthouse, you
15 hear a lot of good-natured joking about people being here
16 reluctantly, mostly jurors. We are here every Monday, but
17 this is exceptional for y'all, I know. And this morning I
18 have to be honest with you that I find myself with some of
19 the folks who just wished that they weren't here today, and
20 I wish that I didn't have the case that I have to put in
21 front of you today. But we do, so we're going to walk
22 through it. And I think if you'll give me a few minutes to
23 talk to you, you'll understand why I wish that we weren't
24 here today.

25 You've heard that the defendant is indicted for

1 homicide by child abuse. Judge Miller's going to give you
2 a lot of definitions about the law at the close of the case
3 before you begin your deliberations, but just in sum,
4 homicide by child abuse is defined in the law as causing
5 the death of a child under the age of 11 while committing
6 child abuse or neglect under circumstances that manifest an
7 extreme indifference to human life. It's got a lot of
8 bigger words in there, but I also believe it's pretty
9 self-explanatory as well.

10 And as Judge Miller mentioned to you, the defendant is
11 presumed innocent and you can't convict him until you have
12 found beyond a reasonable doubt that he is guilty of the
13 offense with which he's charged. And an easier way of
14 saying that is if, at the end of the evidence, you are
15 firmly convinced that he did what he is alleged to have
16 done, then the State has met its burden of proof.

17 I want to talk to you a little bit about what I
18 anticipate the evidence in this case will be. [Minor]
19 was 11 weeks old when he died. On the Tuesday before he
20 stopped breathing on Sunday night, he saw a pediatrician
21 for a regular two-month well visit, and Dr. Britni Bradshaw
22 will come and tell you that [Minor] was a normal, healthy
23 baby.

24 The evidence in this case will be that starting on
25 that Friday, November 17th, late in the afternoon, [Minor] was

1 in the care of this defendant and his girlfriend, Tangela
2 Kennedy. Tangela Kennedy was [Minor] godmother, [Minor]
3 mother's best friend. And [Minor] was with Ms. Kennedy and
4 the defendant from sometime Friday afternoon until late
5 Sunday night when the defendant dropped Ms. Kennedy, his
6 girlfriend, [Minor] godmother, off at the emergency room at
7 Greenville Memorial because she had a bad stomach bug.

8 The evidence will show that from 11:30 p.m. on Sunday
9 until 12:15 the following Monday morning, about 45 minutes
10 later, the defendant showed up at [Minor] mother's home,
11 Danielle Samples, telling her that he wasn't breathing.
12 The evidence will be that he was the sole person in the
13 care of this child when he quit breathing. The evidence
14 will be that he did not call 9-1-1 or take the child to the
15 hospital, but that he took the child to his mother's house.

16 Danielle Samples will come and testify and tell you
17 that as soon as she saw her child, she knew immediately
18 that he needed medical attention, and she called 9-1-1.
19 You'll hear a 9-1-1 call with the defendant on with
20 dispatch and then Ms. Samples.

21 When [Minor] arrived at the emergency room, he was
22 unresponsive. He had no brainstem activity. When doctors
23 were able to see a CT or a picture of his brain, they could
24 see that he had blood in two spaces in his brain and that
25 he had bleeding in his eyes. An autopsy was done later

1 after he died, and there was blood found the length of his
2 spinal cord and trauma to the nerves and the muscles in his
3 neck and in his spine.

4 You're going to hear evidence from physicians who will
5 come and tell you about those injuries, what they were,
6 what they mean. The physicians in this case will tell you
7 that a few years ago, **Minor** might have been diagnosed with
8 what you might have heard of as shaken-baby syndrome. Now
9 physicians call these injuries and these injuries as a
10 whole when they present in a child together abusive head
11 trauma, non-accidental head trauma or inflicted head
12 trauma. Those terms are all used interchangeably.

13 **Minor** was on life support for two days and then his
14 parents made the decision to discontinue life support, and
15 on November 20th of 2013, he died.

16 There's not a witness that you're going to hear from
17 on the State's side who wants to be here. And this is what
18 I mean by that. When there is a report of a baby not
19 breathing that comes to 9-1-1, a series of procedures are
20 set into motion. Law enforcement is activated and
21 physicians begin their investigation into the question,
22 which is: What happened? And that's what the evidence in
23 this case is designed to show you, and just to inform you
24 what happened. And the physicians in this case will be
25 able to tell you, based on their training and experience,

1 the answer to that question.

2 The death of a child is emotional and sad just by
3 nature regardless of the circumstances. And your job
4 uniquely today as a juror in this case is to look at what
5 the evidence is in an unemotional way, and my job is to
6 present it to you in a way that is not intended to fan the
7 flames of emotion or passion because your verdict cannot be
8 based on that. It has to be based on the evidence. So I'm
9 committed to that task, and I ask you to do the same as we
10 start walking through and unpacking the evidence to tell us
11 what happened.

12 MS. WICKER: The solicitor is right. Certainly nobody
13 wants to be here today under these circumstances. This is
14 tragic. A small, innocent child has died. It's awful.
15 Nobody wants something like that to happen. It's difficult
16 to even contemplate that.

17 A lot of what you're going to see and hear is probably
18 going to be disturbing, but I am going to ask you to pay
19 close attention to what it is that you see and you hear,
20 the evidence that's presented to you. And not only that,
21 but pay attention to what you don't see and hear, namely,
22 what event caused this tragedy.

23 You're going to hear a lot from law enforcement and
24 from medical professionals about what they did, but I also
25 want you to think about what they didn't do and what they

1 could have done. If you do so, I believe that you'll see
2 the State simply cannot tell you what event caused this
3 tragedy.

4 Thank you.

5 THE COURT: Okay.

6 MS. PAOLETTI: Your Honor, the State calls Rene
7 Buford.

8 THE CLERK: Ms. Buford, if you would, come forward to
9 be sworn in, please.

10 WHEREUPON,

11 RENE BUFORD

12 After having been duly sworn, testified as follows:

13 THE CLERK: Would you please state your name for the
14 record.

15 THE WITNESS: Rene Buford.

16 DIRECT EXAMINATION

17 BY MS. PAOLETTI:

18 Q Ms. Buford, would you tell the jury where you work,
19 please.

20 A I work for Greenville County Sheriff's Office.

21 Q And in which division or section do you work?

22 A In the communications center.

23 Q All right. How long have you been there?

24 A I've been with Greenville County for 20 years.

25 Q And what are some of your duties in communications at

1 Greenville County Sheriff's Office?

2 A My title is research analyst. What I -- any
3 information that comes into our dispatch center, whether it
4 be by phone, radio, teletype, fax, whatever, our research
5 for criminal, civil, complaint divisions pull tapes, pull
6 reports, research our computer dispatch for any cause that
7 had been entered in to help the investigations of criminal
8 cases or Freedom of Information Acts for our public.

9 Q And you mentioned that some of those phone calls that
10 you get are 9-1-1 calls?

11 A Yes, ma'am.

12 Q Is that right?

13 Can you describe to the jury just a little bit about
14 the way 9-1-1 calls are handled and how they're preserved?

15 A Yes. 9-1-1 calls, when they come in, when the person
16 on the other end dials 9-1-1, as soon as they hit the last
17 1, that phone begins recording on our end whether or not
18 we've picked it up or not. And all of our phones, even our
19 what we call seven-digit lines or non-emergency lines,
20 every phone line in the department is recorded and --
21 automatically simultaneously and in chronological order as
22 they come in.

23 Q All right. And are they preserved in the normal
24 course of business of the Communications Department of the
25 Sheriff's Office?

1 A Yes, they are.

2 Q After they are preserved and recorded, what happens to
3 them? And I presume they're digital?

4 A Yes. They are digital. And they go into a storage --
5 computer storage database, and we retain those for three
6 years.

7 Q And then if investigators from the Sheriff's Office or
8 other agencies make a request for you to pull a phone call,
9 can you tell the jury what y'all do then?

10 A The first thing I do is I usually ask the case number.
11 A lot of times when things come in, I don't even have that,
12 and that would be under a different circumstance that they
13 would be requesting information. But in a criminal case
14 like this, I would ask the case number of the call, and I
15 would run our computer aided dispatch, our CAD report. And
16 then from there, I would go to our phone system and match
17 up the time, the date and then with the position that took
18 the call.

19 Q When the request is made for a copy of a call, do you
20 put them on a disc like this?

21 A I do.

22 Q All right. I'm going to show you what's been marked
23 as State's Exhibit No. 18 ---

24 A Okay.

25 Q --- and ask you if you recognize that.

1 A Yes, ma'am. I do.

2 Q All right. And what is that?

3 A This is a CDR of a call for our Case No. 2013-183600.
4 And it's the original copy.

5 Q And how do you know that?

6 A I've got the case number written on here, and then I
7 know that I did it because it's signed and dated by myself.
8 Every one that I pull, I sign and date, and then I also
9 mark it with a property number to put into property.

10 Q And when you were pulling these calls off of your
11 system and preserving them, can they be altered or
12 augmented in any way, the call?

13 A No.

14 MS. PAOLETTI: All right. Your Honor, at this time, I
15 move State's Exhibit No. 18 into evidence.

16 MS. WICKER: No objection, Your Honor.

17 THE COURT: Okay.

18 (WHEREUPON, State's Exhibit No. 18 was admitted into
19 evidence.)

20 MS. PAOLETTI: And publish it for the jury.

21 THE COURT: Uh-huh.

22 (WHEREUPON, State's Exhibit No. 18 was played in open
23 court.)

24 MS. PAOLETTI: Answer any questions Ms. Wicker might
25 have for you.

1 THE WITNESS: Thank you.

2 MS. WICKER: I don't have any questions for this
3 witness, Your Honor.

4 THE COURT: All right. Thank you.

5 You may step down. Thank you, ma'am.

6 MS. PAOLETTI: Do you want me to call the next
7 witness, Your Honor?

8 THE COURT: Yeah.

9 MS. PAOLETTI: The State calls Investigator Chris
10 Hammett.

11 WHEREUPON,

12 HENRY CHRISTOPHER HAMMETT

13 After having been duly sworn, testified as follows:

14 THE CLERK: Please state your name for the record.

15 THE WITNESS: Henry Christopher Hammett.

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION

18 BY MS. PAOLETTI:

19 Q Investigator Hammett, will you tell the jury who you
20 work for?

21 A The Greenville County Sheriff's Office.

22 Q And how long have you been with the Sheriff's Office?

23 A Approximately 18 years.

24 Q All right. I want to start with what you're doing for
25 them currently.

1 A Currently now I'm an investigator assigned to the
2 Violent Crimes Unit.

3 Q And before that?

4 A Prior to that, I was assigned to the Property Crimes
5 Unit for approximately six years, and prior to that,
6 Uniform Patrol for, I believe it was, about five years.

7 Q All right. Has your entire law enforcement experience
8 been with the Sheriff's office?

9 A Yes, ma'am. Here in Greenville.

10 Q All right. I want you to tell the jury just briefly
11 about some of the training that you've had in your time at
12 the Sheriff's Office.

13 A Initially, when you're hired in law enforcement, you
14 go through training at the South Carolina Criminal Justice
15 Academy, which is mandatory. I'm not sure what the time
16 period is now. It's changed a little bit.

17 Once you complete that, you go through a field
18 training process with the Sheriff's Office to learn our
19 procedures and so forth. And then once you're completed,
20 you're on your own. You have to serve at least a year in
21 Uniform Patrol. Once that is complete, then you can apply
22 for investigative positions, if you wish, that come open.

23 Most of the classes I've attended have been for
24 homicide-related classes, been to the two-week homicide
25 school through Southern Police Institute and numerous other

1 homicide classes through Public Agency Training Council as
2 well as ongoing training with the Sheriff's Office on a
3 yearly basis here.

4 Q Will you tell the jury a little bit about how the
5 investigator on-call rotation works in the Sheriff's
6 Office?

7 A Yes, ma'am. We have different divisions. We have
8 what's called a Criminal Investigator Division which is
9 where most of our investigators are housed under. There's
10 another investigative division that does things a little
11 differently with the Street Crimes Unit. But with the
12 Criminal Investigative Division, we have investigators in
13 each unit: Arson, Homicide, Armed Robbery, Crimes Against
14 Children, Auto Theft.

15 All the numerous different divisions underneath that
16 has an investigator that is assigned to be on call a week
17 at a time for 24 hours a day. So anything that happens
18 after normal working hours, there's someone on standby to
19 answer and respond to any calls for service that an
20 investigator is needed for.

21 Q Have you been on call this weekend?

22 A Yes, ma'am. Last week I was on call.

23 Q This past week. You're done starting today?

24 A Yes. We go off -- we start Monday morning at 8 a.m.
25 and finish the following Monday at 8 a.m.

1 Q All right. Were you on call back in November of 2013?

2 A I was.

3 Q All right. Will you tell the jury about how you got
4 involved in the case that we're here on today, the report
5 of the 9-1-1 call, the baby not breathing at Brantford
6 Lane.

7 A Basically, what happens is when a 9-1-1 call comes in
8 for service, the proper agencies are dispatched. In this
9 case, I believe fire department, EMS as well as the
10 Sheriff's Office all responded when this call came in. And
11 the initial responders, which would be the Uniform Patrol
12 deputies and emergency personnel, respond to the initial
13 incident location, which is what happened in this case.
14 And once the child was taken to the hospital and I was
15 notified through dispatch, I responded to the hospital
16 immediately as soon as I received the call.

17 Q All right. And that's standard procedure on a call
18 like this?

19 A Yes, ma'am. The investigator would go to where the
20 victim is, which, obviously, in this case, would have been
21 at the hospital.

22 Q Do you know or recall about what time you arrived at
23 the emergency room?

24 A It was 1:18 a.m.

25 Q And that date was November 18th; is the correct?

1 A Yes, yes.

2 Q All right. And I want to talk to you, too, before I
3 forget, I'm going to show you what's been marked as State's
4 Exhibit No. 5, and just ask you if you -- if you recognize
5 what that location is.

6 A This is actually the apartments where the defendant
7 was residing.

8 Q All right. And what's the location of that apartment?

9 A It's Highland Square Apartments, I believe. I'm not
10 sure of the exact street address.

11 Q Is that within Greenville County?

12 A It is. Yes, ma'am.

13 Q When you got to the emergency room, with whom did you
14 speak there?

15 A Initially, I spoke with Kent Dill with the Coroner's
16 Office. And then after meeting with him, we -- he and I
17 together met with Dr. Avant with the pediatric ER.

18 Q All right. And when you spoke to Dr. Avant, was he
19 able to tell you what kind of injuries **Minor** had?

20 A Yes, ma'am. He -- he basically said that there was
21 bleeding around the brain or on the brain with some
22 swelling, I believe, of the brain.

23 Q All right. And did he give you an opinion as to
24 whether or not these injuries appeared to have -- could
25 have been accidental in nature or whether or not they were

1 inflicted?

2 A Yes, ma'am. At that point, he advised me that the
3 injuries were consistent with non-accidental head trauma.

4 Q All right. And then in addition to that, was he able
5 to give you an approximate time or time frame that those
6 injuries occurred?

7 A Yes, ma'am. I believe the way he worded it was
8 shortly prior to the child presenting at the ER, so in a
9 very short period of time prior to when the child actually
10 arrived there.

11 Q All right. And based on your conversation with
12 Dr. Avant, what did you do next?

13 A Made arrangements to speak with the defendant as well
14 as Ms. Kennedy, who was at the hospital also on an
15 unrelated medical issue.

16 Q All right.. Let's talk about that for just one minute.
17 When you got involved in the investigation, were you able
18 to get information about where the baby had been?

19 A Yes, ma'am. The way it was reported to me initially
20 was that the baby had been in the care of Ms. Kennedy and
21 the defendant for the weekend, and that Ms. Kennedy had
22 gotten sick, some kind of virus or something, and had to be
23 taken to the hospital, at which point she was dropped off
24 by the defendant who took -- himself, and he had possession
25 of the child after she was dropped off at the ER.

1 Q All right. And who interviewed Ms. Kennedy?

2 A Ms. Kennedy was interviewed by Investigator Jonathan
3 Howard.

4 Q All right. And after Investigator Howard interviewed
5 Ms. Kennedy, were you able to corroborate in any way what
6 she told you about being dropped off at the hospital?

7 A Yes, ma'am. We were able to corroborate that through
8 video obtained through officers with the hospital system
9 that were able to pull video showing her arriving at the ER
10 inside the emergency room.

11 Q Okay. And then after you left the emergency room,
12 where did you go next?

13 A As soon as we left there, myself and Sergeant Jarvis
14 responded to Brantford Lane briefly.

15 Q Okay. And tell the jury who lives at Brantford Lane.

16 A The victim's mother resided at that location.

17 Q Okay. And what was the purpose of you responding to
18 the Brantford Lane location?

19 A To execute a search warrant at that location to see if
20 there was any evidence of what might have happened to the
21 child there inside that location.

22 Q Okay. And so was a search warrant executed at that
23 location?

24 A It was, yes.

25 Q Okay. And what other locations were searched in the

1 process in relation to this?

2 A The residence at Highland Square Apartments where the
3 defendant and Ms. Kennedy resided as well as the vehicle
4 that the child was in.

5 Q All right. And as a result of the execution of those
6 search warrants, was there any evidence obtained that
7 helped to shed light on the question about what had
8 happened?

9 A No, ma'am.

10 Q All right. And during the course of your
11 investigation, were you able to get any information that
12 would have explained the injuries that Dr. Avant told you
13 about?

14 A No, ma'am.

15 Q Did you eventually get a warrant for the defendant's
16 arrest?

17 A Yes, ma'am. I did.

18 Q Okay. And on November 18th when **Minor** was admitted to
19 the hospital, tell the jury what condition he was in at
20 that time.

21 A He was -- he was being -- he was still on a breathing
22 machine, couldn't breathe for himself and -- and was
23 unresponsive.

24 Q All right. But he was still alive?

25 A Correct. Yes.

1 Q And based on that and the information that you
2 received from physicians and the time line that you had,
3 what initially was the warrant that you got for the
4 defendant's arrest?

5 A The initial charge that we made was inflicting great
6 bodily harm on a child.

7 Q All right. And did you monitor **Minor** condition over
8 the next couple of days?

9 A Yes, ma'am. We did that through -- we usually do that
10 through the Coroner's Office who remains in touch with the
11 hospital as well as the on-call charge nurse at the
12 hospital.

13 Q All right. I'm going to show you what's been marked
14 as State's Exhibit Nos. 12 and 13 and ask you if you
15 recognize these photographs.

16 A (Reviews documents) Yes, ma'am.

17 Q And what are those photographs of?

18 A Of the victim at the hospital.

19 Q And do the photos fairly and accurately represent the
20 way he appeared in the hospital when you observed him
21 there?

22 A Yes, ma'am.

23 MS. PAOLETTI: Your Honor, at this time, the State
24 moves Exhibits 12 and 13 into evidence.

25 MS. WICKER: No objection.

1 THE COURT: All right.

2 (WHEREUPON, State's Exhibit Nos. 12 and 13 were admitted
3 into evidence.)

4 BY MS. PAOLETTI:

5 Q After the warrants were issued for infliction of great
6 bodily abuse, did you learn that, at some point, **Minor**
7 passed away?

8 A Yes, ma'am. I was notified by Deputy Cormodeal
9 [phonetic].

10 Q All right. And after you received that information,
11 did you change the charge or withdraw the original
12 warrant?

13 A Yes. What we do in a case like that is a new warrant
14 is obtained for homicide by child abuse, in this case,
15 because of the death of the victim. And the initial
16 warrant for the infliction is actually -- that charge is --
17 is dismissed based upon the new charge.

18 MS. PAOLETTI: All right. If you'll answer any
19 questions that Ms. Wicker might have for you.

20 CROSS EXAMINATION

21 BY MS. WICKER:

22 Q Good afternoon, Investigator.

23 A Hey, how are you?

24 Q Good. Thank you.

25 Just briefly, you first became involved in this

1 investigation on November 18th?

2 A Yes, ma'am.

3 Q You went to the hospital first to speak to the
4 doctor?

5 A Correct. Yes.

6 Q And then you went to Brantford Lane where you executed
7 a search warrant?

8 A I didn't actually execute it. I went there, but there
9 were -- once I arrived there, there were officers on scene
10 that actually ended up doing that. So I -- I responded to
11 the Law Enforcement Center.

12 Q Okay. But a search warrant was executed at that
13 residence?

14 A That is correct. Yes, ma'am.

15 Q Okay. And also at Mr. Edwards' residence?

16 A Yes. Correct.

17 Q And for his vehicle as well; is that correct?

18 A Yes, ma'am. I'm not sure if he was the owner, but the
19 vehicle that ---

20 Q That he had ---

21 A Correct. Yes.

22 Q And you said that no evidence that was seized can tie
23 what happened?

24 A Correct. No, ma'am.

25 Q Okay. And you spoke to Mr. Edwards?

1 A Yes, I did.

2 Q When did you speak to him?

3 A That evening at the Law Enforcement Center.

4 Q Is it recorded?

5 A Yes, ma'am.

6 Q And did Investigator Howard -- he spoke to
7 Ms. Kennedy?

8 A That is correct, yes.

9 MS. WICKER: Okay. Thank you. I don't have any
10 further questions.

11 THE WITNESS: Thank you.

12 MS. PAOLETTI: No redirect, Judge.

13 THE COURT: All right. Thank you. You may step down.

14 THE WITNESS: Thank you, sir.

15 THE COURT: All right. Ladies and gentlemen, I think
16 now is probably a good time to break for lunch. I'll ask
17 you all to be back at 2:15. Does that give you enough
18 time? Okay.

19 Remember what I told you. Don't discuss it, and in
20 this day and age, I have to also add that you can't go
21 visit the scene, and you can't check it out on the
22 Internet. Don't do any research, anything like that.
23 Don't get on some social media site and say, "Hey, I'm in a
24 trial." And everything you will need to know you'll learn
25 in this courtroom, and all of that will be subject to

1 constitutional protections and scrutiny.

2 So with that, have a good lunch. We'll see you in an
3 hour and 15 minutes. Is that enough time or do y'all need
4 a little more time?

5 JURY FOREPERSON: I think it's good.

6 THE COURT: Okay. Great. See you.

7 (WHEREUPON, the jury exits the courtroom at 1:00 p.m.)

8 THE COURT: Hang on. Y'all stay here. Stay seated
9 until the jury's out.

10 I do want to say that I know this can be an emotional
11 type case, but if you are unable to contain your emotions,
12 please don't come into the courtroom. We can't have people
13 going in and out with emotional expressions while testimony
14 is being presented.

15 All right. Thank you very much.

16 (WHEREUPON, a recess is taken at 1:01 p.m.)

17 THE COURT: Are you all ready?

18 MS. PAOLETTI: Yes, sir.

19 MS. WICKER: Yes, sir.

20 (WHEREUPON, the jury entered the courtroom at 2:20 p.m.)

21 THE COURT: All right. Call your next witness.

22 MS. PAOLETTI: Yes, sir. The State calls Joshua
23 Brown.

24 THE CLERK: Sir, if you would come forward to be sworn
25 in, please.

1 WHEREUPON,

2 JOSHUA BROWN

3 After having been duly sworn, testified as follows:

4 THE CLERK: Would you please state your name for the
5 record.

6 THE WITNESS: Joshua Brown.

7 DIRECT EXAMINATION

8 BY MS. PAOLETTI:

9 Q Mr. Brown, will you tell the jury where you work
10 currently, please.

11 A I'm an emergency room nurse in downtown St. Francis.

12 Q All right. Before you started working in the
13 emergency room at St. Francis, what did you do?

14 A I was a paramedic for Greenville County EMS.

15 Q And how long were you a paramedic for Greenville EMS?

16 A I was at Greenville County since 2008, so seven years.

17 Q Will you tell the jury what education and training you
18 had in preparation for your service as an EMT?

19 A I have a paramedic with an associate's degree in
20 health sciences and certified in CPR, pediatric advanced
21 life support, advanced cardiac life support and neonatal
22 resuscitation.

23 Q I want to talk to you about a call that you responded
24 to in November of 2013, okay?

25 A Yes, ma'am.

1 Q Did you respond to a call for service on Brantford
2 Lane on November 18, 2013?

3 A Yes, ma'am.

4 Q Will you tell the jury the type of call that you were
5 responding to?

6 A We were dispatched for a pediatric cardiac arrest.

7 Q All right. And after you respond to a call of this
8 nature, or really any call, is there a report that's
9 generated?

10 A Yes, ma'am.

11 Q And was there a report that was generated after your
12 call in this case?

13 A Yes, ma'am.

14 Q And have you had a chance to review that report fairly
15 recently?

16 A Yes, ma'am. I have.

17 Q All right. Do you remember about what time it was
18 that you arrived at the home on Brantford Lane?

19 A 12:23 on the 18th.

20 Q All right. And will you describe for the jury what
21 was going on when you arrived at the home on Brantford
22 Lane?

23 A When we arrived, fire department personnel was on
24 scene performing CPR to the pediatric patient. Found the
25 patient to be lifeless, flaccid, no breathing, there was no

1 pulse. The pediatric's pupils were fixed and dilated,
2 non-reactive, which indicates no brain activity.

3 Q All right. And that was the condition that you found
4 him in when you responded that night?

5 A Yes, ma'am.

6 Q When you were monitoring the child's treatment at
7 Brantford Lane, will you tell the jury where he was and
8 where y'all were working on him?

9 A He was on the floor in the first room that we came
10 into. There was a -- it was in between -- there was a bed
11 and then a wall a short distance away. The child was on
12 the floor on his back in between the bed and the wall.

13 Q Will you tell the jury what PEA or pulseless electric
14 activity is, please.

15 A Yes, ma'am. Pulseless electrical activity, it's in
16 the heart. It's the electrical current in the heart, but
17 the heart is not beating. That's why it's termed
18 pulseless. It just means there is some residual electrical
19 activity traveling through the heart, but not enough to
20 generate a pulse or heartbeat.

21 Q And when you were monitoring **Minor** did you detect PEA,
22 or pulseless electric activity?

23 A Yes, ma'am. That's what we found him in.

24 Q And what does the fact that there was some detection
25 of PEA indicate to you as an EMT?

1 A It means that there is still a viable chance to
2 resuscitate the child. It means that the downtime in which
3 the child did not have a pulse was a very short time.

4 Q All right. And tell the jury what you did for him.

5 A We performed CPR, started IV's or IO's where you drill
6 into the bone -- into the bone marrow and deliver cardiac
7 drugs, and intubated to -- to breath for the child, and
8 then ventilated the child and continued CPR throughout the
9 transport to the hospital.

10 Q Okay. So at some point, did you get on the stretcher
11 and put him into the ambulance?

12 A Yes, ma'am.

13 Q All right. And would you describe how you do that for
14 the jury on a patient this size?

15 A We put -- bring the stretcher with all our equipment,
16 place all our equipment, cardiac monitor and everything on
17 the -- on the stretcher, put the child in the middle. And
18 then I rode -- I sit on top of the stretcher while I
19 perform CPR, kind of hold the child in front of me to
20 perform CPR while the rest of the crew pushes the -- pushes
21 the stretcher and loads us both in.

22 Q All right. And did you continue to provide CPR in
23 the ride from Brantford Lane to the pediatric emergency
24 room?

25 A Yes, ma'am. We continue without -- we have no less --

1 or no more than ten-second pauses at a time just to check
2 for pulses every -- every two minutes, and then -- but
3 continued CPR from the time we got to the scene until we
4 transferred the patient to the staff at the hospital.

5 Q All right. And while you were in the EMS, were you
6 ever able to get a pulse back on this baby?

7 A No, ma'am. Not -- not definitively, we were not. We
8 thought we may have had a pulse at one point, but it was
9 not -- it was not sustainable.

10 Q All right. And then when you arrived at the pediatric
11 emergency room, tell the jury how that works when you're
12 there.

13 A I mean, we -- we come in the same way that we load up
14 with the child, and one of us on the stretcher, come into
15 the pediatric emergency room and continue CPR. When we
16 transfer over to the staff, place the child in the bed, we
17 continue to do CPR until the emergency room staff takes
18 over and resumes CPR.

19 Q And did you do that in this case?

20 A Yes, ma'am.

21 Q And was that the extent of your treatment of this
22 infant in the case?

23 A Yes, ma'am.

24 Q All right. And do you know the defendant at all?

25 A No, ma'am.

1 MS. PAOLETTI: All right. Answer any questions that
2 Ms. Wicker might have for you.

3 THE WITNESS: All right.

4 CROSS EXAMINATION

5 BY MS. WICKER:

6 Q Good afternoon, Mr. Brown.

7 Just briefly, you said you were a paramedic for seven
8 years before becoming a nurse; is that correct?

9 A I was a paramedic in Greenville County. I've been an
10 EMS for 10 years, since 2005.

11 Q Okay. And you had to take a lot of certification
12 courses through all the training; is that correct?

13 A Yes, ma'am.

14 Q Including neonatal resuscitation?

15 A Yes, ma'am.

16 Q Is it fair to say that you're in pretty tense
17 situations, emergencies, for the most part, in that
18 capacity?

19 A Yes, ma'am.

20 Q Okay. Would you agree with me that one of the
21 reasons, at least for all the training, is so that the
22 training kicks in in these emergency situations?

23 A Yes, ma'am.

24 MS. WICKER: Thank you. I don't have any further
25 questions.

1 THE WITNESS: Thank you.

2 MS. PAOLETTI: I don't have any redirect, Your Honor.

3 May Mr. Brown be excused?

4 THE COURT: Yes. Thank you. You're excused from
5 subpoena.

6 THE WITNESS: Thank you.

7 MS. PAOLETTI: The State calls Deputy Stan Whitten.

8 WHEREUPON,

9 STAN WHITTEN

10 After having been duly sworn, testified as follows:

11 THE CLERK: Would you please state your name for the
12 record.

13 THE WITNESS: Stan Whitten.

14 DIRECT EXAMINATION

15 BY MS. PAOLETTI:

16 Q Who do you work for?

17 A Greenville County Sheriff's Office.

18 Q And what's your position with the Sheriff's Office
19 currently?

20 A I am a master deputy with the Sheriff's Office.

21 Q Will you tell the jury a little bit about your
22 training and experience in law enforcement, please.

23 A I've been with Greenville County for almost nine years
24 now. Prior to that, I was a fire investigator for the City
25 of Easley Fire Department, and prior to that, I was a

1 criminal investigator in the United States Army as a
2 military police officer.

3 Q Do you recall -- I mean respond to a call for service
4 on Brantford Lane in November of 2013?

5 A Yes, ma'am. I did.

6 Q All right. Will you tell the jury who was present
7 when you arrived at the home?

8 A When I got on the scene, the Gantt Fire Department
9 personnel were already on scene administering CPR to the
10 victim. There were -- Ms. Samples was there, the mother
11 was there, and also the defendant was there.

12 Q All right. Would you describe for the jury what the
13 scene was like when you first arrived?

14 A Well, Ms. Samples was obviously visibly upset. She
15 was crying hysterically. So my first instinct while Gantt
16 Fire Department were administering CPR was to get her
17 information, but to draw her attention away from what they
18 were doing. So she came with me, and I started getting her
19 information. And then, at that point, EMS arrived at the
20 scene just a minute -- I think a minute or two after I was
21 there.

22 Q All right. And during your time at the home, did you
23 speak with this defendant?

24 A Yes, ma'am. I did.

25 Q All right. And when you spoke to him, was he in

1 custody at all?

2 A No, ma'am.

3 Q In investigative detention?

4 A No, ma'am.

5 Q All right. You didn't know what was going on at that
6 point; is that right?

7 A That's exactly right. Yes, ma'am.

8 Q All right. Did you ask him what happened?

9 A I did.

10 Q Will you tell the jury what he told you?

11 A Yes. He -- he explained to me that -- that he had
12 taken his fiancée, Ms. Kennedy, to the Greenville Hospital
13 System because she had flu-like symptoms, and the infant
14 was with him at that time.

15 And he said that after -- after Ms. Kennedy went into
16 the hospital, he drove back to their residence on Pine
17 Creek Court Extension. He told me that he went in to
18 change the baby's diaper, and when he put a wet wipe to
19 the baby, the baby had no reaction. So he said that he
20 picked the phone up and called Ms. Kennedy at the hospital,
21 and she told him to take the baby back to his mother's
22 house. And he said that's what he did. And once they got
23 to Ms. Samples' residence, the -- the baby was
24 unresponsive.

25 Q All right. And did you speak to him about when the

1 last time that he recognized that Minor the baby, was okay,
2 was fine?

3 A Was at the -- was at the hospital when he dropped
4 Ms. Kennedy off.

5 Q And that's according to the defendant?

6 A Yes, ma'am.

7 Q All right. After EMS left with the victim, what did
8 you do next?

9 A I stood by and protected the scene and waited on
10 investigators to come, Investigator Fortner to arrive on
11 the scene. My supervisor arrived on the scene, and we --
12 and we waited for forensics so they could process that
13 scene.

14 Q All right. And was that the extent of your
15 participation in the investigation of this case?

16 A Yes, ma'am. It was.

17 MS. PAOLETTI: Okay. Will you answer any questions
18 Ms. Wicker might have for you?

19 CROSS EXAMINATION

20 BY MS. WICKER:

21 Q Good afternoon, Deputy.

22 A Good afternoon.

23 Q You wrote a report regarding this -- your involvement,
24 correct?

25 A Yes, ma'am.

1 Q Okay. When you arrived, CPR was already being
2 performed?

3 A That's right.

4 Q And the mother, Ms. Samples, rode in the ambulance to
5 the hospital with her child, correct?

6 A I believe so. Yes, ma'am.

7 Q And Mr. Edwards left?

8 A In a vehicle.

9 Q Okay. In his own vehicle, correct?

10 A That's right.

11 Q Okay. And he took Ms. Samples' other children with
12 him, correct?

13 A That's right.

14 MS. WICKER: All right. Thank you. I don't have any
15 further questions.

16 MS. PAOLETTI: No redirect, Judge.

17 THE COURT: All right. Thank you, sir. You may stand
18 down.

19 MS. PAOLETTI: The State calls Deputy Emmanuel Davis.

20 THE CLERK: Deputy, if you will, come forward to be
21 sworn in.

22 WHEREUPON,

23 EMMANUEL DAVIS,

24 After first having been duly sworn, testified as follows:

25 THE CLERK: Would you state your name for the record?

1 THE WITNESS: Emmanuel T. Davis.

2 DIRECT EXAMINATION

3 BY MS. PAOLETTI:

4 Q Will you tell the jury what your position is with the
5 Sheriff's Office currently?

6 A I am a deputy II with Uniform Patrol Division.

7 Q All right. How long have you been with the Sheriff's
8 Office?

9 A Just going on five years now.

10 Q All right. And we've heard from some other officers
11 about some of the training that they prepare for in law
12 enforcement. Have you done that as well?

13 A Yes, ma'am.

14 Q All right. And do you do continuing training?

15 A Yes, ma'am.

16 Q I want to talk to you about a call for service on
17 November 18, 2013, at Brantford Lane. Did you respond to
18 that address?

19 A I did.

20 Q All right. And will you tell the jury who was present
21 when you responded or when you arrived at the address?

22 A When I arrived just a couple minutes after Master
23 Deputy Whitten, Gantt Fire Department along with EMS was
24 already on scene along with the mother and also the
25 defendant.

1 Q All right. And when you arrived on the scene like
2 that, we heard from Master Deputy Whitten about containing
3 the scene to try and calm things down. Did you participate
4 in that as well?

5 A Yes, ma'am.

6 Q All right. And will you describe for the jury what
7 you noticed about Ms. Samples?

8 A Again, she was very hysterical. She was upset,
9 crying. Again, Master Deputy Whitten did go over to obtain
10 just basic information from her and just to get her away
11 from a scene like that.

12 Q All right. And then were you also present when Master
13 Deputy Whitten spoke to the defendant about what happened?

14 A Yes. I was actually standing behind them.

15 Q All right. Were either of them able to offer any
16 information about what had happened to the baby?

17 A Other than the defendant stated that he was at the
18 hospital, at Greenville Memorial Hospital with the victim.
19 He also was there with his fiancée at the time,
20 Ms. Kennedy. He stated that the victim was fine at the
21 hospital. After he left the hospital with the victim, he
22 transported the victim back to [REDACTED]

23 [REDACTED]. That's formally known as Highland Square
24 Apartment complex off of Bruce Road.

25 At that point, he stated that he was changing the

1 victim. He was using a baby wipe, and he actually
2 identified that baby wipe as a cold wipe to change the
3 victim. And when he did so, there was no reaction or
4 response or anything like that.

5 Q All right. And that was all the information that was
6 provided?

7 A Correct.

8 Q All right. When you left the Brantford Lane apartment
9 -- or house, where did you go?

10 A I was given instructions by Sergeant Garrett, who was
11 the supervisor on scene, to actually follow the defendant
12 to the hospital. He was actually getting into a black -- I
13 think at the time it was a Hyundai. He was actually
14 following EMS to Greenville Memorial Hospital.

15 Q All right. And did you do that?

16 A I did.

17 Q And when you got to the hospital, did you continue to
18 stay with the defendant?

19 A Yes, ma'am. I did.

20 Q All right. And was he monitored at all times by you
21 from the time you left that house till he got to the
22 hospital?

23 A He was. At no time was he under arrest or detained or
24 anything.

25 Q After you left the hospital, where did you go?

1 A After I left the hospital, I actually instructed
2 Sergeant Garrett by phone that Ms. Kennedy was actually
3 discharged from the hospital. At that point, he told me to
4 ask both the defendant and Ms. Kennedy if they were willing
5 to speak with investigators, which I relayed that message.
6 And both of them agreed. So at that point, the
7 investigator spoke with them briefly and asked the same
8 questions, in which they agreed. So at that point, I
9 escorted both of them to the Law Enforcement Center to
10 further speak with an investigator.

11 Q And when you say you escorted them at that time, did
12 they ride in your car?

13 A Yes, ma'am.

14 Q So you took the defendant and Ms. Kennedy in your car
15 to the Law Enforcement Center?

16 A Yes, ma'am.

17 Q And your instructions from your supervisor were to
18 keep contact with this defendant?

19 A Correct.

20 MS. PAOLETTI: Answer any questions that Ms. Wicker
21 may have for you.

22 MS. WICKER: I don't have any questions for this
23 witness.

24 THE COURT: Thank you. You may stand down. Thank
25 you.

1 THE WITNESS: Thank you.

2 MS. PAOLETTI: Your Honor, can I have just a moment?

3 It went a lot faster than I expected.

4 The State calls Jonathan Howard.

5 THE CLERK: Sir, can you come forward to be sworn?

6 WHEREUPON,

7 JONATHAN HOWARD

8 After having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. PAOLETTI:

11 Q Investigator Howard, you also work for the Sheriff's
12 Department?

13 A That is correct.

14 Q How long have you been with the Sheriff's Department?

15 A I've been with the Sheriff's Office for about seven
16 years now.

17 Q All right. And to which division are you currently
18 assigned?

19 A I'm currently assigned to the Criminal Investigation
20 Division as an economic crimes investigator.

21 Q All right. We're going to talk to you about an
22 investigation in this case back in November of 2013. Were
23 you still in investigations at that time?

24 A I was. I was actually on call that week when this
25 incident occurred.

1 Q All right. And will you tell the jury how you got
2 involved in this investigation?

3 A Early in the morning I received a phone call from a
4 supervisor who was on call for the on-call investigators
5 that week. He advised me that there was an incident of
6 possible child injury and requested I come to the Law
7 Enforcement Center to assist.

8 Q All right. And did you do that?

9 A I did.

10 Q And when you arrived at the Law Enforcement Center,
11 what was it that you were asked to do as part of the
12 investigation?

13 A I made contact with the lead investigator and asked
14 what I could do to assist. I was requested to obtain two
15 search warrants, one for the defendant's residence and the
16 other actually for a vehicle that I was advised was the
17 defendant's vehicle. The descriptions of the residence,
18 all the information was provided to me by the lead
19 investigator. I think -- I think the apartment was
20 actually described by another officer on scene at that
21 apartment so I could get the paperwork done there.

22 Once I had completed the search warrants, I took them
23 to the judge and had the judge authorize those, which I
24 then advised the lead investigator those were obtained.

25 Q All right. And then after you got the search

1 warrants, was there a time that you took a statement from
2 the witness in this case?

3 A I did. I was actually asked to speak to a witness,
4 Tangela Kennedy, and talk with her about the events of the
5 evening.

6 Q All right. And will you tell the jury just briefly
7 what your understanding was of the facts before you started
8 speaking with her?

9 A I'd been given kind of a bare amount of information.
10 I knew that there was a young child who had suffered a
11 possible injury and that the child had, at some point in
12 time, been in the care of Ms. Kennedy and with the
13 defendant. And I was asked to basically just find out from
14 there what happened during the course of the day.

15 Q All right. And will you describe for the jury
16 Ms. Kennedy's demeanor when you were speaking to her?

17 A She appeared to be ill. She seemed somewhat pale,
18 asked for water a lot. Told me she was dehydrated. Her
19 physical manners were pretty consistent with someone
20 suffering from a physical illness of some sort.. She seemed
21 uncomfortable. However, she did also -- she was
22 articulate, clearheaded, she was able to communicate. She
23 just seemed uncomfortable.

24 Q And do you recall about what time it was that you were
25 speaking to her?

1 A It was early in the morning. It was around 2:00 when
2 I got the phone call to come in, so I would say 2:45, 3:00.
3 So it would be earlier in the morning, somewhere around
4 that time.

5 Q In the morning?

6 A Yes, ma'am.

7 Q Okay. And was Ms. Kennedy cooperative with you?

8 A Yes, ma'am. She was.

9 Q And let's talk about the way that you would take a
10 witness statement in those circumstances. Can you tell the
11 jury how that goes?

12 A Right. I actually have upstairs -- in our offices
13 upstairs, we all have our individual desk, a little cubicle
14 space. Brought her over to my cubicle area. I sat her
15 down in a chair and essentially asked her to kind of walk
16 me through the general events of what had happened that
17 day. And she kind of gave me a general overview. I talked
18 with her about putting everything down in a written
19 statement, to which she agreed.

20 At that point in time, we worked on her statement
21 together. What I would do is bring up the form that we
22 would fill out for her statement. I would type it for
23 convenience and ease there.

24 But as I'm typing it, I'm going through it with her.
25 She's talking me through it. I'm asking her to tell me

1 what happened next. She tells me the events. I may have
2 to ask her to clarify a point or to give me a little bit
3 more detail, but we're working on her statement together.

4 Q All right. And after you've finished speaking to her
5 about the facts about what happened, did you give her the
6 opportunity to read the statement that you'd written
7 together?

8 A Yes, ma'am. I actually print out the statement, I
9 hand her a copy of the printed statement, I tell her to go
10 through -- I told her to go through the statement to make
11 sure that this was an accurate reflection of everything
12 that we've talked about, that all the information contained
13 in there is correct, if there's anything that needs to be
14 changed or altered, let me know so we can fix it. Once
15 it's to her satisfaction that that is an accurate
16 transcription of what she had said, then I ask her to -- I
17 asked her to sign, initial it and go from there.

18 Q And how would you characterize just the questions that
19 you would ask her during an interview like this? Were they
20 open-ended?

21 A I didn't know a whole lot of details about this
22 incident. More than anything else for this particular
23 case, I was pretty much having her walk me through every
24 single detail that she could remember of the night, just
25 any little thing that might be important.

1 Q All right. And did she sign the statement?

2 A She did.

3 Q And was that the extent of your involvement in this
4 investigation?

5 A That's correct.

6 MS. PAOLETTI: All right. Answer any question that
7 Ms. Wicker might have for you.

8 CROSS EXAMINATION

9 BY MS. WICKER:

10 Q Did you personally execute the search warrants for
11 Mr. Edwards' car and his apartment?

12 A No. I obtained the search warrants. I gave those to
13 the other investigators who were working, and they executed
14 the search warrants themselves.

15 Q Okay. And you spoke to Ms. Kennedy. About how long
16 did you speak to her?

17 A We talked for -- we talked for a while. I would say
18 we probably were up there for about at least an hour, I
19 think, going through everything.

20 Q And that was at the Law Enforcement Center?

21 A Yes, ma'am.

22 Q Did you speak to either Mr. Edwards or Ms. Samples
23 regarding this case?

24 A I don't -- no. I don't believe so.

25 MS. WICKER: Okay. Thank you. I don't have any

1 further questions.

2 THE COURT: Anything else?

3 MS. PAOLETTI: Yes, sir. May I approach quickly? Or
4 no. I'm sorry.

5 That's all for this witness, Judge.

6 THE COURT: All right. You may stand down. Thank
7 you.

8 Yeah. Come on up.

9 (WHEREUPON, a bench conference was held off the record.)

10 THE COURT: All right. Madam Forelady, ladies and
11 gentlemen, we're going to take a short break. The next
12 witness is en route and will be here shortly. So don't
13 discuss the case. We'll get back with you very quickly.
14 Thank you.

15 (WHEREUPON, the jury exits the courtroom at 2:46 p.m.)

16 THE COURT: All right. We'll be at ease.

17 (WHEREUPON, a recess is taken at 2:47 p.m.)

18 (WHEREUPON, the jury entered the courtroom at 2:53 p.m.)

19 THE COURT: All right.

20 MS. PAOLETTI: Thank you, Judge. The State calls Al
21 Harrison.

22 THE CLERK: Sir, please come forward to be sworn in.
23 WHEREUPON,

24 AL HARRISON

25 After having been duly sworn, testified as follows:

1 THE CLERK: Would you please state your name for the
2 record.

3 THE WITNESS: Al Harrison.

4 DIRECT EXAMINATION

5 BY MS. PAOLETTI:

6 Q Is it correct to call you Officer Harrison? Or what's
7 your rank?

8 A Actually, just -- it's -- it's investigator.

9 Q Investigator Harrison. Okay.

10 And with what agency are you an investigator?

11 A I am the investigator for the Greenville Health
12 System, and I fall under the category of law enforcement
13 services. So I investigate for their police agency and as
14 well as their security, risk management and human
15 resources.

16 Q Okay. And I didn't know this, but will you explain to
17 the jury about the fact that the health system has their
18 own police agency?

19 A Yes. Several years ago with the size of the
20 Greenville Health System, they decided to bring an in-house
21 police department there. So I actually do investigations.
22 I'm a contracted investigator, and I do work at all, I
23 think, seven now of their satellite campuses as well as all
24 their doctors' offices. Any problems that arise, I look
25 into.

1 Q And before you went with the Greenville Health System,
2 where were you employed?

3 A I had my own investigative company, and I also, before
4 that, was with Greenville City Police Department for
5 11 years.

6 Q All right. As part of your duties with Greenville
7 Health System, are you familiar with their surveillance
8 system?

9 A Yes, ma'am.

10 Q All right. And does that include the emergency room
11 on Grove Road?

12 A Yes, ma'am.

13 Q Will you tell the jury just a little bit about the
14 surveillance system that y'all have there?

15 A The hospital has cameras throughout the various
16 campuses, actually, and they all tie in through a system
17 where I'm able to view -- there are actually two systems.
18 There's an older system, which is a little bit more analog
19 and that records to like huge VCR's, basically, that they
20 have in the hospital, and then there's one that's a little
21 more Web based, and it's based on servers. They're not all
22 on one because with anything else, it's a cost issue. It's
23 very expensive to change them over.

24 The cameras that I believe this case involves are on
25 the newer system, and there are cameras, again, throughout

1 the emergency room, certain floors, ambulance bays, all
2 through there.

3 Q All right. And are you in contact with the Greenville
4 Health System for pulling those surveillance videos should
5 a law-enforcement agency need them?

6 A Yes, ma'am.

7 Q All right. I'm going to show you what's been marked
8 as State's Exhibit No. 17 and ask you if you recognize that
9 exhibit.

10 A Yes, ma'am. That would be my handwriting on the
11 outer paper there, and that's my handwriting on the disc
12 itself.

13 Q And that case number that's on there is a number that
14 you assigned to it?

15 A That is a Greenville Health System case number. If
16 the police department would generate a report, and it could
17 be anything, they have a term there called assist outside
18 agency. So they would generate that case number for assist
19 outside agency, and anything I did, I would put under that
20 case number.

21 Q Okay. And once these surveillance videos, the
22 portions that are requested, are pulled and recorded onto
23 this type of format, can they be altered or changed in any
24 way?

25 A It has been explained to me that, in the way I export

1 it, which I generally export with the player, so the system
2 that that was recorded on is called OnSSI. And when I
3 export that video, I export it with the OnSSI player. and
4 It's been explained to me when I do that, it watermarks the
5 video, so it would be -- for someone who is familiar with
6 it, would be readily available if it had been tampered with
7 in any way.

8 Q Okay. And have you had an opportunity to review this
9 DVD since you provided it to law enforcement?

10 A No.

11 Q Okay. So you just put it on the disc?

12 A I put it on the disc and do the -- and turn it over.

13 Q Do you remember coming into my office and looking at
14 this?

15 A I do.

16 Q Okay. When you reviewed it, did it appear to have
17 been altered anywhere?

18 A No, ma'am.

19 Q Is there any indication that it had been ---

20 A No, ma'am.

21 Q --- changed?

22 MS. PAOLETTI: Your Honor, at this time, the State
23 moves Exhibit No. 17 into evidence.

24 MS. WICKER: No objection, Your Honor.

25 THE COURT: All right.

1 (WHEREUPON, State's Exhibit No. 17 was admitted into
2 evidence.)

3 BY MS. PAOLETTI:

4 Q I'm going to pull this up, and if you could, pull that
5 screen down there. There's a laser pointer right there in
6 front of you. Ask you just to show the jury some of the
7 markings on the video when it comes up.

8 A Okay.

9 (Pause in proceedings.)

10 Q You're probably much faster at this than I am,
11 Mr. Harrison.

12 (WHEREUPON, State's Exhibit No. 17, a video, was
13 played in open court.)

14 Q All right. Will you just tell the jury what they're
15 looking at right here, please.

16 A This area -- there we go. This is the ER drop off.
17 This is at the main campus off of Grove Road. This is
18 where someone would pull on if -- of course, not an
19 ambulance, but an individual would pull up to drop someone
20 off into the ER.

21 Just on a side note, this is the player for OnSSI, so
22 this isn't your normal thing that you would open a video
23 in. This isn't like a Windows player or something. This
24 is specific to OnSSI, and it also has a time stamp and
25 date.

1 Q Okay. And what is that time stamp and date at the
2 bottom?

3 A 11/17 of '13 at 2330 hours, which is 11:30 p.m.

4 Q Okay. Now has it changed? For some reason, it wants
5 to start in the middle. But what's the time stamp on this
6 video right now?

7 A 2328, 11:28 p.m.

8 Q And the clock that we see running up in the left
9 corner and down here in the red, same clock?

10 A The time. Yes, ma'am.

11 Q Okay. And that's the time stamp?

12 A Uh-huh.

13 (WHEREUPON, State's Exhibit No. 17, a video, continued
14 playing in open court.)

15 Q All right. Investigator Harrison, there are
16 recordings on this disc of other views from the hospital
17 campus that night; is that correct?

18 A That's correct.

19 Q And those are all different files on this disc?

20 A Yes.

21 MS. PAOLETTI: Okay. Thank you. That's all I've got.
22 Answer any questions that Ms. Wicker might have for you.

23 MS. WICKER: I don't have any questions for this
24 witness.

25 THE COURT: All right. Thank you. You may stand

1 down.

2 MS. PAOLETTI: Your Honor, the State calls Mr. Mike
3 Fortner.

4 THE CLERK: Come forward to be sworn, please.
5 WHEREUPON,

6 MICHAEL FORTNER

7 After having been duly sworn, testified as follows:

8 THE CLERK: Would you please state your name for the
9 record.

10 THE WITNESS: Michael Fortner.

11 DIRECT EXAMINATION

12 BY MS. PAOLETTI:

13 Q All right. Investigator Fortner, are you also with
14 the Sheriff's Office?

15 A I am, yes.

16 Q All right. And tell the jury to which division you're
17 currently assigned.

18 A I'm assigned to the Criminal Investigative Division,
19 CID, in the homicide section.

20 Q And did you assist Investigator Hammett with the
21 investigation in this case today?

22 A I did. I was called out that early morning, yes.

23 Q All right. And will you tell the jury where you first
24 responded? And I know you moved around a good bit. Will
25 you tell them where you first responded?

1 A Yes. My -- Sergeant Jarvis, who called me out, had
2 asked me to respond to [REDACTED],
3 which is Highland Square Apartments, and to go to
4 [REDACTED] initially. And then I received another call
5 back from him, and he asked me to go to [REDACTED].

6 Q All right. So after you got to the defendant's
7 apartment, then you left and went to where EMS responded?

8 A Yes.

9 Q Okay. And then were you on hand? Did you stand by
10 while the search warrants in those cases and for that
11 residence was being executed at Brantford Lane?

12 A Brantford Lane, if I remember right, we actually had a
13 consent to search there.

14 Q I'm sorry.

15 A The resident there signed a consent to search form.

16 Q Okay. And that was the homeowner had signed a consent
17 to search?

18 A Correct. Sergeant Garrett had taken care of that
19 before I arrived on scene.

20 Q All right. I'm going to show you what's been marked
21 as State's Exhibit No. 1 and 2 and ask you if you recognize
22 just those two photos.

23 A (Reviews documents) I do.

24 Q All right. And where were those photos taken?

25 A This is a bedroom where EMS had responded. It was

1 probably at one time either a carport or garage that had
2 been converted into a bedroom, and the doorway leads
3 directly out into the driveway. That's where we came in
4 at.

5 Q All right. And do those photographs in front of you
6 accurately reflect the part of the home that you witnessed
7 that night?

8 A It does. Yes, ma'am.

9 MS. PAOLETTI: All right. Your Honor, at this time,
10 the State moves No. 1 and 2 into evidence.

11 MS. WICKER: No objection.

12 THE COURT: Okay.

13 (WHEREUPON, State's Exhibit Nos. 1 and 2 were admitted into
14 evidence.)

15 BY MS. PAOLETTI:

16 Q All right. And then after the consent was executed
17 and that scene was processed, did you go to another
18 location?

19 A I did. Once we finished at [REDACTED], we
20 then went back to Highland Square Apartments to
21 Apartment A-14.

22 Q All right. And were you present when the search
23 warrant was executed in that residence as well?

24 A I was, yes.

25 Q All right. I'm going to ask you to flip through those

1 photographs. Those are State's Exhibits -- I'm sorry. I
2 did not show them to the defense. See what the numbers
3 are. Exhibits 5 through 10. I'm just asking you to look
4 through those and see if you recognize those photographs.

5 A (Reviews documents) Okay.

6 Q And what are those photographs from?

7 A The first few photographs are the apartment,
8 Apartment A-14 over at Highland Square Apartments, the
9 first, it looks like, three of them. The first three. And
10 then the next three are photos of a Hyundai Accent that we
11 also served a search warrant on. This vehicle was parked
12 in the parking garage over at Greenville Memorial Hospital.

13 Q All right. And let me -- I didn't mean to put all
14 those in there, but let's talk about the Highland Square
15 Apartments. Do those photographs fairly and accurately
16 represent the home as you found it the early morning hours
17 of November '13?

18 A Yes, it does.

19 MS. PAOLETTI: 2013.

20 Your Honor, at this time, the State moves Exhibits 5
21 through 7 into evidence.

22 MS. WICKER: No objection.

23 THE COURT: Okay.

24 (WHEREUPON, State's Exhibit Nos. 5, 6 and 7 were admitted
25 into evidence.)

1 BY MS. PAOLETTI:

2 Q And then lets move to the vehicle photographs.

3 A Okay.

4 Q Do those photographs fairly and accurately represent
5 the vehicle as you found it at the hospital that night?

6 A It does, yes.

7 Q And were you able to determine who had been driving
8 that vehicle?

9 A I was not involved in that part of it. I was just
10 asked to go execute a search warrant on the vehicle that
11 had been obtained.

12 Q So you just responded with forensics to take
13 photographs of all those locations?

14 A Yes, ma'am.

15 Q All right. And do those photographs fairly and
16 accurately represent the condition of the vehicle as y'all
17 found it at Greenville Memorial?

18 A Yes, it does.

19 MS. PAOLETTI: All right. Your Honor, the State moves
20 8, 9 and 10 into evidence.

21 MS. WICKER: No objection.

22 THE COURT: Okay.

23 (WHEREUPON, State's Exhibit Nos. 8, 9 and 10 were admitted
24 into evidence.)

25 MS. PAOLETTI: All right. If you'll answer any

1 questions that Ms. Wicker may have for you.

2 CROSS EXAMINATION

3 BY MS. WICKER:

4 Q Good afternoon, Investigator.

5 A Good afternoon.

6 Q Do you know if any items were seized from the
7 Brantford Lane and the apartment complex as a result of the
8 search warrant?

9 A I do, yes.

10 Q Do you know if any of those items were tested or
11 anything like that?

12 A I'm not aware of anything being tested or anything,
13 no.

14 Q Okay. Do you know if anything was seized from the
15 vehicle?

16 A There -- there was, yes. The diaper bag.

17 Q Okay. Was anything tested -- was the diaper bag
18 tested?

19 A I don't know. I'm not -- I didn't play that role in
20 the investigation, so I'm not sure if anything was or not.

21 MS. WICKER: Okay. Thank you. I don't have any
22 further questions.

23 THE WITNESS: Okay.

24 MS. PAOLETTI: No more questions for Investigator
25 Fortner, Your Honor.

1 THE COURT: All right. Thank you. You can stand
2 down.

3 MS. PAOLETTI: Your Honor, the State calls Tangela
4 Kennedy.

5 THE CLERK: Ms. Kennedy, if you would, come forward to
6 be sworn, please.

7 WHEREUPON,

8 TANGELA KENNEDY

9 After having been duly sworn, testified as follows:

10 THE CLERK: Would you please state your name for the
11 record.

12 THE WITNESS: Tangela Kennedy.

13 DIRECT EXAMINATION

14 BY MS. PAOLETTI:

15 Q Ms. Kennedy, since we've just reviewed the video, were
16 you in the courtroom while the video surveillance from the
17 hospital was played?

18 A I was.

19 Q And was that you that got out of the car and walked
20 into the emergency room?

21 A Yes.

22 Q Do you live here in Greenville?

23 A I do.

24 Q Tell the jury where you live.

25 A [REDACTED].

1 Q All right. So the apartment that we've been talking
2 about so far is where you live?

3 A Yes, ma'am.

4 Q All right. Was there somebody that lived there with
5 you at some point?

6 A Yes. The defendant, Tarran.

7 Q Was he your boyfriend?

8 A We were engaged.

9 Q I want to talk about November of 2013. And was he
10 your boyfriend at that time -- or your fiance?

11 A Yes.

12 Q How long had you known him?

13 A Since middle school.

14 Q So how long?

15 A Maybe -- maybe about seven years.

16 Q And how long had y'all been together in November of
17 2013?

18 A Four years.

19 Q All right. I want to talk to you about Danielle
20 Samples. Do you know who Danielle Samples is?

21 A Yes.

22 Q How do you know Danielle?

23 A We previously worked together.

24 Q All right. How long have you known her?

25 A Prior to the time, it was maybe a little bit over a

1 year.

2 Q Prior to when?

3 A The night of the incident.

4 Q Okay. Would you consider her a good friend at that
5 point?

6 A Yes.

7 Q And since this incident, have things changed with
8 y'all?

9 A Yes.

10 Q Have you spoken to her?

11 A No.

12 Q All right. Now I want to talk to you about [Minor]
13 okay? Were you [Minor] godmother?

14 A Yes.

15 Q Where were you when [Minor] was born?

16 A In the room.

17 Q In the delivery room?

18 A Yes.

19 Q Who else was in there?

20 A The father and the mother, of course.

21 Q In [Minor] 11 weeks, how many times would you say that
22 you saw him?

23 A Maybe five, six. I'm not sure.

24 Q Okay. Before the last weekend that he was with you
25 before he died, had he stayed with you for a couple of days

1 at a time before then?

2 A Yes.

3 Q I want to talk to you about your job for just a
4 second. Will you tell the jury what you do?

5 A I am a PCA, patient care aide for a disabled little
6 girl.

7 Q How old is she?

8 A She's 6.

9 Q All right. Are you in school?

10 A I am.

11 Q What are you studying?

12 A Medical assistant.

13 Q All right. What were you doing in November of 2013
14 for a job?

15 A I had the same job.

16 Q In the -- and I don't want to misrepresent this. How
17 many times do you think that you saw **Minor** in his lifetime?

18 A Maybe six, seven times.

19 Q Okay. In the times that you kept him or the time that
20 you spent with him, he never had any medical problems that
21 caused you to take him to the emergency room?

22 A No.

23 Q In the times that you kept him or spent time with him,
24 did he ever have any medical issues that caused you to have
25 to take him to the doctor?

1 A No.

2 Q All right. Was there a time when you talked to
3 Danielle Samples about **Minor** having any breathing problems?

4 A Yes.

5 Q Okay. What did you mean by that?

6 A I had spoke with her about his breathing once, and we
7 talked about it, and that was it. It was left alone.

8 Q So you talked to her about it and that was it?

9 A After she gave me a response and explained to me, yes,
10 it was left alone.

11 Q Okay. But he never had to have -- in the times that
12 you were taking care of him, did you have to give him any
13 medication?

14 A No.

15 Q Any breathing treatments?

16 A No.

17 Q Any -- any medical attention?

18 A No.

19 Q All right. I want to talk to you about the weekend of
20 November 16 -- 16th or so through the Sunday -- the Monday
21 the 18th, okay? Why did you have **Minor** that weekend?

22 A That's what -- we usually get him on the weekends.
23 That was our third weekend getting him.

24 Q Okay. And why would you keep him for her on the
25 weekends?

1 A For one, we wanted to be -- we wanted him in our
2 company, and for two, just to let her -- you know, give her
3 time to do and get her stuff together, what she had going
4 on.

5 Q Okay. Was she going to visit somebody on the
6 weekends?

7 A Yes.

8 Q Okay. What day did you get him?

9 A It was late Friday night, a little bit after 12:00.

10 Q So into Saturday, like 12:00 Saturday midnight?

11 A Yes, yes.

12 Q Okay. And did you have any problems with him when you
13 picked him up on Friday?

14 A No.

15 Q And I'll call that Saturday, all that day on
16 Saturday ---

17 A No.

18 Q --- what did y'all do that day on Saturday?

19 A I stepped out for a minute that morning, came back, we
20 took him a bath, and went on a regular normal day.

21 Q All right. Have any problems on Saturday?

22 A No.

23 Q Any of these breathing problems ---

24 A No.

25 Q --- that you said that y'all talked about?

1 Any issues at all on Saturday?

2 A No.

3 Q Did he eat normally?

4 A Yes.

5 Q Did he sleep like he normally would have?

6 A Yes.

7 Q All right. I want to talk to you about Sunday,
8 November 17.

9 A Okay.

10 Q At some point on Sunday, did you start to feel bad?

11 A I did. It was probably around 5:00, 6:00.

12 Q Up until 5:00 or 6:00 when you started to feel bad,
13 was there any problem -- were there any problems with **Minor**

14 A No.

15 Q You have any trouble at all?

16 A No.

17 Q On Sunday?

18 A No.

19 Q He ate normally?

20 A Yes.

21 Q He slept normally?

22 A Yes.

23 Q He was going to the potty normally?

24 A Yes.

25 Q And then you said around 5 or 6 p.m., you started to

1 feel bad?

2 A Yes.

3 Q What -- what was wrong?

4 A Stomach pain, and I felt kind of nauseous.

5 Q Did you throw up?

6 A I did.

7 Q All right. When you started to feel bad, who was
8 taking care of Minor

9 A He was with Tarran.

10 Q And let's go back and make sure that we're clear.

11 From the time you picked him up on Friday night or early
12 Saturday morning until the time you got sick, the defendant
13 was with him the entire time?

14 A Yes.

15 Q And then why was he taking care of Minor when you were
16 sick?

17 A Because he was more like, you know, watching him and
18 making sure he was okay while I was vomiting and other
19 stuff -- other things.

20 Q Not meaning to embarrass you on that, but were you
21 concerned about Minor getting any germs that you had?

22 A At the time, I was communicating with Danielle about
23 me being sick, and I learned that she prior had the same
24 symptoms as I did. And I wasn't really majorly [sic]
25 concerned about it at the time because, like I say, we were

1 in -- I wasn't really just around him. But not at the
2 time, no.

3 Q Okay. But what I'm talking about, when you started
4 throwing up, were you concerned about giving **Minor** whatever
5 you might have?

6 A I wasn't thinking of that. I was thinking -- I just
7 -- I wasn't thinking of that at the time. I was sick, I
8 was vomiting. It just -- I was just trying to figure out
9 what was going on with me.

10 Q Okay. And when you weren't feeling well, you told
11 police that the defendant was taking care of **Minor**

12 A Yes.

13 Q Okay. All right. At some point, you obviously
14 decided to go to the emergency room; is that right?

15 A Yes.

16 Q And the time that's on the video shows right at 11:29,
17 11:30 when you got to the emergency room; is that right?

18 A Correct.

19 Q I want to talk about when y'all got ready to go to the
20 emergency room. Did you put **Minor** in his car seat or did
21 the defendant?

22 A The defendant.

23 Q Okay. And were you there when that happened?

24 A Yes.

25 Q Okay. And did you observe **Minor** see him?

- 1 A Yes, I did.
- 2 Q And how was he?
- 3 A He was fine.
- 4 Q Okay. When you say he was fine, was he awake?
- 5 A Yes.
- 6 Q Okay. Breathing normally?
- 7 A Yes.
- 8 Q Any indication that there was anything wrong with him
- 9 whatsoever?
- 10 A No.
- 11 Q All right. And then who put him in the car?
- 12 A He did, Tarran Edwards.
- 13 Q Okay. And who drove to the emergency room?
- 14 A Tarran.
- 15 Q And was that your car?
- 16 A Yes.
- 17 Q All right. And I'm going to show you State's
- 18 Exhibits 8, 9 and 10, just ask you if you recognize that --
- 19 those pictures. Is that your car?
- 20 A Yes.
- 21 Q Do you remember your license plate? Is that how you
- 22 know it's yours?
- 23 A No. Just the model -- make and model.
- 24 Q Okay.
- 25 A I don't really . . .

1 Q Is that the inside?

2 A Yes.

3 Q And were you in the passenger's seat on the way to the
4 hospital?

5 A Yes.

6 Q When was the last time that you actually put your eyes
7 on **Minor** before you got out of the car?

8 A Before we walked out the door.

9 Q Okay. From the apartment?

10 A Yes.

11 Q Okay. Before y'all left to go to the emergency room,
12 when had he eaten last?

13 A Maybe an hour prior.

14 Q An hour prior to leaving for the emergency room?

15 A Yes.

16 Q All right. Did you go -- the video reflected that you
17 went to the emergency room on your own; is that correct?

18 A Yes.

19 Q All right. And did you go inside the emergency room?

20 A Yes.

21 Q Were you admitted?

22 A Yes.

23 Q All right. And do you know about how long you were
24 admitted or in the emergency room before you were
25 discharged much later that morning?

1 A A few hours.

2 Q What did they do for you?

3 A Gave me IV, fluids.

4 Q All right. After you went inside the emergency room
5 and the defendant left, was **Minor** in the car with him?

6 A Yes.

7 Q All right. And at some point, did you talk to him on
8 the phone?

9 A I did.

10 Q Okay. When was that?

11 A It was maybe 15, 20 minutes after he left.

12 Q All right. Before that, did y'all have a conversation
13 about ---

14 A Yes.

15 Q Okay. What was that?

16 A We were discussing if he was going to stay at the
17 emergency room with **Minor** until I was discharged, and we
18 were trying to see the wait and how long they would be
19 there.

20 Q Okay.

21 A And he left because it was a -- I figured I was going
22 to be there a while.

23 Q Okay. So he left the hospital?

24 A Yes.

25 Q All right. And where was he going, to your

1 understanding?

2 A Back to our residence.

3 Q And how far is that from the hospital?

4 A Maybe ten minutes.

5 Q All right. And then did you hear from the defendant
6 again while you were waiting at the emergency room?

7 A Yes.

8 Q All right. Tell me about that conversation.

9 A He called me and he told me that something was wrong
10 with **Minor** and he wasn't responding.

11 Q Okay.

12 A For a minute, I -- I didn't understand what he was
13 saying because he had just left and everything was fine.
14 So I asked him, "What do you mean can you -- what do you
15 mean he's not responding?"

16 And he said, "I don't know. I was going to change
17 him, and he wasn't responding.

18 Q And those were the words that he was using, he wasn't
19 responding?

20 A Well, he -- he didn't use that word. What he said, he
21 wasn't moving -- breathing.

22 Q Okay. And so what did you tell him? What did you
23 tell him to do?

24 A I told him to take him to his mom.

25 Q And you obviously couldn't see **Minor** at this time?

1 A No.

2 Q What did you do next?

3 A I -- we hung up from -- with each other, and I was
4 waiting to get back -- we took him back. And I talked to
5 him again. And at the time, he had got to Danielle's
6 residence. And . . .

7 Q Did you hear the 9-1-1 call that was played this
8 morning?

9 A No.

10 Q But you were talking to him on the phone while he was
11 there?

12 A Yes.

13 Q Okay. And if the phone records reflect that that
14 phone call was about 12:15 in the morning, does that sound
15 right to you?

16 A Yes.

17 Q Did you speak to Danielle during this time?

18 A I did.

19 Q Okay. And when you say that you were talking to her,
20 was that when she was still at her home?

21 A Yes.

22 Q Okay. And this entire time you're at the emergency
23 room, do you have any way to leave?

24 A No.

25 Q And then did you speak to the defendant again?

1 A Yes.

2 Q All right. When did you talk to him again?

3 A After I had -- when he called the first time, he was
4 telling me that he had arrived to Danielle's house, and
5 then I spoke with Danielle, and then I spoke to him again.

6 Q And when you were talking to Danielle, what were you
7 -- what do you recall that you were trying to do?

8 A Well, she was very upset, and I was trying to calm her
9 down and explain -- walk her through CPR myself. But I was
10 also frantic as well, and it just didn't go good. It
11 was

12 Q When you were discharged from the emergency room, do
13 you recall speaking to Investigator Howard ---

14 A Yes.

15 Q --- about the case?

16 And you recall giving a statement ---

17 A Yes.

18 Q --- in that case?

19 Do you recall having an opportunity to review it to
20 make sure it was accurate?

21 A Yes.

22 Q And that you'd include everything that you needed to
23 include in that statement?

24 A Yes.

25 Q While **Minor** was in your care, did anything happen to

1 him that would cause him to have bleeding on his brain?

2 A No.

3 Q When you were in the care of Minor did you do anything
4 to hurt him?

5 A No.

6 Q Did you see anything happen to him that would explain
7 the injuries that he had or explain that -- his death?

8 A No.

9 Q And the entire weekend you were with Minor he was
10 fine?

11 A Yes.

12 MS. PAOLETTI: If you'll answer any questions that
13 Ms. Wicker might have for you.

14 CROSS EXAMINATION

15 BY MS. WICKER:

16 Q Ms. Kennedy, this was the third weekend that you had
17 Minor is that correct?

18 A Yes.

19 Q Okay. What -- were you watching him Friday to Sunday
20 or Saturday and Sunday?

21 A It was Friday to Sunday.

22 Q Each time you had him?

23 A Yes.

24 Q And do you recall leading up to this incident when you
25 picked up Syre?

1 A Yes.

2 Q And it was late Friday?

3 A Yes.

4 Q Do you recall his demeanor? Was he crying or fussy or
5 anything when you picked him up?

6 A He was -- he was quiet.

7 Q Okay. You have some medical training, correct? CPR?

8 A Yes.

9 Q Okay. When Mr. Edwards called you about **Minor** you
10 told him to take him back to his mother's house, correct?

11 A Yes.

12 Q Now, you live about ten minutes from the hospital; is
13 that correct?

14 A Yes, ma'am.

15 Q From the time that he dropped you to when he called
16 you, do you know about how long that was?

17 A Maybe 15 minutes.

18 Q Okay. When you started to feel bad, did you let
19 Ms. Samples know that you were feeling under the weather?

20 A Yes.

21 MS. WICKER: Thank you. I don't have any further
22 questions for you.

23 THE COURT: Any redirect?

24 MS. PAOLETTI: Yes, sir. Just one moment, Judge. I'm
25 sorry.

REDIRECT EXAMINATION

1

2

BY MS. PAOLETTI:

3

Q You were dropped off at the emergency room at 11:28 or
4 11:29; is that right?

5

A Yes. I believe so.

6

Q All right. And then your testimony is that you and
7 the defendant had a phone call very shortly after he
8 dropped you off?

9

A Yes.

10

Q And that's the discussion where you were trying to
11 decide whether he was going to stay or go?

12

A Yes.

13

Q Okay. And then the phone records reflect the next
14 phone call to you from him was at 11:59; is that accurate?

15

A Yes.

16

MS. PAOLETTI: I don't have any more questions for
17 Ms. Kennedy.

18

THE COURT: All right. Thank you. You may stand
19 down.

20

MS. PAOLETTI: Your Honor, the State calls Danielle
21 Samples.

22

THE CLERK: Please come forward to be sworn in.

23

WHEREUPON,

24

DANIELLE SAMPLES

25

After having been duly sworn, testified as follows:

1 THE CLERK: Would you please state your name for the
2 record.

3 THE WITNESS: Danielle Samples.

4 DIRECT EXAMINATION

5 BY MS. PAOLETTI:

6 Q Ms. Samples, would you tell the jury where you live?

7 A I currently live with my grandfather in Simpsonville,
8 South Carolina.

9 Q Okay. Back in November of 2013, where did you live?

10 A [REDACTED], Greenville, South Carolina.

11 Q How long have you been back with your grandfather?

12 A Since August of last year.

13 Q Did you grow up around here?

14 A Yes. I grew up in that house in Simpsonville where I
15 live now.

16 Q Where do you work?

17 A Package Concepts and Materials.

18 Q Say it again?

19 A Package Concepts and Materials.

20 Q Okay. And what do you do for them?

21 A I am a machine operator.

22 Q When do you work?

23 A From 4 or 3 p.m. until I get off. There's no set
24 time. I'm a production worker, so we have to get the
25 orders out before we can leave.

1 Q And is that second shift?

2 A Yes, ma'am. Second, kind of third shift.

3 Q How long have you worked there?

4 A Nine years.

5 Q All right. And is that where you met Ms. Kennedy?

6 A Yes, ma'am.

7 Q Do you have children?

8 A Yes, ma'am. I have five children. I had six, but
9 five now.

10 Q Would you tell us, start with the oldest to youngest?

11 A I have Anijah S. [REDACTED], she's 10; Ajarees S.
12 [REDACTED], he's 9; Jason P. [REDACTED], he's 3;
13 Minor [REDACTED], he would have been 2; and I have twins that are
14 four months old.

15 Q And you mentioned that your third's last name is
16 Parks; is that right?

17 A Uh-huh. Jason P. [REDACTED] uh-huh.

18 Q Okay. Who's Minor [REDACTED] father?

19 A Howard Parks.

20 Q He's with you here today?

21 A Yes, ma'am.

22 Q How long have you two been together?

23 A Five years.

24 Q All right. I want to talk to you about your
25 relationship with Tangela Kennedy.

1 A Yes, ma'am.

2 Q What do you call her? What would you have called her?

3 A She was a best friend. I've known her from work maybe
4 -- she said one year, but it was like almost over two years
5 to almost three years from work. And we were really close.
6 I had lost my vehicle, and she would come and take me to
7 get my kids every day from school. She would take me for
8 work, or she will come and just do things I needed her to
9 do. And we would spend time together outside of that, too.

10 Q When people were talking about her, what do they call
11 her?

12 A Tan.

13 Q Tan.

14 So your older children know her?

15 A Yes, ma'am. She used to pick them up from school for
16 me.

17 Q In her testimony that -- she kept **Minor** several times
18 when he was a little baby?

19 A Yes, ma'am.

20 Q Okay. Would you pay her for keeping **Minor**

21 A No, ma'am. She wanted to do it, like she said, and
22 she didn't ask for any compensation for him, so I didn't
23 give her anything for it.

24 Q Those times that **Minor** was left with her, did you ask
25 her to babysit him?

1 A No, ma'am. She would ask me because she'd keep him
2 for that weekend and do whatever with him.

3 Q Okay. And let's talk specifically about that back in
4 November of 2013. Was there a time when [Minor] father was
5 in the hospital?

6 A Yes, ma'am. He went to the hospital October 18, 2013.

7 Q Okay. And how long was he there?

8 A For 32 days.

9 Q Okay. So in November -- this weekend of November
10 17th, 18th, was he still in the hospital in Spartanburg?

11 A Yes, ma'am.

12 Q Okay. And did you particularly want to take an
13 11-week-old to the hospital?

14 A I would have if I needed to, but she, you know, asked
15 if she'd get him, and the convenience of me not having to
16 take him to the hospital.

17 Q Would you take Mr. Parks' son?

18 A Jason, yes. That was his way of spending time and
19 getting to visit his dad.

20 Q All right. I want to talk to you about [Minor] now,
21 okay? Will you tell the jury when he was born?

22 A He was born [REDACTED].

23 Q And did you have any problems when you were pregnant
24 with him?

25 A Just the main nausea problems.

1 Q The what?

2 A Nausea. It was kind of morning sickness.

3 Q What about when he was born, were there any
4 complications?

5 A No, ma'am.

6 Q And then the time that he was with you after he was
7 born, did you ever have to take him to a doctor for any
8 kind of health problems?

9 A No, ma'am.

10 Q Did you ever have to take him to an emergency room for
11 any reason?

12 A No, ma'am.

13 Q There was some discussion about you and Ms. Kennedy
14 talking about him having breathing problems. Will you
15 explain what that was about?

16 A She mentioned to me that she thought he breathed
17 funny, and I was -- jokingly said because he's overweight.
18 But he has no problems. He had just been to the doctor,
19 basically. It was -- he had no medical problems like
20 determined by the doctors.

21 Q Okay. And -- but that time that y'all are having that
22 conversation, was he just a chubby baby?

23 A Yeah. Yes, ma'am.

24 Q Did you ever have to see anybody about any breathing
25 problems?

1 A No, ma'am.

2 Q Let's talk about some of the things that he would do
3 when he was -- close to the time -- to the time that he
4 died to interact with you. Would he smile at you?

5 A Yes, ma'am.

6 Q Would he follow you with his eyes if you were walking
7 around?

8 A Yes, ma'am.

9 Q Anything that you noticed that was weird or abnormal,
10 off about the developmental-type things?

11 A No, ma'am.

12 Q Could he roll over yet?

13 A No, ma'am. He couldn't roll over.

14 Q Did you take him to all of his scheduled doctors
15 appointments after he was born?

16 A Yes, ma'am. He had just had one Tuesday -- the
17 previous Tuesday.

18 Q November 12th?

19 A Yes, ma'am.

20 Q After you saw the pediatrician on Tuesday,
21 November 12th, were you required to follow up?

22 A Just for the next well-child visit scheduled for four
23 months.

24 Q No problems?

25 A No, ma'am.

1 Q Let's talk about that weekend specifically, the
2 weekend of the 17th. Were you going to visit Mr. Parks in
3 the hospital in Spartanburg?

4 A I was going to go that Saturday morning. Yes, ma'am.

5 Q And did Ms. Kennedy offer to keep **Minor** again?

6 A Yes, ma'am. But I was at work, so she -- that Friday
7 evening, so that's when she got him, after I got off work.
8 Because he was with the regular nanny, my aunt.

9 Q And where was he?

10 A He was with the nanny, my aunt, my auntie. She
11 watches all of my kids every day for me during the week
12 while I go to work. And so when I got off work and got
13 **Minor** from the nanny, that's when Ms. Kennedy came and got
14 him.

15 Q So you saw him that night?

16 A Yes, ma'am. I picked him up from the nanny, and she
17 picked him up from me.

18 Q Was he okay?

19 A He was fine. Yes, ma'am.

20 Q Did your aunt tell you that he had been having any
21 problems that day?

22 A No, ma'am. She's like he ate a lot, and she was like
23 he's eating more and more. He's getting big. Everybody
24 joked about him being really hefty. But that's all she
25 said.

1 Q Did you keep in touch with Ms. Kennedy throughout the
2 weekend?

3 A Yes, ma'am.

4 Q Any problems or any indication that there was any
5 problem with Minor

6 A No, ma'am.

7 Q You were talking about or thinking if he had trouble
8 breathing or anything?

9 A No, ma'am.

10 Q All right. And then let's talk about Sunday. Did
11 y'all talk at some point Sunday night about when you would
12 get him back?

13 A Yes, ma'am. I had let her know I was at home and I
14 was checking up on Minor and I asked was everything okay.
15 And she was like, yeah.

16 And I was like, "I really miss my baby."

17 And she was like, "No. You promised me one more day
18 this time. I'll bring him in the morning."

19 And I was like, "Well, kiss him for me. Tell him good
20 night. I'm going to bed."

21 Q Okay. And do you remember about what time that was?

22 A That was around 8:30, 8:00. It was in the evening,
23 though.

24 Q All right. I want to talk to you about just after
25 midnight, which would have been Monday, but -- which late

1 that Sunday night after you spoke to her in the evening.

2 Did the defendant come to your home?

3 A Yes, he did.

4 Q All right. Will you tell the jury what you were doing
5 when he got to your home?

6 A I was asleep.

7 Q All right. And what happened?

8 A I heard a knock on the door. And the first knock I
9 thought I was maybe dreaming or something so I just kind of
10 woke up and went back down. And then I heard the second
11 knock. And he was calling my name then, so I jumped up and
12 opened the door.

13 Q Is that -- the door that he was knocking on, is that
14 in your room?

15 A It's in my bedroom. Yes, ma'am.

16 Q And what happened when the defendant came in?

17 A He had **Minor** in his arm in the car seat, and he was
18 like, "Something wrong with him. He's not -- he's not
19 breathing."

20 Q Okay. I want to show you State's Exhibits No. 1 and 2
21 and ask you if you recognize those pictures.

22 A Yes, ma'am.

23 Q Will you tell the jury what that is?

24 A **Minor** car seat.

25 Q Okay. And is that the car seat that he was in ---

1 A Yes, ma'am.

2 Q --- when the defendant came?

3 A Yes, ma'am.

4 Q Was he buckled in?

5 A Yes, ma'am. Everything appeared to be normal as he
6 was buckled in, covered up and clothed and everything.

7 Q All right. And when you saw him, what did you do?

8 A I unstrapped him and got him to me, and I just started
9 talking to him. I -- I immediately realized he wasn't
10 breathing.

11 Q Could you tell that there was a problem?

12 A Yes, ma'am.

13 Q All right. And you were in the courtroom when the
14 9-1-1 call was played earlier today?

15 A Yes, ma'am.

16 Q Is that you on the 9-1-1 call that we could hear?

17 A Yes, ma'am.

18 Q Okay. And during that conversation, the defendant is
19 asked for a phone number. Was he on your phone?

20 A Yes, ma'am.

21 Q Okay. So did you call 9-1-1?

22 A I don't know if I dialed it and gave him -- I don't
23 remember. I was . . .

24 Q After you got off the phone with 9-1-1 and you got --

25 Minor going to be transported to the hospital, tell the

1 jury what happened then.

2 A After I got off the phone, the -- the deputy pulled me
3 to the side, and he was like, "Calm down, you know. What's
4 happening? What's going on? Talk to me." And I'm upset,
5 and I was -- told him I had other children in the back of
6 the house that I needed to go and tend to.

7 And we all got together, and I got in the ambulance
8 with **Minor** and my other kids got in the car with Mr.
9 Edwards, and we all went to the hospital.

10 Q Okay. And at the end of that call when you're saying
11 "get up, get up," is that you talking? Could you hear
12 that?

13 A Yes, ma'am.

14 Q Okay. And who were you talking to?

15 A My children, my other children.

16 Q Okay. At that point, did you have any idea why **Minor**
17 wasn't breathing?

18 A No, ma'am.

19 Q All right. After you got to the hospital, what
20 happened?

21 A We arrived at the emergency room, the pediatric area,
22 and they was working on him. And a lot of people just
23 came, like victim people, they said they were, and nurses,
24 and they was just trying to console me and tell me what was
25 going on and what steps was next and that he wasn't

1 breathing. And then they told me that he was being
2 transferred to ICU and for me to go to the ICU.

3 Q Okay. Before you got upstairs to the pediatric
4 intensive care unit, did you have any idea what was going
5 on with him?

6 A No, ma'am.

7 Q Did you speak to Ms. Kennedy at any point during
8 this?

9 A Not during this time.

10 Q Okay. All right. I want to talk to you about the
11 defendant now. Do you remember when you first met him?

12 A Not exactly. No, ma'am.

13 Q Had you spent much time with him in November of 2013?

14 A No, ma'am.

15 Q Did you know that he lived with Tan?

16 A On and off, kind of. Yes, ma'am.

17 Q Who did you understand would be the one taking care of
18 **Minor** that weekend?

19 A Ms. Kennedy.

20 Q All right. I want to talk to you about when **Minor**
21 died. He was on life support for some time?

22 A Yes, ma'am.

23 Q Okay. And then based on your conversations with
24 physicians, did you have to decide what to do?

25 A Yes, ma'am. That it was -- told us that it was a time

1 frame of hours that they give for babies to respond, and if
2 he didn't respond, then it was pretty much nothing else
3 they could do and he would be suffering more than he would
4 be all right.

5 Q Do you remember about how long he was allowed in the
6 hospital?

7 A 72 hours.

8 Q Did you and his father make a decision to donate his
9 organs?

10 A Yes, ma'am.

11 Q Did you have to give your consent for that?

12 A Yes, ma'am.

13 Q And were some of his organs donated?

14 A Yes, ma'am.

15 Q Do you know what happened to his heart?

16 A It went to a little girl in Tennessee.

17 MS. PAOLETTI: If you'll answer any questions that
18 Ms. Wicker might have for you.

19 CROSS EXAMINATION

20 BY MS. WICKER:

21 Q Good afternoon, Ms. Samples. I just have a few brief
22 questions for you, okay?

23 This was the third weekend that Mr. Edwards and
24 Ms. Kennedy had watched **Minor** is that correct?

25 A Uh-huh.

1 Q Did they also watch your other kids?

2 A No, ma'am.

3 Q Just him?

4 A Yes.

5 Q And you said that you had a nanny who would watch your
6 kids while you were at work during the week?

7 A Yeah.

8 Q It was your aunt?

9 A Yes, ma'am.

10 Q And Tangela called you after Mr. Edwards brought **Minor**
11 back to you, is that correct, and tried to walk you through
12 CPR?

13 A She might have. I have no recollection of the phone
14 call.

15 Q Do you recall that while you spoke to her, Mr. Edwards
16 called 9-1-1 from your phone?

17 A Yeah.

18 MS. WICKER: Thank you. I don't have any further
19 questions.

20 MS. PAOLETTI: No redirect, Your Honor.

21 THE COURT: All right. Thank you, ma'am. You may
22 step down. Thank you.

23 (WHEREUPON, a bench conference was held off the record.)

24 THE COURT: All right. Madam Forelady, ladies and
25 gentlemen of the jury, I now understand that the remaining

1 witnesses are medical personnel who will be here in the
2 morning, so we are going to break for the evening now.

3 And I would, again, remind you under your oath and
4 just to protect everyone's rights in this case, and if you
5 do it in this case, it happens in every case, do not
6 discuss this with anyone. And the folks you're going to
7 see this evening will want to talk about it. I hope I've
8 explained it well enough so that you all know what to tell
9 them why you can't do it. When it's all said and done, you
10 can talk about it, but just don't do it tonight. Don't do
11 research on the Internet, don't go visit any scenes, okay?
12 However, if any of you has an emergency, it's okay if you
13 go to the emergency room. That's a poor attempt at humor.

14 All right. With that, ladies and gentlemen, we will
15 see you in the morning at 9:30.

16 (WHEREUPON, the jury exits the courtroom at 3:51 p.m.)

17 THE COURT: Okay. Anything before we break?

18 MS. PAOLETTI: No, sir, Judge. Thank you.

19 THE COURT: Let me just ask, you've got some
20 physicians in the morning and that's it; is that right?

21 MS. PAOLETTI: Yes, sir.

22 THE COURT: Okay.

23 Mr. Edwards, would you stand for me and raise your
24 right hand.

25 DEFENDANT EDWARDS: Yes, sir.

1 WHEREUPON,

2 TARRAN MARTEIOUS EDWARDS

3 After having been duly sworn, testified as follows:

4 THE COURT: You can put your hand down.

5 I just want you to know that you, when the time comes,
6 have an absolute constitutional right to testify in your
7 own defense. You have an equal absolute constitutional
8 right not to testify, and it cannot be held against you.

9 There are a number of strategic decisions which
10 surround the decision about whether or not to testify,
11 which I'm sure you've spoken with your attorney and will
12 speak with her again. But I want you to know that when it
13 comes down to it, that decision belongs to you. I
14 recommend that you pay close attention to the
15 recommendations and advice of your attorneys and give it
16 careful consideration. But, again, I want you to know that
17 that decision belongs to you.

18 DEFENDANT EDWARDS: Yes, sir.

19 THE COURT: Okay?

20 DEFENDANT EDWARDS: Yes, sir.

21 THE COURT: So tomorrow when the time comes, I'm going
22 to want to know whether or not you're going to testify. I
23 don't want you to tell me now. But I need to know now, do
24 you have any questions you need to ask me about that right?

25 DEFENDANT EDWARDS: No, sir.

1 THE COURT: Okay. Thank you.

2 All right. Anything else before we break?

3 MS. PAOLETTI: No, sir, Judge.

4 THE COURT: Will you all have any requested jury
5 charges? If so, please have them in the morning.

6 MS. PAOLETTI: Yes, sir.

7 MS. WICKER: Yes, sir.

8 THE COURT: Okay. All right. Be at ease for the rest
9 of the day.

10 (WHEREUPON, the proceedings were concluded at 3:54 p.m, to
11 be reconvened on Tuesday, February 9, 2016.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Tuesday, February 9, 2016

THE COURT: What have you got?

MS. PAOLETTI: Your Honor, right now, Dr. Michael Avant is here. We intend to move to qualify him as an expert, and I don't have any objection to voir dire outside the presence of the jury.

THE COURT: What are you going to move to have him admitted as?

MS. PAOLETTI: Expert in pediatric intensive and/or critical care.

THE COURT: All right. And you want to voir dire him?

MS. WICKER: Your Honor, can we approach just very briefly?

THE COURT: Yeah. Sure.

(WHEREUPON, a bench conference was held off the record.)

THE COURT: All right. Pursuant to the bench conference, with respect to voir dire of the experts outside of the jury's presence, the concern of defense counsel was that the State might be attempting to present an expert unconnected with the case. But it is my understanding that all of the physicians who are on the witness list are actually treating physicians. And so if you need to voir dire them, we'll do it with the jury, but there's no unconnected witness who is going to testify.

MS. WICKER: Thank you, Your Honor.

1 MS. PAOLETTI: Your Honor, you asked us this morning
2 to be ready to talk a little bit about proposed jury
3 charges. Do you want to go through that now?

4 THE COURT: Well, no. The jury's been back there.
5 Let's go ahead and get them out.

6 MS. PAOLETTI: Okay.

7 THE COURT: All right.

8 (WHEREUPON, the jury entered the courtroom at 9:51 a.m.)

9 THE COURT: All right. Good morning, ladies and
10 gentlemen. Welcome back. I hope everybody had a very
11 pleasant evening.

12 We are ready to recommence the trial at this time.

13 MS. PAOLETTI: Thank you, Judge. The State calls
14 Dr. Michael Avant.

15 THE CLERK: Dr. Avant, if you would, come forward to
16 be sworn in, please.

17 WHEREUPON,

18 MICHAEL AVANT

19 After having been duly sworn, testified as follows:

20 THE CLERK: Would you please state your name for the
21 record.

22 THE WITNESS: Michael Avant.

23 DIRECT EXAMINATION

24 BY MS. PAOLETTI:

25 Q Dr. Avant, will you tell the jury where you practice?

1 A I practice in the pediatric intensive care unit at
2 Greenville Memorial Hospital.

3 Q And will you start with your undergraduate degree and
4 tell the judge and the jury what your educational
5 background is, please.

6 A I have a degree from Clemson in chemical engineering,
7 and then went to medical school for four years at the
8 University of South Carolina in Columbia, and then I did a
9 pediatric internship and residency in pediatrics at
10 Arkansas Children's Hospital, and then I did three years of
11 subspecialty training, which is called fellowship, in
12 pediatric critical care medicine, also at Arkansas
13 Children's.

14 Q All right. And when were you -- did you take the
15 boards, and were you certified in pediatric intensive care?

16 A Yes. I'm board certified and recertified in pediatric
17 critical care.

18 Q When were you first certified?

19 A I finished my training in '97, so first certified in
20 '98.

21 Q And where -- after you finished your training and you
22 started practicing, where did you first practice?

23 A Right here in Greenville, so I've been here about
24 19 years.

25 Q Do you have any other board certifications?

1 A I used to be board certified in general pediatrics,
2 but just pediatric critical care medicine now.

3 Q And that's just a more specific certification?

4 A Correct.

5 Q All right. Will you tell the jury what a pediatric
6 intensive care physician does?

7 A Sometimes that's hard to describe because it is a
8 fairly broad specialty. But we take care of children from
9 a few days of age up to 18 years of age and anything that
10 would make a child or adolescent critically ill, so any
11 type of organ failure, lots of trauma, infections,
12 pneumonia, meningitis. So it's a broad specialty. But
13 anything that would make a child or adolescent critically
14 ill in some degree. Usually organ failure of some sort is
15 kind of what my specialty takes care of mostly.

16 Q And were you ever licensed in Arkansas?

17 A Yes.

18 Q When was that?

19 A Up until '97.

20 Q Until '97 when you came here.

21 All right. Do you have any faculty appointments?

22 A At the University of South Carolina School of Medicine
23 I'm an assistant clinical instructor through the School of
24 Medicine.

25 Q And has that been since Greenville became a teaching

1 hospital?

2 A Actually, it's -- we've always been affiliated with a
3 medical school, so I've been an assistant professor at the
4 University of South Carolina School of Medicine since I
5 arrived here in '97.

6 Q Okay. And when did Greenville become a teaching
7 hospital?

8 A It's been in the mid-90s. Medical students started
9 coming from Columbia to Greenville back in the -- actually
10 early '90s, but as far as a full four-year medical school,
11 that's in the recent past, just two or three years.

12 Q I understand. Okay.

13 Will you tell the jury what your teaching
14 responsibilities are?

15 A Daily we have interns and residents and pharmacy
16 students, nursing students, you know. Basically, all of
17 the allied health specialties rotate through our unit in
18 our hospital. So daily I'm teaching residents and medical
19 students as part of just taking care of patients. So
20 that's basically nearly a constant teaching process as we
21 take care of patients. And then, of course, I give
22 lectures to medical students or different groups that
23 invite me to lecture.

24 Q And that's specifically in the area of pediatric
25 intensive care?

1 A Correct. Yes. Some subject within that specialty.

2 Q Have you ever received any grants or research awards?

3 A When I was in training, I received one grant to do
4 some research, which is part of my training. To become
5 board certified, you have to publish and do research as
6 part of your training.

7 Q All right. And did you do that publishing? Were you
8 published?

9 A Yes.

10 Q All right. And that was in '97?

11 A Correct.

12 Q What about in the presentations or training for other
13 professionals?

14 A I've done a large amount of training for, you know,
15 anybody that comes to life support classes like pediatric
16 advanced life support. So I've taught EMT's and nurses and
17 respiratory therapists as well as medical students and
18 residents, and recently was invited to lecture for the
19 regional trauma conference, so teaching through that as
20 well.

21 Q All right. And are you a member of any professional
22 societies?

23 A I've been a member of a number over the years.
24 Currently, the only society that I'm actually a member of
25 is the Society of Critical Care Medicine and American

1 Society for Pediatric Sedation, which is also a part of my
2 specialty is sedating children for procedures outside the
3 operating room.

4 Q All right. And as part of your education, training
5 and experience, have you had the chance to treat children
6 with inflicted or abusive trauma?

7 A Certainly.

8 MS. PAOLETTI: Your Honor, at this time, the State
9 moves to admit Dr. Avant as an expert in pediatric critical
10 or intensive care.

11 THE COURT: Any questions?

12 MS. WICKER: No, sir, Your Honor.

13 THE COURT: All right. So moved.

14 BY MS. PAOLETTI:

15 Q All right. Dr. Avant, before we get started into your
16 testimony, I'm going to direct your attention to what's
17 been marked as State's Exhibit No. 16 and ask you if you
18 recognize that.

19 A Yes.

20 Q Will you tell the jury what that is?

21 A It's a disc with all the digital images that this
22 patient had during his stay. I don't know if it's all,
23 actually, but it has all the digital images of his X-ray
24 studies and ultrasound studies I see.

25 Q All right. And what is the patient's name that's on

1 that disc?

2 A [Minor]

3 Q And is his patient number also on that disc?

4 A Yes. That's the ID number that begins with 980.

5 Q All right. And was [Minor] a patient of yours?

6 A Yes.

7 MS. PAOLETTI: Your Honor, at this time, the State
8 moves Exhibit No. 16 into evidence.

9 MS. WICKER: No objection.

10 THE COURT: Okay.

11 (WHEREUPON, State's Exhibit No. 16 was admitted into
12 evidence.)

13 MS. PAOLETTI: And I'm just going to -- this takes a
14 while to load.

15 BY MS. PAOLETTI:

16 Q Dr. Avant, will you explain to the jury how [Minor] came
17 into your care in the PICU in November of 2013?

18 A He initially was brought by the ambulance to the
19 pediatric emergency room at Greenville Memorial, and they
20 did some initial resuscitation there. And as is common in
21 these situations, he was then quickly brought up to the
22 ICU.

23 Q Okay. So when you received up into the ICU, tell the
24 jury what his status was, what his condition was.

25 A He was very unstable. He had a prolonged arrest,

1 meaning his heart had stopped prior to arrival in the
2 emergency room, and the emergency room was able to get a
3 heart rate back. And so when he got to us, it was shortly
4 after a fairly prolonged arrest or what we believe to be a
5 prolonged arrest. And so he was fairly unstable with low
6 blood pressure, did not have IV access. They had to place
7 something called an intraosseous line which is a -- not an
8 IV, but a tube that goes into the bone of the leg,
9 actually, so that they can administer medicines and fluids.
10 And so that's a very temporary thing. So he came to us in
11 a very critical state with multiple organs involved.

12 And do you want me to --

13 Q Let me ask you this. Before he came into your care up
14 on the fifth floor, had he had any diagnostic studies done
15 down in the ER?

16 A I believe, yes, his CT scan was done before coming up
17 to the intensive care unit. And he had -- there's a panel
18 of blood work that they try to get, too. He probably had
19 some blood work as well.

20 Q And that's just part of the procedure down in the
21 pediatric emergency room?

22 A Correct.

23 Q All right. I want to talk about that procedure just a
24 little bit. As part of your treatment of patients in the
25 PICU, do you have the opportunity to look at or read those

1 CT's?

2 A I've seen hundreds, if not thousands, of CT's at this
3 point on numerous different diagnoses over the years.

4 Q And just as a sort of administrative matter, how do --
5 do y'all make sure that the images that you're looking at
6 are actually the images of the brain of the patient that
7 you're working on?

8 A It's mostly about patient ID, patient bracelets
9 matching the number to the patient. And also, you know,
10 just kind of, you know, practically speaking, the size of
11 the patient, you know, just kind of knowing this fits with
12 what we're seeing. But it's mostly a patient
13 identification marker and bracelet and ID numbers.

14 Q And that's the ID number that would be on this disc
15 that I've got up here?

16 A I believe so, yes.

17 Q And then as you were admitting **Minor** into the PICU, did
18 you have access to these images and the pictures of his
19 brain?

20 A Yes.

21 Q All right. We'll go back and talk about the CT in
22 just a moment.

23 You talked about the condition that he was in when he
24 first came up into the PICU. Tell me -- or tell the jury
25 what, on your physical exam, you were able to tell about

1 what was going on inside of his brain.

2 A We did a neurologic exam where we assessed brain
3 function, and it was obvious right from the beginning that
4 he had a devastating injury to his brain. We really could
5 not see any sort of brain activity even that early on, even
6 just arrival in the ICU.

7 And as far as like an exam, just to kind of give an
8 example of things that we do to assess that, you shine a
9 light into the eye, you know, the pupil. If you shine a
10 light into someone's eye, the brain itself directly can --
11 there's something called a cranial nerve that directly
12 controls. If you put light, they should get smaller. And
13 so if you test that reflex, if you will, that's not
14 something we have to think about. The brain just does
15 that. And that reflex was absent both sides. And the
16 medical term is that pupils were fixed and dilated.

17 If you -- another example of a cranial nerve or to
18 directly test brain function, there's a nerve that comes
19 directly from the brain to the cornea. So if you touch
20 somebody's eye like with a Q-tip or a piece of gauze, that
21 nerve controls a cornea reflex. It makes you blink. That
22 was absent as well.

23 He had a breathing tube in his windpipe and -- which
24 is a very obnoxious thing. It kind of makes you -- if
25 you've ever had anything go down the wrong way, you know,

1 when you're eating, it makes you feel like that all the
2 time. So you normally would cough and gag. And that --
3 those reflexes were absent. If we put a catheter down that
4 tube and -- you know, into the windpipe itself, again,
5 which is a very obnoxious thing to do, and it makes people
6 cough and that sort of thing, and all of that was absent.

7 And then, generally speaking, there was no response to
8 pain and no -- we did not see any spontaneous breathing on
9 his own. The machine, the ventilator was breathing for him
10 at that point.

11 And that's hitting a few of the highlights of that
12 exam. There's other nerves involved, but I probably --
13 that's probably the general sense of what we did that first
14 evening.

15 Q And the result of all of those tests, the ones that
16 you described and the other ones that you did but haven't
17 described, what did they tell you about whether or not his
18 brain was working on any level?

19 A We did not see any brain function at all.

20 Q All right. And as a result of the condition that you
21 found his brain to be, did you have concerns about the rest
22 of his systems?

23 A Yes.

24 Q All right. Explain that to the jury.

25 A I suspected when he came in that, since we could not

1 find any brain activity, that he would likely be pronounced
2 -- the medical term is brain dead or pronounced brain death
3 which is legal death. And it -- usually, if that happens,
4 you know, the rest of the organs eventually follow, too.
5 They all -- all of the organs eventually become unstable
6 and -- just because the brain controls all of our organs.

7 Q And he's given medication to try and regulate those
8 other systems?

9 A Correct. Like, for example, the blood pressure was
10 quite low when he came in, so we had to give medicines to
11 get the blood pressure elevated.

12 Q All right. Until you were able to actually look at
13 the images of **Minor** brain, did you know why his brain
14 wasn't working?

15 A Without the CT scan, people can be in this state just
16 from lack of oxygen. If you -- if somebody arrests and
17 they don't have a heartbeat, even though people are doing
18 CPR, that's not -- you know, it's not the way it was
19 designed to do. You're still not getting as much blood
20 flow and oxygen to the brain. So many people can be in
21 this State just from stopping breathing, and so I -- at
22 first, you know, without a CT scan would -- you know,
23 thought that this was likely a result of lack of oxygen to
24 the brain.

25 Q All right. But then you got the CT?

1 A Correct.

2 Q All right. Let's talk about the findings that were on
3 the CT. What was one of the injuries that you first saw on
4 the CT?

5 A The technical term, he had two types of bleeding in
6 the brain called a subarachnoid hemorrhage and a subdural
7 hemorrhage. And these are bleeding in just different
8 layers of the brain. And we'll see pictures here in a bit,
9 but they're -- mostly it's bleeding into the space between
10 the skull and the brain itself, and so you can see blood in
11 that space.

12 Q All right. So there was bleeding in the subdural
13 space, there was bleeding in the subarachnoid space. And
14 then what could you see about his entire brain, separate
15 injury?

16 A The other, I would say, impressive finding was that
17 his brain looked just markedly swollen. Or the term is
18 cerebral edema. But the whole brain just appeared swollen,
19 which, again, would be common after both trauma and a
20 prolonged period of lack of oxygen to the brain.

21 Q So both a trauma and deprivation of oxygen to the
22 brain could cause that swelling?

23 A Correct. I would say that there really are two types
24 of injuries that he had. An injury, I'm saying that in a
25 generic term. I think that the bleeding is evidence of

1 trauma, so there's direct injury from trauma just like if
2 you were in a car accident and hit your head as part of the
3 car accident. So there's trauma from that -- or that type
4 of injury, and then there's also injury from the lack of
5 oxygen to the brain.

6 Q All right. And just looking at the CT and not knowing
7 anything else, is it difficult to tell which came first,
8 the chicken or the egg?

9 A Yes. You can't really say that from the scan.

10 Q And that's just from the snapshots of the brain; is
11 that right?

12 A Correct.

13 Q And just will you give us a short primer on exactly
14 what a CT is before we look at this?

15 A A CT scan is a fancy X-ray, basically, that takes
16 cross-sectional pictures of the brain. So it kind of --
17 you know, from the top, you know, down to the neck, and it
18 just is taking pictures that are basically a slice, like
19 this is a slice of a -- or, you know, one picture through
20 there. So it takes cross-sectional slice-type pictures. I
21 kind of, you know, say to think of it like a loaf of bread,
22 you know. You're looking at each individual slice, and
23 that's the way it takes pictures.

24 Q All right. And were the findings or the injuries that
25 you were able to see on the CT consistent with the lack of

1 brain function that you observed on your physical exam?

2 A Certainly, yes.

3 Q I'm going to ask you to step down and come over here
4 to the computer, if you will.

5 A Do you want me to bring these?

6 Q Not yet. Thank you, though.

7 THE COURT: Doctor, please keep your voice level up so
8 we can record it.

9 THE WITNESS: Okay.

10 THE COURT: Thank you.

11 THE WITNESS: I usually don't have a problem with
12 that.

13 And I'll kind of give you a description of a CT scan
14 that I give families as I'm describing these. The best way
15 to picture how this is taking pictures is to picture the
16 patient on their back with the feet coming out of the
17 screen. So this is the right side of the head and left
18 side of the head. And sometimes it's easier if I kind of
19 show -- like you can tell like in this picture, you know,
20 this would be the right eye, left eye, this is the nose
21 there. And so that's just -- you know, that's a picture
22 right through the -- right through there. And so we're
23 going to -- you're just going to look at each individual
24 slice.

25 And I'll go down to kind of the more pertinent -- it

1 takes many slices. These are pretty thin slices of bread.

2 And I'll stop -- I'll show that picture there first.

3 And this is something that I look at and see as very
4 abnormal, which -- and we'll show you a normal CT scan in a
5 bit. But if you notice, it's just a homogeneous gray, you
6 know. There's no -- there's just kind of one color there,
7 there, you know. We're just kind of scrolling through lots
8 of images.

9 I'm not familiar with this software there, so I'm
10 sorry about that. This is not the computer software I'm
11 typically looking at this stuff on (indicating throughout).

12 BY MS. PAOLETTI:

13 Q You can go back to the stand and take that.

14 A Okay.

15 Q And I'll reload it.

16 You mentioned that a picture of a normal CT of an
17 infant brain might be helpful in showing the injuries more
18 clearly; is that correct?

19 A Yes.

20 Q And up on the stand with you, I'm going to ask you to
21 look at that photo right there. Would those photographs
22 assist you in explaining and showing **Minor** injuries to the
23 jury?

24 A Yes.

25 Q All right. And then I'm going to also show you while

1 you're up there what's been marked as State's Exhibit -- I
2 believe it's No. 11, and ask you if you recognize that, and
3 if you're able to just, from that ---

4 A Yes. I would say that's one slice, if you will, of
5 the CT scan.

6 Q All right. And there are some measurements and
7 notations on that photograph; is that correct?

8 A Yes.

9 Q And what are those measurements?

10 A That is the amount of bleeding there. It says
11 3.6 millimeters. And so that's just a measurement of the
12 blood that's on the surface of the brain.

13 Q And I think you've got a pointer up there, and I think
14 this might be just what we need. This image that's being
15 projected right now, the image that you're holding, the
16 State's Exhibit No. 11 ---

17 A Yes.

18 Q --- and does that image, by projecting the one in
19 Exhibit 11, fairly and accurately represent the CT as you
20 observed it when you were treating **Minor** in November of
21 2013?

22 A Yes, it does.

23 MS. PAOLETTI: Your Honor, at this time, the State
24 would bring Exhibit No. 11 into evidence.

25 MS. WICKER: No objection.

1 THE COURT: Okay.

2 (WHEREUPON, State's Exhibit No. 11 was admitted into
3 evidence.)

4 BY MS. PAOLETTI:

5 Q All right. And there's another pointer up there on
6 the -- if you will show the jury what you were talking
7 about, the measurements and the notations of the bleeding.

8 A This is -- this white area -- first, and this is the
9 skull, the -- you know, the bright white area all around
10 it, and this is the brain matter, the grayish. And blood
11 will show up as a white -- bright white. And so this layer
12 right there is bleeding on -- and, again, that's on the
13 surface of the brain, in between the brain and the skull.
14 And that would be called a subdural hemorrhage.

15 Q All right. And then you also mentioned, too, as we
16 were scrolling through all the photos of **Minor** brain the
17 way that the entire inside of the brain looks on this CT.
18 Will you tell the jury, again, just what is significant
19 about that?

20 A Normally, like the -- the inner portions of the brain
21 are a little bit darker. Now, I will say like these dark
22 spots here, those are called the ventricle. That's spinal
23 fluid. So that's water. And water shows up as dark. But
24 typically, you see more differentiation here, that there's
25 lighter gray and then darker gray. And whenever we see

1 just kind of one uniform gray throughout, that's typically
2 a very swollen brain. So like when I -- when I pull up an
3 image like this, to me, it's ominous. Medically speaking,
4 it's -- we know the entire brain is involved and swollen
5 (indicating throughout).

6 Q All right. I'm going to switch here to ---

7 A And I will say the CT scan has multiple other areas of
8 bleeding. And so that one slice shows one area of
9 bleeding, but then there are several other areas of
10 bleeding on the brain as well.

11 Q Okay. And do you recall -- let's talk about this
12 first, and I hope that this is going to be something that
13 will -- you'll be able to see on the back. I'm going to
14 try to go backwards here. On the left is State's Exhibit
15 No. 11, and that is **Minor** brain; is that correct?

16 A Correct.

17 Q And then over here, are those the photographs of the
18 normal CT that you were just referring to that would help
19 you show the difference between the two?

20 A Yes. And I don't know the official reading of this,
21 but this, to me, looks like a -- what I would consider a --
22 you know, a very fairly normal looking brain. And you see
23 the different areas, you know. You've got darker gray in
24 the middle, you've got the normal ventricles, and then the
25 whiter areas or lighter gray on the outside. And that's

1 kind of what we would expect to see is a differentiation
2 of, you know, light gray and dark gray.

3 Q And that's something that you don't see?

4 A Correct. It's just one uniform pattern, and so just
5 the whole brain would be swollen in that instant.

6 Q All right. But the ventricles are still visible ---

7 A Correct.

8 Q --- is that correct?

9 And is that significant when you're trying to
10 determine approximately how long the brain's been swelling?

11 A I would -- you know, it depends on the cause of
12 swelling. And in an arrest situation, you know, this is
13 not something -- it doesn't pin down the timing
14 specifically, I guess.

15 Q Right. And we'll get back to that in just a minute as
16 far as what you're able to determine about timing.

17 A The blood is what we would call acute, though. You
18 can picture that -- or one way to think of that blood --
19 the blood that's on the brain is a bruise. So just like
20 when you get a bruise, you know, on your arm, you know,
21 it's bright red and then purple. I mean, this is a bruise,
22 if you will. There's bleeding on the surface of the brain,
23 and it looks different when it's fresh blood versus if it's
24 been there, you know, a few days or ---

25 Q Or longer.

1 A Yes.

2 Q Or shorter.

3 A Correct.

4 Q All right. Let's talk about, first of all, you
5 mentioned that there were other areas of bleeding, of blood
6 on **Minor** brain; is that right?

7 A Correct. More towards the top of the brain,
8 specifically up on the upper slices of what we call the
9 vertex of the brain. There were multiple areas of what are
10 called subarachnoid bleeding, which is just a bleeding in a
11 different layer on the surface of the brain.

12 Q Back to the CT here. When that goes away, I'm going
13 to scroll through here and ask that you stop me when you
14 see these other areas of bleeding. And this is just --
15 tell the jury about what the view is that we're seeing
16 here.

17 A Okay. And, again, these are all just different
18 slices, and -- and it will eventually go up to the top of
19 the head. And you'll notice that, you know, as we go to
20 the top of the head, the pictures will be a little bit
21 smaller. And there are a few -- these are a few bright
22 white areas right here, up there (indicating). Those are
23 all little small -- little small areas of bleeding or
24 hemorrhaging.

25 Q All right. And this is, again, getting towards the

1 top.

2 A Towards the top. And there's, I think, several.

3 And then, again, here's some blood here, there,
4 there's some blood back here, there's some blood there, and
5 this is several areas of bleeding. That should all just be
6 gray brain tissue that we're seeing instead of bright white
7 blood on the surface of the brain.

8 You're driving that much better than I did (indicating
9 throughout).

10 Q That's different from when we use the mouse.

11 All right. I want to talk to you about the subdural
12 bleeding or the subdural hematoma that was visible on

13 Minor brain ---

14 A Okay.

15 Q --- okay? Will you tell the jury what causes subdural
16 bleeding?

17 A Subdural bleeding implies a large amount of force has
18 been applied to the brain by some mechanism. Usually, it's
19 an acceleration, deceleration type of injury. Picture if
20 you were in a car accident and the starting and the abrupt
21 stop in an accident, the brain is actually -- you know,
22 hits the inside of the skull during the acceleration and
23 deceleration type of motion and force. And that's
24 typically -- and then there are small blood vessels that
25 penetrate from the skull and go to the brain itself. So in

1 that layer, as the brain inside the skull is actually
2 moving a little bit, you can tear those blood vessels, and
3 that's where the bleeding comes from.

4 Q And there's another photograph in front of you. Can
5 you take a look and tell us if that photo would help you
6 explain to the jury the mechanism that causes that subdural
7 bleeding?

8 A Yes.

9 MS. PAOLETTI: All right. Your Honor, this is the ---

10 THE WITNESS: And as she's putting that up, I'll just
11 kind of describe the anatomy. And, again, these things are
12 hard for medical people sometimes to picture. But on the
13 -- you have -- on the surface of the brain, you have like
14 three different layers of membranes. One of them you
15 really -- is small, like microscopic, and you can't even
16 see it called the pia. But then there's a layer of spinal
17 fluid that's -- you know, a small layer of spinal fluid
18 around the brain, and then there's a -- called the
19 arachnoid membrane that just goes over the entire surface.
20 And then between -- then it's kind of -- and then there's,
21 on the underneath of the skull, is something called the
22 dura, and it's this kind of hard fibrous layer that's
23 actually adherent to the skull.

24 BY MS. PAOLETTI:

25 Q All right. And so during the mechanism, the

1 acceleration, deceleration that you're describing, what
2 happens to those bridging veins?

3 A They -- they can be torn. And so then the bleeding,
4 you know, can spread over the surface of the brain. And
5 it's not the -- it's really not the bleeding itself that
6 injures the brain. Very rarely do we actually have to go
7 in to do surgery to drain this blood, but it is associated
8 with a significant amount of brain injury during that
9 motion, the acceleration, deceleration. The forces that
10 are impacted onto the brain itself is actually what injures
11 the brain substance, and the subdural hemorrhage gives us a
12 clue of what's happened, a sign of what's happened.

13 Q All right. And you mentioned that the subdural
14 bleeding could be caused in an accident like a car accident
15 where there is rapid acceleration, deceleration. Would you
16 expect that to be somewhat repetitive as well, the
17 acceleration, deceleration?

18 A It certainly can be, yes.

19 Q All right. And as part of your treatment of Minor
20 [REDACTED], is there any indication that he had been in any kind
21 of accident?

22 A There was no history of a high-speed motor vehicle
23 accident, which is the kind of -- that's the setting that
24 we would typically see this type of bleeding in is a
25 high-speed motor vehicle accident. There's no history of

1 an accident or a fall from great height, meaning, you know,
2 from a couple of stories sort of height.

3 Q And no history or report that Minor had been -- fallen
4 from a two-story ---

5 A No.

6 Q All right. And as far as the diffuse swelling or the
7 swelling all over that you observed, we talked about
8 whether or not you're able to tell if the force of the
9 injury that caused the bleeding caused him to stop
10 breathing and the brain to swell. Can you tell that from
11 the photographs of his brain?

12 A No.

13 Q Okay.

14 A I will say that typically, if somebody stops breathing
15 enough to have an arrest, it doesn't typically cause
16 bleeding or subdural or subarachnoid hemorrhages. I would
17 not associate those two. You don't stop breathing and then
18 get bleeding. That's not typically -- and we see kids that
19 have arrest from all sorts of different causes,
20 unfortunately, in my position.

21 Q And when you say that, what kind of causes are you
22 talking about when you have kids with arrest and no
23 bleeding?

24 A Like a drowning, so to speak, and -- or if somebody
25 has a heart rhythm problem and their heart just stops

1 suddenly and they have to undergo CPR. So anything that
2 would make a child just kind of -- or to not be able to get
3 oxygen like in a drowning or stop breathing or have blood
4 flow like in a cardiac arrest, those are two examples that
5 I would use.

6 Q Would you see that also in some unsafe sleep
7 situations where a child is deprived of oxygen because of
8 bedding or something?

9 A Correct. Like a smothering event where the covers or
10 something like that, they can -- are unable to get air. So
11 an asphyxiation type of event that, unfortunately, is all
12 too common in our practice. And so we see children after
13 arrest for a whole number of reasons.

14 Q And what you don't see, if I understand you correctly,
15 in situations where there's a drowning or a suffocation for
16 whatever reason is the subdural bleeding; is that correct?

17 A Correct. If they have an arrest and then brain
18 swelling just from lack of oxygen from whatever cause, we
19 would not expect to see bleeding and don't see bleeding in
20 those instances. It's a sign that something else has
21 happened. And one practical way to think about this is if
22 you see a bruise on your arm, you know, what did I hit that
23 on? And this is the same kind of thing. We see bleeding,
24 we see bruising on the brain. And so logically speaking,
25 something has happened to the brain. Trauma.

1 Q Was there a time when you're talking about these
2 acceleration, deceleration injuries when the medical field,
3 with all of the injuries that Minor had, would have called
4 that shaken-baby syndrome?

5 A That is a term that has been used before, yes. And we
6 tend to be more generic and just say nonaccidental trauma.

7 Q And tell the jury why that is.

8 A Well, there's no history. Like with accidental
9 trauma, there's a history of they fell. There's a --
10 there's a car wreck, you know. There's something and they
11 were hit with something, and it's known, it's documented,
12 it's seen. And in a nonaccidental trauma, here we have
13 evidence of trauma with no -- such as bleeding with no
14 history or explanation. And so at that point, we say it's
15 nonaccidental trauma.

16 And certainly, one of the mechanisms that children,
17 their brain can be injured and that's common is what's
18 called -- people sometimes refer to as shaken-baby syndrome
19 where there's this violent back-and-forth acceleration,
20 deceleration type of motion that commonly shows up with
21 subdural hemorrhages and possibly other signs of bleeding
22 like in the eyes, which I'm sure we'll talk about.

23 Q That's right. So let's go and talk about that. As
24 part of your exam of Minor did you look at his eyes?

25 A Yes.

1 Q And tell the jury what you saw when you initially
2 looked at his eyes.

3 A When you look through the pupil into the back of the
4 eye, those are the -- that's the retina or the nerve layers
5 of the eye. And I thought I could see areas of bleeding or
6 hemorrhage into the nerve in the back of the eye on both
7 eyes.

8 Q All right. And based on what you saw, did you request
9 a consult with an expert on eyes?

10 A Correct. We have a pediatric ophthalmologist that we
11 routinely consult just because he is -- has much better
12 equipment to see that and document and take pictures. And
13 so I -- and so we did consult him to look at that -- for
14 those retinal hemorrhages as well.

15 Q What is his name?

16 A Dr. Tony Johnson.

17 Q And did he come and do a physical exam of **Minor**

18 A Correct. And also saw retinal -- documented that we
19 indeed did see retinal hemorrhages.

20 Q Okay. And let me ask you about the mechanism that you
21 were just describing that can cause this subdural. Is that
22 also the same mechanism that can cause the bleeding and the
23 redness?

24 A Correct. And we see that constellation of findings of
25 bleeding and the retinal hemorrhages -- or I mean in the

1 retinas or retinal hemorrhages along with subdural bleeding
2 or bleeding on the brain, that is a well-documented
3 constellation of findings that suggests nonaccidental --
4 it's been associated with nonaccidental trauma.

5 Q All right. And will you explain to the jury the --
6 taking this back to a drowning or a suffocation-type where
7 you have the swelling, in those cases, do you typically
8 find bleeding in the eyes?

9 A It's actually quite rare to see bleeding in the
10 retinas even in car accidents. And, you know, that may
11 only happen, you know, a few percent of time. There's been
12 numerous studies. But we typically do not see them with
13 other things like drownings and arrests. We just typically
14 do not see them in those settings, including accidental
15 trauma.

16 Q All right. I want to go back to the PICU early
17 morning hours of November 18. Based on your physical exam
18 of him and your review of the pictures of his brain, what
19 was the prognosis for **Minor**

20 A Very grave, is how I would put it. When I first saw
21 him, I thought his chances of survival were nearly zero.

22 Q All right. And based on your training and experience
23 and review of his condition as he presented, did you have
24 an opinion as to whether or not his injuries were
25 accidental in any way or whether they had been inflicted?

1 A It appeared to me they would be inflicted because I
2 had no history of a child -- and in a young child, they
3 don't have the ability to move or to -- to put themselves
4 in a position for these kinds of injuries.

5 Q All right. And let's talk about other potentially
6 relevant medical information for **Minor** as you're treating
7 him. As part of your treatment of him in the PICU, do you
8 run tests or do other type of diagnostics to rule out other
9 possible explanations for his injuries?

10 A Certainly. And we would not just assume that this is
11 trauma. We do look for other what I would call very rare
12 causes or -- you know, that could mimic bleeding. One
13 would be a bleeding disorder.

14 So we look into their coagulation system. That's the
15 whole very complicated system that helps our blood to clot
16 when needed. And so we look into the clotting system with
17 various bleeding studies, and then we also get what are
18 called metabolic studies where we look at the metabolism,
19 because there are rare times where a child could be born
20 with missing a certain enzyme or a certain protein that
21 could make them more at risk for bleeding or present in
22 ways that could mimic this. And all of those studies were
23 unremarkable or normal.

24 Q They were normal.

25 And you did those studies for **Minor**

1 A Correct.

2 Q What about blood cultures to look for infections?

3 A Yes. Infection, some, you know, rarely can look like
4 this, and we did do a blood culture which is where you send
5 blood to see if a bacteria would grow out to make -- and
6 typically, if a child had, say, meningitis, enough to
7 infect the brain to cause all this, we would find the
8 bacteria in the blood or, in this case at an autopsy, you
9 would find evidence of meningitis or pus around the brain.

10 Q So that when the pathologist goes and actually looks
11 at the child's brain, it would be an infected fluid or pus,
12 not blood?

13 A Correct.

14 Q And were you ever able to uncover any possible medical
15 condition that the child may have had that would have
16 explained these injuries that you saw?

17 A No.

18 Q Let's talk about -- and we talked a little bit about
19 this, but one thing we didn't mention as far as some of the
20 things that might cause the diffused swelling on the baby's
21 brain, choking on formula, water, if something like that
22 had happened, would you expect to see the injuries that
23 **Minor** had?

24 A No.

25 Q All right. Now I want to talk to you about what you

1 could tell about approximately when these injuries might
2 have occurred. Are you able to give a time as to when
3 these injuries occurred?

4 A I don't think I could give a specific time.

5 Q Okay. Do you have an opinion as to approximately when
6 these injuries would have occurred based on the way his
7 brain looked when you saw it?

8 A In my experience, patients become symptomatic
9 immediately after -- if something has happened that is so
10 severe to be life-threatening, they don't wait hours and
11 days to have symptoms. They come in the emergency room
12 with symptoms. And I -- again, going back to the
13 comparison with a known trauma, a traumatic event, you
14 know, let's say somebody's in a car accident and they have
15 a devastating brain injury, they come in immediately with
16 symptoms. They're in a coma right from the beginning.
17 They have the bleeding that we see right at the beginning,
18 so it's a very abrupt, acute onset. And that is my opinion
19 is that the symptoms start very quickly and abruptly,
20 especially in this instance where you're talking about a
21 life-threatening injury and circumstance.

22 Q And since we're talking about that life-threatening,
23 do you have an opinion as to the degree of force or
24 violence that would be required to inflict these injuries?

25 A Given that we see these type of injuries with

1 high-speed motor vehicle accidents or falls from great
2 height, not a fall indoors, but a -- you know, a two-story
3 fall, that is the force that I would compare it to is a
4 high-speed motor vehicle accident, that type of violent
5 force.

6 Q All right. And then going back to the timing a little
7 bit, Josh Brown, who was with EMS, testified that when he
8 started working on [Minor] at 12:23 a.m., that he had some
9 PEA, or pulseless electrical activity. Does that give you
10 any information about how long [Minor] had been symptomatic or
11 not breathing?

12 A PEA purely means that when you hook somebody up to an
13 EKG, you see some electrical activity of the heart. So the
14 heart is still trying to beat, or it has the electrical
15 rhythm. It's trying to make a beat, but it's actually not
16 pumping blood. And so that's what PEA means. And so that
17 also means at least that it hasn't -- this hasn't been
18 going on for hours because that would be gone as well.
19 This is more minutes that you're talking about rather than
20 hours.

21 Q Was there any part of [Minor] treatment at the hospital
22 over the entire time that he was in the PICU that would
23 cause bleeding in his spine or trauma to his neck?

24 A No.

25 Q If these injuries had occurred to [Minor] brain two

1 days, three days before he presented in the emergency room,
2 would you have expected him to act normally for any period
3 of time after these injuries occurred?

4 A I don't. I don't believe so. Typically, if somebody
5 has a brain injury, particularly a severe one, enough to
6 cause this, they would be progressively sleepy and/or
7 somnolent, you know, difficult to arouse, persistent
8 vomiting. But so sleepiness, lethargy, worsening coma and
9 possibly vomiting would be what I would expect to see in
10 somebody that is having progressive symptoms from a brain
11 injury.

12 Q And that that you're describing would be a less severe
13 injury than the one that **Minor** presented with?

14 A Correct. If he had not stopped breathing, he would
15 have had those kind of symptoms to come to attention
16 anyway.

17 Q All right. And let's talk about the fact that we know
18 that he had stopped breathing for some period of time.
19 Would the speed at which he received medical attention have
20 affected his prognosis?

21 A Definitely.

22 Q All right. Tell the jury what you mean by that.

23 A If he -- if someone stops breathing, five minutes is a
24 long time. And so if they stop breathing, immediate
25 medical care is necessary. And the bleeding that we see

1 here potentially could have -- you know, is a survivable
2 injury. We see people all the time survive from that type
3 of trauma. But then when you add literally insult to an
4 injury with lack of oxygen, and that immediately worsens
5 the prognosis, and really, that -- that lack of oxygen and
6 not getting care quickly for that is in a large part
7 responsible for his death.

8 Q How long was he on life support in the PICU?

9 A I believe he was with us for 72 hours. 48 to 72
10 hours, I believe.

11 Q And will you explain to the jury the process that
12 y'all go through in the PICU before you advise parents on
13 whether or not to terminate life support for a child in
14 this condition?

15 A In this situation, we went through -- and my partners
16 did after I checked out to my partners, we went through a
17 process of brain death declaration. And that is a process
18 that we do to prove that there is no brain function at all,
19 including the ability to breathe. And that's a 24 to 48
20 hour process to be able to legally and medically say that
21 with certainty.

22 Q Right. Did you do that in this case?

23 A My partners did, yes.

24 Q And who were the other physicians that treated **Minor**

25 A I believe one of my partners, Dr. Eric Burning

1 [phonetic], over at -- he took over care for me. I was on
2 call during the night and early morning hours, and then he
3 came on for the next, I think, 36 to 48 hours and went
4 through that process.

5 Q All right. And did the injuries that Minor presented
6 with in the emergency room in the early morning hours of
7 November 18, 2013, cause his death?

8 A I'm sorry. Will you repeat that?

9 Q The injuries that he presented with in the PICU the
10 early morning hours of the 13th -- or, I'm sorry -- the
11 18th of November 2013, did they cause his death?

12 A Yes.

13 MS. PAOLETTI: Just one second, Your Honor.

14 BY MS. PAOLETTI:

15 Q Let me ask you this. Is there any way if anyone
16 witnessed these injuries being inflicted on this child,
17 would they have known that this child needed immediate
18 medical attention?

19 A Yes.

20 MS. PAOLETTI: If you'll answer any questions
21 Ms. Wicker may have.

22 CROSS EXAMINATION

23 BY MS. WICKER:

24 Q Good morning, Doctor.

25 A Good morning.

1 Q Approximately how long did you spend on your
2 examination of Minor

3 A I took care of Minor probably for 12 to 16 hours, I
4 believe.

5 Q Before this time, had you ever treated him before?

6 A No.

7 Q Did you speak to his parents?

8 A I believe I spoke with -- the mother, I believe, was
9 present during -- sometime during that time period.

10 Q Did you speak to any other friends or family members?

11 A No. Not that I can recall.

12 Q Okay. Did you give him a full examination or did you
13 just examine his head?

14 A I examined, I would say, the pertinent organ systems:
15 lung, heart, abdomen and brain.

16 Q And you kept notes on your observations, correct?

17 A Correct.

18 Q Did you note any broken bones?

19 A No. And we -- he did have what's called a skeletal
20 survey where we X-ray all the bones, and I do not believe
21 there were any broken bones.

22 Q And he didn't have any damage to his spinal column or
23 neck?

24 A Not that we have -- we saw on the CT scan. But that's
25 really a brain study, so we really didn't do neck studies,

1 although I believe there was evidence later of neck
2 injuries.

3 Q Okay. And you have described sort of the type of
4 mechanism like acceleration and deceleration, correct ---

5 A Correct.

6 Q --- that would have caused something like this?

7 Are you aware of the research contending that shaking
8 an infant with this kind of force to cause these injuries
9 would damage the neck and cervical cord or column?

10 A Yes.

11 Q You don't know specifically what time this happened,
12 correct? What event caused this to happen?

13 A Correct.

14 Q And you can't tell us specifically what event caused
15 this, correct?

16 A No.

17 MS. WICKER: Okay. Thank you. I don't have any
18 further questions.

19 THE COURT: All right. Any redirect?

20 MS. PAOLETTI: Briefly, Judge.

21 REDIRECT EXAMINATION

22 BY MS. PAOLETTI:

23 Q Dr. Avant, in your practice, you see infants with
24 these inflicted injuries and no broken bones?

25 A I'm sorry. I missed the ---

1 Q In your practice in the PICU, you've seen infants who
2 present with these injuries that are inflicted that don't
3 have broken bones.

4 A Yes. And even without bruising. About 50 percent of
5 the children that we see with nonaccidental trauma do not
6 have any external signs, and probably equal proportion
7 don't have any broken bones as well.

8 MS. PAOLETTI: That's all I have, Your Honor.

9 THE COURT: All right. Thank you, sir. You may step
10 down.

11 Can we release him from subpoena?

12 MS. PAOLETTI: Yes, sir.

13 MS. WICKER: No objection.

14 THE COURT: Thank you very much, Doctor.

15 All right. Ladies and gentlemen, let's just take a
16 short morning recess. We'll get back to you in a few
17 minutes. Don't discuss the case.

18 Thank you.

19 (WHEREUPON, the jury exits the courtroom at 10:49 a.m.)

20 THE COURT: All right. We'll be at ease for a few
21 minutes.

22 (WHEREUPON, a recess is taken at 10:50 a.m.)

23 THE COURT: Are you ready?

24 MS. PAOLETTI: I have a witness I can call, Judge.
25 And I think the rest should be shortly behind her.

1 THE COURT: How shortly?

2 MS. PAOLETTI: Dr. Johnson said that he would be here
3 at 11:30. And Dr. Ward and I had a miscommunication about
4 his schedule. He lectures until 12:00, but he said that he
5 would get here just as soon as he possibly could.

6 THE COURT: Based on the length of your last
7 examination, I suspect you'll be able to ---

8 MS. PAOLETTI: I think we'll be all right. Thanks.

9 (WHEREUPON, the jury entered the courtroom at 11:19 a.m.)

10 THE COURT: All right. Ms. Paoletti?

11 MS. PAOLETTI: Thank you, Judge. The State calls
12 Dr. Britni Bradshaw.

13 THE CLERK: Dr. Bradshaw, would you come forward and
14 be sworn in, please.

15 WHEREUPON,

16 BRITNI BRADSHAW

17 After having been duly sworn, testified as follows:

18 THE CLERK: Would you state your name for the record.

19 THE WITNESS: Britni Bradshaw.

20 DIRECT EXAMINATION

21 BY MS. PAOLETTI:

22 Q Dr. Bradshaw, will you tell the jury where you
23 practice?

24 A I practice at Greenville Memorial Hospital.

25 Q What kind of doctor are you?

1 A I'm a general pediatrician.

2 Q All right. Will you tell the jury what your
3 educational background is, please.

4 A Yes. I went to Samford University in Birmingham for
5 undergrad and got a bachelor of science in biology. I went
6 to medical school at the University of South Alabama in
7 Mobile. I did pediatric residency training here at
8 Greenville Health System. And I currently hold a position
9 as the pediatric chief resident.

10 Q Will you explain to the jury just a little bit about
11 how the practice is set up at the hospital?

12 A Sure. Because it's a teaching hospital, there are
13 residents and learners, and there are attendings.
14 Dr. Avant, who just spoke, was an attending of mine,
15 trained me. So the residents are underneath the
16 attendings, and they supervise our learning and our
17 training.

18 Q All right. And as part of your duties as a
19 pediatrician at the hospital, do you see newborns or
20 infants for well-child checks?

21 A We do.

22 Q All right. And when you go into these well-child
23 checks, do you have access to the patient's medical
24 records?

25 A We do.

1 Q All right. And before you see a patient, do you
2 review the note from their prior visit?

3 A Generally. For well-child checks, at least I usually
4 look back at least one well-child check prior for -- if
5 they've come in for a triage sick visit, like if they have
6 a cold or something, I might not look through all the
7 notes.

8 Q Okay. And in your practice, would it be common for
9 multiple doctors to see patients for their well-child
10 checks?

11 A Yes. At our Medicaid clinic, the clinic that is
12 associated with our training program, their residents
13 rotate in and out of there every month. And so because of
14 the different rotations that the residents are on, when a
15 patient presents to be seen, it may be that the person
16 they've previously seen is unavailable to see them that
17 day, so they frequently see different providers.

18 Q Okay. And is that one of the reasons why you go back
19 and check the record before ---

20 A Correct.

21 Q --- because it's a patient you haven't seen before?

22 All right. I want to talk to you just in general
23 about newborn or infant well-child checks. Will you tell
24 the jury what the purpose of these visits are?

25 A Yes. The well-child checks, the purpose is usually

1 twofold. So one, to ensure that the patient is growing,
2 developing well, meeting developmental milestones, that
3 their exam is at the normal limits, there's nothing
4 concerning in their medical history or review of systems
5 that we would need to address as a pediatrician. And then
6 it's also meant to give guidance to the parents so that, as
7 a pediatrician, it's our job to kind of help parents
8 anticipate the next steps. And so we use the well-child
9 checks as markers to discuss kind of what to expect as
10 their child is growing.

11 Q And let's talk about just the first six months of the
12 infant's life. What's the schedule for -- recommended
13 scheduled for well-child checks?

14 A Most practices set their well-child checks based on
15 the vaccine schedule that's put out by the American Academy
16 of Pediatrics. I know at our clinic, we generally see
17 patients for a newborn follow-up two to three days after
18 they leave the hospital. We see them for their two-week
19 well-child check. And then after that, we see them for a
20 two-, four- and six-month visit, a nine-month visit, a
21 twelve-month visit. And then after that, it's usually
22 annually.

23 Q All right. And does the exam change based on the age
24 of the child as they come in for those scheduled visits?

25 A Yes.

1 Q All right. And if a newborn or an infant that's seen
2 in your practice has a problem, what's that type of visit
3 called if they're sick?

4 A So if the mom calls in and says, "My kid has a cough"
5 or a fever or something like, we generally call that a
6 triage sick visit at our practice.

7 Q And that is something that's different from a
8 well-child check?

9 A Correct.

10 Q Okay. I want to talk to you about a patient name Minor

11 Did you have the chance to examine Minor in
12 your practice in November 2013?

13 A I did.

14 Q All right. And tell the jury why you were seeing
15 Minor

16 A I saw him for his two-month well-child check.

17 Q And where did you see him?

18 A I saw him at the Center for Pediatric Medicine which
19 is the resident clinic associated with our program.

20 Q And what was the date of your exam; do you remember?

21 A I don't. I believe it was sometime in November.

22 Q All right. I'm going to -- when you have a well-child
23 check with an infant, is there a medical record that's
24 generated?

25 A Yes. We document -- we document in the computer

1 system our exam findings, all that sort of stuff.

2 Q All right. I'm going to show you a document and ask
3 you to review that and see if that refreshes your
4 recollection about the date of the visit.

5 A (Reviews document) This looks like a copy of my note,
6 and I saw him on November 12, 2013.

7 Q And what was his age on that date?

8 A He was two months and 15 days old.

9 Q And who was with him during that exam?

10 A My note says that he was seen with his mom.

11 Q All right. Was that the only time that you saw Minor

12 A To my recollection, yes.

13 Q All right. I want to talk to you about your physical
14 examination of Minor on November 12. Did he have any
15 medical problems that he was being seen for when you saw
16 him on the 12th?

17 A According to my note, there were no previous noted
18 medical problems. He was just here for his two-month
19 checkup.

20 Q Okay. And did you examine him for general indications
21 of health for a two-month-old?

22 A I did.

23 Q All right. And was his weight within normal limits?

24 A His weight was 14 pounds, 9.6 ounces. And our
25 percentile says it was at the 83rd percentile, so I would

1 call that within normal limits.

2 Q And what about his length?

3 A His percentile was at the 87th, so I would also call
4 that within normal limits.

5 Q And as part of your examination, do you measure a
6 baby's head circumference?

7 A We do.

8 Q All right. And was -- his head circumference or his
9 head size was within normal limits?

10 A All that's documented here is the head circumference
11 is 41.25. The percentile is not listed.

12 Q Did you have any notes about him having any specific
13 condition about his head being oversized or anything like
14 that?

15 A I did not document macrocephaly, which is the medical
16 term that we would use if I was truly concerned about his
17 head size.

18 Q Okay. As part of your exam of an infant that age, do
19 you examine their soft spot or their fontanelle?

20 A We do.

21 Q All right. Did you do that with **Minor**

22 A I did. And exam of his head says normocephalic,
23 atraumatic and his anterior fontanelle is open and soft.

24 Q Okay. And is that normal?

25 A Correct. Yes.

1 Q What about his heart? Do you listen to a baby's heart
2 when you do this kind of exam?

3 A I did.

4 Q All right. Was that normal?

5 A It says he had a regular rate and rhythm. I
6 documented as soft I to II out of VI systolic ejection
7 murmur that was heard at the left upper sternal border,
8 non-radiating to the axillae or the back, and most
9 consistent with an innocent pulmonic flow murmur. He had
10 strong femoral pulses.

11 Q Tell the jury what that means.

12 A Sure. So it's common for babies to have a murmur.
13 It's essentially, the way I explain it to parents, is that
14 it's just an extra sound through the heart valves in the
15 vasculature in the heart. It's very common in the first
16 six months or even nine months of life to hear something
17 like that, and we generally just follow it. So it was not
18 concerning, especially given the strong femoral pulses.

19 Q Did you listen to his lungs?

20 A I did. They were clear and within normal respiratory
21 rate.

22 Q As part of your exam, did you look at his eyes?

23 A I did. And I documented that he had clear white
24 sclerae, his eye muscles were moving, his pupils were
25 functioning normally.

1 Q All right. And then finally, let's talk about the way
2 that you examine a baby's brain at a two-month well-child
3 check. Will you tell the jury how you are able to figure
4 out how his brain is?

5 A So the neurologic exam of the baby is a couple of
6 different parts. In general, we just look at how the child
7 looks, are they interactive, are they engaged with us, are
8 they vigorous, are they well appearing. My note says that
9 this patient was well appearing, alert and interactive. He
10 consoled appropriately, easily.

11 We also look at the different cranial nerve functions.
12 So part of the neuro exam was making sure that his pupils
13 did react and that his eye muscles followed me when I
14 tested those, and I documented that they did. And then we
15 also look for reflexes that all babies have or are born
16 with. So he had a positive grasp and suck which are
17 appropriate for a two-month old. It says that he had good
18 tone, which is also appropriate, so he wasn't floppy or
19 hypertonic. His muscles were working well. I documented
20 that he held his head up slightly when he was prone, and
21 needed arms pushed underneath him and then will try to push
22 up onto them. And then seems to be having difficulty with
23 holding head up since it's so large.

24 Q All right. And explain to the jury about what you
25 mean by that.

1 A Sure. So frequently, one of the developmental
2 milestones that we have for a two-month-old is we put them
3 on their belly and we expect to see them kind of push up
4 onto their arms and lift their head a little bit. It's
5 very common that we see two-month babies who either have a
6 larger head or maybe don't get enough time on their tummy
7 at home practicing who we only see them for their two-month
8 well-child check are not doing that as well as we would
9 like to see. But generally, sort of taking in the whole
10 picture, as long as everything else is well appearing, if
11 that's sort of the one thing that he can't do, then it's
12 something we just sort of follow or something that we were
13 -- if it's something that, you know, we notice that he
14 wasn't doing as well, then we would just follow it.

15 Q Anything about what you observed about his
16 developmental progress that caused you to have concern for
17 him developmentally?

18 A I wrote in my assessment and plan that he was growing
19 well, gaining weight well, and meeting his developmental
20 milestones appropriately.

21 Q All right. You didn't refer him to follow up with any
22 specialist for any problems or anything like that?

23 A I did not.

24 Q Had **Minor** been circumcised as an infant?

25 A He was.

1 Q And did you examine his genitals for any trouble with
2 that?

3 A I did. My note says he had normal external genitals,
4 he was circumcised, and his testes were both distended
5 bilaterally, meaning they were both down in the scrotum.

6 Q And any indication that his circumcision hadn't healed
7 properly?

8 A Not according to my note.

9 Q Was there any part of your exam of **Minor** during that
10 visit that gave you cause or concern for any medical issue?

11 A No. My note states that I thought that he was doing
12 well. I documented that he had some cradle cap and that
13 his heart murmur, which I documented, said, "Sounds like a
14 benign heart murmur most consistent with a pulmonic flow
15 murmur. We will continue to monitor clinically." So I was
16 not concerned.

17 Q And that's something that you would have listened to
18 if you'd seen him again?

19 A Correct.

20 Q You mentioned that, as part of your well-child checks,
21 that you do some anticipatory training for parents or ---

22 A Yes.

23 Q Will you explain to the jury what types of things that
24 you talk to parents about at like a two-month visit, for
25 example.

1 A So at the two-month visit and in the note, we
2 documented that we discussed fussy periods and consoling
3 techniques for babies at this age, normal bowel movement
4 patterns, signs of illness, when to call the pediatrician
5 with questions or concerns, using a car seat, preventing
6 baby from falling. We discussed the shaken-baby syndrome;
7 hot water heater needs to be set to less than 120 degrees
8 Fahrenheit to prevent burns when you're giving the baby a
9 bath; sleeping arrangements, putting baby to sleep on their
10 back, importance of tummy time, no sleeping on soft
11 pillows, crib safety. And then we also discuss making sure
12 that parents are adjusting well, especially with
13 two-month-olds. That's a prime time for parents to sort of
14 -- or moms especially to sort of experience times of
15 postpartum depression. So we discussed that as well.

16 Q And then you mentioned that you talk about the -- to
17 parents in this well-child check the dangers of shaking; is
18 that correct?

19 A Correct.

20 Q And will you tell the jury why specifically you talk
21 about that in the two-month visit?

22 A So normal babies cry, and peak crying tends to occur
23 around two months of age where babies, you check them for
24 dirty diapers, wet diapers, fever, are they, you know,
25 uncomfortable, do they just want to be held, is there

1 something else wrong causing them to cry. And frequently,
2 at the two-month-of-age mark, babies don't have any reason
3 to cry, but they continue to do so. And that's healthy
4 babies do that. And so we tend to talk to parents,
5 especially at this age, about anticipating that and ways to
6 sort of avoid feeling stressed out when that happens. I
7 tend to tell my moms and dads who I'm seeing the babies
8 with that it's okay to put the baby on their back in their
9 crib as long as there's nothing in there that could
10 suffocate the baby. Their -- the baby would be safe in
11 there, and they're allowed to walk away for a few minutes
12 and sort of collect themselves if they need to because it
13 can be stressful.

14 MS. PAOLETTI: All right. Will you answer any
15 questions Ms. Wicker might have?

16 CROSS EXAMINATION

17 BY MS. WICKER:

18 Q Good morning, Dr. Bradshaw.

19 A Good morning.

20 Q You had not treated **Minor** before, correct?

21 A Correct.

22 Q Okay. And do you recall about how long this
23 examination lasted?

24 A I don't recall, off the top of my head.

25 Q Okay. And you spoke to his mom?

1 A Yes. My note says that he was seen with his mom.

2 Q Okay. Did you speak to any other family or any other
3 caregivers?

4 A The note only states that mom was there to the visit
5 with him.

6 Q Okay. And this was a general wellness check,
7 basically?

8 A Correct.

9 Q So you didn't perform any more invasive procedures,
10 and by that, I mean like X-rays or CT scans or anything of
11 that nature?

12 A No, no.

13 MS. WICKER: Okay. Thank you. I don't have any
14 further questions.

15 THE WITNESS: Okay.

16 MS. PAOLETTI: I don't have anything else for
17 Dr. Bradshaw. May she be excused?

18 THE COURT: Yes.

19 MS. PAOLETTI: Your Honor, the State calls Dr. Tony
20 Johnson.

21 THE CLERK: Dr. Johnson, come forward to be sworn in,
22 please.

23 WHEREUPON,

24 ANTHONY JOHNSON

25 After having been duly sworn, testified as follows:

1 THE CLERK: Sir, would you state your name for the
2 record, please.

3 THE WITNESS: Dr. Anthony Johnson.

4 DIRECT EXAMINATION

5 BY MS. PAOLETTI:

6 Q Dr. Johnson, will you tell the jury what kind of
7 physician you are, please.

8 A I'm a pediatric ophthalmologist or a pediatric eye
9 doctor.

10 Q And how long have you been practicing as a pediatric
11 ophthalmologist?

12 A Almost 30 years. June it will be 30 years.

13 Q Will you tell the jury, starting with your
14 undergraduate degree, what your educational background is,
15 please.

16 A Yes. That was a long time ago. It started back in
17 1974 I attended Texas Tech University. Subsequently, 1977
18 attended University of Texas Medical School in San Antonio,
19 graduated in 1981, followed by surgery internship, an
20 ophthalmology residency at Tulane in New Orleans, finished
21 in 1985, and a pediatric fellowship in Atlanta, finished in
22 1986, at which time I moved to Greenville, and been in
23 practice here since 1986.

24 Q All right. Was there a time that you were the only
25 pediatric ophthalmologist in Greenville?

1 A Yes, there was. For 19 years I was the only pediatric
2 ophthalmologist until about 2005.

3 Q And do you hold board certifications?

4 A Yes. Board certification in ophthalmology. There's
5 no such thing as board certification in pediatric
6 ophthalmologist. There's no subspecialty board in any of
7 ophthalmology. But I was recertified after initial
8 certification in 1987 and 2005, and also last year in 2015.

9 Q Are you a member of any professional associations?

10 A Yes, I am. Several. Locally, the Greenville County
11 Medical Society; in the state, the South Carolina Medical
12 Association, the South Carolina Society of Ophthalmology;
13 and then in several nationally: the American Association
14 of Pediatric Ophthalmology, the American Academy of
15 Pediatrics, the American Academy of Ophthalmology, the
16 American College of Surgeons and the AMA.

17 Q Are you published?

18 A I have published. Have not published in a few years.

19 Q Do you have the opportunity to make presentations for
20 other professionals?

21 A Yes, I do.

22 Q Okay. Can you tell the jury what some -- just some of
23 those that you've participated in?

24 A More recently the American Eye Study Club, which is a
25 group of about 60 ophthalmologists from across the country.

1 And it's all different specialties. And we meet -- it was
2 a summer meeting. It's just an academic meeting. So I
3 present there.

4 Q That's the most recent thing?

5 A Yes.

6 Q All right. Have you testified in the courts of South
7 Carolina before as an expert?

8 A Yes, I have.

9 Q And have you been qualified as an expert in the courts
10 of South Carolina?

11 A Yes, I have.

12 Q Do you remember the courts in which you have been
13 qualified? Or do you want to tell us the locations?

14 A I've been in this one a few times, Greenwood several
15 times, Laurens, also in Family Court in Greenville several
16 times.

17 MS. PAOLETTI: All right. Your Honor, at this time,
18 the State moves that Dr. Johnson be qualified as an expert
19 in pediatric ophthalmology.

20 MS. WICKER: No objection, Your Honor.

21 THE COURT: All right.

22 BY MS. PAOLETTI:

23 Q Dr. Johnson, did you have the opportunity to examine
24 Minor [REDACTED] in November of 2013?

25 A Yes, I did.

1 Q All right. Will you explain to the jury how the
2 process works that gets you over to the hospital to examine
3 a child in the PICU?

4 A First of all, I'm in a practice that is independent of
5 either one of the hospital systems. I'm happy to see
6 patients for anyone that seeks my opinion, consultation.
7 And I've known several of the folks that are at the
8 Greenville Health System for quite a number of years.

9 So typically, what happens is if they have a patient
10 that they would like to have a pediatric ophthalmology
11 consultation on, the resident that is rotating on the
12 service in the pediatric ICU will be responsible for
13 calling all consultants, and typically, that resident just
14 calls our office and asks for me to come over and take a
15 look. And they'll often give me some of the history of
16 what's happening with that particular patient. And unless
17 it's just, you know, an urgent thing that has to be done
18 right that second, I typically go either at lunchtime or
19 after I finish seeing patients in the afternoon.

20 Q All right. And before you went to examine **Minor** at the
21 hospital, did you have access to any of his medical records
22 or have a chance to review anything in his record before
23 you saw him?

24 A Yes, I did. I have access to go to their Web site and
25 can see the X-ray studies that are available and other

1 consultations if they're available at the time. So I did
2 have information about the CT scan.

3 Q All right. And when you went to the hospital to do
4 the exam of Minor eyes, do you take or use any instruments
5 when you go and do that?

6 A Yes, I do. And the main one is called an indirect
7 ophthalmoscope. It's just a flashlight, basically. It
8 sits on your head so it frees up your hands. And through a
9 convincing lens, you can see all of the things inside the
10 eye and so forth. We can also get a pretty good look at
11 the external portion of the eye just with the magnification
12 of that convincing lens.

13 Q And do you dilate your patient's eyes? Did you dilate
14 Minor eyes before you did this exam?

15 A We typically dilate the patient's eyes just to get the
16 best look at the retina so we can see as far out in the
17 peripheral retina as we can possibly see.

18 Q All right. Will you tell the jury what you saw when
19 you examined Minor eyes?

20 A Is it okay if I refer to my ---

21 Q If you need to refresh your recollection, yes, sir.

22 A --- notes?

23 And I'll sort of paint the picture. Minor was in the
24 pediatric intensive care unit. This was -- I'm pretty sure
25 that he was admitted early the morning on Monday morning.

1 I believe that would have been the 18th. So this was
2 between 1:30, 2:00 in the afternoon the following day.

3 And in the pediatric ICU, of course, there are lots of
4 monitoring devices, and he was on his back and hooked up to
5 a lot of machines, including the respirator and so forth,
6 and, of course, wasn't responsive at all. And he didn't
7 require any sedation or anything to examine him.

8 And just my initial approach is to look and see if I
9 see any signs of any kind of facial impact or facial trauma
10 that you can see, gives you an idea of maybe what had
11 happened at that time. I was not aware of any mechanism of
12 injury, just knew that he had had a severe brain injury and
13 that's why he was unconscious and completely unresponsive,
14 and, of course, not resisting my examination at all. And
15 just his anatomy was completely normal.

16 He didn't have any injury to his eye lids or to the
17 surface of his eye. One of the things that's significant
18 about that is anytime that you have something that was a
19 severe enough injury to cause a brain injury like this, you
20 wonder did it cause any other associated injuries. And the
21 eye, of course, is very fragile, and if you have any kind
22 of frontal impact, you can have a bleeding inside the front
23 of the eye called a hyphema. So that gives a better idea
24 if there was any kind of blunt impact that have occurred.
25 And in this case, there was no evidence of any bleeding

1 inside the front of the eye.

2 The surface of the eye was fine on both sides. The
3 pupil was widely dilated, so I was able to get a good look
4 through the pupil.

5 The lens sits just behind the eye behind the iris.
6 And the lens, if impacted, even in a baby, will turn
7 cloudy, so it's significant that the lens wasn't cloudy at
8 all. The lens was crystal clear allowing an easy view of
9 the retina.

10 Q I should have put this up earlier. There's a laser
11 pointer in front of you, Dr. Johnson. If you want to, as
12 you're talking through this, show the jury what you're
13 talking about.

14 A So just to orient everyone, this is the only portion
15 of the eye that you can see when you're talking to someone,
16 this front part right here.

17 And this is the cornea. This is where the contact
18 lens would sit if you're a contact lens wearer.

19 This is the back of the eye. You can't see this
20 unless you have a special instrument that I'll describe
21 what I saw in just a minute.

22 And this is the connection right here, the optic nerve
23 that travels and is actually an extension of the brain. So
24 this is what carries the 1.2 million or so nerve fibers
25 from each eye to the brain to carry our vision to the brain

1 to be interpreted.

2 And I was just speaking of the lens, this portion
3 right here just behind the colored part of our eye, the
4 iris right here, and then the opening and the iris which is
5 the pupil right in front of the lens. So I was speaking of
6 the lens being crystal clear.

7 So continuing on with what I found, in the right eye,
8 he had about 12 to 14 hemorrhages that were mainly in the
9 back part of the eye. When I say the back part of the eye,
10 I mean back -- if I'm looking straight in this way, I'm
11 looking through the pupil, and I can angle my view down
12 this way and this was so I can see farther out away from
13 the back of the eye. This is called the posterior pole in
14 my report, or it's just straight back where you can see the
15 business portion of our eye where our 20/20 vision is right
16 there labeled the macula. That's where light rays come in.
17 That's the only place where we have our 20/20 vision. And
18 everywhere else in the retina that light rays hit is all
19 our peripheral vision.

20 So in this particular case, in this area right here is
21 where the 12 to 14 hemorrhages were found in the right eye,
22 and there were only maybe three or four in the left eye.
23 But the presence of hemorrhages, of any hemorrhage is
24 abnormal and therefore needs to be explained as to why is
25 the hemorrhage there (indicating throughout).

1 Q All right. Will you tell the jury what you mean by
2 that, please.

3 A Well, we have a number of blood vessels in the retina,
4 and we've probably all heard of hemorrhages maybe in
5 diabetics that are old or have been diabetic for a while
6 and they have normal blood vessels bleed. But a baby
7 doesn't have any normal reason for any of the blood vessels
8 to break and result in hemorrhages in the retina.

9 Q All right. And will you tell the jury the type of
10 mechanism that can cause that bleeding in the eye?

11 A The one thing that I didn't explain, and I'm on the
12 artist's picture here, all of this space -- all of this
13 space is filled with a jelly material that's a very
14 specialized material to maintain that space and to maintain
15 the shape of our eye. And it's a clear protein material
16 much like the clear protein if you crack open an egg. All
17 of the contents other than the yoke before the egg is
18 cooked, all of the clear part which becomes white if you
19 cook the egg, that's all clear protein. And if you touch
20 it, it's very slippery and gooey, just like this clear
21 protein is called vitreous.

22 And the vitreous is very -- it's very dense, and it's
23 about the same consistency in a baby as table Jell-O, so
24 it's -- table Jell-O that's in the refrigerator. So if you
25 had a square of table Jell-O on a saucer and you jiggled

1 it, we all know what that would look like. It doesn't just
2 melt in the saucer. It maintains its form, but it will
3 jiggle. But it's all very firm.

4 And vitreous material is very adherent right along the
5 edge -- the front edge of the retina. And, of course, I'm
6 just pointing at one place, but remember, this goes all the
7 way around the eye 360 degrees, so it's very densely
8 adherent there. It's very densely adherent along each one
9 of these blood vessels. It's densely adherent to the optic
10 nerve right here, and it's densely adherent surrounding
11 this little pit right here.

12 And if there's any kind of acceleration or
13 deceleration force, this jelly-like material, just like if
14 you jiggled it on the saucer, this jelly material has mass
15 to it, and if it's attached tightly to something, whatever
16 it's attached to gets tugged and pulled. And if there's
17 any rotational force of the eye, if the baby's head is
18 moving back and forth or rotationally, that jelly material
19 is tugging on these blood vessels. And by virtue of
20 tugging on these blood vessels, if this repetitive motion
21 happens long enough, it will tear the blood vessels, and
22 that's what causes retinal hemorrhages (indicating
23 throughout).

24 Q Let's talk about what does not cause retinal
25 hemorrhages for a moment. There's evidence in this case

1 that Minor [REDACTED] underwent CPR for some period of time.

2 Tell the jury what we know about CPR causing retinal
3 hemorrhages.

4 A There are many things that would be considered an
5 accidental injury, and there are many times when we have an
6 accidental injury that results in a brain injury that you
7 might also have an associated eye injury. For instance, if
8 you were hit by an automobile or if you weren't restrained
9 in an automobile and an automobile suddenly stopped and you
10 flew through the windshield and had a single but sudden
11 impact, those type of injuries result in hospitalizations,
12 and those type injuries are evaluated by a number of
13 specialists because of all the potential injuries,
14 including ophthalmologists evaluating their eyes. And even
15 a severe life-threatening injury like a sudden impact from
16 being ejected from an automobile or falling from a
17 ten-story balcony and impacting the ground in a fatal way,
18 even violent injuries like that, although there is a story
19 to them and the history tells what happened to them, even
20 that type of injury doesn't result in retinal hemorrhages.

21 So that's one of the type things that we know is not
22 associated in this case. If it's an accidental fall from a
23 balcony or an accidental car accident or whatever the case
24 may be, when we know the story of what happened, and then
25 we can look and see what other injuries are associated with

1 this.

2 Q And is that reporting consistent with what you've seen
3 in your practice as a pediatric ophthalmologist?

4 A Yes, it is.

5 In addition, we know that children have CPR,
6 unfortunately, all the time when they're critically ill.
7 And they often have CPR that lasts for a long time because
8 nobody wants to give up. And we know that there have been,
9 certainly, children that have undergone CPR resuscitation
10 for upwards of an hour before and have suddenly responded.
11 So dealing with that age group, nobody wants to give up,
12 and therefore, there are many examples where CPR has been
13 done for a long time. And CPR does not result in retinal
14 hemorrhages.

15 Q What about what we call anoxic brain injuries,
16 suffocation or drowning where the brain is just deprived of
17 oxygen with no indication of trauma? Do you get retinal
18 hemorrhages in that situation?

19 A You do not see retinal hemorrhages with those type
20 injuries.

21 Q Any type of what we would call a short fall or a fall
22 inside of a home from any surface, would you expect to see
23 retinal hemorrhages in a situation like that?

24 A Children fall all the time, and you would not expect
25 to see retinal hemorrhages from something like that.

1 Remember, putting that in the context of falling from a
2 ten-story balcony or being ejected from an automobile,
3 that's a much less dangerous fall that you're describing,
4 and you would not see retinal hemorrhages with that type of
5 injury.

6 Q I want to ask you about, in your opinion, the degree
7 of force required to cause retinal hemorrhages like the
8 ones that you observed in Minor Can you tell the
9 jury what your opinion is on the force required to cause
10 this -- that bleeding?

11 A I think the key is that it requires repetitive force
12 as opposed to just a singular impact or singular sudden
13 stop. And we know from past examples of someone who has
14 actually applied this force repetitively and has confessed
15 to those -- to that force, we know that when given a doll
16 to demonstrate, you know, what did you do, how did you do
17 this -- because almost never is there a witness to this.
18 And when asked to demonstrate this, it's been demonstrated
19 on a number of occasions, repetitive, violent shaking
20 backwards and forward so that this very unsupported neck of
21 a three-month-old or any infant is susceptible to just
22 moving backwards and forwards and also with rotational
23 forces, not just straight backwards and forwards, but with
24 rotational forces which then cause that vitreous jelly to
25 not only tug in one direction on those vessels and those

1 other attachment points that I described, but had shearing
2 effects so that they're moving not just frontwards and
3 backwards, but also sideways.

4 Q And do you have an opinion as to whether or not the
5 injuries to [Minor] eyes that you observed could have been
6 accidental in any way or whether they were inflicted?

7 A Yes, I do. I have an opinion. My opinion is that
8 these injuries were inflicted, and this was not an
9 accidental injury.

10 Q And were the injuries that you saw to his eye
11 consistent with what you also saw on the CT, the bleeding
12 on the brain?

13 A Yes, it was.

14 MS. PAOLETTI: All right. Will you answer any
15 questions that Ms. Wicker will have for you?

16 THE WITNESS: I will.

17 CROSS EXAMINATION

18 BY MS. WICKER:

19 Q Good morning, Dr. Johnson.

20 A Good morning.

21 Q Just briefly for you, how long did you examine [Minor]
22 [redacted] do you recall?

23 A An examination usually takes about five minutes to get
24 a good look at the retina and to see all the other external
25 observations. I spend way more time preparing for that and

1 preparing the findings and discussing that with the rest of
2 the team.

3 Q Okay. Did you meet with his mother or any other
4 family members or caretakers regarding this case?

5 A As I recall, his mother was there at the beginning and
6 excused herself. So I don't recall actually discussing
7 this. Remember, this was almost 27 months ago.

8 Q Absolutely.

9 So was your exam restricted just to his eyes,
10 basically? Any external evidence of injury?

11 A That's the portion of the exam that I, you know, focus
12 on. It's hard to walk in the room and not observe any
13 other things as a physician and see other things, but
14 that's the portion that I record in my exam as well.

15 MS. WICKER: Okay. Thank you. I don't have any
16 further questions.

17 MS. PAOLETTI: I don't have anything else for
18 Dr. Johnson. May he be excused, Your Honor?

19 THE COURT: Yes.

20 Thank you very much.

21 THE WITNESS: Thank you.

22 MS. PAOLETTI: May we approach, Judge?

23 THE COURT: Okay.

24 (WHEREUPON, a bench conference was held off the record.)

25 THE COURT: Okay. Ladies and gentlemen, the next

1 witness is also a physician, has not arrived just yet, so
2 we're going to take a short break. We anticipate he'll be
3 here any minute. Please don't discuss the case. We'll be
4 back to you just as quickly as we can.

5 (WHEREUPON, the jury exits the courtroom at 12:01 p.m.)

6 THE COURT: All right. We'll be at ease.

7 (WHEREUPON, a recess is taken at 12:02 p.m.)

8 THE COURT: Are you ready?

9 MS. PAOLETTI: Yes, sir. Thank you.

10 (WHEREUPON, the jury entered the courtroom at 12:22 p.m.)

11 THE COURT: All right.

12 MS. PAOLETTI: Thank you, Judge. The State calls
13 Dr. Michael Ward.

14 THE CLERK: Dr. Ward, if you will, come forward to be
15 sworn, please.

16 WHEREUPON,

17 MICHAEL WARD

18 After having been duly sworn, testified as follows:

19 THE CLERK: Please state your name for the record.

20 THE WITNESS: Michael Eugene Ward.

21 DIRECT EXAMINATION

22 BY MS. PAOLETTI:

23 Q Dr. Ward, will you tell the jury what kind of doctor
24 you are?

25 A I am a forensic pathologist.

1 Q Can you tell the jury what a forensic pathologist
2 does?

3 A Certainly. Pathology is a specialty of medicine that
4 deals with disease and disease processes and how they
5 affect man. Forensic pathology takes that one step
6 further. The study of disease, trauma, injuries, how they
7 affect man insomuch as how they die, and then the
8 presentation of that information in the court of law.

9 Q All right. Are you licensed in forensic pathology?

10 A I'm licensed as a physician in South Carolina, yes.
11 I'm board certified in anatomic and forensic pathology.

12 Q Will you start with your undergraduate work and tell
13 the jury what your educational background is, please.

14 A Certainly. I received a bachelor's degree in biology
15 from the University of Alabama, I received my master's
16 degree in forensic science from the University of Alabama
17 at Birmingham, I received my medical degree from the
18 University of South Alabama which is in Mobile, I did a
19 four-year anatomic pathology residency at the Medical
20 University of South Carolina in Charleston, and a one-year
21 fellowship in forensic pathology at the University of New
22 Mexico in Albuquerque. I'm certified by the American Board
23 of Pathology in both anatomic and forensic pathology.

24 Q How long have you been practicing as a pathologist?

25 A I finished my training in 1993, so roughly 23 years.

1 Q Has your entire career, your entire practice been in
2 the area of forensic pathology?

3 A Yes, it has.

4 Q All right. Tell the jury how your current practice is
5 set up and who you work for and how that all works.

6 A I'm employed by Pathology Associates of Greenville
7 which is a private practice pathology group that works
8 basically out of Greenville Hospital System. I am
9 contracted by Greenville County to provide forensic
10 services to the County of Greenville. As such, I have been
11 appointed by the Greenville County Medical Examiner's
12 Commission as the chief medical examiner for Greenville
13 County to investigate deaths that occur in Greenville
14 county.

15 Q And how long have you been the chief medical examiner
16 for Greenville County?

17 A 18 years.

18 Q Do you know approximately how many autopsies you've
19 performed?

20 A Over 5,000 forensic autopsies.

21 Q And have you been qualified in the courts of law in
22 South Carolina as an expert in forensic pathology?

23 A Yes, I have.

24 Q Have you been qualified in this court before?

25 A I have.

1 Q And have you testified as an expert in this courtroom
2 before?

3 A Yes, I have.

4 MS. PAOLETTI: Your Honor, at this time, the State
5 moves that Dr. Ward be qualified as an expert in forensic
6 pathology.

7 MS. WICKER: No objection.

8 THE COURT: All right.

9 BY MS. PAOLETTI:

10 Q Dr. Ward, did you have the occasion to perform an
11 autopsy on an infant named Minor in November of 2013?

12 A Yes, I did.

13 Q Will you tell the jury how it is that you receive a
14 body for autopsy and how they're identified?

15 A Bodies that are to be investigated by the Greenville
16 County Medical Examiner's Office generally come to us
17 through investigative efforts of the Greenville County
18 Coroner's Office. Through their efforts, the body is
19 placed into a body bag and brought to the autopsy facility
20 which is at the main campus of the Greenville Hospital
21 System. This young man died at Greenville Hospital, so he
22 was already in our morgue but had been placed there through
23 the responsibility of the Greenville County Coroner's
24 Office.

25 So prior to the autopsy, I had received some

1 investigative information from the Coroner's Office in
2 relationship to this -- in relation to this death. Each
3 individual who is either in the hospital or placed into the
4 morgue facility by the Coroner's Office has an
5 identification band that is uniquely his and placed there
6 prior to being admitted into the morgue. So at the time of
7 autopsy, **Minor** had a hospital identification band from his
8 previous hospital admission that identified him by his name
9 and his medical record number.

10 Q And during the course of an autopsy, is there a
11 representative from the Sheriff's Office or the Forensics
12 Department who typically is in attendance during an
13 autopsy?

14 A In certain cases, there are. In this case, there was.

15 Q All right. Will you explain to the jury what the two
16 main findings of an autopsy in general are and the
17 difference between the two?

18 A The ultimate goal of a medical legal autopsy is to
19 determine cause of death and manner of death. Cause of
20 death is that process that ultimately was responsible for a
21 person dying. So we like to think of it as what started
22 some ball rolling down the hill that ultimately resulted in
23 a person dying. Sometimes those are easy. A gunshot wound
24 to the head is pretty straightforward. You have a gunshot
25 wound that involves the brain, and so the cause of death is

1 a gunshot wound to the head. So in this case, we were
2 looking for what caused Mr. Parks to die on that night.

3 The second is manner of death. The South Carolina
4 Department of Health allows us five choices for manner of
5 death. They are: natural, accidental, suicide,
6 undetermined and homicide. So we take the findings that we
7 have at autopsy, which include review of medical records,
8 review of the autopsy as well as looking at tissues
9 received from that autopsy under the microscope and combine
10 that with the investigative information from the police
11 department and the Coroner's Office to determine cause of
12 death and manner of death.

13 Q And were you able to determine the cause of death and
14 the manner of death on **Minor** autopsy?

15 A Yes, I was.

16 Q I'll come back to that in a moment. I want to talk
17 about your specific findings on doing his autopsy first.

18 And let's start with his body below his head, if we
19 can. Will you tell the jury what exams you did and what
20 your findings were for everything below his head?

21 A An autopsy basically is a detailed physical
22 examination that's performed on someone who has died. It
23 begins with an external examination and then proceeds to an
24 internal examination looking for any evidence of natural
25 disease or trauma on the outside and the continuation of

1 that disease or trauma on the inside.

2 On examining **Minor** from the neck down, we saw ---

3 Q Let me ask you this first. Did you observe any
4 external injuries on him from head to toe?

5 A Yes, I did.

6 Q All right. Will you tell the jury what those were?

7 A Okay. So on the right anterior thigh, or so on the
8 right part of the upper leg, there was a healing abrasion
9 of the skin which was about an inch in length, so it's a
10 linear scratch of the skin that was showing healing. It
11 had scale crust or a scab over it.

12 On the outside of the right ankle there was an area of
13 discoloration of the skin which looked like a bruise about
14 an inch and a half in greatest dimension.

15 On the top of the right foot, there was a similar area
16 of discoloration of the skin which also looked like a
17 bruise about a half an inch in diameter.

18 When we dissected these areas or looked at them
19 carefully, looking underneath the skin, these tended to be
20 just areas of discoloration of the skin and were not
21 actually injuries. So the one to the top of the foot and
22 to the outside of the ankle were areas of discoloration of
23 the skin but were not injuries. So the only injury to the
24 right leg was the scratch to the right anterior thigh.

25 On the back of the thighs were similar areas of .

1 discoloration of the skin which appeared to be
2 hyperpigmentation or increased pigment of the skin. When
3 we dissected these areas, there was no hemorrhage within
4 the underlying skin. Histologically or under the
5 microscope, there were no changes of trauma there. So he
6 had discoloration of the skin which medically, clinically,
7 when he was in the hospital were thought to be injuries, at
8 autopsy, did not prove to be so.

9 Q So those were -- looked like bruises on the outside,
10 but when you examined him for bruising, it was not bruises?

11 A That is correct. It looked like a congenital
12 hyperpigmentation or darkening of the skin due to some
13 congenital problem not due to trauma.

14 Q All right. And so now let's go to your autopsy inside
15 Minor body. And start again ---

16 A From below -- from below the neck?

17 Q Yes, sir.

18 A Okay. Prior -- after pronouncement of death and prior
19 to autopsy, Minor had the opportunity to donate organs for
20 other people. So these organs that were donated included
21 heart, liver, kidney, adrenal glands, pancreas and small
22 intestine.

23 So at the time of autopsy, there had been a postmortem
24 incision which extended from the neck to below the belly
25 button, opening of the chest and abdominal and chest

1 cavities with removal of the organs that I described to
2 you. Now, these were done in a surgical process in the
3 operating room at Greenville Hospital System, and those
4 organs were sent to other hospitals for donation to infants
5 who needed to receive those organs for whatever reason. So
6 those organs had been removed.

7 At the time of autopsy, literally, the only organ
8 remaining was lung, part of the small intestine, the
9 stomach and the pelvic contents which are the urinary
10 bladder. Those organs were examined and were without
11 trauma.

12 Q Did you find any evidence of any natural disease or
13 illness in any of those organs?

14 A The only remarkable finding was that the lungs were
15 what we call atelectag [phonetic], which means they were
16 without air. And this is a process that we would expect to
17 see in someone who, after being pronounced brain dead, was
18 taken to the operating room, and then the chest is opened.
19 And so now that the chest is no longer expanding to pull
20 air into the lungs, and so as the air goes out, they
21 collapse. And so they were collapsed around the rib cage.
22 This would not be a disease process. This would be a
23 consequence of the harvesting process to remove the heart,
24 the liver, kidneys and whatnot. So this was an anatomical
25 finding which is not a disease process. It was a

1 consequence of the harvesting.

2 Q Did it have any connection to your determination of
3 cause or manner of death? Is that correct?

4 A It did not.

5 Q All right. So let's talk about his brain now. What
6 were your findings as to his brain?

7 A Yes, ma'am. When we looked at **Minor** head -- so now
8 we're concentrating discussion above the neck. When we
9 looked at his head, there was no extra evidence of injury,
10 so we saw no bruising in the scalp, no bruising of the
11 face, no bruising of the ears.

12 As we go from the outside, the next step that we're
13 able to see is the outside portion of the skull. So we
14 remove the skin. We can see the outside portion of the
15 skull and can see that the sutures, which is where the
16 bones of our skull come together -- and in us, they are
17 fused. They're fused very tightly. In a child two and a
18 half months, those are not fused tightly and can -- are
19 arranged in such a way to allow the head to grow. And so
20 they are separatable. And **Minor** were beginning to
21 separate, and that's because he had underlying swelling of
22 his brain. So the first thing we see after we reflect the
23 scalp is that these sutures or connections between the bone
24 are beginning to separate.

25 As we removed the bone overlying the brain and take

1 that off, beneath that bone is this covering of connective
2 tissue that we call the dura. The dura is fibrous tissue
3 that overlies the brain.

4 Looking at that, it was obviously that there was
5 swelling of the brain, that there was a purple
6 discoloration to the undersurface of the dura. That's
7 called subdural blood or subdural hemorrhage. So Minor had
8 cerebral edema, or swelling of his brain, and a collection
9 of blood between the brain and the dura called subdural
10 blood or subdural hemorrhage.

11 Q Okay. Deeper there?

12 A As we go deeper, then you begin to see that instead of
13 having the nice expected appearance of the brain, which is
14 sort of a lobulated appearance like this -- and the brain
15 -- on the outer surface of the brain has humps that we call
16 gyri, and it has valleys that are called sulci or sulcus.
17 So you have a gyrus and immediately followed by a sulcus.
18 So it goes up and down like this (gesturing). And so you
19 can see it goes -- it's like your knuckles, up and over, up
20 and over, up and over. And instead of having that, Minor
21 brain was smooth, and that's because of the cerebral edema.
22 So he had flattened out his gyri and compressed his valleys
23 together, and all of that is the result of the cerebral
24 edema which is due to the trauma of the underlying brain.

25 As we cut through the brain, the brain is softened

1 because he has survived in the hospital for a period of
2 time with no blood flow to the brain. So as a result of
3 his injuries, the brain is damaged in such a way that it's
4 no longer receiving oxygenated blood from the body because
5 it's not alive anymore because he is now brain dead. And
6 so as a result of that, it starts to get soft and to show
7 changes of that ischemic brain death or that brain death as
8 a result of his injury.

9 Q Can I ask you one question? You said that when he's
10 on life support, that the blood flow is discontinued to his
11 brain and that contributes to the scene that you saw when
12 you opened his skull?

13 A Yes.

14 Q Okay.

15 A Well, that's probably what I said, but I don't want
16 you to misunderstand.

17 Q Yes, sir.

18 A It is not the treatment efforts that are causing
19 disruption of blood flow to the brain. It is not the
20 absence of blood flow to the brain that's causing the
21 swelling of the brain. It's the injury to the brain that
22 caused the swelling. That's the only response the body --
23 the brain has to injury is to swell. As it swells, it
24 compresses against the bones of the skull, becomes very
25 tight, and it compresses on some vital structures at the

1 base of the brain. That's the only response the brain has.

2 When that happens, and if you can't reduce that
3 swelling, then the blood flow to the brain is occluded, the
4 brain dies, and then it no longer accepts blood from the
5 rest of the body. It just lays there. And that's one of
6 the tests that they use for clinical brain death is, is
7 there blood going to the brain. Because if there's no
8 blood going to the brain, of course it can't be alive.

9 So as a result of the injury, the brain became
10 swollen. It was -- died, and then it no longer recruited
11 blood flow from the body.

12 I hope that makes sense.

13 Q So the subdural hematoma and the subarachnoid blood is
14 not continuing to accumulate over the two days that he's on
15 life support?

16 A That is correct. It is not. The subdural blood
17 accumulates while he has blood flow to his brain. This is
18 a marker of brain injury. So it's a thin layer of blood on
19 the outside of the brain. The subarachnoid hemorrhage is a
20 very thin layer of blood that is contiguous to the brain
21 itself. But these do not accumulate after he is pronounced
22 brain dead. These happen immediately after the injury and
23 prior to the brain dying.

24 Q All right. Let's talk about the last finding in your
25 autopsy regarding **Minor** neck and spine.

1 A Okay. So after we remove the brain and after we look
2 at the internal organs, Minor is then turned over onto his
3 stomach and we dissect the spinal cord out from a posterior
4 approach which allows for me to do a couple things. One,
5 it allows me to look beneath the skin of the back for any
6 trauma to the muscles in the bones of the back, and it
7 allows me to remove the spinal cord in a process that I can
8 actually take it out intact, so I can take out the entire
9 length of the spinal cord.

10 As we are dissecting down to the vertebral column,
11 which is through the skin, and these muscles that are
12 around the vertebral column, there's yellow discoloration
13 of the innersurface of the spinal canal.

14 So a vertebrae is this bone, and we have multiple
15 vertebrae. We have 7 in our neck, we have 12 in the
16 thoracic region, and 5 in our abdominal region. These are
17 bones that are about this thick (gesturing), roughly this
18 big around, and there's a hole in the middle of it that the
19 spinal cord goes from the brain down to the rest of the
20 body.

21 So inside that bone where the spinal canal is but
22 outside the spinal cord, there has been old blood there.
23 And I don't mean old blood as in weeks. I mean old blood
24 as in the body started to try to reabsorb it back and now
25 it's just discolored, sort of yellowish. So there's a

1 presence of blood around the spinal cord within the neck
2 region, indicating that there has been some trauma and some
3 blood there.

4 Coming off the spinal cord within the region of the
5 neck are these nerve fibers called nerve roots. So they
6 begin in the spinal cord, they go out and then they branch
7 to the rest of the body. Examination of those showed
8 hemorrhage or trauma to those nerve roots as well.

9 So we have trauma to the brain that resulted in
10 swelling, the subdural blood, subarachnoid blood, and then
11 trauma along the cervical spinal cord with evidence of
12 blood present there, and then trauma to the nerve roots
13 that go off the spinal cord.

14 Q All right. This trauma, the injury that you're
15 describing to his neck and the spinal cord, is that
16 something that would be caused by resuscitative efforts?

17 A No, it would not.

18 Q Do you have an opinion as to what type of force would
19 be required to cause that type of trauma that you observed
20 in his neck and spinal cord?

21 A So this type of injury to the spinal cord with
22 subdural blood along the length of the cord and trauma to
23 the nerve roots is associated with hyperflexion, which is
24 the head coming forward, and hyperextension, which is the
25 neck going back. So this is forceful traumatic

1 hyperflexion and hyperextension of the neck resulting in
2 trauma to the cord and those nerve roots, tearing of the
3 superficial veins that extend from the cord outward,
4 allowing the subdural blood to collect. This is a violent
5 process. This is violent movement of the head back and
6 forth on its axis resulting in its hyperextension and
7 hyperflexion with trauma to the cord.

8 Q All right. Let's go back to your conclusions about
9 the cause of death. Can you tell the jury what you
10 determined was the cause of Minor death?

11 A Cause of death of Minor was nonaccidental head
12 injury.

13 Q All right. And would you explain to the jury how
14 you're able to determine that it was nonaccidental?

15 A When we have an injury that we see at autopsy, during
16 the investigative process, we attempt to determine a
17 reasonable explanation for that injury. There was no
18 reasonable explanation offered for this injury. There's no
19 indication that Minor had a blunt impact, so it did not
20 appear to be a fall. He has no bruising to the body
21 surface. He specifically has no bruising to the skin or
22 the tissue beneath the skin of the head. There's no
23 indication that he had described to us any other traumatic
24 injuries to explain the severe head injury that he had. As
25 a result, this would be described as nonaccidental head

1 injury in that we don't have an accidental cause for this
2 type of injury.

3 Q And as to the manner of death, were you able to
4 determine his manner of death?

5 A Yes.

6 Q What was that?

7 A Homicide.

8 Q And will you explain to the jury what that means
9 technically and how you're able to determine that?

10 A Homicide is death of an individual at the hands of
11 another. So if it's a suicide, then those injuries were
12 purposefully caused by the individual who died. If it's
13 accidental, it's injuries that occurred that are thought to
14 be nonpreventable. It's certainly not a natural death in
15 that this is not a natural disease process causing
16 traumatic injuries of the spinal cord and the brain. This
17 is injuries that were caused by another person,
18 nonaccidental in nature, which is, by definition, a
19 homicide.

20 MS. PAOLETTI: Okay. Will you answer any questions
21 that Ms. Wicker might have for you?

22 MS. WICKER: Your Honor, I don't have any questions
23 for this witness.

24 THE COURT: All right. Thank you very much, Doctor.
25 And you are relieved from subpoena.

1 THE WITNESS: Thank you.

2 THE COURT: Yes, sir.

3 All right. Call your next witness.

4 MS. PAOLETTI: Your Honor, that's the State's case.

5 THE COURT: All right. Thank you very much.

6 All right. Ladies and gentlemen, we are at a good
7 place to break for lunch. I'll ask you to be back at 2:15.
8 Does that give everyone enough time? Okay. All right.

9 Please remember not to discuss the case or do any
10 research. The deeper you get into a case, the more
11 compelling it's got to be to want to do that, but you just
12 know you've sworn an oath not to do it and there's a very
13 good reason. You're protecting your own rights as well as
14 the rights of everyone here in the courtroom when you
15 follow those instructions.

16 See you all back at 2:15. Thank you.

17 (WHEREUPON, the jury exits the courtroom at 12:49 p.m.)

18 THE COURT: Any motions?

19 MS. WICKER: Your Honor, for the record, we make a
20 motion for a directed verdict at this time.

21 THE COURT: Okay. Well, I'm going to find that there
22 is sufficient evidence on which a reasonable person could
23 conclude that there was enough to go forward. Okay.

24 MS. WICKER: Yes, sir.

25 THE COURT: All right. Mr. Edwards?

1 DEFENDANT EDWARDS: Yes, sir.

2 THE COURT: Please consider yourself still under oath.

3 Have you made a decision at this time about whether or
4 not you're going to testify?

5 DEFENDANT EDWARDS: Yes, sir.

6 THE COURT: All right. What is that?

7 DEFENDANT EDWARDS: No, sir.

8 THE COURT: You're not going to testify?

9 DEFENDANT EDWARDS: No, sir.

10 THE COURT: Have you had adequate time to discuss it
11 with your attorney?

12 DEFENDANT EDWARDS: Yes, sir.

13 THE COURT: Do you have any questions you want to ask
14 about that?

15 DEFENDANT EDWARDS: No, sir.

16 THE COURT: And is that your free and voluntary
17 decision?

18 DEFENDANT EDWARDS: Yes, sir.

19 THE COURT: All right.

20 Does the defense anticipate any other evidence to be
21 presented?

22 MS. WICKER: No, sir, Your Honor.

23 THE COURT: Okay. Well, now's a good time.

24 Ms. Paoletti, you were chomping at the bit at the beginning
25 of the day to talk about jury charges. Now is the time.

1 MS. PAOLETTI: Your Honor, I think that all of these
2 that we would request would be part of your standard
3 charge, but just on circumstantial evidence, that the State
4 is not required to prove motive, and charge on expert
5 witnesses.

6 THE COURT: Anything from the defense?

7 MS. WICKER: No, sir, Your Honor.

8 THE COURT: Okay. Do you want something on failure of
9 the defendant to testify?

10 MS. WICKER: Yes, sir, Your Honor.

11 THE COURT: Okay. All right. I'll see everybody at
12 2:15.

13 (WHEREUPON, a recess is taken at 12:51 p.m.)

14 THE COURT: All right. Anything before we bring the
15 jury?

16 MS. PAOLETTI: Nothing from the State, Judge.

17 MS. WICKER: Nothing from the defense, Your Honor.

18 THE COURT: Okay.

19 (WHEREUPON, the jury entered the courtroom at 2:20 p.m.)

20 THE COURT: All right. Ladies and gentlemen, if
21 you'll remember, yesterday I told you that I divide a trial
22 into five parts. Well, we have concluded the first two
23 parts, so the opening statements are finished and now all
24 of the evidence and testimony that's going to be presented
25 in this trial has been presented and is before you. So at

1 this time, we're going to move forward to part three which
2 are the closing arguments of these attorneys. Y'all paid
3 great attention throughout the course of the trial up to
4 this point, and I implore you to continue to pay great
5 attention to the arguments of these fine attorneys.

6 MS. PAOLETTI: May it please the Court, Your Honor.

7 THE COURT: Yes, ma'am.

8 CLOSING ARGUMENTS

9 MS. PAOLETTI: Well, we started off yesterday with a
10 question, and the question was, what happened? What
11 happened to **Minor** that caused him to die? And now that, as
12 Judge Miller told you, all the evidence has been
13 introduced, we have the evidence that answered that
14 question, what happened.

15 Know this, that the answer that you heard from the
16 professionals in this case, the medical personnel and law
17 enforcement, it's not the answer that they wanted to come
18 to. But I think we can agree that, based on the fact that
19 all of these physicians separately and independently
20 reached the conclusions that they did about what happened
21 and about whether or not the injuries this child had were
22 accidental or could have been accidental or whether they
23 were inflicted speaks volumes about their opinion about
24 what happened. And they all agree. And there was no
25 challenge of Dr. Wards' testimony that these injuries were

1 not accidental and that they were inflicted or abusive
2 injuries to this child.

3 Dr. Bradshaw today came and told you that on Tuesday,
4 just a couple of days before this child presented in the ER
5 with a bleeding brain, that he was fine. He was a normal,
6 healthy 11-week-old baby boy.

7 And I did not ask Minor mother about what happened to
8 his heart to make her cry or to make anybody else cry, but
9 it is more evidence that this child was fine. He didn't
10 have any medical problems that would explain this, and
11 that's been corroborated by these physicians' testimonies.
12 But that's why I asked her that question.

13 And did you hear the list of organs that Dr. Ward told
14 you that were harvested that he never even got to see
15 because they were harvested and donated for transplant to
16 other infants? Because he was fine.

17 Dr. Avant and Dr. Johnson came and told you about the
18 mechanisms that cause the injuries that Minor had, what
19 doctors would formerly call shaken-baby syndrome, now
20 called abusive head trauma. And you have no explanation,
21 no offered reason why a baby would show up with these
22 injuries, no external injuries and the bleeding on the
23 brain and bleeding in the eyes.

24 They told you how those injuries are caused, and just
25 as importantly as how those injuries are caused, they told

1 you how the injuries are not caused. They are not caused
2 by CPR, they are not caused by any household accident, and
3 they are not caused by something that people just don't
4 know, just I don't know. One minute you have a healthy
5 normal baby, and the next minute he's unresponsive with
6 those injuries. I don't know. That's just not what the
7 medical evidence tells us is true about the injuries that
8 he had.

9 And then Dr. Ward who has the opportunity to actually
10 look inside and actually not even look at a CT, but he
11 does. He gets to go inside and actually look at the brain
12 of these children, and all of his findings corroborated
13 what the physician saw on the studies and the imaging that
14 they saw.

15 And in addition to corroborating the findings from
16 the CT, swelling in the brain and bleeding, the trauma to
17 this child's neck and his spine, the degree of force and
18 violence that would be required to cause these type of
19 injuries, that if anybody witnessed these injuries
20 happening to a child, they would know immediately that the
21 child needed medical attention. It would not be a scenario
22 that the injuries or that the force and violence of these
23 injuries could go unnoticed by anyone who was in the
24 vicinity of a child who received these type of injuries. I
25 don't think those physicians could have been any more clear

1 about whether or not those injuries were inflicted on that
2 child.

3 And this is what the defendant says. He was fine at
4 the hospital, then he got home and he wasn't breathing.
5 Ladies and gentlemen, normal healthy babies do not just
6 spring up with retinal hemorrhages, they don't have
7 spontaneous subdural hematomas on their brain and
8 subarachnoid bleeding, and they do not have damage to the
9 nerve roots in the front and the back of their neck and
10 blood the length of their spine. Those injuries were
11 inflicted on **Minor** and there were two people who had any
12 contact with him for at least two days before he presented
13 with these injuries, and there was one person who was with
14 him when he quit breathing.

15 And please remember what Dr. Avant told you about the
16 injuries that he had. They were acute. He would have been
17 immediately symptomatic after these injuries occurred.

18 So let's look at the timeline of events based on what
19 we know from the evidence and testimony about the timing of
20 all this besides the fact that the defendant was the person
21 who was with the child when he became symptomatic. Around
22 11:29 or 11:30 the defendant drops Ms. Kennedy off at the
23 emergency room. That was corroborated by the surveillance
24 video. She told you that she saw herself walking into the
25 emergency room about that time.

1 Shortly after that, there was a phone conversation
2 with Ms. Kennedy inside the emergency room and the
3 defendant outside with the baby talking about whether or
4 not he's going to stay and wait for her or go home. And he
5 decides that he's going to go home.

6 And then the next phone call, what Ms. Kennedy says
7 she remembers that it was about 10 or 15 minutes later.
8 Well, he wouldn't have been home in 10 or 15 minutes based
9 on what she said the length of the distance between the
10 hospital and their apartment was. And she also agreed with
11 me that the phone records reflect that the phone call was
12 at 11:59 which was more like 30 minutes later.

13 And then just after midnight, the defendant shows up
14 at Danielle Samples' house with **Minor** who was not breathing.

15 At 12:23 Josh Brown with EMS told you that he first
16 put his hands on that baby. He had no pulse, no heartbeat,
17 his pupils weren't responding, his limbs were limp, he's
18 got a tiny little bit of electrical activity in his heart.
19 And that is important as well, based on what Dr. Avant told
20 you about what the significance of that tiny little bit of
21 electrical activity in his heart. It means that his
22 symptoms had not started hours before. They started very
23 close in time to when he presented to medical personnel for
24 the first time at 12:23 a.m.

25 And then we have the CT early next morning after he's

1 been admitted to the hospital when we can first see the
2 injuries that explain the symptoms that he's showing, which
3 is no brain activity whatsoever.

4 Dr. Avant told you that he would characterize the
5 blood that you could see on that CT as acute because it was
6 bright white, meaning that it was newly there.

7 Dr. Ward told you that these bleeds on this child's
8 brain were not going to continue after blood flow had
9 ceased to his brain, and he was not breathing when he got
10 to the emergency room. So we know that this bleeding has
11 occurred within a very short period of time from when he
12 got to the emergency room.

13 Both Ms. Kennedy and the defendant say that the
14 defendant [sic] was fine when they left for the emergency
15 room and fine when they got to the hospital. In that time
16 between when the defendant dropped Ms. Kennedy off at the
17 emergency room and when he called her saying that **Minor**
18 wasn't breathing was more than enough time for him to shake
19 this baby to cause these injuries. It would take seconds,
20 seconds in a moment when he apparently snapped to shake
21 that baby and cause those injuries.

22 Dr. Avant told you he would have been symptomatic
23 immediately, and he was. And that's why the defendant
24 called Ms. Kennedy to tell her that he wasn't breathing.
25 So we know what happened.

1 What happened is not a mystery in this case. Why?
2 First, let me tell you this, and Judge Miller is going to
3 tell you this when he talks to you about the law. The
4 State is never required to prove motive in a criminal case.
5 It is an interesting thing that we like to talk about, it's
6 our human nature to want to understand why and how
7 something like this could happen. That's totally normal.
8 But the law does not require that the State give you
9 information that it just does not have. Can't climb inside
10 the brain of somebody who would do this and get that
11 information for you. There was a 26-year-old man and an
12 11-week-old infant. I can't tell you why. The State's not
13 required to tell you why and is not required to prove why.

14 Now, I do believe that there is evidence in the record
15 that might shed some light on that question, however. This
16 was a 26-year-old man who has spent his entire weekend
17 babysitting with his girlfriend an 11-week-old infant who
18 was not his. The testimony from Ms. Kennedy was that she
19 was doing most of the care for the baby during the weekend,
20 but Sunday afternoon around 5:00, she said she started
21 getting sick and care of the baby went from her to the
22 defendant.

23 She told you that before they were going to the
24 hospital, that he's the one who put the baby in the car
25 seat. It's 11:30 or so, or 11:20 when they decide that

1 they're going to the emergency room, and you have to put a
2 baby in the car in November, drive to the emergency room,
3 leave Ms. Kennedy at the emergency room, so now he's by
4 himself with the 11-week-old baby. He doesn't know how
5 long he's going to be by himself. He's got his -- the
6 person who was taking care of the baby who is sick and
7 can't do that, decides that he's not going to wait and goes
8 back to the emergency room -- I mean goes back to their
9 apartment.

10 We know that **Minor** woke up at some point between when
11 he left the hospital, that baby in the car, and when he
12 called Tangela Kennedy to say the baby wasn't breathing.
13 And the way that we know that is that he told police that
14 he got that baby out to change his diaper. Is there any
15 way that at -- now, at this point, 11:40, 11:45 at night
16 that you'd take a sleeping baby out of a carrier to change
17 his diaper? No. He woke up.

18 Remember what Dr. Bradshaw told you about why they
19 talk to parents about the dangers of shaking a baby at the
20 two-month visit? Because between 8 and 12 weeks, babies
21 just cry. They just cry. And sometimes you can't console
22 them.

23 I don't know what happened in the car. We know he
24 woke up. But the State is not required to prove to you
25 why. But we do know that something terrible happened. We

1 know that something caused the defendant to snap on this
2 child and to shake him violently.

3 I'm almost finished. And I want to talk to you, take
4 you all the way back to the very first piece of evidence
5 that he heard in this case as we started trying to figure
6 out what happened. I want to talk to you about the 9-1-1
7 call that did happen and then the 9-1-1 call that did not
8 happen.

9 (WHEREUPON, State's Exhibit No. 18 was played in open
10 court.)

11 MS. PAOLETTI: The dispatcher says, "What happened?"
12 And there's no answer. "Sir, did you see what happened?"
13 Here, here, here, here. And he hands the phone to the
14 mother of this baby who was on the floor trying to do CPR.

15 Now that we know what happened, we know why he didn't
16 want to answer that question. Pretty much because he knows
17 what happened, but he cannot tell.

18 Let's talk about the 9-1-1 call that didn't happen.
19 And this is the only part of the law that I'm going to talk
20 to you about briefly, and Judge Miller is going to give you
21 a detailed explanation of it, and it's straightforward.
22 You don't need me to talk to you about it to understand it.
23 But one of the things that the State is required to prove
24 is that the child abuse or neglect that caused this child's
25 death happened under circumstances manifesting an extreme

1 indifference to human life. There is no dispute that the
2 defendant was alone with Minor when he became unresponsive
3 and he discovered that he had quit breathing. And this man
4 has just dropped off a walking, talking -- a grown-up, an
5 adult with a stomach virus at the emergency room. She is
6 able to go in on her own power, she is able to handle her
7 own admission, and he's just taken her to the emergency
8 room, and he does not call 9-1-1 when he has an 11-week-old
9 baby in his care that is not breathing. He does not
10 attempt to do CPR. He doesn't get in the car and take the
11 baby back to where he just was. He calls Ms. Kennedy.

12 And about Ms. Kennedy. I don't care what she told him
13 to do. First of all, she was not there. She did not see
14 that baby. Danielle Samples saw that baby, and she knew
15 immediately that he needed medical care. He never should
16 have made that phone call to Tangela Kennedy.

17 Did you hear what Dr. Avant told you about how
18 important even five minutes are to a baby whose brain is
19 not getting oxygen? And because of the defendant's actions
20 and his refusal to call 9-1-1 or administer aid to this
21 baby in any way has probably added 10 or 15 minutes of time
22 when that baby's brain is not getting oxygen. If he had
23 called 9-1-1, this outcome might have been different. For
24 him to refuse to do that under those circumstances
25 manifests an extreme indifference to Minor life. It's

1 also evidence that he did something terrible to that baby.

2 When we try cases in these courtrooms, you know, it's
3 easy for us to think about one side wins and whoever -- you
4 know, one side loses. And that just could not be further
5 from the truth in this case. There is no winner. None.
6 Nobody. What we can hope for, the best that we can hope
7 for is just a tiny little bit of justice, and that's what
8 I'm asking you for.

9 MS. WICKER: May it please the Court.

10 At the outset, I told you this is a tragic case, and
11 it really, truly is. An innocent child is no longer with
12 us.

13 We heard a heart-wrenching 9-1-1 phone call. We heard
14 described in detail the brain hemorrhaging, the brain
15 swelling, the retinal hemorrhaging. But what we did not
16 hear is when specifically this occurred and what
17 specifically happened.

18 We heard from multiple law enforcement officers. They
19 testified they talked to the mother, Danielle Samples, they
20 talked to Tangela Kennedy, and they talked to Tarran
21 Edwards, none of whom could identify what in the world
22 happened that caused this.

23 Mr. Edwards spoke to law enforcement at length. It's
24 recorded. The State didn't provide that to you.
25 Nevertheless, Investigator Hammett told you that there was

1 nothing contained therein that would lead them to
2 investigate any further. But why? We have a weeks-old
3 child who is deceased and no one can tell us why, what
4 happened. This baby has been watched by many people in his
5 short life: his mother, his father, his nanny, Tangela
6 Kennedy, Tarran Edwards. He lives in a house full of
7 siblings. He's got three of them. All the doctors can do
8 is give us a time frame as to when this might have
9 happened. We heard from multiple experts, and no one can
10 say precisely when this event occurred. No one can tell us
11 who did it, precisely what happened.

12 It is natural, it is human nature to want to bring a
13 grieving family some closure to this. And it's convenient
14 that Tarran Edwards is the one that had the baby when he
15 started exhibiting these symptoms. But what possible
16 motive could he have to do this? He didn't have the child
17 long at all. He dropped Tangela off at the hospital. She
18 told you that she had a little stomach bug. She'd called
19 the mother to tell her about it, that Ms. Samples told us
20 that Tangela had contacted her and begged the baby to say.

21 After dropping Tangela off at the hospital, Tarran
22 Edwards returned home, took the baby out, tried to change
23 the baby's diaper and found the baby to be unresponsive.
24 So he calls Tangela, his fiancée who has CPR training,
25 medical training to ask what in the world to do. He's

1 panicked. No one wants to believe that a situation is so
2 severe that you have to call 9-1-1. He's not trained in
3 healthcare or CPR. He doesn't know what else to do. But
4 he does what his fiancée tells him to do. He goes to the
5 mother's house. And while Tangela tries to walk Danielle
6 through the CPR, he calls 9-1-1.

7 When the child ultimately goes to the hospital, the
8 mother rides in the ambulance, and he takes Ms. Samples'
9 other children in his car to the hospital. These are the
10 actions of somebody who cares about this child, not a
11 guilty person. No one says he looked guilty or is making
12 excuses for what happened. He's shocked and horrified by
13 what has happened, and he can't tell anybody what happened
14 because he doesn't know what happened.

15 Everyone wants this family to have some closure. This
16 is awful. But blaming the wrong person is not going to do
17 that. There's so many unknowns. Isn't it incumbent to do
18 further investigation?

19 You heard from over ten law enforcement officers, each
20 describing his involvement. Search warrants were executed,
21 items were seized. Well, what sort of tests were done on
22 them? What forensics were done?

23 And if we can't know for sure who did this or when it
24 happened, we need to continue on with this research. We
25 need to speak to some more people, talk to the nanny, talk

1 to the mom, talk to the dad, talk to Tangela again, talk to
2 Tarran Edwards, test the evidence you seized, talk to the
3 siblings. We want this family to have some closure. We
4 want them to be able to put this tragedy behind them. But
5 just picking the most convenient person, the person who
6 sought help when the baby started exhibiting these symptoms
7 without knowing when for sure this happened and what for
8 sure happened isn't going to bring this family that closure
9 or that justice.

10 It is entirely the State's burden to prove their case
11 beyond a reasonable doubt. They have to prove beyond a
12 reasonable doubt that Tarran Edwards' actions caused this.
13 At best they can only speculate when this might have
14 happened. But what motive does he have for that? He did
15 not have that baby a very long time by himself. He knew
16 Tangela would be home from the hospital soon. He knew he
17 was going to give the baby back to his mother soon. He had
18 no motive to do this. He didn't do this. He didn't commit
19 any act that would have caused these injuries. This is so
20 sad. It's so tragic. But the State cannot meet their
21 burden of proving this beyond a reasonable doubt.

22 When you go back and deliberate, if you think, You
23 know what? Maybe he did something that caused this, that's
24 not guilty. That's not our standard. If you even go back
25 and think, You know what? I bet probably he did this,

1 that's not guilty as well. The State has to prove that
2 what they allege happened, that Tarran Edwards did this
3 beyond a reasonable doubt. You have to be certain that he
4 did. Without knowing exactly when this happened, exactly
5 what happened, without further investigation, they cannot
6 meet that burden, and I would ask you to return a verdict
7 of not guilty.

8 CHARGE ON THE LAW

9 THE COURT: All right. Ladies and gentlemen, during
10 this trial, you and I have certain duties to perform. As
11 the trial judge, it is my responsibility to preside over
12 the trial of the case and to rule on the admissibility of
13 the evidence that's offered during the trial. It is also
14 my duty to charge you the law applicable to the case. And
15 it is your duty as jurors to accept and apply the law as I
16 now state it to you.

17 As I said in my opening comments to you, if you think
18 you have any idea as to what the law is or what the law
19 ought to be and it disagrees with what I now tell you the
20 law is, you have sworn an oath to set aside your own
21 opinion and apply the law precisely as I state it to you.

22 I also remind you that in every case tried in this
23 court before a jury, the jury is the sole and exclusive
24 judge of the facts. A trial judge is not allowed by law to
25 have an opinion about the facts of the case, so please

1 don't think by anything I may have said or done throughout
2 the course of the trial that I have such an opinion. I
3 don't, and you all are the sole judges of the facts.

4 I remind you, again, that the fact that the defendant
5 was arrested, charged and indicted in this case is not
6 evidence of guilt, nor does it create any presumption or
7 inference of guilt. These documents are simply the formal
8 written instruments which contain the charges against the
9 defendant, and they serve as the formal documents by which
10 the case is processed and brought into court.

11 Now, necessarily, your job as jurors requires that you
12 must determine the credibility or believability of the
13 witnesses who have testified. It becomes your duty as
14 jurors to evaluate the evidence and determine which
15 evidence convinces you that it is true, and in determining
16 the believability of the witnesses, you may believe one
17 witness over several or several over one. You may believe
18 the testimony of a witness in its entirety or reject that
19 same testimony in its entirety. You may believe a part of
20 the testimony of a witness and reject the remaining part.
21 And you may consider whether the witness has an interest in
22 the result of the trial, whether the witness is prejudiced
23 towards either the State or the defense, the opportunity
24 for the witness to have seen the matters and things about
25 which the witness has testified, and the way the witness

1 acts on the witness stand or what we call a witness's
2 demeanor.

3 Now, I instruct you and I emphasize that the fact that
4 the defendant did not testify is not a factor to be
5 considered by you in any way in your deliberations on the
6 question of guilt or innocence. It must not be considered
7 by you in any manner whatsoever. Every defendant has the
8 constitutional right to remain silent, and the assertion of
9 this right must not be considered by you in your
10 deliberations.

11 The rules of evidence ordinarily do not permit
12 witnesses to testify to opinions or conclusions. An
13 exception to this rule exists for witnesses we call
14 experts. A witness who, by education and experience, has
15 become expert in some art, science or profession may give
16 an opinion as to the subject the witness has been qualified
17 as an expert in and may also give the reasons for his or
18 her opinion. And you should consider any expert opinion
19 given by a witness, and, like all of the other evidence,
20 give it the weight that you think it deserves.

21 Now, the defendant has pled not guilty to this
22 indictment, and that plea puts the burden on the State to
23 prove the defendant guilty. A person charged with
24 committing a criminal offense in South Carolina is never
25 required to prove themselves innocent, and I charge you

1 that it is a cardinal and a signal rule of the law that a
2 defendant in the criminal trial will always be presumed to
3 be innocent of the crime for which an indictment has issued
4 unless and until guilt has been proven by evidence
5 satisfying you the jury of guilt beyond a reasonable doubt.

6 And a reasonable doubt is the kind of doubt which
7 would cause a reasonable person to hesitate to act. And
8 reasonable doubt may arise from the evidence which is in a
9 case or from the lack or absence of evidence in a case, and
10 you the jury must determine whether or not reasonable doubt
11 exists as to the guilt of the defendant. I remind you the
12 State has the burden of proving each and every element of
13 the crime beyond a reasonable doubt.

14 Now, there are two types of evidence which are
15 generally presented during a trial: direct evidence and
16 circumstantial evidence. Direct evidence directly proves
17 the existence of a fact and does not require deduction.
18 Circumstantial evidence is proof of a chain of facts and
19 circumstances indicating the existence of a fact.

20 And crimes may be proven by circumstantial evidence.
21 The law makes no distinction between the weight or value to
22 be given to either direct or circumstantial evidence.
23 However, to the extent the State relies on circumstantial
24 evidence, all of the circumstances must be consistent with
25 each other, and when taken together, point conclusively to

1 the guilt of the accused beyond a reasonable doubt.

2 If these circumstances merely portray the defendant's
3 behavior as suspicious, the proof has failed. The State
4 has the burden of proving the defendant guilty beyond a
5 reasonable doubt, and the burden rests with the State
6 regardless of whether the State relies on direct evidence,
7 circumstantial evidence or some combination of the two.

8 Now, I will tell you that the defendant is charged
9 with homicide by child abuse. And the State must prove the
10 following things beyond a reasonable doubt: one, that the
11 defendant caused the death of a child under the age of 11
12 while committing child abuse or neglect. Child abuse or
13 neglect is an act or failure to act which causes harm to
14 the child's physical health or welfare. Harm to the
15 child's physical health or welfare means that the defendant
16 either, one, inflicted or allowed to be inflicted on the
17 child physical injury; two, failed to supply the child with
18 adequate food, clothing, shelter or healthcare and this
19 failure caused a physical injury or condition which caused
20 death; or three, abandoned the child causing the child's
21 death.

22 The State must also prove beyond a reasonable doubt
23 that the death occurred under circumstances showing an
24 extreme indifference to human life. The State may also
25 prove homicide by child neglect by proving beyond a

1 reasonable doubt that the defendant knowingly aided and
2 abetted another person to commit child abuse or neglect
3 which resulted in the death of a child under the age of 11.

4 I would tell you that "aid" means to help, to promote
5 the course or accomplishment of or to give support to or to
6 give assistance to. "Abet" means to encourage or appear to
7 favor or support.

8 Those are all the things and the only things which the
9 State must prove beyond a reasonable doubt.

10 Now, ladies and gentlemen, there are two possible
11 verdicts which you may reach in this case. There is no
12 significance whatsoever in the order in which I state them.
13 One has to be stated first. It's either guilty or not
14 guilty.

15 Now, we have prepared a verdict form which we'll send
16 back into the jury room with you, and I think it is
17 self-explanatory. I want to tell you that all 12 of you
18 must agree on your verdict. It must be a unanimous
19 verdict. And your verdict cannot be based on sympathy,
20 passion, prejudice, emotion or any other consideration not
21 in evidence in the case. You have no friends to reward,
22 you have no enemies to punish.

23 Madam Forelady, when the jury has reached a unanimous
24 decision, if you would, mark the appropriate spot on this
25 verdict form, sign your name, indicate to the bailiffs, and

1 we will receive you back into the courtroom at that time.

2 I'm going to excuse you at this time, ask you to
3 return to your jury room and don't begin your deliberations
4 just yet. I need to go over my charge on the law with the
5 attorneys to make sure that I did not misstate something or
6 omit something. So when the evidence comes back with the
7 verdict form, you all may begin your deliberations.

8 So with the exception of Ms. Kelley, if you all would,
9 retire to your jury room at this time. Thank you.

10 (WHEREUPON, the jury exits the courtroom at 2:56 p.m.)

11 THE COURT: Ms. Kelley, this is always a most
12 difficult part for me. I've asked you to come up here and
13 listen to the trial just as those 12 people have. You are
14 every bit as qualified and I wish I could allow you to
15 continue, but the law only allows 12. So you are, at this
16 time, excused or finished with your service in this case.
17 And call back after 6:00 tonight. Stay, go, whatever you'd
18 like to do.

19 Thank you, ma'am.

20 THE COURT: All right. Any exception or objection to
21 the charge from the State?

22 MS. PAOLETTI: No, sir, Judge.

23 THE COURT: From the ---

24 MS. WICKER: Nothing from the defense, Your Honor.

25 THE COURT: Okay. You all go through the evidence,

1 make sure you got it together. Here's the verdict form in
2 case you all want to look at it.

3 (WHEREUPON, a recess is taken at 2:56 p.m. and the jury
4 begins their deliberations.)

5 THE COURT: All right. I just got a list of questions
6 from the jury. Number one, when is the last time
7 Ms. Kennedy had eyes on the baby? What was the baby doing?
8 Two, how long after trauma could a heart pulse electrical
9 activity still exist? Three, who put the baby in the car
10 seat on the way to the ER? Four, we want Ms. Kennedy's
11 transcript.

12 THE COURT: Obviously, I can't answer any of these
13 questions. We can play Ms. Kennedy's testimony.

14 MS. PAOLETTI: Your Honor, I believe if you just play
15 Ms. Kennedy's testimony, that will answer two of those
16 questions for them. And then as to the question about how
17 long after trauma can the -- what's that question exactly
18 did they ask?

19 THE COURT: Could a heart pulse electrical activity
20 still exist.

21 MS. PAOLETTI: And I believe that Josh Brown, EMS's
22 testimony might answer that question for them, but
23 obviously they didn't ask specifically for that. But I
24 believe that the closest we can get to an answer to that
25 would be in his testimony, or Dr. Avant.

1 (WHEREUPON, the jury entered the courtroom at 3:44 p.m.)

2 THE COURT: Madam Forelady, thank you. I have your
3 questions. And what I can tell you is this. I cannot
4 specifically answer any of your questions. They relate to
5 a determination of the facts in the case, the facts as you
6 all find them from the evidence that was presented.

7 What we can do and what we are prepared to do at this
8 time is to replay Ms. Kennedy's testimony verbally. It's a
9 little quick to have a transcript prepared. So we will do
10 that. It is approximately 20 minutes long. Let's play
11 that, let you all digest it, see if you have other
12 questions, and we'll take it from there. All right.

13 (WHEREUPON, the testimony of Tangela Kennedy was replayed
14 for the jury.)

15 THE COURT: Okay. Thank you, all. See if that
16 answers the questions you have. If you have any others,
17 let us know.

18 (WHEREUPON, the jury exits the courtroom at 4:08 p.m., and
19 a recess is taken.)

20 THE COURT: All right. This is an emotional case. I
21 don't know what the verdict's going to be, but I don't want
22 any outbursts in the courtroom.

23 Okay.

24 (WHEREUPON, the jury entered the courtroom at 5:17 p.m.)

25 THE COURT. All right. Madam Forelady, I understand

1 you have reached a verdict.

2 JURY FOREPERSON: Yes, we have, Your Honor.

3 THE COURT: All right. Would you hand it to the
4 bailiff for me, please.

5 All right. Madam Clerk, would you publish.

6 VERDICT

7 THE CLERK: Yes, sir, Your Honor.

8 Your Honor, this is Case No. 2014-GS-23-467, Tarran
9 Edwards. As to the charge of homicide by child abuse, we
10 the jury find the defendant guilty. I certify this
11 decision was the unanimous decision of the jury, Frances A.
12 Rizzo.

13 If this was your verdict in the jury room and is your
14 verdict now, please raise your right hand.

15 (WHEREUPON, the jurors raised their right hands.)

16 THE CLERK: Thank you.

17 THE COURT: All right. Anything further from the jury
18 from the State?

19 MS. PAOLETTI: No, sir, Judge.

20 THE COURT: From the defense?

21 MS. WICKER: No, sir, Your Honor.

22 THE COURT: All right. Ladies and gentlemen, I want
23 to thank you for your service. I wish I could tell you you
24 were done for the week, but I am informed I need to ask you
25 to call back tomorrow after 6:00. So you don't need to

1 report tomorrow, okay? You all have a pleasant evening,
2 and thank you again for your service.

3 And we do need -- Ms. Rizzo, we need your signature in
4 one last place. You're welcome to go, stay, whatever you'd
5 like to do. All right.

6 (WHEREUPON, the jury exits the courtroom at 5:19 p.m.)

7 THE COURT: All right. Come on around.

8 How many days has he been in jail?

9 MS. PAOLETTI: Your Honor, I failed to check this
10 morning, but I believe it's 800 and something. He's been
11 incarcerated since November 18, 2013.

12 THE COURT: Anything you want to tell me?

13 MS. WICKER: Your Honor, we understand the jury has
14 spoken. We thought we had some issues to argue. We would
15 just respectfully ask that you be as lenient as possible.
16 Mr. Edwards does have a loving and supporting family.

17 MS. PAOLETTI: And, Your Honor, if you want to hear
18 the defendant's criminal history.

19 THE COURT: Yes, I would. Thank you.

20 MS. PAOLETTI: 2008 public disorderly conduct; 2009
21 resisting arrest, simple possession, open container, false
22 information to police; 2012 criminal domestic violence,
23 public disorderly conduct and loitering to engage in drug
24 activity; 2013 burglary second degree, unlawful carrying of
25 a pistol, DUS and reckless driving.

1 THE COURT: Okay. Is he on probation? Are you on
2 probation now?

3 DEFENDANT EDWARDS: No, sir.

4 MS. PAOLETTI: And, Your Honor, may I just consult
5 with the victim's parents and see if they want to
6 address at the appropriate time?

7 THE COURT: Yeah. Go ahead. Talk to them.

8 MS. PAOLETTI: Your Honor, they are content to leave
9 it in your discretion.

10 THE COURT: Okay.
11 Anything you want to say?

12 DEFENDANT EDWARDS: No, sir. Not really. I don't
13 have nothing to say. I really don't have nothing to say.
14 I didn't do it. I didn't do it. I won't harm a child. I
15 feel like I'm being charged for harming a child is
16 something I didn't do.

17 SENTENCE

18 THE COURT: I want to compliment the lawyers on an
19 excellent job, both from the State and from the defense.
20 This is a terrible case, horrific. 30 years.

21 DEFENDANT EDWARDS: Do I get time credit for ---

22 THE COURT: Yes, sir. You get 813 days credit.

23 (WHEREUPON, Court's Exhibit Nos. 1 and 2 were marked for
24 identification.)

25 *****END OF TRANSCRIPT OF RECORD*****

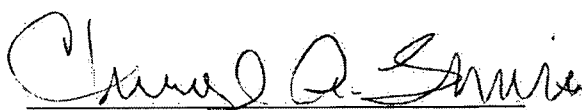
1 CERTIFICATE OF REPORTER

2
3 STATE OF SOUTH CAROLINA)4 COUNTY OF GREENVILLE)
5
6

7 I, CHERYL A. SMITH, Official Court Reporter for the
8 Thirteenth Judicial Circuit of the State of South Carolina,
9 do hereby certify that the foregoing is a true, accurate
10 and complete Transcript of Record of the proceedings had
11 and evidence introduced in the trial of the captioned case,
12 relative to appeal, in the Court of General Sessions for
13 Greenville County, South Carolina, on the 8th and 9th day
14 of February, 2016.

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

17
18 April 8, 2016
19
20

21 
22

23 Cheryl A. Smith, CVR-M

24 Court Reporter
25

③ Who put the
baby in the car
seat on the way
to the ER?

④ We want
Miss Kennedy's
transcript.

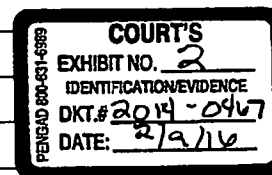
Francis A. Pizzo
2/9/16

① When is the last
time Miss Kennedy
had eyes on the
baby?

What was the baby
doing?

②

~~What was the baby
doing?~~



How long after trauma
could a Heart
Pulse ^{Electrical} Activity
still exist?

Francis A. Pizzo 2.9.16

243

WITNESSES

Henry Hammett

Greenville County Sheriffs Office

11/25/2013

U.C. Sanders 4/22/14

ARREST WARRANT NUMBER
2013A2330210013

ACTION OF GRAND JURY

TRUE BILL

Ricky T. Neal

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

Guilty

Francis A. Pizzo 2.9.16

Foreperson of Petit Jury

Date:

DOCKET NO. 2014-GS-23-

LBP

000467

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

April

TERM 2014

THE STATE

vs.

TARRAN MARTEIOUS EDWARDS

Indictment for

✓
2356

HOMICIDE BY CHILD ABUSE

VIOLATION § 16-03-0085(A)(1)

FILED

JAN 27 2014

Clerk of Court
Greenville County

ENTERED
ACCT.

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
HOMICIDE BY CHILD ABUSE

APR 22 2014

At a Court of General Sessions, convened on

the Grand Jurors of Greenville

County present upon their oath:

That TARRAN MARTEIOUS EDWARDS did in Greenville County, on or about the 17th or 18th day of November 2013, cause the death of Minor [REDACTED], a child under the age of eleven, while committing child abuse or neglect, and the death occurred under circumstances manifesting an extreme indifference to human life. This is in violation of §16-03-0085(A)(1) of the South Carolina Code of Laws (1976) as amended.

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

Yvonne Laoluthi
SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Greenville

STATE VS.

Tarran Marteous Edwards

AKA:

Race: BLACK Sex: M Age: 28

DOB: SS#: [REDACTED]

Address: [REDACTED]

City, State, Zip: Greenville, SC 29605

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Homicide By Child Abuse (20y To Life)

IN THE COURT OF GENERAL SESSIONS

245

INDICTMENT/CASE#: 2014GS2300467

A/W#: 2013A2330210013

Date of Offense: 11/18/2013

S.C. Code § : 16-03-0085

CDR Code #: 2356

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0085 of the S.C. Code of Laws, bearing CDR Code # 2356

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature] 69114

Paolletti, Leigh B.

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 813 DAYS☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter: C. Smith

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2130

Sentence Date: 2-9-16

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 21st day of September, 2016.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 21st day of September, 2016.