

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Honorable Steven H. John, Circuit Court Judge

RECEIVED

APR 28 2017

THE STATE,

SC Court of Appeals
RESPONDENT,

V.

HASSAN ROBERT TYLER,

APPELLANT

APPELLATE CASE NO 2016-000708

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY)

2014-GS-26-04210

STATE OF SOUTH CAROLINA,)

Plaintiff,)

Transcript of Record

vs.)

March 21-24, 2015

HASSAN ROBERT TYLER,)

Defendant.)

B E F O R E:

Honorable Steven H. John
Horry County Courthouse
Conway, South Carolina

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VOIR DIRE

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1 (MARCH 21, 2016 - DAY ONE)

2 (REPORTER'S NOTE: The following takes place in the presence
3 of the Jury Venire.)

4 VOIR DIRE:

5 THE COURT: All right, ladies and gentlemen, what we're
6 gonna do is I'm gonna be asking you a series of particular
7 questions that are more geared for the trial that we will be
8 conducting first this particular week.

9 The State of South Carolina has charged the Defendant
10 Hassan Robert Tyler with homicide by child abuse and that the
11 State and the Defense are in agreement the Defendant was
12 excused to do something with the approval of the Court this
13 morning, so that's why he's here -- that's the only reason he
14 is not here, but that is with the approval of the Court and
15 the State and Defense.

16 Now, regarding this particular matter, I'm gonna read to
17 you some basic and very brief allegations that are in the
18 indictment. The indictment is the charging document which
19 brings the matter to court. It is not evidence, cannot be
20 considered by anyone as evidence in the case. The only reason
21 I'm reading it to you is to see if you happen to know
22 anything, have any information about this particular case in
23 this particular matter.

24 Oh, well, you are here, Mr. Tyler. Very good. All
25 right, sir. Good.

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VOIR DIRE

1 All right. So the State of South Carolina has charged
2 the Defendant, Hassan Robert Tyler, that he did in Horry
3 County, on or about December 19th, 2013, caused the death of
4 **Minor**, that's **Minor**, a child approximately three
5 months of age, three months old, while committing child abuse
6 or neglect and the child's death occurred under circumstances
7 manifesting an extreme indifference to human life all in
8 violation of the Code of Laws of the State of South Carolina,
9 1976, as amended.

10 Is there any member of the jury panel that knows anything
11 about this particular case, has any information about this
12 case that they need to bring to the Court's attention at this
13 time?

14 (REPORTER'S NOTE: No response.)

15 THE COURT: I'm gonna read to you now the list of
16 possible or potential witnesses, just because I read the name,
17 does not mean the witness will actually be called, but I have
18 to list to you the whole list of people that might be called
19 to see if you happen to know any one of them in case they are
20 called as a witness in this case: Dr. Robert Barefoot,
21 Emergency Room, Loris-McCleod Hospital, Loris, South Carolina;
22 Kristin Norris, that's with a K, Kristin Norris, Registered
23 Nurse at Loris McCleod Hospital, Loris South Carolina; Dr.
24 Edward Lee Proctor, Forensic Pathologist, Myrtle Beach; Joseph
25 Vaught was the -- apparently, the former Chief of Police in

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VOIR DIRE

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1 Loris; David Weaver, South Carolina Law Enforcement Division;
2 Pamela Sellers, Horry County DSS; Dr. Ann Abel, A-B-E-L,
3 Medical University of South Carolina; Stacy Cannon, Seashore
4 Pediatrics; Mavis Turner, McCleod Hospital, Florence; Jill
5 Domogauer, Horry County Police Department; Dr. Michael Brown,
6 Carolina Radiology Associates; Aaron Wilkes with the School
7 System in Horry County; Troy Bernard Miles, Loris; Tametra, T-
8 A-M-E-T-R-A Stinson in Loris; Richard Kostanek, K-O-S-T-A-N-E-
9 K, Horry County Sheriff's Office; Bernard Grate, Horry County
10 Police Department; Will Lynch, Horry County Drug Enforcement
11 Unit, Horry County Police; Hassan Tyler of Loris, South
12 Carolina; Robert Tyler of Loris, South Carolina; Diane Tyler
13 of Loris; and Kenya Tyler all of Loris.

14 Is any member of the jury panel that's related by blood
15 or marriage, close personal friends, acquaintances of, any of
16 these possible or potential witnesses the Court has named? If
17 so, please stand.

18 All right. Yes, ma'am, your name and juror number,
19 please, ma'am?

20 JUROR 298: My juror number is 298; my name is Tracy
21 Samuel.

22 THE COURT: And who might you know, please, ma'am?

23 JUROR 298: I went to school with Pam Sellers.

24 THE COURT: All right, ma'am.

25 JUROR 298: And I am a friend of Aaron Wilkes.

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BY THE COURT

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1 Thank you very much.

2 (REPORTER'S NOTE: Remaining Jury Venire exits courtroom.)

3 THE COURT: All right. Before we break for lunch, is
4 there anything that we need to do from the State at this point
5 in time?

6 MR. SPRATLIN: No, Your Honor. We're gonna deal with
7 *Jackson v. Denno* after lunch, that's the only thing.

8 THE COURT: Yes. Yes. So, we'll be proceeding with the
9 *Jackson v. Denno* hearings after we come back from lunch.
10 Anything from the Defense?

11 MR. LONG: Yes, Your Honor. As we had the conference at
12 the bar concerning the one juror who said that anything
13 involving children makes her emotionally upset or distraught
14 and Your Honor set her aside?

15 THE COURT: Yes.

16 MR. LONG: We made a request of voir dire of any jurors
17 that have children that have died as a result of accident or
18 injury or disease. We thought for that same reason, Your
19 Honor, that any jurors with children who have died under those
20 circumstances, would have the same emotional response to this
21 charge in this case. So we would respectfully request that
22 the voir dire be made part of the record if Your Honor
23 properly said denied

24 THE COURT: All right, sir. Very good. What I'm -- my
25 position in this -- in that and the reason that I denied it

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BY THE COURT

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1 was we've identified jurors with minor or adult children and
2 then before I asked the jury panel the last question, I
3 reminded them of the indictment, of course reminding them that
4 those were only allegations by the State, but reminding them
5 of the charge brought by the State against the Defendant and
6 asked them if they knew of any reason that they could not give
7 the State and the Defendant a fair impartial trial and if for
8 any reason whatsoever they could not be a fair and impartial
9 juror and based upon that, we did have three jurors respond to
10 that -- with that and I believe the Court's question properly
11 brought the issue to the attention of the Jury more than once.
12 Obviously at the very beginning I asked them and stating the
13 allegations of the State and asked them if they had any issues
14 and again during the -- during the colloquy with them, I asked
15 them if they had any kind of personal, political, religious,
16 philosophical belief that they would have that would prevent
17 them from being a fair and impartial juror. I think all of
18 those combined develops more than sufficient information for
19 the State and the Defense to properly vet the jury and make
20 their selections in this particular case and based upon that,
21 I respectfully decline to ask the -- the question posed as to
22 whether or not a juror had lost a child, any child that had
23 died as a result of any reason. All right.

24 MR. LONG: Thank you, Your Honor.

25 THE COURT: Thank you very much.

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MOTIONS

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1 All right. Further matters from the Defense's
2 perspective before we break for lunch?

3 MR. LONG: No, Your Honor. At some point in time, we
4 will move to sequester witnesses on behalf of the State.

5 THE COURT: Well, why don't we discuss that right now.

6 MR. LONG: Yes, sir.

7 MOTIONS:

8 THE COURT: Is there any problem with that, Solicitor?

9 MR. SPRATLIN: No, Your Honor. I would ask that the
10 representative of the victim, the mother of the victim,
11 Tametra Stinson be allowed to remain in the courtroom.

12 THE COURT: Okay.

13 MR. SPRATLIN: As well as my chief investigating officer,
14 Agent David Weaver, with the South Carolina Law Enforcement
15 Division.

16 THE COURT: All right.

17 MR. LONG: Certainly, no objection, Your Honor.

18 THE COURT: So will the representative of the victim, you
19 said that the mother and what was her name again?

20 MR. SPRATLIN: *Tametra Stinson.

21 THE COURT: I'll allow her to stay and then your chief
22 investigating officer will be allowed to stay. The other
23 witnesses will be sequestered and will need to be called
24 however it is that you intend to call them, but obviously once
25 they testify then they're free to stay in the courtroom and

State v. Tyler - 2014-GS-26-04210
MOTIONS

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1 observe the proceedings.

2 MR. LONG: And would that be in connection with the
3 beginning of the *Jackson v. Denno* hearing, Your Honor?

4 THE COURT: If you so request, yes, sir.

5 MR. LONG: Yes, sir, Your Honor.

6 THE COURT: Very good. So granted on that, too. So if
7 you'll make those accommodations, Solicitor.

8 MR. SPRATLIN: Yes, Your Honor. I will have all my
9 witnesses wait outside except for my investigating officer and
10 the victim representative.

11 THE COURT: All right. Very good. All right. Could you
12 check and see if they've selected a foreperson yet?

13 MR. LONG: Your Honor, when the Jury is sworn, my
14 understanding is bond can be extinguished?

15 THE COURT: Yes, sir.

16 MR. LONG: My client has shown for court each and every
17 time he's been required. This case has been pending for over
18 three years. He's a lifelong resident of Loris. We'd ask
19 Your Honor to allow him to remain at large or loose or out on
20 bond or whatever while this case progresses?

21 THE COURT: All right. Have you had an opportunity to
22 communicate with the bonding company to see if they would stay
23 out or stay on the bond?

24 MR. LONG: Who's your bondsman?

25 I have not yet, Your Honor.

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MOTIONS

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1 THE COURT: All right, sir. Why don't you do that over
2 lunch if you can maybe have your office communicate with the
3 bonding company and see if they will stay out or stay on the
4 bond during the pendency of the trial until the Jury reaches a
5 verdict and then let me know after lunch what that answer is.

6 MR. LONG: Thank you very much, Your Honor.

7 THE COURT: All right. Very good. Now for your
8 information, Solicitor and Mr. Long, the Jury has selected
9 Juror Number 190, Juror Number 190 to be the foreperson of
10 this particular jury.

11 THE COURT: All right. Juror Number 190.

12 All right. So, with that then, I'll see y'all back at 2
13 o'clock then.

14 MR. LONG: Thank you very much, Your Honor.

15 THE COURT: At 2 o'clock we'll get started. Thank you
16 very much.

17 MR. SPRATLIN: Thank you, Your Honor.

18 (RECESS.)

19 *****OFF THE RECORD*****

20 (On the Record.)

21 (REPORTER'S NOTE: The following takes place outside the
22 presence of the Jury.)

23 THE COURT: All right. Solicitor, you ready to proceed
24 with *Jackson v. Denno* hearing?

25 MR. SPRATLIN: Yes, Your Honor. There was also one other

1 matter or two other matters. First off, the State and Defense
2 have entered into a stipulation, signed a stipulation
3 agreement basically that the -- stating that the teenage son
4 of the Defendant was actually in school for the entire day on
5 December 19th, 2013. I have a signed stipulation form by
6 myself and the attorney for the Defendant, Mr. J.M. Long. At
7 the appropriate time, I'd tender that for the Court.

8 THE COURT: Okay. Well, does that have anything to do
9 with the *Jackson v. Denno*?

10 MR. SPRATLIN: It does not, Your Honor.

11 THE COURT: All right. So y'all will enter that once the
12 Jury is sworn and then you can -- read it into the record to
13 the Jury in your case in chief whenever it is that you believe
14 it's appropriate and please let me know before you do so
15 because I have to give an explanatory charge to the Jury
16 before you do that.

17 MR. SPRATLIN: Yes, Your Honor.

18 THE COURT: All right. I'll just leave it to you to
19 bring it in when you think it's appropriate.

20 JACKSON V. DENNO HEARING:

21 MR. SPRATLIN: Yes, Your Honor. Regarding the statements
22 of the Defendant, the State would first call Ms. Pam Sellers
23 to the stand.

24 THE COURT: All right. Please come around and be sworn.

25 CLERK: Please raise your right hand and place your left

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JACKSON V. DENNO - PAMELA SELLERS - DIRECT BY SPRATLIN

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1 hand on the Bible.

2 MS. PAMELA SELLERS, HAVING BEEN SWORN

3 TESTIFIES AS FOLLOWS:

4 CLERK: Please state your full name spelling your last
5 name for the record?

6 MS. SELLERS: Okay. Pamela Sellers. S-E-L-L-E-R-S.

7 THE COURT: Go ahead.

8 DIRECT EXAMINATION OF MS. PAMELA SELLERS BY MR. SPRATLIN:

9 Q: Good morning, Ms. Sellers or good afternoon now. What
10 county do you reside in?

11 A: Horry County.

12 Q: And how long have you lived in Horry County?

13 A: My entire life.

14 Q: Where, if anywhere, are you currently employed?

15 A: I'm employed with the South Carolina Department of Social
16 Services, the Horry County Division.

17 Q: And what is your current job at the Horry County
18 Department of Social Services?

19 A: My current position is I'm supervisor over
20 investigations.

21 Q: And how long have you been with the Horry County
22 Department of Social Services?

23 A: About eight years.

24 Q: And how long have you been in your current position?

25 A: As supervisor, about three months.

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JACKSON V. DENNO - PAMELA SELLERS - DIRECT BY SPRATLIN

1 Q: What job were you doing at the Department of Social
2 Services back in December of 2013 and January, 2014?

3 A: I was an investigator.

4 Q: What is being an investigator for the Department of
5 Social Services entail?

6 A: It's investigating cases, alleged cases of child abuse
7 and neglect that come in through the Department.

8 Q: Now, Ms. Sellers, did you have a chance to investigate a
9 case involving the Defendant, Mr. Hassan Tyler?

10 A: I did.

11 Q: How did you come to investigate that case?

12 A: I was assigned to the case by my supervisor around the --
13 I think it was December the 23rd.

14 THE COURT: Of what year?

15 A: Of, I'm sorry, 2014.

16 BY MR. SPRATLIN:

17 Q: I'm sorry, ma'am, you said December of ---

18 A: 2013, I apologize.

19 Q: Now, as part of that investigation, did you have a chance
20 to have a conversation with the Defendant, Mr. Hassan Tyler?

21 A: I did.

22 Q: Where did that conversation take place?

23 A: At J. Reuben Long Detention Center.

24 Q: At that point in time was the Defendant already under
25 arrest?

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JACKSON V. DENNO - PAMELA SELLERS - DIRECT BY SPRATLIN

1 A: Yes.

2 Q: Prior to that interview, did you have any knowledge about
3 what the Defendant was saying?

4 A: I'm sorry; repeat that.

5 Q: Did you have any knowledge about any prior statements of
6 the Defendant?

7 A: No.

8 Q: And if you remember, when exactly did that conversation
9 take place?

10 A: It was January the 6th about 9:30 A.M. of 2014.

11 Q: Who all was present for the conversation?

12 A: Just myself and the Defendant, Mr. Tyler.

13 Q: Prior to speaking with the Defendant, did you advise in
14 any way in regards to his constitutional rights?

15 A: No, sir.

16 Q: Why not?

17 A: It's not normally our protocol with DSS. We just
18 normally go in and talk to them and it's voluntarily whether
19 they want to speak to us or not.

20 Q: Prior to your interview with the Defendant, did you or
21 anyone in your presence, threaten the Defendant with any sort
22 of harm if he did not speak with you?

23 A: No, sir.

24 Q: Did you or anyone in your presence make him any sort of
25 promises of leniency if he would speak with you?

1 A: No, sir.

2 Q: In your conversations with the Defendant, did he appear
3 to have any trouble understanding what you were saying?

4 A: No, sir.

5 Q: Any questions you asked, did he respond appropriately?

6 A: Yes.

7 Q: In your opinion, did he appear to speak the English
8 language?

9 A: Yes.

10 Q: Did the Defendant appear or do anything to indicate to
11 you that he was under any sort of duress at the time?

12 A: He had an angry tone when he talked about being
13 incarcerated. Other than that, when we got into the details
14 of why I was there, he was just kind of flat and no real
15 emotion.

16 Q: And, Ms. Sellers, in your eight years with the Department
17 of Social Services, have you had a chance to come in contact
18 with people are under the influence of drugs or alcohol?

19 A: Frequently, yes, sir.

20 Q: What outwards signs or symptoms do people who are under
21 the influence of drugs or alcohol show?

22 A: Usually slurred speech, incoherent when you ask
23 questions, they don't really pay attention.

24 Q: How many, if any of those, did the Defendant display?

25 A: None.

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JACKSON V. DENNO - PAMELA SELLERS - DIRECT BY SPRATLIN

1 Q: Again, where was the interview taking place?

2 A: At J. Reuben Long Detention Center.

3 Q: Prior to speaking with the Defendant, did you state to
4 him what the purpose of your visiting with him was?

5 A: Yes, I did.

6 Q: And what exactly did you say to him?

7 A: I explained to him that the Department of Social Services
8 was involved due to the fact that the mother had other
9 children and that he also had a son living in the home. My
10 job was just to find out his version of what happened with the
11 deceased child and to ensure the safety of the other children
12 with the mother and with himself.

13 Q: And what did he say in regards to speaking with you?

14 A: He began -- we began -- he began to give me information
15 that his -- he had -- that he resided with his parents in
16 Loris; that his son, Amin, his teenage son, Amin, was living
17 with him and that her mother -- his mother lived in New York
18 and so he gave me basic information about his life. He had
19 been working, I think he said in North Beach Plantation or
20 somewhere to that effect for about ten years. And then we
21 went into -- I asked him if he could explain to me what his
22 version of -- was of what happened to the baby.

23 Q: And what did he say to that?

24 A: His first response was, he said my son had a seizure and
25 we talked more and I told him to explain and he said he

1 admitted this was the first time he'd ever had the baby alone
2 with himself. Prior, he'd go over to the mother's home and
3 visit and provide diapers and formula and that kind of stuff
4 and visit over there but this was the actual first time he was
5 allowed to bring the baby home. We talked about if he knew
6 about the extent of the injuries. He did say he knew the
7 extent of the injuries and I asked him if it could possibly
8 have been an accident, if maybe he dropped the baby or the
9 baby rolled off the bed because he explained that the child,
10 that his mother, Diane Tyler, got up about 7:00 A.M. She fed
11 the baby, put the baby on her bed and the baby was asleep so
12 he left the baby there. He says the baby woke up about 12,
13 drank only a half a bottle and he put the baby back on the
14 bed, that he went to watch T.V. but came back in the room
15 about 1 o'clock to check on him and at that time, that the
16 child had a funny look on his face and his arms were locked.
17 So he said at that time, I guess he got his father. They
18 went, were going to the hospital, but he called the mother on
19 the way to the hospital. She asked him to bring the child
20 home first, but he said he could tell the child needed to go
21 to the hospital. So they went straight to the hospital.

22 So I asked him if he thought there was a possibility that
23 his father could have done -- hurt the baby and he said no. I
24 asked him about his teenage son, Amin, if he thought he could
25 have possibly hurt the baby without his knowledge and he said

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1 no because he was at school. So then I asked him, I said
2 well, why are -- why is your father charged with the exact
3 same charges that you are charged with and he said I don't
4 know because all he did was just drive us to the hospital.

5 Q: Now, Ms. Sellers, was that the entirety of the
6 Defendant's statement?

7 A: That was pretty much it.

8 Q: And was that statement, was it recorded in any way?

9 A: No, just by -- just my own handwriting.

10 Q: And you took notes contemporaneous with the statement
11 being given to you?

12 A: I did.

13 Q: Thank you, Ms. Sellers. That's all the questions I have
14 in regards to that statement.

15 THE COURT: Cross examination?

16 MR. LONG: Thank you, Your Honor. Court's indulgence
17 just one moment?

18 THE COURT: Yes, sir.

19 MR. LONG: Very briefly, just a couple of questions.

20 CROSS EXAMINATION OF MS. PAMELA SELLERS BY MR. LONG:

21 Q: Ms. Sellers, you say you didn't know that he had
22 previously given statements to any other law enforcement when
23 you took his statement?

24 A: I didn't know what the statements were. I'm assuming he
25 was interviewed by law enforcement, but I was not entitled to

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1 what the statements were.

2 Q: But you knew that he had given them?

3 A: Yes, sir.

4 Q: All right. And in fact that was those investigators that
5 you were reporting this information to; is that correct?

6 A: Mr. Weaver, yes, but not the original, the Mr. Vaught
7 that was sitting there. I never spoke to him.

8 Q: Mr. Weaver had taken over basically the investigation of
9 the case ---

10 A: Yes.

11 Q: --- and you were reporting directly to him?

12 A: Yes, sir.

13 Q: You did not Mirandize him beforehand?

14 A: No, sir.

15 Q: He was in custody at J. Reuben Long Detention Center?

16 A: He was.

17 Q: If he had confessed on that date to physically harming
18 this child, you would have reported that to Officer Weaver,
19 correct?

20 A: Absolutely.

21 Q: All right. And you would have certainly known that you
22 would've come to court to testify about that today, correct?

23 A: That's correct.

24 Q: In criminal proceedings, correct?

25 A: Correct.

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JACKSON V. DENNO - PAMELA SELLERS - BY THE COURT

1 Q: All right. His denial of having anything to do with the
2 injuries, of course, you received from him and reported to
3 Officer Weaver; correct?

4 A: That's correct.

5 Q: And you had full expectation that if there were any
6 contradictions in the statement he gave you that you'd be
7 called to General Sessions Court to testify in his trial,
8 correct?

9 A: I would assume; I'm not sure.

10 Q: Has any other officers discussed with you any
11 inconsistencies between the statement he gave you and the
12 statements he has given to other law enforcement?

13 A: No, I don't know of any. I just know there was
14 differences in statements but I don't know what they were.

15 Q: Nobody specified what, if any, differences there were?

16 A: No, sir.

17 Q: Thank you, ma'am, no further questions.

18 THE COURT: Redirect?

19 MR. SPRATLIN: No redirect, Your Honor.

20 EXAMINATION BY THE COURT:

21 THE COURT: Ma'am, just for my own information, at that
22 point in time, either your Horry County DSS or State DSS did
23 not have any protocols in place regarding interviewing persons
24 that are incarcerated?

25 MS. SELLERS: The only protocol we have is to make sure

1 we have permission from law enforcement to do so before we --
2 before we actually go in and talk to them about anything.
3 Sometimes they give us the opportunity to talk about specifics
4 other than the incident and sometimes they -- they want to
5 just make sure normally that they've already interviewed and
6 then they allow us to interview.

7 THE COURT: Okay. And no one's ever spoken to you about
8 the importance of Miranda Warnings before you speak to
9 somebody that's incarcerated?

10 MS. SELLERS: No, sir.

11 THE COURT: You ever communicated with your -- the
12 attorney representing DSS?

13 MS. SELLERS: Yes, we've just basically been told that we
14 are to go in there and let them know what our position is and
15 that their statements are voluntary, that they don't have to
16 speak to us at all if they don't want to.

17 THE COURT: And again, neither your County DSS nor the
18 State DSS has given you any advisement regarding Miranda
19 Warnings?

20 MS. SELLERS: No, sir.

21 THE COURT: Okay. Thank you.

22 MS. SELLERS: May I step down?

23 THE COURT: Yes, ma'am.

24 MR. SPRATLIN: Your Honor, may this witness be excused?

25 THE COURT: Certainly.

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1 BY THE COURT:

2 MR. SPRATLIN: Your Honor, that is the evidence the State
3 would have in regards to the third statement given by the
4 Defendant to the Department of Social Services.

5 THE COURT: And what would you intend to do with it?

6 MR. SPRATLIN: Your Honor, we would not intend to
7 introduce this case in our case in chief. We do feel that
8 Miranda has been violated and we would ask for a finding of
9 the Court that the statement was freely and voluntarily given.
10 The testimony of Ms. Sellers shows the Defendant was not
11 coerced or placed under any sort of duress to provide that
12 statement, that he voluntarily gave that statement. The State
13 would asked to be able to use that statement for impeachment
14 purposes should the Defendant choose to testify.

15 THE COURT: All right. What's your position, Mr. Long?

16 MR. LONG: Rock and a hard place, Your Honor. I, myself,
17 and my client have no disagreement with the statement as
18 testified to. He admits that's what he told her on that date,
19 January 6th about some two or three weeks after the incident
20 and the death took place. It's not our motion to exclude or
21 to prove voluntary. At this point in time, in spite of
22 Miranda, he was in custody, he knew he didn't have to give
23 them a statement, and he gave them the statement, which we
24 feel is entirely consistent with what he's told others. So we
25 would not object to this witness testifying if that's the

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1 substance of her testimony that she interviewed him and he
2 gave the following statement. We wouldn't object to it; it's
3 not our motion.

4 THE COURT: All right, sir. If and when the Defendant
5 testifies, before cross examination of him, Solicitor, if you
6 believe, based upon his direct testimony, that's again if he
7 testifies, direct testimony that you want to question him
8 about this conversation that he had with Ms. Sellers, let's
9 bring it to the Court's attention and to Mr. Long's attention
10 one more time so that once -- at that point in time obviously
11 the Jury will have been sworn and the case started and we'll
12 make sure that the Defense's position has not changed at that
13 point in time. All right? They obviously are expressing a
14 position at this point in time, but things could change. So
15 let's make sure before you do that that we are all on the same
16 page and if we need to do anything further we will.

17 MR. SPRATLIN: Yes, sir, Your Honor.

18 THE COURT: All right. Thank you.

19 MR. LONG: So, Your Honor, as far as this witness is
20 concerned, would it be no finding or ruling of the Court until
21 such time as it's being attempted ---

22 THE COURT: Until it is -- until it becomes apparent that
23 either her testimony is going to be used or the State is going
24 to ask the Defendant about the conversation, then I'm not
25 making a ruling on this since the State does not intend to use

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1 it in its case in chief.

2 MR. LONG: Until that time.

3 THE COURT: And so until it becomes apparent on either
4 cross examination or reply testimony that it is necessary,
5 then we'll deal with it at that point in time.

6 MR. LONG: Thank you very much.

7 THE COURT: All right. If -- Ms. Sellers, you're free to
8 go if you would like. Obviously you can stay if you like.

9 Ms. Sellers, I would ask you if you don't mind, at some
10 point in time, that you might want to communicate with the
11 attorney that represents the Department of Social Services as
12 well as the Director of the issues that you have faced in this
13 particular case and obviously what the State has indicated
14 about the violation of the Miranda Warnings so that y'all
15 might be thinking about in the future should this occur, you
16 might want to approach things differently.

17 MS. SELLERS: Yes, sir.

18 THE COURT: All right?

19 MS. SELLERS: Yes, sir.

20 THE COURT: Thank you, ma'am. We appreciate it very
21 much.

22 MR. SPRATLIN: Your Honor, the State would next call
23 Chief Joseph Vaught.

24 THE COURT: All right. Is he outside?

25 MR. SPRATLIN: He is.

1 THE COURT: All right.

2 MR. SPRATLIN: I think the deputy is going to retrieve
3 him.

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

5 All right, sir. Please come around all the way up here
6 if you would to meet the Clerk of Court up here, sir.

7 CLERK: Sir, please raise your right hand and place your
8 left hand on the Bible.

9 JOSEPH W. VAUGHT, HAVING BEEN SWORN

10 TESTIFIES AS FOLLOWS:

11 CLERK: State your full name and spell your last name.

12 MR. VAUGHT: Joseph W. Vaught, V-A-U-G-H-T.

13 THE COURT: All right, Solicitor.

14 MR. SPRATLIN: Thank you, Your Honor.

15 DIRECT EXAMINATION OF JOSEPH W. VAUGHT BY MR. SPRATLIN:

16 Q: Mr. Vaught, in what county do you currently reside?

17 A: Horry County, sir.

18 Q: And what do you currently do for a living?

19 A: I'm retired.

20 Q: What are you retired from?

21 A: My last retirement was from the Loris Police Department.

22 Q: When did you retire from the Loris Police Department?

23 A: In July 2014.

24 Q: And at that point in time, what was your position at the
25 Loris Police Department?

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JACKSON V. DENNO - JOSEPH VAUGHT - CROSS BY LONG

1 A: I was Chief of Police.

2 Q: How long had you been Chief of Police?

3 A: Six years.

4 Q: When did your career in law enforcement first begin?

5 A: I began in 1967. I served with the Army Criminal

6 Investigation Division until 1988. I then worked with the

7 South Carolina Law Enforcement Division until 2008 then I went

8 to the Loris Police Department.

9 Q: When you first began in Loris Police Department, did you
10 begin as the Chief of Police?

11 A: Yes, sir, I did.

12 Q: Now, Chief Vaught, on December 19th, 2013, did you
13 receive a call in regards to the case we're here on today?

14 A: Yes, sir.

15 Q: What did you do in regards to that call?

16 A: I responded to the emergency room at the McLeod Loris
17 Hospital.

18 Q: What information did you have when you responded to the
19 emergency room?

20 A: The information I had been given is that there was an
21 infant who had injuries.

22 Q: How long after that initial call came in do you believe
23 you responded to the emergency room?

24 A: I recall that dispatch received that call approximately
25 3:24. The responding officer arrived about 3:25 and I took

1 photos about 3:50 P.M. on December the 19th. So, I would have
2 arrived there probably fifteen, twenty minutes after receiving
3 the call.

4 Q: Now, chief, when you responded to the hospital, did you
5 have a chance to talk with the Defendant?

6 A: I, I did. During my stay at the hospital, I did.

7 Q: Where did the conversation take place?

8 A: It was just outside the emergency room door.

9 Q: Was the Defendant restrained in any way?

10 A: No, sir, he was not.

11 Q: At the time, was the Defendant in custody?

12 A: No, sir.

13 Q: What was your purpose in talking with the Defendant?

14 A: At -- at that point in the inquiry, I was just trying to
15 establish information. We, at that point, did not know what,
16 if any, offenses have been committed, but we did -- our report
17 was that there were injuries and I was just trying to get
18 background information.

19 Q: At the time you spoke with the Defendant, were you even
20 -- had you even concluded a crime had occurred?

21 A: No, sir.

22 Q: During your conversation with the Defendant, was the
23 Defendant free to leave at any time?

24 A: Yes, sir.

25 Q: Did you or anyone in your presence, prior to talking with

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JACKSON V. DENNO - JOSEPH VAUGHT - CROSS BY LONG

1 the Defendant, threaten or coerce him in any way?

2 A: No, sir.

3 Q: Did anyone in your presence make him any sort of promises
4 of any kind of leniency in exchange for talking with you?

5 A: No, sir, there was no discussion. As a matter of fact,
6 our purpose at that point, not our purpose, but we were
7 actually trying to expedite as quickly as we could in getting
8 the family back inside the hospital.

9 Q: Before talking with the Defendant at the hospital, did
10 you do or say anything to him regarding his Miranda rights or
11 his other constitutional rights?

12 A: No, sir. At that time, I was just collecting background
13 information. I had only been at the hospital a matter of
14 minutes. I had no information and it was pointed out to me
15 that the father was coming up to the emergency room and so I
16 approached him just to get information on the child or any
17 other information that might have been available.

18 Q: At that point, was there an active criminal investigation
19 ongoing?

20 A: At that point, there had not been any reports or any
21 conclusions made as to the direction of an investigation.
22 Certainly, if we had been dealing with an accident or
23 something of that type, we just did not know.

24 Q: Chief Vaught, what, if anything, did the Defendant tell
25 you in regards to his son and why he was at the hospital that

1 day?

2 A: He explained to me that about 7:00 P.M. on December the
3 18th of 2013, he and his father, Robert Blake, and his teenage
4 son drove to an area in Nichols, South Carolina to pick up his
5 son, his infant son. He said they did pick up the son and
6 arrive back at his residence on Thomas Street in Loris about
7 7:30, 7:40 that evening. He continued to explain that the
8 child slept through the night and most of the following day.
9 He did comment that on December the 19th, approximately 2
10 o'clock, 2:30 P.M., that he went in the bedroom and observed
11 that the child had his legs and arms, I guess, stretched out
12 and that he thought maybe he was having some type of seizure
13 at that point so he called the mother and the mother advised
14 him to return the child back to Nichols. He said that on the
15 -- at some point in time, then the child began, as he said,
16 breathing hard and so they took him to McLeod Loris Hospital.

17 Q: Did the Defendant at that point say anything more
18 regarding the circumstances that brought him to the hospital
19 or his son?

20 A: No, sir.

21 Q: And after the interview with the Defendant, what happened
22 to the Defendant?

23 A: I'm sorry?

24 Q: After the interview, was the Defendant free to leave?

25 A: Yes, sir, he continued on.

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JACKSON V. DENNO - JOSEPH VAUGHT - CROSS BY LONG

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1 Q: After the interview, did you take him into custody ---

2 A: No, sir.

3 Q: Now, Chief Vaught, was this the only time that you had a
4 chance to talk with the Defendant?

5 A: No, sir. I again spoke to the Defendant on December the
6 21st about 3:00 P.M.

7 Q: Who else was present in that interview, if anybody?

8 A: SLED Agent David Weaver.

9 Q: How did SLED become involved in this case?

10 A: On December the 20th, I received a call from McLeod
11 Florence advising me that the, that the infant was deceased.
12 So, at that time, I called SLED.

13 Q: And you stated that that interview occurred on December
14 21st, 2013?

15 A: Yes, sir.

16 Q: Besides Agent Weaver was anyone else present for the
17 interview?

18 A: No, sir.

19 Q: Where did the interview with the Defendant take place?

20 A: In the conference room at the Loris Police Department.

21 Q: Do you know how long in total was the interview with the
22 Defendant that day?

23 A: It was approximately two hours.

24 Q: Was this interview recorded or memorialized in any
25 manner?

- 1 A: Yes, sir, it was recorded.
- 2 Q: Was it recorded by audio, video, or both or ---
- 3 A: Audio.
- 4 Q: Chief Vaught, if you know, how old was the Defendant at
- 5 the time of this interview?
- 6 A: I believe he was born in March 1977.
- 7 Q: So was he above the age of thirty?
- 8 A: Yes, sir.
- 9 Q: Okay. Did you inquire into how much education he had?
- 10 A: Yes, sir, I did. He responded that he had completed the
- 11 twelfth grade.
- 12 Q: From your interactions with the Defendant, both at the
- 13 hospital and here in the room, the conference room, did the
- 14 Defendant appear to understand the English language?
- 15 A: Yes, sir.
- 16 Q: Did he understand the questions that you were asking?
- 17 A: Yes, sir.
- 18 Q: Did he appear to respond appropriately to the questions?
- 19 A: Yes, sir.
- 20 Q: And were all of his responses in English?
- 21 A: Yes, sir.
- 22 Q: Now, Chief Vaught, in your forty-some years' experience
- 23 in law enforcement, have you had a chance to come in contact
- 24 with individuals who are under the influence of drugs or
- 25 alcohol?

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JACKSON V. DENNO - JOSEPH VAUGHT - CROSS BY LONG

1 A: Yes, sir, I have.

2 Q: What are some of the symptoms or signs of someone who is
3 under the influence of drugs or alcohol?

4 A: Typically, unstable on their feet, slurred speech,
5 blurred eyes.

6 Q: How many of those, if any, did the Defendant exhibit in
7 that conference room on the 21st?

8 A: I did not observe any of those, sir.

9 Q: Did you observe any of those in the hospital?

10 A: No, sir.

11 Q: Regarding either the interview -- regarding the interview
12 on the 21st, did the Defendant do or say anything to you that
13 gave you the impression that he was under the influence of
14 either drugs or alcohol?

15 A: No, sir.

16 Q: At the hospital on the 19th, did the Defendant do or say
17 anything that gave you the idea he was under the influence of
18 drugs or alcohol that day?

19 A: No, sir.

20 Q: Now, Chief Vaught, to the best of your ability, did you
21 or anyone in your presence, prior to the Defendant speaking
22 with you on the 21st, threaten the Defendant in any way?

23 A: No, sir.

24 Q: Did anyone threaten harm in the slightest instance upon
25 the Defendant in order to get him to speak with you?

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1 A: No, sir.

2 Q: Did you or anyone in your presence promise him any sort
3 of leniency in exchange for having a conversation with you?

4 A: No, sir.

5 Q: Did you or anyone to your knowledge in your presence or
6 in your presence, cause any sort of harm to the Defendant?

7 A: No, sir.

8 Q: Chief Vaught, what, if any, information did you give the
9 Defendant regarding his rights?

10 A: I read his rights from -- actually from a SLED rights
11 form.

12 MR. SPRATLIN: Permission to approach the witness?

13 THE COURT: Yes, sir.

14 MR. SPRATLIN: Please let the record reflect I'm showing
15 the witness what has been marked for identification purposes
16 as State's Exhibit Number Two.

17 STATE'S EXHIBIT NUMBER TWO

18 MARKED FOR IDENTIFICATION

19 BY MR. SPRATLIN:

20 Q: Chief Vaught, do you recognize the document I just gave
21 you?

22 A: Yes, sir, I do.

23 Q: What is it?

24 A: It's the Miranda rights form bearing the SLED logo that I
25 used on the 21st to advise Mr. Tyler of his rights.

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JACKSON V. DENNO - JOSEPH VAUGHT - CROSS BY LONG

1 Q: Whose handwriting is that in the upper right-hand corner?

2 A: That's mine, sir.

3 Q: Does it appear to be a fair and accurate copy of the
4 Miranda form as read to the Defendant that day?

5 A: Yes, sir.

6 Q: And have there been any material changes, additions or
7 deletions to this document?

8 A: No, sir.

9 Q: Were you present when the Defendant signed it?

10 A: I was.

11 Q: Were you present during all the writing on this document
12 when it took place?

13 A: Yes, sir, I was.

14 Q: And is it in all ways a fair and accurate duplicate copy
15 of the form you read?

16 A: Yes, sir.

17 Q: And, Chief, I want to introduce that document in my case
18 in chief, but if you would for the court purposes here at this
19 hearing, would you please inform the Court exactly what you
20 read the Defendant regarding his Miranda rights?

21 A: Yes, sir. On the form I read the rights as they appear
22 basically: You have the right to remain silent; anything you
23 say can be used against you in a court of law; you have the
24 right to talk to a lawyer and have one present with you while
25 you're being questioned; if you cannot afford an attorney, one

1 will be appointed for you without cost; if you make a
2 statement and answer questions, you have the right to stop at
3 any time.

4 Q: Now, Chief Vaught, after reading each of those rights to
5 the Defendant, did you ask him to do anything or in any way
6 affirm that he understood that right?

7 A: Yes, sir, I afforded him the opportunity to read the
8 statement and certainly read the rights as I have read them to
9 him and I asked him to place his initials beside each column
10 and each sentence of the rights and then I further asked him
11 to affix his signature to the form.

12 Q: And did the Defendant put his initials next to each of
13 those rights?

14 A: Yes, sir, he did.

15 Q: And did the Defendant sign the form stating that he
16 understood all of those rights?

17 A: Yes, sir.

18 Q: Now, Chief Vaught, during the reading of that form and
19 those rights to the Defendant, did he in any way insinuate to
20 you that he did not understand what you were saying?

21 A: No, sir.

22 Q: Did he do or say anything in the slightest that made you
23 concerned he did not understand his rights?

24 A: No, sir.

25 Q: Now, Chief, at any point prior to or during your

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JACKSON V. DENNO - JOSEPH VAUGHT - CROSS BY LONG

1 interview with the Defendant did he state that he wished to
2 not speak with you?

3 A: No, sir.

4 Q: Did he ever at any point or time during the interview
5 state that he wanted to have a lawyer present before speaking
6 with you?

7 A: No, sir.

8 Q: Did the Defendant ever state after the interview began
9 that he wished to terminate the interview?

10 A: No, sir.

11 Q: Did the Defendant in any way do, or through any actions
12 or words, indicate to you that he wished to invoke any of the
13 rights that you had gone over with him?

14 A: No, sir.

15 Q: Now, Chief Vaught, you stated that that interview was
16 audio recorded, correct?

17 A: Yes, sir, it was.

18 MR. SPRATLIN: Your Honor, permission to approach the
19 witness again?

20 THE COURT: Yes, sir.

21' STATE'S EXHIBIT NUMBER ONE

22 MARKED FOR IDENTIFICATION

23 MR. SPRATLIN: Please let the record reflect I'm showing
24 the witness what has been marked as State's Exhibit Number One
25 for identification purposes.

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JACKSON V. DENNO - JOSEPH VAUGHT - CROSS BY LONG

1 BY MR. SPRATLIN:

2 Q: Chief Vaught, do you recognize the item I just handed
3 you?

4 A: Yes, sir, it's the CDR; it's labeled Tyler Statement.

5 Q: Prior to court, have you had a chance to review the
6 contents of that CDR?

7 A: I have.

8 Q: And is it -- does it appear to be a fair and accurate
9 copy of the interview that you conducted -- you and Agent
10 Weaver conducted with the Defendant on December 21st, 2013?

11 A: Yes, sir.

12 MR. SPRATLIN: Your Honor, at this time, I would move to
13 publish that statement to the Court.

14 THE COURT: All right, sir. Is this the one you said was
15 -- how long did you say this was?

16 MR. SPRATLIN: Your Honor, I believe it's approximately
17 two hours. There is towards the end there is an awful lot of
18 silence.

19 THE COURT: Okay.

20 MR. SPRATLIN: Whether the Defendant is sitting in the
21 room and the recorder is still running. I believe the content
22 is closer to around an hour and a half.

23 THE COURT: All right. So, when we get ---

24 MR. LONG: At that point, we can agree what point it
25 needs to be stopped off.

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JACKSON V. DENNO - JOSEPH VAUGHT - CROSS BY LONG

1 THE COURT: Stopped, okay. All right. Well, since it's
2 going to be at least an hour and a half, why don't we stop for
3 five minutes and then we'll come back and you can play the
4 recording at that point in time. Okay?

5 MR. LONG: Your Honor, permission to run downstairs
6 quickly?

7 THE COURT: Yes, sir, quickly.

8 MR. LONG: Thank you, Your Honor.

9 THE COURT: All right. Thank you.

10 (RECESS.)

11 *****OFF THE RECORD*****

12 (On the Record.)

13 (REPORTER'S NOTE: The following takes place outside the
14 presence of the Jury.)

15 THE COURT: All right, Solicitor.

16 MR. SPRATLIN: Thank you, Your Honor. While the
17 recording is playing, I'd ask that the witness be allowed to
18 come down from the witness stand.

19 MR. LONG: Without objection, Your Honor.

20 THE COURT: You may do so, sir.

21 MR. SPRATLIN: Your Honor, permission to publish to the
22 Court?

23 THE COURT: Go ahead.

24 (REPORTER'S NOTE: State's Exhibit Number Two published for
25 the Court.)

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1 MR. LONG: Is that it; you think that's it?

2 MR. SPRATLIN: That's where I would cut it off.

3 MR. LONG: Yeah, that's ---

4 THE COURT: Is there anything else, Mr. Long, that you
5 want me to hear?

6 MR. LONG: I think one of the detectives went by talking
7 about a separate case that was picked up on the microphone.
8 It doesn't have anything to do with this case. I don't think
9 there was any more questioning of Mr. Tyler by either of the
10 detectives on the recording.

11 THE COURT: All right, sir. Very good.

12 MR. SPRATLIN: Your Honor, if the Court would like, I can
13 actually just redact it to save any additional portions from
14 being played for the Jury. I'll just redact it at 1:24:33.

15 THE COURT: All right.

16 MR. SPRATLIN: I will place a copy with the Court
17 Reporter tomorrow morning.

18 THE COURT: That'll be fine.

19 That's agreeable, Mr. Long?

20 MR. LONG: Yes, sir, Your Honor.

21 THE COURT: All right. Very good. All right. Go ahead
22 and do that.

23 All right. Resume back on the stand, sir.

24 BY MR. SPRATLIN:

25 Q: Chief Vaught, the interview we just heard, is that a --

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JACKSON V. DENNO - DAVID WEAVER - DIRECT BY SPRATLIN

1 was that a fair and accurate interpretation of the interview
2 that you had with the Defendant that day?

3 A: Yes, sir, it is.

4 Q: Thank you, Chief, that's all the questions I have.
5 Please answer any questions Mr. Long might have.

6 THE COURT: Mr. Long?

7 MR. LONG: Thank you, Your Honor.

8 CROSS EXAMINATION OF JOSEPH W. VAUGHT BY MR. LONG:

9 Q: Chief, you actually had three interviews with Mr. Tyler -
10 - is that correct -- one at the hospital briefly there at the
11 emergency room?

12 A: Yes, sir.

13 Q: One the next evening at his home; did you stop by and
14 speak with him briefly at his home then?

15 A: No -- well. No, sir, I -- wait a minute. I don't have a
16 record of an interview at his home. I don't recall an
17 interview at his home, sir.

18 Q: All right. And then the following evening or following
19 day, the one that was recorded here?

20 A: Yes, sir.

21 Q: And was a call made to him, he was at the laundromat
22 doing clothes and a call went to him or an officer went by him
23 asking him to come in?

24 A: I'm not really familiar with the -- with those calls.
25 That possibly could've been one of the SLED Agents. I'm just

1 not familiar with how that came about.

2 Q: Nevertheless, he voluntarily came ---

3 A: Yes, sir,

4 Q: --- to talk to you?

5 A: Yes, sir.

6 Q: Okay. Aside from any minor discrepancies in time, were
7 there any inconsistencies with the first statement he gave at
8 the hospital, and I realize it was a short small statement ---

9 A: Yes, sir.

10 Q: --- and the long involved statement that he gave you
11 then?

12 A: It was -- it was consistent.

13 Q: He was not Mirandized at the hospital, correct?

14 A: That's correct.

15 Q: And you say you don't recall talking with him the next
16 evening at his home?

17 A: No, sir, I do not believe I went by his home the next
18 evening.

19 Q: All right. And then he was Mirandized prior to this
20 statement?

21 A: Yes, sir.

22 Q: Okay. Thank you, sir. No further questions.

23 THE COURT: Any redirect?

24 REDIRECT EXAMINATION OF JOSEPH W. VAUGHT BY MR. SPRATLIN:

25 Q: Chief Vaught, why was he not Mirandized at the hospital?

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1 A: At the hospital, the information that I had at that time
2 was that there was a child with injuries and we were certainly
3 doing a preliminary to determine if we were dealing with an
4 accident. I had -- of course at that time, I really did not
5 know where the injuries could have been received, who was
6 involved and I was just told that the father was outside the
7 emergency room.

8 Q: At that time, was the Defendant in custody?

9 A: No, sir.

10 Q: Was he freedom detained in any way?

11 A: No, sir. As a matter of fact, I kept explaining to him
12 we were trying to expedite the information so that he could
13 continue on tending to his child.

14 Q: Thank you.

15 THE COURT: All right, sir. You may step down. Any
16 other questions, Mr. Long?

17 MR. LONG: No, Your Honor.

18 THE COURT: All right. You may step down, sir.

19 Further testimony by the State?

20 MR. SPRATLIN: Your Honor, the State would call Agent
21 David Weaver to the stand.

22 THE COURT: All right, sir.

23 CLERK: Please raise your right hand and place your left
24 hand on the Bible.

25 DAVID WEAVER, HAVING BEEN SWORN

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1 TESTIFIES AS FOLLOWS:

2 CLERK: State your name and spell your last name.

3 MR. WEAVER: David Weaver, W-E-A-V-E-R.

4 THE COURT: Go ahead, Solicitor.

5 DIRECT EXAMINATION OF DAVID WEAVER BY MR. SPRATLIN:

6 Q: Sir, where are you currently employed?

7 A: South Carolina State Law Enforcement Division.

8 Q: And how long have you been with the South Carolina State
9 Law Enforcement Division?

10 A: Just about three and a half years now.

11 Q: Prior to that where were you working?

12 A: I worked for the Horry County Police Department.

13 Q: How long have you been in law enforcement total?

14 A: Just over twenty-two years.

15 Q: And in your current assignment with the South Carolina
16 Law Enforcement Division, what are your job duties?

17 A: I'm currently assigned to the Special Victim's Unit Child
18 Fatality. I investigate all child deaths in the Pee Dee
19 Region.

20 Q: And how -- I'm sorry.

21 A: Correction. Under the age of seventeen is defined by
22 child.

23 Q: And how long have you been in that assignment?

24 A: Three and a half years.

25 Q: So your entire time at SLED?

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1 A: Yes, sir.

2 Q: And you went into a little bit of it but what are the
3 duties of a Special Agent on the Special Victim's Unit?

4 A: We investigate all child deaths. We're mandated by State
5 law. Any child death under the age of seventeen, whether it's
6 an accidental, whether it's a homicide, whether it's a -- we
7 call it a SUID, sudden unexpected death in infancy -- those
8 particular cases. All, all cases other than traffic
9 accidents.

10 Q: And, Agent Weaver, what, if any involvement did you have
11 in the case that we're here about today?

12 A: I assisted the Loris Police Department in investigation,
13 the death investigation of the victim.

14 Q: Agent Weaver, did you have a chance to interview the
15 Defendant?

16 A: I did.

17 Q: Who all was present for that interview?

18 A: Myself and Chief Vaught.

19 Q: Was that the interview we heard earlier in court?

20 A: Yes, sir, it was.

21 Q: Was that interview in every way a fair and accurate copy
22 of your interview with the Defendant?

23 A: Yes, sir.

24 Q: Let me ask you specifically, the Defendant asked to leave
25 at one point during the interview or asked could he leave and

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1 you stated that he could not; what was the basis of not
2 allowing him to leave?

3 A: We were still continuing the -- I was still investigating
4 the case. I didn't know -- I wanted to make some phone calls.
5 I wanted to process what we had learned at that point and the
6 interview wasn't over at that point

7 Q: In your opinion, did you have probable cause to continue
8 detaining the Defendant?

9 A: Yes.

10 Q: What was the basis of your probable cause?

11 A: The injuries -- the injuries that was inflicted on the --
12 on the victim based on the timeline, based on medical expert
13 information that we received, based on the autopsy that I
14 attended; all those came into play. I had probable cause.

15 Q: And, Detective or Agent, the medical expert testimony,
16 you said it created a timeline. Was the Defendant within that
17 timeline?

18 A: Yes.

19 Q: Was that a part of the probable cause?

20 A: Yes.

21 Q: Thank you, Agent, I have no further questions.

22 THE COURT: Cross examination?

23 MR. LONG: No questions, Your Honor.

24 BY THE COURT:

25 THE COURT: All right, sir, you may step down.

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1 Further witnesses?

2 MR. SPRATLIN: Your Honor, the State would rest in
3 regards to the *Jackson v. Denno* hearings regarding the
4 statement given by the Defendant at the hospital to Chief
5 Vaught and also the statement given at the Loris Police
6 Department to both Investigator -- Special Agent David Weaver
7 and Chief Vaught.

8 THE COURT: All right, sir. Mr. Long, do you want to
9 call any witnesses regarding this *Jackson v. Denno* hearing?

10 MR. LONG: No, Your Honor, and we don't challenge the
11 voluntariness of it pursuant to *Jackson v. Denno*. The State
12 can use the statements in the case in chief. They filed the
13 motion just seeking to have the test done, I guess.

14 THE COURT: All right, sir.

15 Well, regarding both these statements, I mean first, the
16 one with the former Chief of Police, Mr. Vaught, with the
17 Defendant at the Loris Hospital, I find that that was a free
18 and voluntary encounter. The Defendant was not under custody.
19 He was asked some questions about the emergency situation that
20 had occurred and why the child was at the hospital. He was
21 not under investigation at that point in time, was not the
22 point of an investigation at that point in time, it was simply
23 to determine why the child was at the hospital. And again it
24 was a voluntary encounter and Defendant freely answered the
25 questions. I do not find that at that point in time Miranda

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1 was necessary, but again, it was a voluntary conversation.

2 As to the conversation the next day at the Loris Police
3 Department while the Defendant voluntarily came to the Police
4 Department, it is clear at that point in time that he was as
5 the -- was indicated on the tape, he was, once he got there,
6 he was at least under investigative detention while the
7 officers were investigating the matter to determine what they
8 may or may not do regarding the Defendant in this particular
9 case. And though they were still investigating the matter, it
10 was proper that the Defendant was given his Miranda Warnings.
11 They did so properly. It's clear that he understood them,
12 that he was not under any duress, he was not under the
13 influence, he clearly understood his rights, he voluntarily
14 waived them and made and gave a statement in response to
15 questions asked by the investigating officers. Therefore, I
16 do find that pursuant to *Jackson v. Denno* that it was a
17 situation that Miranda Warnings should have been given. They
18 were properly given. The Defendant voluntarily waived his
19 rights, gave a voluntary statement, was not under duress of
20 any kind or hope of promise, or promise of leniency or under
21 the influence or incapacitated in any way in giving this
22 voluntary statement and I would allow the State to use it in
23 the proceedings.

24 All right. Further matters from the State?

25 MOTIONS:

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1 MR. SPRATLIN: Your Honor, the State would have one
2 matter I discussed with Mr. Long earlier. Agent Weaver --
3 there was a lawsuit filed by a former person that Agent Weaver
4 investigated, which did receive some media attention over the
5 past couple of weeks. A man named -- last named Palmer is
6 suing Agent Weaver and Horry County. It involved a homicide
7 by child abuse investigation several years back. I would just
8 ask, I do not feel it's appropriate cross examination material
9 to bring that up. I don't believe Mr. Long had any objection
10 to that. I would just ask for a motion in limine to keep any
11 discussions of any pending litigation or civil matters out of
12 the cross examination of Agent Weaver.

13 THE COURT: All right, sir. This is a civil lawsuit?

14 MR. SPRATLIN: It is a civil lawsuit.

15 THE COURT: It is not a criminal investigation by any
16 police agency?

17 MR. SPRATLIN: No, sir, it is a civil action filed and
18 served upon Agent Weaver and Horry County.

19 THE COURT: All right. Mr. Long?

20 MR. LONG: Your Honor, I don't read the newspaper. I
21 didn't know about it until Mr. Spratlin brought it to my
22 attention. I certainly didn't intend and will not certainly
23 inquire about any of those matters which I deem are irrelevant
24 to this case.

25 THE COURT: And especially in the fact that it is a civil

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1 lawsuit that has nothing to do with this particular matter or
2 in any way could be used to, since it's again a civil lawsuit,
3 to judge the credibility or the believability of this
4 particular witness regarding this particular matter has, as I
5 understand it from what y'all are telling me, has nothing to
6 do with this case in any way. So I would agree with both of
7 you that it is irrelevant in this particular proceeding.

8 All right. Anything else, Solicitor?

9 MR. SPRATLIN: No, sir, Your Honor.

10 THE COURT: Mr. Long, anything you need to bring to the
11 Court's attention?

12 MR. LONG: Very briefly, Your Honor, just readdress the
13 motion in limine concerning a marijuana grinder and two
14 marijuana roaches that were found in the residence as
15 execution of the search warrant. No allegations that the baby
16 had any drugs or anything in his system. Nothing -- it
17 doesn't have any relevancy to the facts in this case; we'd
18 move to just prevent it.

19 THE COURT: All right, sir. Solicitor, it was not your
20 intention to use that in any way, correct?

21 MR. SPRATLIN: No, Your Honor. There is one photograph
22 that we do intend to introduce that does show the grinder. It
23 shows it at such a distance that I believe Mr. Long is
24 satisfied that you can't tell.

25 THE COURT: All right, sir. Very good.

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1 MR. LONG: Thank you, sir.

2 THE COURT: So then you're not asking that that
3 photograph be redacted in any way, Mr. Long?

4 MR. LONG: I don't think it's necessary, Your Honor.

5 THE COURT: All right, sir. Very good. All right.

6 Just so that I'm clear about this since it was on the --
7 and there's been alluded to in some way, the Defendant's
8 father, his name is Robert Tyler; is that correct?

9 MR. SPRATLIN: Yes, sir, Your Honor, Robert Blake Tyler.

10 THE COURT: All right, sir. He was charged at some point
11 in time?

12 MR. SPRATLIN: He was previously charged. His charges --
13 he was charged under the -- he was originally charged with the
14 same crime as the Defendant, he was indicted by the Horry
15 County Grand Jury on aiding or abetting homicide by child
16 abuse indictment. That indictment has been nolle prossed.

17 THE COURT: All right. Is he under any other indictments
18 -- well, is he under any other indictments by the Solicitor's
19 office?

20 MR. SPRATLIN: Not to the State's knowledge, Your Honor.

21 THE COURT: All right.

22 MR. SPRATLIN: Not to my knowledge.

23 THE COURT: All right. Very good. All right. Honestly
24 the only reason I was asking is there -- his name obviously is
25 on the Defendant's potential ---

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1 MR. LONG: Yes, sir.

2 THE COURT: --- witness list and obviously if he was
3 still under indictment or had charges against him, then we'd
4 need to make sure that his counsel was here and we'd have
5 certain issues that needed to be covered, but if he is -- so
6 that -- so that indictment has currently been nolle prossed by
7 the State?

8 MR. SPRATLIN: Yes, Your Honor. I actually did the
9 paperwork on that on Friday.

10 THE COURT: All right. Very good. All right.

11 So, anything else that y'all can think of at this point
12 in time?

13 MR. LONG: No, sir, Your Honor.

14 BY THE COURT:

15 THE COURT: All right. I had the Jury to come back
16 tomorrow morning at 9:30 with the -- well, they're coming
17 before that. It's my intention to call them into the
18 courtroom at 9:30. So, what I would want y'all to do is to
19 make sure that you're here by 9:15 at the latest. If you've
20 got any issues, if you think of any problems, be here by 9
21 o'clock.

22 Mr. Long, did you have a chance to check on the bond
23 issue regarding the Defendant?

24 MR. LONG: Your Honor, he contacted the bondsman and
25 spoke with the secretary and the secretary informed him that I

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1 would have to call Mr. Al Holcombe about him continuing on the
2 bond.

3 THE COURT: All right, sir.

4 MR. LONG: As I leave here today, since the Jury has not
5 been sworn, as I leave here today, I will that conversation
6 and have that information before the Court tomorrow.

7 THE COURT: All right. Very good.

8 Now just so that we can cover that, Mr. Tyler, could you
9 stand up for just a second, please? We've picked the Jury,
10 they haven't been sworn, so the actual trial in this matter
11 has not yet started. We've obviously gone through these
12 pretrial proceedings, but the State has called this case,
13 there is a Jury, the matter is going forward to start a trial
14 tomorrow morning at 9:30. So that you understand, obviously
15 it would seem to me it's in your best interest to be here
16 tomorrow morning to cooperate with your attorney in providing
17 the best defense available to you. If you do not show up
18 tomorrow morning when this matter starts and I'm asking you to
19 be here by 9:15 at the latest, a couple of things will happen.
20 One, a bench warrant will be issued for your arrest; they'll
21 find you and they'll detain you, they'll take you to J. Reuben
22 Long Detention Center. Secondly, the trial in this matter
23 will proceed with or without your presence. Your absence will
24 not stop the trial. If you do not come and you are found
25 before the end of the trial, then you will be brought here to

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1 be part of the proceedings. If the proceedings are over with,
2 if the jury has found you guilty, if that is their verdict in
3 this matter, then you would have been sentenced and a
4 sentenced sealed and that sentence would be read to you when
5 you are brought before the Court; do you understand all this?

6 MR. TYLER: Yes, sir.

7 THE COURT: All right, sir. So you understand what will
8 happen if you do not appear tomorrow morning?

9 MR. TYLER: Yes, sir.

10 THE COURT: Very good. Thank you very much. See y'all
11 in the morning then.

12 MR. SPRATLIN: Thank you, Your Honor.

13 MR. LONG: Thank you, Your Honor.

14 THE COURT: Thank you.

15 (RECESS.)

16 END OF DAY ONE.

17 *****OFF THE RECORD*****
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25

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1 **MARCH 22, 2016 - DAY TWO**

2 (REPORTER'S NOTE: The following takes place outside the
3 presence of the Jury.)

4 BY THE COURT:

5 THE COURT: All right. Solicitor, is there anything that
6 we need to cover before the Jury comes in?

7 MR. SPRATLIN: Your Honor, just real briefly. As we
8 played that audio recording yesterday, we and Mr. Long agreed
9 on a time to end that recording.

10 THE COURT: Okay.

11 MR. SPRATLIN: I have made further redactions, burned a
12 copy to a new disc. If I could just replace State's Exhibit
13 One disc with this disc, at the Defense ---

14 THE COURT: Any objection to that, Mr. Long?

15 MR. LONG: No, Your Honor.

16 THE COURT: All right. Very good. You may do so.

17 MR. SPRATLIN: Thank you, Your Honor.

18 Nothing further from the State before the Jury, Your
19 Honor.

20 THE COURT: All right. Very good.

21 Mr. Long, anything from the Defense before the Jury comes
22 out?

23 MR. LONG: Yes, Your Honor. I spoke with Al Holcombe at
24 6:30 P.M. last night, discussed and explained the situation
25 and where we are with this trial. He said he had no objection

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1 to continuing on the Defendant's bond until the Jury is sent
2 for deliberations.

3 THE COURT: Very good.

4 MR. LONG: At that point in time, he would request that
5 he come off the bond.

6 THE COURT: All right, sir. Have you explained that to
7 your client, Mr. Tyler?

8 MR. LONG: I did, Your Honor.

9 THE COURT: All right. Very good.

10 Mr. Tyler, could you stand up for just one second,
11 please, sir? And you understand that process then, correct?

12 MR. TYLER: Yes, sir.

13 THE COURT: Now, as I talked to you about it before we
14 left yesterday, the situation will remain. You'll stay out on
15 conditions of the bond. But again, you understand if you
16 don't report back at some point in time, number one, the trial
17 is gonna continue on in your absence; you understand that?

18 MR. TYLER: Yes, sir.

19 THE COURT: And then the process that I talked about, the
20 bench warrant, you know, the picking you up, taking you to J.
21 Reuben Long Detention Center, we'll see where the trial is, if
22 we've finished it then you'll, if the Jury finds you guilty,
23 then you report back and be brought back before the Court for
24 the opening of the sealed sentence or if it's during the
25 course of the trial, then you would be brought over for

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1 whatever remained in the course of the trial; you understand
2 that?

3 MR. TYLER: Yes, sir.

4 THE COURT: All right. Very good. Thank you very much.

5 MR. LONG: Thank you, Your Honor. Nothing else on behalf
6 of the Defense.

7 THE COURT: All right. Very good. Ask the Jury to come
8 in then please, sir.

9 (REPORTER'S NOTE: Jury enters courtroom.)

10 THE COURT: All right. Good morning, ladies and
11 gentlemen.

12 All right. As I understand it then -- and is it Keasley,
13 sir?

14 JUROR 190: Kearsley.

15 THE COURT: Kearsley, I'm sorry. You have -- we have a
16 Circuit Judge's last name is spelled Keasley. That's why I
17 thought that's what it was. But you have been elected by the
18 jury to be the foreperson; is that correct, sir?

19 JUROR 190: That's correct, sir.

20 THE COURT: All right. Very good. You'll always occupy
21 that particular seat when you come back from the jury room and
22 then regarding the -- the alternates in this case and again,
23 that being Mr. Eaddy and Mr. Swaney, that y'all would always
24 occupy the two end seats over there. It doesn't matter; you
25 can occupy those last end two end seats or these two end

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OPENING BY MR. SPRATLIN

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1 important job, an important duty and responsibility and we are
2 gonna be asking you to listen attentively to the facts and
3 evidence and then at the end, discuss the matter and give us
4 your unanimous decision in this particular matter. So with
5 that, I will turn it over to the lawyers now for their opening
6 statements.

7 Solicitor?

8 MR. SPRATLIN: Thank you, Your Honor.

9 OPENING STATEMENT BY MR. SPRATLIN:

10 MR. SPRATLIN: December 19th, for a lot of us, we may be
11 finishing up our holiday shopping, we'd be making our
12 arrangements on where we're gonna go for the holidays, we'll
13 be planning our children's vacation. December 19th, however,
14 for Ms. Tametra Stinson, since 2013 has a different
15 connotation. That's the day that her son, **Minor**
16 **██████████**, at that time eleven weeks old, approximately three
17 months old, suffered the injuries that took his life, suffered
18 the injuries that took his life at the hands of his own
19 biological father, the Defendant, Hassan Tyler.

20 Ladies and gentlemen, the Defendant is charged with
21 homicide by child abuse. That charge is pretty self-evident.
22 It is the killing of a child during the commission of child
23 abuse, which is what the State will present to you today and
24 tomorrow most likely, that the Defendant did.

25 The Judge told you a little bit about opening statements

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OPENING BY MR. SPRATLIN

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1 and one of the most important things I think he said and one
2 thing I want to reiterate here is that nothing I say is
3 evidence. After I sit down, Mr. Long is gonna have a chance
4 to come up and give you an opening statement if he so wishes.
5 Nothing he says will be evidence either. The only evidence
6 you will hear, the only thing that you can base your opinion
7 or your decision in this case on comes from that witness stand
8 and the physical evidence that comes in.

9 To that end, let me tell you a little bit about what the
10 State will be presenting to you over the next several days.
11 You're gonna hear from Ms. Tametra Stinson. She's going to
12 give you the background. She's gonna tell you that she met
13 Mr. Tyler -- I suspect she's gonna tell you that she met Mr.
14 Tyler while they were both working at a resort in Myrtle Beach
15 and that they at some point became romantic and that one child
16 was born of their romantic relationship, that being **Minor** or
17 as she called him, **Minor**, which is his middle name. She's
18 gone tell you that **Minor** was born in ,
19 , I believe. She's gonna tell you that when she
20 told the Defendant he wasn't -- about her being pregnant, that
21 he wasn't necessarily happy at first. And it wasn't until
22 about a month after **Minor** was born that the Defendant even
23 visited with his son. For the three months of his life, the
24 three months that he was alive, the eleven weeks,
25 approximately three months that he was alive, he was with her.

1 He was in her care, her custody, her control and you're gonna
2 hear that he was fine, happy, healthy, eating. No, no
3 problem, no medical issues, no seizures, no nothing.

4 December 18th, the day before, the State contends **Minor**
5 received those injuries, which I'm gonna talk about more in a
6 little bit. The day before, Ms. Stinson is gonna tell you
7 that the Defendant and his father and his teenage son came
8 over and that **Minor** wound up going home with the Defendant
9 that night. The first time he was ever out of her hands, out
10 of her care, out of her custody. She's gonna tell you that
11 she called the Defendant numerous times while **Minor** was with
12 him. She'll tell you how the Defendant -- what the Defendant
13 told her about **Minor** condition and how he was.. She's
14 gonna tell you that **Minor** was fine when he left her care and
15 her custody, but there's one thing that everyone is gonna tell
16 you is that the baby was fine when he left her care and her
17 custody. She's also gonna tell you about the next time she
18 saw her son. She didn't see him at her home. She didn't see
19 him at the Defendant's home. She's gonna tell you how she saw
20 him at the Loris Hospital hooked up to a bunch of machines.
21 She's gonna tell you how she noticed bruises on her son; a
22 bruise here, a bruise here, bruises here, a bruise here and
23 that **Minor** wasn't moving, cold to the touch. How **Minor**
24 got to that hospital, that's gone be filled in by medical
25 testimony. You will hear from the nurse at the hospital who

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OPENING BY MR. SPRATLIN

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1 took [Minor], non-responsive, not breathing, lifeless, from
2 the Defendant's hands on December 19th. You're gonna hear
3 from the ER Doctor who cared for [Minor] tried to resuscitate
4 him, was able to get a heart rate back but never able to bring
5 him back. You're gonna hear from the radiologist who did a CT
6 scan or commonly called a CAT scan on [Minor] found skull
7 fractures. You're gonna hear from the Forensic Pathologist
8 who performed an autopsy on the three-month-old child and what
9 he saw in the skull of the child, skull fractures, which led
10 to the child's death and he'll tell you how his cause of death
11 was blunt force head trauma. I suspect these doctors are also
12 gonna tell you that kind of trauma doesn't happen
13 accidentally. It happens from a forceful impact to the
14 child's skull, not rolling off the bed, not bumping into a
15 wall. Keep in mind here, we are not talking about a mobile
16 child. We are talking about a three-month-old who in the
17 Defendant's own statement that you're gonna hear today, which
18 he gave to the police department after they began their
19 investigation, he states all that child did was eat and sleep.
20 And he also says, ladies and gentlemen, that he had the child
21 the entire time. His dad was never alone with him. His mom
22 was at school or at work on the 19th and his teenage son was
23 at school on the 19th.

24 As I told you, you're gonna hear the Defendant's
25 statement, it's about an hour and a half long. When you hear

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1 that statement, I want you to pay special attention because
2 you do not have him admitting to his son but what you do have,
3 what law enforcement was able to get out of him in that
4 statement is a timeline. A timeline of events that when you
5 factor in the medical testimony that you're gonna hear, when
6 you factor in the fact that there's gonna be a doctor
7 testifying that the child most likely would not have been able
8 to eat with this head injury, would not have been able to cry
9 with this head injury, would have basically been immobile with
10 that head injury. The Defendant's timeline that he gave is
11 not going to add up.

12 Ladies and gentlemen, a lot of this testimony you're
13 gonna hear today, at the end of the day, it's gonna be an easy
14 decision for you to make because with the medical testimony,
15 there is gonna be a timeline that's established that puts the
16 Defendant being the only person that could've caused what
17 happened based upon his own statement. But the testimony
18 you're gonna hear, while that may be an easy decision at the
19 end of the day, the testimony you're gonna hear may be a bit
20 difficult for you.

21 Ms. Stinson, no mother should outlive her son and I
22 suspect that her testimony might be emotional and it might be
23 difficult for you to listen to, but I ask that you do because
24 it's important and it tells you how **Minor** came to be in the
25 Defendant's hands, in his custody and his control.

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1 The medical testimony is gonna be difficult for a
2 completely different reason. It's gonna be difficult because
3 first off I suspect a lot of it might be dry. It might not be
4 the most interesting testimony you've ever heard. If you've
5 ever heard doctors talk, sometimes they kinda come off a
6 little boring and a little repetitive. But I ask you to not
7 to fall into the trap of zoning out. Don't just stop
8 listening to the doctors because their testimony is critical
9 in this case. Their testimony is how we show what happened to
10 that defenseless three-month-old child. That is how we show
11 that he took that child's life.

12 Ladies and gentlemen, I thank you for your time and
13 service here today and the attention that you're gonna pay in
14 this trial and, at the end of the day, I want to come back up
15 here and show you and tell you-- first off, for the next two
16 days I'm gonna show you why the Defendant's guilty and then at
17 the end of the trial, I'll speak to you again and tell you
18 what I've shown you and why the Defendant is guilty.

19 Thank you.

20 THE COURT: Mr. Long?

21 MR. LONG: Thank you, Your Honor.

22 OPENING STATEMENT BY MR. LONG:

23 MR. LONG: Good morning, ladies and gentlemen; I'm Buddy
24 Long. I represent Hassan Tyler seated here with me today. I
25 don't want to take up a lot of your time telling you what I

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1 think the evidence is gonna be because as His Honor explained
2 to you what the Solicitor says, what I say is not evidence.
3 Listen to the evidence, okay. You'll get to the bottom of
4 this. We hope you will.

5 I just want to kinda give you a road map. I mean, we're
6 setting out on a journey and I kinda want to give you an idea
7 of what to look for. Okay. What forks in the road, where you
8 turn, things of that nature. And I'll admit to you that when
9 this file was first opened and put on my desk with this
10 warrant, I probably -- I know I felt the same way that
11 probably you are feeling right now. Your emotions get ahold
12 of you and it happens to every one of us; police officers,
13 nurses, doctors, et cetera, everybody involved in this case,
14 our emotions get ahold of us. And I read the warrant and I'm
15 thinking how could somebody do something like that? Why would
16 somebody do something like that? A poor innocent child, the
17 child's own father; how could somebody do something like that?
18 And do you know what's talking to me then, not this, this
19 (indicating). My emotions had grabbed ahold of me and
20 everything I think I know about the case is not based on what
21 I see here, look, learn, listen to, it's based on what I feel.
22 And the Solicitor's office is counting on that. He's counting
23 on emotion, okay, for you to say, he killed that child; he was
24 the one who had that child. Listen to the facts and evidence
25 and see if this is uncaring, unloving, doesn't-care-anything-

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1 about-his-son type of father. He's not. He's not.

2 Once I got past this point and I did the job that I've
3 been trained to do and have been doing for a number of years
4 and started looking at the evidence, started saying I get it.
5 Okay. I understand. I understand being in court plenty of
6 times before and maybe you don't understand. The State has to
7 prove guilt beyond a reasonable doubt by a unanimous verdict
8 and I sympathize with you, ladies and gentlemen. My wife and
9 I can't agree what we're gonna have for supper sometimes
10 unanimously. Some simple little mundane decision such as that
11 is tough to come by. You have, with all due respect to His
12 Honor, the toughest job in this courtroom because you have to
13 sift through the evidence, find what the facts are, find what
14 you believe unanimously and reach a unanimous verdict. And
15 the important thing about that is, okay, just personal to you,
16 is that tonight, tomorrow night, the next night, Friday night,
17 Saturday night, whenever you think about this, whenever you
18 say your prayers, whenever you lay your head down and go to
19 sleep, you can rest assured and say I made the right decision.
20 I don't have to rethink this ever again. I did the best I
21 could, I did what I was supposed to do and I truly believe --
22 I sympathize with you.

23 The evidence will show basically some of what the
24 Solicitor told you. Hassan went over with his father and his
25 fourteen-year-old son, that he has custody of, to deliver

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1 Pampers and wipes and visit with his son, okay, his son.
2 While they were there, they agreed, hey, Hassan doesn't have
3 to work the next day; he can come over and spend the night.
4 Hassan lives with his parents. His fourteen-year-old son
5 lives with his parents, the four of them in the house. This
6 would be a great family time to get together. Everything's
7 fine until Saturday approximately 1:00, 1:30, times vary,
8 times differ, but he went in to check on him, the child is
9 having seizures, frozen up, having seizures, turned him over,
10 and was trying to look at him, his eyes were stuck frozen on
11 one place, he went and got his father, they got in the car.
12 He called her before he got in the car and said, look, the
13 baby is having seizures; it looks like seizures. She said
14 bring him home. They said no, we're taking him straight to
15 the hospital and straight to the hospital and he carried his
16 lifeless son's body into the hospital and handed him over to a
17 nurse and thank God they're able to resuscitate and get him
18 breathing again.

19 Now following all this, the police officer came to the
20 hospital, he spoke with him fully, told him everything that
21 had happened. The police called him in, said look, come in
22 and talk to us, we need to find out what happened to this
23 child. He immediately came in and talked to them, met with
24 them for almost two hours and you'll have an opportunity to
25 listen to this case. There are a couple of things that

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1 somebody could walk up to me on the street and say, Buddy, you
2 -- something and there's a couple of things that I wouldn't
3 waste a word with. I'd probably jump on top of them and beat
4 them to a pulp, very few words, but if somebody came up and
5 said you are a child molester, okay, them's fighting words.
6 If somebody came up to me and said, Buddy, you killed your own
7 son or daughter, okay, them's fighting words. And for an hour
8 and a half, two hours, they're basically telling this man, you
9 killed your son. Now come on, tell us, tell us, tell us. He
10 was consistent in every way, told them everything he knew,
11 they kept badgering at him; you listen to the statement and
12 see if you could've kept your temper during this. He did and
13 I admire and respect that because they're saying that either
14 shook this child or got mad with this child because the child
15 was crying or acting up or he hit the child or something of
16 that nature, whatever. This man's got temper reserve.

17 That's just a small hint of where the evidence goes in
18 this case and what you're gonna ultimately be asked to decide.
19 And again, I sympathize with you, but the State and we said
20 this is who we entrust that decision to. His Honor will do a
21 wonderful job providing you with the law and how you're to
22 help, you know, understand, et cetera, things of that nature.
23 That is the useful tool for you to use. But I pray, I pray
24 and I trust and hopefully that you'll not let your heart run
25 away with your head. This man suffered a terrible loss too, a

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1 terrible loss. He stayed at Loris Hospital. He went to
2 Florence and spent the night in Florence Hospital when they
3 airlifted him to Florence. He, he was torn, he was completely
4 torn up. He suffered a loss too. Don't let that affect your
5 head. We're interested in your head, we're interested in your
6 finding out what happened and telling us the truth. We ask
7 you to pay attention. This is not a comfortable case. The
8 testimony is not comfortable. Nobody, nobody's heart wants to
9 have to go through what you're gonna have to go see and hear
10 and listen to. Please use your head. Thank you.

11 THE COURT: All right. Solicitor, your first witness,
12 please, sir.

13 MR. SPRATLIN: The State would call Ms. Tametra Stinson
14 to the stand.

15 THE COURT: All right. Please come around and be sworn,
16 ma'am.

17 CLERK: Raise your right hand and place your left hand on
18 the Bible.

19 TAMETRA STINSON, HAVING BEEN SWORN
20 TESTIFIES AS FOLLOWS:

21 CLERK: State your full name and spell your last name.

22 MS. STINSON: Tametra Stinson. S-T-I-N-S-O-N.

23 MR. SPRATLIN: Your Honor, may I approach with a tissue
24 box for Ms. Stinson?

25 THE COURT: Yes, you may.

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1 As best you can, ma'am, please speak directly into the
2 microphone. Okay?

3 MS. STINSON: Yes, sir.

4 THE COURT: Thank you. Go ahead, Solicitor.

5 MR. SPRATLIN: Thank you, Your Honor.

6 DIRECT EXAMINATION OF TAMETRA STINSON BY MR. SPRATLIN:

7 Q: Ms. Stinson, how old are you?

8 A: Twenty-five.

9 Q: What do you currently do for work?

10 A: I'm unemployed.

11 Q: When was the last time you were employed?

12 A: Back from September 2015 up until November 2015 for
13 Staffing SMX.

14 Q: Do you have any children?

15 A: Yes, sir, I have two older kids that were older than

16 Minor [REDACTED].

17 Q: The two older kids, how old are they?

18 A: My son is nine and my daughter is seven.

19 Q: What's your son's name?

20 A: J.J. [REDACTED]

21 Q: What about your daughter?

22 A: L.S. [REDACTED].

23 Q: You mentioned Minor [REDACTED], who is he?

24 A: That was my youngest son that's deceased.

25 Q: What was his full name again?

1 A: Minor [REDACTED].
2 Q: And what name did you call him by?
3 A: Minor [REDACTED]
4 Q: Ms. Stinson, were you working back in early 2013?
5 A: Yes, sir, I was.
6 Q: Where were you working?
7 A: North Beach Plantation down in North Myrtle Beach.
8 Q: When did you first start working there?
9 A: I started working there April of 2011.
10 Q: And when did you stop working there?
11 A: March 2013.
12 Q: Do you know the Defendant, Mr. Hassan Tyler?
13 A: Yes, sir.
14 Q: Where did you meet him at?
15 A: At North Beach Plantation.
16 Q: What was he doing there?
17 A: He was a public area, he did public area.
18 Q: Was he working there?
19 A: Yes, sir.
20 Q: When you first met him, what sort of relationship did you
21 and him have?
22 A: We were friends.
23 Q: At some point did that relationship become more than just
24 friends?
25 A: Yes, sir.

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1 Q: How did that relationship become more than friends; what
2 did it turn into?

3 A: We had sexual encounter ---

4 Q: Was this a one time?

5 A: --- numerous of times.

6 Q: I'm sorry?

7 A: Numerous of times.

8 Q: I'm sorry; one more time?

9 A: Numerous of times.

10 Q: Were any children born of this romantic relationship
11 between you and ---

12 A: Yes, sir, one.

13 Q: Who was that?

14 A: **Minor** [REDACTED].

15 Q: And that's your son that you mentioned earlier?

16 A: Correct.

17 Q: When did you first find out that you were pregnant with
18 **Minor** [REDACTED]

19 A: I didn't go to the doctor until March the 25th, but
20 before then me and my sister were in a room and I was like my
21 line on my stomach is darker than usual and she was like well
22 you might be pregnant. So around February the 14th, I braided
23 Hassan's hair; he came to my mother house and I braided his
24 hair and I was like I'm pregnant, I think I'm pregnant and he
25 kind of blew it off.

1 Q: When did you tell the Defendant officially that you were
2 pregnant?

3 A: I went to work one day and we were sitting in the
4 breakroom, me and Hassan, and I think it was the end of the
5 day and we were in there talking and I told him again that I
6 was pregnant and he was like, well I have a fourteen-year-old
7 son already; what am I supposed to tell my son and he got mad
8 and he walked out.

9 Q: Do you remember when it was that you told him you were
10 pregnant?

11 A: It was earlier months. It was in March, but at the
12 beginning of the month.

13 Q: And that's March of 2013?

14 A: Correct.

15 Q: How many doctor's appointments do you believe you went to
16 while you were pregnant with Minor

17 A: I went to all my doctor's appointments. I'm not sure of
18 the amount of how many extra dates it was, but I made all of
19 the appointments.

20 Q: Did Hassan attend any doctor's appointments?

21 A: No, sir.

22 Q: Now, Ms. Stinson, when was Minor -- when was Minor
23 born?

24 A: He was born at 12:48 A.M.

25 Q: Compared to your other two children, were there any

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1 difficulties with this birth?

2 A: No, sir.

3 Q: How long were you in the hospital with Minor

4 A: The regular two days.

5 Q: And once you left the hospital, where did you go?

6 A: To Nichols, South Carolina to my mother's house.

7 Q: Who all lived in Nichols with you and Minor

8 A: Me, Minor, my other two kids, my mother, my step-

9 father, three of my sisters and my sister also had two kids.

10 Q: Did the Defendant live with you at that time?

11 A: No, sir.

12 Q: Has the Defendant ever lived with you?

13 A: No, sir.

14 Q: What part of the county did he live in if you know?

15 A: Loris, South Carolina.

16 Q: After Minor was born on , when, if you
17 recall, was the first time the Defendant saw his child?

18 A: It was October the 22nd, 2013.

19 Q: Where did he see that child at?

20 A: At my mother's house. Him, his father, his sister, his
21 son and his sister's daughter came to see him.

22 Q: Between the time that Minor was born and December 18th of
23 2013, how many times total did the Defendant see his child?

24 A: I'd say around five because I went to Hassan's house
25 three times and the fifth time was on the 18th when him, his

1 father and his son came.

2 Q: And you already stated that [Minor] was deceased. When
3 did he pass?

4 A: December the 20th, 2013 is when the plug was pulled on
5 him.

6 Q: How old was [Minor] when he passed?

7 A: He was almost three months.

8 Q: What kind of child was [Minor]

9 A: He was a happy baby, always smiling.

10 Q: How much did [Minor] eat?

11 A: I would feed him every two hours.

12 Q: Did you ever observe any problems or issues with [Minor]?

13 A: No, sir.

14 Q: How many times did you take [Minor] to the doctor during
15 his three months?

16 A: The day we left the hospital he had to get a shot. He
17 went and got his one month old shot and then he got his two
18 month old shots.

19 Q: On these three appointments that you took [Minor] to, did
20 the Defendant ever attend?

21 A: No, sir.

22 Q: Let's talk about December 18th. I know it's gonna be
23 hard. I believe you already testified that the Defendant came
24 over?

25 A: Yes, sir, he texted me and told me that he was bringing

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1 Pampers and wipes. When he arrived there it was him, his
2 father and his son. We were sitting at the table talking and
3 then me and Hassan walked outside to get the Pampers and wipes
4 and when we came back in, they were still playing. He was
5 woke and they were playing with him and then we were back at
6 the table talking and the father was like, Hassan's father
7 said, well, maybe we can take him home for the night since you
8 don't have to work, but I was in the kitchen checking the pots
9 with my momma and he was like, well, did you hear my father
10 and I was like, no, and he was like he said we can -- can we
11 take him home since I don't have to work tomorrow. So I sat
12 there and I was like, yeah, y'all can take him. So I went in
13 the room to start packing his clothes and then later Hassan
14 came in the room and as I was packing the clothes and we were
15 in there talking and I got his stuff ready. I packed him, he
16 had on a stripy shirt and some pants.

17 Q: Ms. Stinson, let me back you up for a minute. During the
18 visit when -- who all again did you say was over there?

19 A: It was Hassan and his father and his son.

20 Q: Do you know the name of his older son?

21 A: I'm not sure, but I think it's Amin.

22 Q: Amin. Do you know the name of his father?

23 A: I used to hear people call him D.

24 Q: D. Okay. How was the visit going; what were they doing
25 with **Minor** during this visit?

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1 A: They were sitting holding him, smiling with him, playing
2 with him.

3 Q: How long did they visit with Minor

4 A: It was, I'd say fifteen, twenty minutes.

5 Q: How was Minor acting during this visit?

6 A: He was always happy. He was smiling and just looking
7 around.

8 Q: At this time, did you notice any sort of bruises or any
9 kind of marks on Minor?

10 A: No, sir, he was fine.

11 MR. SPRATLIN: Your Honor, permission to approach the
12 witness?

13 THE COURT: You may.

14 MR. SPRATLIN: Let the record reflect I'm showing Defense
15 counsel what has been pre-marked State's Exhibit Number Three
16 for identification purposes.

17 BY MR. SPRATLIN:

18 Q: Ms. Tyler, please take a look at State's Exhibit Number
19 Three for identification purposes. Do you recognize the
20 individual in that photo?

21 A: Yes, sir.

22 Q: Who is that?

23 A: My baby, Minor .

24 Q: Is that picture a fair and accurate representation of how
25 Minor appeared on December 18th at your house?

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1 A: Yes.

2 Q: I know that photo wasn't taken at your house, but was
3 that a fair and accurate representation of how **Minor**
4 appeared?

5 A: Yes, sir.

6 MR. SPRATLIN: Your Honor, at this time, the State would
7 tender into evidence State's Exhibit Number Three for
8 identification as State's Exhibit Number Three.

9 THE COURT: Any objection?

10 MR. LONG: No objection, Your Honor.

11 THE COURT: It's in evidence without objection.

12 STATE'S EXHIBIT NUMBER THREE

13 ADMITTED INTO EVIDENCE

14 MR. SPRATLIN: The State would ask to publish to the
15 Jury?

16 THE COURT: You may do so.

17 MR. SPRATLIN: Your Honor, permission to retrieve State's
18 Exhibit.

19 THE COURT: You may do so.

20 BY MR. SPRATLIN:

21 Q: Now, Ms. Stinson, do you remember approximately what time
22 it was that **Minor** left your house?

23 A: It was around 7:30, 7:35, something like that on December
24 the 18th, 2013.

25 Q: And in addition to **Minor** what else did you say you

1 gave the Defendant to take with him?

2 A: I gave a diaper bag with clothes, with t-shirts, socks,
3 sleepers, pampers. Then I gave a plastic bag with the wipes.
4 I gave him cereal from time to time; I had cereal in the bag
5 and two bottles.

6 Q: After the Defendant left, when is the next time you had
7 contact with him?

8 A: I, I don't remember if I texted or called him, but it was
9 about ten minutes later I realized that the pacifier was on
10 the chair and my sister was like Rayna, everybody called me
11 Rayna. She was like, Rayna, they left the pacifier and I, I
12 don't know if I texted or called, but I told him that they
13 left the pacifier and with me he don't sleep without it.
14 Everywhere he go, his pacifier is there and I was like he may
15 not sleep without his pacifier.

16 Q: What, if anything was the Defendant's response?

17 A: He was like, we good.

18 Q: Why did you agree to let **Minor** go with the Defendant
19 that day?

20 A: Because that's his father and I felt that he should get
21 -- start getting a chance to know him and if he was with him
22 that time then if he go again, things would go better; he
23 wouldn't cry because if you don't -- if he's with you and he
24 don't know you, he's gonna cry. So, I felt that him being
25 with him, being in his presence, he get to know who his father

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1 is he wouldn't cry with him.

2 Q: Prior to [Minor] leaving your care, I'm sorry, Ms.

3 Stinson. Prior to [Minor] leaving your care, when was the
4 last time you had changed his diaper?

5 A: I changed him right before he left.

6 Q: And the outfit that [Minor] is in in that photograph, is
7 that the same outfit he was wearing when he left?

8 A: Yes, sir, but he had on some pants with it.

9 Q: During the time that you changed [Minor] diaper or
10 dressed him, did you notice any sort of bruises or marks on
11 his stomach?

12 A: No, sir.

13 Q: After your conversation with the Defendant regarding the
14 pacifier that night, when was the next time you had a
15 conversation with the Defendant about [Minor]?

16 A: I didn't have a conversation. It was around 11:00 that
17 night I text him and checked on [Minor] to see how he was
18 doing, but I assumed they was asleep because I didn't get a
19 response. So at 7:00 that morning, I sent the same message
20 out to check on him.

21 Q: What was the response to that?

22 A: He said no paci, we good, he slept, that meaning -- I
23 guess that mean he slept through the night without his
24 pacifier.

25 Q: Prior to [Minor] leaving your home, did you have an

1 agreement on what time he was gonna come back the next day?

2 A: No, sir. I just -- I just know he was staying just that
3 night.

4 Q: When's the next time you talked to the Defendant about

5 **Minor**

6 A: It was the next morning on the 19th. I, I -- usually I
7 get up at 6 o'clock every morning to get my son dressed for
8 school and I think I text him or something and I said that I
9 was going back to sleep because I didn't sleep that night
10 without my son being there, but I didn't get up -- I didn't
11 get -- I didn't go back to sleep. I actually got up to get my
12 younger daughter dressed because I was going to see my
13 grandfather in Marion, South Carolina and I think we were
14 texting back and forth and then I actually -- I think we ended
15 up getting on the phone with each other and was talking.

16 Q: What were y'all talking -- and -- and who do you mean by
17 us?

18 A: Hassan.

19 Q: The Defendant?

20 A: Yes, sir.

21 Q: And what were y'all talking about?

22 A: About **Minor** and I think he asked me what was I doing or
23 whatever.

24 Q: At that point, what was the discussion regarding **Minor**?

25 A: I did tell him that I was in Marion and that when I got

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1 back home, on my way home I would call him so that he can
2 **Minor** home.

3 Q: Do you remember about what time of day this conversation
4 took place?

5 A: We talked numerous of times, but I think the first time
6 that we were on the phone it was 10-something; it was close to
7 11:00.

8 Q: During that conversation or any conversation that you had
9 with the Defendant that day over the phone, did you hear
10 **Minor** at all?

11 A: Yes, sir, but I think before then he mentioned that he
12 was -- he had **Minor** laying on his lap or something and that
13 he was -- he was laying across his belt buckle or something
14 and had a bruise on his head over his eye and then -- or
15 another conversation we got -- we were on the phone and I
16 could hear **Minor** crying and it was like an unusual cry
17 because when he was home, I could barely hear him cry. I
18 would have to look at him to see if he were crying, but I
19 could actually hear him through the phone crying and I was
20 like, well what is wrong with him and he was like he was
21 sleeping and all I did was touch his lip and I said okay. And
22 he was like well that's why he crying and I could hear him say
23 well what's wrong, Daddy got you, it's all right.

24 Q: Let me ask you, you stated earlier about the -- a bruise.
25 In addition to the bruise over the eye that you just told us

1 about, did the Defendant talk to you about any other bruises?

2 A: He said that he put a hickey on his neck.

3 Q: Was that odd to you?

4 A: Yes, because I responded was -- my response was that's
5 gay and he was like that's not gay, that's my son and I left
6 it alone, but I was still thinking about, well, why would you
7 put a hickey on his neck but he was like well that's my son
8 and I was like okay.

9 Q: But that was the other discussion about a bruise on his
10 neck?

11 A: Yes.

12 Q: And was it that same conversation you heard **Minor**, I
13 believe you said, crying like you hadn't heard him before?

14 A: Yes.

15 Q: Ms. Stinson, when was the next time that you saw your
16 son?

17 A: I was at home and I received a phone call from Hassan
18 telling me that my son had stopped breathing and that he was
19 -- he was on the way bringing him home, but he turned around
20 to take him to the hospital. So, me and my mother got up, but
21 she had a truck that jerked so bad, it took us an extra five
22 minutes to get there and when -- once I got to the hospital, I
23 made a call to Hassan because I didn't see his father's car
24 and I was like, where are y'all and he was like in the
25 emergency room in the back and I jumped out of my momma truck

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1 and I ran into the hospital and I -- the lady stopped me and
2 was like what's wrong and I was like, my son is in the back
3 and the doctors are asking for me and I went in the back. He
4 was in Room 5 and I see my baby laying on the bed lifeless.

5 Q: What did you do when you saw that?

6 A: I broke down and cried.

7 Q: Did you notice anything that changed about his appearance
8 since the last time you'd seen him?

9 A: Yes, he was actually laying there lifeless and that was
10 unusual for me.

11 Q: Okay. Did you notice any marks or injuries to him?

12 A: I didn't get as close as I wanted to because I had -- I
13 started panicking and I think my step-father had made it to
14 the back where I was at and he had pulled me to -- there was
15 some chairs sitting right across from Room 5 and we was
16 sitting down and I was crying and then my sister, she was the
17 one that actually go stand by the bed and she pulled the
18 sheets off of him and the nurse told her that she couldn't do
19 that, but she told me that she seen bruises all over his
20 stomach.

21 Q: At the time you were at the hospital, did **Minor** ever
22 regain consciousness to your knowledge?

23 A: No, sir.

24 Q: How long was he at Loris McLeod Hospital?

25 A: I think it was until about 5:00 or 6:00 that evening and

1 he was flown to Florence Hospital.

2 Q: Did you go to Florence as well?

3 A: Yes, sir.

4 Q: Were you with [Minor] at Florence?

5 A: Yes, sir, but I didn't fly on the airplane with him
6 because I was scared to get on the plane so my father -- my
7 step-father and my mother drove me to Florence Hospital.

8 Q: When you got there had [Minor] situation improved at
9 all?

10 A: No, sir, it had actually got worser.

11 Q: At any point did you touch [Minor]

12 A: Yes.

13 Q: How did he feel?

14 A: His body was cold.

15 Q: At Florence McLeod did he ever regain consciousness?

16 A: No, sir.

17 Q: When did [Minor] pass?

18 A: They pulled the plug on him around 12:50-something
19 December the 20th, 2013.

20 Q: And do you remember where that was that he passed ---

21 A: At Florence Hospital.

22 Q: Ms. Stinson, one last question for you. You've been
23 referring to someone as Hassan throughout this testimony. Do
24 you see the person you know as Hassan here in the courtroom?

25 A: Yes, sir.

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1 Q: Would you please point him out and identify an article of
2 clothing he's wearing?

3 A: He's the Defendant with the strippy -- well, the -- I
4 guess it's a little small striped shirt.

5 Q: Please let the record reflect the witness has identified
6 the Defendant. Ms. Stinson, all the events you described, did
7 they -- did they occur on or about December 19th, 2013, except
8 for the earlier discussions of the history of you and the
9 Defendant?

10 A: Correct, except for the day they pulled the plug, which
11 was the 20th.

12 Q: Ms. Stinson, that's all the questions I have. Please
13 answer any questions that Mr. Long might have.

14 A: Okay.

15 THE COURT: Cross examination?

16 MR. LONG: Thank you, Your Honor.

17 CROSS EXAMINATION OF TAMETRA STINSON BY MR. LONG:

18 Q: Ms. Stinson, I'm sorry for your loss; do you believe
19 that?

20 A: Yes, sir.

21 Q: You can. When you were at the hospital, Hassan was there
22 the whole time, correct?

23 A: Correct.

24 Q: All right. And it was his sister that flew with Minor
25 to Florence, right ---

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1 A: Correct.

2 Q: --- she wasn't scared of flying?

3 A: Correct.

4 Q: All right. And his father and his brother-in-law and he
5 followed right behind and went to Florence and was there then
6 as well, correct?

7 A: Correct.

8 Q: And as a matter of fact, you spent the night in Florence
9 and he spent the night in Florence there at McLeod, too,
10 correct?

11 A: Correct.

12 Q: All right. And he was torn up by this as well, wasn't
13 he?

14 A: Yes, sir.

15 Q: All right. Y'all were working together at -- did you say
16 North Beach Plantation?

17 A: North Beach Plantation.

18 Q: All right. And you said you quit working, you were
19 working there 2011 till 2013?

20 A: Correct.

21 Q: All right. Was it after you found out you were pregnant
22 that you quit working?

23 A: Yes, sir, but that's not why I quit working.

24 Q: Okay. But there was another reason unrelated ---

25 A: Yes, sir.

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- 1 Q: --- okay. And then after **Minor** was born, did you work
2 any time after that?
- 3 A: Yes, sir.
- 4 Q: All right. Where did you work after his birth?
- 5 A: Are you saying -- no, I worked during -- while I was
6 pregnant I worked at the -- at the North Beach Plantation.
- 7 Q: Okay.
- 8 A: I worked at McDonald's.
- 9 Q: After North Beach?
- 10 A: Yes, sir.
- 11 Q: Okay. All right. And so how long did you work at
12 McDonald's prior to his birth?
- 13 A: About two months.
- 14 Q: Okay. Did you work anywhere after his birth?
- 15 A: I think I went back to work -- I went -- I started
16 working somewhere, I only worked there a day and it was in
17 2014.
- 18 Q: Part-time jobs or anything of that nature, anything you
19 could pick up?
- 20 A: I just -- to clear my head I just went, but I didn't last
21 nothing but that day.
- 22 Q: Okay. You have two children. I believe you said Jaheem;
23 he's age nine?
- 24 A: Correct.
- 25 Q: And your daughter's name was that Jamural?

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- 1 A: J'Miracle.
- 2 Q: J'Miracle. Okay. And she's age seven?
- 3 A: Correct.
- 4 Q: Of those two, which would you say is your best helper?
- 5 A: Both of them.
- 6 Q: All right. Do they help you clean, fold laundry, wash
7 clothes ---
- 8 A: Yes.
- 9 Q: --- wash dishes, dry dishes, things of that nature?
- 10 A: They don't go in the kitchen to wash dishes and stuff,
11 but they help me fold the laundry.
- 12 Q: All right. And which one's your best helper as far as
13 helping take care of **Minor**
- 14 A: Both of them. They would pick out his clothes and stuff
15 when I washed them.
- 16 Q: Change his diaper?
- 17 A: No, I didn't let them change ---
- 18 Q: Feed him?
- 19 A: No, sir, I fed him and changed his diapers, either me, my
20 mother or older sisters.
- 21 Q: Now, there were two other children living in the house
22 there as well, right?
- 23 A: Correct.
- 24 Q: That's your sister's children?
- 25 A: Correct.

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1 Q: And what are their names and ages?

2 A: Her son name is D.S. [REDACTED]; he is -- now he's eleven
3 and her daughter name is S.O. [REDACTED] (spelled phonetically) S.O. [REDACTED]
4 and she is seven.

5 Q: All right. Were there also two five-year-olds there?

6 A: They were five at the time. That was her daughter, my
7 sister's daughter and my daughter; they were both five at the
8 time.

9 Q: Okay. So there was a total of four children in the
10 house?

11 A: Correct.

12 Q: All right. And which of those two were the best helper?

13 A: Of my sister's kids?

14 Q: Around the house doing anything?

15 A: All of them cleaned up and everything.

16 Q: Okay. And did you ever rely on them to help you with

17 Minor [REDACTED]

18 A: No, sir, they just would pick out his clothes and stuff,
19 not actually hold him, feed him, change his diaper or
20 anything.

21 Q: Okay. But they'd help what they could, correct?

22 A: Yes.

23 Q: All right. And you'd ask them to do what you felt
24 comfortable with, right?

25 A: Yes.

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1 Q: Okay. Now that's your oldest sister's children that
2 lives there in the house also, correct?

3 A: She's not the oldest, but she's older than me.

4 Q: Okay. And then you have two other sisters that live in
5 the house with you?

6 A: Correct.

7 Q: And what are their ages?

8 A: Their ages now or then?

9 Q: Well, two years apart; let's say their ages then?

10 A: My sister Paris, her name is Paris. She is now twenty-
11 two. My younger sister name is Navayah (spelled
12 phonetically); she's ten.

13 Q: Ten, so she was eight; they were eight and twenty ---

14 A: Correct.

15 Q: --- two, three years ago?

16 A: Correct.

17 Q: And which of those two were the best helpers for you?

18 A: Paris, the one that is twenty-two.

19 Q: All right. And so example, if you needed babysitting or
20 you needed her to wash the baby because you got the other ones
21 busy doing something or help with homework or something of
22 that nature, she would have been your go-to girl?

23 A: She would have, but I would wash him myself.

24 Q: Okay. Now you also had a brother that was living in the
25 home, correct?

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- 1 A: I can't remember, but they -- they would -- I don't know
2 if they were actually living then with us, but they would be
3 back and forth.
- 4 Q: All right. Your twenty-three year old brother lives in
5 the house; what was his name?
- 6 A: Twenty-three meaning twenty-five now; Casey.
- 7 Q: Casey. All right. And he was living in the house at
8 this time, December of 2013?
- 9 A: I can't remember.
- 10 Q: All right. Now your sisters, any of them married?
- 11 A: No, sir.
- 12 Q: All right. Any of them dating?
- 13 A: Now?
- 14 Q: At the time, December of 2013?
- 15 A: I think my oldest sister was dating.
- 16 Q: All right. Did she ever bring boys by the house?
- 17 A: I wouldn't say boys; her one boyfriend she would.
- 18 Q: Okay. All right. And what about your brother, was he
19 dating ever bring girlfriends by the house?
- 20 A: Yes, he had one girlfriend.
- 21 Q: All right. And they'd come by the house and watch T.V.
22 et cetera, sometimes eat maybe, things of that nature, come
23 visit?
- 24 A: She's actually my friend, so yes, she'd come hang with
25 me.

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- 1 Q: And so how many people total are living in this house?
- 2 A: I say eleven.
- 3 Q: And that includes your mother and step-father?
- 4 A: Correct.
- 5 Q: Okay. And how many of them were under the age of
- 6 eighteen at the time, December of 2013?
- 7 A: Five, including Minor [REDACTED].
- 8 Q: Okay. Five including him?
- 9 A: Correct.
- 10 Q: There would have been four other children in the home?
- 11 A: Correct.
- 12 Q: Okay. Now when you Hassan met, y'all were working
- 13 together and you said y'all became friends, right?
- 14 A: Yes, sir.
- 15 Q: All right. And that friendship developed into a romantic
- 16 relationship?
- 17 A: Correct.
- 18 Q: All right. How long did it take from friendship to
- 19 romance?
- 20 A: Not long.
- 21 Q: A week, a month, a day or how much?
- 22 A: I'd say a month.
- 23 Q: All right. So there was mutual attraction on both of
- 24 you's part, correct?
- 25 A: Correct.

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- 1 Q: And then once the relationship went romantic, how long
2 did the relationship last?
- 3 A: Up until after I had Minor .
- 4 Q: Okay. So nine months?
- 5 A: Maybe longer.
- 6 Q: Okay. Now I'm talking about romantic relationship?
- 7 A: I know.
- 8 Q: Okay. All right. So the whole time during your
9 pregnancy y'all remained or continued to ---
- 10 A: Yes, sir.
- 11 Q: --- see each other. All right. And where would y'all
12 see each other?
- 13 A: It was -- it was me and my sister's house, but I ended up
14 leaving to go back to stay with my mother, but we would
15 actually go there and it's in -- considered Loris, South
16 Carolina.
- 17 Q: All right. So you and your sister had a place at that
18 time?
- 19 A: My oldest sister. Correct.
- 20 Q: All right. And who would be caring for your kids while
21 you were visiting and going out with Hassan?
- 22 A: We didn't go out anywhere. We would actually stay at my
23 house.
- 24 Q: All right. And your kids stayed there also?
- 25 A: Correct.

1 Q: All right. And your -- the nine-year-old and seven-year-
2 old would be there when you -- when Hassan was there?

3 A: Correct.

4 Q: And y'all were romantic?

5 A: They wouldn't be in the room with us, but they would be
6 there.

7 Q: Okay. So y'all would go in separate rooms?

8 A: Correct.

9 Q: All right. This was a two bedroom house ---

10 A: Correct.

11 Q: --- that you and your sister had. Then after **Minor** was
12 born, I believe you said that Hassan visited five times total;
13 three times you brought him over to his house?

14 A: Correct.

15 Q: And who would be at his house to visit when you brought
16 **Minor**?

17 A: The first time I went there, I don't think anybody was
18 there. The second time I went, I know his mother was at work
19 and she ended up coming home and the third time, his father
20 was out somewhere but he ended up coming back home because
21 that's when I actually found out that they were supposed to be
22 moving out of that -- the place I was at into a different
23 place.

24 Q: All right. So sometime during these three visits, you
25 had an opportunity to meet his father, his mother and his

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- 1 fourteen-year-old son?
- 2 A: No, I met the son -- well, I met the father and the son
- 3 before that time because they came to my house October the
- 4 22nd.
- 5 Q: Okay. But ---
- 6 A: Which was before the three times that I went to his
- 7 house.
- 8 Q: Before they came over to your house on December 18th ---
- 9 A: Correct.
- 10 Q: --- you had already met the father and you'd already met
- 11 the son, correct?
- 12 A: Before they came December the 18th?
- 13 Q: Correct.
- 14 A: Correct.
- 15 Q: All right. And you'd also met his momma before then?
- 16 A: Correct.
- 17 Q: All right. And when they came over, Hassan was bringing
- 18 you pampers and wipes, right?
- 19 A: Correct.
- 20 Q: And this wasn't a little baggie of pampers; he brought a
- 21 big box?
- 22 A: He brought a case of pampers.
- 23 Q: A case of pampers and the wipes, how many wipes was it,
- 24 250, 500, how many wipes come in a thing?
- 25 A: I want to think it was the 250, but I think he brought me

1 two containers of wipes.

2 Q: In other words, he wanted to bring what you needed to
3 help take care of **Minor**?

4 A: Correct.

5 Q: And if you were short of money or needed help, whatever,
6 he was willing to provide that, correct?

7 A: I wouldn't say ---

8 Q: By way of diapers, pampers, whatever?

9 A: Well, yeah, because he bought the diapers and wipes.

10 Q: Is the first time he took by diapers and wipes?

11 A: Yes.

12 Q: Is it the first time he ever brought by anything for him,
13 clothes, et cetera, anything like that?

14 A: Yes.

15 Q: And you requested that he do that, correct?

16 A: Correct.

17 Q: All right. Because you wanted him in **Minor** life,
18 right?

19 A: Correct.

20 Q: All right. And did you tell Hassan that you didn't want
21 him to not be in **Minor** life like other two kids' fathers?

22 A: I don't remember telling him that, but if he said I told
23 him that, then ---

24 Q: Then it could be, correct?

25 A: Yes, because they always had a father figure in their

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1 lives.

2 Q: Okay. Your two other children, same father or separate
3 fathers?

4 A: Separate fathers.

5 Q: Okay. Did you marry either of the other fathers?

6 A: No, sir, I did not.

7 MR. SPRATLIN: Your Honor?

8 THE COURT: I'm gonna allow those questions. Move along,
9 Mr. Long.

10 MR. LONG: Okay.

11 BY MR. LONG:

12 Q: You testified and said shortly after they left the home,
13 okay, the four boys -- that would be Hassan, his dad, Hassan's
14 son, and **Minor** -- shortly after they left the house, you
15 realized the pacifier wasn't there, correct?

16 A: I realized the pacifier was still there.

17 Q: Okay. You had it and they didn't?

18 A: Correct.

19 Q: All right. And you said you called him or texted him;
20 you don't remember which one you did, correct?

21 A: Correct.

22 Q: And you said, hey, got his pacifier, he's gonna need it,
23 he's, you know, still a baby and babies like pacifiers,
24 correct?

25 A: Correct.

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1 Q: All right. And he -- your response was he said we good
2 or something like that?

3 A: Correct.

4 Q: All right. Then you testified about the other
5 conversations and/or texts you had, but I believe you said it
6 was the following morning that you had a conversation with him
7 and he said something about the baby fell asleep on my belt
8 buckle and has a little mark on his eye?

9 A: Correct.

10 Q: All right. That's not what you told police, was it?

11 A: The same statement that I'm giving to you, I told the
12 police the same thing. It may have not been in the same
13 words, but I'm pretty sure that's what I said.

14 Q: Let me hand you this document and ask you if you can
15 identify that document? Is that your statement?

16 A: Correct.

17 Q: Is that your statement?

18 A: It's not my writing, but it's the statement.

19 Q: Who wrote that for you?

20 A: The officer that I talked to.

21 Q: All right. So you told the officer what to write and put
22 in the statement?

23 A: No, I told him what I knew -- I didn't tell him what to
24 write. He wrote down what I was telling him.

25 Q: All right. And you told him everything to put in the

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1 statement, correct?

2 A: Correct.

3 Q: You signed the statement saying that this is my

4 statement; this is what happened?

5 A: Correct.

6 Q: All right. Would you look at Page Two in the middle of

7 Page Two starting with, I telephoned Hassan and told him that

8 he had left **Minor** pacifier at my house; do you see that what

9 I'm talking about?

10 A: Correct.

11 Q: All right. The next sentence after that, what did you

12 tell the police officer?

13 A: It says I told -- Hassan told me that he laid **Minor** in

14 his lap and that his belt buckle left a bruise over his eye.

15 Q: All right. So that was -- you told the police officer

16 that that conversation took place that night when you called

17 him to tell him about the pacifier, right?

18 A: That's how it's wrote, but I don't think it was -- I was

19 just talking. I was emotional when I was talking and I guess

20 it was misunderstood, but that was the next day on the 19th

21 that he told me about the bruise on his eye. It wasn't that

22 night because I didn't have another conversation with Hassan

23 that night.

24 Q: But you told the police officer you called Hassan, told

25 him about leaving the pacifier and Hassan said he laid his

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1 head on my lap on my belt buckle and got a little mark on his
2 eye. You told the police officer that's when that
3 conversation took place, right?

4 A: I may -- I may have been confused, but that's what the
5 statement says.

6 Q: Okay.

7 A: Correct.

8 Q: And you signed the statement, correct?

9 A: Correct.

10 Q: During the time that you and Hassan and other family
11 members were in Florence, were y'all talking?

12 A: Yes, sir, everybody was there.

13 Q: All right. And praying, correct?

14 A: Correct.

15 Q: And everybody's trying to console each other, correct?

16 A: Correct.

17 Q: Were praying everything's gonna be okay, let's hope he's
18 okay, et cetera and Hassan was involved in that wasn't he?

19 A: Correct.

20 Q: Did you ever at any time ask him what happened?

21 A: No, sir, because I was emotional and I just wanted to
22 know if the doctors gonna revive my baby. I never thought to
23 ask him what had happened to my baby.

24 Q: Never thought to ask him did he fall off the bed, did you
25 drop him, did **Minor** you know, hurt him; I mean, his son,

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1 Amin, hurt him, never asked him anything, how it happened?

2 A: No, sir.

3 Q: Now the mark on the neck, that happened the next morning,
4 correct, did that happen during the conversations the next
5 morning?

6 A: I'm not sure but he told -- it was the -- it was on the
7 19th of December is when he told me about it, so I'm assuming
8 it happened that day. I'm not sure. I wasn't there.

9 Q: He didn't tell you he gave the child a hickey; he told
10 you he was kissing the child on the neck and his beard or
11 something had rubbed his neck? He didn't give a hickey, he
12 didn't tell you he gave a hickey, did he?

13 A: He told me he gave him a hickey on the neck.

14 Q: All right. And so you're saying you deny he said he was
15 kissing him on the neck and his beard left a mark on his neck?

16 A: He told me he gave him a hickey because I said something
17 to my sister about it.

18 Q: Okay. When you arrived at the hospital, were they still
19 trying to resuscitate?

20 A: You talking about in Loris or Florence?

21 Q: Loris?

22 A: When I got in the back, **Minor** was hooked to machines. He
23 was on life support.

24 Q: All right.

25 A: When I got back there it was a lot of nurses around the

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BY THE COURT

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1 bed; so, yes, sir.

2 Q: All right. Did you see any of them trying to resuscitate
3 him, you know, like pushing his belly to get him to breathe?

4 A: No, sir.

5 Q: You didn't see any of that?

6 A: No, sir.

7 Q: All right. Did you see any of them with a bag or mask
8 over his head doing any of that?

9 A: No, sir.

10 Q: So, when you got there, he had already been placed on a
11 machine?

12 A: Correct.

13 Q: Court's indulgence one moment. Thank you, ma'am. No
14 further questions.

15 THE COURT: Redirect?

16 MR. SPRATLIN: No redirect, Your Honor.

17 THE COURT: You may step down, ma'am.

18 BY THE COURT:

19 All right. Ladies and gentlemen, let's take a short
20 break for about five or ten minutes before we resume. Thank
21 you very much. Go back to your jury room for just for a little
22 bit. Thank you.

23 Everyone else remained seated while the jury retires,
24 please.

25 (REPORTER'S NOTE: Jury exits courtroom.)

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1 THE COURT: All right. We'll take a short break about
2 five or ten minutes.

3 MR. LONG: Thank you, Your Honor.

4 MR. SPRATLIN: Yes, sir.

5 *****OFF THE RECORD*****

6 (On the Record.)

7 THE COURT: Very good. And who's your next witness?

8 MR. SPRATLIN: Your Honor, we're recalling Troy Bernard
9 Miles

10 THE COURT: Okay. He's back there? All right. All
11 right. Okay. Just sit down for just a second and Mr. Long,
12 you ready to go?

13 MR. LONG: Yes, sir, Your Honor.

14 THE COURT: Ask the jury to come in, please, sir.

15 (REPORTER'S NOTE: Jury enters courtroom.)

16 THE COURT: All right, Solicitor, your next witness,
17 please.

18 MR. HELMS: Yes, sir, Your Honor. At this time, the
19 State would call Troy Bernard Miles to the stand.

20 THE COURT: All right, sir. Please come around up here
21 to be sworn, sir.

22 CLERK: Sir, please raise your right hand and place your
23 left hand on the Bible.

24 TROY BERNARD MILES, HAVING BEEN SWORN
25 TESTIFIES AS FOLLOWS:

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TROY BERNARD MILES - DIRECT BY HELMS

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1 CLERK: Please state your full name spelling your last
2 name?

3 DIRECT EXAMINATION OF TROY BERNARD MILES BY MR. HELMS:

4 Q: Sir, would you state your name for the record?

5 A: Troy, Troy Bernard Miles. M-I-L-E-S.

6 Q: Mr. Miles, you and I have never met before today, have
7 we?

8 A: No, sir.

9 Q: Mr. Miles, what is your relationship to Ms. Stinson, who
10 testified earlier?

11 A: That's my step-daughter.

12 Q: And you're married to her ---

13 A: Her mom.

14 Q: --- biological mother?

15 A: Yes.

16 Q: How long have you and Ms. Stinson's mother been married,
17 sir?

18 A: About twenty years.

19 Q: Twenty years. And where do you live, Mr. Miles?

20 A: I live in Pleasant View.

21 Q: What city is that in?

22 A: Nichols.

23 Q: You live with Ms. Stinson's mother?

24 A: Yes, I do.

25 Q: On December 18th of 2013, did Ms. Stinson live there

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TROY BERNARD MILES - DIRECT BY HELMS

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- 1 also?
- 2 A: Yes.
- 3 Q: Mr. Miles, do you know the Defendant, Mr. Tyler?
- 4 A: No more than his name.
- 5 Q: Have you ever met him before today?
- 6 A: Yes, I've seen him a few times.
- 7 Q: Did you meet him on December 18th of 2013?
- 8 A: Yes.
- 9 Q: Let's back up and talk a little bit about **Minor**, Ms.
- 10 Stinson's son. Did you know **Minor**?
- 11 A: Yes, I did.
- 12 Q: How often did you interact with **Minor**?
- 13 A: Every day after work, sir.
- 14 Q: And where do you work?
- 15 A: I work for Sears. I deliver for Sears and drive trucks.
- 16 Q: So you would come home and you would -- would you take
- 17 care of **Minor**?
- 18 A: I would just play with him, kiss him and loving on him,
- 19 get the smiles that he always give.
- 20 Q: Would you -- would you say **Minor** was a happy baby?
- 21 A: Happy baby.
- 22 Q: Did he ever in your experience with him, did he ever have
- 23 any health issues?
- 24 A: No, sir.
- 25 Q: Did you ever notice any bruises on him?

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1 A: No, sir.

2 Q: On December 18th, did you happen to come in contact with
3 the Defendant, Mr. Tyler?

4 A: I don't exactly what date it is. The only date -- the
5 only thing I remember is when him, his father and I think that
6 was his son with him that night, picked [Minor] up from home.
7 That's the last time I see [Minor] alive. So I can't -- I
8 ain't accusing anyone, but someone know what happened.

9 Q: But it could've been December 18th, 2013?

10 A: Yes.

11 Q: It was definitely 2013?

12 A: Yes.

13 Q: When Mr. Tyler arrived, he arrived at your house I
14 presume?

15 A: Yes.

16 Q: Did he interact with [Minor]

17 A: Yes.

18 Q: Did [Minor] appear happy and healthy at that time?

19 A: Yes, he did.

20 Q: Then what happened?

21 A: Well, they took -- they took him home with them. When I
22 came in from work, they was there when I got there playing
23 with him over by my kitchen table. So when they got ready to
24 leave, Mr. Tyler stopped by the end of the couch where I was
25 sitting at and allowed [Minor] to kiss me before they walked

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1 out the front door with him.

2 Q: So you saw **Minor** just before he left with the
3 Defendant?

4 A: Yes, I did.

5 MR. HELMS: Your Honor, permission to approach?

6 THE COURT: Yes, sir.

7 BY MR. HELMS:

8 Q: Mr. Miles, I'm gonna show you what's been marked State's
9 Exhibit Number Three. I'd like you to take a look at that if
10 you wouldn't mind, sir. Do you recognize the individual in
11 that picture, Mr. Miles?

12 A: The baby?

13 Q: Yes, sir.

14 A: Yes.

15 Q: And who is that individual, sir?

16 A: **Minor**

17 Q: I'm sorry?

18 A: **Minor**.

19 Q: That was your grandson?

20 A: Yes.

21 Q: And does that representation appear to be a fair and
22 accurate representation of what **Minor** looked like the night
23 he left your presence with the Defendant?

24 A: He was always smiling, sir.

25 Q: Was he wearing that outfit that night, sir?

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1 A: Sir, I don't -- I can't remember.

2 Q: But does he appear healthy in that picture the way you
3 say he appeared the night that he left with the Defendant?

4 A: He's got a smile, sir.

5 Q: Okay. Fair enough. Permission to retrieve the exhibit?

6 THE COURT: Yes, sir.

7 BY MR. HELMS:

8 Q: Did you get a call the next day in regards to Minor

9 A: Not till when I was on my way home.

10 Q: And who called you, Mr. Miles?

11 A: When I passed -- I was on my way home from work and I
12 passed my wife and daughter. They was on the way to the
13 hospital and she -- she called me and told me she was on the
14 way to the hospital and she never told me the reason why. She
15 said she was going for the baby, but by the time I got home
16 and backed the truck into the yard, she told me I needed to
17 get to the hospital and get to the hospital then. That's when
18 I found out that it was something going on with Minor

19 Q: So you did go to the hospital?

20 A: Yes, I did.

21 Q: Did you see Minor that day at the hospital?

22 A: Yes, I did.

23 Q: And how did Minor appear?

24 A: Well, when I -- when I seen Minor he was cold and he
25 had bruises -- bruises all over him, his body and he was not

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1 responding when I saw him.

2 Q: The bruises that he had on his body, did he have those
3 bruises when he left your presence the night before?

4 A: No, sir.

5 Q: Was that the last time you saw **Minor** sir?

6 A: Until we got to Florence to the hospital in Florence.

7 MR. HELMS: Court's indulgence, Your Honor?

8 THE COURT: Yes, sir.

9 BY MR. HELMS:

10 Q: Mr. Miles, please answer any questions the Defense may
11 have, sir.

12 A: Yes.

13 THE COURT: Cross examination?

14 MR. LONG: Thank you, Your Honor.

15 CROSS EXAMINATION OF TROY BERNARD MILES BY MR. LONG:

16 Q: Mr. Miles, you and Hassan never really had a
17 conversation, did you?

18 A: No.

19 Q: All right. Just, hey, how you doing, things of that
20 nature?

21 A: Yes, sir.

22 Q: He came over there -- you'd met him before that night,
23 correct?

24 A: Correct.

25 Q: All right. And how many times do you think you had

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1 spoken to him or seen him -- how many times had you met him
2 before that night?

3 A: I really don't know. I know a couple of times that I'd
4 met him, but not -- not on a basis that actually knowing
5 knowing him.

6 Q: And that would've been when he came over to visit the
7 baby?

8 A: To visit the baby and my daughter and to get his
9 heartbreak -- when he had her.

10 Q: Is it fair to say y'all don't really get along, y'all
11 don't have anything in common ---

12 A: No, sir.

13 Q: --- have any ---

14 A: No, sir, right.

15 Q: Now, the next day, I believe it was Thursday, December
16 19th, you said you were coming home from work; did you get off
17 work early that day?

18 A: Yes, I got off a little earlier that day.

19 Q: All right. And that's when you got the call about your
20 daughter going to the hospital ---

21 A: Yes, that's when I met my wife and daughter.

22 Q: Now the evening of the 18th when Hassan and his dad and
23 his son came by, they had been there for a little while before
24 you got home, correct?

25 A: Correct.

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- 1 Q: All right. And when you got home, you found out, hey,
2 they're over here to visit and they're thinking about taking
3 him over to spend the night, correct?
- 4 A: Correct.
- 5 Q: All right. How long would you say that you were in the
6 house and they were in the house before they left to take
7 **Minor** to their house?
- 8 A: I don't -- I can't quite remember how long they was
9 there, but I know they was there a little while.
- 10 Q: How long were you in the house when they were in the
11 house before they left?
- 12 A: I'm gonna say -- I'm just -- about thirty minutes or so.
13 It might've been a little longer give and take.
- 14 Q: All right. So they were already in the house, you got
15 home they were there ---
- 16 A: Yes.
- 17 Q: --- and you say you were there, they were there an
18 additional thirty minutes before they left to go?
- 19 A: Could have been.
- 20 Q: Could have been, okay, but it could have been less?
- 21 A: Give or take.
- 22 Q: All right. And if your daughter said they were only
23 there ten or fifteen minutes, would that probably be more
24 accurate?
- 25 A: Like I say, I don't know -- I don't know how long they

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1 was there, but I know they took Minor home with them.

2 Q: All right. But if your daughter said it was ten or
3 fifteen minutes, she probably would remember a little bit
4 better, right?

5 A: Could have.

6 Q: All right. And so you're saying that in that period of
7 time, you inspected him, looked at him, he didn't have any
8 bruises, didn't have any marks, didn't have nothing wrong with
9 him?

10 A: He didn't have nothing on his face. He didn't have
11 nothing wrong with him. Minor was smiling like he always
12 did.

13 Q: Okay. You are not Tametra's natural father, correct?

14 A: Correct.

15 Q: All right. Do you and your wife have children yourself?

16 A: Yes, we do.

17 Q: Y'all have natural children; how many?

18 A: We have two by ourself.

19 Q: And they live in the house ---

20 A: Yes.

21 Q: --- with you?

22 A: Yes.

23 Q: How many people total were living in the house in
24 December of 2013?

25 A: I don't know.

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1 Q: Could it be as high as eleven?

2 A: No -- yes. I can't -- I can't quite remember. I can't
3 quite remember right now.

4 Q: I sympathize with you because my daughters are grown and
5 moved out. They come back every once in a while to ask for
6 money and a meal, but they don't stay overnight. You still
7 got a lot of children in the house, correct?

8 A: Really that don't have anything to do with what's going
9 on here, how many kids is in my house.

10 THE COURT: Sir, I appreciate that, but if you'd respond
11 to the question and please answer to the best of your ability.
12 Thank you, sir.

13 BY MR. LONG:

14 Q: It makes things tight and tough around your house,
15 doesn't it?

16 A: Well, it do, but God will make a way.

17 Q: Yes, sir, and you can give them a place to sleep and
18 place to stay and meals to eat, clothes and things of that
19 nature?

20 A: That's correct.

21 Q: Thank you, sir, no further questions.

22 THE COURT: Any redirect?

23 MR. HELMS: None, Your Honor.

24 THE COURT: You may step down.

25 Next witness, please?

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KRISTIN NORRIS - DIRECT BY HELMS

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1 MR. HELMS: Your Honor, the State would like to call
2 Kristin Norris to the stand

3 THE COURT: All right. Very good. Do you have some
4 member of your staff that can ---

5 MR. SPRATLIN: I believe she's gone to get her.

6 THE COURT: All right. Very good.

7 All right. Ms. Norris, come all the way around up here
8 and meet the Clerk right up here, please, ma'am.

9 CLERK: Please raise your right hand and place your left
10 hand on the Bible?

11 KRISTIN NORRIS, HAVING BEEN SWORN

12 TESTIFIES AS FOLLOWS:

13 CLERK: State your full name and spell your last for the
14 record.

15 MS. NORRIS: Kristin Norris, N-O-R-R-I-S.

16 THE COURT: Your first name also, please, ma'am?

17 MS. NORRIS: K-R-I-S-T-I-N.

18 THE COURT: Thank you very much. You may proceed,
19 Solicitor.

20 DIRECT EXAMINATION OF KRISTIN NORRIS BY MR. HELMS:

21 Q: Good morning, Ms. Norris. Ms. Norris, how old are you,
22 ma'am?

23 A: I'm twenty-nine.

24 Q: And where are you from?

25 A: I'm from Tabor City.

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KRISTIN NORRIS - DIRECT BY HELMS

1 Q: Where do you work?

2 A: I work at McLeod Loris in the Emergency Department in
3 Loris, South Carolina.

4 Q: And how long have you worked at Loris?

5 A: I have worked at Loris for seven years.

6 Q: And for the past seven years, what has been your position
7 at that hospital?

8 A: I've been a Registered Nurse in the Emergency Department.

9 Q: And where did you work before that?

10 A: I worked for McLeod Medical Center in Dillon in the
11 Emergency Department as well.

12 Q: And how long did you work there?

13 A: I worked at Dillon since 2008 when I became a nurse.

14 Q: So you -- you've been an RN in an ER for -- since 2008?

15 A: That's correct.

16 Q: What are some of your responsibilities as an emergency
17 room nurse, ma'am?

18 A: As an emergency room nurse, I have been a Charge Nurse in
19 the emergency room. I am currently a supervisor now in the
20 ER. I triage patients when they come in. I be the first to
21 assess them. I've had that position taking care of patients
22 while they're being treated in the Emergency Department as
23 well. Those are some of my duties.

24 Q: So you have hands on experience with the people that come
25 in to be treated at the ER?

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1 A: Every day for eight years, as long as I've been in an ER
2 nurse.

3 Q: And I would imagine being an ER nurse for seven years,
4 you've seen a multitude of different things come through the
5 door?

6 A: I have.

7 Q: Were you working at Loris emergency room in that capacity
8 on December 18th, 2013?

9 A: I was.

10 Q: Do you remember that evening?

11 A: I do, very well.

12 Q: And when you were working there, did you have the
13 occasion to come into contact with this gentleman sitting
14 here?

15 A: I did.

16 Q: Did he look different then?

17 A: Not that I recall.

18 Q: Okay. But you remember him coming into the ER?

19 A: I do.

20 Q: And who was with the Defendant when he came to the ER?

21 A: When he came into the ER, when I first came in contact
22 with him, he was holding his baby, Minor

23 Q: You knew him as Minor, that was his given name?

24 A: Yes, when I first met him, of course I didn't know but

25 ---

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KRISTIN NORRIS - DIRECT BY HELMS

1 Q: And what was the condition of **Minor** whenever he came into
2 the hospital?

3 A: When he arrived, I was called by the registration clerk
4 that we had a baby that was not breathing in the lobby. I was
5 charge nurse that day and I immediately went to the front
6 lobby. He had the baby in his arms and said, my baby is not
7 breathing. So I immediately took his baby, called the code as
8 I was going down the hallway and initiated CPR. The baby did
9 not have a pulse and was unresponsive.

10 Q: Are most of the people that come into the ER calm?

11 A: Not in that situation.

12 Q: Was the Defendant calm?

13 A: He appeared to be calm when he told me his baby wasn't
14 breathing, which kind of struck me because if my baby wasn't
15 breathing, I would be probably screaming at that moment.

16 MR. LONG: Objection, Your Honor.

17 THE COURT: I'm gonna allow it.

18 BY MR. HELMS:

19 Q: So, was it your observation that that was a correct
20 statement; the baby was not breathing?

21 A: That was a very correct statement.

22 Q: And what did you do next?

23 A: When I took the baby from him, I went to the back. As I
24 got the baby, I said he wasn't breathing and didn't have a
25 heart rate. I initiated CPR. I took the baby to a treatment

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1 room, called the code. The doctor came in, the code team came
2 in and we began to resuscitate the child.

3 Q: Tell me what that means, call the code.

4 A: We call the code, we set an alarm off in the hospital
5 that alerts respiratory therapists, an ICU nurse, the
6 emergency room physician, to come so we have a team of people
7 begin resuscitation on the child.

8 Q: So, it was evident to you that this was an emergency
9 situation?

10 A: It was.

11 Q: Did you have the opportunity to physically inspect the
12 patient, the baby **Minor** -- or **Minor**

13 A: When we -- when I began the code, we were doing CPR, his
14 shirt was taken off or I didn't see his chest to start with,
15 but we did notice some bruising on his head as we resuscitated
16 the child. We did get the child back. We got his heart rate
17 to come back. So we stopped CPR, of course. At that time, we
18 began to do a further assessment on the child and noticed some
19 other markings on his body that added to the assessment. Once
20 those markings -- we seen that, the child was resuscitated;
21 that means that his heart rate came back. He still was not
22 breathing on his own, the child was intubated, then he went to
23 have his CAT scan done.

24 Q: All right. Let's back up a little bit. Did, at any time
25 during the course of this treatment, did you remove **Minor**

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1 clothes?

2 A: We did. Upon removing his clothes, we noticed that he
3 had markings on his abdomen that appeared to be bruising and
4 also he had bruising around his neck. With the -- he had
5 bruising around his neck, his abdomen and also he had a bruise
6 on his forehead as well.

7 Q: And you thought this was significant enough to take note
8 of it?

9 A: Yes, it was. A child of his age should not have any
10 bruising of that nature and with bruising, or in those areas
11 of his body and the child was unresponsive, then that was very
12 significant in the assessment.

13 Q: Did the Defendant tell you what, if anything -- what, if
14 anything happened to the child?

15 A: I remember -- I remember him telling us that the child
16 had been -- the child had been shaking. He had been laying on
17 the bed shaking for an hour or two hours prior to him bringing
18 him to the hospital. So, he was laying on the bed shaking and
19 then stopped breathing and that's when he brought him into the
20 emergency room.

21 Q: Okay. At any time during **Minor** stay or you know him
22 as **Minor**, at Loris ER, did you leave his side?

23 A: I was with him when he came in, through resuscitation,
24 went with him to CT and back and then he flew out. So, I was
25 with him while he was there.

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1 Q: So, is it fair to say you were with [Minor] the entire
2 time he was at the ER?

3 A: Yes.

4 Q: Let me ask you a little bit about when you were
5 resuscitating [Minor] You had to touch him obviously?

6 A: Yes.

7 Q: Did during the course of the application of CPR, that is
8 what you use to resuscitate, right?

9 A: That's correct.

10 Q: At any time during the course of the application of CPR
11 on [Minor], did you apply enough force to bruise [Minor]?

12 A: No.

13 Q: So the bruises, if any, that were on his body were on his
14 body when he came to you?

15 A: That's correct and the bruising that was on his body is
16 not where the application of CPR would have occurred. The
17 application of CPR would have occurred on mid sternum. The
18 bruising that was on his body is on his abdomen. So CPR would
19 have not ---

20 Q: So you wouldn't have applied any pressure to his
21 abdominal area?

22 A: No.

23 Q: And you did not apply any pressure?

24 A: I did not.

25 Q: At any time during the course of his treatment, did you

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1 see anyone with the hospital staff apply pressure to his
2 abdominal area?

3 A: I did not.

4 Q: Did you see anyone apply any type of physical or impose
5 any type of physical contact that would have caused his
6 bruising?

7 A: No.

8 Q: Nurse, I'm gonna, with the Court's permission, show you
9 what's been marked State's Exhibits Seventeen through Twenty-
10 Eight, Your Honor?

11 THE COURT: You may do so.

12 MR. HELMS: Thank you. Any objection?

13 BY MR. HELMS:

14 Q: Ms. Norris, I would like you to look through those
15 pictures and tell me if you can identify the individual in
16 those pictures.

17 A: Yes.

18 Q: And please take your time.

19 A: Uh-huh (affirmative response).

20 Q: Who is the person in those pictures, ma'am?

21 A: This is the baby, **Minor**.

22 Q: That is your patient that you treated when they came into
23 the hospital?

24 A: That is correct.

25 MR. HELMS: Your Honor, at this time, I would like to

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1 admit Seventeen through Twenty-Eight into evidence.

2 THE COURT: Any objection?

3 MR. LONG: Yes, Your Honor, not a proper foundation. When
4 the photographs were taken ---

5 THE COURT: All right, sir. If you would explore that a
6 little further?

7 MR. HELMS: Absolutely, Your Honor.

8 BY MR. HELMS:

9 Q: Ms. Norris, how do you know that that is Minor or
10 Minor ?

11 A: Because I know. I was there. I took that baby. We --
12 this is him. I remember it very, very well.

13 Q: Well, let me ask you this. How ---

14 A: My arm is right here.

15 Q: Thank you very much. So that is your arm in that
16 picture?

17 A: That is.

18 Q: And that picture was taken on December 18th, 2013?

19 A: That's correct.

20 Q: And that was in the Loris emergency room that you treated
21 him in?

22 A: That is very correct.

23 Q: Your Honor, at this time, and -- and the remaining
24 pictures, did you witness those pictures being taken?

25 A: I did.

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1 Q: You were in the room the entire time?

2 A: I was.

3 MR. HELMS: Your Honor, at this time, I would tender
4 those for evidence?

5 THE COURT: Any objection?

6 MR. LONG: Yes, Your Honor, not a proper foundation at
7 this point. Who took the photographs? How they were
8 maintained until such time as they were printed and brought
9 before today.

10 MR. HELMS: Your Honor, she was ---

11 THE COURT: I appreciate that. So you're challenging the
12 chain of custody of the photographs; is that what you're
13 saying?

14 MR. LONG: I'd like to know who took the photographs and
15 when and just where they -- when they were printed and
16 processed, how they were kept until such time as they're being
17 offered into evidence. The rest of the foundation for the
18 photos.

19 THE COURT: Y'all come and talk to me for one second.

20 MR. LONG: Yes, sir.

21 (REPORTER'S NOTE: A bench conference was held off the record
22 in the presence of but out of hearing of the Jury.)

23 BY MR. HELMS:

24 Q: Ms. Norris, you were in the room when these photographs
25 were taken, correct?

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1 A: I was.

2 Q: And you saw the gentleman taking those photographs?

3 A: I did.

4 Q: Do you know who the gentleman was that took those
5 photographs?

6 A: He was a police officer with the Loris Police Department.
7 I do not remember his name.

8 Q: But he did identify himself as a Loris Police Officer?

9 A: He did.

10 Q: And you wouldn't have let him back there otherwise,
11 correct?

12 A: No and not to be taking pictures of an infant in the
13 Emergency Department.

14 Q: Fair enough. Your Honor, at this time, I would tender
15 those for evidence?

16 THE COURT: All right. I'm going to allow those into
17 evidence. It is not necessary that the item -- that is not a
18 fungible item, that being blood or some other item like that,
19 the chain of custody is not the same. I do believe it is a
20 proper foundation has been laid and I will allow them into
21 evidence. Thank you very much.

22 STATE'S EXHIBITS NUMBER SEVENTEEN THROUGH TWENTY-EIGHT

23 ADMITTED INTO EVIDENCE

24 MR. HELMS: Thank you, Your Honor.

25 BY MR. HELMS:

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KRISTIN NORRIS - DIRECT BY HELMS

1 Q: Ms. Norris, I kept saying the 18th, what I meant was the
2 19th. Was it the 19th of December?

3 A: It was in December and I have the -- I would have to look
4 back at the record to have the exact date, but ---

5 Q: Fair enough. Your Honor, at this time, I would like to
6 publish the photographs to the Jury?

7 THE COURT: You may do so.

8 MR. HELMS: Thank you, sir.

9 BY MR. HELMS:

10 Q: Ms. Norris when **Minor** was taken to get the CT scan, you
11 went with him there, too, correct?

12 A: I did.

13 Q: And that was back to Radiology?

14 A: Yes, sir.

15 Q: After -- and you remained there with him?

16 A: I did.

17 Q: After he was administered the CT scan, did you accompany
18 him back to the ER room?

19 A: I did.

20 Q: And what room number was that?

21 A: Five.

22 Q: You said at the beginning of your testimony that you had
23 to apply CPR in order to resuscitate **Minor**. Did you
24 successfully resuscitate **Minor**?

25 A: We resuscitated **Minor** to the point that we got his

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1 heart rate back. He did never -- he never began breathing
2 again while he was with us. We had him intubated and what
3 that means, a tube in his throat and we were assisting his
4 respiration.

5 Q: Did Minor ever regain consciousness while he was in
6 your presence?

7 A: He did not.

8 Q: I have one last question, Ms. Norris. Are the bruises
9 and contusions that we see on Minor in these pictures,
10 the bruises that he came into the hospital with on December
11 19th, 2013?

12 A: That's correct.

13 Q: Please answer any questions the Defense may have, ma'am.

14 THE COURT: Cross examination?

15 MR. LONG: Thank you, Your Honor.

16 CROSS EXAMINATION OF KRISTIN NORRIS BY MR. LONG:

17 Q: Is it Mrs. or Ms. Norris?

18 A: Ms.

19 Q: Ms. Norris, all right. One of the hardest parts of your
20 job, correct me if I'm wrong, is the paperwork involved,
21 correct?

22 A: It's a big part.

23 Q: You have to document everything; is that correct?

24 A: Lots, yes.

25 Q: And when someone comes into the emergency room

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1 complaining of something, you have to listen very carefully
2 and you have to write down and document everything they say
3 because that information passes with the patient to all the
4 doctors and the file so everybody knows what the complaints
5 are, correct?

6 A: Uh-huh (affirmative response).

7 THE COURT: You need to answer out loud.

8 A: Yes.

9 Q: So when you spoke with Hassan and he comes in with an
10 unconscious three-year-old baby in his arms and it's not
11 breathing, how do you balance those two tasks, immediate
12 treatment and finding out what went wrong and what happened so
13 we could try to fix it; how do you balance that?

14 A: Okay. He's three months old so in this -- in that case
15 you treat immediate life threatening problems at that time.
16 You get what information you can as you are treating and from
17 there, like I said, you do life threatening first before you
18 even -- if you can get information. We have multiple nurses
19 and doctors so sometimes in those situations, you'll have a
20 team of people taking care of the child and then someone else
21 who talks with the family and gets the information. Which in
22 this case, I spoke to the father as he was bringing the baby
23 in and as I get the baby -- as I got the baby and another
24 nurse is documenting a lot.

25 Q: So, is it fair to say that when he came in and handed you

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1 this child, you weren't exactly concerned about listening,
2 talking, et cetera, things of that nature, other than what he
3 wanted to tell you. Your first response is to get heartbeat,
4 resuscitation back, correct?

5 A: That is the first and I -- and ask him what happened
6 because that adds to your treatment plan as to how ---

7 Q: But that's not your primary concern. Your first concern
8 is heartbeat, respiration, correct?

9 A: That's right.

10 Q: All right. Now what does CPR stand for?

11 A: Cardio Pulmonary Resuscitation.

12 Q: All right. And that means massaging the heart to get a
13 heartbeat, correct?

14 A: I would not classify that as massaging.

15 Q: Palpitating the heart to obtain a heartbeat or heart
16 blood pressure?

17 A: Yes.

18 Q: All right. What does pulmonary mean?

19 A: Pulmonary means lungs and breathing.

20 Q: This is heart/lung resuscitation?

21 A: Correct.

22 Q: All right. And you're saying it was only done by
23 pressing on the sternum?

24 A: That's correct.

25 Q: All right. How does that pulmonary resuscitate a person?

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1 A: That presses onto the sternum and that presses the heart
2 which in response circulates blood through the body and with a
3 facemask you resuscitate the pulmonary by providing
4 ventilation.

5 Q: All right. And when you went in first and you were doing
6 this, isn't it common to try to press the diaphragm because
7 the diaphragm is the muscle that contracts and pulls the lungs
8 to draw air in and out of the lungs?

9 A: No, sir.

10 Q: You're saying that wouldn't happen?

11 A: No, sir.

12 Q: So, this is cardio pulmonary resuscitation right there?

13 A: That is.

14 Q: And nowhere else?

15 A: No, sir.

16 Q: All right. Now, the bag, the bag is put on the infant's
17 face, the mask?

18 A: Uh-huh (affirmative response).

19 Q: Okay. And are there different size masks for different
20 size patients?

21 A: There is and the infant size that was used on this child,
22 the face mask is about this small (indicating), just enough to
23 go over their nose and their mouth and the bag is only
24 probably around this small as well and about this long. It's
25 very small.

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1 Q: You don't want to explode the lungs by squeezing a big
2 bag?

3 A: No.

4 Q: All right. So there's a separate mask and a separate bag
5 for use on infants?

6 A: Absolutely.

7 Q: All right. And how is it affixed to the mouth and the
8 nose?

9 A: How is affixed to the mouth and nose? It's placed over
10 the mouth and nose.

11 Q: How is it affixed to the mouth and nose?

12 A: With your hand, you hold it.

13 Q: So, it takes pressure by the hand to hold the mask and
14 create a seal around so that the air goes into the lungs and
15 out of the lungs when you squeeze the bag and release the bag,
16 correct?

17 A: That's correct.

18 Q: All right. Now did you seal the mask or did you squeeze
19 the bag?

20 A: I did neither of the two.

21 Q: All right. Who did that?

22 A: The respiratory therapist that was there.

23 Q: The respiratory therapist; who was that?

24 A: Teresa was her name.

25 Q: Okay. And she held the mask or held the bag?

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- 1 A: She did both.
- 2 Q: She did both. So, in other words, you have to hold the
3 mask onto the child's or patient's head, hold it down enough
4 to seal it and at the same time squeeze the bag?
- 5 A: That's right.
- 6 Q: All right. And what were you doing during this time?
- 7 A: I was doing chest compressions. We would switch off with
8 chest compressions. I assisted Dr. Barefoot with getting the
9 IV access.
- 10 Q: All right. And you said it was unusual -- that you felt
11 Hassan Tyler was calm when he approached you in the emergency
12 room; is that correct?
- 13 A: I did.
- 14 Q: All right. Have you ever met him before?
- 15 A: No, not that I'm aware of.
- 16 Q: Do you know how he reacts to stress?
- 17 A: No.
- 18 Q: Is he a panicker; is he a dealer? Do you know anything
19 else about him?
- 20 A: I have no, absolutely no knowledge of him.
- 21 Q: All right. And when he brought that child in, he was
22 most concerned with the child; is that correct?
- 23 A: I would think so. He was bringing him to the Emergency
24 Department for treatment.
- 25 Q: All right.

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1 A: Because he wasn't breathing.

2 Q: And he tried to provide information to you about what
3 happened, correct?

4 A: Yeah, he told me he had been laying on the bed shaking
5 for an undisclosed amount of time, an hour or two.

6 Q: All right. An hour or two he told you.

7 A: Uh-huh (affirmative response).

8 THE COURT: Was that a yes or a no?

9 A: Yes.

10 THE COURT: Okay. Just a second.

11 MR. LONG: I'm sorry.

12 THE COURT: The Court Reporter has a hard time
13 distinguishing whether that's a yes or no.

14 A: I'm sorry.

15 THE COURT: That's okay. Go ahead.

16 BY MR. LONG:

17 Q: Did you document that in your notes, he told you that the
18 child had been seizing for an hour to two hours prior to
19 coming to the hospital?

20 A: It was not documented that he was seizing for an hour or
21 two because that's not what he said. He said that the baby
22 had been shaking.

23 Q: Okay. All right. Let me ---

24 A: So, yes, it is documented and the charge note that the
25 father reported that the child had been on the bed shaking,

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1 shaking on the bed for ---

2 Q: Did you review the notes prior to coming to court to
3 testify today?

4 A: I did.

5 Q: All right. And are those notes maintained in your
6 possession and do you have a copy of them available to you?

7 A: I do not have them right now. I can -- I can get them if
8 I need ---

9 Q: Get them from where?

10 A: From where? From the, from the attorney.

11 Q: All right. I'd ask you if you could, are these the notes
12 that you entered into the system at Loris Hospital?

13 A: This is the physician's part; do you have the other part?

14 MR. SPRATLIN: I'm sorry, I handed you the wrong one.

15 BY MR. LONG:

16 Q: Are those the notes that you entered into the system or
17 make concerning the ---

18 A: Yes, these were the notes that were entered by Dana,
19 which is one of the fellow nurses that were involved in the
20 case.

21 Q: All right. And did you review those prior to testifying
22 today?

23 A: I did.

24 Q: All right. And did you say in your notes that he was one
25 to two hours shaking?

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- 1 A: It's for -- it's one hour in the note.
- 2 Q: Okay. And do you make estimates of time when you say one
3 hour, not more than one hour; is that a commonly used tool you
4 use in diagnosing. In other words, he'd been shaking but not
5 more than an hour; isn't that something that you need to know
6 and doctor's need to know?
- 7 A: Repeat that?
- 8 Q: When you say one hour ---
- 9 A: Uh-huh (affirmative response).
- 10 Q: --- do you mean that you figure someone sat there and
11 timed it for an hour or when you say one hour that's a cutoff
12 point that you're telling doctors, notes, whatever the case
13 may be it was for not more than one hour?
- 14 A: In the -- in the presentation you would document what the
15 person would tell you.
- 16 Q: All right.
- 17 A: There's no guesstimate unless the information provider is
18 giving you a guesstimate.
- 19 Q: All right. And you're saying that it's not important to
20 have a cutoff point for not more than one hour when the person
21 was seizing or shaking or convulsing or not breathing or no
22 heartrate or et cetera, this that and the other, don't you try
23 to put the upper limit on it, a cutoff point, not more than
24 one hour?
- 25 A: You provide the information that you were given whether

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1 they tell you it's one to two hours and that's all you have to
2 go by.

3 Q: All right. There's a big difference between one to two
4 hours when a person is shaking, correct?

5 A: There is a big difference.

6 Q: All right. And he didn't tell you it was one to two
7 hours, correct? He told you it was one?

8 A: Okay. I can go by what's documented.

9 Q: All right. And you wrote down that it was one hour?

10 A: Okay.

11 Q: All right. And again I want to try to make you
12 understand that wasn't your primary concern at the park -- at
13 that point. I don't fault you if you made a mistake or not, I
14 don't know. I wasn't there. But that was not your primary
15 concern at that point in time, correct, your concern was that
16 baby?

17 A: That's correct.

18 Q: All right. And then he could have spoken to other nurses
19 and provided information to other nurses about what happened,
20 when it happened, how long it took, how long the child quite
21 breathing, things of that nature that you and the doctors need
22 to know to treat that child, correct?

23 A: Correct.

24 Q: All right. And how many other nurse's notes were kept
25 concerning all the information that the hospital needs to

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1 treat this little baby?

2 A: You said how many nurse's notes?

3 Q: Yeah, how many other nurses did he talk to to provide all
4 the information needed for the hospital to treat this child?

5 A: I don't have an answer.

6 Q: All right. And that's not contained in any of the notes
7 on the file?

8 A: All the notes that were entered on this child would be
9 here on his medical records.

10 Q: Okay. How was the child transported to the hospital?

11 A: How was he transported to the hospital?

12 Q: Yes.

13 A: I don't know. The only thing I can testify on that is
14 seeing the father -- him in the lobby with the baby in his
15 arms. I was in the back. I don't know how they got there.

16 Q: Was the child secured in a child seat on the way to the
17 hospital?

18 A: I can't answer that.

19 Q: Would a parent with a child in a car seat take extra time
20 to remove it so carefully and gingerly ---

21 MR. HELMS: Objection, Your Honor. That calls for
22 speculation.

23 THE COURT: Sustained.

24 MR. LONG: All right.

25 BY MR. LONG:

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1 Q: When a person has a child, okay, not breathing, are they
2 wasting any time in getting in the hospital would you think?

3 A: I wouldn't think.

4 Q: All right. And he presented there and handed him right
5 over to you?

6 A: He did.

7 Q: Okay. He stayed in the emergency room with you for quite
8 some time, correct?

9 A: He did.

10 Q: All right. Because he's the natural father of the child
11 as far as you know; it was reported that he was the natural
12 father, correct?

13 A: Father, uh-huh (affirmative response).

14 Q: All right. How long did he stay in the emergency room
15 with you while resuscitation care, immediate treatment was
16 taking place?

17 A: I can't answer that. I don't know. I don't remember.

18 Q: Okay. And again because you were concerned with the
19 baby, right?

20 A: I was.

21 Q: All right. But you do know he was there when all this
22 treatment was going on, correct?

23 A: I did -- I remember seeing him once the mother got there
24 and I remember there being multiple family members with her
25 there. I don't ever recall seeing him again. If he was -- if

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1 he was there, he could've been lost in the crowd, but I don't
2 -- I don't recall seeing him anymore after -- after the mother
3 got there and her family.

4 Q: How long approximately was it after he was there that the
5 mother got there?

6 A: I can't answer that. It was after the child was
7 resuscitated and we had -- when we come back from CT she was
8 there. I remember seeing her after that. I can't tell you
9 exactly how long prior to that.

10 Q: All right. How long, if you can estimate to the best of
11 your ability, how long it took for resuscitation and
12 stabilization of heartrate and having him intubated so that
13 you had respiration going on. Then he was taken back to CT
14 and brought back and that's when you determined the mother was
15 there?

16 A: That's right.

17 Q: But you don't know whether she arrived while you were
18 gone back to CT or not?

19 A: I don't know that answer, no.

20 Q: All right. So can you give me some type of estimate the
21 Jury here can understand how long did it take to resuscitate,
22 establish heartrate, intubate, transport to CT, take the scans
23 and come back?

24 A: Just one moment. (Reviewing records.) May I ask where
25 the -- do you have the CT Report that I could look at?

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1 Q: I'm not gonna try to pin you down on time, just an
2 estimation if you can; five minutes, fifteen minutes, thirty
3 minutes, two minutes, just an estimation?

4 A: I would say within forty minutes or so give or take.
5 Don't -- don't hold me to that exact number unless I had some
6 more information, but I would say within forty minutes.

7 Q: Court's indulgence just a minute. Thank you, ma'am, no
8 further questions.

9 MR. HELMS: Briefly, Your Honor.

10 THE COURT: Yes, sir.

11 REDIRECT EXAMINATION OF KRISTIN NORRIS BY MR. HELMS:

12 Q: Ms. Norris, Mr. Long made a point to talk about the
13 mother arriving. When the mother arrived, did you speak with
14 her?

15 A: I remember speaking to her at some point while she was in
16 the room. I don't recall any specific information from our
17 conversation. I do remember the family or the mother, one of
18 the two, telling -- telling me that this was the first time
19 that this child had ever went and stayed with the father.
20 That sticks out and I remember that and they were very upset
21 that that was the first time he had ever been away and stayed
22 with the father.

23 Q: Okay. Was the baby shaking when he got to you?

24 A: He was not shaking at all.

25 Q: Was he moving at all?

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1 A: No movement, no..

2 Q: You said during cross examination that CPR stands for
3 Cardio Pulmonary Resuscitation?

4 A: Correct.

5 Q: Cardio meaning the heart?

6 A: Yes.

7 Q: Is the heart in the abdomen?

8 A: The heart is not in the abdomen. As I said earlier, when
9 you perform CPR you perform CPR right over the sternum. The
10 heart is located in where upper to mid chest, more on the left
11 side. No, no abdomen pressure or anything like that is
12 related on while you're performing CPR or any advanced cardio
13 life support procedures.

14 Q: And pulmonary meaning the lungs?

15 A: That's correct.

16 Q: Are the lungs in the abdomen?

17 A: The lungs are not in the abdomen.

18 Q: Was there clear bruising on the abdominal area of this
19 patient when he arrived to you?

20 A: There was bruising on the abdomen, yes.

21 Q: Last question, did anybody at that hospital cause the
22 bruising on this baby?

23 A: They did not.

24 Q: Thank you, ma'am. No further questions.

25 THE COURT: Anything on those questions just asked?

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1 MR. LONG: No, Your Honor.

2 THE COURT: You may step down, ma'am.

3 Do you wish the witness to be excused?

4 MR. HELMS: We do, Your Honor.

5 THE COURT: Any objection?

6 MR. LONG: No objection, Your Honor.

7 THE COURT: All right, ma'am, you're released from your
8 subpoena. You may go back to your regular duties.

9 MR. HELMS: Your Honor, while we're addressing that,
10 could Mr. Miles be released also?

11 THE COURT: Any objection to that?

12 MR. LONG: I'm sorry, Your Honor, I was talking.

13 THE COURT: Mr. Miles, the previous witness, Mr. Miles?

14 MR. LONG: No objection, Your Honor.

15 THE COURT: All right, sir. He is released from his
16 subpoena also. Thank you.

17 MR. HELMS: Thank you, Your Honor.

18 THE COURT: Counsel, y'all come talk to me for one second
19 please.

20 (REPORTER'S NOTE: A bench conference was held off the record
21 in the presence of but out of hearing of the Jury.)

22 THE COURT: Next witness, please.

23 MR. SPRATLIN: Your Honor, the State would call Dr.
24 Robert Barefoot.

25 THE COURT: All right, sir, if you'd come all the way

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1 around up here, sir, and meet the Clerk right up here, all the
2 way around.

3 CLERK: Please raise your right hand and place your left
4 hand on the Bible.

5 ROBERT BAREFOOT, HAVING BEEN SWORN
6 TESTIFIES AS FOLLOWS:

7 CLERK: Please state your full name and spell your last?

8 DR. BAREFOOT: My name is Robert Barefoot. I spell the
9 last name B-A-R-E-F-O-O-T.

10 THE COURT: Go ahead, Solicitor.

11 MR. SPRATLIN: Thank you, Your Honor. Prior to
12 beginning, may I retrieve the State's exhibits from the Jury
13 that I previously ---

14 THE COURT: You may do so.

15 DIRECT EXAMINATION OF ROBERT BAREFOOT BY MR. SPRATLIN:

16 Q: Sir, what is your occupation?

17 A: Medical doctor.

18 Q: Doctor, are you a duly licensed physician?

19 A: Yes, sir.

20 Q: In what states?

21 A: North Carolina and South Carolina.

22 Q: How long have been a duly licensed physician in both
23 those states?

24 A: More than twenty-five years.

25 Q: Do you have any areas of certification?

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- 1 A: Board certified in family practice.
- 2 Q: What is family practice entail?
- 3 A: Everything from delivery of babies to -- to death.
- 4 Q: For your occupation, did you attend medical school?
- 5 A: Yes, sir.
- 6 Q: Where at?
- 7 A: That was in East Carolina University in North Carolina.
- 8 Q: What year did you graduate?
- 9 A: It was 1988.
- 10 Q: What are you currently -- in what area are you currently
- 11 working?
- 12 A: I'm working as an Emergency Medicine in South Carolina.
- 13 Q: What is Emergency Medicine?
- 14 A: Essentially anything to -- ninety percent of the time
- 15 it's family practice with colds, runny nose, pneumonias,
- 16 injuries. Ten percent is true trauma where you have accidents
- 17 that require assistance in breathing and circulation.
- 18 Q: What training specifically, if any, have you had in the
- 19 area of Emergency Medicine?
- 20 A: That would include residency and what they call ATLS,
- 21 Advanced Trauma Life Saving Courses.
- 22 Q: What is entailed in the Advanced Trauma Life Saving
- 23 Courses?
- 24 A: That would involve what they call airway, breathing,
- 25 circulation, ABC's, first securing an airway; and secondly,

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1 getting the air into the lungs; and thirdly, making sure blood
2 volume is, is possible for transferring that oxygen to our
3 tissue.

4 Q: Now, sir, how long have you been working the area of
5 Emergency Medicine?

6 A: Since I was a resident in -- in the -- say 1989.

7 Q: So, we're talking about twenty-five years plus years?

8 A: Yes, sir, actually long before that because I was a Medic
9 -- Med-Tech in the Army in the early/mid-seventies and we were
10 required to do essentially the same thing twice a week, I used
11 to drive an ambulance and serve as a medic at that time.

12 Q: Are you currently working at any hospitals?

13 A: Yes, sir.

14 Q: Where at?

15 A: In Hartsville, South Carolina.

16 Q: How long have you been working in the emergency rooms of
17 hospitals?

18 A: Could you repeat the question?

19 Q: I'm sorry. How long have, in total, has been for all
20 twenty-five years that you've been working in emergency rooms
21 of hospitals?

22 A: Yes, sir.

23 MR. SPRATLIN: Your Honor, at this time, I would tender
24 Dr. Barefoot as an expert in Emergency Medicine?

25 THE COURT: Any objection?

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1 MR. LONG: No objection, Your Honor.

2 THE COURT: All right, sir, he's qualified to give his
3 opinion in the field of emergency room medicine.

4 MR. SPRATLIN: Thank you, Your Honor.

5 BY MR. SPRATLIN:

6 Q: Doctor, what hospital, if any, were you working at back
7 in December of 2013?

8 A: That was at Loris, South Carolina and Seacoast in Longs,
9 South Carolina. I'm sorry, in Little River not Longs.

10 Q: How long did you work at Loris Hospital in particular?

11 A: Between the Seacoast and the Loris, they're associates,
12 for fifteen years.

13 Q: Do you recall if you were working in the emergency room
14 on December 19th, 2013?

15 A: Yes, sir.

16 Q: Do you recall a child named **Minor**, coming
17 into the emergency room that day?

18 A: Yes, sir.

19 Q: When you first came in contact with the child, what is
20 the first thing you did?

21 A: As a good start, we first look at the child and make sure
22 they're actually breathing, if they're having respirations.
23 If they are breathing and whether they have any circulation or
24 heartrate at all.

25 Q: Would you please tell the Court and the Jury what the

1 difference is between respirations and breathing?

2 A: Respirations are the act of getting air, oxygen from the
3 lungs to the tissues by way of circulation. Breathing is just
4 the act of getting air in and out.

5 Q: And did the child appear to you to be either breathing or
6 respirating?

7 A: That's a negative. The child had no circulatory action
8 nor any breathing.

9 Q: In that situation, what do you attempt to do?

10 A: Not just myself, but the entire team, especially in the
11 action of a small child. We had several nurses and a
12 pediatrician that was called. The pediatrician was
13 establishing an airway with a tube, intubation is the name of
14 that action, and I was putting in a needle into the tibia, the
15 lower leg bone, in order to establish IV access.

16 Q: Doing all this, what are you attempting to get the child
17 to do?

18 A: Trying to get air into the lungs and the circulatory
19 system to do its function.

20 Q: Were you successful in being able to resuscitate the
21 child?

22 A: Yes, upon arrival, my staff started CPR and that's an act
23 in which most people know now is you push on the chest in
24 order to achieve some blood flow through the heart and breathe
25 in artificial fashion of by way of a bag or your mouth in

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1 order to get air into the lungs of whatever person you're
2 working on. And this child, after getting multiple adrenaline
3 pushed through the tube, the intubation tube and the tracheal
4 tube and through the IV, again to have a spontaneous
5 heartrate.

6 Q: What does that tell you?

7 A: That the heart was functioning and that the tissues of
8 the heart were viable. It was in a normal spontaneous rhythm,
9 just as most of you and I have right now.

10 Q: Is that all you need to be normal and functioning?

11 A: As far as our body goes, yes, is if you can get blood
12 flow and good air by artificial means. We had to use what
13 they call a bag system and then switch to a respirator
14 machine. But neurologically, this child was not responsive.

15 Q: Neurological, what part of the body does that concern?

16 A: That would be anything supratentorially that would be our
17 brain.

18 Q: So the child's brain was non-responsive?

19 A: Yes, there's no spontaneous respiration as the brain was
20 not responding. The baby did not respond to any physical
21 stimuli which included a needle going into his leg. The
22 needle I described when I, it's interosseous into somebody's
23 leg hurts and you and I would probably experience a sharp
24 object, but to go into a bone is very painful and there was no
25 response from this child, this infant.

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1 Q: Now, doctor, did you notice during your examination of
2 the child, any sort of injuries or traumas to the child?

3 A: There were no lacerations but were bruising around the
4 face and neck and chest area.

5 MR. SPRATLIN: Your Honor, permission to approach the
6 witness?

7 THE COURT: Yes, sir,

8 MR. SPRATLIN: Please let the record reflect I'm showing
9 the doctor what has been marked State's Exhibit Number Twenty-
10 Seven. They're all mixed up.

11 BY MR. SPRATLIN:

12 Q: Doctor, let me show you State's Exhibit Twenty-Seven,
13 Seventeen, Twenty-Six, Twenty-Five, Twenty-Four, Eighteen,
14 Twenty-Two, excuse me, Exhibit Twenty-One, Twenty, Nineteen,
15 Twenty-Eight and Twenty-Three. If you would, Doctor, please
16 take a moment to look at those photographs.

17 A: (Reviews exhibits.)

18 Q: Doctor, did you get a chance to review those State's
19 Exhibits?

20 A: Yes, sir.

21 Q: Are they a fair and accurate representation of how the
22 child that you worked on that day appeared?

23 A: Yes, sir.

24 Q: Those bruises and marks that are apparent in those
25 photographs, in your professional opinion were those caused by

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1 any sort of resuscitative techniques that you used on the
2 child?

3 A: That's negative. That's a no.

4 Q: In light of the injuries that you observed on the child,
5 did you order any additional scans to determine the extent of
6 the child's injuries?

7 A: I recall this case because certain cases tend to stick
8 out in your mind. So I -- because of the bruising patterns, I
9 requested a CT for -- of both the head and neck, chest,
10 abdomen, pelvis, something you usually do in major trauma and
11 I recall getting a phone call from my radiologist protesting
12 because that's a lot of radiation for a -- a young person, but
13 when I told him what -- what sort of condition this child was
14 in, he consented and we were -- full scans were performed.

15 Q: What did those scans show; what injuries?

16 A: The scans to the head showed bilateral subdural hematomas
17 and internally subarachnoid hemorrhages. These are examples
18 of high trauma. You and I tend to see these when we get
19 severe injuries to our temples and head.

20 Q: In your experience and training in what sorts of
21 incidents have you seen injuries similar to this?

22 A: Usually a high momentum acceleration type accidents like
23 in car wrecks or a severe trauma with a lot of momentum.

24 Q: Would you expect to see these injuries in any sort of
25 accidental trauma?

1 A: In motor vehicle type accidents but not in a slip and
2 fall or anything like that.

3 Q: Doctor, you mentioned earlier that you discussed with the
4 neurologist or the radiologist, excuse me, the condition of
5 the child. What was the condition of the child at this time?

6 A: The vital signs were a stable condition with normal sinus
7 rhythm and a pressure that was good for maintaining viable
8 tissues below the head.

9 Q: And you stated below the head?

10 A: After so many minutes of being without oxygen, our brain
11 tissue does not recover. Usually you and I have oxygen in
12 order to provide energy and energy provides a pump to keep our
13 both calcium sequestered in a certain area and our potassium
14 and sodium in certain areas. When that doesn't happen, tissue
15 become more acidotic and just like an egg becoming denatured
16 or fried, it's no longer viable.

17 Q: The term that's commonly referred -- can you tell us what
18 the term of brain dead actually refers to?

19 A: We have about a small area of gray matter that surrounds
20 a area what they call white matter. The white matter is more
21 like our -- our wiring, whereas the gray matter is the cell --
22 cell bodies. So, the cell bodies are what provide the
23 thinking part of our -- our -- our brain. When we are without
24 oxygen, those tend to die off if we're beyond say like five
25 minutes or so like in a drowning or choking.

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1 Q: Were you concerned about that with this child?

2 A: Yes.

3 Q: At any point of the time that the child was under your
4 care, did he regain consciousness?

5 A: No.

6 Q: At any point of the time that he was under your care, did
7 his neurological or brain functioning improve or increase?

8 A: No.

9 Q: Doctor, in addition to the injuries that you described,
10 did the CT scan show any -- any other injuries, any kind of
11 additional trauma, fractures, or anything like that?

12 A: He had a bruise -- that information ---

13 Q: Yeah, Your Honor -- hold on, Doctor.. Your Honor, may we
14 refresh the doctor's recollection with his notes?

15 THE COURT: All right.

16 MR. SPRATLIN: If there's no objection from the defense?

17 MR. LONG: Which one is it?

18 MR. SPRATLIN: This is the physician's documentation.

19 THE COURT: Why don't you have him identify the document
20 that he is using. If you'll have the doctor to identify it,
21 please.

22 MR. SPRATLIN: Yes, sir.

23 BY MR. SPRATLIN:

24 Q: Doctor, can you identify the document I just handed you?

25 A: This is an Emergency Department ordered events that

1 happened that day. They're the notes of this particular
2 person.

3 Q: And who is that person?

4 A: It says **Minor**.

5 Q: Okay. And who's the doctor who signed that form?

6 A: That would be me.

7 Q: Based upon that, do you remember if there were any
8 additional skull, any skull fractures that were present in the
9 CT scan?

10 A: Yes.

11 Q: What sort of force or impact does it take to cause a
12 skull fracture, if you know?

13 A: In you and I, the temple areas where we get grayish the
14 first and on a -- in Latin that would be time. They call it
15 temporal and those are the most areas that are more likely to
16 be broken or injured. There is vessels both on the surface
17 that and underneath the skull that are very likely to get
18 injured and that would probably be the more common -- commonly
19 found fractures.

20 Q: How extensive were these fractures or is that a question
21 for another doctor?

22 A: No.

23 Q: How extensive were these fractures?

24 A: They were -- they were fractured -- in any kind of
25 fracture that would be concerning so ---

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1 Q: Would you -- and again, what type of accident would you
2 expect to see these kinds of injuries that the child had?

3 A: Any high velocity or decelerative type action, anything
4 that could gives you enough momentum to crack a bone. You
5 tend to see that sort of problem with subdurals.

6 Q: Yes, sir, I have no further question, Doctor. Please
7 answer any questions Mr. Long might have.

8 A: Yes, sir.

9 THE COURT: Cross examination?

10 MR. LONG: Thank you, Your Honor.

11 CROSS EXAMINATION OF ROBERT BAREFOOT BY MR. LONG:

12 Q: Doctor, I want to compliment you. You've done a pretty
13 good job of trying to explain things in a way that we can
14 understand, but there's a few more terms I want to ask you
15 about just to kind of get definitions out the way if I could?

16 A: Yes, sir.

17 Q: Bruising, we commonly refer to bruising as an abrasion or
18 contusion or bleeding of the blood vessels underneath the
19 skin; is that correct?

20 A: I usually think of an abrasions as being on the surface
21 of the skin.

22 Q: Okay. All right.

23 A: Bruisings occur, can occur deeper and take time to make
24 their way to the surface.

25 Q: All right.

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1 A: It depends on where the vascular trauma occurred as in
2 how much force you have. In my experience, I can see a bruise
3 occur very quickly or take a lot of time to get to the
4 surface. It depends on what kind of trauma you have and where
5 it's at and what particular vessel or bone that gets damaged.

6 Q: All right. And I realize there's all different kinds of
7 bruising, but bruising is generally a breaking of the blood
8 vessels underneath the skin; is that correct?

9 A: Yes, torsion or some sort of injury.

10 Q: All right. And it could happen from a sharp impact or it
11 could happen from squeezing or twisting or things of that
12 nature. An abrasion can also cause a bruise too, correct?

13 A: Any kind of torsion action or impact can cause that, but
14 that can be caused by also in a clot from within.

15 Q: Okay. Now and any bleeding from within can cause a
16 bruise. In other words, if a blood vessel just breaks or
17 something, it's gonna cause the blood to pool underneath the
18 skin and cause the discoloration that we call black and blue,
19 right?

20 A: That's correct. Or if it happens in your eye, they call
21 it subconjunctival hemorrhage and they can spontaneously
22 occur.

23 Q: Now then a fracture, that always refers to a bone in the
24 body; is that correct?

25 A: Fracture usually involves bones. That's what we call a

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1 broken bone or we -- even I would call it an injury of -- of
2 just simply boney tissue.

3 Q: So when you diagnose a fracture in this case, there was a
4 breaking of the skull bone; is that correct?

5 A: Yes, sir, bilaterally.

6 Q: All right. What does bilaterally mean?

7 A: On either side of the temple; on either side.

8 Q: Okay. All right. And the fracture when you see it, a CT
9 scan; is that an x-ray?

10 A: It's a sequential x-ray in which we take many layered x-
11 rays and then the computer puts those images together to give
12 us a almost a three-dimensional picture of what we look like.

13 Q: It's like a composite x-ray, a bunch of them put together
14 to get a 3-D picture?

15 A: Exactly.

16 Q: All right. And the fractures that were shown from that
17 were how big, how long?

18 A: I don't know that. This is a -- I don't have the x-ray
19 report in front of me. It was given to me by a report and by
20 the radiologist verbally calling me.

21 Q: Did you yourself review the films or review the computer
22 screen to determine whether or not there was a fracture?

23 A: Yes.

24 Q: All right. And you would need to review those to
25 determine whether or not we're talking about a six-inch

1 fracture or a six-millimeter fracture?

2 A: Yes and I can't recall that.

3 Q: All right. You don't recall whether it was long or
4 short?

5 A: That's right.

6 Q: All right. From your report, the notes you have there,
7 when the skull is fractured, then bleeding underneath the
8 skull is referred to as a hematoma?

9 A: That's correct.

10 Q: All right. And a hematoma is the breaking of the blood
11 vessels underneath the skull that causes sort of like bruising
12 underneath the skull; is that a fair description?

13 A: Well, we have vessels outside the skull and vessels
14 underneath the skull.

15 Q: Right.

16 A: And usually call a hematoma is just simply a pool of
17 blood and it can come from either the one that's outside the
18 skull or the one that's the inside of the skull.

19 Q: All right. So a hematoma is the bleeding underneath the
20 skull?

21 A: In a collection.

22 Q: Not a bruising on top of the skin, underneath the skull?

23 A: Both, you can have both a, in this child's case, a
24 collection of blood underneath the skull, what they call
25 subdural hematoma.

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1 Q: Okay.

2 A: And so you can also have them outside the skull or
3 outside any bone. Say if you fracture your ankle and you see
4 a bruise there, that means your blood is coming from that
5 bone. Most people don't realize it, but the bone is -- our
6 bones are very vascular. They have probably as much in our
7 bones than you would see in -- in normal phlebotomy. So
8 actually most of our blood comes from our bones.

9 Q: Now with a subdural hematoma, in this case I think you
10 said up to five millimeter in greatest thickness. Five
11 millimeters, is that approximately the width of a quarter?

12 A: Yes.

13 Q: All right. So we're talking about a layer of blood
14 underneath the skull approximately the thickness of a quarter
15 underneath the skull where blood had pooled from this injury,
16 correct?

17 A: Yes, sir.

18 Q: All right. Can you tell us the diameter or radius of the
19 pooling of that blood?

20 A: I cannot.

21 Q: So, it could've been small, the size of a dime or it
22 could have been spread out large over some area, I'm talking
23 about the diameter or radius of the pooling of the blood?

24 A: The diameter just means the measure between, so if you
25 say you had a certain size that would be the -- the -- that

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1 would be the measure from side to side of that blood pooling.

2 Q: Not the thickness, but the -- the diameter?

3 A: That's correct.

4 Q: Yes. All right. And so you have don't have any
5 descriptions of the size of the blood that pooled underneath?

6 A: I don't know the answer to that. I don't have the CT
7 report in front of me, but in generally, yes.

8 Q: But you did say the thickness of it was five millimeters?

9 A: Yes.

10 Q: Okay. Now, the full body CT scan there was no abdominal
11 trauma or anything of that nature other than the skin
12 bruising; is that correct?

13 A: That's correct.

14 Q: Do you recall from the cranial CT scan which, if either
15 of the injuries, were larger than the other or were they both
16 the same size?

17 A: I can't recall that.

18 Q: Did you do an investigation with your hands and eyes to
19 determine if there was any bleeding or lacerations on the
20 skulls -- skull at the point there were the fractures?

21 A: When we first investigated this child as his -- we would
22 palpate the skull.

23 Q: Palpate means put your hands on?

24 A: Put your fingers on them.

25 Q: Okay.

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1 A: There was no areas of the soft spots both in the anterior
2 portion or the posterior portion and did not appear to have
3 any areas where you could actually push your fingers into the
4 skull. That would -- that's our first ---

5 Q: So no open holes or open cracks in the skull?

6 A: This is true.

7 Q: All right. So then there was no lacerations or any
8 indication on the skin; was there any bruising on the skin
9 where the skull had fractures?

10 A: I cannot recall that, but I thought most of the bruises
11 were seen on the facial areas.

12 Q: All right. And any bruising that you would've found at
13 the area of the fracture, certainly you would have included
14 that in your report?

15 A: Those areas would've come under both my report and any of
16 the staffs' report that were doing the physical exam.

17 Q: You're talking about high velocity impacts or
18 deceleration and for example, if I were to run into that wall
19 headfirst, I would have an impact from where my forehead hit
20 the wall, correct, that would be an exterior bruising,
21 correct?

22 A: More than likely, yes.

23 Q: But my brain would be moving at whatever I was moving
24 when I hit the wall?

25 A: Correct.

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1 Q: And then my brain would impact the inside of my skull and
2 cause bruising to the brain in effect, for hitting the inside
3 of my skull, correct?

4 A: You would also have what they call contracure where brain
5 is sitting in a fluid and it bounced back and forward just
6 like a bobble.

7 Q: But that's what causes concussion, correct, my brain
8 receiving an injury, my brain not stopping as fast as my skull
9 stopped and hitting the inside of my skull and bleeding or
10 causing swelling?

11 A: Sheer action; yes, sir.

12 Q: All right. That's a concussion, correct?

13 A: Correct.

14 Q: All right. Now if I were standing here and didn't run
15 into the wall, but somebody swung a baseball bat and hit me in
16 the head with a baseball bat, okay, that would cause the same
17 or similar type injuries. I would have an exterior bruising
18 where the bat hit my skin and my skull would be pushed back,
19 my brain would stay still, but the impact would cause my brain
20 to hit the inside and that would cause the concussion or
21 concussive type injury as well, correct?

22 A: That's true.

23 Q: All right. And in both of those circumstances or either
24 of those circumstances, I may or may not have a skull fracture
25 with it?

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1 A: Our frontal area would probably take the brunt a lot more
2 easily if you'd struck my temple on this, you could also get a
3 subdural as well.

4 Q: Okay. And the temple, this area of the skull, has
5 thinner bone thickness than my frontal area?

6 A: More than likely to get more fractured, yes.

7 Q: And God protects me from myself from whatever I hit,
8 stupidly hit here, correct?

9 A: We have a lot -- also we have what they call galea and a
10 lot of muscle there to to help protect us.

11 Q: It cushions it?

12 A: Correct.

13 Q: All right. Tell me about delayed onset of concussion;
14 you've seen that certainly in your years of emergency room
15 practice?

16 A: They may be delayed or long term. I think we're finding
17 now with football players and people who have head injuries a
18 sheer action causes long term problems in memory, yes.

19 Q: All right. And for example, if I were struck in the head
20 with something, ouch, it hurts, and I may have a cut, stop the
21 bleeding, whatever, but it would take or could take twenty-
22 four to forty-eight hours before I start with nausea,
23 vomiting, sweating, maybe even unconsciousness and possibly
24 even seizures. Isn't it true that it can take a while for
25 those symptoms to occur?

1 A: That's true and, more than likely, I've seen that happen
2 almost instantaneously.

3 Q: Correct, depending on the extent of the injuries that
4 would. I can recall being five years old falling on my head
5 at the skating rink and having to spend the night up with my
6 mother very nauseous because they were concerned about
7 concussion developing as the night progressed or even the next
8 day or two, correct?

9 A: Yes, sir.

10 Q: All right. With children, isn't there an increased
11 tendency for a delayed response to concussive type injuries?

12 A: I am not a neurologist nor a child neurologist, so I'd
13 have to defer for a better expert. I'm more -- just hematoma
14 ---

15 Q: Well, certainly you've read studies concerning ---

16 COURT REPORTER: Excuse me, I didn't hear his answer.

17 MR. LONG: I'm sorry.

18 A: Oh, I'd have to refer to a specialist in that field. I'm
19 mainly concerned in keeping someone alive for that moment.

20 BY MR. LONG:

21 Q: So, it's not part of your duties or training or whatever
22 to keep up on studies concerning delayed symptoms of
23 concussive injuries?

24 A: Well, often times I see if the people come in later as
25 when it happens and I get to see those people at that moment

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1 in time. So I concern myself with that person at that time,
2 but this is a -- as far as following a person in the hospital,
3 that sort of thing, we usually defer that to the admitting
4 doctors or the pediatricians who are taking care of them for
5 when it happens and when those other symptoms progress.

6 Q: There were also CT scans done of his -- **Minor** lower body
7 that you requested; is that correct?

8 A: Yes, sir.

9 Q: Do your notes show that there were problems with the
10 machine when the lower legs were done?

11 A: I don't recall that.

12 Q: I think there was a gaseous protrusion in the lower
13 extremities and then your CT technician said, oops, my bad; do
14 you recall that?

15 A: No, sir.

16 MR. LONG: Court's indulgence just one moment?

17 THE COURT: Yes, sir.

18 MR. LONG: Your Honor, I believe that was Dr. Brown that
19 was the other one; I was mistaking for Dr. Barefoot.

20 BY MR. LONG:

21 Q: If you will, Doctor, please put your finger on your head
22 where the fractures were observed by you on the CT scans?

23 A: That would be the bilateral temple.

24 Q: All right. So it would be directly -- the temple is the
25 depression that I can stick my fingers closest together,

1 correct?

2 A: The temporal bone is this area here (indicating). And as
3 I said, we usually describe the in Latin because we tend to
4 get grayest there first, but they call that bone like time,
5 but it's in -- in -- in an area of bone on either side about
6 this area in diameter.

7 Q: All right. And please put your finger where
8 approximately you observed the fractures on the CT scan, show
9 the Jury where it was that these fractures were?

10 A: I would suspect on either side right here (indicating).

11 Q: All right. There was a mark on the child's forehead.
12 Was there any fracture or injury observed to the skull from
13 the mark on the forehead?

14 A: On the report that I read, no, sir.

15 Q: All right. But the picture, you just saw the pictures,
16 correct?

17 A: Yes; yes, indeed.

18 Q: And you saw where that was located?

19 A: Yes.

20 Q: And there was no fracture or anything associated with
21 that?

22 A: That's correct.

23 MR. LONG: Court's indulgence just one moment?

24 THE COURT: Yes, sir.

25 BY MR. LONG:

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1 Q: Doctor, I notice from some of the notes provided by Loris
2 Hospital that this child's blood sugar level was very, very
3 high. Did you review those notes during your treatment of the
4 child?

5 A: As I recall this is when I reviewed the notes and it says
6 I remembered then that the blood sugar was close to 400, yes.

7 Q: I believe it was 407?

8 A: Okay.

9 Q: And what is the normal range of blood sugar on an infant
10 that age?

11 A: It should be like you and me between 80 and 120.

12 Q: All right. So, 120 would be after I'd eaten a big meal
13 and 80 when I first wake up in the morning?

14 A: Correct.

15 Q: And 400, is that worrisome in a child this age?

16 A: That's high, yes, sir.

17 Q: Did you administer insulin to try to bring that blood
18 sugar level down?

19 A: The nurses gave the insulin; I made the order, yes, sir.

20 Q: Okay. So you determined based on weight, size of the
21 baby, et cetera, things of that nature, you determined how
22 much and they were the ones that actually administer it?

23 A: Correct.

24 Q: Thank you, sir. No further questions.

25 THE COURT: Redirect?

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1 MR. SPRATLIN: Yes, sir, Your Honor.

2 REDIRECT EXAMINATION OF DR. ROBERT BAREFOOT BY MR. SPRATLIN:

3 Q: During Mr. Long's last theory of questioning, Doctor, you
4 stated the blood sugar was very high. In what condition are,
5 in regards to blood sugar, are seizures typically seen?

6 A: Seizures are usually seen when we have low blood sugars.
7 In fact the medical field used to induce people into seizures
8 when insulin was first procured by Banting and Best as a --
9 the medical used that to lower blood sugars as I described
10 without energy, our nerve cells can no longer direct the ions
11 responsible for keeping our nerves in the right place and we
12 go into a seizure.

13 Q: Would you expect to see a seizure with high blood sugar?

14 A: I rarely see high blood sugars in seizures and gathered
15 together unless you have a person who had seizures all their
16 lives and happens to be diabetic.

17 Q: Now, what affect would the high blood sugar have had on a
18 child?

19 A: A child with high blood sugar is -- would act like a
20 diabetic. They would be, expect to be thirsty. They would
21 urinate a lot. They would be irritable because their body
22 tissues would be demanding energy. In diabetes we have plenty
23 of energy but -- in the form of glucose but it's in our blood
24 vessels. It stays there and doesn't get to our tissues where
25 it's needed and so our body responds by acting like it's

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1 starving.

2 Q: So the child would have been more irritable?

3 A: I suspect so, but I'm -- it's the -- most children with
4 diabetes are irritable, yes.

5 Q: Now, Minor -- had Minor ever been
6 diagnosed with diabetes?

7 A: Not to my knowledge. I, I don't know the history of this
8 -- this baby's delivery or his pediatric history.

9 Q: To your knowledge had he ever been diagnosed with
10 seizures?

11 A: Not to my knowledge, no, sir, but I don't have any
12 information again on this patient.

13 Q: What are some of the other ways in which a child could --
14 blood sugar could be exceptionally high?

15 A: If a person infused the child with sugar, with glucose
16 and we do it all the time in -- in people who have low blood
17 sugars induced by insulin or tumors that put out too much
18 insulin, called insulinomas, we give them what they call D50,
19 D5W, it's water and glucose and concentrated glucose.

20 Q: Would high blood sugar have led to bruises forming on the
21 child's head?

22 A: I've never seen that happen, no, sir.

23 Q: Would high blood sugar have led to a giant bruise forming
24 on the child's stomach?

25 A: I would not suspect so, no, sir.

1 Q: Would high blood sugar have led to the child sustaining
2 skull fractures?

3 A: No, sir.

4 Q: Dr. Michael Brown, he is a radiologist that worked at the
5 hospital with you, correct?

6 A: That's correct.

7 Q: All right. Is he the one who interpreted the CT or
8 what's commonly called the CAT scan images?

9 A: Yes, sir.

10 Q: And the findings that he found, he reported them to you?

11 A: He both called me and there was a written report later,
12 yes, sir.

13 Q: Okay. I beg the Court's indulgence?

14 Your Honor, no further questions.

15 THE COURT: Any questions on those just asked by the
16 Solicitor?

17 MR. LONG: Very briefly, Your Honor.

18 REXCROSS EXAMINATION OF DR. ROBERT BAREFOOT BY MR. LONG:

19 Q: Doctor, diabetic seizures are with low blood sugar but
20 diabetic coma is associated with high blood sugar; is that
21 correct?

22 A: As a rule, yes, sir.

23 Q: All right. And diabetic coma can occur when blood sugars
24 rise too high, the blood becomes acidic and the brain just
25 simply shuts down from the acid wash that it's receiving?

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- 1 A: In essence the patient is -- is starving and no energy
2 for the tissues; therefore, they begin to get more acidotic,
3 yes, beta-hydroxybutyrate acid.
- 4 Q: All you said then is -- earlier is that all the energy is
5 in the blood vessels and the brain and the muscles, anything,
6 are not getting the energy.
- 7 A: That's correct.
- 8 Q: Thank you, sir, no further questions.
- 9 A: You're welcome.
- 10 THE COURT: All right, sir. You may step down. Do you
11 wish the witness to be excused?
- 12 MR. SPRATLIN: The State does, Your Honor.
- 13 THE COURT: Any objection?
- 14 MR. LONG: No objection, Your Honor.
- 15 THE COURT: All right, sir, you're released from
16 subpoena. You may go back to your regular duties.
- 17 Those documents that he has in his hand. Thank you.
- 18 MR. SPRATLIN: Your Honor, would you like me to mark them
19 as a Court's exhibit?
- 20 THE COURT: No, sir. Didn't want them to leave the
21 courtroom.
- 22 MR. SPRATLIN: Yes, sir.
- 23 BY THE COURT:
- 24 THE COURT: All right, ladies and gentlemen, we're going
25 to break for lunch. I want you to be back at 2:30. Please

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1 remember my instructions not to talk about the case, don't
2 allow anyone to talk to you about the case. I'm sure the
3 Bailiff will tell you I'd like you be able to come in at 2:30
4 so the Bailiff will tell you when to be back at that point in
5 time. So, I will see you back at that point in time. Thank
6 you very much.

7 (REPORTER'S NOTE: Jury exits courtroom. The following takes
8 place outside the presence of the Jury.)

9 THE COURT: Anything from the State before we break for
10 lunch?

11 MR. SPRATLIN: No, Your Honor.

12 THE COURT: From the Defense?

13 MR. LONG: No, Your Honor.

14 THE COURT: All right. Thank you very much. See y'all at
15 2:30. Thank you.

16 *****OFF THE RECORD*****

17 (On the Record.)

18 THE COURT: Anything from the State before the Jury comes
19 in?

20 MR. SPRATLIN: No, sir, Your Honor.

21 THE COURT: Defense?

22 MR. LONG: No, Your Honor.

23 THE COURT: Ask the Jury to come in, please. Thank you.

24 (REPORTER'S NOTE: Jury enters courtroom.)

25 THE COURT: All right, Solicitor, your next witness

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BY THE COURT

1 please, sir.

2 MR. SPRATLIN: Your Honor, the State would call Dr.

3 Michael Brown to the stand.

4 THE COURT: All right, sir, if you'd come around please
5 and meet the Clerk right here at the corner up here? Thank
6 you.

7 CLERK: Please raise your right hand and place your left
8 hand on the Bible.

9 MICHAEL HUNTER BROWN, HAVING BEEN

10 SWORN TESTIFIES AS FOLLOWS:

11 CLERK: Please state your full name and spell your last
12 name.

13 DR. BROWN: Michael Hunter Brown, B-R-O-W-N.

14 THE COURT: Go ahead, Solicitor.

15 MR. SPRATLIN: Thank you, Your Honor.

16 DIRECT EXAMINATION OF MICHAEL HUNTER BROWN BY MR. SPRATLIN:

17 Q: Sir, what is your occupation?

18 A: Radiologist.

19 Q: Are you a duly licensed physician?

20 A: Yes.

21 Q: In what states are you certified?

22 A: South Carolina, North Carolina, Georgia, and Tennessee.

23 Q: If you recall when did you become certified in the State
24 of South Carolina?

25 A: Licensure in 2001.

1 Q: How long have you been a radiologist?

2 A: I finished my residency at MUSC in July 2005.

3 Q: So have you been a radiologist since that time?

4 A: Yes, sir.

5 Q: Approximately about eleven years?

6 A: Yes.

7 Q: Where do you currently work?

8 A: For Carolina Radiology Associates in Myrtle Beach.

9 Q: And what do you -- what's the job duties of a radiologist
10 there?

11 A: A radiologist interprets medical images and performs
12 image guided procedures on patients.

13 Q: In your eleven -- I'm sorry. You may have answered this
14 already, but how long have you been working at Carolina
15 Radiology and Associates?

16 A: Since July 2005.

17 Q: In those eleven years as a radiologist for Carolina
18 Radiology Associates, how many different medical scans do you
19 think you've interpreted?

20 A: I would estimate on average 25,000 a year for greater
21 than ten years so over a quarter million exams.

22 Q: Doctor, if you can, can you tell the Jury what exactly a
23 CT scan is?

24 A: CT stands for Computer Tomography. It's a way that x-
25 rays are used along with computers to see inside the body.

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1 Q: Can a radiologist interpret CT scans more efficiently or
2 better than a general practitioner?

3 A: Yes.

4 MR. SPRATLIN: Your Honor, at this time, I would tender
5 Dr. Michael Brown as an expert in Radiology.

6 THE COURT: All right. Mr. Long, do you wish to voir
7 dire the witness or challenge his qualifications?

8 MR. LONG: No, Your Honor.

9 THE COURT: All right, sir. He is qualified to give his
10 opinion in the field of radiology. You may proceed.

11 MR. SPRATLIN: Thank you, Your Honor.

12 BY MR. SPRATLIN:

13 Q: Doctor, were you working on December 19th, 2013?

14 A: Yes.

15 Q: Do you remember what hospital you were working at?

16 A: Loris Community Hospital.

17 Q: Did you have the chance to interpret any scans or
18 examination of **Minor**, a three-month-old child?

19 A: Yes.

20 Q: What sort of scans did you interpret?

21 A: A CT scan of the head, CT scan of the chest, abdomen and
22 pelvis and several chest x-rays.

23 Q: Regarding the COURT scan of the head, what, if anything
24 were your findings?

25 A: I have the findings in a -- in a record of that scan. I

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1 believe I remember but I'd like to see the report just to
2 refresh my memory if I could.

3 MR. SPRATLIN: Your Honor, permission to approach the
4 witness?

5 THE COURT: Certainly.

6 MR. SPRATLIN: Please let the record reflect I'm showing
7 it to Defendant's Counsel.

8 THE COURT: Any objection to him reviewing the report?

9 MR. LONG: No, Your Honor.

10 THE COURT: Thank you.

11 BY MR. SPRATLIN:

12 Q: Doctor, what is that document I just handed to you?

13 A: It is the radiology record for the CT scan performed of
14 the head on 12/19/13.

15 Q: What time of day was that performed on?

16 A: I don't have -- the -- I signed the report, I'm trying to
17 look here. The time that I dictated the report was 3:24 P.M.

18 Q: Okay. So, it would've been prior to that?

19 A: Correct.

20 Q: What were your findings regarding the CT scan of **Minor**
21 head?

22 A: There were -- there were several findings on the exam.
23 There were multiple areas of blood around the brain and within
24 the skull. There were fractures of the skull and there was
25 evidence of swelling of the soft tissues overlying the skull.

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1 Q: Let me ask you specifically about the fractures. If you
2 could on your own body, could you point out where the
3 fractures were?

4 A: The fractures that I described were of the temporal
5 bones, which are the bones on the side of the skull and those
6 fractures extended up toward the parietal convexities, which
7 is basically the part of the skull that meets in the midline
8 on the top of your head.

9 Q: So these weren't -- do you know about how long the
10 fractures were; can you give us a length of the fracture?

11 A: I don't recall and I don't have that measurement on here.

12 Q: But they did go from the temporal lobe towards the top of
13 the head on both sides?

14 A: From the temporal bone to the top of the head on both
15 sides, correct?

16 Q: In your report you mentioned subdural hematomas along the
17 right cerebral convexity. What exactly is that?

18 A: A subdural hematoma is a collection of blood that sits
19 between the lining of the brain tissue between the brain and
20 the skull and that would be on the right side along the top of
21 the head.

22 Q: So that was actually bleeding within the skull cap or the
23 brain cap?

24 A: It's bleeding within the, the cranial ball, within the
25 cavity that contains the brain, correct?

1 Q: All right. You also noticed high density material along
2 the falx?

3 A: Correct.

4 Q: And tentorium cerebral convexities; what exactly is that?

5 A: The falx and the tentorium are simply reflections of that
6 material that lines the inside of the skull that splits the
7 brain between the right and the left lobes and then the
8 tentorium is the lining that splits the brain from the
9 cerebellum and those are just areas where that subdural blood
10 had tracked.

11 Q: And then you notice subarachnoid hemorrhage seen within
12 the gyri.

13 MR. LONG: Your Honor, I'm gonna object to the Solicitor
14 reading from the report. I'd prefer the doctor testify.

15 THE COURT: All right, Solicitor. Rephrase the question
16 to elicit the findings from the document.

17 MR. SPRATLIN: Yes, sir.

18 BY MR. SPRATLIN:

19 Q: Doctor, what was your next finding regarding injury to
20 the child?

21 A: That there was subarachnoid hemorrhage along gyri along
22 the cerebral convexities.

23 Q: And what exactly does that mean?

24 A: Subarachnoid hemorrhage is hemorrhage that is along the
25 lining of the brain tissue itself. It is deeper than the

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1 subdural hematoma described before. The gyri are simply the
2 folds of the brain tissue that you -- that you can identify on
3 a CT scan.

4 Q: And what was the next injury that you noted to the child?

5 A: There was also subarachnoid blood that extended to the
6 basilar cisterns which is basically the collection of spinal
7 fluid at the base of the skull.

8 Q: And what -- what -- and I think you may have already told
9 us this, but what exactly in as layman terms as possible does
10 that mean?

11 A: Again, it extends the blood right along the outer aspect
12 of the brain dependently down toward where the brain exits the
13 skull.

14 Q: And what was your next injury that you noticed to the
15 child?

16 A: I noted that there was extensive subcutaneous edema
17 throughout the scalp.

18 Q: What exactly does that mean in layman terms?

19 A: Subcutaneous edema refers to swelling of the soft tissues
20 that overlie the skull so that the scalp is the skin and
21 tissues that extend down to the boney part of the skull.

22 Q: And the last injury that you noted?

23 A: The last injury I noted were bilateral displaced skull
24 fractures involving the temporal bones extending to the
25 parietal convexities.

1 Q: And that is the injury you already documented for us?

2 A: Correct.

3 Q: Doctor, what were the results of the CT scan performed on
4 the lower body of **Minor**?

5 A: There was no evidence of trauma for the chest, abdomen or
6 pelvis CTs.

7 Q: In your experience and training, Doctor, what sort of
8 mechanism would you expect to find this kind of trauma in?

9 A: The most common thing in my practice to see these
10 findings is following a motor vehicle accident or following an
11 assault.

12 Q: How much force would it take to require a skull fracture
13 such as this?

14 A: I don't feel qualified to quantify the amount of force.

15 Q: Okay. With injuries like this, would you expect to see a
16 patient acting normally?

17 A: No.

18 Q: Can you give a time estimate on when these injuries would
19 have occurred to this child?

20 A: I don't believe I can accurately just based on one single
21 CT scan, no.

22 Q: Do you believe that an individual would have been able to
23 function with injuries such as this for a day?

24 A: In my opinion, no.

25 Q: Now, Doctor, did you have a chance to also perform a

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1 postmortem CT scan on the child?

2 A: I don't believe it was a CT scan. I believe it was an x-
3 ray that was done postmortem.

4 Q: Yes, sir.

5 A: Yes, I did.

6 Q: And what, if anything were your findings on that
7 examination?

8 A: Again, I believe I recall the findings, but if I could
9 look at the report just to verify that I'm not adding or
10 missing anything?

11 Q: Yes, sir.

12 MR. SPRATLIN: Your Honor, permission to approach?

13 THE COURT: Yes, sir, please.

14 BY MR. SPRATLIN:

15 Q: Doctor, if you would please identify the document I just
16 handed you.

17 A: It is the Infant Bone Survey Report from Grand Strand
18 Regional Medical Center performed 12/20/13.

19 Q: Obviously, since we already referred to it as postmortem,
20 what does postmortem mean?

21 A: After death.

22 Q: So, this exam was performed after the child had passed?

23 A: Correct.

24 Q: And how did those findings compare with your previous
25 findings?

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1 A: The findings of the skull fracture and scalp hematoma
2 were reported on this exam as well.

3 Q: Were any other abnormalities grossly -- or any sort of
4 injuries detected?

5 A: No, they were not.

6 Q: So, is it fair to say that that is consistent with your
7 prior scan?

8 A: Yes.

9 Q: I beg the Court's indulgence?

10 THE COURT: Yes, sir.

11 Q: Doctor, would you classify the injuries sustained to this
12 child as being extensive?

13 A: Yes, I would.

14 MR. SPRATLIN: No further questions, Your Honor.

15 THE COURT: Cross examination?

16 MR. LONG: Thank you, Your Honor.

17 CROSS EXAMINATION OF MICHAEL HUNTER BROWN BY MR. LONG:

18 Q: Dr. Brown, when these x-rays were taken or when the child
19 is put in the machine, are you involved with that?

20 A: I'm not present in the room with the CT scanner, no.

21 Q: And so this patient, **Minor**, did you ever lay eyes
22 on him?

23 A: No, I did not.

24 Q: All right. Did you ever lay hands on him?

25 A: No, I did not.

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1 Q: Were you ever given physical, visible photographs or
2 pictures to review?

3 A: No, I was not.

4 Q: So, you simply saw him through your computer from the x-
5 rays or CT scans that someone else administered; is that
6 correct?

7 A: Correct.

8 Q: And your job position is then to use your experience and
9 training in going through what you have in front of you to
10 make a diagnosis or report, correct?

11 A: Correct.

12 Q: Were you also called out for reviewing chest scans about
13 tube placement?

14 A: Chest scans, there's a CT scan that was performed. He
15 had already been intubated at the time?

16 Q: Yes.

17 A: So, yes.

18 Q: All right. And there was a problem with the placement of
19 the tube that you then gave information back to them you
20 needed to move it up at one and a half centimeters or move it
21 three centimeters; do you recall?

22 A: I -- there was -- again, if that report is available, I
23 could quantify it based on what I said at the time, but I do
24 recall that it was right main stem intubation meaning that the
25 endotracheal tube was malpositioned.

1 Q: Because one of the lungs had collapsed; is that correct?

2 A: Correct.

3 Q: All right. And you recommended the tube placement to
4 remedy or change -- re-inflate the lung?

5 A: Correct.

6 Q: Now, who actually performed the CT scans; do you know?

7 A: A CT technologist.

8 Q: Do you know the person's name?

9 A: I do not recall.

10 Q: And that would have been someone at Loris Hospital?

11 A: Correct.

12 Q: All right. And you were at Grand Strand Hospital when
13 you reviewed it?

14 A: When I read the CT scan at the time of presentation, I
15 was at Loris Hospital.

16 Q: Okay. And when you did the postmortem, you were at Grand
17 Strand Hospital?

18 A: I believe when I -- it would be tough for me to say where
19 I was to interpret the postmortem. We have several sites that
20 I could have seen that image but it was -- it looks like the
21 date that this actually was dictated was on 12/30 and it's not
22 uncommon for these x-rays when they're done on a postmortem
23 basis to not be presented for interpretation for several days.

24 Q: Okay. All right. Now, your review of the CT scans, you
25 can't tell when the injuries happened, correct?

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1 A: Correct.

2 Q: And the -- let me see if I can get the correct language.
3 The blood that you described in the brain, all right, I
4 believe you said near where the fractures were there was
5 subdural blood there, correct?

6 A: Correct.

7 Q: That means under the skull?

8 A: Correct.

9 Q: All right. And there was also blood in the subarachnoid
10 hemorrhage; what was the subarachnoid hemorrhage?

11 A: Subarachnoid hemorrhage ---

12 Q: Thank you very much.

13 A: --- is bleeding along the arachnoid membrane which sits
14 closely to the brain matter itself.

15 Q: Is that blood indicative of a injury to that area or is
16 that a place where blood could run from the subdural hematoma?

17 A: There's typically not communication with the subdural
18 hematoma and the subarachnoid space because they're two
19 separate potential spaces within the skull and the
20 subarachnoid blood is typically injury to blood vessels within
21 the arachnoid membrane.

22 Q: All right. Where on your skull was that blood located,
23 if you'd point to it?

24 A: The subarachnoid blood?

25 Q: Yes. We know you say that the two fractures were on the

1 temples.

2 A: The fractures were along the temporal bones and extended
3 to the parietal convexities. The way I described the
4 subarachnoid hemorrhage was along the cerebral convexities.

5 Q: Okay. More closer to the top of the head?

6 A: Correct.

7 Q: Okay. All right. Now, you talked about fissures in the
8 brain. Would blood from either of those injuries gone into
9 the fissures and what would you call that when it was blood
10 from another injury area but it pools or congregates in the
11 fissures?

12 A: I don't believe I used the terminology fissures. There's
13 I don't know if you're referring to the basilar cisterns?

14 Q: I think when you testified you were talking about the
15 folds in the brain.

16 A: There's reflections of the dural lining within the brain
17 that sit between the two halves of the brain, in between the
18 brain and the cerebellum, and there is potential space along
19 those that is the subdural space, but there were areas of
20 subdural hematoma within those spaces as well along the falx
21 and along the tentoria.

22 Q: And was that a result of injury or blood pooling from
23 another blood source?

24 A: Typically that's a result of additional injury.

25 Q: All right. I'll show you this document and ask you first

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1 if you provided copies of your CT scans or summaries to Dr.
2 Judith Ugale?

3 A: I do not know who Dr. Judith Ugale is. I personally did
4 not provide any copies. They may have been transmitted if the
5 patient was transferred to another facility, but I did not.

6 Q: So any other of the doctors, whether it be Dr. Proctor or
7 Barefoot or whatever or the Solicitor or SLED or whoever, that
8 obtained copies may have provided those scans or
9 interpretation or results to her?

10 A: I wouldn't know how she got them but ---

11 Q: Okay.

12 A: --- I did not provide them.

13 Q: If you will help me understand, I've highlighted a
14 portion and I'm not asking you to read it aloud but would you
15 help me understand that portion?

16 A: The area that you've highlighted describes that there is
17 gas within the soft tissues of the left lower leg and high
18 attenuation material high density material in that region and
19 it's positive by Dr. Ugale that it may be some contrast that
20 was leaked out of the IV sites from the CT scan and it says
21 that it limits the evaluation of the tibia and fibula, which
22 were the bones of the lower leg.

23 Q: Is that saying the CT scan of the lower leg showed what
24 looked like something but I think it's not from anything; it
25 looks like it was a problem with the scan itself?

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1 A: I believe the best way to characterize this is that
2 postulating is what you're asking me to do with what I see
3 here.

4 Q: Just help me understand what it means?

5 A: I believe there was probably an intraosseous catheter
6 that was placed or an intravenous catheter that was placed in
7 the leg.

8 Q: That would have been in the leg?

9 A: In the leg.

10 Q: Okay.

11 A: In order to administer the intravenous contrast that was
12 given as part of the CT of the chest, abdomen and pelvis.

13 Q: Okay. All right.

14 A: And again, on that report -- I don't have that report in
15 front of me, but I presume that study was done with IV
16 contrast and, if it were, then it's not unusual for a small
17 amount of that contrast to leak out from around the site where
18 the IV enters the vein. It does not render the exam
19 nondiagnostic and it does not mean there's a problem with the
20 CT scan itself. The CT of the head, just to be clear, is
21 performed without contrast. So any contrast that is
22 administered would have been administered after the CT of the
23 head was performed.

24 Q: Okay. I was just curious. I didn't know if they said,
25 looks like an injury on the leg, but wait a minute, there's a

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1 problem with the CT scan so it's not an injury on the leg?

2 A: She's not -- what she's trying to describe is that
3 because of the high density of the contrast material that's
4 contained in the soft tissues, it makes it difficult to
5 evaluate portions of the bone ---

6 Q: Okay.

7 A: --- where that soft tissue contrast is located.

8 Q: To determine if there is injury or not?

9 A: To determine if there's additional injury to the tibia or
10 fibula.

11 Q: Thank you, sir. Now in addition to a radiologist, you
12 are a licensed practicing doctor; is that correct?

13 A: A radiologist is a physician, correct.

14 Q: All right. And do you see patients in connection with
15 being a doctor or is your practice confined to interpreting
16 results?

17 A: No, I do have patient interactions performing procedures
18 on patients, directly imaging patients with fluoroscopy and
19 with ultrasound.

20 Q: Your training and experience in CT scans would lead you
21 to be somewhat more knowledgeable than the general
22 practitioner about head injury, things of that nature,
23 correct?

24 A: I would characterize it significantly more qualified than
25 a general practitioner.

1 Q: What do you know about delayed onset of concussion? Have
2 you studied up on that, have you read materials, do you keep
3 yourself apprised of all treatises and what literary works on
4 delayed onset of symptoms?

5 A: Concussion is a clinical diagnosis so that wouldn't be
6 something that I would keep up with, but I do have continuing
7 medical education to keep up with the licensure requirements
8 of all four states where I'm currently licensed as well as the
9 maintenance and certification with the American Board of
10 Radiology.

11 Q: Would you say it's fair to say that -- that symptoms from
12 concussion that can occur anywhere from immediately to forty-
13 eight hours as long as seventy-two hours from the date of
14 injury?

15 A: Again, symptoms of concussion are not something that's
16 within the scope of my practice because there does not have to
17 be any imaging findings to go along with of concussion.

18 Q: Okay. So, from a head injury, somebody may not be
19 experiencing symptoms, correct?

20 A: Correct.

21 Q: And from a head injury that occurred two or three days
22 ago, somebody could come in and just now be complaining of
23 symptoms, correct?

24 A: Correct.

25 Q: And you've seen both versions?

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- 1 A: Correct.
- 2 Q: No symptoms or no complaints, no need to go to the ER or
3 to get a CT scan until long after?
- 4 A: Long after is an imprecise term.
- 5 Q: Forty-eight to seventy-two hours?
- 6 A: Correct. In my practice, typically that happens in an
7 older population that we've seen that in.
- 8 Q: Is delayed onset more prevalent among young children?
- 9 A: I would not know that.
- 10 Q: Typical symptoms of concussion, which I'm gonna define as
11 basically being brain injury from either injury or swelling --
12 those are what cause concussion, correct?
- 13 A: Typically, yes.
- 14 Q: Of course, drug and other, but I'm talking about injury.
15 Symptoms can include nausea; is that correct?
- 16 A: Yes.
- 17 Q: Vomiting?)
- 18 A: Yes.
- 19 Q: Of course headache?
- 20 A: Yes.
- 21 Q: Can even progress to seizures?
- 22 A: Yes.
- 23 Q: Loss of consciousness?
- 24 A: Yes.
- 25 Q: Blindness?

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1 A: Yes.

2 Q: What are some others that I've failed to list?

3 A: I think you've covered the most common presentations of
4 concussion.

5 Q: All right. That can occur or can arise immediately
6 following the accident or as late as twenty -- forty-eight to
7 seventy-two hours?

8 A: Again, you know, I'm not a clinical -- I don't see
9 patients clinically that have had injuries. I view the
10 imaging on those patients so the clinical symptoms are a
11 little bit beyond the purview of what I typically see.

12 Q: Understood. You don't handle it on a regular basis,
13 correct?

14 A: Correct.

15 Q: Understood. Tell me please if you will what an eggshell
16 fracture is?

17 A: An eggshell fracture?

18 Q: Yes, sir?

19 A: I'm not familiar with what exactly that terminology is
20 gonna relate to.

21 Q: Do you use it in connection with your practice, your
22 studies and your diagnostics? Do you ever refer to anything
23 as an eggshell fracture?

24 A: I would not use that terminology, no.

25 Q: Do other doctors use it?

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1 A: They may; it's not a term that I'm familiar with in my
2 practice or through my training.

3 MR. LONG: Court's indulgence just one moment?

4 THE COURT: Yes, sir.

5 BY MR. LONG:

6 Q: Thank you, sir, no further questions.

7 THE COURT: Redirect?

8 MR. SPRATLIN: Yes, sir.

9 REDIRECT EXAMINATION OF MICHAEL HUNTER BROWN BY MR. SPRATLIN:

10 Q: Doctor, on cross examination Mr. Long asked you if it was
11 common for people to come in with head injuries several days
12 later. Would you expect to see that in a head injury with
13 this sort of trauma and this extensive?

14 A: I would not.

15 Q: Why is that?

16 A: Typically as I described before, when we see this time of
17 extensive trauma, it's after a motor vehicle accident or an
18 assault and typically the event that causes that change in the
19 -- in the CT scan occurs immediately before presentation to
20 the hospital; typically through the emergency room.

21 Q: Now Mr. Long also asked you about the tube placement or
22 the intubation tube placement. Is that a common occurrence
23 that happens in young children?

24 A: The initial placement of the endotracheal tube is -- is
25 done based on an estimate of the length of the trachea by

1 using landmarks from outside of the body. So, yes, it is
2 common for that initial exam to show that the tube is
3 malplaced and requires to be adjusted.

4 Q: Would that in any way have caused the death of the child
5 in your -- to your knowledge?

6 A: I don't -- I don't know the cause of death of the child
7 based on what the pathologist would have said. The tube
8 placement did not have any implication as far as the head
9 injury that had occurred.

10 Q: Gotcha. Mr. Long also asked you some questions -- do you
11 have any doubt about the reliability of your CT scan of that
12 three month old's head?

13 A: I do not.

14 Q: Thank you. That's all the questions I have.

15 THE COURT: Anything on those questions, Mr. Long?

16 MR. LONG: Yes, Your Honor, very briefly.

17 RE CROSS EXAMINATION OF MICHAEL HUNTER BROWN BY MR. LONG:

18 Q: Dr. Brown, you said that you don't feel that a person
19 would have experienced delayed onset of symptoms as a result
20 of the significance of these injuries; is that correct?

21 A: Correct.

22 Q: All right. Injuries of this type would involve external
23 injuries as well, correct?

24 A: They may and there were in this case, I believe.

25 Q: All right. If you had a baseball bat to the head and

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1 subsequent skull fracture and death from swelling of the
2 brain, there would be knot, there would be a split, there
3 would be a cut, there would be a bruise, there would be
4 something external to show where that force was applied,
5 wouldn't there; would there?

6 A: Typically there would be.

7 Q: The amount of force necessary to cause that type of
8 injury to the brain would have to cause some type of
9 indication, evidence, whatever to where it was applied,
10 correct?

11 A: Typically it would, yes.

12 Q: Thank you, sir, no further questions.

13 THE COURT: You wish the witness to be excused,
14 Solicitor?

15 MR. SPRATLIN: The State does, Your Honor.

16 THE COURT: Any -- any objection?

17 MR. LONG: No objection, Your Honor.

18 THE COURT: All right, sir, you are released from your
19 subpoena and you go back to your regular duties, sir.

20 All right. Your next witness, Solicitor?

21 MR. SPRATLIN: The State would next call Mr. Joe Vaught
22 to the stand.

23 THE COURT: All right, sir.

24 All right, Mr. Vaught, if you'd come all the way up here
25 and meet the Clerk, all the way up here please.

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1 CLERK: Please raise your right hand and place your left
2 hand on the Bible?

3 JOSEPH W. VAUGHT, HAVING BEEN SWORN
4 TESTIFIES AS FOLLOWS:

5 CLERK: Please state your full name and spell your last
6 name?

7 MR. VAUGHT: Joseph W. Vaught, V-A-U-G-H-T.

8 DIRECT EXAMINATION OF JOSEPH W. VAUGHT BY MR. SPRATLIN:

9 Q: Mr. Vaught, what county do you currently reside?

10 A: Horry County, sir.

11 Q: How long have you lived in Horry County?

12 A: Well, my whole life, but I was gone for a number of
13 years, but I returned back to Horry County in 1993.

14 Q: What do you currently do for a living?

15 A: I'm retired.

16 Q: What are you retired from?

17 A: My latest retirement was from the Loris Police
18 Department.

19 Q: When did you retire from the Loris Police Department?

20 A: July of 2014.

21 Q: When did you first become Chief of the Loris Police
22 Department?

23 A: July, 2008.

24 Q: Now, prior to being Chief of Police for Loris, what, if
25 any was your background in law enforcement?

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1 A: I began my law enforcement career in 1967 with the Army
2 Criminal Investigation Division. I worked there until I
3 retired in July 1988 and I went to work then with the South
4 Carolina Law Enforcement Division and I retired from there in
5 2008.

6 Q: And then from South Carolina Law Enforcement Division, I
7 think you told us already in 2008 did you become Chief of
8 Loris?

9 A: Yes, sir.

10 Q: Now, Chief Vaught, were you working as Loris Police Chief
11 on December 19th, 2013?

12 A: Yes, sir, I was.

13 Q: Did you receive a call regarding the case that we're here
14 on today?

15 A: I did.

16 Q: What did you do in regards to that call?

17 A: I responded to the emergency room at McLeod Loris
18 Hospital.

19 Q: How long, if you know, did it take you to get to Loris
20 Hospital from the time that the initial call came in?

21 A: The first officer arrived at the hospital about 3:25 P.M.
22 on December the 18th. I took some photographs about 3:50 on
23 that same day. So, I probably took about ten or fifteen
24 minutes to get to the hospital.

25 Q: If you know, how did the police get notified about this

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1 incident at the hospital?

2 A: The -- the Loris Police Officer would have been notified
3 through Horry County Dispatch.

4 Q: Do you know if you were notified by somebody at the
5 hospital?

6 A: There would've been a call initially from the hospital,
7 yes, sir.

8 MR. SPRATLIN: Your Honor, permission to approach the
9 witness?

10 THE COURT: Yes, sir.

11 BY MR. SPRATLIN:

12 Q: Please let the record reflect I'm showing the witness
13 what has been entered into evidence State's Exhibits Twenty --
14 or Seventeen through Twenty-three.

15 Chief Vaught, do you recognize the items I just handed
16 you, I'm sorry, take a second to look through them all.

17 A: Yes, sir, I do.

18 Q: And what are those -- what is State's -- those State's
19 Exhibits?

20 A: These are photographs that I took at the emergency room
21 on December the 18th.

22 Q: So, you were the actually the one who took those
23 photographs?

24 A: The 19th, excuse me, sir.

25 Q: The 19th. So you were actually the one who took those

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1 photographs?

2 A: Yes, sir.

3 Q: How did you come to take those photographs?

4 A: When I arrived at the hospital, I was informed that there
5 was an infant who had injuries and I went to Room 5 in the
6 emergency room. Medical personnel were attending to the
7 infant and I -- I inquired if I could take some photographs of
8 the injuries. So I took, without interfering with what they
9 were doing, in probably less than a minute, I took these
10 photographs.

11 MR. SPRATLIN: Your Honor, permission to retrieve those
12 photos?

13 THE COURT: Yes, sir.

14 MR. SPRATLIN: Your Honor, permission to publish the
15 photos to the jury and ask the witness a question about them?

16 THE COURT: Yes, sir.

17 BY MR. SPRATLIN:

18 Q: Chief, I'm telling you what's been marked as State's
19 Exhibit Twenty-seven; what is the importance of that
20 photograph such that you took it?

21 A: This photograph I took because it depicts a discoloration
22 just above the nose.

23 Q: Based upon your lay opinion, when you saw that injury,
24 what did you assess that it was?

25 A: In my opinion at that time it was -- it was some type of

1 bruise, discoloration up there.

2 Q: Okay. If you would please sit that to the side. Chief,
3 let me show you what's been marked as State's Exhibit Number
4 Nineteen. What was important about that picture such that you
5 took it?

6 A: A discoloration in the stomach area.

7 Q: And in your lay opinion, what did that appear to be?

8 A: Again, I -- I viewed this as a bruise.

9 Q: Chief, let the record reflect I'm showing you what's been
10 entered into evidence as State's Exhibit Twenty-Four. What
11 does that photograph show and what is the importance of why
12 you took that photograph?

13 A: Again, it was discoloration in the neck area.

14 Q: Now, Chief Vaught, why you were at the hospital, did you
15 have a chance to come in contact with the Defendant, Mr.
16 Hassan Tyler?

17 A: Yes, sir, I did.

18 Q: And do you see the person that you knew as Hassan Tyler
19 here in the courtroom?

20 A: Yes, sir.

21 Q: If you would please point him out and identify an article
22 of clothing he's wearing?

23 A: That's Mr. Tyler sitting to my left with a purplish
24 looking shirt on.

25 Q: Thank you. Please let the record reflect the witness has

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1 identified the Defendant.

2 Now, Chief, during your time coming in contact with him,
3 did you have a chance to have a conversation with Mr. Tyler?

4 A: Yes, sir, I did.

5 Q: Where did that conversation take place?

6 A: It was just outside the emergency room at McLeod Loris
7 Hospital.

8 Q: Who all was present for that conversation?

9 A: In the area with Mr. Tyler was I believe his father,
10 Robert Tyler and there were other individuals. I don't know
11 their names at this time.

12 Q: At the time of that interview or this conversation with
13 the Defendant, was he in custody?

14 A: No, sir.

15 Q: At that time, had you even concluded that a crime had
16 occurred?

17 A: No, sir.

18 Q: Was the Defendant restrained in any way?

19 A: No, sir.

20 Q: Was he wearing handcuffs?

21 A: No, sir, he was not.

22 Q: Was the Defendant free to leave that conversation at any
23 time?

24 A: Yes, sir.

25 Q: Did you or anyone in your presence threaten the Defendant

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1 in any way prior to conversing with him?

2 A: No, sir.

3 Q: Did you or anyone in your presence promise the Defendant
4 anything prior to conversing with him?

5 A: No, sir.

6 Q: Did you provide the Defendant any information regarding
7 his rights?

8 A: No, sir.

9 Q: Why not?

10 A: At that time, we were or I was conducting an inquiry just
11 to determine if an offense had been committed. I really did
12 not know if I was dealing with an accident or a criminal
13 offense, excuse me, I just didn't have that kind of
14 information at that point in the inquiry.

15 Q: What, if anything did the Defendant tell you about how
16 his son came to be at the hospital?

17 A: Very briefly Mr. Tyler explained to me that about 7:00
18 P.M. on December the 18th, 2013, he and his father, Robert
19 Tyler, and his teenage son traveled to a residence in the
20 Nichols, South Carolina area to pick up his son and they --
21 they did in fact get the son and drove back to Mr. Tyler's
22 residence, which is on Thomas Street in the City of Loris. He
23 explained that -- that his son slept normally during the night
24 and much of the following morning -- day which would have been
25 December the 19th. He did say that about 2:30 P.M. on the

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1 19th, he went in the room where his son was asleep and
2 observed that he had his arms and legs outstretched or
3 stretched out as if he was having a seizure. He said at that
4 time, he called his child's mother, who advised him to return
5 her son back to her and that during the preparation in
6 returning the -- his son began breathing hard was his word, so
7 he immediately took him to McLeod Loris Hospital.

8 Q: Now, you mentioned Thomas Street and you stated that was
9 in the City of Loris. In what county is that located then?

10 A: That's in Horry County, sir.

11 Q: That is where the Defendant said his residence was?

12 A: Yes, sir.

13 Q: Now, Chief Vaught, did you have a chance -- let me show
14 you what's already been entered into evidence as State's
15 Exhibit Number Three. Take a second to review that
16 photograph.

17 A: Okay, sir.

18 Q: Have you seen that photograph prior to court?

19 A: Yes, sir, I have.

20 Q: Where did you see that photograph at?

21 A: I initially saw this photograph back during the time of
22 the interview with Mr. Tyler outside of the emergency room.
23 At that time, I spoke with his father.

24 Q: Now with that photograph, was there any information or
25 did the photograph have any details about when it was taken?

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1 A: Mr. Tyler's father volunteered to me that he had a
2 photograph of Mr. Tyler's son after they had returned from the
3 Nichols residence and that he had it on his telephone. He
4 also mentioned that he had -- that there was a document on the
5 phone or an item on the phone which would indicate the time
6 and date that the photograph was taken.

7 Q: Chief Vaught, let the record reflect I'm showing you
8 what's been marked for identification purposes as State's
9 Exhibit Number Twenty-nine. Do you recognize that photograph
10 that I've handed you?

11 A: Yes, sir.

12 Q: What is it a photograph of?

13 A: It's a photograph, the item referred to by Mr. Robert
14 Tyler, which he said would document the time and date that the
15 photograph was taken.

16 Q: Is it in every way a fair and accurate copy of the phone
17 and the details of that photograph?

18 A: Yes, sir.

19 MR. SPRATLIN: Your Honor, at this time, I would tender
20 that as State's Exhibit Number Twenty-nine into evidence.

21 THE COURT: Any objection?

22 MR. LONG: No objection, Your Honor.

23 THE COURT: It's into evidence without objection.

24 STATE'S EXHIBIT NUMBER TWENTY-NINE

25 ADMITTED INTO EVIDENCE

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1 BY MR. SPRATLIN:

2 Q: Please set that aside, Chief. Chief Vaught, regarding
3 the nature of this case, did you or anyone from the Loris
4 Police Department reach out to any other law enforcement
5 agencies?

6 A: Yes, sir. On the morning of December the 20th, I
7 contacted the State Law Enforcement Division and informed them
8 of the investigation and that the -- the infant was deceased
9 and Agent David Weaver responded to the Loris Police
10 Department on that day.

11 Q: After SLED became involved in the case, did you have
12 another chance to have a conversation with the Defendant?

13 A: I did.

14 Q: Do you remember when that second conversation occurred?

15 A: Yes, sir, that would've been about 3:00 P.M. on December
16 the 21st, 2013.

17 Q: Do you recall where that interview took place?

18 A: Yes, sir, that was in the conference room of the Loris
19 Police Department.

20 Q: Do you recall who all was present during the interview?

21 A: Present at that interview was Mr. Tyler, Agent Weaver and
22 myself.

23 Q: Do you recall how long was the Defendant in the
24 conference room being interviewed by y'all in total?

25 A: Yes, sir, it was approximately two hours.

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1 Q: Do you recall, Chief, how old did the Defendant say he
2 was?

3 A: I recall that he was born in March 1977; he would be
4 thirty-six, seven years old.

5 Q: Did you inquire into how much education the Defendant
6 had?

7 A: Yes, sir, I did.

8 Q: And what was his response?

9 A: He indicated he had completed twelve years of education.

10 Q: From your interactions with the Defendant, did it appear
11 that he understood the English language?

12 A: Yes, sir.

13 Q: Did he seem to understand the questions that you were
14 asking?

15 A: Yes, sir.

16 Q: Did he respond appropriately to those questions in
17 English?

18 A: He did.

19 Q: Now, Chief Vaught, I believe you said that you have
20 somewhere around forty-six years' experience in law
21 enforcement?

22 A: Yes, sir.

23 Q: During that time, have you had a chance to come in
24 contact with individuals who are under the influence of drugs
25 or alcohol?

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1 A: I have.

2 Q: What are some of the outward symptoms of someone who is
3 under the influence of drugs or alcohol?

4 A: Most noticeable is unstable, slurred speech, blurry eyes,
5 an indication of alcohol and typically an odor of alcohol.

6 Q: Now, Chief Vaught, did you notice any of these outward
7 signs of the Defendant that day?

8 A: I did not.

9 Q: Did the Defendant at any point during your interaction
10 with him give you the impression he was under the influence of
11 either drugs or alcohol?

12 A: No, sir.

13 Q: Did any of his actions give you that impression?

14 A: No, sir.

15 Q: Now, Chief Vaught, to the best of your knowledge, did you
16 or anyone in your presence, threaten the Defendant in any way
17 in order to make him give a statement to you?

18 A: No, sir.

19 Q: Did you promise him any sort of leniency in exchange for
20 providing a statement?

21 A: No.

22 Q: Did you or anyone in -- did you or anyone in your
23 presence, do any -- do anything that to you would make the
24 Defendant believe he had the slightest hope of benefit or the
25 remotest fear of injury?

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1 A: No, sir.

2 Q: Chief Vaught, what, if any information did you provide to
3 the Defendant about his Miranda Rights prior to this
4 interview?

5 A: I read his Miranda Rights from the SLED Rights Warning
6 form.

7 MR. SPRATLIN: Your Honor, permission to approach the
8 witness?

9 THE COURT: Yes, sir.

10 MR. SPRATLIN: Please let the record reflect I'm handing
11 the witness what has been marked as State's Exhibit Number Two
12 for identification purposes.

13 BY MR. SPRATLIN:

14 Q: Chief Vaught, do you recognize the document I just handed
15 you?

16 A: Yes, sir, I do.

17 Q: What is that document?

18 A: It's the Miranda Rights form with the SLED logo typically
19 used by SLED to inform individuals of their rights.

20 Q: Is that the same form or a duplicate copy of the form
21 that you used with the Defendant?

22 A: It is.

23 Q: How do you know that?

24 A: Well, it -- in the right, in the top right corner, it has
25 entries that I made and also the place, date and time are

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1 entries that I made and also bears Mr. Tyler's signature as
2 well as Agent Weaver's on the form.

3 Q: And do you recognize this document and the handwriting
4 you described as your own?

5 A: Yes, sir, I do.

6 Q: Is it a fair and accurate copy in every way?

7 A: Yes, sir.

8 Q: Have there been any material additions or deletions to
9 that document?

10 A: No, sir.

11 MR. SPRATLIN: Your Honor, at this time, I would tender
12 State's Exhibit Number One into evidence?

13 MR. LONG: No objection, Your Honor.

14 THE COURT: All right. Is it One or Two?

15 MR. SPRATLIN: I'm sorry, Number Two. Number Two, Your
16 Honor.

17 THE COURT: State's Two is in evidence without objection.

18 STATE'S EXHIBIT NUMBER TWO

19 ADMITTED INTO EVIDENCE

20 BY MR. SPRATLIN:

21 Q: Chief, if you would, please read for the Jury what
22 exactly you advised the Defendant of regarding his Miranda
23 Rights?

24 A: You have the right to remain silent. Anything you say
25 can be used against you in a court of law. You have the right

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1 to talk to a lawyer and have one present with you while you're
2 being questioned. If you cannot afford an attorney, one will
3 be appointed for you without cost. If you make a statement or
4 answer any questions, you have the right to stop at any time.

5 Q: Now, what, if anything did you ask the Defendant to do to
6 insinuate that he understood each of those rights as you read
7 it to him?

8 A: I afforded Mr. Tyler an opportunity to read the form and,
9 if he understood it, to place his initials just to the left of
10 each sentence that I just read. Also I had asked to fix -- to
11 affix his signature to the bottom of the form.

12 Q: And did the Defendant place his initials where you
13 requested?

14 A: Yes, sir.

15 Q: And did he place his name insinuating that he understood
16 all those rights?

17 A: He did.

18 Q: Now, Chief Vaught, prior to or during the interview with
19 the Defendant, did he at any point invoke any of his rights?

20 A: No, sir.

21 Q: Did he state he did not wish to talk to you?

22 A: No, sir.

23 Q: Did he state that he wished to have a lawyer present
24 prior to talking with you?

25 A: No, sir.

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1 Q: Did he state he wished to have an attorney present or an
2 attorney appointed for him?

3 A: No, sir.

4 Q: Did the Defendant do or say anything that indicated to
5 you that he wished to invoke any of the rights that you've
6 gone over with him?

7 A: No, sir.

8 Q: Now, Chief Vaught, was the interview with the Defendant,
9 was it recorded in anyway?

10 A: Yes, sir, it was.

11 Q: How was it recorded, audio or video?

12 A: There was an audio recording.

13 Q: Was there any video recording?

14 A: No, sir.

15 MR. SPRATLIN: Your Honor, permission to approach the
16 witness?

17 THE COURT: Yes, sir.

18 MR. SPRATLIN: Let the record reflect I'm showing the
19 witness what's been marked for identification purposes as
20 State's Exhibit Number One for ID.

21 BY MR. SPRATLIN:

22 Q: Chief, do you recognize the disc I just handed you?

23 A: Yes, sir, it's a CDR with the entry on it, Tyler
24 Statement.

25 Q: Okay. Prior to court today, have you had a chance to

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1 review that interview?

2 A: I have, yes, sir.

3 Q: And is it in every way a fair and accurate copy of the
4 interview that you, Agent Weaver, and the Defendant had on
5 December 21st?

6 A: It is.

7 MR. SPRATLIN: Your Honor, I would tender State's Exhibit
8 -- State's Exhibit Number One into evidence.

9 THE COURT: Is there any objection, Mr. Long?

10 MR. LONG: No objection, Your Honor.

11 THE COURT: All right. It's into evidence without
12 objection.

13 STATE'S EXHIBIT NUMBER ONE

14 ADMITTED INTO EVIDENCE

15 MR. SPRATLIN: I would defer to publishing to the Jury
16 until a later witness.

17 THE COURT: All right, sir.

18 BY MR. SPRATLIN:

19 Q: Chief Vaught, I believe that's all the questions I have.
20 Please answer any questions Mr. Long might have.

21 THE COURT: Cross examination?

22 MR. LONG: Thank you, Your Honor.

23 CROSS EXAMINATION OF JOSEPH W. VAUGHT BY MR. LONG:

24 Q: Good afternoon, Chief.

25 A: Good afternoon, sir.

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1 Q: When you arrived at the hospital, do you recall
2 approximately what time it was?

3 A: I do not know the exact time. I'll tell you I do know it
4 was between 3:25 and 3:50, and I was probably at the hospital
5 ten or fifteen minutes before I took the photos.

6 Q: Hassan was still in the emergency room where his son was
7 being treated, correct, when you arrived?

8 A: When -- I don't know upon my arrival, but when I went to
9 take the photographs, I do not recall seeing Mr. Tyler.

10 Q: All right.

11 A: Now, there were a number of people in the emergency room
12 and in that area.

13 Q: Was he asked to leave so that you could take the
14 photographs; do you remember?

15 A: I would not have asked him to leave. I was just -- we
16 were -- the number one priority at that time was the health
17 and welfare of this child. So we were very specific that we
18 did not want to do anything that would slow that process.
19 That's the reason I mentioned the photographs were taken in
20 really just a minute.

21 Q: Did you -- were you informed when you arrived there,
22 about resuscitation efforts and what was done as far as life-
23 saving efforts to the child before your arrival?

24 A: No, sir. I only spoke to the first officer who arrived.
25 I'm not sure that he had that information. He -- he did

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1 inform me that the child was being transferred to McLeod in
2 Florence and, again, we were -- we just wanted to, to document
3 as quickly as possible and not be in, in any way where the
4 medical personnel were.

5 Q: Would it surprise you to know that the child's heart was
6 stopped, breathing was stopped, they had to do CPR, they had
7 to intubate him, they put adrenaline down the tube to try to,
8 the lung tube to try to get the heart started, they had an IV
9 in the leg to do injections for epinephrine, things of that
10 nature; that it was pretty significant life-saving efforts
11 were done before your arrival?

12 A: I, I would have no knowledge. I know that there were
13 tubes, but the medical aspect of it, sir, I just cannot
14 comment on.

15 Q: When did you talk to Hassan, before or after the
16 photographs were taken?

17 A: I believe it was after.

18 Q: All right. So, that would have been sometime after 3:50?

19 A: That's my memory, sir. There was a lot happening at the
20 hospital right during that time. I believe it was after.

21 Q: When you approached him, did you say, hi, I'm Officer
22 Vaught, Chief Vaught with the Police Department; you are the
23 father -- did you know he was the father or did you ask
24 someone who's the father, who brought the child in -- how did
25 you come to talk to him?

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1 A: Someone pointed out the father. I would've had no way of
2 knowing. Someone pointed out that that was Mr. Tyler, the
3 father.

4 Q: Was he willing to talk to you?

5 A: Yes, sir.

6 Q: All right. Did he provide information at your request?

7 A: Yes, sir.

8 Q: Did he voluntarily answer every question you had?

9 A: Yes, sir, he did.

10 Q: Did you observe or see any hesitancy on his part or
11 evasiveness on his part to any questions you asked him?

12 A: No, sir.

13 Q: All right. Did he give you in effect a full and complete
14 statement, under the circumstances, as he could there at the
15 hospital?

16 A: He -- he did give me the statement that I spoke of
17 earlier. I also was very conscious of the time, so I did not
18 follow up with any questions. I accepted the initial
19 statement.

20 Q: That's what I mean. Under the circumstances ---

21 A: Yes, sir.

22 Q: --- there at the emergency room, he didn't sit down and
23 talk to you for hours about it?

24 A: No, sir.

25 Q: But he told you everything he could under those

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1 circumstances as far as time table, what happened, et cetera,
2 things of that nature?

3 A: Yes, sir, he gave me the statement that I indicated, yes,
4 sir.

5 Q: All right. Now, when you took the photograph, what type
6 of camera did you use?

7 A: It's a -- it's a -- a point and shoot camera from the
8 Loris Police Department.

9 Q: Regular film or digital film?

10 A: No, it has the -- the card. As a matter of fact, you
11 shoot the photographs and it's stored on the ---

12 Q: A digital camera?

13 A: Digital camera and I plugged it into the computer and
14 copied it to the disc.

15 Q: All right.

16 A: There was no film involved, I guess is what I'm saying.

17 Q: Do you know what settings were used on the camera ---

18 A: It just ---

19 Q: --- contrast, or brightness or color or anything of that
20 nature?

21 A: It's a point-and-shoot and camera that's -- that I did
22 not have to set at all.

23 Q: Have you ever seen a picture of yourself taken with too
24 much contrast?

25 A: I'm, I'm sure I have, yes, sir.

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1 Q: All right. It makes you look like a skeleton. It
2 darkens, seriously darkens certain areas or darkens places;
3 have you -- are you familiar with that?

4 A: I have certainly seen photographs that are distorted,
5 yes, sir.

6 Q: If it has too much contrast, it makes you look like a
7 skeleton?

8 A: I can't speak to the contrast, but I know the end result
9 of the photographs.

10 Q: You didn't have to warn him about Miranda because he was
11 voluntarily there, he was waiting there for the condition or
12 the -- his son and you wanted to ask him what happened so you
13 didn't have to warn him of Miranda; he voluntarily told you
14 everything under the circumstances that he could?

15 A: Yes, sir.

16 Q: Two days later, I believe it was, you met with him and
17 Agent Weaver at the Loris Police Department for another
18 statement, correct?

19 A: Yes, sir.

20 Q: All right. How was he notified to come to the Police
21 Department to give a statement?

22 A: I'm unable to answer that, sir. I was not involved in --
23 in Mr. Tyler getting to the ---

24 Q: Was he arrested and brought in?

25 A: No, sir, he was not arrested.

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1 Q: Did y'all call him and say come in, we want to talk to
2 you?

3 A: He was contacted. I, I did not make that contact, but
4 it's my understanding that he voluntarily came to the Police
5 Department, yes, sir.

6 Q: All right. And so he came there at or around 3 o'clock
7 on the 21st, correct?

8 A: Yes, sir.

9 Q: And for two hours you and Agent Weaver were free to ask
10 him any question and every question that you could think of
11 concerning what he knew, what he didn't know, what he saw,
12 what he didn't see, everything involved with his son's death,
13 correct?

14 A: Yes, sir.

15 Q: All right. And he stayed there for almost two hours and
16 attempted to answer your questions throughout that period of
17 time?

18 A: Yes, sir.

19 Q: You warned him of Miranda prior to that statement,
20 correct?

21 A: Yes, sir, I did.

22 Q: And he voluntarily waived all those rights that each of
23 us have, gave up those rights and agreed to give you and Agent
24 Weaver this statement, correct?

25 A: Yes, sir.

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1 Q: After two hours of approximately asking him questions,
2 did you find any material inconsistencies between what he told
3 you at the hospital and what he told you on the 21st?

4 A: No, sir, and, and -- no, sir, I did not, but I was just
5 gonna say that on the -- on the 19th as I mentioned earlier,
6 we just covered that time of going to get the child and
7 getting to the hospital so there were no inconsistencies in
8 that portion of it.

9 Q: You've been in law enforcement how many years?

10 A: Forty-six.

11 Q: All right. We never get to be experts but, with your
12 experience and training, you know pretty well if somebody is
13 telling you the truth, don't you?

14 MR. SPRATLIN: Objection.

15 THE COURT: Sustained.

16 BY MR. LONG:

17 Q: Did you observe in Mr. Tyler any indications that he was
18 being untruthful?

19 MR. SPRATLIN: Objection.

20 THE COURT: Sustained.

21 BY MR. LONG:

22 Q: Based on what Mr. Tyler told you, did you have any reason
23 to do any subsequent investigation to determine the
24 truthfulness or non-truthfulness of what he told you?

25 A: At that time, SLED had assumed investigative jurisdiction

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1 of this case and the interview with Mr. Tyler was my last
2 involvement in the case.

3 Q: Okay. So the answer would be no, it would their
4 responsibility?

5 A: Yes, sir.

6 Q: Prior to speaking with Hassan Tyler, did you interview
7 any of the occupants of Tametra Stinson's home?

8 A: I spoke to Mr. Miles, her father, on the telephone.

9 Q: Okay.

10 A: I believe it was during the evening of December the 18th.

11 Q: Okay. Any other, other than Ms. Stinson, I'm assuming
12 you spoke with her as well?

13 A: I, I spoke to her at the emergency room. I, I did not
14 continue that conversation. She was pretty occupied with
15 other ---

16 Q: During the interview on the 21st, did Mr. Tyler break
17 down and cry?

18 A: No, sir, I, I, I can't say for sure whether he did.
19 There was no, what I consider breakdown; that does not mean
20 that he was not crying. I did not observe a breakdown per se.

21 Q: He was very emotional to say the least?

22 A: There was some emotion, yes, sir.

23 Q: Both anger and upset, sadness, correct?

24 A: Probably so, yes, sir.

25 Q: What was the majority of his anger directed toward?

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1 MR. SPRATLIN: Objection.

2 BY MR. LONG:

3 Q: Who was he angriest at?

4 MR. SPRATLIN: Objection.

5 THE COURT: I'm gone allow that. He can answer.

6 A: I'm -- I -- I'm, I'm not sure. I mean it, the times that
7 he expressed some emotion kind of toward the anger scale, I, I
8 took it at being asked some of the questions and he also
9 indicated some emotion toward what had happened to his son.

10 BY MR. LONG:

11 Q: But I'm speaking specifically the angrier emotions?

12 A: Yes, sir.

13 Q: Wasn't it correct that, that y'all were kinda doing a
14 good cop/bad cop on him?

15 A: There, there was absolutely no plan as there is in some
16 interviews, but in this particular case I had never conducted
17 an interview with Agent Weaver and we had not discussed a
18 tactic before that, but -- so there was no plan to approach
19 this interview like that.

20 Q: But it played out that way, didn't it?

21 A: Listening to the tape, I think possibly, not necessarily
22 in the good cop/bad cop role, but I think my function in that
23 interview, since SLED had already assumed jurisdiction of the
24 investigation, I went through the background data and I waited
25 for Agent Weaver to actually ask those pertinent questions

1 about involvement. So as a result of the jurisdictional
2 relationship it turned out to be that way, yes, sir.

3 Q: So in other words, you didn't have the heavy-handed or
4 the weighted questions?

5 A: I, I did not and again, it was not my investigation. So,
6 therefore, I did not consider that I was the lead on that.

7 Q: Okay. Court's indulgence just one moment.

8 You only met with Mr. Tyler on two occasions to the best
9 of your recollection; is that correct?

10 A: That's correct.

11 Q: And that would've been Thursday the 19th at the hospital?

12 A: The 18th, sir.

13 Q: Thursday the 18th? Yes, sir, okay.

14 A: Yes.

15 Q: Thursday the 19th at the hospital?

16 A: The 19th, that's correct, the 19th.

17 Q: And then Saturday the 21st at the Police Department?

18 A: Yes, sir.

19 Q: Do you recall stopping by his house Friday the 20th and
20 speaking to him that evening?

21 A: I do not recall and I have no notations in my file about
22 speaking to him on the -- on the 20th.

23 Q: Did he provide his telephone number to you at the
24 hospital on the 19th?

25 A: Yes, sir.

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1 Q: Okay.

2 A: Yes, sir.

3 Q: All right. Thank you, sir, no further questions.

4 THE COURT: Anything else, Solicitor?

5 MR. SPRATLIN: Real briefly, in redirect, Your Honor.

6 REDIRECT EXAMINATION OF JOSEPH W. VAUGHT BY MR. SPRATLIN:

7 Q: Chief Vaught, why did SLED take over the investigation of
8 this case?

9 A: There are two reasons. Number one is that it's protocol
10 if there's a death of an infant to contact SLED. They have
11 that jurisdiction, that primary jurisdiction. Secondly, the
12 Loris Police Department is relatively small and I just did not
13 feel that we had the investigative resources to be involved in
14 a prolonged investigation.

15 Q: Talking to additional witnesses after interviewing Mr.
16 Tyler, whose responsibility would that have been?

17 A: That would have been SLED's responsibility. If they had
18 asked for assistance from the Loris Police Department,
19 certainly we would have assisted.

20 MR. SPRATLIN: I beg the Court's indulgence.

21 THE COURT: Yes, sir.

22 MR. SPRATLIN: No further questions, Your Honor.

23 THE COURT: Anything on those questions?

24 MR. LONG: No, Your Honor.

25 THE COURT: All right, sir, you may step down. Thank you

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1 very much.

2 MR. SPRATLIN: Your Honor, may me and Mr. Long approach?

3 THE COURT: Yes, sir.

4 (REPORTER'S NOTE: A bench conference was held off the record
5 in the presence of but out of hearing of the Jury.)

6 THE COURT: All right, ladies and gentlemen, we're gonna
7 take a short break. The Solicitor has indicated to me that
8 the, the next witness is the forensic pathologist, Dr. Proctor
9 from Myrtle Beach. Apparently he's in transit, but it's gonna
10 take a little bit for him to get here and as you know, Lord
11 only knows what -- what 501 looks like at this time of the --
12 this time of the day. So that being the next witness, we'll
13 be a little flexible as to when we come back in, but rest
14 assured, as soon as he gets here, we'll get started. All
15 right. Y'all go to the jury room. Thank you.

16 (REPORTER'S NOTE: Jury exits courtroom.)

17 THE COURT: All right. We'll take a short break.

18 MR. SPRATLIN: Yes, sir, Your Honor. Just for scheduling
19 purposes, our next witness is at the Horry County Police
20 Department. Would the Court want to call another witness
21 after Dr. Proctor? We could go ahead and have her on the way.

22 THE COURT: It depends on how long you anticipate Dr.
23 Proctor's going to be. I mean is he gonna be up there for two
24 hours or ---

25 MR. SPRATLIN: My direct examination would be no more

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1 than thirty minutes. I don't know about Mr. Long's cross.

2 THE COURT: All right. So and who -- who is that you
3 would like to call after that?

4 MR. SPRATLIN: It would be Jill Domogauer, Your Honor.

5 THE COURT: Okay. And her purpose would be?

6 MR. SPRATLIN: To introduce photos from the search
7 warrant of the Defendant's apartment. I don't imagine she
8 would be a very long witness.

9 THE COURT: Why don't you -- why don't you call her and
10 we'll see what we can do to make -- get her on the stand
11 today.

12 MR. SPRATLIN: Yes, sir, I'm calling her right now.
13 Thank you.

14 THE COURT: Mr. Long, thank you.

15 MR. LONG: Thank you, Your Honor.

16 (RECESS.)

17 *****OFF THE RECORD*****

18 (On the Record.)

19 (REPORTER'S NOTE: Jury enters courtroom.)

20 THE COURT: All right, Solicitor, your next witness
21 please, sir.

22 MR. SPRATLIN: The State would call Dr. Proctor to the
23 stand.

24 THE COURT: All right, sir. Just come right on up here
25 and meet the Clerk right up here, sir, please.

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1 CLERK: Please raise your right hand and place your left
2 hand on the Bible.

3 EDWARD LEROY PROCTOR, JR. HAVING BEEN
4 SWORN TESTIFIES AS FOLLOWS:

5 CLERK: State your full name and spell your last?

6 DR. PROCTOR: Yes, ma'am. I am Edward Leroy Proctor, Jr.
7 and that's P-R-O-C-T-O-R.

8 THE COURT: Go ahead, Solicitor.

9 MR. SPRATLIN: Thank you.

10 DIRECT EXAMINATION BY EDWARD LEROY PROCTOR, JR. BY MR.

11 SPRATLIN:

12 Q: Sir, what is your occupation?

13 A: I am a physician.

14 Q: Are you a duly license physician and surgeon, Doctor?

15 A: I am a licensed physician in the State of South and North
16 Carolina engaged in the practice of pathology.

17 Q: All right. When did you first become licensed in the
18 State of South Carolina?

19 A: 19 -- approximately 1981, 1982.

20 Q: Since that time, have you been continually licensed in
21 the State of South Carolina?

22 A: Yes, I have.

23 Q: What educational background do you have?

24 A: I received my medical degree from the Medical University
25 of South Carolina, did a Pathology Residency at Walter Reed

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1 Army Medical Center, and served as Chief of Clinical Pathology
2 at Womack Army Hospital, Fort Bragg, North Carolina for four
3 years. In 1986, I began practicing pathology in Myrtle Beach,
4 South Carolina.

5 Q: Is there a particular branch of pathology that you
6 specialize in?

7 A: I practice Anatomic, Clinical and Forensic Pathology.

8 Q: What exactly is Forensic Pathology?

9 A: Forensic Pathology is the medical legal investigation of
10 death where we get information from medical examiner, coroner.
11 We do an examination combined with the information we have and
12 formulate a cause and manner of death.

13 Q: Are you a member of any professional organizations as
14 they relate to forensic pathology?

15 A: I am board certified in Forensic Pathology by the
16 American Board of Pathology.

17 Q: What, if any, special qualifications are there to be a
18 member of such board?

19 A: You have to pass a board exam. You initially have to be
20 board certified in either anatomic or clinical or both, which
21 I am, and then, after a period of study, you're allowed to sit
22 for the Forensic Board.

23 Q: And did you complete that exam?

24 A: I did.

25 Q: Did you pass that exam?

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1 A: I did.

2 Q: Does forensic pathology involve the conducting of
3 autopsies?

4 A: Yes, it does.

5 Q: What exactly is an autopsy?

6 A: Well, an autopsy is I examine the body. I do an external
7 examination. I do an internal dissection. I decide what
8 tissues I may need to look at, if any, under the microscope.
9 I take body fluids to include blood and we usually do a
10 toxicology. And based on the findings from the gross
11 examination, toxicologic examination, microscopic examination
12 and any information that I may have been given prior, I
13 formulate a cause and manner of death.

14 Q: Doctor, if you could give us an estimate, how many
15 autopsies do you believe you've completed over the course of
16 your career?

17 A: Probably around 4,000.

18 Q: And have you ever been qualified as an expert in court
19 before in forensic pathology?

20 A: Yes, sir, I have.

21 Q: How many times if you could guesstimate have you been
22 qualified as an expert?

23 A: Probably -- probably two hundred or so.

24 MR. SPRATLIN: Your Honor, at this time I would tender
25 Dr. Proctor as an expert witness in the area of Forensic

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1 Pathology?

2 THE COURT: Do you wish to voir dire the witness or
3 challenge his qualifications?

4 MR. LONG: No, Your Honor.

5 THE COURT: All right, sir. He is qualified to give his
6 opinion in the field of forensic pathology. You may proceed.

7 MR. SPRATLIN: Thank you.

8 BY MR. SPRATLIN:

9 Q: Dr. Proctor, did you have a chance to perform an autopsy
10 on Minor [REDACTED]?

11 A: Yes, sir, I did.

12 Q: How did you come to perform the autopsy on Minor [REDACTED]

13 A: I was contacted by the Horry County Deputy Coroner, Mr.
14 Fowler, and asked to perform this examination.

15 Q: When was the autopsy on Minor [REDACTED] performed?

16 A: This autopsy was performed on the 21st of December in
17 2013.

18 Q: Do you know what it -- do you know what the date of death
19 was for Minor [REDACTED]?

20 A: I was told the date of death was December 20th of 2013.

21 Q: And do you know where he died?

22 A: I think he died at McLeod Regional Medical Center.

23 Q: Where was this autopsy conducted?

24 A: This autopsy was conducted in the morgue at Grand Strand
25 Medical Center in Myrtle Beach.

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1 Q: Is that the common place where autopsies are performed?

2 A: That's where I perform them, yes; uh-huh (affirmative
3 response).

4 Q: Was there anything unusual about this autopsy as opposed
5 other ones that you had done in the past?

6 A: I performed a standard forensic examination, to include
7 the things that I've mentioned, an external examination
8 dissection, toxicology and formulation of a cause and manner.

9 Q: You used a term there, dissection, what exactly does that
10 mean?

11 A: After -- after doing the external examination, we
12 actually open the body, look at all the organs, tissues to
13 include the brain, heart, lungs and the abdominal organs.

14 Q: During that dissection process do you also have a chance
15 to look at the actual skull?

16 A: Yes, we do.

17 Q: During the external examination, what was the overall
18 condition of **Minor** body?

19 A: This, this was a young infant. The most noticeable
20 things externally was the fontanel, which is the soft spot on
21 the top of the head in an infant where the bones have not
22 fused yet, it was bulging, there was a small contusion in the
23 forehead. And other than that, externally, there was a small
24 contusion on the abdomen adjacent to where the umbilical stump
25 was, but other than that, nothing else.

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1 Q: Did the child have any signs of receiving medical
2 treatment?

3 A: Yes. There was an endotracheal tube in the mouth, a
4 Foley catheter was present and, and an intravenous line was
5 present and EKG leads.

6 Q: Is this common in children who have died at a hospital?

7 A: When all patients that die in a hospital come for
8 forensic autopsy, it is requested that all lines and catheters
9 stay where they are so we can take a look.

10 Q: What, if any source of injuries or trauma did you notice
11 on the body of this infant?

12 A: This infant had significant trauma to the head area.
13 Externally when the scalp was reflected was subcutaneous
14 hematomas in the right and left occipital areas, which are the
15 right and left sides on the back of the head. These were
16 swollen areas, hematomas like a large bruise with blood in the
17 middle. They were those there. There was a fracture of the
18 occipital skull extending left to right and a fracture of the
19 skull in the right calvarial area, which is the right side of
20 the skull. There were also hematomas in the right frontal
21 area and once the skull cap, the calvarium, where the
22 fractures were, were removed, there was a subdural hematoma
23 which underlies the dural tissues overlying the brain in the
24 occipital area and there was swelling of the brain and
25 scattered what we call hemorrhages, little splinter

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1 hemorrhages through within the tissues of the brain, which
2 would indicate traumatic injury.

3 Q: Besides the head injury, in what sort of condition was
4 the child; did he appear to be well nourished?

5 A: Yes, he did.

6 Q: Did he appear to be well taken care of?

7 A: Yes, sir.

8 Q: Now, Doctor, regarding the injury to the head of the
9 child, if you can tell, how much force would be necessary to
10 create such an injury?

11 A: In a small child, the skull is thin and pliable, but a
12 blunt force injury or any kind of impact injury can separate
13 the sutures and cause these kind of fractures.

14 Q: Would you expect to find this kind of injury in a slight
15 fall from a bed or something like those kinds?

16 A: A fall from an elevated crib several feet to the ground,
17 hitting the back of the head, that certainly could cause that
18 kind of injury, but say a fall of six inches of a foot is
19 unlikely. It's got to be a significant drop.

20 Q: Were you able to determine what the cause of death for
21 **Minor** was?

22 A: The actual cause of death was the blunt force trauma to
23 the head resulting in the fractured skull and the associated
24 edema of the brain with the little splinter hemorrhages in the
25 brain, which that called a -- called diffuse brain injury

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1 occurring as a result of blunt force injury.

2 Q: If you could, how would a blunt force head trauma
3 actually lead to death?

4 A: Well, the blunt force trauma in this child was
5 significant enough to cause hematomas under the skin outside
6 of the skull, a fracture to the skull and a subdural hematoma,
7 which is blood under the dural tissues overlying the brain as
8 well as additional five to ten mls of blood in the head;
9 that's a -- that's a significant hard impact type injury to
10 cause that kind of problem. That results in the swelling of
11 the brain and the subsequent death.

12 Q: And again, would you expect to find the extent of the
13 injuries in an accidental trauma?

14 A: Well an -- that has to be qualified an accidental trauma.
15 I mean, someone holding a child and drops the child on the
16 head from three or four feet up can certainly cause that kind
17 of injury and I, you know, a small fall back into the crib
18 more likely than not, but dropping, you know, like dropping
19 from this height to the floor, it definitely could cause that
20 kind of injury, yes, sir.

21 Q: But with an accidental injury, would you expect to see
22 the different traumas of bruises all over the body?

23 A: Well, we didn't -- we -- with the type of trauma in this
24 child, we did not see bruises other than the small contusion
25 on the forehead and then the subcutaneous hematomas around the

1 head. There was only a small little contusion around the
2 umbilical area, but there was nothing there on exam.

3 Q: Contusions, those are bruising?

4 A: Those are small bruises; that's correct.

5 Q: Doctor, is there any sort of -- can you tell what sort of
6 impact would have caused all of these injuries?

7 A: A blunt force impact where the significant impact point
8 was the occipital area here resulting in that transverse
9 fracture and the other fracture on the right side and once the
10 head hits back causing that kind of injury, the brain moves
11 forward and you can get the injuries that we saw throughout
12 the brain, just by the way the brain moves back and forth.

13 Q: What are eggshell fractures?

14 A: Eggshell fractures are basically a fracture of the skull.
15 In this case, there were two fracture lines, one running
16 across the occipital area in the back of the head, one running
17 across the right skull and sutures separating somewhat, just
18 sort of like, for like an egg.

19 Q: And when you refer to sutures, is that some -- something
20 that doctors would have done or is that a part of the body?

21 A: No, the bones of the skull have what we call sutures and
22 as a child grows, the skull grows and the suture lines mesh
23 together and then the skull gets hard. As we were talking
24 about the fontanel that was bulging, that's where the sutures
25 have not come together on top of the head of the skull.

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1 Q: Doctor, you're saying that the cause of death was a blunt
2 force head trauma. Were you able to determine the manner of
3 death?

4 A: Well, based upon the traumatic injuries, I determined
5 this to be homicide, which by definition is death at the hands
6 of another.

7 Q: Thank you, Doctor, that's all the questions that I have.
8 Please answer any questions that Mr. Long might have.

9 A: Sure.

10 THE COURT: Cross examination?

11 MR. LONG: Thank you, Your Honor.

12 CROSS EXAMINATION OF EDWARD LEROY PROCTOR, JR. BY MR. LONG:

13 Q: Good afternoon, Doctor?

14 A: How are you?

15 Q: When you did the autopsy on the 21st, how was the body
16 maintained until you did the autopsy? In refrigeration?

17 A: Yes, sir.

18 Q: And do you recall approximately what degree it's kept at?

19 A: That refrigerator at about 38 degrees.

20 Q: 30 degrees?

21 A: 38.

22 Q: 38. So, not cause freezing, but to try to preserve all
23 body tissue, et cetera, things of that nature?

24 A: Correct.

25 Q: All right. And please, if you will, you said there was a

1 fracture on the back of the head?

2 A: That's correct.

3 Q: Right. And that there were two -- were the eggshell
4 fractures here (indicating)?

5 A: No, there was a fracture on the back of the head and a
6 fracture along the right side of the head adjacent to the
7 suture, which the occipital skull and the right skull sort of
8 has what we call the suture line that comes right here and
9 goes up to the fontanel and the fracture line was right
10 adjacent to that.

11 Q: So, you had a fracture on the back and a fracture on -- I
12 assume we're talking about this right ---

13 A: A little further forward than where you are.

14 Q: --- a little further towards here (indicating)?

15 A: Uh-huh (affirmative response); that's correct.

16 Q: What about in the temporal area?

17 A: There were no fractures there. What we had there was
18 subcutaneous hematomas.

19 Q: All right. Subcutaneous hematomas, means bleeding under
20 the skin or under the skull?

21 A: Under the skin.

22 Q: Under the skin. All right.

23 A: Uh-huh (affirmative response).

24 Q: And so subcutaneous hematomas basically means bruise?

25 A: It means bruise; that's correct.

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1 Q: And there was two bruises here in this area?

2 A: There was a bruise on the right frontal area,
3 subcutaneous and right and left calvarial areas.

4 Q: All right. But none on the other side?

5 A: None on the other side.

6 Q: One on this side and one in the back?

7 A: That's correct.

8 Q: All right. What was the extent of any intracranial
9 bleeding, that is inside the skull, what was the extent of
10 blood loss inside the skull?

11 A: There was the subdural hematoma, which is actually a
12 blood clot and then there was approximately 5 to 10
13 milliliters of blood in the skull and the associated edema of
14 the brain. So, about all total probably, including the
15 hematoma and the blood, about 15 plus mls of blood.

16 Q: All right. And I know drops come in different size, but
17 I can't think of anything to try to characterize. How many
18 drops of blood are we talking about?

19 A: We're talking -- we're talking a syringe full.

20 Q: Okay. Now syringes come in this big and they come in
21 little insulin syringes that are real thin?

22 A: All right. An insulin, if -- people familiar with an
23 insulin syringe, that's a 1 cc syringe; so it'd be about 10 of
24 those.

25 Q: I take half cc syringes?

1 A: Okay.

2 Q: So, it would be how many of those?

3 A: A half cc syringe will take two to make one so it would
4 be twenty.

5 Q: Twenty of those. Okay. So, we're talking about maybe an
6 ounce of blood, if we use like a Tylenol cup that we get over
7 the counter for measuring Tylenol, are we talking about that
8 much in the bottom of like a Tylenol cup?

9 A: Probably talking about the whole cup.

10 Q: The whole cup?

11 A: Uh-huh (affirmative response).

12 Q: You got a cup ---

13 A: Tylenol comes in a 5 ml dose, I think, a teaspoon dose,
14 so about two to three teaspoons full of blood.

15 Q: Okay. Two to three teaspoons of blood?

16 A: Uh-huh (affirmative response).

17 Q: Okay. Now, tell me about blood pressure when someone's
18 alive. How does that affect our tissues and stuff as we have
19 blood pressure and how that changes when blood pressure drops
20 and then how that affects tissue following that?

21 A: Okay. Well, in this case, the blood pressure wouldn't
22 have dropped because there was bulging of the fontanel, which
23 is the actual opening between the bones and skull on top of
24 the head. That was bulging. That was bulging because of
25 increased intracranial pressure because of the blood in the

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1 head and the traumatic injury to the brain, which caused the
2 brain to swell.

3 Q: Okay. Which caused the pushing through the fontanel?

4 A: That's correct.

5 Q: Okay. How large were the eggshell fractures and -- and
6 pardon me for just being simplistic ---

7 A: Uh-huh (affirmative response).

8 Q: --- but if I just take a hardboiled egg and I go tap,
9 okay, I may make a small eggshell fracture in that which may
10 have one or two or three or four little lines?

11 A: Uh-huh (affirmative response).

12 Q: But if I hit it with a hammer, I'm gonna make a big dent
13 in the egg and there's gonna be fractures all over the place.
14 How many little fractures were there in these eggshell
15 fractures?

16 A: There were two significant linear fractures, one running
17 this way and one running across the calvarium at the back.

18 Q: So, in other words, if I tap the egg ---

19 A: Uh-huh (affirmative response).

20 Q: --- it wouldn't necessarily depress, it would just make a
21 crack this way and crack that way?

22 A: It depends on ---

23 Q: To be similar to this case.

24 A: To be similar to this case, there were two fractures --
25 the fractures were running across the back of the head and up

1 the right side of the head. There was no indication to me
2 that there was a pointed or any kind of object that ---

3 Q: Punctured ---

4 A: --- hit it like that. It was more of a broader injury
5 because it caused the transverse fracture across the back,
6 separated the suture and came up this way.

7 Q: Now, the blood that's inside the skull, is there any way
8 you have of telling how long that blood had been there or how
9 old that blood was?

10 A: There was the hematoma in the occipital area, which did
11 not appear, I haven't described it but I'd describe it as a
12 hematoma, pretty much a clot, and the free blood in the brain,
13 it'd been there, I don't know, a day or so. It had not
14 started organizing to answer your question. What I mean by
15 organizing, clots up, starts breaking down and, and starts
16 changing colors and what not. This was just a dark hematoma
17 and free blood.

18 Q: Okay. And the rate of clotting on the blood is dependent
19 upon too many factors for you to list today in court, correct?

20 A: That's correct.

21 Q: Is there an enzyme test where you can take a sample of
22 blood specimen, no matter where you find it ---

23 A: Uh-huh (affirmative response).

24 Q: --- and based on the quantity of enzymes in that,
25 determine how long the blood had been outside the body?

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1 A: I'm sure there probably is, but I'm -- I have never used
2 it or I'm not aware of it.

3 Q: Okay. So the blood that was taken inside the skull was
4 not sent for testing for enzyme to determine how long the
5 blood had been there?

6 A: No.

7 Q: Okay.

8 A: We don't do that, haven't done that.

9 Q: Are you required as part of your job to give an opinion
10 as to the instrument that caused any blunt force trauma to
11 anybody?

12 A: I was -- I was asked what could have done this, yes.

13 Q: All right. In your occupation, for example, if someone
14 were present in your autopsy room with a big mark across their
15 thigh ---

16 A: Uh-huh (affirmative response).

17 Q: --- could you determine from the indentation, the width
18 of the mark, whatever, to say it was consistent with or
19 inconsistent with, say for example, a baseball bat; could you
20 compare it to some instrument?

21 A: We certainly try, yes. Uh-huh (affirmative response).

22 Q: All right. And were asked to do that in this case?

23 A: In this case, did a complete examination of the head and
24 there was no patterned -- what you're trying to describe is a
25 patterned injury -- there was no definitive patterned injury

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1 across the back of the head. There was no set depression
2 impact at the nidus of those fractures, i.e. like a blunt
3 force hammer or something, there was nothing like that. This
4 was more of a diffuse impact injury that caused the sutures to
5 separate and that skull to fracture.

6 Q: And just as a way by example, if this is sheetrock ---

7 A: Uh-huh (affirmative response).

8 Q: --- if I were to punch the sheetrock with my fist, you
9 may be able to look and see knuckle prints and/or finger lines
10 and cracks and things of that nature in the sheetrock?

11 A: That's correct.

12 Q: All right. If I hit with a hammer, not hard enough to
13 penetrate, but you can see the circumference of the hammer and
14 determine that the hammer or hammer type object was used?

15 A: That's correct; yes, sir.

16 Q: And nothing was able to be -- you couldn't discern
17 anything from these injuries?

18 A: No, I could not.

19 Q: Do you believe in God?

20 A: Absolutely. I took the oath.

21 Q: All right.. Do you feel God designed us pretty
22 spectacularly ---

23 MR. SPRATLIN: Objection.

24 THE COURT: All right, Mr. Long, that's way out of the
25 scope of this particular matter.

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EDWARD LEROY PROCTOR, JR. - REDIRECT BY SPRATLIN

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1 MR. LONG: I'll go ahead and go straight to the point,
2 Your Honor.

3 THE COURT: Yes, sir.

4 BY MR. LONG:

5 Q: An infant is head heavy, correct?

6 A: An infant does not have the muscular ability to hold its
7 head up; that's correct.

8 Q: All right. So proportionality, most of an infant's
9 weight is in their head, not in their body, compared to an
10 adult, correct?

11 A: No, not necessarily. The weight is distributed, it just
12 doesn't have the muscular ability to hold its head straight.

13 Q: All right. A child's head is bigger than its body?

14 A: No.

15 Q: Okay. All right. Children fall head first most of the
16 time and I'm not saying an infant ---

17 A: I don't -- that's a question I don't know the answer to.

18 Q: Okay. All right. But children's skulls are a little
19 more resilient than adult skulls, correct?

20 A: Children's skulls are a little more able to be pliable
21 than adult skulls because the sutures are not totally
22 calcified and closed.

23 Q: Would that be consistent with the word resilient?

24 A: No, resilient, in my definition would be hardened.

25 Q: Okay. All right. So, children's skulls are not as hard

1 as adult skulls?

2 A: That's correct.

3 Q: So they'll give instead of break?

4 A: They can.

5 Q: All right.

6 A: That's correct.

7 Q: The injuries that this baby had, could it be consistent
8 with someone sitting on the child?

9 A: The child had to receive an impact strong enough or
10 forceful enough to produce the subcutaneous hematomas outside
11 of the skull as well as compress that skull enough to fracture
12 across the occipital and right side. Yes, I assume it's
13 possible that it could.

14 Q: Or someone dropping the child?

15 A: Dropping the child; that's correct.

16 Q: What about rough-housing, playing like the child's head
17 hitting a door or table or coffee table or edge of the wall or
18 something; what about something like that?

19 A: The example you used of your fist against that sheetrock,
20 if somebody pushed the child against that sheetrock face -- by
21 holding the front of the face back of the head against that
22 sheetrock, that impact could cause that injury as well as
23 produce that subcutaneous hematoma in the frontal skull, yes.

24 Q: Doctor, were you familiar with the facts of admission and
25 resuscitation, the emergency procedures taken at Loris

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EDWARD LEROY PROCTOR, JR. - REDIRECT BY SPRATLIN

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1 Hospital?

2 A: I was told that -- the history that I had was this child
3 was seen at a local medical facility and that the radiographic
4 examination at that facility revealed evidence of skull
5 fractures and that the child was transport from -- transferred
6 from there to McLeod Regional Medical Center. That's the only
7 ---

8 Q: I understand.

9 A: --- history I have.

10 Q: Would it change your investigation in this case if you
11 had known that he was presented to the ER with no respiration
12 and no pulse?

13 A: No.

14 Q: Would it change your investigation or anything in this
15 case to know that he was without respiration and pulse for a
16 considerable period of time?

17 A: No, sir.

18 Q: After resuscitation they never established brain
19 activity; were you aware of that?

20 A: I was not.

21 Q: Would that change in any way your investigation and/or --
22 well, your investigation in this case?

23 A: No, sir.

24 Q: Let's say I have 120/80 blood pressure, can you convert
25 that to a psi, pounds per square inch?

1 A: No, sir.

2 Q: If you had to guess, would it be 1, 2, 3 pounds per
3 square inch?

4 A: I have no idea.

5 Q: You have no way of knowing?

6 A: No, sir.

7 Q: After death, once the blood is not pressurized within the
8 body, don't you have a sallowness or a sunkenness that occurs
9 in the body?

10 A: Not necessarily, no.

11 Q: So, in other words, my cheeks, following my death, would
12 not appear as full as they do now. They would appear sallow
13 or sunken a little bit; you don't think that's ---

14 A: No, sir. Over a period of time, yes, but immediate day
15 or so, no.

16 Q: Okay. How long does lividity take to settle?

17 A: Lividity, lividity begins at the time of death and it
18 sets up over about a twelve to twenty-four hour period and
19 becomes fixed after about twelve hours. it's usually fixed.

20 Q: How much blood is involved in the typical lividity?

21 A: I have no idea.

22 Q: Fifty percent, twenty-five percent?

23 A: I do not know.

24 Q: All right. So, just as an extreme example, if I were to
25 die right here right now ---

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- 1 A: Uh-huh (affirmative response).
- 2 Q: --- and I would be preserved for the next twenty-four,
3 twelve to twenty-four hours as I stand, how much of my blood
4 would you find in my lower extremities?
- 5 A: I would see lividity in your feet and your lower legs,
6 probably coming up to your knees, but that's just because of
7 the blood starts seeping through the walls of the blood
8 vessels and becomes fixed in the tissues.
- 9 Q: So, you couldn't characterize fifty percent of ---
- 10 A: No.
- 11 Q: --- my blood would be down there ---
- 12 A: No.
- 13 Q: --- anything of that nature?
- 14 A: No.
- 15 Q: Doctor, tell me what you know about delayed onset of
16 symptoms of concussion?
- 17 A: I do not know anything about that.
- 18 Q: In your practice, have you received any histories of
19 patients that reported to medical personnel some day or two or
20 three or more following significant head trauma?
- 21 A: I have had patients that -- yes
- 22 Q: All right. So, there was a injury and a report with
23 symptoms occurring one or two or three days beyond that injury
24 date, correct?
- 25 A: That's correct.

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1 Q: And if they were in your office, it was a bad outcome,
2 correct?

3 A: That is correct.

4 Q: Do you know that children show more of a delay than
5 adults in concussive type symptoms?

6 A: No, sir.

7 Q: Are you familiar with the Mayo Clinic?

8 A: I am.

9 Q: All right. And how would you characterize the level of
10 care the doctors that practice at the Mayo Clinic?

11 A: In general, I would say it's very good.

12 MR. SPRATLIN: Your Honor, I'm gonna object.

13 THE COURT: Of the questions he's asked, I don't see a
14 problem.

15 MR. SPRATLIN: Yes, sir.

16 BY MR. LONG:

17 Q: The literature published by the Mayo Clinic, would you
18 generally say it's widely accepted by medical professionals?

19 A: I would say in general, yes.

20 Q: All right. And I'll ask you to look at two brief
21 documents ---

22 MR. SPRATLIN: Your Honor, I am gonna object to this.

23 THE COURT: All right. Let me look at it, please.
24 Thanks.

25 Doctor, if you'd just briefly look at that, apparently

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1 the highlighted areas, and tell the Court if this is within
2 your field of expertise?

3 A: This is -- these are talking about clinical findings that
4 would be evaluated by a pediatrician or other physician, ER
5 physician or what not, but in my practice, no, sir, I do not
6 -- I do not do these type of evaluations.

7 THE COURT: That's not within your field of expertise?

8 A: No, sir, it is not.

9 THE COURT: All right. Very good. I will not allow you
10 to ask those questions. Thank you.

11 MR. LONG: Thank you, Your Honor.

12 BY MR. LONG:

13 Q: But, Doctor, I just want to make the point again, you
14 have been presented with patients' bodies in your practice
15 that have reported to a hospital days after significant injury
16 with symptoms?

17 A: Correct.

18 Q: Are you familiar with a doctor here in Horry County, I
19 believe he practiced at Grand Strand General Hospital, by the
20 name of Dr. Clay Nichols?

21 A: I know a Dr. Clay Nichols, but he's, to my knowledge,
22 never practiced at Grand Strand.

23 Q: Okay. Where did he practice; do you know?

24 A: If it's the Clay Nichols I know, he was at the Medical
25 University of Charleston and then subsequently in Columbia and

1 I think now may be at the Medical Examiner's office in Chapel
2 Hill.

3 Q: All right. And was he a doctor in your field of autopsy,
4 forensic and clinical ---

5 A: He is a forensic pathologist; that's correct.

6 MR. LONG: Court's indulgence just one moment?

7 THE COURT: Yes, sir.

8 BY MR. LONG:

9 Q: I'm sorry, Doctor, I read -- how about Dr. Carl John
10 Chaymon (spelled phonetically)?

11 A: I do not know him.

12 Q: You do not know him; Carolina's Hospital System?

13 A: No.

14 MR. LONG: Court's indulgence just one moment?

15 THE COURT: Yes, sir.

16 BY MR. LONG:

17 Q: Thank you, Doctor.

18 THE COURT: Redirect?

19 MR. SPRATLIN: Yes, Your Honor, real briefly.

20 REDIRECT EXAMINATION OF EDWARD LEROY PROCTOR, JR. BY MR.

21 SPRATLIN:

22 Q: Doctor, on cross examination you stated that a hematoma,
23 I believe you said it had not started clotting yet. Could you
24 please explain what clotting would show?

25 A: If the hematoma, subdural hematoma had been a hard clot

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EDWARD LEROY PROCTOR, JR. - RECROSS BY LONG

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1 -- over a period of time, what happens to hematomas, it clots
2 and then the clot starts to break down and you see what we
3 call rings of fibrosis and it just becomes a big fibrous knot.

4 Q: And you saw no signs of clotting?

5 A: I did not.

6 Q: And I think Mr. Long used the word lividity; what exactly
7 is that?

8 A: Lividity is where the blood starts breaking out of the
9 vascular tree and settles into dependent areas of the body
10 after death.

11 Q: Was that at all an issue here in this autopsy?

12 A: No, sir.

13 Q: Thank you, Doctor, that's all the questions I have.

14 THE COURT: Anything on those particular questions, Mr.
15 Long?

16 MR. LONG: Very brief, Your Honor.

17 RECROSS EXAMINATION OF EDWARD LEROY PROCTOR, JR. BY MR. LONG:

18 Q: Doctor, the date of death was the 20th; do you know the
19 time?

20 A: I was told December the 20th approximately 9:10 A.M.

21 Q: A.M. and how long after that was the child placed in
22 refrigeration?

23 A: That I do not know. The child was apparently brought
24 from McLeod to Grand Strand. I don't know the time interval
25 there, but the child was in our refrigerator in the morgue

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JILL DOMOGAUER - DIRECT BY HELMS

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1 when I performed the autopsy.

2 Q: What affect, if any, does temperature, low temperature
3 have on clotting?

4 A: Low temperature will slow down the development of
5 lividity. High temperature, it speeds it up.

6 Q: What about clotting?

7 A: Clotting, clotting, it will -- it has sort of a mitigated
8 effect; cold temperatures will slow it down.

9 Q: Thank you, sir. No further questions.

10 THE COURT: All right. Do you wish the witness to be
11 excused, Solicitor?

12 MR. SPRATLIN: Yes, Your Honor.

13 THE COURT: Any objection?

14 MR. LONG: No objection, Your Honor.

15 THE COURT: All right, Doctor. You are released from
16 your subpoena. You may go back to your regular duties, sir.

17 A: Thank you, sir.

18 THE COURT: Very good.

19 All right. Solicitor, you have one more witness?

20 MR. HELMS: We do, Your Honor.

21 THE COURT: All right. Please call your witness.

22 MR. HELMS: At this time, the State would call Jill
23 Domogauer with the Horry County Police Department.

24 THE COURT: All right. All right, Ms. Domogauer, please
25 come around and meet the Clerk's representative up here

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BY THE COURT

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1 the matter regarding your appearance at Court, Mr. Tyler?

2 MR. TYLER: Yes, sir.

3 THE COURT: All right. Very good. See y'all in the
4 morning 9:15; please be here by 9:15. Thank you very much.

5 MR. LONG: Thank you, Your Honor.

6 (RECESS.)

7 END OF DAY TWO

8 *****OFF THE RECORD*****

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1 **MARCH 23, 2016 - DAY THREE**

2 (REPORTER'S NOTE: The following takes place outside the
3 presence of the Jury.)

4 BY THE COURT:

5 > THE COURT: Thank you. All right, Solicitor, is the
6 State ready for the jury to come in?

7 MR. SPRATLIN: The State's ready, Your Honor.

8 THE COURT: Defense?

9 MR. LONG: No, Your Honor. I have one matter to bring to
10 the Court's attention.

11 THE COURT: Yes, sir.

12 MR. LONG: My understanding the State's next witness is
13 Dr. Anne Abel. She's from the Medical University of South
14 Carolina.

15 THE COURT: Okay.

16 MR. LONG: She's to be called as an expert, I assume, on
17 child abuse, injuries, et cetera, whatever that may --
18 whatever it may be.

19 THE COURT: Okay.

20 MR. LONG: I, I profess I'm at a loss as to what she's
21 actually gonna testify to. We were provided a copy of her
22 resume by the Solicitor but, to date, we've had no copy of any
23 reports, diagnosis, findings, et cetera, notes, anything of
24 that nature related to what she had reviewed and what her
25 conclusions were from that. We filed a motion for discovery,

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1 continuing motion for discovery in this matter. Solicitor
2 Spratlin has been very diligent in complying with that.
3 However, we have nothing in writing from this doctor to know
4 what she's going to testify to and what her conclusions are.
5 Now, Dr. Ugale, U-G-A-L-E, was one that had reviewed
6 everything and was -- we did have reports from her. I don't
7 know she's taking over for Dr. Ugale, who is out of the
8 country I understand, and if so, we could use, you know, Dr.
9 Ugale's reports, whatever, as being coming from this doctor.
10 But without any specific knowledge of what she plans to
11 testify to, what she looked at, reviewed, conclusions, et
12 cetera, we're at a loss and we think that's violation of
13 Brady.

14 THE COURT: Solicitor?

15 MR. SPRATLIN: Your Honor, Dr. Abel was retained as an
16 expert at the request of the State. She did not prepare a
17 report. She was provided with information, asked to look at
18 it and is here to testify as an expert witness based upon the
19 information that she has reviewed.

20 MR. LONG: And certainly the Solicitor is aware of what
21 her ---

22 THE COURT: I ---

23 MR. LONG: --- testimony is going ---

24 THE COURT: --- excuse me, Mr. Long.

25 MR. LONG: I'm sorry.

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BY THE COURT

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1 THE COURT: I wasn't done with the Solicitor.

2 MR. LONG: I'm sorry.

3 THE COURT: Thank you, sir.

4 Now, are you telling me, Solicitor, that the doctor made
5 absolutely no notes of any kind when she was reviewing the
6 documentation that you supplied to her, that she has made no
7 written notes of any shape, manner or form, that could be
8 construed as helping or guiding her testimony or indicating
9 what her facts or conclusions are in this matter?

10 MR. SPRATLIN: Your Honor, I'm not certain of what notes
11 she made. I know that she has never prepared a report.

12 THE COURT: Well, that may be, but if she has any kind of
13 written documentation or has made any kind of written
14 documentation, that of necessity must have been turned over to
15 you and you must have turned that over to the Defense.

16 MR. SPRATLIN: Your Honor, I ---

17 THE COURT: Go inquire of your witness and find out if
18 she has any written material of any kind.

19 MR. SPRATLIN: Yes, sir, Your Honor.

20 THE COURT: That's your obligation.

21 Solicitor?

22 MR. SPRATLIN: Your Honor, Dr. Abel has made some notes
23 regarding her review of the documentation the State has given
24 her. Those have not been turned over. My belief is that that
25 is not a violation of Rule 5. Reports and examinations and

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BY THE COURT

1 tests, upon requests of the Defendant, the Prosecution shall
2 permit the Defendant to inspect, copy any results of physical
3 or mental examination the specific tests or experiments or
4 copies thereof which are within the possession, custody or
5 control of the Prosecution, the existence of which is known or
6 by due diligence may become known and are material to the
7 preparation of the defense in this case.

8 Your Honor, I'm at a loss as to the requirement of expert
9 witnesses to provide notes of what they have reviewed?

10 THE COURT: If they have made notes, written notes,
11 written documentation of any kind, based upon their review of
12 the information, those must -- of necessity must be turned
13 over to the Defense for the purpose of cross examination
14 because they form a basis for understanding the conclusions of
15 the doctor. I appreciate -- we see this in civil court a lot.
16 Experts are hired and are told not to make a report just to
17 try and avoid the consequences of that. I do not believe that
18 is proper and we will not engage in those types of games,
19 especially in a criminal case. Any documentation the doctor
20 has, you will make a copy of, if she intends to and has
21 expressed any opinion to you that the previous report of the
22 other doctor she agrees with, you will inform the Defense of
23 that and you will do that now. We'll take a short break now.
24 Thank you very much.

25 MR. SPRATLIN: Your Honor, if I may?

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BY THE COURT

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1 THE COURT: Yes, sir.

2 MR. SPRATLIN: Her extensive notes are actually at her
3 hotel room in her briefcase.

4 THE COURT: Well, then she's got to go get them. I don't
5 know why she didn't bring them but, you know, and we'll tell
6 the jury that y'all weren't prepared to go forward this
7 morning.

8 MR. SPRATLIN: Your Honor, I have another witness I can
9 call which will take about an hour and a half with a statement
10 to played. We can begin with that while the doctor goes and
11 retrieves her notes. I will have my staff make copies of any
12 and all documentation that she has and I'll provide it to Mr.
13 Long so that he can review it and if Your Honor feels it
14 appropriate to take a recess over the lunch break ---

15 THE COURT: Well, we're gonna have to take a recess
16 because he's gonna have to have the opportunity to review the
17 documentation. You just can't throw it at him and then put
18 the witness on the stand. So, obviously, we'll have to take a
19 break. Now, if you'll further inquire of the witness whether,
20 that previous doctor that issued the report, if she has relied
21 upon that in any way and agrees with it or disagrees with it.
22 All right. And you'll inform the Defense of that.

23 MR. SPRATLIN: Yes, Your Honor, I'll inform the Defense
24 of any questions he might have.

25 THE COURT: No, sir, you'll do exactly what I just told

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BY THE COURT

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1 you to do.

2 MR. SPRATLIN: Yes, sir, I apologize.

3 THE COURT: Thank you.

4 MR. SPRATLIN: Your Honor, if I may for my own
5 edification ask as to which Rule of Evidence we are referring
6 to?

7 THE COURT: Solicitor, Mr. Long, you come into my office
8 and talk to me right now.

9 (RECESS.)

10 *****OFF THE RECORD*****

11 (On the Record.)

12 THE COURT: All right. Y'all ready to call your next
13 witness, Solicitor?

14 MR. SPRATLIN: Yes, Your Honor.

15 MR. LONG: Yes, Your Honor.

16 THE COURT: All right. Ask the Jury to come in please.

17 (REPORTER'S NOTE: Jury enters courtroom.)

18 THE COURT: Solicitor, your next witness, please.

19 MR. SPRATLIN: Your Honor, the State would call Agent
20 David Weaver to the stand.

21 THE COURT: All right, sir. Please come around be sworn;
22 meet the Clerk right over there, please, sir.

23 CLERK: Please raise your right hand and place your left
24 hand on the Bible.

25 DAVID WEAVER, HAVING BEEN SWORN

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DAVID WEAVER - DIRECT BY SPRATLIN

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1 TESTIFIES AS FOLLOWS:

2 CLERK: State your full name spell your last.

3 MR. WEAVER: David Weaver, W-E-A-V-E-R.

4 DIRECT EXAMINATION OF DAVID WEAVER BY MR. SPRATLIN:

5 Q: Sir, where are you currently employed?

6 A: I'm employed with the South Carolina State Law
7 Enforcement Division.

8 Q: And what is your job title there?

9 A: I'm a Special Agent.

10 Q: How long have you been with the South Carolina Law
11 Enforcement Division?

12 A: Three and a half years.

13 Q: What are the duties of a Special Agent at the South
14 Carolina Law Enforcement Division?

15 A: Currently, I'm assigned to the Special Victim's Unit,
16 Child Fatality Unit. I investigate all child deaths under the
17 age of seventeen in South Carolina excluding traffic
18 accidents.

19 Q: How long have you been doing that job?

20 A: Three and a half years.

21 Q: Your entire time at SLED?

22 A: Yes, sir.

23 Q: Prior to working at the South Carolina Law Enforcement
24 Division, where did you work?

25 A: I worked for the Horry County Police Department.

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DAVID WEAVER - DIRECT BY SPRATLIN

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1 Q: How long did you work for Horry County Police?

2 A: Approximately sixteen years. My last assignment, I
3 worked Violent Crime and Homicide.

4 Q: How long in law enforcement -- how much time -- let me
5 rephrase that. How long have you been in law enforcement
6 total?

7 A: Twenty-two years.

8 Q: Now, Agent Weaver, what if any involvement did you have
9 in regards to the case we're here on today?

10 A: I received a call from my supervisor to respond to Loris
11 Police Department to help them with a death investigation of
12 an infant.

13 Q: Is that a common occurrence as a Special Agent at South
14 Carolina Law Enforcement Division?

15 A: Yes, sir.

16 Q: And once you got assigned to assist in this case, what
17 did you do?

18 A: After I met with Chief Vaught, I got some preliminary
19 information. I spoke to the medical professionals over at
20 McLeod Medical Center. I learned that the victim sustained
21 severe trauma to the head, multiple fractures to the skull. I
22 had a senior agent go by and get some medical records as well.
23 I attended the autopsy later that evening with Dr. Proctor.

24 Q: The autopsy that you attended, did you have a chance to
25 observe the body of the child?

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DAVID WEAVER - DIRECT BY SPRATLIN

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1 A: Yes, sir, I did.

2 Q: How did the body appear to you?

3 A: The body appeared to be bruised. It had several bruises
4 throughout the neck and the stomach area.

5 Q: At this time, was the child alive or passed?

6 A: The child had passed.

7 Q: Now, Agent, during the course of your investigation, did
8 you have a chance to speak with the Defendant in this case?

9 A: Yes, I did.

10 Q: When did you speak with him?

11 A: I spoke with him, I believe it was Saturday, December
12 21st at the Loris Police Department. Present with me was
13 Chief Vaught, excuse me.

14 MR. SPRATLIN: Your Honor, permission to approach the
15 witness?

16 THE COURT: Yes, sir.

17 MR. SPRATLIN: Please let the record reflect I'm showing
18 the witness what has been entered into evidence as State's
19 Exhibit Number One.

20 BY MR. SPRATLIN:

21 Q: Agent Weaver, are you familiar with that, what's been
22 marked or entered into evidence as State's Exhibit Number One?

23 A: Yes, sir, I recognize it.

24 Q: What is it?

25 A: It's -- it appears to be a copy of our interview.

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DAVID WEAVER - DIRECT BY SPRATLIN

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- 1 Q: And whose interview does it appear to be a copy of?
- 2 A: The Defendant's.
- 3 Q: All right. And who else was involved in that interview?
- 4 A: Chief Vaught.
- 5 Q: And who else besides Chief Vaught and the Defendant?
- 6 A: Myself.
- 7 Q: All right. Now, agent, we're gonna play that interview
- 8 in a minute, but let me ask you, when you perform an interview
- 9 on the -- on a defendant, what is your goal during the
- 10 interview?
- 11 A: Our goal is to get the facts of the case and to get
- 12 information that will help us find out the death of the child
- 13 in this particular case.
- 14 Q: Is your goal always to obtain a confession?
- 15 A: Yes, the truth, but a confession ultimately, yes.
- 16 Q: Is there any other goals in the interview besides just
- 17 getting a confession?
- 18 A: Fact finding, to find out what happened.
- 19 Q: What are some of the techniques in -- that you use in
- 20 these interviews to obtain the truth or facts?
- 21 A: We have several techniques that we use and our tools,
- 22 excuse me, I subscribe a re-technique and it's a technique
- 23 where it ultimately when you're interviewing a suspect, it's
- 24 shifts the blame. You allow them to save face and that's the
- 25 approach that I typically take and I did in this particular

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1 case.

2 Q: What, if anything do you do to try to get on the side of
3 the defendant during these interviews?

4 A: I try to gain their trust through rapport and just try to
5 make him feel at ease and ---

6 Q: Are there any additional techniques that you will
7 typically use during these interviews?

8 A: We use deception. We can use deception, make up stories,
9 pretty much what we need to do, but again, I, I subscribe to
10 the re-technique where I allow the suspect to save face and
11 shift the blame at times to elicit information, the goal is to
12 the elicit information and facts.

13 Q: By shift the blame, what do you mean?

14 A: Well, at times you can -- you can -- you can have the --
15 you can have the suspect -- you can blame something -- try to
16 blame someone else in hopes that they'll gain your trust and
17 -- and, and acknowledge that something had happened and try to
18 get additional information from that.

19 MR. SPRATLIN: Your Honor, at this time, the State would
20 ask to publish the Defendant's interview for the Court.

21 THE COURT: You may do so.

22 MR. SPRATLIN: Permission to retrieve?

23 THE COURT: Yes, sir.

24 MR. SPRATLIN: Your Honor, while this interview is being
25 played, may the witness be allowed to step down?

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1 THE COURT: Certainly.

2 MR. SPRATLIN: Thank you, Your Honor.

3 *****OFF THE RECORD*****

4 (REPORTER'S NOTE: State's Exhibit Number One played in the
5 presence of the Jury. Not transcribed herein.)

6 (On the Record.)

7 BY MR. SPRATLIN:

8 Q: Agent Weaver, is that a fair and accurate copy of the
9 statement from the Defendant on that day?

10 A: Yes, sir.

11 Q: And do you see the person you were talking with here in
12 the courtroom?

13 A: Yes, sir.

14 Q: Would you point him out and identify an article of
15 clothing he's wearing?

16 A: That would be the Defendant wearing a white shirt with
17 stripes.

18 MR. SPRATLIN: Please let the record reflect the witness
19 has identified the Defendant.

20 BY MR. SPRATLIN:

21 Q: Now, Detective, on that interview, did you state to the
22 Defendant that you think his father did it?

23 A: Yes, I did.

24 Q: Why did you say something like that?

25 A: Because I was trying to elicit some information that --

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1 the way the interview was going, I wasn't getting the
2 information that I needed. I needed to change strategies and
3 shift gears, if you will, and try a new approach. I tried
4 every technique imaginable trying to -- that I know of trying
5 to get him to open up and, and provide more information.

6 Q: Now, Detective, besides that -- or Agent, excuse me --
7 besides that statement, did you have any other involvement in
8 the case?

9 A: Yes.

10 Q: Did you get a search warrant for the Defendant's
11 residence?

12 A: I did.

13 Q: Did you receive evidence from that search warrant?

14 A: Yes, I did.

15 Q: In that evidence, were there bed sheets and other
16 clothing items?

17 A: Yes, sir.

18 Q: What, if any forensic tests did you get on just the bed
19 sheets or the clothing items?

20 A: We did not conduct any forensic testing. It was not
21 relevant in this case. We did not find any blood or any
22 saliva or any discharge so it wasn't relevant in this case.

23 Q: When you observed the child's body, did it appear he had
24 any cuts on him?

25 A: No.

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DAVID WEAVER - CROSS BY LONG

1 Q: Did you have any evidence that the child was bleeding
2 prior to going to the hospital?

3 A: No, sir.

4 Q: What would DNA of either the child or the Defendant on
5 the bedsheets have told you?

6 A: It wouldn't have told us anything. The child was
7 supposed to be in the residence. The child was in the
8 residence.

9 Q: Is that all DNA would have told you?

10 A: Yes, sir.

11 Q: Thank you, agent. Please answer any questions Mr. Long
12 might have.

13 THE COURT: Cross examination?

14 MR. LONG: Thank you, Your Honor.

15 CROSS EXAMINATION OF DAVID WEAVER BY MR. LONG:

16 Q: Agent Weaver, Hassan voluntarily came to that interview
17 that we just heard, correct?

18 A: Yes, sir.

19 Q: And he wasn't picked up by police and put in handcuffs in
20 the back of a car and driven there; y'all requested him to
21 come and he came and talked, correct?

22 A: That's correct, yes, sir.

23 Q: And overall that was at least two hours or so, wasn't it,
24 the total time that he was there, hour and a half of the tape,
25 two hours that he was there?

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1 A: Yes, sir.

2 Q: Now, you kept asking him what else should you do and he
3 was at a loss for telling you who else you should talk to,
4 things of that nature; that happened on that tape, correct?

5 A: Yes, sir.

6 Q: Did you talk to his fourteen-year-old son yourself?

7 A: No, sir.

8 Q: All right. Did agents at your request talk to his son?

9 A: No, sir.

10 Q: All right. Was there an issue about whether or not the
11 son could have possibly caused the injuries?

12 A: No, sir.

13 Q: All right. And the reason that was is he had an alibi;
14 he was in school that day, correct?

15 A: No, sir, that's -- that is correct, but that's not the
16 reason why.

17 Q: All right. What was the reason why then that you
18 determined that Amin should not be questioned at least as to
19 what happened, what took place, what he saw, what he didn't
20 see?

21 A: Based on the -- based on the opinions of the medical
22 professionals, the doctors that I spoke to at the hospital,
23 the attending physician at the ER ---

24 Q: Sir, I'm not asking you to tell me what they told you;
25 I'm asking why you didn't yourself go and interview him or why

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1 he was not questioned?

2 A: I'm answering that because it, it wasn't relevant. I

3 didn't need to ask him.

4 Q: You felt it was not relevant?

5 A: Yes, sir.

6 Q: All right. Now, did you or other agents, at your

7 request, interview Tametra Stinson?

8 A: Yes.

9 Q: All right. And when was that done?

10 A: That was done Friday night, I believe, on the 19th.

11 Q: Okay. And she provided information to you or to other

12 agents?

13 A: Myself and Chief Vaught.

14 Q: All right. Did you determine occupants, how many

15 occupants there were in her home?

16 A: I believe that was covered.

17 Q: All right. Did you interview any of those occupants of

18 her home?

19 A: No, sir, I didn't.

20 Q: You deemed it to be irrelevant?

21 A: Yes, sir.

22 Q: All right. So, her step-father, her mother, her three

23 sisters, their children, her brother and any other children,

24 things of that nature -- I believe we're talking about eleven

25 people -- you did not interview any of those other people?

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1 A: That's correct.

2 Q: Hassan picked his son up before 8 o'clock on the 18th,
3 correct, 8:00 P.M.; is that approximate?

4 A: Yes, sir.

5 Q: All right. And then some fifteen/sixteen hours later, he
6 reported that the child went into seizures and he and his
7 father took it to the hospital, correct?

8 A: Yes, sir.

9 Q: All right. So, you excluded anything outside of twelve
10 to fifteen hours, any person that could've caused those
11 injuries?

12 A: Yes, sir.

13 Q: During the questioning, you pretty much gave him a gift
14 of saying something about resuscitation; isn't that true?
15 Weren't y'all offering him an easy way out about the marks on
16 the stomach and the resuscitation?

17 A: Chief Vaught brought it up, yes.

18 Q: And isn't that a tactic that can be very successful, as
19 you were referring to the tactics that are being used, to say,
20 okay, now let's break it down here. We're talking about the
21 marks on the stomach only. Didn't you at least try to
22 resuscitate him and make him breathe and things of that nature
23 -- can't that at least explain if you tried to do that, that
24 those are the marks on his stomach, that's where those were
25 from? Didn't that come out as a tactic?

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1 A: I don't know. Chief Vaught asked him that question. I
2 don't know what his reasoning for asking him that was.

3 Q: You were there listening to it, right?

4 A: Yes, sir.

5 Q: All right. And you're familiar with investigative
6 tactics?

7 A: Yes, but I never worked with Chief Vaught before as far
8 as interview and interrogation. That's the first time we ever
9 worked together.

10 Q: So, you didn't recognize that as a tactic?

11 A: I didn't -- if that was one of his, I wasn't aware of it.

12 Q: But nonetheless, his response was consistent; I didn't
13 try to resuscitate him?

14 A: Yes.

15 Q: All right. He didn't try to take an easy out?

16 A: No, sir.

17 Q: How far are you permitted to go with deception during
18 interviews?

19 A: I don't understand the question.

20 Q: Let's just use this hypothetical. You are interviewing
21 me, a suspect or possible suspect, in a murder, but you
22 already have a confession from somebody else, okay, as to that
23 murder and my -- I was not involved. Are you permitted to
24 tell me that nobody's claimed responsibility for it, nobody's
25 owned up to it, you've got evidence proving I did it and I

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1 need to go ahead and fess up to it?

2 MR. SPRATLIN: Your Honor, I'm gonna object.

3 THE COURT: I'm gonna allow him to ask the question. You
4 may proceed, Mr. Long.

5 A: I'm not sure I understand the question.

6 BY MR. LONG:

7 Q: Are you permitted to go that far in deception in
8 interrogation?

9 A: If you're asking me if I already have a confession from
10 another suspect if I'm gonna continue to interrogate you to
11 get another confession? No.

12 Q: Can you lie to me and tell me that you've got evidence
13 against me, nobody else has accepted responsibility for it?
14 Can you continue to -- can you use that level of deception?

15 A: I don't know. I wouldn't. If I had a -- If I already
16 had a confession, I wouldn't.

17 Q: All right. Let's play specifically to this case then.
18 You told him at the end of the interview, you don't think he
19 did it, you believe him?

20 A: Yes, sir.

21 Q: You didn't think he hurt his child?

22 A: Yes, sir.

23 Q: What level of deception was that?

24 A: Again, I was trying to gain his trust. I was trying to
25 elicit more information. I was trying to get him to

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DAVID WEAVER - REDIRECT BY SPRATLIN

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1 acknowledge at least an incident occurred, that something
2 happened.

3 Q: All right. What level of deception would you
4 characterize that to be?

5 A: I don't know what you would call that.

6 Q: Zero being the least and ten being the worse.

7 A: I don't know.

8 Q: You can't put a number on that?

9 A: No, sir.

10 MR. SPRATLIN: Objection.

11 THE COURT: Mr. Long, do you intend to pursue this line
12 of questioning further?

13 MR. LONG: No, Your Honor, I'm moving on.

14 THE COURT: Very good.

15 MR. LONG: Court's indulgence just one moment?

16 THE COURT: Yes, sir.

17 BY MR. LONG:

18 Q: Thank you, sir, no further questions.

19 THE COURT: Redirect?

20 MR. SPRATLIN: Yes, Your Honor.

21 REDIRECT EXAMINATION OF DAVID WEAVER BY MR. SPRATLIN:

22 Q: Agent Weaver, on cross examination, Mr. Long asked you
23 why -- asked you did you interview any additional witnesses at
24 the Defendant's home or at Ms. Stinson's home and your
25 response to both was it was not relevant; was that correct?

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1 A: Yes, sir, that's correct.

2 Q: Would you please tell the Court why it was not relevant?

3 A: Because in my mind, we had the right person. I had --
4 the Defendant -- the Defendant had the opportunity. He was
5 alone by his own admission, based on the medical evidence,
6 based on the opinions from -- from the doctors I spoke to, the
7 attending physician at the emergency room, Dr. Proctor at the
8 autopsy, provided me the timeline needed and the only one that
9 was alone with the child, the victim, at the time of death or
10 at the time of the incident was the Defendant. That was by
11 his own admission that his father was out -- that he was the
12 only one in the apartment and his father was outside working
13 on his car.

14 Q: Agent, Mr. Long asked you about confessions in this case.
15 Did you get a confession from anyone else?

16 A: No, I did not.

17 Q: Thank you. No further questions.

18 THE COURT: Anything on those two questions?

19 MR. LONG: No, Your Honor.

20 THE COURT: You may step down, sir.

21 BY THE COURT:

22 THE COURT: All right. Ladies and gentlemen, we're gonna
23 take a break at this point in time. If you'll go to your jury
24 room for a few minutes. Thank you very much.

25 REPORTER'S NOTE: Jury retires to jury room.

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1 THE COURT: All right. We'll be at ease for about five
2 or ten minutes. Thank you very much.

3 MR. SPRATLIN: Thank you, Your Honor.

4 (RECESS)

5 *****OFF THE RECORD*****

6 (On the Record.)

7 (REPORTER'S NOTE: The following takes place outside the
8 presence of the Jury.)

9 THE COURT: Solicitor, at some point in time before y'all
10 had mentioned a stipulation; is that something that y'all are
11 going to do?

12 MR. SPRATLIN: Yes, Your Honor. I was actually gonna ask
13 the Court to do it when the jury came back in, when Mr. Long
14 got back here, I wanted to approach and ask the Court to read
15 it.

16 THE COURT: All right. Would -- Mr. Long, have you
17 looked at it, the stipulation; have you read that?

18 MR. LONG: Yes, sir, Your Honor.

19 THE COURT: Okay.

20 MR. LONG: The stipulation as to Amin Tyler?

21 THE COURT: Is that what it is?

22 MR. SPRATLIN: Yes, sir.

23 THE COURT: Okay. Very good. Okay. Thank you,
24 Solicitor.

25 MR. LONG: Your Honor, I was downstairs with my clients

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1 discussing this information and/or his willingness to testify.

2 THE COURT: Okay.

3 MR. LONG: I was instructed that you requested me in
4 Chambers so I told them to stay out there, that they a couple
5 more minutes, but to come on up to the courtroom, that I would
6 be back in Chambers with Your Honor. That was the request
7 that was that ---

8 THE COURT: Okay. Well, I'm -- I guess I didn't make
9 myself clear. I was expecting us to go forward and start the
10 trial or continue on with the trial. So, could we -- do you
11 need to find them?

12 MR. LONG: No, Your Honor, they're coming up -- I told
13 them just a couple of minutes, that they needed to follow up
14 right behind me.

15 THE COURT: All right, sir. Is there any matters we need
16 to cover before the jury comes in, Solicitor?

17 MR. SPRATLIN: The State would just like to put on the
18 record in regards to any sort of discovery violation, any
19 underlying -- the expert witness in this case did not provide
20 a report and the State did not turn over a report because the
21 expert witness did not provide it. She informs me that she
22 typically does not do reports in cases such as this.

23 Additionally, Your Honor, everything that she based her
24 expert opinion on, the records from Loris Hospital, the
25 records from McLeod Hospital, the birth records of **Minor**

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1 **Minor** the statement of the Defendant, the pediatric records,
2 any and all police reports or involvement in that have been
3 turned over, including photographs, autopsy photos, autopsy
4 reports, toxicology reports, every basis of her opinion, every
5 document that was handed to her by the State has been turned
6 over in evidence to the Defense through discovery.

7 THE COURT: All right. So that we're clear now and in
8 the future, Solicitor, I appreciate and that's what I would
9 expect y'all, y'all to do. The problem we have is if an
10 expert does not do a report that gives an opinion and the
11 State does not forward to the Defense some synopsis that the
12 ultimate opinion of Jane Doe is X, Y and Z and the first time
13 that the Defense hears it is when Jane Doe testifies, then the
14 Defense, before cross examination, say, Judge, I need a recess
15 for half a day so I can research this information and be
16 prepared to cross examine the witness. I'm trying to avoid
17 that.

18 MR. SPRATLIN: Yes, sir.

19 THE COURT: So that we don't have those eventualities
20 and, if they make that request, I'm gonna give it to them
21 because they've never heard of it before, hadn't had an
22 opportunity to develop any examination of that particular
23 witness based upon the opinion. If they don't know what the
24 opinion is, then they can't be prepared to, to properly
25 examine the witness. So, if there isn't a report, it would

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1 be, just for future reference, it would be my expectation that
2 the State would say Jane Doe does not have a report, has not
3 issued a report, we believe her ultimate opinion is going to
4 be A, B and C and you know, that's fine. Then the Defense can
5 do with it whatever they want to do with it or not do with it
6 because then they have the opportunity to, to then find their
7 own witness if they want one or develop cross examination and
8 not have a delay in the middle of the trial. But, you know,
9 as far as all the background information, if an expert is
10 gonna rely on any of that information, then obviously that
11 information as you've done and properly so, turned all that
12 over to the -- turned over that to, to the Defense.

13 MR. SPRATLIN: Yes, sir, Your Honor, I appreciate that.

14 THE COURT: All right.

15 MR. SPRATLIN: And I thank you.

16 THE COURT: Okay. So -- all right.

17 So, yes, Mr. Long?

18 MR. LONG: Yes, Your Honor. I was provided with
19 handwritten notes of Dr. Abel.

20 THE COURT: Okay.

21 MR. LONG: And it basically just reviews what she -- it
22 lists what she reviews and some findings or notes from what
23 she reviewed.

24 THE COURT: Okay.

25 MR. LONG: As far as some of the evidence in this case.

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1 THE COURT: Okay.

2 MR. LONG: The Solicitor has prepared a legal pad which
3 lists eleven findings of Dr. Abel.

4 THE COURT: Okay.

5 MR. LONG: And the four that cause us some concern as far
6 as preparation or reply time to was that it would have taken
7 an extensive force to cause the injury, that's Number Five.
8 Number Seven, the child would have been knocked unconscious by
9 the blow. Number Eight, the child would have stopped
10 breathing within hours. And I don't think there's been any
11 expert testimony provided by the State of that to this point.
12 You've heard the testimony here presented. Now she's coming
13 in, based on her review of the same tests and reports that the
14 other doctors have already testified to, and she's testifying
15 Number Seven and Number Eight are the ones that concern us the
16 most, the child would have been knocked unconscious by the
17 blow and would have stopped breathing within hours. Those
18 concern us, Your Honor, being able to fully cross examine her
19 on her basis for those opinions. She did not listen to the
20 other doctors testify. She doesn't have any other -- any of
21 the benefit of the testimony of the doctors. She's gonna
22 testify to that and we can't properly prepare to contradict
23 her on that at this point.

24 THE COURT: Well, you're certainly able to ask her what
25 it's based on and she would be able to tell you what it's

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1 based on, you know, where she drew -- what doctor's notes or
2 what records or from where she has drawn this conclusion.

3 MR. LONG: And my -- I'm sorry.

4 THE COURT: And then, you know, if she's able to point to
5 a particular record, then you can ask her about that record
6 or, you know, if she says that it's based upon some other
7 doctor's notes, you can ask her about that. So -- and if she
8 says it's my opinion based upon my own evaluation and
9 experience, training, expertise in this field, based upon the
10 medical information this was what occurred, then that's what
11 you have. So ---

12 MR. LONG: Am I permitted, however, to pit her against
13 the other State's witnesses because none of the other State's
14 witnesses have testified that it would have been knocked
15 unconscious or would've stopped breathing within hours.

16 THE COURT: Well, they weren't asked the question. Okay.
17 So you may be right that they didn't say it, but nobody asked
18 them either. The State nor the Defense asked them. So, you
19 know, that would be, you know, we, you know, the question
20 might be, you know, we have not heard from any other witness
21 X, Y and Z, you know, what's the basis of your opinion and
22 then you can bring that out to, to the Jury's attention in
23 closing argument that nobody else said it but the expert and
24 she says -- she says it because A, B and C and question about
25 that but, you know, you can certainly ask. It just depends on

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BY THE COURT

1 how you frame the question because nobody asked. So, it's not
2 that they didn't have that opinion or they didn't say it,
3 nobody asked them.

4 MR. LONG: And, Your Honor, had we known that Dr. Abel
5 were gonna come in and testify to those two specific things,
6 we would've been more on notice that we may have needed to ask
7 those questions.

8 THE COURT: Well, it -- I don't know what your intention
9 is regarding the Defense, but you're certainly ---

10 MR. LONG: Your Honor ---

11 THE COURT: --- you don't need to tell me, but you're
12 certainly welcome to re-subpoena those doctors and if you need
13 the State's assistance in communicating with them and say new
14 information has come up and we need you to come back and you
15 want to call them in your case and ask them those questions,
16 then I'll be glad for you to do that.

17 MR. LONG: I understand.

18 THE COURT: All right. So but ---

19 MR. LONG: And for the record, Your Honor, we would move
20 to exclude her testimony as being a surprise witness at this
21 point in time. I understand Your Honor's ruling in that
22 regard. We're prepared and ready to go forward.

23 THE COURT: All right. Well, I respectfully decline to,
24 to exclude the testimony. I'm not going to do that. So, if
25 after the direct examination, we'll see where we are --

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1 obviously my -- I mean it doesn't take very long, but we'll
2 probably go on to cross, but I don't know. We'll, we'll look
3 at the clock and we'll see where we are and we'll, you know,
4 as you know, generally I don't think it's a good idea to split
5 up direct and cross examination, but I might ---

6 MR. LONG: Thank you.

7 THE COURT: --- at this particular time and that might
8 give you some more time to develop a cross examination. Okay?

9 MR. LONG: Thank you, sir; yes, sir.

10 THE COURT: Thank you very much.

11 Ask the Jury to come in please.

12 (REPORTER'S NOTE: Jury enters courtroom.)

13 THE COURT: All right. Solicitor, Mr. Long, before we
14 continue on with the next witness, the State and Defense have
15 entered into a short stipulation; is that correct? And you've
16 handed that to the Court?

17 MR. SPRATLIN: That's correct, Your Honor.

18 MR. LONG: That's correct, Your Honor.

19 THE COURT: Ladies and gentlemen, a stipulation, that's
20 an agreement by the parties in any judicial proceeding and it
21 would be in the proceeding, and it's binding upon them and
22 it's basically an agreement or understanding of a fact. The
23 parties are saying that -- and I'll just read it to you, it's
24 basically one sentence. That statement is fact and you will
25 accept it as a fact as both the State and the Defense have

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ANNE ABEL - DIRECT BY SPRATLIN

1 agreed upon it. The stipulation is that the State and the
2 Defense do hereby stipulate that on December 19th, 2013, Amin
3 Tyler, Hassan Tyler's teenage son, was at school in Loris for
4 the entire school day.

5 All right. You may proceed with your next witness, sir.

6 MR. SPRATLIN: Thank you, Your Honor. The State would
7 call Dr. Anne Abel to the stand.

8 THE COURT: Please come around, ma'am, to be sworn and
9 meet the Clerk's representative right over here, please.

10 CLERK: Please raise your right hand and place your left
11 hand on the Bible.

12 DR. ANNE ABEL, HAVING BEEN SWORN

13 TESTIFIES AS FOLLOWS:

14 CLERK: Please state your name and spell your last.

15 DR. ABEL: My name is Anne Abel. Last name is spelled A-
16 B-E-L.

17 DIRECT EXAMINATION OF DR. ANNE ABEL BY MR. SPRATLIN:

18 Q: Ma'am, what is your current occupation?

19 A: I am a child abuse pediatrician.

20 Q: Are you a duly licensed physician?

21 A: Yes.

22 Q: In what states are you licensed?

23 A: South Carolina.

24 Q: And when did you become licensed in the State of South
25 Carolina?

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- 1 A: In the mid-seventies.
- 2 Q: Have you been licensed since then?
- 3 A: Yes.
- 4 Q: Where, if anywhere, are you currently employed?
- 5 A: I'm employed at the Medical University of South Carolina.
- 6 Q: Where is that located at?
- 7 A: In Charleston, South Carolina.
- 8 Q: How long have you worked at the Medical University of
- 9 South Carolina?
- 10 A: How long? Ten years.
- 11 Q: What, if any board certifications do you have?
- 12 A: I'm board certified in general pediatrics and I'm board
- 13 certified in child abuse pediatrics.
- 14 Q: When did you become board certified in pediatrics?
- 15 A: 1980.
- 16 Q: And what about child abuse pediatrics; when did you
- 17 become board certified in that area?
- 18 A: I was certified in the first test that was ever given in
- 19 2009.
- 20 Q: What exactly does it mean to be board certified?
- 21 A: Well, it means the subspecialty board that certifies all
- 22 of the subspecialties has criteria you have to meet. You have
- 23 to be recommended by other people in your field; you have to
- 24 have experience in the field; and you have to have passed a
- 25 difficult test.

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1 Q: Did you pass this test?

2 A: Yes.

3 Q: Now, Doctor, what exactly is pediatrics?

4 A: Well, it's the specialty in medicine that has to do with
5 children with their development, their health, illnesses,
6 treatments for their illnesses, immunizations.

7 Q: And child abuse pediatrics, what is that exactly?

8 A: It's a field that has to do with training to evaluate
9 children when someone has raised the suspicion of abuse or
10 neglect and to take all the medical information, examine the
11 child, get all the information and put it together for a
12 report and if needed, testify in court.

13 Q: Doctor, in your professional experience, what sort of
14 involvement have you had with child abuse?

15 A: Well I've been doing this work since the mid-90s as -- as
16 part of my daily work. I started doing it full time in the
17 year 2000.

18 Q: Doctor, what, if any professional organizations are you a
19 member of?

20 A: American Academy of Pediatrics, the South Carolina
21 Professional Society for Abused Children, the American Medical
22 Association, I'm not thinking of more, but those are the main
23 ones.

24 Q: Now, child abuse pediatrics, does that also include the
25 development of a child's brain?

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1 A: Yes.

2 Q: What's the study of a child's brain called?

3 A: Well there -- there's a field, child neurology, there's
4 pediatric neurosurgery, there's pediatric psychiatry, child
5 and adolescent psychiatry.

6 Q: Is training into the functions and development of a
7 child's brain a part of child abuse pediatrics?

8 A: Yes.

9 Q: And, Doctor, in the last three years, have you given any
10 lectures or presentations?

11 A: Yes.

12 Q: In what areas have you given them?

13 A: Abusive head trauma, medical child abuse, various topics.
14 I give lots of talks.

15 Q: How many talks do you think you've given over the last
16 three years?

17 A: I'm estimating thirty.

18 Q: Have you ever been qualified as an expert in court
19 before?

20 A: Yes.

21 Q: In what courts have you been qualified as an expert in?

22 A: Family and criminal courts in South Carolina, the
23 District of Columbia federal courts, Rhode Island criminal
24 court and family Court, Virginia family court, I think that's
25 it.

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1 Q: And in what areas have you been qualified as an expert?

2 A: Child abuse pediatrics, and sometimes they use different
3 words for it, but essentially it's child abuse pediatrics.

4 Q: All right. And if you could estimate, how many times in
5 all those courts have you been qualified as an expert?

6 A: Every time and it's hundreds of times.

7 Q: Hundreds.

8 MR. SPRATLIN: Your Honor, at this time, the State would
9 tender Dr. Anne Abel as an expert in the area of pediatric
10 child abuse?

11 THE COURT: All right. Mr. Long, do you wish to voir
12 dire or the witness or challenge her qualifications?

13 MR. LONG: No, Your Honor.

14 THE COURT: All right. Thank you. The witness may give
15 her opinion in the field of child abuse pediatrics. You may
16 proceed.

17 MR. SPRATLIN: Thank you, Your Honor.

18 BY MR. SPRATLIN:

19 Q: Dr. Abel, were you retained by the State as an expert in
20 regards to the case we are here on today?

21 A: Yes.

22 Q: What documentation or any did you review as an expert
23 today?

24 A: I reviewed the prenatal record before the baby was born.
25 I reviewed the birth record, the outpatient pediatric visits,

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1 the Loris emergency room record, the McLeod Florence Hospital
2 pediatric intensive care record, the autopsy report, I
3 reviewed the images -- they call it the babygram -- I reviewed
4 the images of the brain flow study, I reviewed photographs
5 taken at the hospital and I reviewed the photographs taken at
6 the time of the autopsy and I reviewed the interview by the
7 father, which was sound only.

8 Q: Are these items that an expert in your field would
9 typically rely upon in forming opinions?

10 A: Yes.

11 Q: Now, Doctor, from your review of those documents, were
12 you able to form an expert opinion regarding the health of
13 **Minor** prior to December 18th, 2013?

14 A: Yes, he was a healthy child, growing appropriately for
15 his age. He'd had one episode of thrush, which is a little
16 fungal infection of the mouth, which is really common in
17 little babies and not serious, been treated for that. He was
18 quite healthy. And I think the last visit he had the doctor's
19 office approximately ten days before he came to the Loris
20 emergency room.

21 Q: Now, Doctor ---

22 A: It was a well child visit and he was well.

23 Q: --- now, Doctor, what injuries, if you're able to form a
24 medical -- to a reasonable degree of medical certainty based
25 on the records you reviewed, what sort of injuries did the

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1 child have?

2 A: He had bruises on his face and the front of his body. He
3 -- he was unconscious when he presented and had no heart rate
4 and no breathing. The images done immediately there at Loris
5 showed that he skull fractures, more than one, and he had
6 bleeding inside the head, called subdural bleeding and he had
7 evidence of swelling of the brain.

8 Q: Doctor, how consistent were the finding of the forensic
9 pathologist and the initial diagnosis at Loris Hospital?

10 A: They were the same as far as the bleeding. The
11 pathologist identified a little bit more. There was bleeding
12 inside -- inside the brain, there are these places called
13 ventricles where cerebral spinal fluid flows in and out of
14 those, the brain was so swollen that the ventricles were
15 almost slit-like. They were pushed together. Let's see what
16 else to say. Start with that question one more time?

17 Q: I was just gonna ask how consistent were the findings of
18 the forensic pathologist and the initial diagnosis at Loris
19 Hospital?

20 A: There was one difference.

21 Q: What was that?

22 A: It had to do with the fractures. The Loris Hospital
23 initial CT scan was read by the radiologist as bilateral
24 temporal parietal fractures; in other words, on both sides of
25 the head. The pathology report indicated that there was a

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1 eggshell-type fracture of the right calvarium, which is the
2 right half of the head and also eggshell fracture of the
3 occipital bone, which is at the back of the lower part of the
4 head.

5 Q: And you had a chance to review the autopsy photos?

6 A: Yes.

7 Q: Did they demonstrate that injury?

8 A: The photos show a lot of blood and show the skull, but
9 it's not all cleaned off so that you can clearly see where all
10 the fractures are and the photographs predominantly show the
11 right side and the back of the head.

12 Q: Okay. With head injuries as described here by either the
13 radiologist or the forensic pathologist, would a bruise
14 necessarily a bump on the skin above the fracture?

15 A: No. Many times children get fractures and there may be
16 swelling and that -- and painfulness, but the bruise doesn't
17 show sometimes never and that's a little bit different than
18 adults who get a fracture and they usually have a bruise, but
19 babies often don't. And the -- and in any case bruises are
20 bleeding under the skin and it depends on how much pigment is
21 in the skin if the bruise shows easily and if a child has a
22 very dark skin, bruises are harder to see. It also depends on
23 the tissue underneath and where exactly the bruise is.
24 Sometimes, it takes a day or two for a bruise to even show.
25 As we all know, when sometimes we hurt ourselves, we don't

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1 seen the bruise right away. It takes a while for it to show.

2 Q: Now, Doctor, is it possible to age a bruise or tell how
3 long that bruise has been there?

4 A: There is one paper -- well first of all, medical opinion
5 used to be that we could age bruises and in textbooks they
6 gave diagrams saying, if it's this color, it's this many hours
7 old. That has been proven to be untrue and we no longer say
8 that we have the ability to age bruises. There's one
9 exception. If there's any yellow or greenish color, which
10 requires yellow to be part of that, that it has to be at least
11 eighteen hours old. That's the one exception of any kind of
12 certainty of being able to forensically say this is how old
13 this bruise is.

14 Q: Doctor, regarding the injuries you've noted to the child
15 here today in court, to a degree of medical certainty, can you
16 determine how those injuries came about?

17 A: Well, the child could not have caused them to himself.
18 It took tremendous force. So, it's blunt force and that means
19 that the baby's head or body was impacted either by another
20 person who was much bigger or heavier or slammed against an
21 object, but the baby could not generate enough force. This is
22 an eleven-week-old baby, couldn't do it.

23 Q: So hypothetically speaking, Doctor, if a three-month-old
24 child was having a seizure, would that child be able to cause
25 these injuries to himself?

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1 A: Occasionally babies with seizures would fall down to the
2 floor. Rarely when a baby falls to the floor from a standard
3 height bed or couch, rarely they get a simple parietal
4 fracture, which is different than the kind of fracture that
5 this baby had, which were described as eggshell. It's sort of
6 a smash kind of a fracture.

7 Q: How high would a child have to fall in order to get a
8 fracture such as the one observed here in either in the
9 autopsy report or the CT scan?

10 A: Many stories, high elevation, many, many stories to a
11 hard surface, so, yeah.

12 Q: So, in your opinion would not have sustained these
13 injuries from falling either a bed?

14 A: That is correct.

15 Q: Okay. What sort of accidental trauma do you typically
16 see these kinds of injuries in a small child like this?

17 A: Well, first of all, this kind of injury is rare, but if a
18 child is in an automobile then there's a crash and the baby is
19 ejected and isn't properly seat belted in and they're ejected
20 out onto the pavement, they could get this kind of an injury.

21 Q: Doctor, given your entire review of this case, to a
22 reasonable degree of medical certainty, are you able to state
23 whether or not the injuries to this child were accidental?

24 A: Yes, I could say.

25 Q: And what's your opinion on that?

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1 A: That they're not accidental.

2 Q: And what do you base that opinion on?

3 A: On the injuries themselves and about the history given
4 and the lack of explanation.

5 Q: Now, Doctor, how soon after an impact such as the one at
6 issue here would you expect to see symptoms of the impact?

7 A: Well, there may have been more than one incidence of
8 injury to the child because we know that there are impacts to
9 the head on the front and impacts to the front of the chest,
10 which are separated by some inches and then there's injury to
11 the side of the head so you've got several instances. So, how
12 soon would they be symptomatic, I think we should address the
13 -- the blow or the injury that caused the skull fractures that
14 would be so severe that the baby would be unconscious
15 immediately.

16 Q: Would you expect to hear a child with that kind of injury
17 crying?

18 A: The final injury, no, they'd be quiet, unconscious.

19 Q: And again, with that sort of head trauma that you
20 described, would you expect the child to be eating?

21 A: No.

22 Q: How exactly would that head trauma lead to the death of a
23 child?

24 A: Well, the fracture itself doesn't kill the baby. What
25 kills the baby in this kinda case is the injury to the brain.

1 So, the brain has lost sufficient blood supply because it's
2 becoming so swollen and -- and then baby stops breathing. We
3 know the baby stopped breathing. So, the baby stops breathing
4 and, you know, they go into arrest, which the baby was in
5 arrest.

6 Q: How soon after an injury such as the one to this child's
7 head, would you expect the child to stop breathing?

8 A: It could be minutes or it could be an hour or two.

9 Q: Would you anticipate that child to be able to survive
10 days without treatment?

11 A: No. The child would pass away if they hadn't been
12 resuscitated with artificial breathing and cardiopulmonary,
13 you know, getting the heart going again.

14 Q: Now, Doctor, what could be used to inflict this kind of
15 injury upon this child?

16 A: Well, according to the medical reports and autopsy
17 photos, you can't tell what instrument was used, but it would
18 take great force either with an object or part of the human
19 body, such a foot or, or a fist.

20 Q: Now, Doctor, you mentioned the term eggshell fracture
21 earlier. Can you please provide the Jury with an explanation
22 of what an eggshell fracture is?

23 A: Yes. An eggshell fracture is not a simple fracture of
24 the skull. So, if the baby falls from -- for instance from a
25 hospital bed, occasionally they'll get a head injury and it's

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1 just a simple fracture right here in the parietal bone and the
2 baby's generally okay. An eggshell fracture is with much
3 higher force, like a child being ejected from a moving car
4 onto the pavement and the skull fracture is starred; it's --
5 there's multiple lines going from the impact site. So that's
6 described by some people as eggshell.

7 Q: Does it take more force or less force to create an
8 eggshell fracture?

9 A: More force.

10 Q: Besides the injuries you've described here today, did you
11 note any other abnormalities to the child?

12 A: Let me see. The brain, there were lots of findings in
13 the brain. There was subarachnoid bleeding, so all around the
14 surface between the bumpy gyri of the brain there was blood.
15 There was subarachnoid blood down into the cisterns or the
16 ventricles in the center of the head. There was subdural
17 bleeding, which is in a different compartment, which is
18 underneath the leathery covering of the brain. Between the
19 skull and the brain there's this leathery covering called the
20 dura, so under the dura there was a large subarachnoid, excuse
21 me, subdural bleed along the -- along the occiput and also
22 between the two halves of the brain.

23 Q: Were all those injuries you described, could they --
24 could they be a possible result of the impact to the head that
25 you've discussed today?

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1 A: Yes.

2 Q: Now, Doctor, hypothetically speaking, if a child with
3 great trauma had raised blood sugar, would there be a possible
4 explanation for that?

5 A: When -- usually when we see children with severe head
6 trauma, their body goes into compensatory mode and they -- the
7 blood sugar goes up and that's part of the body's response.
8 Also the bone marrow pumps out white blood cells and their
9 white blood count goes real -- goes up too and those are
10 normal compensatory response to severe injury. And I notice
11 in this case, the blood level was very high at Loris. By the
12 time the child got to McLeod, it had dropped by almost 150
13 points. It was still a little high, but it was dropping.

14 Q: Even if the blood sugar was high, would that have caused
15 the injuries that you saw in this child or reviewed in this
16 child?

17 A: No. Say the -- if the baby had diabetes, diabetes
18 doesn't cause skull fractures.

19 Q: Okay.

20 A: And the baby did not have diabetes, had no clinical signs
21 of diabetes prior to this injury.

22 Q: Doctor, are you familiar with a term called onset or
23 delayed onset concussions?

24 A: Yes.

25 Q: What are they exactly?

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1 A: Well, and it's pretty well known in the sports literature
2 and medical literature and pediatric literature that
3 concussions are not a good thing and if particularly a young
4 athlete has a concussion, everyone has to be careful that they
5 don't get more head injuries and that's what causes them to be
6 taken out of the game for a while and sometimes sent home with
7 no physical sports for a few weeks and followed carefully by
8 their doctor. Because in that case, if they got another
9 concussion, if they had one a few weeks earlier and they got
10 another one, they could have more severe damage to the brain,
11 not blood, damage to the neurons themselves.

12 Q: Did you notice anything in your view, in your expert
13 opinion that would lead you to think that this child may have
14 had some sort of delayed onset concussion?

15 A: No.

16 Q: What type of children do you normally see that in?

17 A: Delayed onset concussion?

18 Q: Yes, ma'am.

19 A: That would be part of general pediatrics and that would
20 be like if you were a sports medicine doctor, you'd be more
21 taking care of this kind of a problem.

22 Q: And how old would you typically -- how old would the
23 children typically be that you would typically see that in?

24 A: They'd usually be at the age where they're doing team
25 sports, maybe between six and eight up to eighteen.

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1 Q: Doctor, in your -- to a reasonable degree of medical
2 certainty, can you think of any other reasonable explanation
3 other than child abuse that could have accounted for these
4 injuries?

5 A: No.

6 Q: Thank you. I have no further questions. Please answer
7 any questions Mr. Long might have.

8 A: All right.

9 THE COURT: Counsel, you want to talk to me for a second
10 please?

11 (REPORTER'S NOTE: A bench conference was held off the record
12 in the presence of but out of hearing of the Jury.)

13 THE COURT: Proceed with your cross examination then.

14 MR. LONG: Thank you, Your Honor.

15 CROSS EXAMINATION OF DR. ANNE ABEL BY MR. LONG:

16 Q: Dr. Abel, I'm Buddy Long. I represent Hassan Tyler.
17 You've never met him, correct?

18 A: No, I have not.

19 Q: Have you ever met the mother of the child?

20 A: No.

21 Q: Any of her family members?

22 A: No.

23 Q: When were you first contacted about reviewing the medical
24 data in this case?

25 A: I recall within the last three to six months, I was

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1 contacted initially.

2 Q: Can you narrow that down a little more?

3 A: I didn't keep a record of that.

4 Q: All right. So, this month is March, it could have been
5 from October through December or January?

6 A: Yes.

7 Q: Okay. And when you were first contacted, who were you
8 contacted by?

9 A: The Solicitor's office; I believe it was Solicitor
10 Spratlin.

11 Q: Okay. All right. And he inquired about using you or
12 hiring you to interpret data concerning a -- this case,
13 correct?

14 A: Yes.

15 Q: All right. And did you and he agree upon the fee that
16 would be required or did he have to talk to MUSC about how
17 much the fee -- who the fee was to be paid to?

18 A: The fee is paid to MUSC.

19 Q: All right.

20 A: It doesn't go to me.

21 Q: Did he talk to you about that or did he have to talk to
22 MUSC about that?

23 A: He talked to me and I had the administrative assistant
24 send the standard letter.

25 Q: Okay. All right. And thereafter then once payment was

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1 received, then you requested documents and CT scans and things
2 of that nature to be able to start your review; in other
3 words, your time was paid for so you go went ahead and got
4 started then?

5 A: I have not sent the bill yet. The bill will be sent
6 after I'm through testifying.

7 Q: Okay. Which would include your fees for testifying here
8 today, correct?

9 A: Yes.

10 Q: All right. How long after your contact with the
11 Solicitor's office, did you receive documents and thereafter
12 begin reading and reviewing the documents?

13 A: I didn't keep that date written down. My recollection it
14 would be within a month.

15 Q: All right. So, we're talking anywhere from December to
16 possible February that you could have received the documents
17 and began reviewing it?

18 A: Like I said, I didn't keep a record. I told you the
19 estimate.

20 Q: All right. So, short answer is you don't know?

21 A: I don't know the exact date, no.

22 Q: Okay. All right. So, you don't know when you opened
23 your file and when you looked at the stuff?

24 A: I don't -- I don't keep a record of that type. I have
25 some dates that I met with the prosecutor. I know I had those

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1 dates and I don't have those with me; they're in my calendar.

2 Q: All right. And where is your calendar?

3 A: On my laptop at work.

4 Q: Okay. When approximately were the dates that you met
5 with the Solicitor?

6 A: I don't know.

7 Q: This year, last year?

8 A: Both.

9 Q: Okay. All right. Now when you received the reports,
10 everything that you reviewed for basing your opinion or did
11 you receive all that from the Solicitor's office?

12 A: Yes.

13 Q: All right. Did you independently receive any documents,
14 evidence, films, anything from Loris Hospital?

15 A: No.

16 Q: Or from McLeod Hospital?

17 A: No, they all came through the Solicitor's office.

18 Q: All right. So anything you received would have been
19 provided to you through him, correct?

20 A: Yes.

21 Q: All right. Did he have copies of the images themselves
22 that he provided to you?

23 A: I had a copy of the babygram and the brain depth -- the
24 brain flow study. I did have a copy of the CTs of the abdomen
25 and CTs of the head.

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1 Q: All right. And the abdomen -- I mean excuse me, the CTs
2 of the head are -- those were Dr. Brown or Dr. Barefoot had
3 taken those or provided those or prepared the reports on
4 those, correct?

5 A: I can look and see whose name is on them. Dr. Brown's
6 name is on the head CT.

7 Q: And you didn't have those to review?

8 A: I had the report, but I didn't have the actual images.

9 Q: Okay. All right.

10 A: And as far as CT of the abdomen, again, it's Dr. Brown.
11 I think Dr. Barefoot is the physician at Loris.

12 Q: At the emergency room?

13 A: Yeah, right.

14 Q: Okay. Now the documents the Solicitor provided to you,
15 was there any medical history provided to you other than the
16 child's wellness checkups; were you provided with the complete
17 histories provided to Loris Hospital and McLeod Hospital in
18 Florence?

19 A: Well, I have the hospital, Loris and McLeod, I have what
20 the emergency room doctor wrote down the history was and what
21 the nurses wrote down and the -- and I had the same thing for
22 McLeod.

23 Q: All right.

24 A: And as far as medical history, I have the prenatal
25 history, the birth history, the outpatient well child checks

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1 and sick visits. I believe I have the record.

2 Q: What relevance does positive seizures on the maternal
3 side have with your investigation into this matter?

4 A: What kind of seizures, what?

5 Q: Positive seizures on the maternal side?

6 A: Well, that's interesting and that's important.

7 Q: Was that -- was that contained in the information
8 provided to you for review?

9 A: No.

10 Q: I show you this document ---

11 A: Not that I recall.

12 Q: --- and ask you if that was the document provided to you
13 by the Solicitor's office?

14 A: I do have Dr. Ugale's report, let me see. Oh, there it
15 is, yes. There it is, I apologize, it's there; positive for
16 hypertension on the father and paternal grandfather; positive
17 seizures on the maternal side.

18 Q: All right. And would that be useful information to you
19 in conducting the review of this case?

20 A: I'm always interested in the family history.

21 Q: Now, are you saying that the radiologist simply read his
22 own films wrong?

23 A: There's -- there's a difference in the report and you
24 tend to think that the pathologist, who is doing the autopsy,
25 who is looking at the tissue would be quite accurate in where

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1 the injury was. The radiologist, it's an indirect way of
2 looking at the body. So, I, I have no particular explanation
3 why there is a slight difference in whether there was a
4 fracture on the left side. There seems to be universal
5 agreement among the doctors, including Dr. Ugale, at the that
6 the -- at McLeod that the fracture was on the right side and
7 then at autopsy they also see fracture going down into
8 occipital bone. So, I don't know what caused the radiologist
9 to interpret his findings slightly differently and see
10 fractures on both sides of the head.

11 Q: All right. Is it fair to say then that your testimony is
12 that the radiologist read his films wrong or incorrectly?

13 A: I don't know where the difference is. I don't know.

14 Q: All right. But you agree with Dr. Proctor that if
15 there's an inconsistency between the two, Dr. Proctor is
16 right, correct?

17 A: I would tend to think Dr. Proctor, the pathologist is
18 right because Dr. Ugale did have access to looking at the
19 images herself and concluded it was right-sided.

20 Q: All right. But you didn't even look at the CT scans?

21 A: I did not have a copy of the CT scans ---

22 Q: All right.

23 A: --- themselves.

24 Q: All right. That you say he must've read not entirely
25 correctly?

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- 1 A: I don't know.
- 2 Q: Okay.
- 3 A: There's a difference of opinion; that's all I can say.
- 4 Q: All right. You said that bruises don't always come with
- 5 fractures. Wouldn't that depend largely on the amount of
- 6 force that causes the fracture?
- 7 A: No. We have children in the hospital right now that have
- 8 serious femur fracture who don't have any bruising at all.
- 9 Q: Okay.
- 10 A: And that takes quite a lot of force to break the femur.
- 11 Q: And does it of course depend on what instrument is used
- 12 to cause a fracture whether or not bruising would appear?
- 13 A: Well, fractures can happen lots of ways; bending, impact.
- 14 If an instrument is used, sometimes you see a pattern injury,
- 15 which is a bruise.
- 16 Q: So, it depends upon not so much the force, but it does
- 17 have -- it does depend upon the type of instrument used as to
- 18 whether or not bruising may or may not appear; is that a fair
- 19 summation?
- 20 A: Well, some, some injuries don't cause bruising and some
- 21 aren't caused by instruments.
- 22 Q: All right.
- 23 A: So, that question is confusing.
- 24 Q: If I were to tip right now head first and hit my forehead
- 25 right on that carpet, okay, and fractured my skull, would you

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1 anticipate or say that there would be bruising associated with
2 that?

3 A: You'd tend to think that you would get a goose egg ---

4 Q: Okay.

5 A: --- and you may get a visible bruise.

6 Q: All right. What causes a goose egg?

7 A: Swelling of the scalp.

8 Q: Okay. Bleeding under the skin, correct?

9 A: Sometimes it's not even blood, it's just ---

10 Q: Okay. Fluid?

11 A: Yes, serum, yeah.

12 Q: All right. And that would either be called an egg or a
13 bruise; is an egg a bruise?

14 A: You can get a bump that doesn't have any color to it.

15 Q: Okay. So that would not be a bruise?

16 A: That's right. Bruises assume color.

17 Q: Okay.

18 A: You're seeing a color change.

19 Q: All right. Now, if this were a concrete floor instead of
20 carpet and I did the same thing head first and I fractured my
21 skull, would that create any more likelihood of bruising or
22 not?

23 A: It's possible on a more firm surface. However, as I
24 pointed out earlier, children are less likely to show bruises
25 with impact or fracture, particularly fracture than adults and

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1 we do not know why.

2 Q: Now you testified that based on your reading of Dr.
3 Proctor's reports and viewing the pictures and your reading of
4 the radiologist reports, whatever, that this child would have
5 had to fall many stories to get these type of injuries; is
6 that correct?

7 A: Yes, if the injuries had been from a fall, yes.

8 Q: All right. And by many stories, are you referring to
9 one, two, five, ten, twenty, what are you talking about many?

10 A: Two or more.

11 Q: Two or more stories?

12 A: To give you an example, a recent case, a toddler goes off
13 of a balcony ---

14 Q: I just need the number of stories, I don't need the
15 example.

16 A: Too bad.

17 Q: Thank you. If you estimate that a story is ten feet?

18 A: Ten, twelve.

19 Q: So you would estimate it had to be from twenty feet or
20 more to cause the type of injuries in this case?

21 A: Yes.

22 Q: All right. Based on your review on all that you looked
23 at?

24 A: Due to my clinical experience, yes.

25 Q: Now, your experience as a pediatrician, you have to stay

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1 current with all articles and other sources of information on
2 a variety, wide variety of topics, correct?

3 A: I, I try to stay current.

4 Q: All right. I'll show you these couple of documents and
5 ask you just to review that briefly and let me ask you a
6 couple of questions.

7 A: Yes.

8 Q: Do you agree that delayed onset of symptoms from
9 concussion, the delay is longer the younger the child or do
10 you disagree with those documents and say no, it doesn't
11 matter the age of the child?

12 A: All right. So you're talking about brain; you're not
13 talking about skull, you're talking about brain?

14 Q: I'm talking about symptoms from concussion?

15 A: But I want to make it clear we're not talking about
16 bleeding in the brain; we're talking about injury to the brain
17 cells and neurons. Concussion is from neuron damage, not from
18 blood, not from fractures. Now, you can get a concussion with
19 a severe injury that also has blood and fractures, but
20 concussions, if some -- if an athlete or a child had a
21 concussion from football say, an impact, if they have a skull
22 fracture they need to be evaluated and treated much
23 differently than if they had no skull fracture. If they had
24 bleeding in their head, they be hospitalized.

25 Q: You can have bleeding in the head without having a

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1 fracture, can't you?

2 A: You could.

3 Q: All right. And that would cause a concussion ---

4 A: But there would be physical ---

5 MR. SPRATLIN: Objection, Your Honor.

6 THE COURT: Just ---

7 A: --- there would be physical signs of bleeding in the head
8 that would be quite severe.

9 BY MR. LONG:

10 Q: If the person presented themselves with symptoms to a
11 medical practitioner?

12 A: Correct.

13 Q: And ---

14 A: We're talking about athletes. We're talking about
15 children much older than this baby.

16 Q: All right. What does it say in there about the younger
17 the child, the longer the delay in symptoms? You're saying
18 that ---

19 A: I don't, I don't disagree that there is delayed
20 concussion and a second injury can be more serious than a
21 single concussion injury. I don't disagree with you, that's
22 true.

23 Q: Now in your experience, are there many times injuries
24 that occur in emergency rooms, transportation, things of that
25 nature that you have to discount or ignore in making your

1 opinion or evaluation of the case?

2 A: All right. You're, you're inserting an idea. Let me
3 make sure I'm understanding what you're saying. Are you
4 saying that a child brought or in the process of being brought
5 to medical attention, something else happens and you're saying
6 that I'm taking that into account; is that what you're saying?

7 Q: No, let me restate my question.

8 A: Okay.

9 Q: Are there sometimes injuries received by patients in
10 emergency rooms or transportation or by medical procedures
11 used by doctors that you have to discount in making the
12 evaluation you make for purposes of court testimony or
13 whatever you do?

14 A: Yes.

15 Q: All right. And for example, if electric paddles are
16 placed on my chest for resuscitation and I have burn marks on
17 my chest, those would not be related in any way to any
18 diagnosis you would make of my cause of death or how I came to
19 be dead?

20 A: Yes.

21 Q: All right. Intubation, is there certain injuries in
22 involved with the placing of the tube down a child's throat?

23 A: Yes.

24 Q: All right. And intravenous needles and things of that
25 nature, don't those require or those cause some bruising or

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1 marks that don't have any connection with the facts of the
2 case?

3 A: That can happen.

4 Q: All right. And so any procedures used -- were you
5 informed of all procedures used by emergency personnel to
6 discount any injuries that might have or could have or were
7 not caused by them?

8 A: Well, the child was brought by the family, I believe the
9 father, to Loris, not by ambulance. So, the child arrived at
10 Loris straight from the family and the nurses' records and the
11 doctors' records indicate that they had to use the bag
12 resuscitation, they had to place an endotracheal tube, they
13 placed an IV line in from -- they put contrast in to do the
14 CTs of the abdomen and chest, but that was on, I believe, the
15 left lower leg which had a little swelling later noted where
16 they did that. They had to give IV drugs to get the heart
17 back, they had to do cardiopulmonary resuscitation.

18 Q: Okay. So, any injuries that you saw thought related to
19 those you, of course, wouldn't contribute to abuse?

20 A: That's correct.

21 Q: All right. But you're only doing that based upon the
22 notes that you read or were provided by the Solicitor's
23 Office.

24 A: Yes, I have to rely on the medical records, yes.

25 Q: Okay. Now, the Solicitor asked you about high blood

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1 glucose readings. I believe it was 407 at Loris Community
2 Hospital and I believe you testified that by the time he had
3 gotten to McLeod, it had dropped 150 or so?

4 A: Yeah, and it was approximately 150 a few hours later.

5 Q: Okay. Do you recall why it dropped; do you know why it
6 dropped?

7 A: In my professional opinion it dropped because the initial
8 body's response to dump sugar, that happens in severe trauma,
9 that it was already abating, it was going down.

10 Q: All right. Did you review the records to see that the
11 doctor administered half a unit of insulin in the emergency
12 room?

13 A: I did not see that.

14 Q: So the drop in insulin -- the drop in blood sugar could
15 be related to the insulin itself that was provided?

16 A: Insulin should help it go down, yeah, that's true.

17 Q: That's why the doctor gave it, correct?

18 A: Sure.

19 MR. LONG: Court's indulgence for just one moment?

20 THE COURT: Yes, sir.

21 BY MR. LONG:

22 Q: Thank you, ma'am. No further questions.

23 THE COURT: Redirect?

24 MR. SPRATLIN: Yes, sir, Your Honor.

25 REDIRECT EXAMINATION OF DR. ANNE ABLE BY MR. SPRATLIN:

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ANNE ABEL - REDIRECT BY SPRATLIN

1 Q: Dr. Abel, in your expert opinion, does blood sugar level
2 have anything to do with the injuries this child sustained?

3 A: No.

4 Q: The payment system that you went over with Mr. Long in
5 cross examination, is that standard?

6 A: Would you, please ---

7 Q: I'm sorry. The payment system, the way you are
8 compensated for your time as an expert witness, is that
9 standard in the cases that you deal with?

10 A: I have been asked those questions, yeah.

11 Q: Okay. But as far as the, the payment system that's in
12 place, is that standard; is it the same for pretty much every
13 case?

14 A: Yes, that's, that's our division policy. None of us
15 charge personally.

16 Q: And, Doctor, even if this child had had a seizure, in
17 your medical expert opinion, would that account for the
18 injuries to this child?

19 A: No.

20 Q: Is there any reasonable cause of these traumas other than
21 child abuse?

22 A: No.

23 Q: Thank you.

24 THE COURT: Anything on those questions, Mr. Long?

25 MR. LONG: No, sir, Your Honor.

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1 THE COURT: All right. Ma'am, you may step down.

2 Do you wish the witness to be excused?

3 MR. SPRATLIN: The State would request so, Your Honor.

4 THE COURT: Any objection to that?

5 MR. LONG: No objection, Your Honor.

6 THE COURT: All right. Ma'am, you are released from your
7 subpoena and you may go back to your regular duties.

8 BY THE COURT:

9 THE COURT: All right. Ladies and gentlemen, we're going
10 to break for lunch at this point in time. We'll -- I want you
11 to, if you would, be back at 2:25; please be back at 2:25, if
12 you would and then we'll resume at that point in time.

13 Remember don't talk about the case and don't allow
14 anybody to talk to you about it. Thank you very much.

15 (REPORTER'S NOTE: Jury exits courtroom. The following takes
16 place outside the presence of the Jury.)

17 THE COURT: Just for your information, Counsel, we're
18 marking the stipulation as a Court's Exhibit.

19 MR. LONG: Yes, sir.

20 MR. SPRATLIN: Yes, sir, Your Honor.

21 THE COURT: It will be part of the record like that.

22 COURT'S EXHIBIT NUMBER ONE

23 MARKED FOR IDENTIFICATION

24 THE COURT: For planning purposes, further witnesses by
25 the State or the next witness?

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1 MR. SPRATLIN: None, Your Honor.

2 THE COURT: All right. So the State would rest at this
3 point in time?

4 MR. SPRATLIN: Yes, sir.

5 THE COURT: All right. Hold on one second, please.

6 All right. Motions, Mr. Long?

7 MOTIONS:

8 MR. LONG: Yes, Your Honor. The existence of evidence or
9 non-existence of evidence is what's required at this stage to
10 make a motion for directed verdict. I realize that's the law,
11 Your Honor. Certainly there is evidence. So, for us to make
12 a motion for directed verdict at this point in time, there is
13 evidence. However, just like circumstantial evidence must
14 point basically to the same conclusion. We feel that the
15 medical evidence in this case should all point to the same
16 conclusion or in other words, point towards the Defendant's
17 guilt and we think there's conflicting evidence and testimony
18 concerning who or what or when or how or whatever and for that
19 reason we'd make a motion for directed verdict based on the
20 inconsistencies of the evidence presented on behalf of the
21 State.

22 THE COURT: All right. In this particular matter, when
23 the ruling on a motion for directed verdict as you indicated,
24 the Court is concerned with the existence or non-existence of
25 the evidence and not with its weight, not with its credibility

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1 or believability, that's the Jury's job. The Defendant would
2 be entitled to a directed verdict when the State fails to
3 produce evidence of the offense charged and the Court would
4 grant a directed verdict when the evidence merely raises a
5 suspicion that the accused is guilty. Suspicion obviously
6 implies a belief or opinion as to guilt based upon facts or
7 circumstances which do not amount to proof. However, I am not
8 required to find that the evidence infers guilt to the
9 exclusion of any other reasonable hypothesis. The Court has
10 to view all the evidence and all the reasonable inferences in
11 the light most favorable to the non-moving party and here that
12 obviously is the State. If any direct evidence or any
13 substantial circumstantial evidence reasonably tends to prove
14 the guilt of the accused, the Court should find that the case
15 should be submitted to the jury or in this case to the allow
16 the matter to proceed on. A case should proceed on or submit
17 it to the jury when the evidence is circumstantial, if it is
18 circumstantial, if there's any substantial evidence which
19 reasonably tends to prove the guilt of the accused or from
20 which his guilt can be fairly or logically deduced and
21 circumstantial evidence gains its strength from its
22 combination with other evidence and all circumstantial
23 evidence presented in a case must be considered together to
24 determine whether it is sufficient to submit to the jury.

25 I'll just mention a few things. I'm taken into

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1 consideration all of the evidence that has been presented in
2 this particular matter, but in this particular matter, the --
3 we do have certain testimony of how this Kristen Norris, who
4 is the registered nurse that first met the child or met the
5 infant in the arms of the Defendant at the Loris Hospital.
6 And her testimony about seeing the markings on the abdomen,
7 also on his neck and forehead, that she testified that the
8 work of the ER department, that she was with the baby the
9 whole time, that no bruising came from the working of the
10 emergency room, CPR; the bruising was there before the child
11 or at the time the child presented itself or was presented to
12 the staff at the ER; there was no staff pressure on the
13 abdomen; that she in fact was stated that the bruises that she
14 observed that the baby came into the hospital with them; that,
15 that the child was not moving at all when she first saw the,
16 the child.

17 That Dr. Barefoot testified that there was -- there was
18 no brain activity. He indicated there was no response from
19 the child. He talked about inserting the needle that would
20 cause any -- anyone -- that it was very painful and there was
21 no response from the child when that needle was inserted. He
22 talked about what the CT scans showed, the major trauma. He
23 again reiterated that the bruising and the marks were not
24 caused by the resuscitation events, that there was major
25 trauma to the child, a subdural hematoma was noted,

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1 hemorrhage, high trauma, severe injuries to the head and he
2 likened it to a -- what you would see in a car accident, not a
3 slip and fall. He indicated that the, the, the bruises that
4 obviously that his estimation, the bruises and fractures were
5 not caused by the high blood sugar.

6 Dr. Michael Brown talked about the fractures, subdural
7 hematoma, the extensive swelling of the soft tissue to the
8 bone, that you expect to find these kind of injuries in a
9 motor vehicle accident or an assault; that there were
10 extensive injuries to the -- to the child.

11 The -- Dr. Proctor indicated that there was -- the cause
12 of death was blunt force trauma to the skull. The manner of
13 death was homicide, that being death at the hands of another.
14 Those were his conclusions that the -- there was a significant
15 hard impact causing swelling of the brain, blunt force impact
16 was needed to cause the, the injuries. The -- he obviously
17 talked about the findings that he saw at the point in time.
18 There's the photographs that were introduced of the -- of the
19 child showing him in various stages before the injuries and
20 after the -- after the injuries.

21 And then obviously we just had the testimony of Dr. Anne
22 Abel indicating that the child could not have caused the
23 injuries to himself; that blunt force was needed to cause
24 these injuries; that it had to be impacted by a person or an
25 object; that the injuries were not accidental. There is no

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1 other reason for the injuries, but child abuse.

2 Those taken into consideration with all the other
3 evidence, obviously there's more than sufficient evidence to
4 present the matter to the jury for its consideration or at
5 least, at this point in time, for the case to go forward and
6 the Court respectfully decline to grant your motion for
7 directed verdict.

8 Further motions on behalf of the Defense?

9 MR. LONG: None, Your Honor.

10 THE COURT: All right. Very good. All right. What
11 we'll do is ---

12 MR. LONG: Wait a minute, Your Honor, I'm sorry. For the
13 record, we would renew our motion to exclude the testimony of
14 Anne Abel and request a mistrial based on the fact that it was
15 a violation of discovery materials and would move for a
16 mistrial on that -- on that regard for the record.

17 THE COURT: All right. I don't find it to be a violation
18 of discovery in any way. The underlying information that the
19 doctor relied upon was previously transmitted to the -- to the
20 Defense in standard discovery. I did have the State to give
21 to the Defense prior to her testimony, the ultimate
22 conclusions of Dr. Abel. I was willing to give you more time
23 to cross -- to wait before the cross examination. You
24 declined to take that additional time before you did your
25 cross examination, but I find there's no violation of the

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1 discovery rules, that the State provided all the information
2 and gave the Defense the ultimate conclusion of -- so I find
3 that they did everything, absolutely everything that they were
4 required to do in this particular matter.

5 MR. LONG: Thank you, Your Honor.

6 THE COURT: All right. Any further motions?

7 MR. LONG: No, sir.

8 THE COURT: All right. Very good. When we come back
9 from lunch, Mr. Long, I'll give you over that time period to
10 review the matter with your client and then we'll talk about
11 where the Defense is and if you intend to present witnesses,
12 where we might be with that and obviously also the testimony
13 of the Defendant.

14 MR. LONG: Yes, sir.

15 THE COURT: But we'll cover that all when we come back
16 from lunch, all right?

17 MR. LONG: Very good, Your Honor. What time would you
18 like us to be back?

19 THE COURT: 2:25. I told them 2:25. So why don't we say
20 like 2:20 something like that, y'all make sure that y'all are
21 in the courtroom, okay?

22 MR. SPRATLIN: Yes, sir, Your Honor.

23 MR. LONG: Very good.

24 THE COURT: Thank you very much.

25 (RECESS)

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1 MR. SPRATLIN: Yes, Your Honor.

2 THE COURT: Ask the Jury to come in please.

3 (REPORTER'S NOTE: Jury enters courtroom.)

4 THE COURT: All right. Solicitor, the State's position?

5 MR. SPRATLIN: At this time, Your Honor, the State would
6 rest.

7 THE COURT: Very good. Mr. Long, your first witness
8 please, sir.

9 MR. LONG: Thank you, Your Honor.

10 I call Hassan Tyler to the stand.

11 THE COURT: All right, sir. Please come around, sir, to
12 meet the Clerk right over here to be sworn, sir.

13 CLERK: Sir, please raise your right hand, place your
14 left hand on the Bible.

15 HASSAN TYLER, HAVING BEEN SWORN

16 TESTIFIES AS FOLLOWS:

17 CLERK: Thank you. Please be seated. State your full
18 name and spell your last.

19 MR. TYLER: Hassan Robert Tyler. T-Y-L-E-R.

20 DIRECT EXAMINATION OF HASSAN ROBERT TYLER BY MR. LONG:

21 Q: Hassan, can you move that microphone down just a little
22 bit; you're coming through a little too strong on it. All
23 right. You don't have to get that close to it.

24 How old are you, Hassan?

25 A: Thirty-eight.

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- 1 Q: And what's your birth date?
- 2 A: [REDACTED].
- 3 Q: Okay. So, you've got a birthday coming up in a couple of
- 4 days?
- 5 A: Tomorrow.
- 6 Q: Where were you born?
- 7 A: New York City.
- 8 Q: All right. And how long did you live in New York City,
- 9 how far did you go in school there or how old were you when
- 10 you moved?
- 11 A: I finished high school. I lived in New York twenty-
- 12 something years.
- 13 Q: All right. How long have you lived here in Horry County?
- 14 A: About twelve.
- 15 Q: All right. And have you lived in Loris the entire time?
- 16 A: Yes.
- 17 Q: Are you married, single or divorced?
- 18 A: Single.
- 19 Q: All right. Do you have children?
- 20 A: One.
- 21 Q: All right. And what is his name and age?
- 22 A: Amin Tyler and he's sixteen now.
- 23 Q: All right. And his first name is spelled A-M-I-N?
- 24 A: Uh-huh (affirmative response).
- 25 Q: Okay. Does he live with you?

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- 1 A: Yes.
- 2 Q: How long has he lived with you?
- 3 A: Say about fourteen years.
- 4 Q: All right. And did -- did his mother have custody of him
- 5 for a while?
- 6 A: Yes.
- 7 Q: All right. And when did you receive custody of him?
- 8 A: About seven years ago.
- 9 Q: All right. Now, he lives with you and you live with your
- 10 parents; is that correct?
- 11 A: Yes.
- 12 Q: All right. And how long have you lived with your parents
- 13 here in Horry County?
- 14 A: About five years.
- 15 Q: All right. You were arrested on this charge March of
- 16 2013; is that correct?
- 17 A: Yes.
- 18 Q: All right. Were you living on your own or were you
- 19 living with them at that time?
- 20 A: With my parents.
- 21 Q: With your parents. All right. What kind of work were
- 22 you doing at that time?
- 23 A: I was working in the hotel.
- 24 Q: All right. And what hotel was it?
- 25 A: North Beach Plantation.

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1 Q: And what was your position there?

2 A: Public Area.

3 Q: All right. And what does that involve; what are your
4 duties?

5 A: Clean the building, clean outside the building.

6 Q: All right. How long had you been there working there?

7 A: Two and a half years.

8 Q: All right. Did you meet Tametra Stinson working there?

9 A: Yes.

10 Q: All right. And what was her position there?

11 A: She was a housekeeper.

12 Q: Now, on a day-to-day basis, excuse me, whose responsible
13 primarily for your son, Amin?

14 A: Me.

15 Q: All right. When you're not working, who has his care and
16 responsibility?

17 A: My mom.

18 Q: All right. Has he been enrolled in school the whole time
19 he was here?

20 A: Yes.

21 Q: All right. And do you have any other family members to
22 help you with him if, for example, you're working or something
23 of that nature?

24 A: Yes.

25 Q: Who would help you raise him?

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- 1 A: My sister.
- 2 Q: All right. But you are primary, you're the main one?
- 3 A: Yes.
- 4 Q: Tell us how you feel about spanking; have you ever
- 5 spanked your son?
- 6 A: No.
- 7 Q: Have you ever felt the need to?
- 8 A: Yes.
- 9 Q: All right. Do you believe in spanking your son?
- 10 A: No.
- 11 Q: All right. How do you discipline him then?
- 12 A: Talk to him.
- 13 Q: All right. Do you ever have to raise your voice at him?
- 14 A: No.
- 15 Q: All right. Is this one of those the quieter you get, the
- 16 more madder he knows you are?
- 17 A: Yes.
- 18 Q: How is he doing in school?
- 19 A: He's a straight A student.
- 20 Q: Has your mom and dad been a big help with you as far as
- 21 lessons and things of that nature with him?
- 22 A: Yes.
- 23 Q: Describe the house that you live in; how many bedrooms,
- 24 things of that nature?
- 25 A: Two bedroom.

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1 Q: Two bedrooms and how is it divided as far as who sleeps
2 where?

3 A: My son sleeps in a room, in my room. My mother and my
4 dad sleeps in they room and I sleeps on the couch.

5 Q: All right. When, when **Minor** came over to visit this
6 night back in December, what were the sleeping arrangements to
7 be then?

8 A: He slept in the bed.

9 Q: All right. And where did Amin sleep?

10 A: On the couch.

11 Q: Okay. So y'all swapped places ---

12 A: Yes.

13 Q: --- is that correct? All right. Now, tell me starting I
14 guess we're talking about -- when did you first meet Tametra
15 Stinson as far as talking to her, become friends with her
16 and/or becoming romantic with her?

17 A: We was at the job.

18 Q: All right. And do you recall approximately what month of
19 what year?

20 A: No. It was say 2000 like '12, 2012.

21 Q: All right. And how long of a relationship did the two of
22 you have?

23 A: Not long.

24 Q: All right. Not long a week or not long a year; how long
25 are we talking?

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1 A: I'll say about six months, seven months.

2 Q: And the entire time, was that relationship romantic?

3 A: Yes.

4 Q: And sexual?

5 A: Yes.

6 Q: How did you become aware that she was pregnant?

7 A: Somebody on my job came and told me.

8 Q: All right. After that then did you have a conversation
9 with her where she told you herself?

10 A: I asked her and she told me.

11 Q: What was your position as far as her pregnancy; did you
12 object to it, did you agree with it, what was your position?

13 A: Well, we had a conversation before she got pregnant and I
14 told her I didn't want no more kids. I said if you get
15 pregnant and -- it happened.

16 Q: Were you mad with her ---

17 A: No.

18 Q: --- because she became pregnant?

19 A: No.

20 Q: You had a part in it, too, right?

21 A: Yeah.

22 Q: Okay. Now how long after she became pregnant did the
23 relationship start to fade off?

24 A: I'd say about two or three months.

25 Q: All right. Y'all continued to see each other on a

1 romantic basis?

2 A: Yes.

3 Q: Why did y'all grow apart or fall apart?

4 A: It was just more of a -- we didn't see eye-to-eye so ---

5 Q: Did she ever make any statements to you about wanting to
6 continue for you to be active in your child's life?

7 A: Yes.

8 Q: All right. When did these occur, first occur or how many
9 times did this occur?

10 A: That was after she had the baby.

11 Q: All right. After she had the baby, she of course knew
12 how to contact you, correct?

13 A: Uh-huh (affirmative response).

14 Q: All right. And she knew where you lived?

15 A: Yes.

16 Q: All right. Did she tell you when she had the baby?

17 A: Yes.

18 Q: All right. And were you aware beforehand of her due
19 date?

20 A: No.

21 Q: All right. Did she ever tell you her due date?

22 A: No.

23 Q: After she had the baby, describe the contact, if any, you
24 had with her, telephone, text ---

25 A: Telephone.

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1 Q: --- email, in face; how did y'all talk?

2 A: Telephone.

3 Q: All right. How many times do you think you talked to her
4 before ever going by to see your son?

5 A: I'd say every other day we'd talk.

6 Q: How old was **Minor** when you first went by to see him or
7 when you first saw him?

8 A: A few weeks old.

9 Q: And where was that; at your home or her home, where?

10 A: I believe my house. No, it was her house.

11 Q: Her house?

12 A: It was her house.

13 Q: How many times total did you visit with him, as best you
14 can estimate, between either her bringing him to your house or
15 you going to her house?

16 A: I'd say about five times.

17 Q: Did you and she have any conversations about your
18 continued involvement in his life?

19 A: Yes.

20 Q: All right. And give us basically the brief version of
21 that; what were y'all talking about?

22 A: Basically the conversation was about me taking care of my
23 child because her kids' father wasn't in they life so she
24 wanted me to be in my child's life.

25 Q: Did you agree to that?

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1 A: Yes.

2 Q: You loved -- did you love both your sons?

3 A: Yes.

4 Q: Now, on December the 18th, describe contact -- the
5 conversations you had with her leading up to your going to her
6 house?

7 A: I had to bring some Pampers. She called me a few days
8 before that and said my son needed Pampers. I had to work so
9 I said I'll bring it over on my next day off or when I get off
10 of work.

11 Q: Okay. And that would -- was that then Wednesday,
12 December ---

13 A: Yes.

14 Q: --- the 18th that you had arranged ---

15 A: Yes.

16 Q: --- to drop them by?

17 A: Yes.

18 Q: Where did you buy the Pampers from?

19 A: Walmart.

20 Q: All right. And are we talking about a little plastic
21 bag, box how much ---

22 A: I bought a box.

23 Q: A box, what size box?

24 A: The biggest box they had.

25 Q: All right. And wipes?

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- 1 A: Two boxes of wipes.
- 2 Q: All right. Did she ask for anything else other than
- 3 that?
- 4 A: No.
- 5 Q: All right. And so you were dropping those by to her
- 6 house that day, that evening, when was it?
- 7 A: That evening.
- 8 Q: All right. How many times had you spoken with her that
- 9 day do you think by text or by conversation?
- 10 A: Once.
- 11 Q: Just once?
- 12 A: Yeah.
- 13 Q: Who was with you when you went over there?
- 14 A: My dad and my son.
- 15 Q: All right. And was your dad driving?
- 16 A: Yes.
- 17 Q: His car?
- 18 A: Yes.
- 19 Q: Okay. When you got to her house, who went in with you?
- 20 A: I went in first.
- 21 Q: All right. And thereafter, did your dad and your son
- 22 come in after that?
- 23 A: Yes.
- 24 Q: All right. And when you got there, who was there at the
- 25 house as best you can remember?

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1 A: Ms. Stinson was, her sister was there, her step-father
2 was there, the mother was there and the kids was in the house.

3 Q: All right. How many people approximately would you
4 estimate that to be that were there?

5 A: I'd say about seven people.

6 Q: All right. When you were there and you brought in the
7 Pampers and the wipes and gave them to her?

8 A: Yes.

9 Q: Or were they still in the car and you had to go back to
10 get them?

11 A: We went outside and they was still in the car and I brung
12 them to her. She came outside with me.

13 Q: All right. Whose idea was it to ask -- well, let's --
14 did y'all visit then with **Minor** there at the house for a
15 little while?

16 A: Yeah.

17 Q: All right. And that would be you, your father and your
18 son were visiting with him?

19 A: Yes.

20 Q: All right. And visiting with other members of her family
21 as well?

22 A: Uh-huh (affirmative response).

23 Q: When did it first come up and how did it first come up
24 about him coming to spend the night with you?

25 A: My dad asked me, he said, well, you're off tomorrow, so

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1 if you're not doing nothing, you should take him and I said I
2 will if she let me.

3 Q: Was this done in Tametra's presence or outside?

4 A: She was standing right there.

5 Q: Okay. All right. Go ahead.

6 A: I asked her and she said yeah.

7 Q: All right. Did she give you any specific instructions
8 concerning how much he eats and how often he eats; did she
9 tell you all that kind of good stuff?

10 A: Nope.

11 Q: All right. Did she tell your dad about any of that?

12 A: Nope.

13 Q: All right. Did she know or what -- did she know you knew
14 how to raise a child?

15 A: Yeah.

16 Q: All right. Did she think you knew how to raise a baby?

17 A: Yeah.

18 Q: How long after this conversation about him coming to your
19 house to spend the night, how much longer were y'all there at
20 her house?

21 A: Seven or eight minutes.

22 Q: All right. And during that time, what was she doing?

23 A: Getting him ready.

24 Q: All right. And by getting him ready, what do you mean?

25 A: Putting his clothes in the baby bag, getting his bottles.

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1 Q: Okay. Then what about his car seat?

2 A: She gave me that to.

3 Q: All right. So then seven or eight minutes, then you and
4 your father and your two sons are leaving the house, correct?

5 A: Yes.

6 Q: All right. When you got home, how far of a drive is it
7 from her house to your house?

8 A: About almost thirty minutes. I'd say about thirty
9 minutes.

10 Q: All right. So it took y'all approximately thirty minutes
11 on the road?

12 A: Yeah.

13 Q: Was there any stops in between?

14 A: No.

15 Q: All right. After you got to your house, approximately
16 what time was that?

17 A: About quarter till 8:00.

18 Q: All right. And what briefly happened when you got home;
19 what ---

20 A: Well, we got home and I took him out the car seat, I sat
21 on the couch. Then my mother came out the room in the living
22 room and we sat in the living room.

23 Q: All right. Who else was at your house when you arrived
24 there? I know you, your father and your son were riding with
25 **Minor** and your mom was at home. Who else, if anyone, was home

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1 when you got home?

2 A: Just my mom.

3 Q: All right. Did anyone else come over that evening?

4 A: No.

5 Q: All right. Do you have sisters; did they come over that
6 evening?

7 A: No.

8 Q: Now, when you got there, home, a little before 8:00, did
9 you have any conversations with Tametra shortly after you got
10 home?

11 A: Yeah.

12 Q: All right. And tell us what that conversation was?

13 A: She texted me and told me I forgot his pacifier.

14 Q: All right. And what conversations did you have with her
15 about that?

16 A: I texted her back and I said I'm not worried about it,
17 he'll be all right.

18 Q: Did you have any telephone conversations with her about
19 the pacifier?

20 A: No.

21 Q: All right. Just that?

22 A: Yeah.

23 Q: Now, describe how he was without a pacifier?

24 A: Cranky.

25 Q: All right. Cranky how? Just minor in distress or

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1 wailing, hollering and yelling?

2 A: Minor distress.

3 Q: All right. And what did you do to try to settle his
4 distress?

5 A: I just held him and rocked him.

6 Q: All right. Was your mom helping you during this time as
7 well?

8 A: Yes.

9 Q: All right. The first feeding that he had when you got
10 home with him, did you have to make a bottle or did she
11 provide -- Tametra provide a bottle?

12 A: I made a bottle. There was a bottle already in there,
13 but he already drunk out of that already.

14 Q: All right. What size bottles are we talking about, are
15 you talking about four/six ounce bottles or are you talking
16 about the bigger bottles; which -- what size bottles did he
17 use?

18 A: I'd say the four/six.

19 Q: The smaller of the two?

20 A: Yeah. A little bigger.

21 Q: And did she provide instructions on how to mix his
22 formula?

23 A: No.

24 Q: All right. What about the cereal? We've heard talk
25 about him needing cereal; did she provide any information

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1 about adding cereal to it?

2 A: No.

3 Q: Where did you come up with the idea of adding cereal to
4 his -- to his meal?

5 A: She told me.

6 Q: She told you?

7 A: Yeah.

8 Q: Tametra told you?

9 A: Yeah.

10 Q: All right. And what did she tell you about cereal?

11 A: She told me to put a little cereal in his bottle because
12 milk don't get him full.

13 Q: All right. In other words it'd stick with him and he'd
14 sleep better?

15 A: Yeah.

16 Q: Okay. So then that evening was there any cereal put in
17 his formula?

18 A: Yes.

19 Q: All right. From the time you got home, how long would
20 you estimate he was up and y'all were talking or playing or
21 whatever y'all did?

22 A: I'd say forty-five minutes.

23 Q: All right. And during that time, did your dad take a
24 picture of him?

25 A: Yeah.

1 Q: All right. And that's the picture that's in evidence
2 here?

3 A: Uh-huh (affirmative response).

4 Q: Here? All right. After forty-five minutes or during
5 that forty-five minutes, how would you describe him?

6 A: Tired.

7 Q: Tired?

8 A: Sleep most of the time. That's all he really did was
9 sleep.

10 Q: All right. For forty-five minutes he was up though,
11 right?

12 A: Yeah.

13 Q: All right. And was your son holding him any, playing
14 with him, goo-goo eyeing him, anything of that nature?

15 A: No.

16 Q: I'm talking about your oldest son?

17 A: No.

18 Q: Okay. Did your oldest son visit with him?

19 A: Yeah.

20 Q: Okay. And your dad, did he hold him ---

21 A: No.

22 Q: --- hey, there's my grandson, anything of that nature?

23 A: No.

24 Q: All right. So, primarily it was you and your mom?

25 A: Yeah.

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1 Q: All right. After forty-five minutes you say he fell
2 asleep, where was he when he fell asleep?

3 A: On my bed.

4 Q: All right. Did he fall asleep before being placed on the
5 bed or did y'all take him back and put him on the bed and then
6 he fell asleep?

7 A: Put him on the bed.

8 Q: All right. And when you put him in your bed, how did you
9 place him in your bed?

10 A: In the middle of the bed.

11 Q: All right. Did you take any precautions around --
12 anything around him?

13 A: Two pillows.

14 Q: And does he sleep face up or face down?

15 A: On his stomach.

16 Q: All right. And is that something Tametra told you?

17 A: No.

18 Q: All right. How did you know he sleeps face down?

19 A: Most babies sleep on they stomach. They sleep better on
20 they stomach.

21 Q: Okay. So, you put him face down in the middle of your
22 bed ---

23 A: Uh-huh (affirmative response).

24 Q: --- and two pillows around him. All right. Then did he
25 go to sleep or did he stay awake? Did you stay with him until

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1 he fell asleep, what happened there?

2 A: I stayed with him until he fell asleep and then I put him
3 in the bed.

4 Q: How long was that?

5 A: I'd say about ten, fifteen minutes.

6 Q: All right. And during that time, what were you doing
7 with him?

8 A: Just laying there.

9 Q: All right. After ten, fifteen minutes or so what did you
10 do?

11 A: Got up and started watching T.V.

12 Q: All right. So you went back out to the living room?

13 A: Uh-huh (affirmative response).

14 Q: All right. And who was out in the living room at that
15 time?

16 A: My dad and my son.

17 Q: All right. Where was your mom?

18 A: In her room.

19 Q: All right. How long approximately did you stay in the
20 living room until you decided to go to bed?

21 A: About fifteen, twenty minutes.

22 Q: Okay. Now, when you went in to go to sleep, you went
23 back to your room, correct?

24 A: Yes.

25 Q: Where he was sleeping?

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- 1 A: Uh-huh (affirmative response).
- 2 Q: All right. How did you sleep in relation to where he was
3 in the bed?
- 4 A: I slept on the bottom of the bed.
- 5 Q: All right. By the bottom of the bed, you mean the foot
6 of the bed?
- 7 A: Yes.
- 8 Q: All right. So, he was in the center with the pillows and
9 you slept across the foot of the bed?
- 10 A: Yes.
- 11 Q: All right. Are you a restless sleeper?
- 12 A: No.
- 13 Q: All right. Do you toss and turn in your sleep?
- 14 A: No.
- 15 Q: All right. Do you think you tossed and turned in your
16 sleep that night?
- 17 A: I might have did.
- 18 Q: All right.
- 19 A: I'm not like a hard sleeper.
- 20 Q: Now, when you fell asleep that night, did you wake up any
21 time during the night or did **Minor** wake up any time during the
22 night?
- 23 A: I woke up. I woke up to go to the bathroom.
- 24 Q: Do you know approximately what time that was?
- 25 A: No.

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- 1 Q: All right. What woke you up?
- 2 A: I had to go to the bathroom.
- 3 Q: All right. And then you went to the bathroom and came
- 4 back to bed?
- 5 A: Uh-huh (affirmative response).
- 6 Q: All right. Did **Minor** wake up during any of that time?
- 7 A: No.
- 8 Q: All right. Did you check on him when you did that?
- 9 A: Yes.
- 10 Q: And where was he sleeping?
- 11 A: Still in the middle of the bed.
- 12 Q: Okay. That following morning, what time approximately
- 13 was it when you woke up?
- 14 A: It was before 7:00.
- 15 Q: And was your mom already up at that time?
- 16 A: Yes.
- 17 Q: All right. And your dad had long been up, correct?
- 18 A: Yeah.
- 19 Q: All right. He gets up real early?
- 20 A: Yeah, he's a early bird.
- 21 Q: All right. What about your oldest son?
- 22 A: He was getting ready for school.
- 23 Q: All right. What time does he have to leave the house to
- 24 be in school?
- 25 A: He was running late so my sister had to take him to

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- 1 school.
- 2 Q: All right. And what -- when did your -- your sister was
- 3 coming by to pick him up?
- 4 A: Yes.
- 5 Q: All right. And what time do you think it was when your
- 6 sister came by to pick him up?
- 7 A: After eight.
- 8 Q: All right. Did your sister come in or did she just pull
- 9 up and beep the horn?
- 10 A: She just pulled up and hit the horn.
- 11 Q: Okay. What time -- all right. After you got up and your
- 12 momma, how long after that was it that **Minor** got up?
- 13 A: He woke up -- he woke up -- I woke up first and then he
- 14 was up. When I woke up and looked over, he was -- he was
- 15 already up.
- 16 Q: All right. And by up, how do you mean; describe how you
- 17 knew he was up?
- 18 A: He had -- he was making like a -- I want to say crying,
- 19 but like I just got a bottle or either pacifier, like a little
- 20 whine. It was like a little whine.
- 21 Q: Okay. Who changed his diaper that morning?
- 22 A: I did.
- 23 Q: All right. And which one was it, poopy or pee-pee?
- 24 A: Pee.
- 25 Q: All right. After he was changed, then what did you do?

1 A: I went and about to make him a bottle. My mother said
2 give him to me and I'll hold him while you go make the bottle.
3 Q: Okay. So then you picked him up out of bed?
4 A: Uh-huh (affirmative response).
5 Q: And took him to your mom?
6 A: Yes.
7 Q: She in her room or in the living room?
8 A: She was in her room.
9 Q: All right. So you took him to her in her room and you
10 went to make the bottle?
11 A: Yes.
12 Q: All right. You made the bottle, what -- what did you do?
13 A: I gave the bottle to my mother.
14 Q: All right. And did she feed him the bottle?
15 A: Yes.
16 Q: All right. Do you know whether or not he ate the entire
17 bottle?
18 A: He drunk half.
19 Q: Okay. Half of it?
20 A: Uh-huh (affirmative response).
21 Q: Do you remember how many ounces it was you made?
22 A: No.
23 Q: After feeding him, what happened after that?
24 A: She -- my mother burped him. She said I got to get ready
25 for work, so I held him, rocked him a little bit until he fell

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- 1 back to sleep.
- 2 Q: All right. How long was this then before he fell back
- 3 asleep?
- 4 A: A few minutes.
- 5 Q: How long total do you think he would have been up from
- 6 the time he woke up and was making little sounds whatever
- 7 until after he was fed, burped and then fell back to sleep?
- 8 A: About thirty minutes.
- 9 Q: Okay. And so when he fell back asleep, where was he
- 10 placed to sleep?
- 11 A: Back on my bed.
- 12 Q: Back on your bed?
- 13 A: Yes.
- 14 Q: Okay. Because your momma was still getting ready?
- 15 A: Yeah.
- 16 Q: What time was it approximately when she left the house?
- 17 A: After 8:00.
- 18 Q: All right. And she has to be to work at what time?
- 19 A: 9 o'clock.
- 20 Q: Your father, was he there any time during the time that
- 21 you got up and were fixing formula, et cetera, things of that
- 22 nature?
- 23 A: Yes.
- 24 Q: All right. Was she watching him while you took care of
- 25 other duties you had to take care of after waking up?

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- 1 A: Yeah.
- 2 Q: Eat breakfast, going to the bathroom, things of that
3 nature?
- 4 A: Yeah.
- 5 Q: After your mom left for work, what's the next time that
6 **Minor** woke up or you had any contact with him or anything?
- 7 A: It was about -- he got up about 11-eleven something; 11-
8 something I made him another bottle.
- 9 Q: All right. Early 11-something or late 11-something?
- 10 A: Late.
- 11 Q: Closer to 12:00?
- 12 A: Yeah.
- 13 Q: All right. And you made him another -- what type of
14 bottle?
- 15 A: Half a bottle. I made him a half a bottle.
- 16 Q: All right.
- 17 A: With a little cereal in it.
- 18 Q: Did you put cereal in that one?
- 19 A: Yeah.
- 20 Q: Okay. And did you feed it to him?
- 21 A: Yes.
- 22 Q: All right. Was your dad home at this time?
- 23 A: Yes.
- 24 Q: I mean inside at this time?
- 25 A: Yes.

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1 Q: Okay. And then where did you feed him?

2 A: In the living room..

3 Q: All right. Were you watching T.V. while you fed him?

4 A: Yes.

5 Q: All right. After feeding him, what did you do?

6 A: I rocked him and burped him. I burped him first then I
7 rocked him to see if he'd go back to sleep.

8 Q: All right. And did he?

9 A: Yes.

10 Q: All right. Where did you place him then when he went
11 back to sleep?

12 A: Back on my bed.

13 Q: Back on your bed?

14 A: Uh-huh (affirmative response).

15 Q: Now, was your dad in the house the whole time, outside of
16 the house the whole time or in and out in there ---

17 A: In and out.

18 Q: --- from that point forward?

19 A: He was in and out.

20 Q: All right. Did **Minor** ever cry or scream or holler or
21 anything any time after you put him down -- put him down to
22 sleep again?

23 A: No.

24 Q: All right. Was he crying or screaming or yelling any
25 time when he was with you?

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- 1 A: No.
- 2 Q: All right. When he cries, did he cry at any time while
3 he was with you?
- 4 A: He cried.
- 5 Q: All right. What type of cry was it?
- 6 A: I'll say a pacifier cry; I don't have my pacifier.
- 7 Q: I mean, was he screaming at the top of his lungs or ---
- 8 A: No.
- 9 Q: Okay. When's the next time you looked at him or checked
10 on him or saw him or whatever?
- 11 A: It was about quarter to 1:00; about a quarter to 1:00.
- 12 Q: All right. During this time or before that, had you had
13 any conversations with Tametra?
- 14 A: Yeah.
- 15 Q: All right. And was this my text, by telephone, by voice
16 mail; how was it?
- 17 A: Telephone.
- 18 Q: Telephone. All right. And what discussions were y'all
19 having at that time?
- 20 A: I asked her what time she was getting home.
- 21 Q: All right. And why were you concerned about what time
22 she was getting home?
- 23 A: So I could take my son back.
- 24 Q: All right. And did you, the two of you agree upon a time
25 or was it still up in the air?

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- 1 A: It was the -- it was in the air.
- 2 Q: All right. So then quarter to 1:00, what happened; did
- 3 you go to check on him or did -- what happened?
- 4 A: I went to go check on him.
- 5 Q: All right. And what did you see when you went to check
- 6 on him?
- 7 A: It was like I went to check on him and he was like -- he
- 8 was laying on his stomach and he had his arms out. He had his
- 9 arms like -- he had his arms stiff like this and his head was
- 10 just moving a little bit so I turned him over. When I turned
- 11 him over, his arms was -- his arms was locked and his legs was
- 12 locked out and I'm moving his arms trying to fold it and they
- 13 wouldn't unfold.
- 14 Q: By folding it you mean bend the elbow?
- 15 A: Yes.
- 16 Q: Okay. So in other words they were locked ---
- 17 A: Yes.
- 18 Q: All right. How long did you attempt to try to take care
- 19 of him then?
- 20 A: About two or three minutes.
- 21 Q: All right. And during that two or three minutes, I think
- 22 we've already heard you describe you thought he was in some
- 23 kind of seizure?
- 24 A: Yes.
- 25 Q: Did you have to run out and go get your dad, did your dad

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- 1 come in or was he in; how was your dad ---
- 2 A: He was walking through the door.
- 3 Q: He did what?
- 4 A: He was walking through the door.
- 5 Q: All right. And when you heard him walking through the
- 6 door, what did you do?
- 7 A: I, I told him to come here, come into the room.
- 8 Q: All right. Where was your dad employed for the longest
- 9 time?
- 10 A: He was a hospital police officer.
- 11 Q: All right. And that was at which hospital?
- 12 A: What is the name of it?
- 13 Q: In New York?
- 14 A: Yes, Queens, New York.
- 15 Q: And how many years did he do that?
- 16 A: Twenty-something years.
- 17 Q: All right. So, you called him in and you asked him?
- 18 A: Yes.
- 19 Q: All right. And what conversations did you have about
- 20 what was happening? What did you tell your dad?
- 21 A: I asked him, I say can you look at him because I think
- 22 there's something wrong and he looked at him and he said I
- 23 think he having a seizure.
- 24 Q: All right. At that point in time then what did you
- 25 and/or he decide to do?

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- 1 A: I called his mother first.
- 2 Q: All right. And you called her from where, from your
3 house or the car?
- 4 A: From my house, from my house.
- 5 Q: And what did you tell her?
- 6 A: I told her something wrong with our son and I'll be --
7 I'm going to the hospital.
- 8 Q: All right. Did you tell her you were going straight to
9 the hospital from the house?
- 10 A: Yes.
- 11 Q: All right. How long did it take you then to get in the
12 car and get on the way?
- 13 A: About five minutes.
- 14 Q: All right. And what was being done during that five
15 minutes?
- 16 A: My father went downstairs to crank the car up. I was
17 getting his stuff together and put him in the car seat and ran
18 down the steps.
- 19 Q: All right. Were you dressed already or did you still
20 have on night clothes?
- 21 A: I was dressed.
- 22 Q: All right. And he still had on -- **Minor** still had on
23 pajamas, correct?
- 24 A: Yes.
- 25 Q: All right. So you got him dressed?

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- 1 A: Yes.
- 2 Q: All right. And then took him downstairs?
- 3 A: Yes.
- 4 Q: Was the car seat still in the car or was it in the house?
- 5 A: It was in the house.
- 6 Q: All right. So you had to get the car seat as well?
- 7 A: No, I brung the car seat down with me when I had him in
- 8 the car seat.
- 9 Q: So then when you got in the car, where were y'all
- 10 heading?
- 11 A: To the hospital.
- 12 Q: All right. How long a drive is it from there to the
- 13 hospital?
- 14 A: Not far.
- 15 Q: Not far, one mile or not far, thirty miles?
- 16 A: About a mile.
- 17 Q: About a mile?
- 18 A: Uh-huh (affirmative response).
- 19 Q: All right. How was your dad driving?
- 20 A: Fast.
- 21 Q: On the way to the hospital, did anything else happen?
- 22 A: Yes.
- 23 Q: All right. What happened?
- 24 A: My son started breathing -- his breathing was unnatural.
- 25 It was like he was wheezing for air.

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- 1 Q: All right. Were you in the back seat with him or were
2 you in the front seat?
- 3 A: The back seat.
- 4 Q: All right. You were beside him?
- 5 A: Yes.
- 6 Q: And he was in the car seat?
- 7 A: Yes.
- 8 Q: When you noticed him wheezing or breathing whatever, what
9 did you do?
- 10 A: Took him out the car seat.
- 11 Q: How long did you hold him then until y'all arrived at the
12 hospital?
- 13 A: The whole time.
- 14 Q: I know, but how long was that, seconds, minutes?
- 15 A: Two or three minutes.
- 16 Q: All right. So, you had him in your arms in the car?
- 17 A: Yes.
- 18 Q: And that's how y'all arrived at the hospital?
- 19 A: Yes.
- 20 Q: All right. When you got to the hospital, what did you
21 do?
- 22 A: Took him straight to the emergency room.
- 23 Q: All right. Who did you first hand him off to?
- 24 A: The nurse at the desk.
- 25 Q: All right. And that would be I guess like a

1 receptionist?

2 A: Yes.

3 Q: All right. Did she take him straight back or did a
4 different nurse come to take him back?

5 A: She took him straight to the back.

6 Q: All right. Were you instructed whether or not to come
7 with them, to stay there, were you told anything?

8 A: No.

9 Q: What did you do?

10 A: Tried to get to the back.

11 Q: All right. And did you go back into the room with them?

12 A: Yes.

13 Q: All right. Who did you first talk to at the hospital
14 about what happened or why you were coming in? Who did you
15 first talk to?

16 A: The receptionist at the desk.

17 Q: All right. And what information did you give her; what
18 you've just told us?

19 A: Yes.

20 Q: All right. Did you give her an indication of how long he
21 had either been in seizure or had trouble with breathing?

22 A: Yes.

23 Q: All right. And how long would you have told them?

24 A: I told her that he had like -- he had a seizure for a few
25 minutes. When I came in there he must've been already seizing

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1 and when I turned him over, the first thing I did was call my
2 dad and my dad said let's go to the hospital.

3 Q: Okay. So, how long do you think you would have told them
4 that he would have either been in seizure or in this distress?

5 A: I'd say about five minutes, five or six minutes.

6 Q: Now, what time was that approximately that you were at
7 the hospital; do you remember exactly?

8 A: It was around 1 o'clock.

9 Q: All right. How long were you there at the hospital with
10 him?

11 A: The whole time.

12 Q: All right. And that would've been until approximately
13 what time; what time did they airlift him out?

14 A: I'd say about 4:00 or 5:00.

15 Q: Okay. How long was it before Tametra got there?

16 A: A few minutes after I arrived.

17 Q: All right. Was she allowed back into the room with you
18 as well?

19 A: Yes.

20 Q: All right. How long did y'all remain in the room until
21 anyone asked you to leave?

22 A: About an hour.

23 Q: All right. And who was it that asked you first to leave?

24 A: The nurses.

25 Q: All right. And did the nurse ask you to leave or you and

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1 Tametra to leave or how did that go?

2 A: They wasn't -- they ain't never talked to me, never asked
3 me a question, nothing. They just -- when I went back there,
4 they told me to step out the room and they closed the door.

5 Q: All right. And was that when the police officer got
6 there?

7 A: Before that.

8 Q: Before that. Now, how long was it approximately until
9 the police officer arrived or you talked to any police
10 officers there?

11 A: A few minutes.

12 Q: All right. A few minutes after you were told to leave?

13 A: Yes.

14 Q: Okay. All right. And was the officer, Chief Vaught,
15 here that first talked to you?

16 A: No.

17 Q: Who was it that first ---

18 A: Another officer.

19 Q: All right. And did he try to get a statement from you or
20 information from you or did he just simply say you need to
21 talk to Chief Vaught?

22 A: He asked me some information.

23 Q: All right. And did you volunteer information to him?

24 A: Yes.

25 Q: All right. And then afterwards then did Chief Vaught

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1 come talk to you?

2 A: Yes.

3 Q: All right. And did you fully explain to him what had
4 happened?

5 A: Yes.

6 Q: All right. How long did he stay at the hospital -- how
7 much longer were you at the hospital after talking with Chief
8 Vaught?

9 A: Until they flew my son to Florence.

10 Q: All right. And what did you do after he was flown to
11 Florence?

12 A: Got in the car and went to Florence.

13 Q: All right. Who drove you there or whose car did you
14 drive there?

15 A: I rode in my dad car.

16 Q: All right. Who was with you -- did your dad drive or you
17 drove?

18 A: My, my dad drove.

19 Q: All right. Who else rode with you?

20 A: Me, my dad and my brother in-law.

21 Q: Okay. And y'all went straight to Florence?

22 A: Yes.

23 Q: All right. And who flew with your son?

24 A: My sister.

25 Q: All right. And what's her name?

- 1 A: Kenya Tyler.
- 2 Q: All right. Why didn't Tametra fly with your son?
- 3 A: Don't know.
- 4 Q: All right. You were never told?
- 5 A: No.
- 6 Q: Okay. How long then did you stay at Florence -- at
- 7 Florence; that was McLeod?
- 8 A: Yes.
- 9 Q: How long did you stay there?
- 10 A: All night.
- 11 Q: Over night?
- 12 A: Yes.
- 13 Q: Okay. And were you in the waiting room, reception room,
- 14 the whole time?
- 15 A: Yes, waiting room.
- 16 Q: All right. And was Tametra there the whole time with
- 17 you?
- 18 A: Yes.
- 19 Q: Were y'all ever permitted to go back to see **Minor**
- 20 A: Yes.
- 21 Q: All right. Did y'all go back together or separately or
- 22 how did ---
- 23 A: Together.
- 24 Q: All right. Did she ever ask you what happened to him?
- 25 A: No.

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- 1 Q: Did you ever explain to her about the seizures?
- 2 A: Yes.
- 3 Q: All right. Did she ever have any follow-up questions
- 4 once you explained what happened to **Minor**
- 5 A: No.
- 6 Q: Now, what time was it when you left Florence?
- 7 A: I left, it was that night we left. We left that night.
- 8 We stayed -- we got there that afternoon. I stayed the whole
- 9 night and I left that night, the next night.
- 10 Q: The next night?
- 11 A: Yes.
- 12 Q: Okay. So you were there probably a full twenty-four
- 13 hours?
- 14 A: Yes.
- 15 Q: All right. How did you get back from Florence back to
- 16 Loris?
- 17 A: My sister came and got me.
- 18 Q: Okay. Was that Kenya?
- 19 A: Yes.
- 20 Q: Okay. All right. She came and got you and you came home
- 21 to change ---
- 22 A: Uh-huh (affirmative response).
- 23 Q: --- whatever. What was **Minor** condition at that point in
- 24 time; had hospital personnel been letting you know how he was
- 25 doing or how he wasn't doing, anything like that?

1 A: No.

2 Q: All right. Did you know what his condition was when you
3 left?

4 A: No.

5 Q: All right. Did you tell Tametra bye when you left?

6 A: Yes.

7 Q: All right. Did you ask her to call you if anything
8 happened or if she needed anything?

9 A: Yes.

10 Q: After you got home then what did you do?

11 A: I took a nap.

12 Q: All right. And approximately how long did you sleep?

13 A: About two hours.

14 Q: All right. Did you have to go to work that next day?

15 A: No.

16 Q: All right. That next day, that would have been Sunday;
17 is that what day it was?

18 A: Saturday.

19 Q: Saturday. Okay. Excuse me. The evening when you got
20 back from Florence, did you have any conversations with police
21 officers at that time?

22 A: Yes.

23 Q: All right. And who was that you spoke to?

24 A: Chief Vaught.

25 Q: All right. And where did that conversation take place?

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- 1 A: At my apartment.
- 2 Q: And so after you got back from Florence, did he call you,
3 you call him or he just come by?
- 4 A: He called me.
- 5 Q: All right. And how did he have your number?
- 6 A: He asked me for it at the hospital.
- 7 Q: All right. And you gave it to him?
- 8 A: Yes.
- 9 Q: All right. And so he called you and said what?
- 10 A: That he wanted to talk to me.
- 11 Q: All right. And you said?
- 12 A: I'll talk.
- 13 Q: Okay. So he came by your house. How long did y'all
14 talk?
- 15 A: About thirty minutes.
- 16 Q: All right. And this was in your house, outside your
17 house?
- 18 A: Outside.
- 19 Q: And what was taking place during that conversation; what
20 were y'all talking about?
- 21 A: He asked me what happened.
- 22 Q: All right. And did you tell him again what had happened?
- 23 A: Yes.
- 24 Q: All right. After that conversation, the next day did you
25 receive any contact from law enforcement?

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- 1 A: No.
- 2 Q: All right. Police officers or anything?
- 3 A: No.
- 4 Q: The next day, Saturday?
- 5 A: Saturday, yeah, I had got a phone call.
- 6 Q: All right. And approximately what time was it that you
- 7 got a phone call?
- 8 A: About 11-something.
- 9 Q: All right.
- 10 A: About 11 o'clock in the morning.
- 11 Q: Who was the call from?
- 12 A: Chief, the Chief.
- 13 Q: All right. And what did he ask or request?
- 14 A: Said he wanted to question me.
- 15 Q: All right. Did you agree to do that?
- 16 A: Yes.
- 17 Q: All right. Where were you when you got the call?
- 18 A: I was in a laundromat doing my laundry.
- 19 Q: All right. And did you finish your laundry before you
- 20 went there?
- 21 A: No.
- 22 Q: All right. Who got your laundry or who did you ask to
- 23 get your laundry?
- 24 A: My mother -- me and my mother was in the laundromat doing
- 25 laundry.

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- 1 Q: Okay.
- 2 A: And ---
- 3 Q: Go ahead?
- 4 A: --- they came in and got me.
- 5 Q: All right. So, then you went to the Police Department
- 6 and told them, you agreed?
- 7 A: Yeah.
- 8 Q: All right. And we heard that conversation then; is that
- 9 correct?
- 10 A: Yes.
- 11 Q: All right. How long after you had taken **Minor** to the
- 12 Loris Police Department, I mean to the Loris emergency room,
- 13 how long was it after before you felt like they were accusing
- 14 you or thought you had done something to your son?
- 15 A: I'd say about the end of the conversation.
- 16 Q: And that would be the recorded one on the 21st?
- 17 A: Yes.
- 18 Q: All right. Did you abuse your son?
- 19 A: No.
- 20 Q: Did you strike him?
- 21 A: No.
- 22 Q: Did you slap him?
- 23 A: No.
- 24 Q: Did you hit him with your fist?
- 25 A: No.

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- 1 Q: Or foot?
- 2 A: Not one time.
- 3 Q: Anything else?
- 4 A: Nothing.
- 5 Q: Did you ever drop him?
- 6 A: No, sir.
- 7 Q: Did you ever sit on him?
- 8 A: No, sir.
- 9 Q: Did you ever walk him into a wall?
- 10 A: No, sir.
- 11 Q: Did you do anything to harm your son?
- 12 A: No, sir.
- 13 Q: Did your father do anything like that?
- 14 A: No, sir.
- 15 Q: Would you have known it if he had?
- 16 A: Yes.
- 17 Q: Did your son do anything like that?
- 18 A: No.
- 19 Q: Did your mother do anything like that?
- 20 A: No.
- 21 Q: When you took him to the Loris emergency room, did he
- 22 have any visible injuries on his body?
- 23 A: No.
- 24 Q: There's some conversation where you told her that she --
- 25 he fell asleep on your lap; is that correct?

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- 1 A: Yes.
- 2 Q: When was that? Was that the night of 18th or the morning
3 of the 19th?
- 4 A: The night of the 18th.
- 5 Q: All right. And where was the mark on his head from your
6 belt buckle?
- 7 A: It was right here (indicating), like a little red dot
8 right there.
- 9 Q: All right. So we're not talking up on the forehead ---
- 10 A: No.
- 11 Q: --- we're talking right between the eyes ---
- 12 A: Right between the eyes.
- 13 Q: --- on the top bridge of the nose?
- 14 A: Yeah.
- 15 Q: Okay. All right. And that was where your belt buckle --
16 he had laid on your belt buckle?
- 17 A: He was laying on my lap.
- 18 Q: Okay. Were there any other bruises or anything that you
19 saw on him at any time ---
- 20 A: No.
- 21 Q: --- when you had him in your custody?
- 22 A: No.
- 23 Q: Now, during this conversation that we listened to, you
24 said towards the end of that you felt like they were starting
25 to point fingers at you, correct?

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- 1 A: Yes, sir.
- 2 Q: How did that make you feel?
- 3 A: It made me feel bad.
- 4 Q: Just bad?
- 5 A: It make me feel like -- like I'm a bad person. I'm not a
- 6 bad person.
- 7 Q: Did it make you mad?
- 8 A: Yes, really mad.
- 9 Q: Do you have a bad temper?
- 10 A: No.
- 11 Q: After this interview was over, what happened then?
- 12 A: One of them -- one of the officers walked out and then I
- 13 was just sitting there and I asked him was I free to go and he
- 14 said I'm not.
- 15 Q: Were you ever placed under arrest there?
- 16 A: No.
- 17 Q: When were you placed under arrest?
- 18 A: After the interview.
- 19 Q: All right. That's what I'm asking you. How long after
- 20 the interview concluded did they place you under arrest?
- 21 A: About two hours.
- 22 Q: All right. So, you sat there for an additional two
- 23 hours?
- 24 A: No, I sat there for about, about an extra thirty minutes.
- 25 Q: All right. And then they told you they were placing you

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1 under arrest?

2 A: Yes.

3 Q: All right. Did they handcuff you?

4 A: Yes.

5 Q: All right. Was your father there giving a statement also
6 or were they talking to your father at the same time or
7 before?

8 A: They called him in before they called me in.

9 Q: Do you know whether or not he was placed under arrest
10 that day?

11 A: Yes.

12 Q: All right. And was he?

13 A: Yes.

14 Q: After you were arrested, where were you taken?

15 A: J. Reuben Long.

16 Q: All right. And you were processed in?

17 A: Yes.

18 Q: All right. How long were you in jail before you were
19 able to bond out?

20 A: Three months.

21 Q: And how long was your father in jail before he was able
22 to bond out?

23 A: About almost three months too.

24 Q: How much earlier did he get out than you?

25 A: Two weeks.

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- 1 Q: Two weeks. Were y'all housed together or separate?
- 2 A: Separate.
- 3 Q: All right. Did you ever have a chance to talk to him
- 4 during that three months?
- 5 A: Nope.
- 6 Q: All right. Ever have a chance to see him, wave to him?
- 7 A: Nope.
- 8 Q: Y'all were housed completely separate?
- 9 A: Yep.
- 10 Q: Your father's charges have since been dismissed, correct?
- 11 A: I believe so.
- 12 Q: During the time that you were in the interview, were you
- 13 aware that they were breaking in the door and executing a
- 14 search warrant at your house?
- 15 A: No.
- 16 Q: All right. If they had of asked you for consent, would
- 17 you have given them consent to search?
- 18 A: Yes.
- 19 Q: All right. Did they ever ask you for consent?
- 20 A: No.
- 21 Q: I believe it was Agent Weaver who, towards the end of the
- 22 conversation, asked you a second time, did you try to
- 23 resuscitate your son, push on his belly or anything to make
- 24 him start breathing again and what was your response to that
- 25 the second time he asked you the question?

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- 1 A: No.
- 2 Q: All right. Did you try to resuscitate him?
- 3 A: No.
- 4 Q: Do you know how to resuscitate him?
- 5 A: No.
- 6 Q: You told them in the interview that you wanted to make
- 7 funeral arrangements for your son; were you able to do that?
- 8 A: No.
- 9 Q: Because you were arrested that day?
- 10 A: Yes.
- 11 Q: Were you able to attend the funeral?
- 12 A: No.
- 13 Q: Do you know where he's buried?
- 14 A: No. Excuse me.
- 15 Q: That's okay. Not knowing where he's buried, have you had
- 16 an opportunity to visit his grave?
- 17 A: No, sir.
- 18 Q: When you talked to Chief Vaught at the Loris Hospital,
- 19 did you tell him everything you knew about what happened?
- 20 A: Yes, sir.
- 21 Q: And is it the same then as to what you told us today in
- 22 court to the best of your knowledge?
- 23 A: Yes, sir.
- 24 Q: All right. When you talked to him on the 19th -- no,
- 25 excuse me, I believe it would have been the 20th -- at your

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1 home, in the front yard of your home, did you tell him again
2 everything you knew about this?

3 A: Yes.

4 Q: All right. And did what you tell him then, was that the
5 same as what you testified to here today in court?

6 A: Yes.

7 Q: All right. When you talked to the officers on the 21st
8 at the Loris Police Department, did you tell them everything
9 you knew about it?

10 A: Yes.

11 Q: All right. Did you get frustrated because they thought
12 you wanted -- that you knew more?

13 A: Yes.

14 Q: All right. Hassan, I'm gonna ask you again, did you do
15 anything to harm your son when he was there with you for
16 visitation?

17 A: No, sir.

18 Q: Thank you, sir. Answer any questions the Solicitor may
19 have for you.

20 THE COURT: Cross examination?

21 MR. SPRATLIN: Thank you, Your Honor.

22 CROSS EXAMINATION OF HASSAN TYLER BY MR. SPRATLIN:

23 Q: Mr. Tyler, let me ask you a couple of questions about
24 what Defense counsel just discussed with you. You and Ms.
25 Stinson, you met while you were both working at hotel at the

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- 1 beach, correct?
- 2 A: Yes.
- 3 Q: And your relationship became romantic, correct?
- 4 A: Yes.
- 5 Q: And you had a child born out of that relationship?
- 6 A: Yes.
- 7 Q: And that child was Amin -- Minor [REDACTED] ?
- 8 A: Yes.
- 9 Q: And Minor [REDACTED] was born on what's his birthday?
- 10 A: [REDACTED]
- 11 Q: All right. Now, doctor's appointments, how many doctor's
- 12 appointments did Ms. Stinson go to when she was pregnant with
- 13 Minor [REDACTED] ?
- 14 A: I don't know.
- 15 Q: Don't know. Let's talk about your reaction when you
- 16 first found out she was pregnant with Minor [REDACTED]. I know you
- 17 said on direct examination that you already had a son, right?
- 18 A: Yes.
- 19 Q: At that time, how old was your son?
- 20 A: Fourteen.
- 21 Q: Fourteen. And his name is Amin, correct?
- 22 A: Amin.
- 23 Q: Amin, excuse me. You didn't want any more kids, right?
- 24 A: No.
- 25 Q: How old are you?

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- 1 A: Thirty-eight.
- 2 Q: Thirty-eight. How old would you have been two years ago
3 in 2013?
- 4 A: Thirty-six.
- 5 Q: Thirty-six. Thirty-six is a little late to start having
6 kids, isn't it?
- 7 A: Not really.
- 8 Q: Okay. Especially when you've got a fourteen-year-old?
- 9 A: I love kids.
- 10 Q: Now, you said didn't go to any doctor's appointments Ms.
11 Stinson went to?
- 12 A: No.
- 13 Q: And you didn't know even how many doctor's appointments
14 she went to?
- 15 A: No.
- 16 Q: Do you remember the day you found out you were having a
17 son?
- 18 A: The day?
- 19 Q: Yeah?
- 20 A: Yeah.
- 21 Q: What day was that?
- 22 A: 2013.
- 23 Q: You don't remember the exact day though?
- 24 A: No.
- 25 Q: All right. Do you remember where you were at?

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- 1 A: I was at work.
- 2 Q: All right. Let's talk about when **Minor** was born. Did
- 3 you go see Ms. Stinson in the hospital?
- 4 A: No.
- 5 Q: In fact, you didn't see **Minor** until October 22nd; is
- 6 that correct?
- 7 A: Yes.
- 8 Q: Approximately a month after he was born?
- 9 A: Yes.
- 10 Q: I think you and Ms. Stinson both agreed that throughout
- 11 the three short months of his life you saw **Minor**
- 12 approximately five times?
- 13 A: Yes.
- 14 Q: You saw him over at her place several times?
- 15 A: Yes.
- 16 Q: And she brought him over to your place a couple of times?
- 17 A: Yes.
- 18 Q: But during the first -- up until January 8 or, excuse me,
- 19 December 18th, 2013, **Minor** had never been alone in your care
- 20 or custody?
- 21 A: No.
- 22 Q: And I think on direct examination you stated that when
- 23 **Minor** came over to your house, he was tired; is that
- 24 correct?
- 25 A: Tired?

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1 Q: Tired, I think you said he acted tired?

2 A: Yeah.

3 MR. SPRATLIN: May I have permission to approach the
4 witness?

5 THE COURT: Yes, sir.

6 MR. SPRATLIN: Your Honor, let the record reflect I'm
7 showing the Defendant what has been marked as State's Exhibit
8 -- or entered into evidence as State's Exhibit Number Three.

9 BY MR. SPRATLIN:

10 Q: Does that baby appear tired to you?

11 A: No.

12 Q: And this was the night of the 18th at your momma's house,
13 right?

14 A: I don't think so.

15 Q: You don't think that's your momma's house?

16 A: I don't see nothing that reflect my mother's house.

17 Q: Let me show you that picture again. Do you recognize
18 that throw pillow right there?

19 A: Yeah.

20 MR. SPRATLIN: Let the record reflect I'm showing the
21 witness what has been entered into evidence as State's Exhibit
22 Number Seven.

23 BY MR. SPRATLIN:

24 Q: You see that throw pillow right there; this is a picture
25 of your momma's house, ain't it?

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1 A: Uh-huh (affirmative response).

2 Q: That's the same throw pillow, isn't it?

3 A: Uh-huh (affirmative response).

4 Q: So this picture was taken at your momma's house, correct?

5 A: Yeah.

6 Q: Okay. So, you were mistaken about that?

7 A: I wasn't there when that picture was taken.

8 Q: Okay. But you don't even recognize that as being your

9 momma's throw pillow?

10 A: I know that's my mother -- I wasn't there when they took

11 that picture.

12 Q: Okay. But this is your momma's house?

13 A: Yeah.

14 Q: Just to make sure we're clear. And that child doesn't
15 appear to be tired, does he, not at all?

16 COURT REPORTER: Excuse me. You have to answer aloud.

17 BY MR. SPRATLIN:

18 Q: That child doesn't appear to be tired, does he?

19 A: No.

20 THE COURT: Scoot up a little bit closer to the
21 microphone please so that ---

22 A: No.

23 THE COURT: --- everybody can hear you.

24 BY MR. SPRATLIN:

25 Q: In fact, he appears to be alert, doesn't he?

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- 1 A: Yeah.
- 2 Q: Smiling, happy, having a good time in his grandmomma's
3 arms, ain't he?
- 4 A: Uh-huh (affirmative response).
- 5 Q: You're not there though, are you?
- 6 A: I wasn't there for that picture.
- 7 Q: Okay. But you just told us how you had gone over to your
8 momma's house -- to Ms. Stinson's house, your son's child's
9 mother?
- 10 A: Uh-huh (affirmative response).
- 11 Q: And how you ---
- 12 THE COURT: Sir, when you say uh-huh or huh-uh, the Court
13 Reporter can't distinguish that.
- 14 A: I'm sorry, sir.
- 15 THE COURT: You need to say yes or no please.. Thank you.
- 16 BY MR. SPRATLIN:
- 17 Q: You just told us that you went over to Ms. Stinson's
18 house on the 18th, correct?
- 19 A: Yes, sir.
- 20 Q: And that you picked up **Minor**
- 21 A: Yes.
- 22 Q: And that it was you and I'm sorry, Amin or Aman?
- 23 A: Amin.
- 24 Q: Excuse me. You, Amin and your dad?
- 25 A: Yes.

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- 1 Q: And y'all drove **Minor** back to your momma's house?
- 2 A: Yes.
- 3 Q: The first time he'd ever been to your momma's house,
- 4 isn't it?
- 5 A: Yes. No.
- 6 Q: When else was he at your momma's house?
- 7 A: He was -- we just moved to that apartment. That was his
- 8 first time there at that apartment.
- 9 Q: So you're saying this picture is not from the 18th?
- 10 A: Yeah, it could be. I wasn't -- like I say, I wasn't
- 11 there when they took that picture. I was in the house, but I
- 12 wasn't in the living room when they took that picture.
- 13 Q: Okay. So you -- you could have been there when that
- 14 picture was taken, but you weren't sitting there while the
- 15 picture was being taken?
- 16 A: Yeah.
- 17 Q: Okay. How long have you lived with your mom?
- 18 A: A few years.
- 19 Q: What's a few years?
- 20 A: About five years.
- 21 Q: Five years? Who did you live with before that?
- 22 A: A girlfriend.
- 23 Q: Okay. Is that Amin's mom?
- 24 A: No.
- 25 Q: All right. I'm gonna go back to a couple of questions in

1 a minute, but so you would agree with me that in this
2 photograph your son appears to be alert?
3 A: Yes.
4 Q: He appears to be smiling?
5 A: Yes.
6 Q: He appears to be happy?
7 A: Yes.
8 Q: And he's in your momma's arms?
9 A: Yes.
10 Q: Not your arms?
11 A: No.
12 Q: I believe you said after y'all came home, you and your
13 mom stayed and played with the child for a while; is that
14 correct?
15 A: Yes.
16 Q: And eventually you made the child some food and the child
17 ate?
18 A: Yes.
19 Q: Who fed the child; was it you or your mom?
20 A: My mom fed him.
21 Q: Mom fed him. Then I believe you said that **Minor** went
22 to sleep?
23 A: Yeah.
24 Q: I'm sorry, did you call him **Minor** or did you call him
25 something else?

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- 1 A: I called him Minor
- 2 Q: Okay. So, you called him a different name than his
- 3 momma?
- 4 A: Yes.
- 5 Q: All right. And now you said that Minor slept through
- 6 the night?
- 7 A: Yes.
- 8 Q: Slept in the bed with you?
- 9 A: Yes.
- 10 MR. SPRATLIN: Please let the record reflect I'm showing
- 11 the witness what has been entered in as State's Exhibit Number
- 12 Twelve.
- 13 BY MR. SPRATLIN:
- 14 Q: Is this the bed that Minor slept in?
- 15 A: Yes.
- 16 Q: And this is the same bed that you slept in?
- 17 A: Yes.
- 18 Q: And you said that Minor slept throughout the night?
- 19 A: Yes.
- 20 Q: In fact you woke up at 7 o'clock in the morning, give or
- 21 take, right?
- 22 A: Yeah.
- 23 Q: And Minor was up looking at you?
- 24 A: Yeah.
- 25 Q: Was he on his back or his stomach at that point?

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1 A: He was on his stomach.

2 Q: I believe you said that your mom got him, held him, fed
3 him, correct?

4 A: Yes.

5 Q: She fed him while you were doing other stuff?

6 A: Yes.

7 Q: And he ate?

8 A: Yes.

9 Q: To the best of your knowledge, he ate?

10 A: Yes.

11 Q: And your son, your older son, fourteen-year-old son,
12 Amin, he got dressed and went to school?

13 A: Yes.

14 Q: And your mom, she got dressed and went to work?

15 A: Yes.

16 Q: Leaving your dad and you?

17 A: Yes.

18 Q: And I believe you told us under both Mr. Long's
19 examination and also the hour and a half long interview that
20 we listened to here in court that basically at that point,
21 **Minor** was kind of with you the rest of the day?

22 A: Yes.

23 Q: He was around you, near you, or within eyesight of you?

24 A: Yes.

25 Q: So no one could've done anything to your child during

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1 that timeframe?

2 A: No.

3 Q: You were the only one who was around your child during
4 that timeframe?

5 A: Yes.

6 Q: Your dad was outside working on the car, wasn't he?

7 A: Yeah.

8 Q: What was wrong with the car?

9 A: There wasn't nothing wrong with the car; he was cleaning
10 the outside, inside, wiping stuff down?

11 Q: Just cleaning it, not nothing wrong with it; nothing. ---

12 A: No.

13 Q: All right. And you said that at some point during the
14 day you and Ms. Stinson had a conversation about when to bring
15 **Minor** back?

16 A: Yes.

17 Q: Do you recall talking with Ms. Stinson about marks on
18 your child's neck?

19 A: I told her I was kissing on his neck and it left a little
20 red mark on it.

21 Q: Left a little red mark?

22 A: Yeah.

23 Q: Let's just clarify.

24 MR. SPRATLIN: Please let the record reflect I'm showing
25 the witness what has been marked or entered into evidence as

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1 State's Exhibit Twenty-three and Twenty-four.

2 BY MR. SPRATLIN:

3 Q: These are not little red marks, are they?

4 A: Huh-uh (negative response)

5 Q: No?

6 COURT REPORTER: Excuse me?

7 THE COURT: What's the answer, please, sir?

8 A: No.

9 THE COURT: Thank you, sir.

10 BY MR. SPRATLIN:

11 Q: But you did tell Ms. Stinson that you left marks on your
12 child's neck?

13 A: I said I left a mark.

14 Q: A mark. After talking with Ms. Stinson, did you say that
15 and, make sure I'm correct on times here because it's
16 important, at about a quarter to 1:00 you went to check on
17 **Minor** or did you feed **Minor** prior to checking on him at a
18 quarter to 1:00?

19 A: Well, I fed him before 1:00.

20 Q: Okay. You fed him before one. Do you remember, was it
21 about 11:30; does that sound about right?

22 A: Feeding him at 11:30?

23 Q: Yes.

24 A: Yeah, I did; I fed him a half a bottle.

25 Q: You fed him half a bottle and **Minor** ate that half a

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1 bottle?

2 A: Yeah.

3 Q: You gave Minor half a bottle and he ate it and went
4 back to sleep?

5 A: Uh-huh (affirmative response).

6 Q: And that's what you ---

7 THE COURT: Again, you have answer; is that yes or no.

8 A: Yes.

9 THE COURT: Thank you.

10 BY MR. SPRATLIN:

11 Q: And that's what you told Mr. Long when he asked you some
12 questions earlier and that's what you told Detective Weaver, I
13 mean, Agent Weaver and Chief Vaught in the interview?

14 A: Yes.

15 Q: All right. Now you said on direct examination that about
16 a quarter to 1:00 you went to check on Minor; is that
17 correct?

18 A: Yes.

19 Q: And that at that point, you noticed he was not acting
20 normal?

21 A: Yes.

22 Q: You said his arms were outstretched or, or something
23 along those lines, correct?

24 A: Yes.

25 Q: He had what you thought was a seizure, correct?

- 1 A: Yes.
- 2 Q: And that you immediately called your dad in?
- 3 A: Yes.
- 4 Q: And your dad came in, correct?
- 5 A: Yes.
- 6 Q: Your dad looked at him, correct?
- 7 A: Yes.
- 8 Q: And said we're going to the hospital?
- 9 A: Yes.
- 10 Q: And then you with all the quickness in the world of a
- 11 father with a child having a seizure drove to the hospital?
- 12 A: No, I didn't drive right then and there.
- 13 Q: How long did you wait?
- 14 A: A few minutes.
- 15 Q: A few minutes. What were you doing in those few minutes
- 16 while you were waiting?
- 17 A: Standing over there trying to get his attention.
- 18 Q: Okay. But you did not wait for an hour?
- 19 A: No.
- 20 Q: Can you explain why the notes from the hospital showed
- 21 that you arrived at 2:21?
- 22 A: No.
- 23 Q: You don't believe you arrived at 2:21?
- 24 A: I don't believe so.
- 25 Q: Is it more likely that the hospital was wrong or that

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- 1 you're wrong on the time frame?
- 2 A: I could be.
- 3 Q: Okay. So, you could be wrong?
- 4 A: Yeah.
- 5 Q: All right. Now, let's talk about what happened on the
- 6 way to the hospital. You said that **Minor** stopped breathing?
- 7 A: Yes.
- 8 Q: And you got him out -- did you get him out of his car
- 9 seat before he stopped breathing or after?
- 10 A: Before.
- 11 Q: And when you got him out of his car seat, y'all pulled up
- 12 to the hospital, you took him in?
- 13 A: Yes.
- 14 Q: And at that point, you're saying he did not have a bruise
- 15 on him?
- 16 A: No.
- 17 Q: He had a red mark on his neck?
- 18 A: Yeah.
- 19 Q: Sir, have you seen these pictures before?
- 20 A: Yes.
- 21 Q: So you're aware of what they show?
- 22 A: Yes.
- 23 Q: And would you agree with me that they show your son
- 24 bruised?
- 25 A: From the pictures, yes.

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1 Q: Would you agree that they show your son beaten?

2 A: I don't know about beaten.

3 Q: Not sure about beaten, but bruised?

4 A: If you want to say bruise. I didn't see no bruises when
5 I was in the hospital.

6 Q: You don't see a bruise in this picture?

7 A: I see a bruise in the picture.

8 Q: You don't see a bruise ---

9 A: In that picture, yeah.

10 Q: You see a bruise on this picture?

11 A: Yeah.

12 Q: You see a bruise on this picture too, don't you?

13 A: Yeah.

14 Q: In this one too?

15 A: Yeah.

16 THE COURT: When you say that, Solicitor, you need to
17 identify which ones you're talking about.

18 MR. SPRATLIN: I'm sorry, Your Honor.

19 BY MR. SPRATLIN:

20 Q: In State's Exhibit Twenty-five you see a bruise, too?

21 A: Yes.

22 Q: In fact in these photos, you agree that your son is
23 bruised?

24 A: Yes, from the pictures.

25 Q: You won't say beaten though?

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- 1 A: I won't say beaten though.
- 2 Q: You don't consider bruised, having a bruise here, having
3 the bruises on your neck, having a bruise in the middle of
4 your forehead, having a bruises on your neck, having a big
5 bruise on your stomach involves somehow being beaten or
6 mistreated?
- 7 A: I'd say mistreated; I don't won't to say beaten.
- 8 Q: Okay. You think someone at the hospital mistreated your
9 son?
- 10 A: No.
- 11 Q: Do you think Kristin Norris, who came in here and took
12 your lifeless child from your arms mistreated your son?
- 13 A: No.
- 14 Q: Do you think Dr. Barefoot, who tried to save your son's
15 life with every ounce of knowledge he had mistreated your son?
- 16 A: No.
- 17 Q: So no one at the hospital mistreated your son, your son
18 didn't have those bruises when he came in, correct?
- 19 A: No.
- 20 Q: But 3:40 whatever when Detective Vaught took these
21 photos, you agree with me that there are bruises?
- 22 A: Yeah, from the pictures.
- 23 Q: So are the pictures lying?
- 24 A: No, a picture is a picture.
- 25 Q: A picture's a picture; that's what we agree on. Now, you

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1 said you were at the hospital for a brief bit before Ms.

2 Stinson came in, correct?

3 A: Yes.

4 Q: That then based upon your son's condition, he was life-
5 flighted out to Florence/McLeod?

6 A: Yes.

7 Q: And that occurred approximately 5 o'clock that day?

8 A: About that time.

9 Q: So, on the 19th he's being life-flighted out?

10 A: Uh-huh (affirmative response).

11 THE COURT: Was that a yes or a no?

12 A: The 18th. The 18th.

13 BY MR. SPRATLIN:

14 Q: No, sir, he went into the hospital on the 19th?

15 A: Okay. Well, 19th.

16 Q: The 18th is when you picked him up from his momma's
17 house?

18 A: Yes.

19 Q: So, on the 19th he's being life-flighted out at 5 o'clock
20 and you drive to Florence, correct?

21 A: Yes.

22 Q: Ms. Stinson traveled by her own means of transportation,
23 you traveled by your own means of transportation, correct?

24 A: Yes.

25 Q: And your sister, the child's aunt, rides with him on the

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- 1 airplane?
- 2 A: Yes.
- 3 Q: You afraid to fly?
- 4 A: No, sir.
- 5 Q: When you get to Florence, and correct me if I'm wrong on
- 6 this, but on direct examination you said you stayed that night
- 7 in Florence?
- 8 A: Yes.
- 9 Q: So, you stayed that entire night in Florence?
- 10 A: Yes.
- 11 Q: And then what time the next day did you come back?
- 12 A: That evening.
- 13 Q: So, on the 20th, that evening, you came back?
- 14 A: Yes.
- 15 Q: And when you came back, you didn't know whether your son
- 16 was alive or dead?
- 17 A: They, they told me that they was gonna give him a certain
- 18 time and they was gonna pull the plug.
- 19 Q: You know your son died on December 20th at 9:10 A.M.?
- 20 A: Uh-huh (affirmative response).
- 21 Q: That would be the next day from the 19th, correct?
- 22 A: Yes.
- 23 Q: So, at 9:10 A.M. your son was dead. You were in
- 24 Florence, right?
- 25 A: Yes.

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1 Q: And you didn't know your son died?

2 A: They told me. They just said they was gonna pull the
3 plugs. That's how they -- that's how they determined it.

4 Q: Told you they were gonna pull the plug and then you came
5 back home, got a shower intending to go back to Florence, I
6 believe you said on direct examination?

7 A: No.

8 Q: But you were just done ---

9 A: Yeah.

10 Q: --- you were gonna come home. All right. When your son
11 died, where were you?

12 A: Florence.

13 Q: Florence. So, you knew he died in Florence?

14 A: Yes.

15 Q: All right. Now, sir, have you ever had a seizure?

16 A: No, sir.

17 Q: Have you ever seen someone have a seizure?

18 A: Yes.

19 Q: All right. When that person had a seizure, did they
20 cause themselves a skull fracture?

21 A: I'm not sure; I was young.

22 Q: All right. Do you think your son could've hit himself
23 with enough force to cause a skull fracture?

24 A: No.

25 Q: All right. So, someone or something else had to cause

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- 1 that skull fracture, correct?
- 2 A: Yes.
- 3 Q: Your son himself couldn't have caused it?
- 4 A: No.
- 5 Q: We all agree on that?
- 6 A: Yes.
- 7 Q: And you were the only one with your son?
- 8 A: Yes.
- 9 Q: And when you picked him up from Ms. Stinson's house, he
- 10 appeared okay, right?
- 11 A: Yes.
- 12 Q: Perfectly normal?
- 13 A: Yes.
- 14 Q: Laughing and smiling?
- 15 A: Yes.
- 16 Q: Having a good time sitting on his grandmomma's lap?
- 17 A: Yes.
- 18 Q: And that's the night of the 18th?
- 19 A: Yes.
- 20 Q: The night of the 19th he's not doing so well?
- 21 A: Yes.
- 22 Q: And obviously someone mistreated your son?
- 23 A: Yes.
- 24 Q: Someone put bruises on your son?
- 25 A: Yes.

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1 Q: Someone cracked your son's skull?

2 A: Yes.

3 Q: But you're sitting here telling us you know nothing about
4 that?

5 A: I don't.

6 Q: And the -- Chief Vaught at the hospital, you told him you
7 didn't know anything about why your son was having seizures or
8 having issues; you told him that too, right?

9 A: No.

10 Q: I'm sorry, you didn't tell him you didn't know; you told
11 him you did know?

12 A: No, I said I didn't know that he was having a seizure
13 until I went in the room and, and turned him over.

14 Q: Okay. But you didn't tell Chief Vaught that you knew
15 anything about why your son was having a seizure or anything?

16 A: No.

17 Q: And in your interview with Agent Weaver and Chief Vaught,
18 you again said, I don't know anything, correct?

19 A: Yes.

20 Q: It's real easy to remember when you keep saying I don't
21 know anything, right?

22 A: Say that again?

23 Q: Would you agree with me that if you keep saying I don't
24 know anything, it's real easy to remember that you said I
25 don't know anything?

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- 1 A: No.
- 2 Q: You don't agree with that?
- 3 A: No.
- 4 Q: It's a lot harder to remember when you tell details,
5 isn't it?
- 6 A: Yes.
- 7 Q: You said your son never cried when he was with you,
8 right?
- 9 A: No, not really.
- 10 Q: Not really. And Ms. Stinson never heard him crying on
11 the phone?
- 12 A: No.
- 13 Q: She's lying about that?
- 14 A: Yes.
- 15 Q: Out-and-out lying?
- 16 A: Huh?
- 17 Q: She's out-and-out lying, Ms. Stinson?
- 18 A: Yes.
- 19 Q: One thing you said on direct examination, sir, you said
20 that with your older son, the way you discipline is to speak
21 to him, correct?
- 22 A: Yes.
- 23 Q: You don't strike him, you don't hit him ---
- 24 A: No.
- 25 Q: --- you don't do anything like that. You can't really

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1 talk with a three-month-old can you?

2 A: No.

3 Q: They don't understand?

4 A: No.

5 Q: They don't listen to you, right?

6 A: No.

7 Q: You can't tell them to be quiet and they're quiet?

8 A: No.

9 Q: You can't raise your voice to them and they suddenly
10 understand and just kind of whoa, dad's angry, right?

11 A: Yes.

12 Q: A three-month-old is a little harder to communicate with
13 than a fourteen-year-old?

14 A: Yes.

15 MR. SPRATLIN: I beg the Court's indulgence?

16 THE COURT: Yes, sir.

17 MR. SPRATLIN: Please let the record reflect I'm showing
18 the witness what has been entered as State's Exhibits Three
19 and Seventeen.

20 BY MR. SPRATLIN:

21 Q: When your child first came into your care and custody, he
22 was in this condition, correct?

23 A: Yes.

24 Q: When he left your care and custody, he was in this
25 condition?

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HASSAN TYLER - REDIRECT BY LONG

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1 A: Yes.

2 MR. SPRATLIN: No further questions, Your Honor.

3 THE COURT: Redirect?

4 MR. LONG: Very briefly, Your Honor.

5 REDIRECT EXAMINATION OF HASSAN TYLER BY MR. LONG:

6 Q: Hassan, did you beat your son in preparation of returning
7 him to his mother?

8 A: No, sir.

9 Q: Did you lay a hand on your son?

10 A: Not one.

11 MR. LONG: No further questions, Your Honor.

12 THE COURT: Anything on that?

13 MR. SPRATLIN: No, Your Honor.

14 THE COURT: You may step down, sir. Thank you.

15 All right, Mr. Long, your next witness?

16 MR. LONG: Your Honor, it's 4 o'clock. May we request a
17 ten-minute recess?

18 THE COURT: Certainly. All right, ladies and gentlemen,
19 we'll take a short break about five or ten minutes. Thank
20 you.

21 THE COURT: Everyone else remain seated while the Jury
22 retires, please.

23 (REPORTER'S NOTE: Jury exits courtroom.)

24 BY THE COURT:

25 THE COURT: Anything from the State before we take a

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HASSAN TYLER - REDIRECT BY LONG

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1 break?

2 MR. SPRATLIN: No, Your Honor.

3 THE COURT: From the Defense?

4 MR. LONG: Just for scheduling, Your Honor. I think the
5 two final witnesses will most likely take us to 5 o'clock.

6 THE COURT: All right.

7 MR. LONG: So, however the Court feels accordingly as far
8 as closing and ---

9 THE COURT: I'll let y'all know when we come back from
10 the break. Okay.

11 MR. LONG: Thank you, Your Honor.

12 MR. SPRATLIN: Yes, sir.

13 THE COURT: Thank y'all.

14 (RECESS)

15 *****OFF THE RECORD*****

16 (On the Record.)

17 (REPORTER'S NOTE: The following takes place outside the
18 presence of the Jury.)

19 THE COURT: Mr. Long, you have two other witnesses?

20 MR. LONG: Yes, sir, Your Honor.

21 THE COURT: All right. Very good.

22 It's my intention then that we'll obviously we'll finish
23 up those two, two witnesses. If we started the arguments and
24 charge tonight, obviously the Jury would be with us until they
25 rendered a verdict and I don't intend to put them -- put them

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HASSAN TYLER - REDIRECT BY LONG

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1 in that position. So we'll -- we'll finish up the -- the
2 testimony. Does the State at this point in time anticipate
3 reply testimony?

4 MR. SPRATLIN: No, Your Honor.

5 THE COURT: All right. We'll let the Jury go until the
6 morning. We'll go over the motions and then talk about the
7 requests to charge and the verdict form before we leave
8 tonight. All right?

9 MR. LONG: Thank you, Judge.

10 THE COURT: All right. Ask the Jury to come in, please.
11 (REPORTER'S NOTE: Jury enters courtroom.)

12 THE COURT: All right. Mr. Long, your next witness,
13 please, sir.

14 MR. LONG: Thank you, Your Honor. We call Diane Tyler to
15 the stand.

16 THE COURT: All right. Please come around, ma'am, and be
17 sworn.

18 CLERK: Ma'am, please raise your right hand and place
19 your left hand on the Bible?

20 DIANE ELIZABETH TYLER, HAVING BEEN
21 SWORN TESTIFIES AS FOLLOWS:

22 CLERK: Thank you. Please be seated. State your full
23 name and spell your last?

24 MS. TYLER: Diane Elizabeth Tyler, T-Y-L-E-R.

25 DIRECT EXAMINATION OF DIANE ELIZABETH TYLER BY MR. LONG:

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DIANE ELIZABETH TYLER - DIRECT BY LONG

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- 1 Q: Diane, where do you live?
- 2 A: In Loris.
- 3 Q: All right. And how long have you lived in Loris?
- 4 A: About eleven-and-a-half years.
- 5 Q: All right. And you are Hassan's mother?
- 6 A: Yes.
- 7 Q: All right. And do you have any other children?
- 8 A: Yes.
- 9 Q: All right. How many children do you have?
- 10 A: Two girls.
- 11 Q: All right. Are they here today with us in court?
- 12 A: Yes.
- 13 Q: All right. So, you have three children total?
- 14 A: Yes.
- 15 Q: What type of work do you do?
- 16 A: I'm a housekeeper.
- 17 Q: Where do you work?
- 18 A: Marina Inn at Grande Dunes in Myrtle Beach.
- 19 Q: All right. Is that north end of ---
- 20 A: I'm sorry. No, it's not on the North end; it's on the --
- 21 I guess you call it the South end.
- 22 Q: Okay. All right. How long have you worked there?
- 23 A: Six year.
- 24 Q: All right. And do you drive?
- 25 A: No.

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DIANE ELIZABETH TYLER - DIRECT BY LONG

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- 1 Q: Do you catch a ride to work?
- 2 A: No, my daughter takes me to work or my husband takes me
3 to work.
- 4 Q: Okay. And how many days a week do you work?
- 5 A: Five.
- 6 Q: In December of 2013, is that where you were working?
- 7 A: Yes.
- 8 Q: All right. And was Hassan living with you?
- 9 A: Yes.
- 10 Q: How long had he been living with you at that point in
11 time?
- 12 A: About four-and-a-half, five years.
- 13 Q: All right. And he has a son?
- 14 A: Yes.
- 15 Q: Your grandson?
- 16 A: Yes.
- 17 Q: How many grandchildren total do you have?
- 18 A: Seven.
- 19 Q: All right. And he's the only grandchild that was living
20 with you at that time?
- 21 A: Yes.
- 22 Q: All right. His name is Amin?
- 23 A: Yes.
- 24 Q: Do you help Hassan with his upbringing?
- 25 A: Yes.

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DIANE ELIZABETH TYLER - DIRECT BY LONG

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- 1 Q: All right. And does that include washing clothes,
2 cooking meals, getting him up, things of that nature?
3 A: Yes.
4 Q: Amin's mother, where is she?
5 A: She lives in New York.
6 Q: Does she visit with him?
7 A: No.
8 Q: When's the last time Amin saw her, to your knowledge?
9 A: It was during -- two summers ago.
10 Q: How long has Amin lived with Hassan at your house?
11 A: About six years.
12 Q: Now, when did you first find out that you were about to
13 become a grandmother again with **Minor**?
14 A: It was before she had the baby.
15 Q: Do you know how long before she had the baby?
16 A: A couple of months, maybe.
17 Q: And who told you?
18 A: Hassan.
19 Q: All right. And how did he tell you?
20 A: You gonna be a grandmother again.
21 Q: All right. What was your reaction to that?
22 A: I said, really?
23 Q: Okay. And would that be a reaction of happiness or
24 reaction of anger?
25 A: Happiness.

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DIANE ELIZABETH TYLER - DIRECT BY LONG

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- 1 Q: Okay. Happiness but?
- 2 A: Really, do I need another grandchild?
- 3 Q: Okay. Now, did you see **Minor** after his birth?
- 4 A: Yes, I did.
- 5 Q: All right. On how many occasions would you estimate?
- 6 A: He came to my house one time; two times; three times I
- 7 seen him.
- 8 Q: Three times. Was that at your house?
- 9 A: Yes.
- 10 Q: Did you ever go to her house to visit with him?
- 11 A: No.
- 12 Q: Okay. And when he came over those three times, you held
- 13 him?
- 14 A: Yes.
- 15 Q: Played with him?
- 16 A: Yes.
- 17 Q: Approximately how long were each of those visits?
- 18 A: The first time I seen him that was maybe about half-an-
- 19 hour. The second time I seen him that was maybe about like an
- 20 hour-and-a-half.
- 21 Q: Okay.
- 22 A: And the third time was when he spent the night.
- 23 Q: Okay. All right. And each of those times, Hassan was
- 24 there as well?
- 25 A: Yes.

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- 1 Q: When-- that night of December 18th, were Hassan and your
2 husband, Robert, and Amin at the house and left to go to her
3 house or were they out somewhere else and ---
4 A: No, they had went to go get him.
5 Q: All right. Do you know that they went to go get him; was
6 that the plan?
7 A: Well, to take the Pampers and then the next thing I know,
8 they brought him back.
9 Q: All right. Did you have any conversation beforehand that
10 he was gonna be -- **Minor** was gonna be coming back?
11 A: No.
12 Q: All right. Were you angry or upset about that?
13 A: No.
14 Q: Okay. What time approximately was it when they returned?
15 A: Something to 8:00.
16 Q: All right. And when they got home, what responsibilities
17 did you have or did you undertake as far as **Minor** and his
18 care; what did you do with him that evening?
19 A: I was playing with him, I fed him, and I was playing with
20 him a little bit more, and then I went in my room.
21 Q: Okay. Did you have to go to work the next day?
22 A: Yes.
23 Q: All right. Did you work that day?
24 A: Yes.
25 Q: Was Hassan off the next day?

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- 1 A: Yes, as far as I remember.
- 2 Q: Okay. Now, during the night, were you woken at any time
- 3 from either Hassan or your husband or baby or anybody were you
- 4 woken or was your sleep disturbed at any time during that
- 5 night?
- 6 A: No.
- 7 Q: What time did you get up the next morning if you recall?
- 8 A: 6:30, something to 7:00.
- 9 Q: All right. And when you got up, who was up?
- 10 A: Hassan was -- my husband was up, Hassan was getting up
- 11 and Amin was up getting ready for school.
- 12 Q: All right. So, you didn't have to wake Amin up to go to
- 13 school?
- 14 A: I did not.
- 15 Q: Does he have his own alarm clock or does he just get up
- 16 on his own early?
- 17 A: My husband will wake him up.
- 18 Q: Okay. So, your husband woke him up?
- 19 A: Uh-huh (affirmative response).
- 20 Q: And whatever time they agreed upon?
- 21 A: Yes.
- 22 Q: Okay. So, then as Hassan is getting up, was **Minor** awake
- 23 at that time?
- 24 A: I think he was starting to get up.
- 25 Q: All right. And what responsibilities, if any, did you

1 have that morning caring for **Minor**

2 A: I told Hassan to go make his bottle while I hold him.

3 Q: All right. And where did you hold him?

4 A: I was in my bedroom.

5 Q: And Hassan brought the bottle back to you?

6 A: Yes.

7 Q: Who fed him?

8 A: I did.

9 Q: All right. And approximately how long did that take?

10 A: Maybe about ten or fifteen minutes.

11 Q: All right. And after feeding him what did you do?

12 A: I burped him and checked his Pamper.

13 Q: All right. And was he dry or wet?

14 A: He was a little wet and I changed his Pamper.

15 Q: After that then how long did he stay awake or continue

16 awake or how long did you continue to hold him?

17 A: I held him a few more, maybe a fifteen more minutes and I

18 called Hassan because I was getting ready for work.

19 Q: Okay. So then Hassan took him from there?

20 A: Yes.

21 Q: All right. Do you know where Hassan put him, placed him,

22 where they went, what they were doing?

23 A: No, not really because I went to the -- into the

24 bathroom.

25 Q: Okay. Up until that point in time, did you ever see any

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DIANE ELIZABETH TYLER - DIRECT BY LONG

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1 bruises, marks, anything on him?

2 A: No.

3 Q: After you finished your preparations for work, what time
4 was it when you left the house?

5 A: About 8:10 or 8:15..

6 Q: All right. And who was picking you up or taking you to
7 work?

8 A: One of my co-workers.

9 Q: You agreed to catch a ride with them?

10 A: Yes.

11 Q: Okay. So, as you left the house then, who did you tell
12 goodbye?

13 A: I kissed **Minor** goodbye, told Hassan I'd see him later and
14 told my husband I'll see you later and I left.

15 Q: And Amin was already gone by that time?

16 A: Yes, he was gone before I was.

17 Q: All right. Did you notice anything untoward, anything
18 strange, anything out of sorts, or whatever at the time you
19 left?

20 A: No.

21 Q: Work would have been from what time until what time that
22 day?

23 A: Work started at 9:00. I maybe got off about 4:30.

24 Q: All right. During while you were at work, did you
25 receive any telephone calls or receive any information about

1 **Minor** being at the hospital?

2 A: No.

3 Q: All right. When was it that you first found out?

4 A: When I got home, my husband had came and a little while
5 after I did and he told me what happened.

6 Q: Okay. All right. And so did you have discussions with
7 him?

8 A: A little bit. I asked him what happened and he -- I
9 asked him where was the baby at and he said in Florence. I
10 said, well, let's go, and he drove me to Florence.

11 Q: Was Hassan home from Loris emergency room by that time?

12 A: Excuse me?

13 Q: Was Hassan home from the hospital by the time y'all left
14 to go to Florence?

15 A: I really don't recall.

16 Q: Okay. Who rode to Florence?

17 A: Me and my husband, I think -- if I recall right, that was
18 it.

19 Q: Okay. And who is -- does Hassan have a step-brother?

20 A: Yes.

21 Q: All right. What's his step-brother's name? You having a
22 brain freeze?

23 A: Yes.

24 Q: We'll come back to it.

25 A: Okay.

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DIANE ELIZABETH TYLER - DIRECT BY LONG

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- 1 Q: From your house to Florence, how far of a drive was it?
- 2 A: I think maybe about an hour-and-a-half.
- 3 Q: All right. And do you remember what time it was that you
- 4 arrived at Florence?
- 5 A: I have -- I think it was after 6:00.
- 6 Q: All right. How long did you stay at Florence then?
- 7 A: We stayed until about, I guess about 9:00, 9:30.
- 8 Q: All right. And who did you ride back with?
- 9 A: My oldest daughter and her daughter.
- 10 Q: Were you given **Minor** condition in Florence?
- 11 A: They told me a little bit of information.
- 12 Q: All right. And what was your understanding of his
- 13 condition?
- 14 A: I didn't understand it at first and then my, my
- 15 granddaughter because she was practicing to be a nurse, she
- 16 was explaining to me.
- 17 Q: So, then you had a full understanding or knew better what
- 18 was going on?
- 19 A: Yes, I knew better what was going on.
- 20 Q: What type of father is your son, Hassan, to Amin?
- 21 A: He loves -- he's a loving father. He provides well for
- 22 him. He disciplines him when he needs it.
- 23 Q: How would you characterize him as a father to **Minor**?
- 24 A: He was a good father the times I seen him around, around
- 25 him. He did what he was supposed to do. He acted like a

1 father.

2 Q: Did he carry the baby correctly? Did he seem to know what
3 he was doing with the baby?

4 A: Yes.

5 Q: And was he concerned about the baby's safety?

6 A: Yes.

7 Q: Thank you, ma'am. Answer any questions the Solicitor may
8 have.

9 A: Okay.

10 THE COURT: Cross examination?

11 MR. SPRATLIN: I've been tripping over that box all week.

12 CROSS EXAMINATION OF DIANE ELIZABETH TYLER BY MR. SPRATLIN:

13 Q: Ms. Tyler, I'm just gonna have a couple of questions for
14 you.

15 MR. SPRATLIN: Permission to approach, Your Honor?

16 THE COURT: Yes, sir.

17 MR. SPRATLIN: Let the record reflect I'm showing the
18 witness what's been entered in as State's Exhibit Number
19 Three.

20 BY MR. SPRATLIN:

21 Q: Ms. Tyler, that picture was taken at your house, wasn't
22 it?

23 A: Yes.

24 Q: And in fact it was taken on December 18th, wasn't it?

25 A: Now that -- probably so, yes.

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- 1 Q: Okay. And in fact that's your lap in the photo, right?
- 2 A: Yes.
- 3 Q: And that was taken when you were playing with **Minor**,
- 4 right?
- 5 A: Yes.
- 6 Q: Like a grandmother would, right?
- 7 A: Yes.
- 8 Q: And **Minor** seems happy in that picture, doesn't he?
- 9 A: Yes.
- 10 Q: He's smiling?
- 11 A: Yes.
- 12 Q: He looks like he's having a good time, right?
- 13 A: Yes.
- 14 Q: **Minor** liked you, didn't he?
- 15 A: Yes, as far as -- I thought he did.
- 16 Q: Okay. Now, you said that you fed **Minor** -- Hassan made
- 17 the bottle, but you fed him?
- 18 A: Yes.
- 19 Q: And then I think you said you fed him at 7 o'clock the
- 20 next morning, right?
- 21 A: Yeah, about 7:15, 7:30.
- 22 Q: Before you went to work?
- 23 A: Yes.
- 24 Q: And once you left for work, you were gone for the day?
- 25 A: Yes.

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- 1 Q: And you said you didn't see any marks on him?
- 2 A: No.
- 3 Q: You didn't see any bruises?
- 4 A: No.
- 5 Q: I'm gonna spare showing you any of those photos because I
- 6 don't want you to see them, but you didn't notice any marks or
- 7 any kind of bruises at all, right?
- 8 A: No.
- 9 Q: Not even an indentation from your son's belt buckle?
- 10 A: No.
- 11 Q: You didn't notice any marks around his neck?
- 12 A: No.
- 13 Q: As far as you know, Minor was the same condition, just
- 14 as happy and smiling as he was when that picture was taken,
- 15 right?
- 16 A: Yes.
- 17 Q: And that was at 7 o'clock the next morning?
- 18 A: 7:15, 7:30.
- 19 Q: 7:15. And the next time you saw Minor he didn't look
- 20 so happy and smiling, did he?
- 21 A: No.
- 22 Q: In fact he was in a hospital bed, right?
- 23 A: Yes.
- 24 Q: Cold to the touch?
- 25 A: Yes.

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KENYA C. TYLER - DIRECT BY LONG

1 Q: All right. Thank you. That's all the questions I have.

2 THE COURT: Redirect?

3 MR. LONG: No, Your Honor.

4 THE COURT: You may step down, ma'am.

5 Next witness, Mr. Long?

6 MR. LONG: Thank you, Your Honor. We call Kenya Tyler to
7 the stand.

8 THE COURT: All right. Please come around to be sworn.

9 CLERK: Ma'am, please raise your right hand and place
10 your left hand on the Bible.

11 KENYA C. TYLER, HAVING BEEN SWORN

12 TESTIFIES AS FOLLOWS:

13 CLERK: Please have a seat. State your full name and
14 spell your last.

15 - MS. KENYA TYLER: Kenya C. Tyler, T-Y-L-E-R.

16 THE COURT: Go ahead, Mr. Long.

17 MR. LONG: Thank you, Your Honor.

18 DIRECT EXAMINATION OF KENYA C. TYLER BY MR. LONG:

19 Q: Kenya, where do you live?

20 A: I live in Loris, 2780 Arnold Drive.

21 Q: How long have you lived there?

22 A: I've been there two years now.

23 Q: All right. Are you married, single or divorced?

24 A: I'm single.

25 Q: All right. Do you have children?

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KENYA C. TYLER - DIRECT BY LONG

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- 1 A: I have four.
- 2 Q: Four children; what are their ages?
- 3 A: Twenty-two-and-a-half, seventeen-and-a-half, ten and six.
- 4 Q: My goodness. I was gonna think you were the younger
- 5 sister. Are you older than Hassan?
- 6 A: Yes, I am.
- 7 Q: Okay. What type of work do you do?
- 8 A: As of now, I'm a reservationist for Wyndam.
- 9 Q: How long have you been doing that?
- 10 A: I've came back to this job recently.
- 11 Q: Okay. Now, December 20th, did you, excuse me, December
- 12 18th, did you visit at your mom's house, mom and dad's house
- 13 when **Minor** was over there that evening?
- 14 A: No, sir, I was a correction officer at the time; I was
- 15 working.
- 16 Q: Okay. And then the next day, did you visit at the house
- 17 any at that time?
- 18 A: No.
- 19 Q: All right. Have you met, held, seen **Minor** before?
- 20 A: Yes, sir.
- 21 Q: All right. And when and where?
- 22 A: When I went to Rena house.
- 23 Q: Okay. And did you go there with Hassan?
- 24 A: Yes, me, Hassan, our father and my nephew, Amin.
- 25 Q: And that was one of the visits there?

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KENYA C. TYLER - DIRECT BY LONG

1 A: Yes, sir.

2 Q: Okay. Was that just one occasion?

3 A: Yes, sir.

4 Q: On the -- on December 19th, 2013, what, if any
5 conversation, contact, did you have from anyone about **Minor**
6 being at the hospital?

7 A: I got a phone call. My dad, he was a little hysterical
8 on the phone. I was about to get myself ready for work.

9 Q: Okay.

10 A: That's when I found -- got the phone call and said that
11 they was at Loris Hospital. So, me and my kids' father got
12 dressed and drove over there.

13 Q: Okay. Approximately what time was it when you arrived at
14 the hospital?

15 A: Probably before 2:00.

16 Q: How -- do you know how long after the telephone call was
17 that you arrived at the hospital; how long it took you to get
18 there?

19 A: Okay. We -- no more than fifteen -- about fifteen
20 minutes from Flagpatch to drive to Loris.

21 Q: When you got there, who was the first person you talked
22 to?

23 A: The first person I seen was my father.

24 Q: All right. And did you thereafter then talk to Hassan?

25 A: Yeah, because they was not too far from each other.

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- 1 Q: All right.
- 2 A: My brother.
- 3 Q: And did you ask Hassan what happened, what, what, what,
- 4 what?
- 5 A: Not at first because he just fell in my arms and started
- 6 crying and everything and couldn't talk at first.
- 7 Q: All right. And thereafter, did you have a chance to talk
- 8 to him ---
- 9 A: Yes.
- 10 Q: --- about what had happened?
- 11 A: Yes.
- 12 Q: All right. And you just heard him testify?
- 13 A: Yes.
- 14 Q: All right. Was what he told you then consistent or
- 15 inconsistent with what he testified to?
- 16 A: Consistent.
- 17 Q: Now, after he explained that to you, how long did you
- 18 stay at Loris Hospital?
- 19 A: All the way to **Minor** went to Florence.
- 20 Q: All right. Now, was there -- did they ask the mother to
- 21 fly with the child to Florence?
- 22 A: Not indirectly, no.
- 23 Q: Not directly?
- 24 A: No.
- 25 Q: Did they ask Hassan to fly with the child to Florence?

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KENYA C. TYLER - DIRECT BY LONG

- 1 A: Not directly no.
- 2 Q: All right. Were you ever approached or asked about it?
- 3 A: No, sir.
- 4 Q: Okay. Did you in fact fly with him to Florence?
- 5 A: Yes, sir.
- 6 Q: All right. How did you become the one to fly with him to
- 7 Florence?
- 8 A: I said I was going.
- 9 Q: All right. Did the mother have some fear of flying or
- 10 worry or concern with flying?
- 11 A: I'm not sure.
- 12 Q: Okay. So were you there in the emergency room the entire
- 13 time, pretty much with **Minor**
- 14 A: Yes, sir.
- 15 Q: How far would you say you were from him or from where he
- 16 was being treated?
- 17 A: I was standing right beside him when he was laying in the
- 18 bed as we was waiting for the helicopter.
- 19 Q: All right. And by right beside him in the bed, I mean,
- 20 you were laying your hands on him?
- 21 A: Yes, sir.
- 22 Q: All right. And for how long in minutes or hours or
- 23 whatever were you with him that afternoon?
- 24 A: I wouldn't say it was hours that I was right next to him
- 25 like that, but several minutes, ten to fifteen, I was standing

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KENYA C. TYLER - DIRECT BY LONG

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1 around him.

2 Q: At that time, did you see any significant injuries on
3 him?

4 A: All I seen was a little bruise right here between his
5 head ---

6 Q: Okay.

7 A: --- at the time.

8 Q: Any dents in his head, skull, anything, any dents in his
9 forehead, any blood, bleeding, did you see any other evidence
10 of any significant injuries?

11 A: No, sir.

12 Q: The history that Hassan gave you about what happened,
13 what took place, et cetera, things of that nature, did you
14 have questions in your mind about this child's here in the
15 emergency room?

16 A: I had a lot of questions.

17 Q: All right. Did you attempt to try to get those questions
18 answered by any emergency room personnel?

19 A: I tried, yes.

20 Q: All right. And were they forthcoming with information to
21 you?

22 A: No, sir.

23 Q: All right. How long was the flight approximately from
24 Loris to Florence?

25 A: It was my first time in a helicopter. To me it was a

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KENYA C. TYLER - DIRECT BY LONG

1 long time.

2 Q: All right. But could you estimate in minutes or hours
3 how long it took?

4 A: Probably twenty, twenty-five minutes.

5 Q: Okay. And did you land there at the hospital?

6 A: Yes, sir.

7 Q: All right. And was **Minor** on like a stretcher type bed,
8 bed on wheels?

9 A: Yes, it was on a small stretcher right by me while we was
10 flying.

11 Q: All right. And did his condition improve, get worse or
12 remain the same during the flight?

13 A: He pretty much just laid there, just remained the same.

14 Q: Was eyes ever open at any time?

15 A: No, sir.

16 Q: After you arrived at Florence, how long did you continue
17 to stay with him?

18 A: We stayed -- we stayed there -- of course I stayed there
19 until both families -- both parties got there and we lingered
20 a little longer after that and we had left.

21 Q: Did you have any contact by personnel at Florence
22 concerning his status or condition or prognosis or anything of
23 that nature?

24 A: Yes, that nurse did tell -- talk to me.

25 Q: All right. And based on her conversations, did you have

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KENYA C. TYLER - DIRECT BY LONG

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- 1 a pretty good understanding of what his condition was?
- 2 A: Yes, sir, she explained.
- 3 Q: And did you explain that to your mom or did ---
- 4 A: I never -- well, no, not at that time in the hospital I
- 5 didn't explain to my mother. A lot was going on.
- 6 Q: Okay. Did you go to work then once you got home?
- 7 A: No, sir.
- 8 Q: All right. You had that day off?
- 9 A: I called out.
- 10 Q: I know you're not trained as a medical personnel, but did
- 11 you say any dents or bruises or cuts or swellings or anything
- 12 on that child's head?
- 13 A: No, not other than the -- well, then again, his color
- 14 pigmentation was changed from in Loris Hospital as he was
- 15 laying there till once we got to Florence. She explained to
- 16 me that his body temperature was, was -- she had to bring the
- 17 heat back to his body.
- 18 Q: Okay. He had got cold?
- 19 A: So, his pigmentation was changing.
- 20 Q: All right. So that changed his appearance?
- 21 A: Yes, sir.
- 22 Q: Other than that, did you notice any bumps, knots,
- 23 swellings, concave, you know con -- anything where dents in
- 24 his head, anything of that nature?
- 25 A: No, sir.

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KENYA C. TYLER - CROSS BY HELMS

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1 Q: Thank you, ma'am. Answer any questions the Solicitor may
2 have.

3 THE COURT: Cross examination?

4 MR. HELMS: Yes, sir, Your Honor.

5 CROSS EXAMINATION OF KENYA C. TYLER BY MR. HELMS:

6 Q: Ms. Tyler, I'm gone be very brief. You're not a doctor
7 are you?

8 A: No, sir.

9 Q: You're not a nurse, are you?

10 A: No, sir.

11 Q: You're not a medical professional in any way, are you?

12 A: No, sir.

13 Q: You say the first phone call you regards to this case
14 was from your father and your father's name is Robert Tyler?

15 A: Yes.

16 Q: You've been here all week, haven't you, ma'am?

17 A: Pertaining to what?

18 Q: Have you been in the courtroom this week all week?

19 A: No, sir. Today is my first day.

20 Q: Is your father in the courtroom?

21 A: No, sir.

22 Q: You went to Loris Hospital first?

23 A: Yes, sir.

24 Q: And you say that the hospital staff was not, I think Mr.
25 Long used the term forthcoming, with you?

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1 A: That's correct.

2 Q: Are you aware of HIPPA Laws?

3 A: Nope.

4 Q: Are you aware the hospital staff is not allowed to
5 divulge personal health information to you if the patient is
6 not your spouse or child; would that surprise you to learn
7 that?

8 A: No.

9 Q: Okay. You say you didn't say any significant injuries on
10 **Minor** -- **Minor** whenever you were with
11 him?

12 A: Other than the little pigmentation on his head right
13 there.

14 Q: At the same time, you say no one told you what was wrong
15 with him, correct?

16 A: That's correct.

17 Q: So, you really didn't know what to look for, did you?

18 A: No, other than what my -- what my brother explained the
19 situation and, no, I wasn't looking for nothing else.

20 Q: So, you weren't inspecting little **Minor** were you?

21 A: No, I did not inspect him.

22 MR. HELMS: Court's indulgence, Your Honor, may I?

23 THE COURT: Yes, sir.

24 MR. HELMS: Thank you very much.

25 MR. HELMS: Let the record reflect I'm now handing the

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KENYA C. TYLER - CROSS BY HELMS

1 witness State's Exhibit Seventeen through Twenty-five.

2 BY MR. HELMS:

3 Q: Ma'am, I'd like you to take a look at those pictures for
4 me briefly. And you don't have to study them in any great
5 detail, ma'am, if you'll just flip through them and take a
6 glance.

7 MR. HELMS: May I retrieve those exhibits, Your Honor?

8 THE COURT: Yes, sir.

9 MR. HELMS: Thank you.

10 BY MR. HELMS:

11 Q: Ms. Tyler, do you recognize the baby in these pictures?

12 A: Yes.

13 Q: And who is this?

14 A: That's my nephew, **Minor**

15 Q: I'm sorry?

16 A: My nephew, **Minor**

17 Q: And do you acknowledge or do you not acknowledge **Minor**
18 has significant bruising in these pictures?

19 A: Yes, I'm looking at that from the picture.

20 Q: And can you tell from these pictures that this was taken
21 at the Loris Hospital where you arrived?

22 A: No, I can't tell that.

23 Q: Okay. You say you were with **Minor** for the majority of
24 the time that he was at the Loris Hospital, correct; that's
25 what you testified to?

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BY THE COURT

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1 A: From the time I got there, I was standing by his bed,
2 yes.

3 Q: Did you see anyone abuse him at that time?

4 A: No, not at that time, not abuse him, no.

5 Q: So, would you agree that if he arrived at the hospital in
6 that condition and you were with him until he left the
7 hospital in that condition that those bruises had to be on him
8 when he arrived at Loris Hospital?

9 A: I didn't see it with my eye.

10 Q: Fair enough. Thank you. No further questions, Your
11 Honor.

12 THE COURT: Any redirect?

13 MR. LONG: No, Your Honor.

14 THE COURT: All right. You may step down, ma'am.

15 BY THE COURT:

16 THE COURT: Further witnesses on behalf of the Defense?

17 MR. LONG: No, Your Honor.

18 THE COURT: The Defense rests?

19 MR. LONG: Yes, sir, Your Honor.

20 THE COURT: Any reply testimony from the State?

21 MR. SPRATLIN: No, Your Honor.

22 THE COURT: All right. All right, ladies and gentlemen,
23 that concludes the evidentiary portion of this trial. There
24 will be no more evidence presented in this matter. What now
25 remains in this case are the closing arguments of the

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BY THE COURT

1 attorneys and then the charge on the law from the Court that
2 you will follow in accordance with your view of the facts and
3 the evidence in this case. As you might expect, the closing
4 arguments and review of the evidence by the attorneys along
5 with the charge of the law, that will take some period of time
6 and after that, obviously, the case will be given to you for
7 your deliberations and your unanimous decision in this
8 particular matter. It being 4:45 or so, we're not going to
9 proceed with those matters tonight because if I did, then that
10 case is yours until you reach a unanimous decision for however
11 long that would take so I don't intend to impose on your time
12 in that manner. We will start again tomorrow morning as we
13 have done this particular week. Madame Bailiff, you had them
14 come about 9:15?

15 BALIFF: Yes, sir.

16 THE COURT: All right. Have you at the courthouse
17 tomorrow by 9:15 to expect -- barring any matters that they
18 come up at 9:30, we'll go into closing arguments, the charge
19 of the law and then I will submit to the case to you for your
20 deliberations and unanimous decision in this matter.

21 Again remind you, don't talk about the case yet; it is
22 not time. When I give it to you that will be the time to
23 discuss the case. Obviously, you're not talking about it at
24 home or when you leave the courthouse with anyone. It's your
25 decision to make and yours alone in this matter. So I'll see

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MOTIONS

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1 you back tomorrow morning. Thank you very much.

2 (REPORTER'S NOTE: Jury exits courtroom. The following takes
3 place outside the presence of the Jury.)

4 THE COURT: All right. So motions, gentlemen?

5 MR. SPRATLIN: None from the State, Your Honor.

6 THE COURT: Mr. Long?

7 MOTIONS:

8 MR. LONG: Your Honor, for the record, we would renew the
9 motion for a directed verdict at the close of the State's case
10 and the motion for a mistrial based on discovery violations.
11 I understand Your Honor's previously ruled. Nothing has
12 changed from that ruling but, for the record, we would do
13 those to preserve those motions.

14 THE COURT: All right, sir. I'm not gonna go and review
15 the directed verdict law again as I did previously. The law
16 remains the same as I stated earlier, nor am I gonna go over
17 that review of the facts that, that I stated. Obviously,
18 again saying that I'm relying upon all the facts and evidence
19 presented in this matter. The -- in the State's case along
20 with the things that I had related, obviously, had the
21 statement of the Defendant that was read into the record at
22 that point in time before that directed verdict motion and
23 there was a timeline established in that statement that showed
24 that the Defendant, from the State's perspective -- and again,
25 taken in the lights -- the facts in the light most favorable

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CHARGE CONFERENCE

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1 to the State opposing the motion, is the only person that had
2 the opportunity to inflict these injuries based upon his
3 statement and the timeline established and that was re-
4 emphasized through his testimony and the testimony of the
5 Defense witnesses. Again, I'm not judging credibility,
6 believability; that's not my job. I'm talking about does the
7 evidence exist, the evidence along with all the other medical
8 evidence that previously the Court went over exists,
9 therefore, I would respectfully decline to grant your motion
10 for directed verdict.

11 As to the discovery issue, I previously ruled, did not
12 find any type of discovery Brady, Rule 5 violation by the
13 State. I found the State did everything they were supposed to
14 do in this matter and found no violation and, again,
15 respectfully decline to grant your motion for a mistrial in
16 that regard.

17 Further motions on behalf of the Defense?

18 MR. LONG: No further motions at this time, Your Honor.

19 CHARGE CONFERENCE:

20 THE COURT: All right. Very good. All right.

21 As to the charge in this matter, anything that the State
22 has at this point -- I will go over what my intentions are,
23 but is there anything that the State has at this point in
24 time?

25 MR. SPRATLIN: Your Honor, I was originally planning to

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CLOSING BY LONG

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1 (REPORTER'S NOTE: Jury enters courtroom.)

2 THE COURT: All right. Good morning, ladies and
3 gentlemen. As I indicated to you yesterday, we have finished
4 the evidentiary portion of the trial. What we're gonna go
5 into now are the closing arguments and the charge of the law
6 in this particular matter. I remind you again that the
7 evidentiary portion of the trial is concluded. The closing
8 arguments are not evidence and cannot be considered by you as
9 evidence in the case, but they are important. They are each
10 side's summation to you of what they believe the evidence has
11 shown to you during the course of the trial, remembering of
12 course that you are the judges of the facts in this case.
13 When they conclude with their closing arguments, I will give
14 you the law that you will apply to the facts and evidence you
15 find to be true in this case.

16 Mr. Long?

17 MR. LONG: Thank you, Your Honor.

18 CLOSING BY MR. LONG:

19 MR. LONG: Good morning, ladies and gentlemen. I thank
20 you and Hassan thanks you for your time and attention in this
21 case. When you woke up Monday morning after receiving that
22 nasty little letter from the Clerk of Court in your mailbox,
23 you had no idea that you would be called upon to do this and
24 as I explained to you in opening statements, yours is the
25 toughest job in this courtroom and we thank you for your

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CLOSING BY LONG

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1 willingness to do that and your attention to what you need to
2 have heard to decide it.

3 As I told you in opening, this case involves sympathy and
4 emotion. And, of course, there are two sides to this story.
5 And, of course, the State wants you to look at the dead child
6 and wants your heart to tell you or ask your head how could he
7 have done that. When the law requires you and His Honor
8 requires you and we ask you to listen to the evidence and
9 decide the case on the evidence. Because as I've said,
10 there's two sides to every story and the same sympathy that
11 you feel for the mother or the family, you certainly should
12 feel for the father. And I can't imagine having to bury a
13 child. It's just against the laws of nature; children are
14 supposed to bury their parents. That's the way nature is
15 supposed to go and I can't imagine how that would tear the
16 heart out of my chest if I had to bury one of my children. It
17 would just tear me apart. You have to imagine the frustration
18 on top of that. When he has consistently said, the version,
19 his -- what he's told them what happened over and over and
20 over and over again, the same story consistently over and over
21 and over, and nobody believes him. Him coming in voluntary
22 the last time and you heard the statement as it was played and
23 he said the exact same facts what he told them in the hospital
24 room over and over and over and over, and they kept attacking
25 him. And finally, it got to the point, you're telling me I

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CLOSING BY LONG

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1 killed my child. Isn't that what it is, you're just -- you're
2 not gonna believe me no matter what I tell you, you think I
3 killed my child. Well, we figured you had something to do
4 with it or it was your dad, he had something to do with it.
5 And the frustration that you would feel at that point in time
6 -- the reason the law requires such a heavy burden on the
7 State is because from that interview, he was cuffed, he was
8 put in a patrol car, he was taken to jail and he sat there for
9 three months waiting to get out to challenge, to contest, to
10 fight and to have a trial on what they accused him of doing.
11 And for that three months, he wasn't even -- he don't know
12 where his child is buried. He wasn't able to attend the
13 funeral. He's locked up on something he knows he didn't do
14 and he can't convince anybody. And as bad as it would tear
15 the heart out of my chest to have to bury a child, it would
16 rip the brain out of my skull to feel that kind of
17 frustration. So, there's sympathies on both sides.
18 What the law requires and what you're asking, put that aside,
19 okay, because you're to decide this case on evidence that
20 comes from the witness stand that you determine to be
21 truthful, that you determine to be a fact and what the law as
22 His Honor gives you to apply to it. I told you earlier,
23 opening statement is like a road map; here's where we're
24 going, here's the forks in the road, et cetera, things of that
25 nature. The law as His Honor tells it to you is like all the

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1 traffic laws along the way. You can drive this fast, you got
2 to stop at stop signs, you got to stay in your lane, you got
3 to stop for stopped school buses; those are the traffic laws
4 that you have to obey to arrive at your destination. So, take
5 the law as His Honor gives you as the law. If I say anything
6 different from what he says, ignore what I say.

7 When the case is being tried, I'm dealing with questions
8 and notes and witnesses and talking to my client and things of
9 that nature, and I'm not listening a hundred percent because I
10 have other things I have to do. But each one of you is much
11 more capable than I of recalling what was said, when it was
12 said, things of that nature and the fourteen of you now,
13 twelve of you later, are at least twelve times more capable
14 than I am of recalling what was said, how it was said and
15 things of that nature. So, if I say anything different than
16 what you remember coming from the witness stand, disregard it.
17 Okay. Your recollection is correct. Same way with the
18 Solicitor if his recollection is different -- he has other
19 duties in the courtroom as well. Recall it as you remember it
20 to be.

21 I believe I told you in opening that I admire this man's
22 restraint. Because if I had to sit through an hour and a half
23 to two hours of what we listened to and they were calling me,
24 okay, what they called him, I would have cussed them or I
25 would have stood up and threatened them or I would have

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1 clammed up and said screw you, I'm not telling you another
2 word. And the fact that he went on with them for that length
3 of time without having done those things, I admire his
4 restraint. I do.

5 His dad was interrogated or interviewed that day as well.
6 His dad was probably arrested before him. While they're both
7 there at the police station, the police are kicking down the
8 door, breaking into the apartment with a search warrant to
9 search for evidence of was the child thrown against the wall,
10 was the child -- you know, did the child bleed on anything,
11 was there, you know, pieces of the child's scalp, hair or
12 something on the corner of a coffee table or something,
13 whatever. Didn't find a thing. All they had to do was ask
14 them, can we come in and look? Sure, come in and look.
15 When he was jail with his dad, didn't even get a chance to
16 talk to him, didn't even see him. They kept them segregated,
17 separated from each other. Certainly, some sympathy goes to
18 his mother in this case. She lost a grandson and then she had
19 her husband and her son locked up for three months over his
20 death and that's hard for her to take.

21 Another part of Hassan's frustration is he's locked up,
22 he doesn't have the chance to find out what happened. He
23 relies on or has to rely on police to try to figure it out and
24 hopefully find out what happened. The eleven people, eleven-
25 plus people in the child's mother's home, weren't ever even

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1 interviewed. The police had blinders on. They said this man
2 did it or this man did it and to hell with the consequences.
3 We've got our men or man and we're not gonna -- we don't even
4 have to interview anybody else. Now, that may or may not
5 bother you, but I've got a little bit of personal experience
6 in that regard. This case isn't about me. I just tell you
7 this because this is where I come from. I was the third child
8 born. My sisters are six and nine years older than I. I also
9 have a younger brother three years younger than I. My sisters
10 were my second and third mothers. They were required to watch
11 me, to do things for me, to help my mom with me, the baby,
12 things of that nature. My parents went out to supper one
13 evening, the two of them were to watch me and keep me. They
14 loved to tickle me, they like to watch me laugh, they loved to
15 play with me, things of that nature. And I was a little less
16 than a year old, I was probably ten or eleven-months-old,
17 tickling me on the bed, I'm just trying to get away from them
18 whatever, tickle laughing, tickle laughing and it starts to
19 hurt and I just rolled right off the bed and broke my
20 collarbone. They didn't know what had happened. They knew I
21 cried but then I quit crying for a little while. And when my
22 parents got home -- they didn't call my parents at the
23 restaurant, they didn't have cell phones, things of that
24 nature -- because after I quit crying, they said okay, I'm
25 okay. They told mom and dad reluctantly what had happened and

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1 then next morning, I have a big bruise there and mom and dad
2 saw me and took me in and I had to get slinged and that kind
3 of stuff, you know, fix it. That bears upon my understanding
4 of what could happen or might have happened. It wasn't too
5 much longer, I was closer to two years old and it was during
6 the daytime on a Saturday and my mom's in doing whatever mom's
7 do on Saturday and my dad is out doing whatever he does on
8 Saturday and they've got me in the backyard in a swing and
9 they're pushing me in a swing and I am just a giggling,
10 laughing, I think this is the most wonderful thing in the
11 world. And they push me hard and the harder they push me the
12 more I laugh and ultimately my big heavy head made me flip
13 backwards out of the swing and I landed on my arm and broke my
14 arm. They didn't intend to hurt me. They had no desire
15 whatsoever to harm me but then I had a cast and I had a broken
16 arm less than two years old. And if things were then as they
17 are now, my parents probably would've been interrogated by
18 police officers when I was brought to the emergency room with
19 a broken arm. Maybe it's a good thing; maybe it's a bad
20 thing. I don't know. But I recall these type of things and I
21 see what can happen to kids and I've been doing this for a
22 while also and for the police not to investigate and even
23 interview any of those children, any of those brothers and
24 sisters, any of those parties in that house, they didn't. Did
25 you drop the baby; did the baby fall down; did you close the

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1 door on the baby; did you drop a book on the baby; did you sit
2 on the baby; nothing, nothing. It leads me to think it was
3 not done properly.

4 Now, how can you prove a negative? If I am accused of
5 attempting to assassinate the President of the United States
6 on November the 16th of 2015, how do I prove I didn't? Maybe
7 I went with my family to Disney World and I've got a picture
8 of me and Mickey Mouse in a picture with a newspaper with
9 today's date and the picture itself is dated to say, Buddy
10 wasn't even near Washington, he was in Orlando, Florida, see.
11 Other than that, how can you prove a negative? How can you
12 prove you didn't do something? Well, that's why the State
13 puts the burden on the State beyond a reasonable doubt that
14 you did because it's hard to prove you didn't do something.
15 The facts, the evidence that the State brings, the best it
16 possible can gather is what's presented to you from the
17 witness stand.

18 Now, again if I say anything that you don't remember
19 coming from there, disregard what I say, but I think I
20 remember hearing from the witness stand the doctors testify,
21 everybody testify and it boils down basically to medical --
22 I'm sure the State thinks it's medical science but as His
23 Honor will tell you, it's just medical opinion and their
24 opinion is to be given no more weight than any other opinion
25 that could be testified to. A medical expert is only

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1 permitted to give -- testify about their opinion. And the
2 opinions you heard, did they boil it down and say it only
3 could have happened while the child was in the father and
4 grandfather's custody? Did any of them say it was only that
5 narrow window of opportunity that this child could have
6 received the injuries to its skull? Did they say we've looked
7 at bruises on the skull and from the age of the bruises or the
8 color of the bruises or things of that nature from the
9 clotting or anything that it only could have happened within
10 this window of time? I don't think they did until the last
11 one and this Dr. Abel was brought in -- I don't know when; she
12 doesn't know when. She couldn't recall when she was called by
13 the State to try to let's fit all this stuff together. We've
14 got varying opinions, et cetera, this that and the other, but
15 we need you as our expert to draw all this together and to
16 spoon feed it to the Jury so that they'll understand what your
17 opinion is in this matter. She didn't look at the x-rays, CT
18 scans, she didn't touch the child, she didn't examine the
19 child, she didn't talk face-to-face with the doctors, she read
20 the notes and she looked at some photographs. And then she
21 gave you an opinion that for that child to receive that kind
22 of injury, that child would've been had to've been dropped two
23 stories or more to receive those kind of injuries and it
24 would've been unconscious right away and it would have died
25 within or stopped breathing within an hour to an hour-and-a-

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1 half and that's completely contrary to what the other doctors
2 had told you. Yeah, there is delayed onset, and, yeah,
3 children have delayed onset. These things don't happen right
4 away. Okay. Some of them do, some of them don't, and, yes,
5 I've treated and seen patients in my office that have received
6 an injury but they don't come in to two or three days later
7 with problems, with symptoms, things of that nature.

8 The hardest part about representing Hassan is when I had
9 to show him these photographs. Nobody wants to see their
10 child in that state. Nobody, us, you and me included, wants
11 to have to look and see that. It looks bad to see a little
12 body laid out like that. I hear him testify, I hear his
13 family testify that that child had no bruises, we saw nothing,
14 we knew nothing about what they say the child looked like when
15 it was admitted. Can I explain it? No, I wasn't there. Can
16 I testify as an expert? No, I'm not a doctor. But I have
17 seen death and I've seen how somebody sallows when they quit
18 breathing, when their heart quits pumping, when life has left
19 their body. And that child had died and he was resuscitated.
20 He was brought back, and he was under extreme medical care,
21 and they took those pictures after having gone through all
22 that. I don't recall testimony whether electrodes were placed
23 on his head for the brain function testing. That's when
24 they've got to sense any and all electrical activity going on
25 in the brain to try to determine is the brain still viable or

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1 not. I look at those photographs and I look at completely
2 around and I don't see bruising, I don't see dents in the
3 skull, I don't see splits in the skin. And Lord knows, if
4 someone were to drop a baby from two stories, okay, you're
5 gonna see exterior evidence of that type of that blow or that
6 type of injury, and it's not there. It's not there.
7 Oh, but he had a bruise on his stomach, he had a bruise on his
8 stomach. The doctors testified there was no trauma related to
9 that bruise. There was no internal injuries related to the
10 bruise; it was a mark on the skin. Oh, but somebody must have
11 punched him in the stomach, he had stomach bruises. He says,
12 I didn't do it, not me, I did not do that.

13 And again, did any of the doctors sit there on the
14 witness stand and say the date of the injury, the time of the
15 injury, the exact force of the injury, the manner in which the
16 injury was applied, hand, fist, foot, baseball bat, stick,
17 coffee table, drywall? Did any of them tell you with a
18 reasonable degree of medical certainty that that's when it
19 happened? I don't think they did until their last witness.

20 Now, going back to Dr. Abel, we don't know when she was
21 hired, when she was contracted. We do know that she's paid by
22 the State for her testimony as an expert witness. I forgot to
23 ask her, how much are you paid to testify? And if it's
24 anywhere -- if I'm not in the range of a 150 to \$200. I'm
25 sure the Solicitor will point it out and tell me -- tell you

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1 that it's, oh, no, much less than that or it was actually more
2 than that. But she, in her investigation, read the notes
3 incompletely, didn't look at the x-rays, CAT scans, whatever,
4 and comes in here and tries to tie it altogether and say it
5 had to happen within this period of time, it just couldn't
6 happen any other time. You can believe what she says. You
7 can disbelieve what she says in its entirety. You can believe
8 part of what she says. You can disbelieve the other part of
9 what she says. That's your job as the finders of fact, to
10 find out what you can believe of her testimony.

11 Now, again, I've always thought that actions speak louder
12 than words and -- good Lord, I tell my wife that all the time.
13 Morning, Honey, how you doing this morning? Grrr. Good
14 morning. Hi, how are you? Grrr. She's not a morning
15 person. And so I'm happy to see her and tell her hello and
16 here let me help you fix your coffee, this, that and the other
17 and her actions tell me, get away from me, I don't want to
18 talk to you right now, let me get my cup of coffee and wake
19 up. So grr doesn't work to me. Everything about this says
20 wake up, whatever, once you've had your cup of coffee, then
21 I'll come and give you a hug and tell you good morning, et
22 cetera. Actions speak louder than words.

23 Hassan has used the same words over, over, over again to
24 say, I didn't do it. I don't know what happened. I can't
25 tell you what happened. All I know is nothing happened to him

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1 when he was with me. Now, those words were loud and he's
2 tried, without hollering, without having hollered, he's tried
3 to express them loudly. But what do his actions say? He
4 comes flying into the emergency room with a child that's not
5 breathing, that has given a -- what we normally refer to his
6 last gasp or dying breath, he has taken it in and handed over
7 to emergency personnel. He jumps in his car and heads to
8 Florida? Somebody that just beat up their child to get it
9 ready to return to its mother would have taken off. He stayed
10 there in the emergency room. He waited until the mother got
11 there. He waited until the family got there. He waited till
12 everybody got there. The police says, tell us what happened.
13 Not only did he tell the emergency room nurse and personnel
14 what he knew what happened, he told the police the same thing.
15 And the told the police the same thing, he says, Officer or
16 Captain Vaught came by the next day and talked to him and then
17 he went in and told them the same thing. Captain Vaught said,
18 yeah, what he said was consistent. A lie quickly formed will
19 always fail and if he wanted to create a lie in this case, he
20 didn't have much time to do it. And if he wanted to create a
21 lie in this case, he would have certainly been tripped up,
22 trapped or forced to admit some of what you told us ain't the
23 truth. The officers dangled some hooks in front of him and
24 said, come on, Hassan, bite at that, come on, I'm giving you a
25 chance here. You know, come on, we think you're lying. I'm

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1 giving you a chance here, come on, bite this, tell us some of
2 the truth. You know, like, didn't you try to resuscitate
3 him? I mean, come on, just tell us that you could've put
4 those marks on his belly by trying to resuscitate, just tell
5 us that, just tell us that. And he says, no, I didn't, twice.
6 I didn't try to resuscitate him; I don't know how to
7 resuscitate him. I took him to the hospital. And a lie
8 quickly formed is gonna fall apart in those circumstances.

9 Back to actions. Does a guilty man who beats his child
10 in preparation of returning him the mother go to Florence,
11 chase the helicopter and stay there overnight waiting to see
12 how his son is? That speaks loudly and that's not the actions
13 of a guilty man. If he's lying and did harm his son, wouldn't
14 he withhold everything, not say anything, not admit anything,
15 not be voluntarily questioned by police. And the little
16 details, yeah, he fell asleep on my belt buckle. He had like
17 his head on my belt buckle. He fell asleep and it left a
18 little mark right here between the eyes, he had a little mark
19 or little dent. Would a guilty man admit that, okay, because
20 that's the start, okay, of leading somebody down the road to
21 say, well, you did that, you did all this other, too, didn't
22 you. And, if he was guilty, he wouldn't disclose and admit
23 that. I talked to him about it and I see that he's got a
24 little beard, goatee, whatever, I've got two daughters and
25 I've been playing with them when I should have been clean

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1 shaven and left little marks or abrasions on them from kissing
2 and loving on them and things of that nature. I've been doing
3 that with my child and she'd go, ow, Daddy, that hurts, you
4 know, when you're kissing them and loving on them and you've
5 got a little beard. I have children that I've placed in car
6 seats and the straps from the car seat leaves little marks on
7 their neck, okay, because canvas straps there may have caused
8 a rub when they fall asleep in their car seat. I wasn't
9 there, I don't know, I can't tell you. But I can tell you
10 what I think happened. He's kissing his son's neck, playing
11 with him, whatever, his son may've had a strap mark from the
12 car seat or whatever and he looked up and said, oh, oh, gosh,
13 I must've caused that little mark. Okay. And if he did that,
14 is that something a guilty man is gonna admit to police and/or
15 whoever, to the mother, anybody, he was not gonna withhold
16 that, he's not gonna say anything about, oh no, I didn't --
17 well I didn't -- I didn't do that, y'all lying. Actions speak
18 loudly in this case.

19 When I started practicing a number of years ago -- and
20 you see the pictures in this courtroom, the one back there is
21 Judge Sidney Floyd and you see the pictures here and they may
22 or may not have any connection or meaning to you. But when I
23 started practicing before Judge Floyd, and I believe Judge
24 John may have started practicing before Judge Floyd as well,
25 and he used to always tell jurors how much he appreciated

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1 their service because what you do here today in this courtroom
2 is second only to serving your country in a uniform at time of
3 war. I used to always look at him and think, wow, okay, but
4 it is. And the oath you swore, the job you have to do is
5 tremendous. It's a tremendous responsibility. He can't tell
6 you any more than I didn't do it, I am not guilty, and I want
7 a trial. And he has consistently been that way from two-and-
8 a-half years ago. I hope I have not made any mistake on what
9 came from that witness stand. After I sit down, because we
10 presented evidence, the State has the opportunity of making
11 the final closing argument. And you know the old saying he
12 who laughs last laughs loudest or he who has the last word, et
13 cetera. I just caution you to use your recollection of what
14 the evidence is. If Mr. Spratlin gets up here and talks to
15 you quietly and things of that nature, listen to him. If he
16 gets up and hollers and throws and stomps his feet and yells
17 and things of that nature, listen to him. Okay? But what he
18 tells you is not evidence. I don't have an opportunity -- we
19 don't have a chance to come back after he makes his summation.
20 So if he says something that doesn't stick quite right in it,
21 think about it, you know, wait a minute, because we don't have
22 a chance to respond to that.

23 Sincerely, with our collective hearts, we're asking to
24 find Hassan not guilty, to give him the opportunity of finding
25 out where his son is buried to put flowers on his son's grave,

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CLOSING BY SPRATLIN

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1 and to tell his son goodbye because he won't otherwise.

2 Thank you.

3 THE COURT: All right. Solicitor?

4 MR. SPRATLIN: Thank you, Your Honor. May it please the
5 Court?

6 THE COURT: Yes, sir.

7 CLOSING BY MR. SPRATLIN:

8 MR. SPRATLIN: Ladies and gentlemen of the Jury, I agree
9 with a lot of what Mr. Long said. Anything I say is not
10 evidence and anything Mr. Long gets up here and says is not
11 evidence. Your job as jurors and throughout this trial has
12 been to listen to the evidence, to hear what was said, to
13 watch the demeanor of the witnesses, to watch how they
14 responded to direct examination questions, and also they
15 responded to cross examination questions as well. Did they
16 appear to be telling you everything? Did they appear to be
17 holding stuff back? I submit to you, ladies and gentlemen,
18 the State's witnesses weren't trying to hold anything back.
19 They came forth with the evidence that they had and presented
20 it to you, who are in fact the factfinders.

21 During the instructions that the Judge gave you at the
22 beginning of the trial, he told you that you were the judge of
23 credibility. That is the hallmark of our justice system.
24 Because at the end of the day, you guys are what justice is;
25 twelve people, not to leave out the alternates, but fourteen

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1 people have sat through this entire trial and heard all the
2 evidence. And now it's your job to decide if justice is to
3 cut that man free or hold him accountable for what he did to
4 **Minor** .

5 When we first -- after I sit down and the Judge starts
6 charging you on the law, he's gonna tell you several things.
7 First, he's gonna tell you that the Defendant is presumed
8 innocent. When he came into this courtroom, when the trial
9 began on Tuesday morning, if you had to take a verdict right
10 then and there, no question, it's not guilty because you
11 haven't heard any evidence. The State hadn't come forward and
12 met our burden of proving the Defendant did it. However, over
13 the last two days, we have. Now, we have to prove he's guilty
14 and we have to prove it beyond a reasonable doubt. That's a
15 phrase you may've heard before. What it means is it is a lack
16 of doubt or it is a doubt that would cause a reasonable person
17 to hesitate to act. If you are firmly convinced that the
18 Defendant did it based on all the evidence you've got, you
19 believe in your heart of hearts the Defendant did it; that is
20 proof beyond a reasonable doubt. And I submit to you, all
21 twelve of you should be, fourteen again -- excuse me,
22 alternates -- all fourteen of you should be convinced beyond a
23 reasonable doubt that the Defendant did it because that's what
24 the evidence has shown you.

25 Now, that asks the question, what do you have to be

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1 convinced that the Defendant did? Now, the Judge is gonna
2 charge you with the law and the statute that's applicable to
3 this case. I want to read it to you just so you have an idea.
4 A person is guilty of homicide by child abuse if the person
5 causes the death of a child under the age of eleven -- **Minor**
6 was three months, **Minor** was three months, I mean -- while
7 committing child abuse or neglect and the death occurs under
8 circumstances manifesting an extreme indifference to human
9 life. Like a lot of things in the law, words don't always
10 have their common meaning. When I say child abuse, you might
11 picture one thing but, fortunately, there's a definition in
12 the statute for what child abuse or neglect actually means.
13 It means an act or omission by any person which causes harm to
14 the child's physical health or welfare. And again, harm has a
15 definition. Harm to a child's health or welfare occurs when a
16 person inflicts or allows to be inflicted upon the child
17 physical injury including injury sustained as a result of
18 excessive corporal punishment. That is the law. That is the
19 law that you are supposed to determine whether or not the
20 Defendant violated.

21 So, how has the State's evidence shown you that? I told
22 you that me and Mr. Long agreed on a whole lot. One thing we
23 do disagree on though is he said that I want you -- I want to
24 play on your emotions. I want you to make an emotional
25 decision. I want -- he said I want you to hear that a three-

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1 month-old child died and basically just convict the man. I
2 don't want this decision to be made with your heart. I want
3 it to be made with your brain. I don't want to play on your
4 emotions. I want you to use your common sense and common
5 sense goes a long way. Common sense tells you that on
6 December 18th at 7:43 P.M. that child was okay. Common sense
7 tells you when you look at this photo and I like photos
8 because photos don't lie. Photos don't get up there; photos
9 don't forget; photos don't keep telling you a different story.
10 Photos just -- what photos do is they capture a moment in
11 time. That's it. And this moment in time captured a healthy,
12 happy child. A child who had just left the hands of his
13 mother, who is sitting on his grandmother's lap, who was
14 smiling, starry-eyed, big grin on his face, probably just ate
15 or is about to eat. Common sense tells you a child absent
16 something pretty horrific happening doesn't go from smiling
17 and happy to stop breathing and laying in a hospital bed on
18 ventilators. I don't show you these photos -- I don't submit
19 these photos into evidence to play on your emotions. I use
20 them to show y'all that common sense says something bad
21 happened to that child, something bad that a man who had
22 custody, control and possession of that child, bruises all
23 over his body. During the case, I believe when Chief Vaught
24 was testifying, Mr. Long asked him about contrast on cameras
25 and that sometimes you can make contrast look like there is a

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1 bruise and there's not a bruise or something like that. You
2 guys got common sense. You're looking at these photos. These
3 are bruises, all of them are bruises, not a bad camera, not
4 the result of CPR. They're bruises that that child came into
5 the hospital with. That's just common sense.

6 Also, ladies and gentlemen, I want you to keep in mind,
7 the time from this picture to the hospital photos --- Chief
8 Vaught testified he took those photos around 3:40, 3:45 give
9 or take. We're talking about twenty hours between the time
10 **Minor** was smiling, happy, healthy to the time that he's not
11 and cold to the touch.

12 Mr. Long mentioned a whole lot about how his client has
13 kept telling the same story over and over and over again. His
14 story is real simple though, I didn't do it and I don't know
15 how it happened. I didn't do it, my dad didn't do, no one at
16 my house did it; it must have happened over at momma's house.
17 Common sense tells you there was nothing wrong with that child
18 when it came into dad's custody. Saying I don't know, saying
19 I don't -- it's not hard to remember that you said that. It's
20 not hard to keep saying that.

21 Mr. Long talked a lot about the bruises on his neck and
22 how it could have been caused by the Defendant's beard. I
23 don't know about y'all, but my hair has never been hard enough
24 to cause a bruise. And make no mistake about it, that is a
25 bruise, not an abrasion, not a scratch; that is a bruise. And

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1 we all know from our common sense how bruises come about.
2 They come about from impact; they come about from grabbing;
3 they come about from squeezing and it takes a little force to
4 cause a bruise. Those were not -- bruises were not only noted
5 by the nurse that took the lifeless child from the Defendant's
6 hand. Those bruises were not only noted by the doctor who was
7 trying -- doing everything he could to try to save the life of
8 that child. They were noted by Chief Vaught, a layman, who
9 just came in and took some photographs of what he saw. They
10 were noted by the doctor during the autopsy and Agent Weaver,
11 who observed the autopsy. That child was mistreated. That
12 child was abused. Ladies and gentlemen, this is an assault on
13 a baby, make no mistake about it, a giant bruise here. Mr.
14 Long brought up the fact that there was no trauma on the
15 inside. A blow to the stomach doesn't always cause trauma.
16 You know that from your common sense. You know that if you've
17 ever been hit in the gut.

18 The medical testimony here is important. It's very
19 important. It is important because it establishes a timeline
20 of events. As I said, common sense tells us that the child
21 was fine when he left mom. The medical testimony confirms
22 that. Every doctor who testified said the child was otherwise
23 healthy and normal, well-nourished I think was the term that
24 was used. Dr. Abel used it. Dr. Proctor, the forensic
25 pathologist used it. The child appeared otherwise healthy

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1 other than the injuries to the brain and the skull. So let's
2 focus on those.

3 Every doctor testified that it would take a great deal of
4 force to cause those injuries. I think -- and there might be
5 some discrepancies between how Dr. Brown described the
6 injuries and how Dr. Proctor described them. As Dr. Abel said
7 she went with Dr. Proctor because he's looking at the child,
8 skull in his hands basically, and assessing the injury by
9 putting eyes on bone. But regardless of whether you use Dr.
10 Proctor's interpretation of the injuries or Dr. Brown's, the
11 radiologist, interpretation of the injuries, she said the
12 amount of force required to cause that injury is the
13 equivalent of the amount of force that you would find in a car
14 accident where the child was thrown on the concrete and had
15 his head hit. Fractures don't just happen. Children's heads
16 don't just break. Your common sense tells you that. The
17 medical testimony confirms that, but your common sense
18 supports it. You've seen children running around, fall head
19 first and get right back up and start running. That's because
20 that's the way we're built. If our heads broke like that, we
21 wouldn't still be around, we would have gone extinct a long
22 time ago. No, heads are tough. Heads protect the most
23 important part of our body, the brain. It takes a great deal
24 of force to cause a fracture to the skull. And,
25 unfortunately, once that fracture happened in **Minor**, it was

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1 all downhill. By the time he came into the emergency room in
2 Loris, there was no saving him. They got a heart rate back,
3 got him back on a ventilator breathing, but he wasn't coming
4 back and he didn't.

5 Mr. Long -- I want to make sure I get the right
6 vernacular on what he said. Mr. Long talked about his
7 injuries as a child. Mr. Long also talked a lot about during
8 his cross examination, his high blood sugar and seizures. Let
9 me tell you why, Mr. Long doesn't want you to look at the
10 evidence, he wants you to look at everything else but the
11 evidence and focus on the child's high blood sugar. Dr. Abel
12 gave you an explanation for why the child might have had high
13 blood sugar other than diabetes. Maybe the child had
14 diabetes. Why does it matter? It doesn't. It's irrelevant
15 to the child receiving skull fractures. It's irrelevant to
16 the child receiving a bruise here, a bruise here, bruises
17 here. It doesn't matter. Dr. Abel -- and I do put a whole
18 lot of faith in Dr. Abel, because -- and the reason I do that
19 y'all is not because she's a paid expert, not because -- and
20 actually she's not even paid. MUSC -- she said that the
21 Medical University of South Carolina gets compensated for us
22 using her services. She doesn't get it. She is also the only
23 doctor who testified whose an actual pediatrician. Her life's
24 work is children. You heard about her prior experience, you
25 heard about her past experience and a pediatrician for thirty-

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1 some years. She's specific to children. She knows the way a
2 child works better than any of the other doctors who
3 testified. And she told you that a child three months -- and
4 again, your common sense kinda confirms this, that a child
5 three months is not going to be able to cause these injuries
6 to themselves. Even if the child was having a seizure and
7 flailing about uncontrollably, a child at three months only
8 has so many muscles to be able to flail. A child at three
9 months can barely support his head.

10 And again, I'm sorry that Mr. Long suffers from injuries
11 when he was a child at the hands of his sisters, I'm sorry for
12 that, but that's irrelevant. It doesn't matter. It doesn't
13 have a thing to do with why we're here today, which is this
14 child's injuries, this child's skull fractures, this child's
15 bleeding on the brain, this child's death.

16 Now, there were a couple of other -- Dr. Abel by far was
17 the most important doctor and gave us the timeline and the
18 timeline is really important. It is very important. The
19 timeline in these kinds of cases -- because you really do only
20 have two witnesses, you have the person who caused the injury
21 and you have the child, who in this case is deceased and
22 wouldn't have been able to speak even if he wasn't deceased.
23 So, you really do have to rely on medical testimony to
24 establish what happened, when it happened, how it happened.
25 They can't tell you whether it happened with a baseball bat or

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1 whether it happened with bat. I submit to you, it didn't
2 happen with any of those items. It happened with the hands.
3 It happened with either grab and a throw or a knock. Mr. Long
4 is right. I don't think his client picked up a baseball bat
5 and beat this child's head in, but I think he hurt his child.
6 Dr. Abel testified as a pediatrician that the child would
7 have been unconscious immediately upon that injury and would
8 have stopped breathing within an hour. There was also some
9 evidence to support that the injury was recent from other
10 doctors. In addition to the force that Dr. Brown talked about
11 and Dr. Proctor talked about, you also had Dr. Proctor talking
12 about how he didn't see clotting. That was important. I
13 caught that, I hope you did too. So, let me tell you while
14 I'm on that, excuse me. I'm talking about things that I --
15 that I found important, things that kinda jumped out to me
16 during this trial. If you found something else important, you
17 think about that and you focus on that. But one of the things
18 Dr. Proctor noticed was that there wasn't any clotting in the
19 -- in the brain bleeding like he would expect from an older
20 injury. The brain hadn't started healing itself. No evidence
21 that the child started healing itself. You get a cut, it
22 stops bleeding, it starts healing itself, the blood starts
23 clotting, the platelets start working, your body starts
24 healing itself. There's no evidence that this child ever
25 started healing himself.

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CLOSING BY SPRATLIN

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1 Mr. Long also talked about the child and blood draining
2 and lividity and all that stuff. I'm just gonna rely on your
3 common sense to refute that. I'm gonna rely on your common
4 sense to say that a bruise is a bruise because pictures speak.
5 They don't lie, they save a moment in time, and in that moment
6 in time, that child is covered in bruises.

7 Ladies and gentlemen, you heard a lot from the Defense
8 case about what a good father Mr. Tyler is, how he's a good
9 father to his son, Amin; again, not relevant. I'm not calling
10 him a monster. I'm not saying he's going around finding
11 babies and trying to kill them. In this moment though, he
12 hurt his son. Whether he did it because the child wouldn't
13 stop crying, which his momma says the child was crying -- and
14 I tend to believe and judge the credibility between him saying
15 the child was never crying and her saying the child was
16 crying, I tend to go with her, but that's -- you make your own
17 decision on that. I don't know if that's what the trigger
18 was. I don't know if the child's blood sugar was high, if he
19 was hungry and he just kept crying; I don't know if the child
20 didn't have his pacifier and that's why he kept crying; I
21 don't know if momma wasn't there, which is why he kept crying.
22 I can't tell you why the child was crying, but he was crying
23 on that phone. And I don't know if that's the trigger that
24 set him off. I don't know if he couldn't keep the baby quiet.
25 I don't know if raising his voice didn't work with a three--

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1 month-old. It won't, it doesn't work. Common sense tells you
2 that you can't yell at a three-year-old to be quiet. It just
3 doesn't work that way. And Dr. Abel told you the child
4 would've been quiet after he did what he did.

5 Ladies and gentlemen, the Defendant, through statements,
6 has admitted to several of those bruises. The neck, now he
7 says it's from his beard or some kind of abrasion. He talks
8 about the belt buckle and about that it wound up on his head.
9 Then you're listening to him on the police tape, I didn't
10 cause any bruise and then he starts talking about the belt
11 buckle and they kind of confront him about that. He's denying
12 everything because he knows that's his only way. Two people
13 in the room, one's three-months and the other is him and the
14 three-month-old now has a fractured skull. Three months old,
15 can't even roll over, can't get up and walk, can't get up and
16 run, can't defend themselves, can't help themselves. They're
17 completely dependent on the person whose holding them, who has
18 custody of them, has possession of them to take care of them,
19 to not -- I always use the term beaten but the Defendant
20 himself said mistreat him.

21 Ladies and gentlemen, common sense tells you that child
22 came into the emergency room with those bruises. Common sense
23 tells you that because in that picture, you have testimony of
24 a nurse who was with the child pretty much from the --
25 entirely from the time that this child came in and she took

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1 him from the father's hands until those pictures were taken.
2 So, that child came into the emergency room with those
3 bruises. Don't make any confusion about that. That's what
4 common sense tells you, but your inner light tells you, by
5 listening to the medical testimony, who caused those bruises,
6 who caused the skull fractures, who took the life of that
7 child.

8 One last thing I want to address, Mr. Long talked a lot
9 during cross examination, didn't talk a whole lot about it
10 during his closing, but I want to address it with you because
11 it finally came out during Dr. Abel, delayed onset concussion
12 or something like that. She told you, we're not dealing with
13 concussion here, we're dealing with skull fractures. We're
14 not dealing with a child who is playing football and running
15 around and -- and age six, seven playing team sports, we're
16 dealing with a three-month-old. Seizures, they don't matter.
17 The child didn't -- even if the child had a seizure, it didn't
18 cause the injuries. Blood sugar, it doesn't matter. Even if
19 the child had diabetes or high blood sugar, it didn't cause
20 the injuries.

21 Ladies and gentlemen, some of this trial may've been very
22 difficult for you to listen to and I'm sorry for that. And I
23 hope that at the end of the day, at the end of this trial, you
24 can put it all behind you and just move on and not think about
25 this trial and hopefully it's just a bad memory. Because I

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BY THE COURT

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1 know looking at this file has been that for me and seeing the
2 things I've had to see.

3 You have one more important job to do and that is to
4 bring justice, justice for **Minor** It's not justice for me,
5 it's not justice for you, it's not justice for anybody but
6 **Minor** It's justice for him and his life, his life that was
7 cut short at three months and that's a very important job.
8 That is another thing that me and Mr. Long agree on, that you'
9 guys have the most important job in this courtroom. My job is
10 to bring the evidence. Me and my co-counsel were actually
11 talking about this the other day. You feel like there's a
12 great weight on you when you're trying a case because you are
13 the State and you have the burden of bringing forth the
14 evidence. This is the part of the trial where I take that
15 great weight off and throw it on you guys because I've done
16 everything I can do. Every bit of evidence I have, I showed
17 you. If you can't see what happened to **Minor** there's
18 nothing more I can do. Thank y'all.

19 BY THE COURT:

20 THE COURT: All right. Ladies and gentlemen, what I'm
21 gonna ask you to do is go to back in your jury room for about
22 five minutes, take a short break and then I'll call you back
23 in and we'll talk about the law in this case. All right.

24 Thank you.

25 (REPORTER'S NOTE: Jury exits courtroom.)

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CHARGE TO JURY

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1 be true, you are firmly convinced the Defendant is guilty of
2 the crime charged, you must find the Defendant guilty. On the
3 other hand, based upon your view of the evidence, the evidence
4 you find to be true, you are not firmly convinced the
5 Defendant is guilty of the crime beyond a reasonable doubt,
6 you must give the Defendant the benefit of the doubt and find
7 him not guilty.

8 The State of South Carolina has charged the Defendant
9 with the crime of homicide by child abuse. Having been
10 charged with this crime, the State of South Carolina must
11 prove beyond a reasonable doubt that the Defendant caused the
12 death of a child under the age of eleven while committing
13 child abuse or neglect. Child abuse or neglect is an act or
14 failure to act which causes harm to the child's physical
15 health or welfare. Harm to the child's physical health or
16 welfare means the Defendant inflicted or allowed to be
17 inflicted, physical injury on a child which caused the child's
18 death. The State must prove beyond a reasonable doubt that
19 the death occurred under circumstances showing an extreme
20 indifference to human life.

21 That ladies and gentlemen, is the law that you will apply
22 to the facts and evidence you find to be true in this case.
23 Now, the Court has prepared for you a verdict form that you
24 will use in recording your verdict in this matter and it must
25 be a unanimous verdict. It has the caption of the case, State

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VERDICT OF JURY

1 is, it will be received with respect and silence. If you
2 cannot abide by this order, I'm asking you to leave the
3 courtroom because if you disobey this order, you will be
4 detained by a member of the Horry County Sheriff's office.
5 After these proceedings are over, I will hold a contempt of
6 court hearing. I can send you the Department of Corrections
7 for one year for disobeying this Court Order. If you have any
8 questions in your mind whether or not you can -- cannot abide
9 by the Court's Order, that is receive this verdict with
10 respect and silence, do yourself a favor and leave the
11 courtroom.

12 Ask the Jury to come in.

13 (REPORTER'S NOTE: Jury enters courtroom. 1:00 P.M.)

14 THE COURT: All right. Mr. Foreman, has your Jury
15 reached a verdict in this matter?

16 JUROR 190: Yes, sir, we have.

17 THE COURT: Very good. Could you hand the verdict form
18 to the Clerk's Representative, please?

19 JUROR 190: Yes, sir.

20 THE COURT: Thank you.

21 You may publish the verdict.

22 VERDICT OF THE JURY:

23 CLERK: Indictment number 2014-GS-26-4210, the State of
24 South Carolina, County of Horry versus Hassan Robert Tyler on
25 the charge of homicide by child abuse, we, the Jury, by

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BY THE COURT

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1 unanimous consent, find the Defendant guilty. Signed by
2 Foreperson, John Kearsley.

3 Ladies and gentlemen of the Jury, if this is your
4 verdict, so signify by raising your right hand?

5 Thank you.

6 THE COURT: The Jury having affirmed their verdict by the
7 raising of their right hand, does the State wish to the jury
8 polled?

9 MR. SPRATLIN: No, Your Honor.

10 THE COURT: Does the Defense wish the jury polled?

11 MR. LONG: No, Your Honor.

12 THE COURT: Thank you very much.

13 BY THE COURT:

14 THE COURT: Mr. Foreman, ladies and gentlemen of the
15 Jury, I want to thank you for your service in this particular
16 matter. You did everything that the Court expected of you,
17 paid attention, listened to everything, deliberated, you have
18 reached your unanimous verdict in this particular matter. I
19 understand, the parties understand, we've asked you to do a
20 difficult thing and I appreciate that and we thank you for
21 your service. The Court will proceed to sentencing in a
22 moment. We're gonna give you an opportunity to, to leave. If
23 you want to listen to the sentencing, then the Bailiffs will
24 take you around to -- into the courtroom in the back, but
25 other than that, you are -- your jury service is now

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MOTIONS

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1 extinguished for the week. Again, thank you for your service,
2 you are now excused. Thank you very much.

3 REPORTER'S NOTE: Jury excused.

4 THE COURT: All right.

5 Mr. Long, motions?

6 MOTIONS:

7 MR. LONG: Yes, Your Honor, we'd ask for a finding of not
8 guilty or setting aside the jury verdict on the same grounds
9 cited in our motion for directed verdict at the close of the
10 State's case and close of the Defense case. Your Honor, also
11 we'd ask for a mistrial on the grounds previously stated
12 concerning the last expert and/or discovery notice that was
13 provided and we understand your rulings on that matter. So
14 for those reasons, Your Honor, respectfully we'd move for a
15 new trial as well. Certainly the Defendant feels the verdict
16 is contrary to the facts and evidence as he knows them to
17 exist and we'd ask Your Honor to consider that in granting a
18 new trial, directly granting a mistrial or directed verdict of
19 not guilty.

20 THE COURT: In this particular matter, the Court had
21 previously ruled on the motions for a directed verdict and I
22 have found that there was more than sufficient evidence to
23 submit the question to the Jury. Again, it was not or is not
24 my job to judge credibility and believability. The evidence
25 exists. There's more than sufficient evidence for the Jury to

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SENTENCE OF THE COURT

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1 find the Defendant guilty. I do not find any grounds or
2 reasons of any kind in the proceedings to grant a new trial in
3 this particular matter. I affirm the Court's rulings on the
4 motions for directed verdict and further the denial of your
5 motion for the mistrial on the discovery issue having found
6 that there was no discovery violation whatsoever in this
7 particular matter and, again, I respectfully decline to grant
8 your motion for a new trial and, again, reaffirming the
9 Court's previous denials of your motions.

10 MR. LONG: Yes, sir.

11 THE COURT: Any further motions on behalf of the Defense?

12 MR. LONG: No further motions at this time, Your Honor.

13 THE COURT: All right, sir.

14 All right, Solicitor, is the State read to proceed with
15 sentencing?

16 MR. SPRATLIN: The State's ready, Your Honor.

17 THE COURT: Defense?

18 MR. LONG: Yes, sir, Your Honor.

19 SENTENCE OF THE COURT:

20 THE COURT: All right. All right, Solicitor, I'll be
21 glad to hear from you, sir.

22 MR. SPRATLIN: Your Honor, over the past four days we
23 have tried this case, you have heard this case in detail. You
24 are as aware and familiar with this case as the State is, as
25 the Defense is, as everyone else is. You understand the

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SENTENCE OF THE COURT

1 egregiousness of the Defendant's actions and we would trust
2 the Court to sentence the Defendant appropriately for the acts
3 that he has committed, keeping in mind that this sentence
4 carries a possible life imprisonment. I do not believe anyone
5 from the victim's family wishes to speak. I believe they are
6 too emotional at this point in time, but they would join me in
7 asking the Court to impose the appropriate sentence that the
8 Court feels is required by law. I have a sentencing sheet
9 prepared. Mr. Helms can also provide the Court with the prior
10 record of the Defendant if the Court would like.

11 THE COURT: Yes, sir.

12 MR. HELMS: Yes, sir, Your Honor. The only conviction on
13 the Defendant's record is a robbery conviction from the State
14 of New York in 1994, Your Honor. It is not clear by the NCIC
15 if that is an armed or a strong armed robbery, sir.

16 THE COURT: All right, sir.

17 MR. SPRATLIN: Your Honor, may I approach with the
18 sentencing sheet?

19 THE COURT: Please, sir. Thank you.

20 Yes, sir, Mr. Long?

21 MR. LONG: Thank you, Your Honor. As the Solicitor said,
22 you've listened to the facts and evidence. I'm not gonna try
23 to talk to you about anything like that. Hassan, we did not
24 go into great detail about his personal matters, things of
25 that nature, but he is thirty-eight years old.

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1 MR. TYLER: Thirty-nine.

2 MR. LONG: Thirty-nine years old today. He is the father
3 of a sixteen-year-old that he has sole custody of and his
4 parents help him with. He's the father of the deceased child
5 in this case. I think Your Honor is perfectly clear on the
6 fact that he attempted to try to establish a relationship with
7 that child, that he provided some support and assistance to
8 the mother, that he wanted to become a father to his son. I
9 am biased and prejudiced, Your Honor. Our view of the facts
10 and evidence, in my mind, I thought it incredible that this
11 man that I've had so many conversations with, talked to his
12 family, talked to him about the facts of the case, listened to
13 and looked at, seen how he reacted to this offense, how he
14 cooperated with law enforcement, how he told them the same
15 consistent story every time, how he's come into my office and
16 talked to me and cried talking to me when I had to show him
17 the photographs, he broke down and cried. It's just
18 inconceivable to me, Your Honor, that this man that I've come
19 to know could have snapped to the point -- and it had to have
20 been something like that -- that he could have struck that
21 child with hands, beat, arms, elbows, slung it against the
22 wall, beat it against the floor, beat it against a coffee
23 table, something like that is just inconceivable to me, Your
24 Honor, that he could have done that and that was the Defense.
25 This man is no different from the man that I've met and talked

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1 to and certainly the man described or that the Jury found
2 committed an assault or an abuse on that child resulting in
3 the child's death is different from the man standing before
4 you today. He has challenged, contested this. He's appeared
5 for court every time he's had to, he's come to the office
6 every time he's had to. He's got the support of a loving
7 family behind him. He's a hardworking man. He lost his job
8 when he was arrested for this and he hasn't been able to get a
9 job since that time, but he's worked his entire adult life. I
10 don't think Your Honor could question the fact that he was a
11 loving father to his sixteen-year-old son. He practically
12 raised him for the last five, six years or so and he's a good
13 boy. The fact that the Jury found him guilty, I can't inside
14 the Jury's head, and found that the jury said that he caused
15 injuries consistent with a two-story drop as the last expert
16 said or, as one of the experts said, it would be like pressing
17 him or pushing him against sheetrock or, as one expert may
18 have said, it would be -- it could be caused by a squishing;
19 in other words, if someone sat on the child or laid on the
20 child or something of that nature. I've asked him about the
21 possibility, when we first started talking about this trial, I
22 mean he slept in the bed with you and is it possible were you
23 restless, did you roll on him, you know, whatever and he said
24 no, I don't think I would have done anything like that. But
25 other than that, that's the only possibility he knows, okay,

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1 of how these injuries occurred. And if Your Honor takes into
2 account his acceptance of his guilt and his jury verdict as
3 something to use on behalf of sentencing, then I'm afraid he's
4 sunk because he will not agree with the Jury's verdict. He
5 was there, he knows. The Jury wasn't there, they don't know,
6 but there was sufficient evidence for them to find beyond a
7 reasonable doubt and he's gonna disagree with that and he's
8 gonna disagree with that till his dying day. So we would hope
9 that you would not consider that as something appropriate for
10 sentencing because he tells Your Honor, he tell me, I did not
11 do it. He has been found guilty and it's up to you decide an
12 appropriate sentence for him. The range is twenty years to
13 life and that's a huge range, but depending upon the length of
14 someone's life, that is a huge range. If you sentence him to
15 life, certain persons may consider or think that's appropriate
16 for the life of a three-month-old child. If you were sentence
17 him to twenty years, some people may complain that's
18 inappropriate for the life of a three-month-old innocent child
19 and I feel for you and your decision in determining the
20 correct sentence, I truly do. I spoke honestly when I said
21 the Jury has the toughest job at that point. Right now you do
22 and your determination of what is justice, what is fair, what
23 is appropriate for punishment, that's tough. I don't want to
24 sit in your chair and have to make your decision at this point
25 in time. You know where I'm going with this. The fact that

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1 he has been convicted of the death of his own son that he was
2 trying to establish a relationship with, I can't think of any
3 greater punishment, a man, a father could receive. Any
4 punishment you sentence him to is horrendous, okay, but he has
5 been doubly punished, triply punished so far already and any
6 life sentence or something of that nature, which we feel would
7 not be justice in the facts of this case, that we think a
8 minimal sentence is just as appropriate based on the facts of
9 the case. Thank you, Your Honor.

10 THE COURT: Thank you. 2014-GS-26-4210, State of South
11 Carolina, County of Horry versus Hassan Robert Tyler regarding
12 homicide by child abuse. Mr. Tyler, the Jury having found you
13 guilty of this crime, it being classified by the State of
14 South Carolina as a violent and most serious offense, the
15 Court having heard the facts and circumstances as presented to
16 this Jury and based upon their finding of guilt, the sentence
17 of the Court is Defendant is committed to the State Department
18 of Corrections for a determinate term of thirty years. The
19 Defendant is given credit for any time he has already served.
20 Thank you very much.

21 MR. LONG: Thank you, Your Honor.

22 MR. SPRATLIN: Thank you, Your Honor.

23 THE COURT: This term of General Sessions court is now
24 adjourned sine die.

25 MR. SPRATLIN: Thank you, Your Honor.

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1 MR. LONG: Thank you, Your Honor.

2 (ADJOURNED)

3 END OF DAY FOUR.

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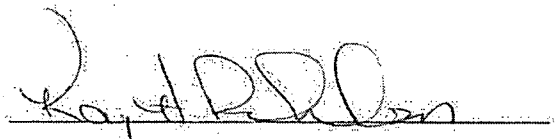
State v. Tyler - 2014-GS-26-04210
CERTIFICATE OF COURT REPORTER

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C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State versus Hassan Tyler, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on March 21-24, 2016 by Dixie Eubank.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

June 5, 2016.

DOCKET NO. 2014-GS-26-04210

WITNESSES

Officer Officer S C Law Enforcement Division

The State of South Carolina

County of Horry

Martin D. Sprattlin

13H06389

COURT OF GENERAL SESSIONS

OCTOBER, 2014 TERM

ARREST WARRANT NUMBER

2013A2610203984

CDR: 2356 16-03-0085(A)(1)(B)(1)

DOA: 12/22/2013

THE STATE

vs.

Hassan Robert Tyler

/ M

Loris, SC 29569-2749

DOB:

SSN:

ATTORNEY: J. M. "Buddy" Long, III

Indictment for

HOMICIDE BY CHILD ABUSE

Jimmy A. Richardson, II, Solicitor

ACTION OF GRAND JURY

TRUE BILL

OCT 16 2014

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

2014 OCT 17 PM 2:14

DATE RECEIVED FROM
GRAND JURY

CERTIFIED COPY
2016 MAR 28 PM 3:19
CLERK OF COURT
HORRY COUNTY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)

INDICTMENT

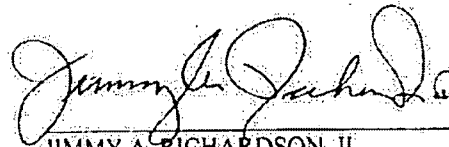
At a Court of General Sessions, convened on October 16, 2014, the Grand Jurors of Horry County present upon their oath:

HOMICIDE BY CHILD ABUSE

CDR: 2356 16-03-0085(A)(1)

That Hassan Robert Tyler did in Horry County, on or about December 19, 2013, cause the death of **Minor**, a child, approximately three months old, while committing child abuse or neglect, and the child's death occurred under circumstances manifesting an extreme indifference to human life, in violation of Section 16-03-0085(A)(1), S. C. 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.



JIMMY A. RICHARDSON, II
 FIFTEENTH CIRCUIT SOLICITOR

FILED
 HORRY COUNTY

2016 MAR 24 PM 2:26

MELANIE HUGGINS-WARD
 CLERK OF COURT

COURT DATE
 PLED GUILTY/TRIAL

HORRY COUNTY
 CLERK OF COURT

2016 MAR 28 PM 3:19

CERTIFIED COPY

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,

A handwritten signature in black ink, appearing to read "John H. Strom", is written over a horizontal line.

John H. Strom
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 28th day of April, 2017.

RECEIVED

APR 28 2017

SC Court of Appeals

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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,



John H. Strom
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 28th day of April, 2017.