

VOLUME ONE OF THREE

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Pickens County

Honorable John C. Hayes, Circuit Court Judge

RECEIVED

AUG 18 2017

JAMIE EDWARD MORRIS,

S.C. SUPREME COURT

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000104

APPENDIX

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF PICKENS	)	2008-GS-39-02053
	)	2008-GS-39-02052
	)	2009-GS-39-01568
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	VOLUME I
JAMIE EDWARD MORRIS,	)	
DONNA LYNN PHILLIPS,	)	
LATASHA DIANE HONEYCUTT,	)	
DEFENDANTS.	)	

July 23rd, 24th, and 25th, 2012
Pickens, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE; and a jury.

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Circuit Court Reporter

I N D E X

(SW) - Denotes State's Witness
 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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Pickens County.

P R O C E E D I N G S

(WHEREUPON, State's Exhibit Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 were marked for identification only.)

THE COURT: This is the case of the State v. Jamie Edward Morris, Donna Lynn Phillips, and Latasha Diane Honeycutt.

Yes, sir.

MR. DEJONG: Your Honor, may we approach the bench?

THE COURT: Yes, sir.

(WHEREUPON, a sidebar was held with the Court and all of the attorneys.)

THE COURT: Before we get started, I'm going to say that, unfortunately, the way this courtroom is set up, the jury was already in the courtroom when the recess ended and I came in. And Mr. DeJong has asked for a bench conference, which, as a practical matter, was appropriate. But I wanted to make sure everything is on the record.

So, yes, sir.

MR. DEJONG: As far as the strikes go, Your Honor, it's my understanding that it's 10 for the State, 20 total for the Defendants. There being three, obviously, co-defendants. By agreement between the co-defendants, Jamie Morris will have seven strikes, Donna Phillips will

1 have seven strikes, and Latasha Honeycutt will have six
2 strikes.

3 Is that the agreement, Mr. O'Connell?

4 MR. O'CONNELL: My client opposes it. She says we
5 ought to have as many as the State gets. But that's what
6 we've agreed to, because I told her that's what the law
7 says we get.

8 MR. DEJONG: Well, I don't know of any other way of
9 doing it.

10 MR. HARBIN: As part and parcel of that agreement,
11 we've, also, agreed in which order we strike. And that
12 would be Mr. DeJong first, then Mr. O'Connell second, and
13 then myself last.

14 MR. O'CONNELL: And he gets six. And we each get
15 seven.

16 MR. HARBIN: I'm okay with that.

17 MR. O'CONNELL: But I'm letting you know my client
18 opposes that. I have to put it on the record that she
19 opposes it.

20 THE COURT: Does the State have anything to add?

21 MR. RICHARDSON: No, sir.

22 THE COURT: All right. So that's the agreement among
23 the Defendants, subject to Mr. O'Connell's client --

24 What is her name?

25 MR. O'CONNELL: Donna Phillips.

1 THE COURT: Subject to Ms. Phillips basic objection
2 to the statutory scheme of the number of strikes that are
3 recorded, if there are multiple Defendants; is that right?

4 MR. O'CONNELL: That's correct, Your Honor.

5 MR. HARBIN: And, Judge, as to voir dire, I don't
6 know if the State has any objection to any of the proposed
7 voir dire from Mr. O'Connell or Mr. DeJong. But I've got
8 one issue with the State's.

9 THE COURT: Okay. Sure.

10 MS. BARWICK: Do you have a copy of Mr. O'Connell's
11 voir dire?

12 MR. O'CONNELL: It should be in the file.

13 MS. BARWICK: Your Honor, three through five are the
14 same thing. They're going to be repetitive. And all the
15 ones on the back, we don't feel are appropriate, Your
16 Honor.

17 THE COURT: Okay. This is the proposed voir dire
18 of --

19 MR. O'CONNELL: Donna Phillips.

20 THE COURT: -- Donna Phillips. And the State is
21 objecting to questions three, four, and five, 9, 10, 11,
22 and 14. We'll make this a copy of the -- make this a part
23 of the record.

24 Anything you want to state?

25 MR. O'CONNELL: Your Honor, the only reason I say

1 that is after 35 years of practice -- these attorneys are
2 fine, young attorneys. I don't have any problem with any
3 of them. But I do know sometimes words get involved, and
4 people do say things. And it's our job to watch out for
5 them. And I do believe in our culture today, people do
6 think you're guilty before you're innocent. And that's
7 what I wanted to cover in those.

8 THE COURT: Okay. Well --

9 MS. BARWICK: You think --

10 MR. RICHARDSON: The Judge is --

11 MR. O'CONNELL: Y'all know I have to cover it.

12 MR. RICHARDSON: I understand.

13 THE COURT: I understand your position. But I'm not
14 going to ask the questions.

15 MR. O'CONNELL: Thank you, Your Honor.

16 THE COURT: Thank you.

17 MR. RICHARDSON: And are we finished with that?

18 MS. BARWICK: And you should have the State's voir
19 dire. And they all were provided copies.

20 MR. HARBIN: I've got -- the State had three. And
21 the third voir dire from the State asks, specifically,
22 whether or not you have had any participation with DSS. I
23 believe Mr. DeJong has a similar voir dire. I would
24 object to that question, based on our conversations in
25 chambers. And if the Judge -- if the Court decides to

1 allow that, I don't want that to act as any kind of waiver
2 for my objection in the future --

3 THE COURT: So you're --

4 MR. HARBIN: Objecting to, basically, pointing out
5 DSS involvement.

6 THE COURT: Okay.

7 MR. HARBIN: By the nature of the question.

8 MR. DEJONG: Mine and the State's, I guess.

9 MR. HARBIN: That's correct.

10 THE COURT: I'll probably ask it just in a general
11 fashion as to whether they've had any -- been charged with
12 or accused someone of child abuse. And I can ask about
13 DSS at that time without it being highlighted.

14 MR. DEJONG: Mine was more of a thrust, does anybody
15 work for DSS, not that addressed, specifically, this case.
16 I just want to know kind of like I asked if
17 anybody -- I want to know more whether they work with
18 children.

19 THE COURT: Well, I can ask that.

20 MR. DEJONG: In a law enforcement center capacity.

21 THE COURT: I mean, I can ask -- I can lump that in
22 with the question about law enforcement in general, and,
23 hopefully, not make it stand out.

24 MR. RICHARDSON: And, Judge, so we don't have to
25 approach again -- I'm sorry.

1 Was everybody finished with that?

2 MR. O'CONNELL: Oh, yeah.

3 MR. RICHARDSON: This is more on scheduling. It
4 appears we're going to pick this jury and another jury.
5 We have to do a Jackson v. Denno. And it appears that
6 we've got a plethora of motions coming up.

7 THE COURT: Okay.

8 MR. RICHARDSON: I didn't know if we wanted to start
9 this tomorrow morning, as far as opening arguments, to
10 make it smoother. I mean, I'm just throwing that out
11 there for y'all to --

12 MR. O'CONNELL: I would second that. Because I don't
13 know about you guys, but I get tired standing up real
14 fast.

15 THE COURT: Well, let's just see how it goes. I'd
16 prefer to get, at least, the opening statements done
17 today.

18 MR. RICHARDSON: Okay.

19 MR. O'CONNELL: Okay.

20 MR. DEJONG: Thank you.

21 (WHEREUPON, the sidebar was concluded.)

22 (WHEREUPON, Court's Exhibit No. 1 was marked for
23 identification and admitted into evidence.)

24 THE COURT: Okay. Ladies and gentlemen, we're going
25 to select a jury now in the first case we have for trial.

1 This case is the State of South Carolina v. Donna
2 Lynn Phillips, Jamie Edward Morris, and Latasha Diane
3 Honeycutt. I'm going to read to you the indictments in
4 this case. Before I do that, I want to go over some
5 principles of criminal law that apply to this case and any
6 type of criminal case. And I'm sure you all have heard
7 some of these principles before. But they are vitally
8 important to this trial and any criminal proceeding.

9 And the first thing I want to talk about is the law
10 says that anyone charged with a crime is presumed innocent
11 of that crime. No matter what the charge may be, the
12 Defendant in a criminal case is always presumed to be
13 innocent. And that means that they don't have to prove
14 they're innocent or prove they are not guilty. It is,
15 instead, the State that must prove guilt. And the only
16 way a person who pleads not guilty to an indictment may be
17 convicted is if all 12 jurors agree the State has proven
18 each and every element of the crime beyond a reasonable
19 doubt.

20 In this case where there are three Defendants, you
21 will have to weigh and evaluate the evidence as to each
22 Defendant separately and individually, and not let your
23 decision on one Defendant affect your decision on another
24 Defendant's guilt or innocence.

25 Now, the indictments are not evidence. They are

1 simply allegations. They are pieces of paper that
2 function, essentially, as tickets that allows the State to
3 come into this courtroom and start a case against a
4 citizen, and let's the citizen know what he or she is
5 charged with.

6 So these indictments don't create any type of
7 presumption of guilt, or even a suspicion of guilt.
8 Again, the Defendants don't have to prove themselves
9 innocent or prove themselves not guilty. They pled not
10 guilty to the indictments. They are presumed innocent.
11 And the State bears the burden of proof exclusively.

12 And this burden of proof continues throughout the
13 trial. And the presumption of innocence continues
14 throughout the trial as well, and even into your
15 deliberations. And it can only be removed if, and only
16 if, you find the State has proven each and every element
17 of the crime beyond a reasonable doubt.

18 So those are some of the general principles of
19 criminal law that I wanted to go over with you before I
20 read these indictments and these allegations. And the
21 allegations are as follows. The first indictment I'm
22 going to read to you is the State v. Donna Lynn Phillips.
23 And it alleges that Donna Lynn Phillips did in Pickens
24 County on or about and/or between the dates of March 14th,
25 2008, and March 17th, 2008, cause the death of minor

1 Edward Morris, a child under the age of 11 years, while
2 committing child abuse or neglect with circumstances
3 manifesting an extreme indifference to human life by
4 facilitating or allowing the excessive ingestion of opiate
5 drugs and/or the failure to get medical treatment for said
6 child.

7 Now, the second indictment is the State v. Jamie
8 Edward Morris, 2008-GS-39-2053. It alleges that Jamie
9 Edward Morris did in Pickens County on or about and/or
10 between the dates of March 14th, 2008, and March 17th,
11 2008, knowingly aid and abet Donna Lynn Phillips to commit
12 child abuse or neglect to minor a child
13 under the age of 11 years, causing the death of said child
14 by allowing and/or having knowledge of the said child's
15 ingestion of excessive amounts of opiates and/or the
16 failure to get the said child medical treatment.

17 The third indictment is the State v. Latasha Diane
18 Honeycutt, 2009-GS-39-1568. It alleges that Latasha Diane
19 Honeycutt did in Pickens County on or about and/or between
20 the dates of March 14th, 2008, and March 17th, 2008, cause
21 the death of minor a child under the age
22 of 11 years, while committing child abuse or neglect with
23 circumstances manifesting an extreme indifference to human
24 life by facilitating or allowing the excessive ingestion
25 of opiate drugs and/or the failure to get medical

1 treatment for said child.

2 So those are the allegations.

3 JURY QUALIFICATION

4 THE COURT: The first question I need to ask is, is
5 anyone related by blood or marriage, or kin to in any way
6 Donna Lynn Phillips, Latasha Diane Honeycutt, Jamie Edward
7 Morris, or minor If so, please, stand.

8 (WHEREUPON, Juror #31356, Robert J. Goff, stood.)

9 THE COURT: All right. And you told me about that
10 Mr. Goff earlier during roll call. So you'll be excused
11 from this case.

12 Thank you.

13 You can just stay with us, though. We'll have
14 another case to select a jury on after this one.

15 I'm going to ask Ms. Phillips, and Mr. Morris, and
16 Ms. Honeycutt just to stand up so the jury can see them.

17 Thank you, ladies and gentleman.

18 You can have a seat.

19 Does anyone have any personal or business
20 relationship, or does anyone know either Donna Phillips,
21 Latasha Diane Honeycutt, or Jamie Edward Morris? If so,
22 please, stand.

23 (WHEREUPON, there was no response.)

24 THE COURT: I'm going to ask the lawyers who are
25 going to be involved in this case to introduce themselves

1 and anyone at their table.

2 So, yes, sir, Solicitor.

3 MR. RICHARDSON: Thank you, Your Honor.

4 May it please the Court.

5 Good morning, ladies and gentlemen.

6 My name is Doug Richardson. I'm with the Thirteenth
7 Circuit Solicitor's Office here in Pickens.

8 MS. BARWICK: My name is Jenny Barwick. And I, also,
9 work for the Solicitor's Office here in Pickens County.

10 THE COURT: And who is the lady at y'all's table?

11 MR. RICHARDSON: That's Ms. Rita Burgess. She is a
12 detective with the Pickens County Sheriff's Office.

13 THE COURT: Thank you, sir.

14 Mr. DeJong.

15 MR. DEJONG: Thank you, Your Honor.

16 May it please the Court.

17 I'm John DeJong. I practice law here in Pickens
18 County. Not seated at counsel, but seated in the folding
19 chair here is my investigator, Mr. Johnny Duncan. Also, a
20 young lady not present in the courtroom right now,
21 Ms. Teal Johnson, you may see me conferring with her
22 throughout the trial. She is a lawyer in my office as
23 well.

24 MR. O'CONNELL: May it please the Court.

25 I'm James O'Connell. I represent Donna Phillips. I

1 was court-appointed. I have no other staff. And my
2 secretary is at the office.

3 Thank you.

4 MR. HARBIN: My name is Chase Harbin. I represent
5 Ms. Honeycutt. And if you see a young lady sitting beside
6 me later on, who's not here right now, her name is
7 Christine Lewis. And she's my paralegal.

8 THE COURT: All right. Thank you.

9 Is anyone related by blood or marriage, or kin to in
10 any way any of the lawyers who you introduced themselves,
11 or anyone that they introduced? If so, please, stand.

12 (WHEREUPON, there was no response.)

13 THE COURT: Does anyone have any business, social, or
14 personal relationship with any of the lawyers, or anyone
15 they introduced? If so, please, stand.

16 (WHEREUPON, there was no response.)

17 THE COURT: Has anyone ever been represented by any
18 of these lawyers, or had a member of their immediate
19 family be represented by them, or has anyone been employed
20 by them or by the Solicitor's Office for the Thirteenth
21 Circuit? If so, please, stand.

22 (WHEREUPON, there was no response.)

23 THE COURT: I'm going to read a list of people who
24 may testify in this case. And listen to the names very
25 carefully, because I'm going to ask you if you know any of

1 these people, or have any relationship with them. The
2 potential witnesses include: Kyla Roper Merk; Tony
3 Chapman; Dionne, D-I-O-N-N-E, Scotti; Patience Johnson;
4 John Yelton; Rhonda Whitaker; Julie Sailors; Daniel
5 Cochran; Kathy Purdessy, P-U-R-D-E-S-S-Y; Stacy Garmon;
6 G-A-R-M-O-N; Rita Burgess; J.B. Kelley; Tony Robinson;
7 Janice Phillips; Brandon Roper; J.T. Albrecht; William
8 Brewer; Kristy Leopard; Jeffrey Hollifield; Jennifer
9 Brown; Ronnie Anders; Karen Renee Shelton; Demi Garvin,
10 G-A-R-V-I-N; William Gassman; James Mahanes,
11 M-A-H-A-N-E-S; Michael Ward; Michelle Henry; Michael Lark;
12 Kathy Hartzell; Nancy Rogers; and Robert Foery, F-O-E-R-Y.

13 Any further witnesses any party wishes to have
14 sounded out?

15 MR. RICHARDSON: None from the State, Your Honor.

16 MR. DEJONG: None on behalf of Mr. Morris, Your
17 Honor.

18 MR. O'CONNELL: Not at this time, Your Honor.

19 MR. HARBIN: No, sir.

20 THE COURT: Does anyone have any personal, social, or
21 business relationship with any of these witnesses?

22 Yes, sir. Go ahead. Yes, just tell me your name
23 first, sir.

24 JUROR #58212, P. DAVID NABORS: David Nabors.

25 Michelle Henry is a close friend.

1 THE COURT: All right. Now, if you're selected as a
2 juror, Mr. Nabors, part of your job would be to evaluate
3 the credibility of all the witnesses, and assess their
4 believability and testimony they give.

5 Do you believe you could do that fairly and
6 impartially given that she's a close friend?

7 JUROR #58212, P. DAVID NABORS: Yes, sir.

8 THE COURT: You could decide her credibility without
9 that interfering in any way?

10 JUROR #58212, P. DAVID NABORS: Yes, sir.

11 THE COURT: All right. Are you confident of your
12 ability to do that?

13 JUROR #58212, P. DAVID NABORS: Yes, sir.

14 THE COURT: Do you think you could decide the case
15 solely on the evidence and the law?

16 JUROR #58212, P. DAVID NABORS: Yes, sir.

17 THE COURT: Thank you, sir.

18 Yes, sir.

19 JUROR #29, JAMES BRUMMITT: I've worked with some of
20 the officers involved in the past.

21 THE COURT: And tell me your name, sir.

22 JUROR #29, JAMES BRUMMITT: James Brummitt.

23 I'm a retired police officer.

24 THE COURT: And same question to you, sir. Do you
25 believe you could fairly and impartially decide upon their

1 believability as witnesses given that you have worked with
2 them in the past?

3 JUROR #29, JAMES BRUMMITT: Yes, sir.

4 THE COURT: And you could decide the case solely on
5 the evidence and the law?

6 JUROR #29, JAMES BRUMMITT: Yes, sir.

7 THE COURT: Thank you, sir.

8 JUROR #27944, TINA FREEMAN: I'm Tina Freeman.

9 I went to school with Kristy Leopard.

10 THE COURT: Kristy who?

11 JUROR #27944, TINA FREEMAN: Leopard.

12 THE COURT: All right. Do you believe you could
13 decide her credibility fairly and impartially if you were
14 a juror?

15 JUROR #27944, TINA FREEMAN: Yes, sir.

16 THE COURT: And you could decide the case solely on
17 the evidence and the law?

18 JUROR #27944, TINA FREEMAN: Yes, sir.

19 THE COURT: Thank you.

20 Has anyone been a member of or had an immediate
21 family member -- and by immediate family member, I mean
22 either a spouse, or a child, or a parent -- who worked a
23 for law enforcement agency or the Solicitor's Office,
24 whether it's here or somewhere else, or a district
25 attorney in another state, or for the federal government,

1 or any other law enforcement organization? And I would
2 include in that any type of state agency that may have law
3 enforcement powers, including the Department of Health and
4 Environmental Control, the Department of Natural
5 Resources, the Department of Social Services, any agency
6 like that.

7 So if anyone needs to respond to that question, you
8 may stand at this time, or come down at the end.

9 All right. We're going to start over here.

10 Yes, ma'am.

11 JUROR #25, KARA BROOKING: My husband is a game
12 warden. He works for the Department of Natural Resources.

13 THE COURT: And tell me your name, ma'am.

14 JUROR #25, KARA BROOKING: Kara Brooking.

15 THE COURT: And do you believe you could be fair and
16 impartial in this case given your husband has some law
17 enforcement responsibilities?

18 JUROR #25, KARA BROOKING: Yes, sir.

19 THE COURT: And you could decide the case solely on
20 the evidence and the law?

21 JUROR #25, KARA BROOKING: Yes, sir.

22 THE COURT: Thank you.

23 Yes, ma'am.

24 JUROR #160, MICHELLE RICHEY: I work for a Greenville
25 County program called --

1 THE COURT: Can you hear her?

2 THE COURT REPORTER: No, sir.

3 THE COURT: I'm sorry. The court reporter could not
4 hear your full comment, ma'am. So, if you could, just
5 repeat it.

6 JUROR #160, MICHELLE RICHEY: I work at the
7 Greenville Drug and Alcohol Commission. And we do have
8 some -- we employ some of the Greenville County police
9 officers in the Highway Prevention Division.

10 THE COURT: And do you feel you could be fair and
11 impartial in this case given that job responsibility you
12 have and connections with law enforcement?

13 JUROR #160, MICHELLE RICHEY: Yeah.

14 THE COURT: And you could decide the case solely on
15 the evidence and the law?

16 JUROR #160, MICHELLE RICHEY: Yes.

17 THE COURT: And tell me your name, ma'am.

18 JUROR #160, MICHELLE RICHEY: Michelle Richey.

19 THE COURT: Thank you.

20 Yes, sir.

21 JUROR #121, MARION LAWSON: Marion Lawson.

22 My brother was a deputy sheriff with the Greenville
23 County Sheriff's Department, as well as a Secret Service
24 agent.

25 THE COURT: And do you believe you could be fair and

1 impartial in this case given your brother's connection
2 with law enforcement?

3 JUROR #121, MARION LAWSON: Yes, sir.

4 THE COURT: And you could decide the case solely on
5 the evidence and the law?

6 JUROR #121, MARION LAWSON: Yes, sir.

7 THE COURT: Thank you, Mr. Lawson.

8 JUROR #29, JAMES BRUMMITT: I'm a retired police
9 officer.

10 THE COURT: And your name again, sir? I'm sorry.

11 JUROR #29, JAMES BRUMMITT: James Brummitt.

12 THE COURT: Okay. Thank you.

13 And you heard the other questions I've asked. Do you
14 feel you could be fair and impartial in this criminal case
15 given your past occupation?

16 JUROR #29, JAMES BRUMMITT: Yes, sir.

17 THE COURT: And do you think you could decide the
18 case solely on the evidence and the law?

19 JUROR #29, JAMES BRUMMITT: Yes, sir.

20 THE COURT: Thank you.

21 Yes, ma'am.

22 JUROR #43, PAULINE CLARK: Yes. My father-in-law,
23 he's a retired state trooper.

24 THE COURT: And your name?

25 JUROR #43, PAULINE CLARK: Pauline Clark.

1 THE COURT: And, Ms. Clark, could you be fair and
2 impartial in this case given that relationship?

3 JUROR #43, PAULINE CLARK: Yes.

4 THE COURT: You could decide the case solely on the
5 evidence and the law?

6 JUROR #43, PAULINE CLARK: Yes.

7 THE COURT: Thank you.

8 Is anyone a member of any political, religious,
9 social, industrial, or fraternal law enforcement or other
10 organizations whose beliefs or teachings might interfere
11 with your ability to be a fair and impartial juror? If
12 so, please, stand.

13 (WHEREUPON, there was no response.)

14 THE COURT: Is anyone aware of any physical, mental,
15 or emotional condition that you may have that may prevent
16 you from giving either side a fair and impartial trial?
17 If so, please, stand.

18 (WHEREUPON, there was no response.)

19 THE COURT: Is there any member of the panel who is a
20 member or contributor to any group whose purposes include
21 the promotion of victim's rights or more aggressive law
22 enforcement, or any other advocacy group that promotes the
23 interest of law enforcement or victims rights, or
24 children's rights? If so, please, stand.

25 (WHEREUPON, there was no response.)

1 THE COURT: Has anyone heard anything about this
2 case, other than what you've heard from me here today this
3 morning? If so, please, stand.

4 (WHEREUPON, there was no response.)

5 THE COURT: Has anyone read any kind of media
6 accounts, if there were any, about this case?

7 All right. I'm just going to ask y'all to come down
8 here upfront, if you would.

9 (WHEREUPON, a sidebar was held with the Court, the
10 attorneys, the Clerk of Court, and potential jurors.)

11 THE CLERK: Mr. Nabors and Ms. Robinson are coming
12 forward.

13 THE COURT: Just come on up here. She's just got to
14 have your name. And you can tell us what you've heard.

15 JUROR #69665, LISA ROBINSON: Lisa Robinson.

16 THE COURT: Ms. Robinson.

17 JUROR #69665, LISA ROBINSON: Yeah. I just heard
18 some stuff on the news, from what I can remember that the
19 lady had just gotten her kids back, and that -- I don't
20 know -- that she had just gotten them back. And even
21 though the State had given them back to her, she didn't
22 treat them right. And I just heard that.

23 THE COURT: You heard that on the news as far as TV,
24 the radio --

25 JUROR #69665, LISA ROBINSON: Yeah.

1 THE COURT: Which one?

2 JUROR #69665, LISA ROBINSON: 21.

3 THE COURT: Fox News?

4 JUROR #69665, LISA ROBINSON: Yeah.

5 THE COURT: And you heard that recently or --

6 JUROR #69665, LISA ROBINSON: Yeah.

7 THE COURT: Like when?

8 JUROR #69665, LISA ROBINSON: Over this past weekend.

9 THE COURT: Oh, you heard it this past weekend?

10 JUROR #69665, LISA ROBINSON: Yeah.

11 THE COURT: All right. And would that affect your
12 ability in this case to decide it based on the evidence
13 and the law?

14 JUROR #69665, LISA ROBINSON: No. I mean, it made me
15 mad that...

16 THE COURT: It made you mad?

17 JUROR #69665, LISA ROBINSON: That a kid would suffer
18 like that.

19 THE COURT: Do you think it would affect your
20 judgment in this case, what you heard or your anger
21 towards whoever it might be?

22 JUROR #69665, LISA ROBINSON: Yeah. I mean, yeah.

23 THE COURT: Do you think you could put what you heard
24 aside and decide this case --

25 JUROR #69665, LISA ROBINSON: Yeah.

1 THE COURT: -- just on the evidence and the law?

2 JUROR #69665, LISA ROBINSON: Yeah.

3 THE COURT: Are you confident of that?

4 JUROR #69665, LISA ROBINSON: (Juror #69665, Lisa
5 Robinson, nodded.)

6 THE COURT: You have to say "yes" or "no."

7 JUROR #69665, LISA ROBINSON: Yes.

8 THE COURT: Okay. Would hearing that -- despite what
9 you might hear in court, would your hearing of that be
10 something that you would take into account in your
11 decision in this case?

12 JUROR #69665, LISA ROBINSON: No. I'd just go by
13 what I hear here.

14 THE COURT: You don't think it would affect you in
15 any way?

16 JUROR #69665, LISA ROBINSON: No.

17 THE COURT: And you're confident of your ability to
18 put it aside?

19 JUROR #69665, LISA ROBINSON: Yeah.

20 THE COURT: All right. Thank you.

21 JUROR #69665, LISA ROBINSON: Thank you.

22 (WHEREUPON, Juror #69665, Lisa Robinson, was seated.)

23 MR. RICHARDSON: I couldn't hear exactly what she
24 said.

25 MR. HARBIN: We'd ask that she be excused for cause.

1 She -- you asked her directly as to whether or not her
2 anger would interfere in her ability, and she changed --
3 although she changed her answer, she gave you an answer
4 and said, yes, it would. And then she retracted --
5 backtracked. I think that's -- I mean, we've got plenty
6 of jurors to choose from.

7 THE COURT: Let me see what this gentleman says.

8 (WHEREUPON, Juror #58212, P. David Nabors, came
9 forward.)

10 THE COURT: Mr. Nabors. Yes, sir. Go ahead.

11 JUROR #58212, P. DAVID NABORS: This case has been
12 plastered all over Facebook. Donna Phillips has been on
13 Facebook. And she's on Facebook on my list.

14 THE COURT: You're on her Facebook?

15 JUROR #58212, P. DAVID NABORS: Yeah.

16 THE COURT: Do you know her?

17 JUROR #58212, P. DAVID NABORS: Not personally, just
18 on Facebook.

19 THE COURT: Okay. Do you -- how did you connect with
20 her on Facebook?

21 JUROR #58212, P. DAVID NABORS: Just adding friends.
22 I play music. I think she heard me a long time ago.

23 THE COURT: Oh, okay.

24 JUROR #58212, P. DAVID NABORS: It has been --

25 MR. O'CONNELL: Your Honor, for your information,

1 this case has been on Facebook a long time. They have a
2 number of websites. One is promoting something called
3 "minor Law."

4 THE COURT: Oh, okay.

5 MR. O'CONNELL: So I think maybe you might want to
6 expound your question a little bit more, and ask people
7 about social media and Facebook, and whatever else they
8 might know.

9 THE COURT: Right. Well, that's probably -- I just
10 asked them if they heard anything about the case. But
11 I'll be glad to ask about it.

12 All right. So would that affect your judgment?

13 JUROR #58212, P. DAVID NABORS: That and knowing
14 Michelle Henry as well as I do, I would tend to believe
15 her if she said something.

16 THE COURT: Yes. Well, you kind of -- and I
17 appreciate your candor. But you did kind of hesitate. So
18 I'm going to excuse you from the case.

19 But thank you for your honesty.

20 JUROR #58212, P. DAVID NABORS: The next one, I'll be
21 glad to be on.

22 THE COURT: You say that now.

23 JUROR #58212, P. DAVID NABORS: Thank you.

24 (WHEREUPON, Juror #58212, P. David Nabors, was
25 seated.)

1 THE COURT: The lady that came up before,
2 Ms. Robinson --

3 THE CLERK: Yes.

4 THE COURT: -- I'm going to excuse her as well.

5 THE CLERK: All right.

6 THE COURT: I'm going to ask some more -- well, you
7 might as well just stay right here, because I'm going to
8 ask them some more questions.

9 (WHEREUPON, the sidebar was concluded.)

10 THE COURT: Ladies and gentlemen, the next questions
11 I'm going to ask asks for some personal information. So,
12 again, if you need to respond, I'm just going to ask that
13 you come forward up here in the center aisle. And the
14 questions are as follows:

15 Has anyone ever been accused of, charged with, or
16 convicted of a crime that involves sexual improprieties,
17 crimes against children -- against a child?

18 Has anyone had a family member -- immediate family
19 member who has been so accused, charged, or convicted?

20 Has anyone ever had interactions with the Guardian Ad
21 Litem Program or DSS?

22 Has anyone ever been employed by any agency whose
23 responsibility is the protection of children?

24 Has anyone ever been a victim of or had an immediate
25 family member be the victim of a crime that involved

1 sexual impropriety, or sexual assault, or a crime against
2 a child, including child abuse?

3 Has anyone heard anything about this case or been
4 exposed to any type of information about this case on the
5 Internet or on any kind of social media site?

6 Those are the questions. If anybody needs to respond
7 to those questions, again, we'll talk to you a little more
8 privately up here.

9 (WHEREUPON, a sidebar was held with the Court, the
10 attorneys, the Clerk of Court, and potential jurors.)

11 THE CLERK: Ms. Robinson doesn't need to come back up
12 again.

13 THE COURT: Yes. I'll tell her when she comes up
14 here.

15 All right. Yes, sir.

16 JUROR #38249, JEFFREY HOGAN: I don't know if this
17 applies --

18 THE COURT: Wait --

19 JUROR #38249, JEFFREY HOGAN: I'm sorry.

20 THE COURT: Just kind of keep your voice down, if you
21 would, Mr. -- I'm sorry.

22 JUROR #38249, JEFFREY HOGAN: Jeff Hogan.

23 THE COURT: Mr. Hogan, yes. She's got to be able to
24 hear you, but we don't need everybody hearing.

25 JUROR #38249, JEFFREY HOGAN: I don't know if this

1 applies. I foster, currently, three children. And I've
2 adopted one of them, and one was abused by his father, so.

3 THE COURT: Okay.

4 JUROR #38249, JEFFREY HOGAN: And the other two came
5 from the Collins Home in Seneca.

6 THE COURT: You're a foster parent?

7 JUROR #38249, JEFFREY HOGAN: Yes, sir. And an
8 adoptive parent, too.

9 THE COURT: And would that affect your ability to be
10 fair and impartial in this case?

11 JUROR #38249, JEFFREY HOGAN: I don't like bullies.
12 But, no, I don't think so.

13 THE COURT: Okay. You could decide the case solely
14 on the evidence and the law?

15 JUROR #38249, JEFFREY HOGAN: Yes, sir.

16 THE COURT: Thank you.

17 JUROR #38249, JEFFREY HOGAN: Yes, sir.

18 (WHEREUPON, Juror #38249, Jeffrey Hogan, was seated.)

19 (WHEREUPON, Juror #69665, Lisa Robinson, came
20 forward.)

21 THE COURT: Ms. Robinson, I'm going to excuse you
22 from the case.

23 JUROR #69665, LISA ROBINSON: Okay. Thank you.

24 THE COURT: I just didn't have a chance to tell you.

25 JUROR #69665, LISA ROBINSON: Thank you.

1 So what do I do?

2 THE COURT: Just stay here. There will be another
3 case.

4 JUROR #69665, LISA ROBINSON: Okay.

5 (WHEREUPON, Juror #69665, Lisa Robinson, was seated.)

6 (WHEREUPON, Juror #53361, Constance McGahey, came
7 forward.)

8 THE COURT: Yes, ma'am.

9 JUROR #53361, CONSTANCE MCGAHEY: I'm Constance
10 McGahey.

11 I've served on the prevention of child abuse.

12 THE COURT: Okay.

13 JUROR #53361, CONSTANCE MCGAHEY: I have worked four
14 different child abuse cases as my job as a speech
15 pathologist with the school district. And I've worked
16 with DHEC and DSS previously.

17 THE COURT: All right. Do you think you could be
18 fair and impartial to both the State and the Defense in
19 this case?

20 JUROR #53361, CONSTANCE MCGAHEY: It's child abuse.
21 Yes. But I doubt the Defense wants me.

22 THE COURT: Well, I mean --

23 JUROR #53361, CONSTANCE MCGAHEY: I'm good.

24 THE COURT: Well, you know, when you take your oath
25 as a juror --

1 JUROR #53361, CONSTANCE MCGAHEY: I know. I know.
2 It's very serious.

3 THE COURT: Well, what do you know about the juror
4 oath?

5 JUROR #53361, CONSTANCE MCGAHEY: To be impartial
6 and...

7 THE COURT: And decide the case solely on the
8 evidence and the law.

9 So can you do that and not let your past experiences
10 color your judgment?

11 JUROR #53361, CONSTANCE MCGAHEY: Yes.

12 THE COURT: Are you confident of that?

13 JUROR #53361, CONSTANCE MCGAHEY: Uh-huh.

14 THE COURT: Is that a "yes"?

15 JUROR #53361, CONSTANCE MCGAHEY: Yes, sir. I'm
16 sorry.

17 THE COURT: Thank you.

18 MR. HARBIN: What was your name, ma'am?

19 JUROR #53361, CONSTANCE MCGAHEY: Constance McGahey.

20 MR. HARBIN: Thank you.

21 (WHEREUPON, Juror #53361, Constance McGahey, was
22 seated.)

23 (WHEREUPON, Juror #66190, Tosha Rackley, came
24 forward.)

25 JUROR #66190, TOSHA RACKLEY: I work for the Pickens

1 County Board of Disability and Special Needs. So we have
2 to deal with DSS. They bring cases at times.

3 THE COURT: Do you know anything about this case?

4 JUROR #66190, TOSHA RACKLEY: I do not.

5 THE COURT: Do you feel like you can put your job
6 knowledge and role aside and decide this case solely on
7 the evidence and the law?

8 JUROR #66190, TOSHA RACKLEY: I do.

9 THE COURT: Do you feel you could be fair and
10 impartial to both the State and the Defendants?

11 JUROR #66190, TOSHA RACKLEY: I do.

12 THE COURT: All right. Thank you, ma'am.

13 (WHEREUPON, Juror #66190, Tosha Rackley, was
14 seated.)

15 (WHEREUPON, Juror #160, Michelle Richey, came
16 forward.)

17 THE COURT: Good morning.

18 Tell me your name again.

19 JUROR #160, MICHELLE RICHEY: Michelle Richey.

20 THE COURT: Go ahead.

21 JUROR #160, MICHELLE RICHEY: My sister was a victim
22 of incest. So there's that. And then we have an agency
23 within our agency that works with mothers and their
24 children with substance abuse --

25 THE COURT: Okay.

1 JUROR #160, MICHELLE RICHEY: -- and inpatient
2 treatment. So I didn't know if that affected...

3 THE COURT: All right. So, in this case, there is an
4 allegation of homicide by child abuse. I don't know if
5 the lawyers will say more about it in the opening
6 statements. But the allegations are that the death of a
7 child was caused by narcotics.

8 Do you believe you could be fair and impartial in
9 this case given what you just told me about your --

10 JUROR #160, MICHELLE RICHEY: Well, I'm a detox
11 counselor, so, I mean, it's hard to say.

12 THE COURT: Well, I mean, could you be fair and
13 impartial to both sides, and decide the case solely on the
14 evidence and the law?

15 JUROR #160, MICHELLE RICHEY: Sure. But, I mean,
16 it's questionable. This is my first time. And I have
17 children --

18 THE COURT: And you have what?

19 JUROR #160, MICHELLE RICHEY: And I have children
20 that I've worked solely with --

21 THE COURT: So you've worked with children; right?

22 JUROR #160, MICHELLE RICHEY: Yes, and with addicts.

23 THE COURT: Okay.

24 JUROR #160, MICHELLE RICHEY: And it's hard to say.

25 THE COURT: Okay.

1 JUROR #160, MICHELLE RICHEY: I mean, I would do --
2 you know, I would weigh it against the -- you know, the
3 facts. But whether or not it would -- I mean -- you know
4 what I mean? If I were picked, I mean, it would be -- I
5 don't know. It just -- it would be hard. It would be
6 difficult.

7 THE COURT: To do what?

8 JUROR #160, MICHELLE RICHEY: You just said to try
9 to, you know, be fair.

10 THE COURT: It would be difficult to be fair to who?

11 JUROR #160, MICHELLE RICHEY: If there were drugs
12 involved and a child's death, it would be difficult for me
13 to be -- for me to be less opinionated.

14 THE COURT: All right. And I'm not -- I'm just
15 trying to get you to the point of what you are thinking.
16 So don't take this the wrong way. But opinionated as to
17 what is what I'm trying to figure out?

18 JUROR #160, MICHELLE RICHEY: The child abuse with
19 drugs involved.

20 THE COURT: Okay. So the fact that there's a child
21 victim, and the fact that there allegedly may have been
22 drugs that caused the child's death, do you think those
23 facts are such that you would want to find someone
24 responsible, regardless of what the evidence would show?

25 JUROR #160, MICHELLE RICHEY: No, no.

1 THE COURT: So do you think you can follow the
2 instructions on the law, and confine your decision to the
3 evidence you hear in the courtroom?

4 JUROR #160, MICHELLE RICHEY: Yes.

5 THE COURT: Do you think you could do that fairly and
6 impartially to both sides?

7 JUROR #160, MICHELLE RICHEY: Yes.

8 THE COURT: Okay. Thank you.

9 (WHEREUPON, Juror #160, Michelle Richey, was seated.)

10 (WHEREUPON, Juror #43045, Ella Jones, came forward.)

11 THE COURT: Good morning.

12 JUROR #43045, ELLA JONES: Hi.

13 THE COURT: Yes, Ms. Jones.

14 JUROR #43045, ELLA JONES: When my son was 17, he was
15 charged with a lewd act. He was 17 at the time. And by
16 him being 17 -- he never had no [sic] problems with the
17 law before. He was scared, of course. And, anyway, he
18 was convicted.

19 THE COURT: Okay.

20 JUROR #43045, ELLA JONES: He has -- since his
21 release, which has been almost 12 years ago, he has had
22 no [sic] problems, I mean, not even a ticket. But I just
23 wanted to let you know that I have been involved in this
24 type of situation.

25 THE COURT: Yes, ma'am.

1 Well, thank you for telling us that. And I'm glad
2 he's doing well.

3 But this case involves, not allegations of child
4 molestation, but child abuse or neglect.

5 JUROR #43045, ELLA JONES: Okay.

6 THE COURT: So it's not a sexual case, even though I
7 asked questions about that, and you responded to them.
8 And I appreciate that.

9 Do you think you could be fair and impartial in this
10 case that involves allegations of child abuse?

11 JUROR #43045, ELLA JONES: Yes.

12 THE COURT: And you could put your son's experiences
13 aside, and decide the case solely on the evidence and the
14 law?

15 JUROR #43045, ELLA JONES: Yes, I can.

16 THE COURT: Thank you, ma'am.

17 (WHEREUPON, Juror #43045, Ella Jones, was seated.)

18 (WHEREUPON, Juror #121, Marion Lawson, came
19 forward.)

20 THE COURT: Hey. How are you?

21 JUROR #121, MARION LAWSON: Good, sir. I'm Marion
22 Lawson.

23 I'm a principal. And I've had a chance to be
24 involved in the guardian ad litem program with students in
25 the school. I just wanted to share that.

1 THE COURT: Thank you, Mr. Lawson.

2 Do you feel like you can be fair and impartial in
3 this case?

4 JUROR #121, MARION LAWSON: Yes, sir.

5 THE COURT: And do you feel like you could decide the
6 case solely on the evidence and the law?

7 JUROR #121, MARION LAWSON: Yes, sir.

8 THE COURT: Thank you.

9 (WHEREUPON, Juror #121, Marion Lawson, was seated.)

10 THE COURT: Anything further y'all want me to ask?

11 MR. DEJONG: Not on behalf of Mr. Morris.

12 MR. O'CONNELL: Not on behalf of us, Your Honor.

13 Thank you.

14 THE COURT: Do you think -- I mean, I don't know if I
15 used the actual phrase. But do you think I should ask
16 about whether anyone has been accused of or been a victim
17 of child neglect, or do you think what I've already asked
18 is sufficient?

19 MR. DEJONG: I think with the -- I think you covered
20 that when you asked about the sexual impropriety. I think
21 you threw abuse in --

22 MR. O'CONNELL: I'd really like you to ask about
23 neglect.

24 Because isn't that part of what the -- what it reads
25 in the code section?

1 THE COURT: I can do it, if y'all want me to.

2 MR. DEJONG: Okay.

3 MR. O'CONNELL: Better safe than sorry.

4 (WHEREUPON, the sidebar was concluded.)

5 THE COURT: The final question -- final questions,
6 rather. Is anyone aware of any bias or prejudice they may
7 have against either the State or the Defendants in this
8 case?

9 Are you aware of any reason why you could not be fair
10 or impartial?

11 And has anyone ever been accused of, charged with,
12 arrested for, or convicted of child neglect?

13 And has anyone ever accused someone else of child
14 neglect, or have you or any member of your immediate
15 family been a victim of child neglect?

16 So those are the questions. If anyone needs to
17 respond, you may do so at this time.

18 (WHEREUPON, there was no response.)

19 THE COURT: Thank you very much.

20 Is there any further voir dire requested from the
21 State?

22 MR. RICHARDSON: None from the State, Your Honor.

23 THE COURT: From the Defendants?

24 MR. DEJONG: Not on behalf of Mr. Morris, Your Honor.

25 MR. O'CONNELL: Nothing from us, Your Honor.

1 Thank you very much.

2 MR. HARBIN: No, sir.

3 THE COURT: We're going to select the jury at this
4 time. It's going to take --

5 How long is it going to take to get the list?

6 THE CLERK: It won't take long.

7 THE COURT: It's going to take a few minutes while we
8 get the list generated from the computer. So just bear
9 with us. And then we'll select the jury.

10 UNIDENTIFIED JUROR: Can you speak up some? We're
11 having trouble hearing you back here.

12 THE COURT: Yes. I'll try to do that.

13 (Pause.)

14 JURY SELECTION

15 THE CLERK: As I call your name, if you would,
16 please, just stand in place where the attorneys can see
17 you.

18 Juror #60, Eric L. Ellis.

19 (WHEREUPON, Eric L. Ellis, a white male, stood.)

20 THE CLERK: What says the State?

21 MR. RICHARDSON: Please present Mr. Ellis.

22 THE CLERK: And the Defense?

23 MR. DEJONG: Please present the juror to
24 Mr. O'Connell.

25 MR. O'CONNELL: Your Honor, I'm going to strike this

1 juror.

2 Thank you.

3 THE CLERK: If you would, have a seat, please, sir.

4 Juror #56, Katie D. Doyle.

5 (WHEREUPON, Katie D. Doyle, a white female, stood.)

6 THE CLERK: What says the State?

7 MR. RICHARDSON: Please present Ms. Doyle.

8 THE CLERK: And the Defense?

9 MR. DEJONG: Please present the juror to
10 Mr. O'Connell.

11 MR. O'CONNELL: Present the juror, Your Honor.

12 MR. HARBIN: Please seat the juror, Judge.

13 THE CLERK: If you would, come forward, please,
14 ma'am. And have a seat in the jury box.

15 Juror #32, Vonda Cannon.

16 (WHEREUPON, Vonda Cannon, a black female, stood.)

17 THE CLERK: What says the State?

18 MR. RICHARDSON: Please present Ms. Cannon.

19 THE CLERK: And the Defense?

20 MR. DEJONG: Please present the juror to
21 Mr. O'Connell.

22 MR. O'CONNELL: Seat the juror, Your Honor.

23 MR. HARBIN: Please excuse this juror, Judge.

24 THE CLERK: If you would, have a seat, please, ma'am.

25 Juror #4, James W. Allison, Jr.

1 (WHEREUPON, James W. Allison, Jr., a white male,
2 stood.)

3 THE CLERK: What says the State?

4 MR. RICHARDSON: Please present Mr. Allison.

5 THE CLERK: And the Defense?

6 MR. DEJONG: Please present the juror to

7 Mr. O'Connell.

8 MR. O'CONNELL: Thank you.

9 Seat the juror, Your Honor.

10 MR. HARBIN: Please seat the juror, Judge.

11 THE CLERK: If you would, come forward, please, sir.

12 Have a seat in the jury box.

13 Juror #33, Alicia M. Caracciolo.

14 (WHEREUPON, Alicia M. Caracciolo, a white female,
15 stood.)

16 THE CLERK: What says the State?

17 MR. RICHARDSON: Please present Ms. Caracciolo.

18 THE CLERK: And the Defense?

19 MR. DEJONG: Please present the juror to Mr. O'Connell.

20 MR. O'CONNELL: Thank you.

21 We decline -- or strike the juror.

22 THE CLERK: If you would, have a seat, please, ma'am.

23 Juror #101, Rhonda T. Holmesley.

24 (WHEREUPON, Rhonda T. Holmesley, a white female,
25 stood.)

1 THE CLERK: What says the State?

2 MR. RICHARDSON: Please present Ms. Holmesley.

3 THE CLERK: And the Defense?

4 MR. DEJONG: Please excuse this juror from the trial
5 of this case.

6 THE CLERK: If you would, have a seat, please, ma'am.

7 Juror #89, Jimmy R. Hanson -- Hasson.

8 (WHEREUPON, Jimmy R. Hasson, a white male, stood.)

9 THE CLERK: What says the State?

10 MR. RICHARDSON: Please excuse Mr. Hasson from the
11 trial of this case.

12 THE CLERK: If you would, have a seat, please, sir.

13 Juror #17, Candice S. Boren.

14 (WHEREUPON, Candice S. Boren, a white female, stood.)

15 THE CLERK: What says the State?

16 MR. RICHARDSON: Please present Ms. Boren.

17 THE CLERK: And the Defense?

18 MR. DEJONG: Please present the juror to
19 Mr. O'Connell.

20 MR. O'CONNELL: Thank you.

21 But we excuse the juror.

22 THE CLERK: If you would, have a seat, please.

23 Juror #117, Robert S. Key.

24 (WHEREUPON, Robert S. Key, a white male, stood.)

25 THE CLERK: What says the State?

1 MR. RICHARDSON: Please present Mr. Key.

2 THE CLERK: And the Defense?

3 MR. DEJONG: #117, Mr. Clerk?

4 THE CLERK: Yes, sir, #117.

5 MR. DEJONG: Thank you.

6 Please present the juror to Mr. O'Connell.

7 MR. O'CONNELL: Thank you.

8 But we excuse this juror.

9 THE CLERK: If you would, have a seat, please, sir.

10 Juror #11, Jeffery L. Barkley.

11 (WHEREUPON, Jeffery L. Barkley, a white male, stood.)

12 THE CLERK: What says the State?

13 MR. RICHARDSON: Please excuse Mr. Barkley from the
14 trial of this case.

15 THE CLERK: If you would, have a seat, please, sir.

16 I don't have a juror number for this juror.

17 Ashley F. Butler.

18 (WHEREUPON, Ashley F. Butler, a white female, stood.)

19 THE CLERK: What says the State?

20 MR. RICHARDSON: Please present Ms. Butler.

21 THE CLERK: And the Defense?

22 MR. DEJONG: Please present the juror to

23 Mr. O'Connell.

24 MR. O'CONNELL: Present the juror to Mr. Chase [sic].

25 MR. HARBIN: Please seat the juror.

1 THE CLERK: If you would, come forward, please,
2 ma'am. And have a seat in the jury box.

3 Juror #118, Larry D. King.

4 (WHEREUPON, Larry D. King, a white male, stood.)

5 THE CLERK: What says the State?

6 MR. RICHARDSON: Please present Mr. King.

7 THE CLERK: And the Defense?

8 MR. DEJONG: Please present the juror to
9 Mr. O'Connell.

10 MR. O'CONNELL: Please excuse the juror.

11 THE CLERK: Juror #25, Kara D. Brooking.

12 (WHEREUPON, Kara D. Brooking, a white female, stood.)

13 THE CLERK: What says the State?

14 MR. RICHARDSON: Please present Ms. Brooking.

15 THE CLERK: And the Defense?

16 MR. DEJONG: Please excuse this juror from the trial
17 of this case.

18 THE CLERK: If you would, have a seat, please.

19 Juror #84, Mary J. Hagood.

20 (WHEREUPON, Mary J. Hagood, a black female, stood.)

21 THE CLERK: What says the State?

22 MR. RICHARDSON: Please present Ms. Hagood.

23 THE CLERK: And the Defense?

24 MR. DEJONG: Please present the juror to
25 Mr. O'Connell.

1 MR. O'CONNELL: Please seat the juror.

2 MR. HARBIN: Please seat Ms. Hagood.

3 THE CLERK: Ms. Hagood, if you would, please, come
4 forward. Have a seat in the jury box.

5 Juror #44, Chase N. Cochran.

6 (WHEREUPON, Chase N. Cochran, a white male, stood.)

7 THE CLERK: What says the State?

8 MR. RICHARDSON: Please present Mr. Cochran.

9 MR. DEJONG: I'm sorry. What number, Mr. Clerk?

10 THE CLERK: #44.

11 MR. DEJONG: Thank you, sir.

12 THE CLERK: And the Defense?

13 MR. DEJONG: Please present the juror to
14 Mr. O'Connell.

15 MR. O'CONNELL: Excuse the juror, please.

16 THE CLERK: If you would, have a seat, please, sir.

17 Juror #67, Angela R. Fox.

18 (WHEREUPON, Angela R. Fox, a white female, stood.)

19 THE CLERK: What says the State?

20 MR. RICHARDSON: Please present Ms. Fox.

21 THE CLERK: And the Defense?

22 MR. DEJONG: Please excuse this juror from the trial
23 of this case.

24 THE CLERK: If you would, have a seat, please.

25 Juror #34, Gloria R. Cassell.

1 (WHEREUPON, Gloria R. Cassell, a white female,
2 stood.)

3 THE CLERK: What says the State?

4 MR. RICHARDSON: Please present Ms. Cassell.

5 THE CLERK: And the Defense?

6 MR. DEJONG: Please present the juror to

7 Mr. O'Connell.

8 MR. O'CONNELL: Excuse the juror.

9 THE CLERK: If you would, have a seat, please, ma'am.

10 Juror #178, Adrienne B. Steward.

11 (WHEREUPON, Adrienne B. Steward, a black female,
12 stood.)

13 THE CLERK: What says the State?

14 MR. RICHARDSON: Please excuse Ms. Steward from the
15 trial of this case.

16 THE CLERK: If you would, have a seat, please, ma'am.

17 Juror #156, Janice R. Raber.

18 (WHEREUPON, Janice R. Raber, a white female, stood.)

19 THE CLERK: What says the State?

20 MR. RICHARDSON: Please present Ms. Raber.

21 THE CLERK: And the Defense?

22 MR. DEJONG: Please present the juror to

23 Mr. O'Connell.

24 MR. O'CONNELL: Your Honor, I have no more strikes,
25 so it will go to Mr. Chase [sic].

1 MR. HARBIN: Please excuse Ms. Raber.

2 THE CLERK: If you would, have a seat, please, ma'am.
3 Juror #45, Lisa P. Cole.

4 (WHEREUPON, Lisa P. Cole, a white female, stood.)

5 THE CLERK: What says the State?

6 MR. RICHARDSON: Please present Ms. Cole.

7 THE CLERK: And the Defense?

8 MR. DEJONG: Please excuse this juror from the trial
9 of this case.

10 THE CLERK: If you would, have a seat, please, ma'am.
11 Juror #29, James C. Brummitt.

12 (WHEREUPON, James C. Brummitt, a white male, stood.)

13 THE CLERK: What says the State?

14 MR. RICHARDSON: Please present Mr. Brummitt.

15 THE CLERK: And the Defense?

16 MR. DEJONG: Please excuse this juror from the trial
17 of this case.

18 THE CLERK: If you would, have a seat, please, sir.
19 Juror #1, William H. Aarnes.

20 (WHEREUPON, William H. Aarnes, a white male, stood.)

21 THE CLERK: What says the State?

22 MR. RICHARDSON: Please excuse Mr. Aarnes from the
23 trial of this case.

24 THE CLERK: If you would, have a seat, please, sir.
25 Juror #171, Dorothy A. Sink.

1 (WHEREUPON, Dorothy A. Sink, a white female, stood.)

2 THE CLERK: What says the State?

3 MR. RICHARDSON: Please present Ms. Sink.

4 THE CLERK: And the Defense?

5 MR. DEJONG: Please present the juror to Mr. Harbin.

6 MR. HARBIN: Please excuse Ms. Sink.

7 THE CLERK: If you would, have a seat, please, ma'am.

8 Juror #114, Karen D. Julian.

9 (WHEREUPON, Karen D. Julian, a white female, stood.)

10 THE CLERK: What says the State?

11 MR. RICHARDSON: Please excuse Ms. Julian from the
12 trial of this case.

13 THE CLERK: If you would, have a seat, please, ma'am.

14 Juror #54, Mendia N. Davis.

15 (WHEREUPON, Mendia N. Davis, a white female, stood.)

16 THE CLERK: What says the State?

17 MR. RICHARDSON: Please present Ms. Davis.

18 THE CLERK: And the Defense?

19 MR. DEJONG: Please present the juror to Mr. Harbin.

20 MR. HARBIN: Please seat Ms. Davis.

21 THE CLERK: If you would, come forward, please,
22 ma'am. And have a seat in the jury box.

23 Juror #187, Charles H. Traylor.

24 (WHEREUPON, Charles H. Traylor, a white male, stood.)

25 THE CLERK: What says the State?

1 MR. RICHARDSON: Please present Mr. Traylor.

2 THE CLERK: And the Defense?

3 MR. DEJONG: Please present the juror to Mr. Harbin.

4 MR. HARBIN: Please excuse Mr. Traylor.

5 THE CLERK: If you would, have a seat, please.

6 Juror #167, Kayla M. Seaborn-Baldwin.

7 (WHEREUPON, Kayla M. Seaborn-Baldwin, a white
8 female, stood.)

9 THE CLERK: What says the State?

10 MR. RICHARDSON: Please excuse Ms. Seaborn from the
11 trial of this case.

12 THE CLERK: If you would, have a seat, please, ma'am.

13 Juror #22, Christopher S. Bridges.

14 (WHEREUPON, Christopher S. Bridges, a white male,
15 stood.)

16 THE CLERK: What says the State?

17 MR. RICHARDSON: Please present Mr. Bridges.

18 THE CLERK: And the Defense?

19 MR. DEJONG: Please present the juror to Mr. Harbin.

20 MR. HARBIN: Please seat Mr. Bridges.

21 THE CLERK: If you would, have a seat in the jury
22 box.

23 Juror #53, Brian A. Davis.

24 (WHEREUPON, Brian A. Davis, a white male, stood.)

25 THE CLERK: What says the State?

1 MR. RICHARDSON: Please present Mr. Davis.

2 THE CLERK: And the Defense?

3 MR. DEJONG: Please present the juror to Mr. Harbin.

4 MR. HARBIN: Please seat Mr. Davis.

5 THE CLERK: If you would, come forward, please, sir.

6 And have a seat in the jury box.

7 Juror #123, Hannah F. Lester.

8 (WHEREUPON, Hannah F. Lester, a white female, stood.)

9 THE CLERK: What says the State?

10 MR. RICHARDSON: Please excuse Ms. Lester from the
11 trial of this case.

12 THE CLERK: If you would, have a seat, please, ma'am.

13 Juror #147, Dorothea Orr.

14 (WHEREUPON, Dorothea Orr, a black female, stood.)

15 THE CLERK: What says the State?

16 MR. RICHARDSON: Please present Ms. Orr.

17 THE CLERK: And the Defense?

18 MR. DEJONG: Please present the juror to Mr. Harbin.

19 MR. HARBIN: Please seat Ms. Orr.

20 THE CLERK: If you would, come forward, please,
21 ma'am. And have a seat in the jury box.

22 Juror #151, Tony Phillips.

23 (WHEREUPON, Tony Phillips, a white male, stood.)

24 THE CLERK: What says the State?

25 MR. RICHARDSON: Please excuse Mr. Phillips from the

1 trial of this case.

2 THE CLERK: If you would, have a seat, please, sir.

3 Juror #146, Lawrence E. Norton.

4 (WHEREUPON, Lawrence E. Norton, a white male, stood.)

5 THE CLERK: What says the State?

6 MR. RICHARDSON: Please present Mr. Norton.

7 THE CLERK: And the Defense?

8 MR. DEJONG: #136, Mr. Clerk?

9 THE CLERK: #146.

10 MR. DEJONG: #146. I'm sorry.

11 Thank you, sir.

12 Please present the juror to Mr. Harbin.

13 MR. HARBIN: Please seat Mr. Norton.

14 THE CLERK: If you would, come forward, please, sir.

15 And have a seat in the jury box.

16 Juror #55, Kenneth R. Dickey.

17 (WHEREUPON, Kenneth R. Dickey, a white male, stood.)

18 THE CLERK: What says the State?

19 MR. RICHARDSON: Please excuse Mr. Dickey from the

20 trial of this case.

21 THE CLERK: If you would, have a seat, please, sir.

22 Thank you.

23 Juror #21, Ophelia W. Brewer.

24 (WHEREUPON, Ophelia W. Brewer, a white female,
25 stood.)

1 THE CLERK: What says the State?

2 MR. RICHARDSON: Please present Ms. Brewer.

3 THE CLERK: And the Defense?

4 MR. DEJONG: Please present the juror to Mr. Harbin.

5 MR. HARBIN: Please excuse Ms. Brewer.

6 THE CLERK: If you would, have a seat, please, ma'am.

7 Juror #121, Marion D. Lawson.

8 (WHEREUPON, Marion D. Lawson, a white male, stood.)

9 THE CLERK: What says the State?

10 MR. RICHARDSON: Please present Mr. Lawson.

11 THE CLERK: And the Defense?

12 MR. DEJONG: Please excuse this juror from the trial

13 of this case.

14 THE CLERK: Juror #160, Michelle L. Richey.

15 (WHEREUPON, Juror #160, Michelle L. Richey, a white

16 female, stood.)

17 THE CLERK: What says the State?

18 MR. RICHARDSON: Please present Ms. Richey.

19 THE CLERK: And the Defense?

20 MR. DEJONG: Please excuse this juror from the trial

21 of this case.

22 THE CLERK: If you would, have a seat, please, ma'am.

23 Juror #112, Michael A. Juang.

24 (WHEREUPON, Michael A. Juang, a white male, stood.)

25 THE CLERK: What says the State?

1 MR. RICHARDSON: Please present Mr. Juang. I'm sorry
2 if I mispronounced.

3 JUROR #112, MICHAEL A. JUANG: That's okay.

4 THE CLERK: And the Defense?

5 MR. DEJONG: No challenge for cause.

6 MR. HARBIN: Please seat Mr. Juang.

7 THE CLERK: If you would, come forward, please, sir.

8 Juror # 43, Pauline Clark.

9 (WHEREUPON, Pauline Clark, a white female, stood.)

10 THE CLERK: What says the State?

11 MR. RICHARDSON: Please present Ms. Clark.

12 THE CLERK: And the Defense?

13 MR. DEJONG: No challenge for cause.

14 MR. HARBIN: Please excuse Ms. Clark.

15 THE COURT: Hold on just a second.

16 (Pause.)

17 THE COURT: Okay. Thank you.

18 THE CLERK: If you would, have a seat, please, ma'am.

19 Juror #142, Leslie E. Myles.

20 (WHEREUPON, Leslie E. Myles, a black female, stood.)

21 THE CLERK: What says the State?

22 MR. RICHARDSON: Please excuse Ms. Myles from the
23 trial of this case.

24 THE CLERK: If you would, have a seat, please, ma'am.

25 Juror #96, Rhonda F. Hester.

1 (WHEREUPON, Rhonda F. Hester, a white female, stood.)

2 THE CLERK: What says the State?

3 MR. RICHARDSON: Please present Ms. Hester.

4 THE CLERK: And the Defense?

5 MR. DEJONG: No challenge for cause.

6 MR. HARBIN: Please seat Ms. Hester.

7 THE CLERK: If you would, come forward, please,
8 ma'am. And have a seat in the jury box.

9 Juror #182, Edna K. Styles.

10 (WHEREUPON, Edna K. Styles, a white female, stood.)

11 THE CLERK: What says the State?

12 MR. RICHARDSON: Please present Ms. Styles.

13 THE CLERK: And the Defense?

14 MR. DEJONG: No challenge for cause.

15 MR. HARBIN: Please seat Ms. Styles.

16 THE CLERK: If you would, come forward, please,
17 ma'am. And have a seat in the jury box.

18 THE COURT: We'll have two alternates.

19 THE CLERK: This will be for the first alternate.

20 Juror #173, Leslie R. Smith.

21 (WHEREUPON, Leslie R. Smith, a black female, stood.)

22 THE CLERK: What says the State?

23 MR. RICHARDSON: Please present Ms. Smith.

24 THE CLERK: And the Defense?

25 MR. DEJONG: Please swear the juror.

1 MR. HARBIN: Please seat the juror.

2 We're voting as a group. I'm sorry.

3 THE COURT: Okay.

4 THE CLERK: If you would, come forward, please,
5 ma'am.

6 Juror #61, Alan W. Elstob.

7 (WHEREUPON, Alan W. Elstob, a white male, stood.)

8 THE CLERK: What says the State?

9 MR. RICHARDSON: Please excuse Mr. Elstob from the
10 trial of this case.

11 THE CLERK: If you would, have a seat, please, sir.

12 Juror #39, Henry F. Chapel.

13 (WHEREUPON, Henry F. Chapel, a white male, stood?)

14 THE CLERK: What says the State?

15 MR. RICHARDSON: Please present Mr. Chapel.

16 THE CLERK: And the Defense?

17 MR. DEJONG: Please excuse this juror from the trial
18 of this case.

19 THE CLERK: If you would, have a seat, please, sir.

20 Juror #16, Kathryn H. Black.

21 (WHEREUPON, Kathryn H. Black, a white female, stood.)

22 THE CLERK: What says the State?

23 MR. RICHARDSON: Please present Ms. Black.

24 THE CLERK: And the Defense?

25 MR. DEJONG: Please swear the juror.

1 THE CLERK: If you would, come forward, please,
2 ma'am. And have a seat in the jury box.

3 THE COURT: Any motions or matters related to the
4 selection process or composition of the jury from the
5 State?

6 MR. RICHARDSON: None from the State, Your Honor.

7 THE COURT: From the Defense?

8 MR. DEJONG: Not on behalf of Mr. Morris, Your Honor.

9 MR. O'CONNELL: Not on behalf of Donna Phillips.

10 MR. HARBIN: No, sir.

11 THE COURT: I find it complied with all the statutory
12 and Constitutional requirements.

13 Ladies and gentlemen, you've been selected to be the
14 jury in the case of the State v. Donna Lynn Phillips,
15 Jamie Edward Morris, and Latasha Diane Honeycutt. We have
16 some matters we're going to have to address before we can,
17 actually, have the case begin.

18 So I'm just going to ask that you come back at 3:30
19 this afternoon. And just come back to this jury room
20 right here. And we'll see you back at that time. Don't
21 talk about the case. Don't do any kind of outside
22 investigation. And keep an open mind.

23 Thank you very much.

24 And let me just say before you go back in there, let
25 me just say -- and this is something that's of concern

1 just in recent years. Please don't talk with anyone about
2 the case. Don't do any kind of social networking about
3 what you're doing here today. That causes all kinds of
4 problems.

5 You have to confine your decision to the evidence in
6 this case. And we can't have any kind of outside
7 influence. So don't discuss the case with anyone. Don't
8 do any outside investigation. Don't access any electronic
9 social media to talk about that you've been selected on a
10 jury, and so forth. And that will remain true throughout
11 the case.

12 Thank you very much.

13 (WHEREUPON, the jury was excused from open court at
14 approximately 1:07 p.m.)

15 THE COURT: As far as this case goes, the attorneys
16 and everyone just needs to be back at 2:00. And we'll
17 start at that time.

18 (WHEREUPON, a lunch break was taken.)

19 THE COURT: It appears all Defendants are present.
20 And, yes, Mr. Richardson.

21 MR. RICHARDSON: Your Honor, if I might. My
22 assistant is not here yet. We have, from the State's
23 perspective, several statements that we would -- that
24 we're going to need to have a Jackson v. Denno on,
25 portions of which I'm probably going to put into evidence.

1 So we're prepared to go forward with the Jackson v.
2 Denno at this time. And it's my understanding, also, that
3 there may be some motions from the Defense. I didn't know
4 if you wanted to entertain that first, or not.

5 THE COURT: Yes, sir.

6 MR. DEJONG: Do you want to do motions first, Your
7 Honor?

8 THE COURT: It sounds like the Jackson v. Denno will
9 take up most of the time; is that probably right?

10 MR. DEJONG: I'm ready, if you want to hear from me.

11 THE COURT: Go ahead.

12 PRE-TRIAL MOTIONS

13 MR. DEJONG: On behalf of Mr. Morris, Your Honor, I'm
14 not 100 percent sure how to couch this motion. But,
15 basically -- and I will couch it this way -- to dismiss
16 based on the statute under which he is charged, 16-3-85,
17 homicide by child abuse.

18 The indictment that Mr. Morris is charged under deals
19 with 16-3-85(a), Subparagraph 2. And Subparagraph 2 and
20 what the indictment alleges is knowingly aids and abets
21 another person to commit child abuse or neglect. And the
22 child abuse or neglect is, also, in the death of a child
23 under the age of 11. If, however, you look at the first
24 sentence of 16-3-85, it says, A person is guilty of
25 homicide by child abuse if the person -- and then you have

1 (a)(1) and (a)(2), which, more particularly, under (a)(2),
2 my client is charged with.

3 So upon that reading of the statute, Your Honor, it
4 would appear that either (a)(1) or (a)(2) is homicide by
5 child abuse. Where the distinction comes in, if you
6 continue reading 16-3-85, and go to Paragraph C, which is,
7 actually, the penalty phase. The penalty is different
8 between 16-3-85(a)(1) and (a)(2). (a)(1) may be
9 imprisoned for life, but not less than 20 years. Under
10 Subsection (a)(2), Must be imprisoned for a term not
11 exceeding 20 years or less than 10 years.

12 Now, taking away the penalty portion of that statute,
13 it would not appear that there is that great of a
14 distinction. But when you throw the Paragraph C in there,
15 the penalty phase, and lock that in with (a), which a
16 person is guilty of homicide by child abuse if the
17 person -- and then we look at (a)(2). Number one, I'm not
18 really sure what I am defending.

19 Now, I know it says homicide by child abuse is what
20 (a)(1) and (a)(2) said. But then you get in down to the
21 penalty phase -- and I know the jury is not concerned with
22 the penalties. But the problem I have is this, I have to
23 take the statute one step further, and that is look
24 towards the other end of this trial when it comes time for
25 Your Honor to charge.

1 On that, Your Honor, I have tried to do some research
2 that I was trying to come up with a proposed charge on
3 (a)(2). But the only thing I could find in my research is
4 in looking at the case law on 16-3-85(a)(2), you start
5 getting into accomplice liability. Well, I think -- and,
6 of course, I have no way of knowing, and I mean no
7 disrespect to Your Honor. But I have no way of knowing
8 what you would charge with regard to paragraph (a)(2).
9 But if we get into accomplice liability, then I think that
10 is very confusing for the jury as to whether they
11 are -- what they are, actually, looking at, again, without
12 knowing the penalty.

13 The way that code section is written, Your Honor, it
14 would lend me to argue that I'm, actually, entitled to a
15 bifurcated trial on this case. Bifurcated in this regard
16 much like a capital case where you have innocence or
17 guilt, and then you have punishment.

18 In this case, it would be -- if they found he was
19 aiding and abetting under (a)(1) and/or (a)(2), it would
20 be guilty of homicide by child abuse. But then when you
21 get to the penalty, it appears to me that it would then be
22 up to the jury to decide whether it was aiding and
23 abetting or, again, you compound the problem when you get
24 into accomplice liability.

25 So, again, I understand that the penalty is not the

1 juries province. But, in this case, the way the statute
2 is written, I believe the legislature puts it in the
3 juries province. Because that is so vague, the way it is
4 written. And it's really not overly broad, Your Honor, I
5 don't think. But the vagueness of the statute is what
6 bothers me. And, like I say, I don't know if I'm really
7 standing here defending a homicide by child abuse, or an
8 aiding and abetting of child abuse. Because -- and
9 granted, now, under the indictment as indicted by the
10 State, they could not up the charge, if you will, to
11 homicide by child abuse, as I see it.

12 Although, the indictment in only one place, and that
13 is where it says -- and I don't know if Your Honor has it
14 or wants to see it. It says, Indictment for homicide by
15 child abuse. But then in the body of the indictment, it
16 goes down to talk about aiding and abetting and refers to
17 16-3-85(a)(2). And on the front of the indictment, it is
18 an indictment for homicide by child abuse aiding and
19 abetting. And, again, it recites 16-3-85(a)(2).

20 So I realize this is a strange time to be bringing up
21 the charge. But I do think that the potential charge in
22 this case could only very possibly exacerbate the
23 vagueness of the statute itself. And, because of that,
24 Your Honor, I respectfully move to dismiss the indictment.

25 THE COURT: Why would it not be sufficient to read

1 the statute to the jury and instruct them on what aiding
2 and abetting means?

3 MR. DEJONG: Well -- and, again, I mean no disrespect
4 to Your Honor. I don't know exactly what that aiding and
5 abetting charge is. I haven't done one of those in a
6 while.

7 My biggest problem is probably just a definition of
8 aiding and abetting would to some degree solve the
9 problem. I don't necessarily agree with that but for
10 purposes of this -- but the question is, with the aiding
11 and abetting, are we going to go into accomplice
12 liability, or are we going to cut it off on aiding and
13 abetting?

14 THE COURT: All right. Well, if I -- bearing in mind
15 my crystal ball is no more accurate than yours. But if I
16 go ahead and give you a proposed aiding and abetting
17 charge in the next day or so -- and I don't know how long
18 the trial is expected to take. That's one thing I wanted
19 to ask y'all. But that's something that, at least, would
20 give us -- if not some common ground, it would, at least,
21 give us common ground to discuss this maybe more
22 intelligently, at least, on my part.

23 MR. DEJONG: Well, probably mine, too, Your Honor.

24 THE COURT: I mean, in other words, if you know what
25 I'm intending to charge them as far as aiding and

1 abetting, you may no longer have a problem.

2 MR. DEJONG: And it may not be. It puts me in --
3 and, again, I'm not arguing with Your Honor. It puts me
4 in a little bit of a quandary, even in my opening
5 statement and how I approach my opening statement in this
6 case, number one.

7 And, number two, the question would be -- and, again,
8 I realize in most instances this would be very premature,
9 but whether or not the indictment would go back with the
10 jury. Because that one section -- that one line in the
11 indictment says, Homicide by child abuse. And that may
12 get into aiding and abetting.

13 THE COURT: It's not my practice to send the
14 indictment back to the jury. I would be inclined to, on
15 the verdict form, ask the jury, did Jamie Edward Morris
16 knowingly aid and abet, you know, in the crime, and
17 somewhat paraphrase the indictment. But it, certainly,
18 would give the jury a reminder that he's charged with
19 aiding and abetting, and not the greater crime.

20 MR. DEJONG: Okay. And I guess we're kind of in
21 abeyance, if you will. I think I understand what Your
22 Honor says. I gather Your Honor is denying my motion to
23 dismiss and we're plugging forward.

24 THE COURT: Yes, sir.

25 MR. DEJONG: For the record, I just --

1 THE COURT: Yes. I would respectfully deny your
2 motion. Of course, this is all in limine. I mean, it's
3 before the trial starts. And that's my ruling at this
4 time.

5 Thank you.

6 MR. DEJONG: Thank you, Your Honor.

7 May I have just one minute to talk to Ms. Batson?

8 THE COURT: Sure.

9 (Pause.)

10 MR. DEJONG: Thank you, Your Honor.

11 THE COURT: Sure.

12 Yes, sir, Mr. O'Connell.

13 MR. O'CONNELL: May it please the Court.

14 THE COURT: Yes, sir, Mr. O'Connell.

15 MR. O'CONNELL: Before I get started on my motion,
16 Ms. Donna Phillips wants to address the Court. It may not
17 be proper, but she says she has the right to address the
18 Court. She's read up on the law. And she says she has
19 the right to do it.

20 THE COURT: Okay.

21 MR. O'CONNELL: Will you hear from her?

22 THE COURT: Yes, sure.

23 DEFENDANT PHILLIPS: It's not so much that I've read
24 up on the law. It's just that I think the law should be
25 fair, and everything laid out on the table. And

1 Mr. O'Connell, he's been an excellent lawyer as far as
2 going over everything with me, this and that.

3 But as far as getting the things that we -- that he
4 needed to get to prove this case, there's been so many --
5 so much stuff just hidden. There's been things that the
6 laboratory has not -- I feel like on our part -- and the
7 first time I had ever heard anything about the case on our
8 part as far as the laboratory and what they thought we --
9 and all -- is right here at the last moment.

10 But minor he suffered two brain injuries --

11 THE COURT: All right. Ma'am, I'll tell you what --

12 DEFENDANT PHILLIPS: Sir, it's how the case was
13 handled by my lawyer.

14 THE COURT: Okay.

15 DEFENDANT PHILLIPS: And he told me that the Judge --
16 when we went to the hearing on April the 23rd, I was here.
17 And I never got to see the Judge. He went through these
18 doors. And I got up and went to the restroom and come
19 back and he said, Let's go.

20 And I said, Let's go. I want to see the Judge. I
21 want to get what we need to get. I'm like I've been
22 working four and a half years running up and down the
23 roads. I want to see what, you know, we can get to prove
24 our innocence. And I want to -- I want justice, you know,
25 done for my grandson. And so I'm like if he tells me

1 no -- I've got it. He signed it. He signed everything.

2 Well, he, also, had told me earlier in the case that
3 we would probably get everything right at the last moment.
4 Well, we did. He was right. We got things that should
5 have been gave to us way before. But the things that we
6 had asked for that I really wanted and he knew I really
7 wanted that we asked for that day, we did not get.

8 And so I asked him -- it was like Thursday, I asked
9 him, I said, Where is this stuff? I said, I want this
10 subpoena. It was a record on minor healthcare. It was
11 a call in that someone called in and accused me and my son
12 of harming minor two days before he died --

13 THE COURT: Okay.

14 DEFENDANT PHILLIPS: -- and even put hydrocodone into
15 his system.

16 THE COURT: All right, ma'am. The --

17 DEFENDANT PHILLIPS: And we never got that report --

18 THE COURT: Hold on just a second, ma'am. I didn't
19 really know what you were going to be getting into. But
20 the way --

21 DEFENDANT PHILLIPS: The thing is, Your Honor --

22 THE COURT: I'm sorry. When I'm talking -- okay. I
23 don't get to say a whole lot. But when I do, I want to be
24 heard. All right.

25 The law does not allow you to have what is called

1 hybrid representation. You can't represent yourself and
2 have a lawyer. You have a lawyer. And until that
3 changes, he is the one that's supposed to speak for you in
4 court. Because that's the way the system is designed.
5 And that's what the law --

6 DEFENDANT PHILLIPS: I will --

7 THE COURT: -- permits. So he's going to have to be
8 the person that speaks on your behalf.

9 Thank you very much.

10 Mr. O'Connell.

11 MR. O'CONNELL: May it please the Court.

12 I make a motion for a continuance. I believe you
13 should already have it there. And I've given a copy to
14 all parties here.

15 It's based on just recently receiving -- on July
16 12th, we got a letter of having the 911 disk. Your Honor,
17 this is almost three years old or older. And we're,
18 finally, getting the 911 call.

19 We then get notes on July 13th, from Stacy Garmon at
20 the hospital that there's a chain of custody on July 13th,
21 that there's an EMS run reported July 16th. July 16th, we
22 get a SLED laboratory forensic report, another SLED
23 printout with another microanalytical report, a typed
24 statement from somebody else, a typed statement from Vicky
25 Smith, a typed -- a copy of a note from Detective Burgess,

1 and photos of the crime scene. Your Honor, we should have
2 had all this years ago.

3 And then on July 19th, we get the AIT Lab forensic
4 toxicology analysis request forms. Then we get the list
5 of the chemists that were involved in it on the same day.
6 On the 19th, we get a CV -- or curriculum vitae for the
7 people that did the testing. And, on the 19th, we get a
8 CV for a Jeffrey Hollifield.

9 My point exactly is this is getting these documents I
10 should have had all during the years. And these other
11 things she's asked for -- I have repeatedly asked by
12 letters to the Solicitor to get them. What I've told my
13 client is they can only turn over to me what they have.
14 And that seems to be the problem.

15 Now, they're turning over these things at the last
16 moment. I have not had an opportunity to go over these
17 reports as I should have had an opportunity if they had
18 been given a year or two ago like they should have been.

19 So I'm asking the Court to grant a continuance to my
20 client, based on the late discovery being just given to
21 us. Because it had been requested many times before in my
22 motion in limine. We did have a hearing before the Judge.
23 And, at that hearing, Mr. Richardson honestly, he said,
24 Yes, I'll get you everything I can get. The Judge said,
25 Fine. We should have a written order. I don't believe we

1 should have -- because Mr. Richardson said he would get us
2 everything. And then we're, finally, getting everything
3 just a week before the hearing.

4 So I would like the Court to continue the case based
5 on that for my client.

6 Thank you very much.

7 THE COURT: Thank you, Mr. O'Connell.

8 What is the State's position as to the request for
9 continuance and explanation for the late disclosure of the
10 various documents Mr. O'Connell has set forth in his
11 motion?

12 MS. BARWICK: Your Honor, if it pleases Your Honor,
13 we'd like to start with number one, the letter with the
14 911 call. Your Honor, we did not have that 911 recording
15 until that date. We provided it as soon as we got it.
16 And, in fact, Mr. -- if Mr. O'Connell wanted that sooner,
17 he could have subpoenaed that himself. That is not just
18 something law enforcement has in their custody. That's
19 for dispatch. That includes EMS, 911, and everything.
20 Your Honor, as soon as we got it, we provided it.

21 On July 13th, progress notes from Stacy Garmon. The
22 State went through the medical records that all the
23 Defense attorneys had. The State realized that the second
24 page of the doctor's notes were missing. When the State
25 met with that witness, we were provided the second page.

1 We gave that over as soon as we got that.

2 Your Honor, the SLED chain of custody. We had the
3 chain of custody from law enforcement. We asked for the
4 file, we get that. That SLED chain of custody is updated
5 along the way. As soon as we got that, we provided that
6 and gave it over.

7 THE COURT: The chain of custody for what?

8 MS. BARWICK: Your Honor, a Tylenol bottle and -- was
9 located at Latasha Honeycutt's house, along with a sippy
10 cup of milk. Donna Phillips brought in a second container
11 of children's Tylenol. Those were sent to SLED
12 laboratories to be tested for any contaminants. There
13 were none found.

14 THE COURT: All right.

15 MS. BARWICK: The EMS run report. Your Honor, the
16 State did not think to get that until preparation for
17 trial. As soon as we got that, we gave that over.

18 The SLED laboratory forensic service request, that
19 had already been given, but we did supplement that, I
20 believe, Your Honor. Again, all that SLED information, as
21 soon as we got it, we handed it over. We didn't realize
22 we were missing it until we started prepping for the
23 trial. We wanted it. We got it, and we gave it over.
24 The Defense attorneys could have done the same thing, Your
25 Honor.

1 Your Honor, the --

2 THE COURT: Do what the same thing?

3 MS. BARWICK: They could have gotten the SLED lab
4 results. I believe they've had the SLED lab results. The
5 printout of items submitted and the forensic service
6 request -- I guess #16 has several items that we need to
7 go through. I thought they were just SLED. I apologize,
8 Your Honor. As soon as we got those, we handed those
9 over.

10 As far as the microanalytical invoice, that was for
11 the bottle of Tussionex that was taken from Donna Phillips
12 that was sent to somebody outside of law enforcement who
13 does these tests on the side. It was sent there for -- to
14 be speedy, Your Honor. When we got that invoice, we
15 handed that over.

16 The typed statements from Diane Jameson and Vicky
17 Smith from the Sheriff's Office and the copy of the
18 written note to Detective Burgess. Donna Phillips came
19 down to the law enforcement center on her own accord
20 without her attorney to speak with Rita Burgess. Rita
21 Burgess turned her away. I asked Rita Burgess to write an
22 incident report or a supplemental as to any conversations
23 she had, as she was represented and her Defense attorney
24 needed to know about those conversations. We handed that
25 over as soon as we got those.

1 The photos of the crime scene, Your Honor. We were
2 given those, also, in preparation for this trial. That
3 was nine days ago -- I'm sorry, Your Honor. My math is
4 not so good. It was seven days ago. And he has had those
5 for seven days.

6 Your Honor, the AIT -- Item #6, the laboratory
7 forensic toxicology analysis request form and the AIT list
8 of chemists involved with the specimen analysis. Your
9 Honor, we just got those on that day. In fact, the State
10 paid \$100 to get that, which is a chain of custody form
11 from a private entity. As soon as we got that, we handed
12 that over.

13 Your Honor, as far as #7 and #8, those are just
14 courtesies to the Defense attorneys to hand over those
15 CDs.

16 THE COURT: All right. So what is the 911 call?

17 MS. BARWICK: Your Honor, that's where Latasha
18 Honeycutt calls 911 when they found 'minor' unresponsive.
19 And you can hear EMS trying to find out what's
20 happening -- I'm sorry, the 911 dispatcher trying to find
21 out what's happening, where to go to help this child. And
22 you can hear 911 talking about CPR. And you can hear
23 Latasha's boyfriend, Brandon, in the background of that.

24 So, in short, Your Honor, we gave everything over as
25 soon as we got it.

1 THE COURT: All right. Thank you.

2 MR. O'CONNELL: Your Honor.

3 THE COURT: Yes, sir, Mr. O'Connell.

4 MR. O'CONNELL: It appears to me that she's saying
5 that I should subpoena something that they don't have.
6 Now, how could I do that?

7 And, in my experience, if I tried to subpoena
8 anything in General Sessions court, they would put a stop
9 to it. Because I've done it before and they've said, you
10 don't have the subpoena right anyway. That's one of the
11 things I've tried to do in Greenville especially.

12 Number two, Your Honor, is that it appears to me the
13 911 call was just made. How am I supposed to get it?
14 She's saying I had a right to subpoena it. But how do I
15 get it? It contains a lot of verbiage on it, Your Honor,
16 that could be very instrumental in this case. It needs to
17 be analyzed to see who's talking, and what's going on.

18 And, as everybody knows, as a 608 appointee, I have
19 to get a court order to get all -- to get everything done.
20 I can't just go out and pay for it myself and get it done.
21 I have to go through the Court and get an order from the
22 Court to order the money to be provided so that I can get
23 these things done.

24 So all of these things they've turned over now that I
25 need to check on and go through, I have to get an order of

1 the Court to go over and check on. And I have to get the
2 money to pay for it. It took an arm and a leg to get the
3 transcript from the DSS hearing, Your Honor.

4 THE COURT: How long is the 911 call?

5 MR. O'CONNELL: It's about 20 minutes, thereabouts.

6 MR. RICHARDSON: It's more like 10.

7 MR. O'CONNELL: Again, as my client pointed out to
8 you, there's some documents we've asked for that they say
9 they don't have. If they don't have them, that's fine.
10 But, you know, now, we're getting these at this late
11 moment, so how do we know?

12 I just -- we did our hearing. The Judge said, Turn
13 over everything. They said they would. And then we start
14 getting this a week before the hearing. All I'm asking
15 the Court to do is give me time to get somebody to analyze
16 that. I need an order of the Court to pay somebody to
17 analyze that. Because I don't have that kind of money.
18 And there's these other testings that we need to get
19 analyzed, also.

20 THE COURT: What, specifically, do you mean
21 "analyzed"? What are you --

22 MR. O'CONNELL: Well, for somebody to analyze the
23 tape, to listen to it and see who's talking on the tape,
24 what's in the background. There's background that I can
25 hear. There's statements being made on the tape that I

1 can hear that weren't reported earlier. So I need
2 somebody to do that.

3 THE COURT: Well, what exactly are you talking about?
4 I mean, I -- you've got to give me some context.

5 MR. O'CONNELL: Okay. The tape is -- when they call
6 up, the man, actually, says the child is dead. And then
7 the lady is on the phone --

8 THE COURT: Now, wait. The man is -- the man who --

9 MR. O'CONNELL: Brandon Roper, the boyfriend that was
10 at the house --

11 THE COURT: Okay.

12 MR. O'CONNELL: -- when the child was found,
13 supposedly, in a comatose state.

14 THE COURT: Okay.

15 MR. O'CONNELL: And then there's somebody talking on
16 the phone -- or on another phone while this whole incident
17 is going on.

18 THE COURT: Okay.

19 MR. O'CONNELL: So how am I supposed to know?

20 I could have maybe said, wait, we need to get Brandon
21 Roper in here. He's not a witness on any of these lists
22 that I've seen.

23 My problem is why am I given these when they've had
24 it? I don't know how long they've had it. This case was,
25 what, February 17 of 2008. Here we are in 2012. It's

1 about four years; right.

2 Why don't I have any of these things when I should
3 have got them a long time ago?

4 THE COURT: Well, what --

5 MR. O'CONNELL: As you can see, Your Honor, it puts
6 me in a bad light. My client thinks I haven't been doing
7 anything to get them. And I have been writing -- I've got
8 maybe 30 letters, one a month to the Solicitor's Office
9 asking for discovery, and what are they going to present
10 at the hearing. I get letters back like, that's evidence,
11 we don't have to turn that over to you, and stuff of that
12 nature.

13 THE COURT: Well, I understand it's frustrating. I
14 think the status of discovery in our state has been
15 criticized by many. And I know it's frustrating and
16 difficult to explain to people who aren't familiar with
17 the system. And the late disclosure is not uncommon.

18 But, as you well know, in order to warrant a
19 continuance, you have to show some type of good cause.
20 And, here, I would focus that I don't know -- what
21 prejudice are you suffering from the late disclosure? I
22 know you say you want time to analyze the tapes. But I'm
23 still unclear, Mr. O'Connell, as to what exactly you would
24 hope the analysis would reveal.

25 MR. O'CONNELL: Two things, Your Honor. One, is

1 there an intervening cause that somebody did something to
2 break the causation here? In other words, if somebody on
3 that 911 tape did something to stop -- this whole case is
4 about giving this child drugs or medicines; right?

5 Now, if somebody did something on that tape that I
6 can prove or show, that breaks the causation. Because
7 that child was in the other parties -- Latasha Honeycutt's
8 possession when this all happened. So --

9 THE COURT: Is there --

10 MR. O'CONNELL: -- an intervening cause would be
11 involved in that.

12 THE COURT: Is there some statement on the 911 call
13 that would relate to that, or is there something on there
14 that would --

15 MR. O'CONNELL: I've heard it about three to five
16 times, Your Honor. And on every one, I hear something
17 new. And then somebody is talking in the background on a
18 phone talking to some third or fourth party. I don't know
19 who it is. The man who's giving the CPR gets thrown up
20 on. There's throw up all over him and all over the room.
21 And that was never analyzed.

22 So I'm just saying, Your Honor, that I should have a
23 right to be able to have the money to pay for a -- for
24 somebody to analyze this tape, and somebody to analyze
25 these reports from AIT. They're going to use them to try

1 to convict my client. So why shouldn't I have it?

2 THE COURT: Okay. Well, I understand your position.
3 I don't find that there's anything in the late disclosure
4 or the requests that would justify continuing the case. I
5 just simply don't think there's anything specific enough
6 to constitute good cause for any delay.

7 What's the next motion?

8 MR. HARBIN: Judge, may it please the Court.

9 My motion -- at least, my first motion is a motion
10 for severance. We discussed this in chambers. But if I
11 could put a little bit on the record.

12 This child died in March of 2008.

13 Somebody correct me if I'm wrong.

14 The indictments were handed down on the grandmother
15 and the father in December of 2008. Almost a year after
16 that, an indictment was handed down on my client,
17 Ms. Honeycutt, in November of 2009.

18 Judge, they're not in a hurry to try this case. I
19 kind of want to highlight that. It was four years ago.
20 Judge, it's come to my attention through conversations
21 with Mr. O'Connell that his client wishes to testify, and
22 not only to testify, she wishes to bring up specific facts
23 about DSS involvement in the lives of Jamie and Latasha.
24 That's Mr. Morris and Ms. Honeycutt. And I assume that's
25 hers [phonetic] as well. And she's not alone, if the

1 Court can note that, for the record.

2 Judge, it would be my -- and it is my motion along
3 with this, and I can make it just anew after this motion
4 entirely, that the Solicitor's Office and the testimony be
5 limited so as to exclude any mention of DSS involvement.
6 In my estimation, the State is required to show in this
7 case that the child died -- and I think their theory at
8 this point is of a hydrocodone overdose. And their
9 theory, as best I can tell, Judge, is that Ms. Honeycutt
10 would be guilty of not rushing him to the hospital in
11 time.

12 And if that's incorrect, I welcome the Solicitor's
13 Office to correct me.

14 But for them to bring up DSS involvement -- and we
15 touched on this in chambers. It doesn't go to the heart
16 of the matter, whether or not the kid was administered
17 drugs and whether or not the kid received care. It's --
18 I don't see any way for DSS mentioning to pass a 403
19 analysis in any way.

20 And even if the Solicitor's Office would abide by a
21 ruling that Your Honor would make, I'm going to be
22 prejudiced by the Defendant making the same statements.
23 And I'm not sure that there's anything the Solicitor's
24 Office or I can do to prevent that because of her right to
25 testify as she pleases.

1 Now, Judge, I'm relying --

2 THE COURT: Well, there's not a right to testify as
3 you please. There's a right to testify to admissible
4 evidence. If something is ruled inadmissible and not to
5 be testified to, then there's no right for anyone to speak
6 about it.

7 MR. HARBIN: And that would, certainly, satisfy my
8 client, Judge.

9 THE COURT: And I don't know if -- I'm just saying
10 generally. I don't know anything about the specifics of
11 what you're talking about.

12 MR. HARBIN: And that's what I worry about, you know,
13 that she -- I understand that, of course, the Court is
14 going to appreciate her right to present her own version
15 of her defense. And, at this point, I understand her
16 version of her defense includes DSS conspiracies, for lack
17 of a better word.

18 Judge, it is my understanding that the Court has
19 discretion in this matter. It's not a mandatory one way
20 or the other. You're not mandated to try the cases
21 together. You're not mandated to grant my motion at all.
22 I would say that it's not going to prejudice the State at
23 all. They've got these witnesses here once, they can get
24 them here again. I'm, certainly, not trying to delay,
25 because this is four years later.

1 Judge, I think all things being equal, the Judge --
2 the Court has already kind of hinted that it would be
3 willing to try to work out what's admissible, what's not,
4 and what should be mentioned, and what should not. And if
5 it's not something we're able to guarantee a fair trial
6 for my client -- and by that I mean not be able to
7 guarantee that DSS is not improperly brought up by
8 Mr. O'Connell's client, then I think the easiest solution,
9 the fair solution, and the non-prejudice solution is to
10 simply grant my client a separate trial.

11 THE COURT: Thank you, sir.

12 MR. HARBIN: Yes, sir.

13 MR. RICHARDSON: Your Honor, regarding the severance,
14 I think that under State v. Jones -- that's 325 S.C.
15 310 -- that lays out the four things that are applicable
16 as to whether there can be a severance at trial. One
17 being, did this arise out of a single chain of
18 circumstances? I can read all four of them. I think the
19 one that Mr. Harbin is referring to would be number four.
20 And what that case says is that if there's no real right
21 of the Defendant, that's prejudice.

22 Well, I don't think Mr. Harbin has brought forth to
23 this Court a real right of the Defendant that would be
24 prejudiced by this -- by there being separate trials.
25 This all arose out of the same circumstances, the same

1 chain of events. And, Your Honor, that's the position of
2 the State as far as severance is concerned.

3 Another thing I would like to state, for the
4 record -- and this goes back -- just back to
5 Mr. O'Connell's motion. And this is just for the record.
6 I understand Your Honor has already ruled on it. But we,
7 in fact, gave up lab reports -- the AIT lab reports that
8 were mentioned, and, also, the toxicology -- the SLED
9 toxicology reports. Those were all sent to him on
10 February 10th of 2009. And that's for the record, and any
11 possible further actions that come from there.

12 THE COURT: All right.

13 MR. RICHARDSON: I think I addressed everything.

14 THE COURT: Okay. Yes, sir.

15 MR. HARBIN: Judge --

16 MR. RICHARDSON: The DSS part. I'm sorry.

17 MR. HARBIN: Yes.

18 MR. RICHARDSON: The Department of Social Services --
19 basically, that's the whole res gestae of this whole case.
20 The child was in DSS custody. He was, actually, in a home
21 with foster parents for a matter of about 10 months. And
22 then, in this particular case, he was being sent back to
23 them. He was, actually, being sent back to their custody
24 at this point in time. So that's why DSS would even be
25 involved in this.

1 And he -- certain statements were made to them. And
2 we have foster parents. I'm not sure how we explain
3 things that happened from the foster parents connecting
4 into this without it being known that he was, in fact, in
5 DSS custody. Why he was in there, I don't think is
6 relevant to the case at all. And we would leave that
7 aspect out of it. But we would have DSS workers. We'll
8 have guardians testifying. We would, also, have the
9 foster parents.

10 MR. HARBIN: Judge, in response. I don't know what
11 the probative nature of the evidence is that any DSS
12 participant would offer. The res gestae of the case is
13 the administration of narcotics to the point that the
14 child overdoses, and whether or not care was given in an
15 appropriate manner. What happens prior to Wednesday when
16 they get the child back -- and, of course, Friday, he
17 spends the weekend with mom and -- I'm sorry, the father
18 and grandmother, and what happens Sunday night, that's the
19 res gestae of the case.

20 The rest of it is just getting into things that are
21 entirely unnecessary. I know that the Solicitor's Office
22 had mentioned prior that they feel they have a burden to
23 show that the child was in good health. I can solve that
24 with a stipulation that as of Wednesday, the child was not
25 overdosed with hydrocodone.

1 Now, I don't know. I can't speak for Mr. O'Connell
2 and Mr. DeJong. But it doesn't seem that there's any
3 probative value to telling the jury that the child was
4 formerly in foster care or formerly involved in DSS. I
5 don't see how that helps the jury get to any closer of a
6 decision as to whether or not hydrocodone was
7 administered, and whether care was given.

8 As to the -- working in reverse. As to the motion
9 for severance, I would say, Judge, that Doug is right,
10 that he has a right to bring these charges together. And
11 I understand that. But if our goal here, as participants
12 in this courtroom procedure, is to ensure a fair trial,
13 then we know the easiest way to do that is to simply give
14 her a separate trial. I'm not sure that that's not the
15 best argument for discretion of the Court.

16 And, Judge, I'm, specifically, relying on State v.
17 Dennis, 337 S.C. 275. I think this language was in other
18 cases as well. But motions for severance and separate
19 trials are just to the discretion of the Court.

20 And, in this case, I would say, Judge, that if you
21 did choose to provide a separate trial for my client,
22 there's no prejudice to the State. It's not a time
23 sensitive issue. And so if there's no prejudice to the
24 State, then I would encourage you to use that discretion.
25 The specific right that she is going to have abridged is

1 her right to have a -- I know it's a specific -- her right
2 to have evidence presented that is limited in an
3 appropriate fashion.

4 And, Judge, I understand that the Solicitor's Office,
5 as well as the Court, may be willing to try to limit that.
6 I'm just worried that, at some point, Ms. Phillips right
7 to present a defense is going to overlap with my client's
8 right to have certain evidence excluded, Judge.

9 THE COURT: Okay. I understand your motion.

10 What is the State's response to --

11 MR. DEJONG: Your Honor, if I may.

12 THE COURT: Oh, I'm sorry.

13 MR. DEJONG: I apologize for interrupting.

14 THE COURT: Yes. Go ahead, Mr. DeJong.

15 MR. DEJONG: So the record is clear, I am joining in
16 Mr. Harbin's motion with regard to any DSS testimony that
17 occurred prior to March the 12th of 2008. March the 12th
18 being, I believe, the date the child was returned home.

19 I, like Mr. Harbin -- and I would argue -- and I'm
20 not going to reargue it. But I don't see the relevance.
21 I don't see the probative value of anything that any of
22 DSS' involvement prior to March the 12th of 2008 -- how
23 DSS got involved is totally unrelated to the factual
24 issues before the Court in this case. I think it is
25 merely a ruse on the part of the State to prejudice my

1 client, who I represent, but to some degree all of the
2 Defendants in this matter to try to show somehow bad
3 parenting, involvement by DSS, or whatever that has
4 nothing to do with the factual allegations in this case.
5 And, therefore, I join in the motion with Mr. Harbin.

6 MR. HARBIN: Judge, I can correct myself and limit my
7 motion a little bit for the Solicitor's Office that
8 Mr. DeJong and I have spoken about. And he outlined this
9 more clearly than I did.

10 If a DSS worker would like to testify to a statement
11 they heard after this event, I think that's fair. I do
12 think that they should be instructed not to say there was
13 an open case prior, if we kind of get our half of it
14 there. Because it's perfectly legitimate to understand
15 that DSS might investigate a suspicious death, so.

16 MR. DEJONG: Just so the record is clear, I don't
17 agree with that, Your Honor.

18 MR. HARBIN: Okay. I'm sorry, Judge.

19 MR. DEJONG: That's all right.

20 But the thrust of his initial motion -- anything that
21 happened prior to March the 12th, I move to not be allowed
22 in, basically, under 403.

23 MS. BARWICK: Judge, we have no problem with that,
24 with only bringing up DSS involvement after the incident
25 took place. And we are fine with that.

1 The only thing that we want to clarify -- and we
2 don't want to back door DSS involvement. The foster care
3 mother, Dionne Scotti, she had 10 years [sic] of
4 experience with this child. She provided a routine of
5 this child's schedule to the mother, Latasha Honeycutt.
6 If we could just say that this other woman had minor for
7 10 months, and not say DSS, and not say foster. She had
8 the child for 10 months and gave a routine over.

9 Because, Your Honor, what that routine will show is
10 that the child normally got up at 7:30. And, Your Honor,
11 the 911 call was not made until 11:15. And the mother,
12 through all of her statements, said over and over again
13 between 10:00 and 10:30 is when I found him unresponsive.
14 That shows neglect, that she wasn't worrying while that
15 child wasn't awake at 7:30, and waited until 10:30.

16 So we would just ask that Ms. Dionne Scotti is able
17 to say, I had this child for 10 months. He stayed with me
18 at my house. When he was returned to his mother's house,
19 I gave this routine over.

20 THE COURT: Okay.

21 MR. HARBIN: Judge, the routine -- and as much as I
22 really want to really be cooperative here, and kind of
23 come to some kind of mutual agreement so that something
24 can be presented to the Court. The routine is something
25 that is either documented or suggested by a layperson.

1 It's just another mother figure. And then when brought
2 home, he has his own mother figure.

3 What the child did prior -- you know, my kid gets up
4 at 9:00, and goes to sleep at 9:00. And I don't know what
5 other kids do. My kid happens to be the same age as
6 minor Sometimes, she goes to bed at 10:00 and gets up
7 at 10:00. It's -- you know, it's really just about what
8 my wife has her to do. It has nothing to do with what's
9 appropriate for the child. It's not -- she's not a
10 medically-trained professional, as I understand it. She's
11 simply somebody that had a preference.

12 We would be -- to use that argument, we would be
13 objecting to the introduction of that timeline anyway.
14 And I'll point out as well that the child was received
15 Wednesday at 9:00 p.m. from DSS custody. So they're
16 breaking their own schedule already.

17 And by way of background a little bit. Remember, the
18 child is allegedly suffering from a cold, and had missed a
19 nap, and was tired. So, you know, the sleeping late is
20 easily explainable. But that's a jury argument. I just
21 want to make it clear that we're going to object to the
22 introduction of that timeline. And, thus, I think if that
23 objection was sustained, then we wouldn't have a problem
24 with the foster care mother.

25 Again, I can stipulate, at least, on behalf of my

1 client that there was no outward appearance of
2 hydrocodone, or whatever they want to say, you know. The
3 child was healthy, you know, as far as you could tell from
4 looking at the child, which is all they could do anyway.
5 And by "they," I mean the foster parents. They have said
6 he looked healthy and appeared to be healthy.

7 MR. DEJONG: I join in that argument, too.

8 And I would simply add that whether or not the State
9 wants to call this a foster parent or whatever, I think it
10 leads to a lot of speculation on the part of the jury of
11 why this child was being cared for by this person.

12 Because I don't think the State can bring out any blood
13 relationship, or anything else. So, now, we're opening up
14 the door for the jury to speculate as to why the child was
15 in that custody. And jurors aren't stupid. They live in
16 the same world the rest of us live in.

17 So I think you're just opening up that door, maybe
18 even exacerbating it somewhat by allowing them to
19 introduce this -- I don't know what she's going to be.
20 She's not going to be a foster mother. She's not going to
21 be a surrogate mother. I guess she's going to be some
22 10-month interim caretaker. I don't know what she's going
23 to be.

24 But I, certainly, think it opens the door for
25 speculation. And I would join in with Mr. Harbin on that

1 argument, Your Honor.

2 THE COURT: Mr. O'Connell.

3 MR. O'CONNELL: Your Honor, my client has instructed
4 me to say that she believes all this evidence ought to
5 come in. The child had a flu shot prior to being
6 delivered to -- I thought it was that afternoon on
7 Wednesday. It could have been in the morning. So we're
8 only talking about a five-day period of time.

9 The child had a flu shot, and had suffered from a
10 brain injury that occurred about a year before -- two
11 brain injuries. And this is all relevant information as
12 to what could have happened to this child, what could have
13 happened if maybe these toxicologists knew this and knew
14 that this child had some kind of brain injury, maybe --
15 just maybe that might have made them say, wait, that
16 changes the whole scale there.

17 THE COURT: Was there any medical evidence to back
18 that up?

19 MR. O'CONNELL: Back what up?

20 THE COURT: Sir?

21 MR. O'CONNELL: I'm asking maybe -- maybe the
22 toxicologist, if he had some questions -- if you knew this
23 child had two brain injuries, would your testimony be
24 changed any? I'm just saying I don't want my client
25 blamed for any reason because she wants to tell what has

1 been happening since this child was a young kid.

2 DEFENDANT PHILLIPS: I just want all the cards laid
3 out on the table.

4 THE COURT: Okay. Ma'am, I want you to let your
5 lawyer speak for you. And I really don't believe it's
6 going to be beneficial to anyone for you to continue
7 talking out loud while we're having this proceeding.

8 All right, ma'am. Do you understand what I'm saying?

9 DEFENDANT PHILLIPS: Yes, sir.

10 THE COURT: Is there anything unclear about that?

11 DEFENDANT PHILLIPS: No, sir.

12 MR. O'CONNELL: So, Your Honor, again, whatever
13 they're talking about, whatever motion is made, whatever
14 severance, or whatever, it limits my client from her
15 testimony and her defense. And her defense is that she
16 never did anything. But things could have happened
17 before. Events could have happened before. And events
18 happened, certainly, after delivery of the child on Sunday
19 evening that she and Jamie Morris had no control over.

20 So if you're going to limit it, you might as well
21 just say, let's kick out all of the DSS people that were
22 going to come here. Because sooner or later, somebody is
23 going to say, well, we had this child in custody -- or
24 whatever they do -- for a period of time. And the child
25 was delivered back by court order. Somebody is going to

1 say it. So I think we ought to just go forward, Your
2 Honor.

3 THE COURT: Well, again, what, specifically, is it
4 that your client is trying to demonstrate from admitting
5 into evidence that the child was in DSS custody at one
6 point, and had a foster parent -- or parents?

7 I mean, how does that advance the truth seeking
8 function of the jury for them to know that, specifically?

9 I mean, the relevant and underlying issue is whether
10 there was child abuse or neglect that caused the death of
11 the child. So, as I understand it, the State's theory is
12 isolated to the administration of the medicine.

13 And how would what happened before March 14th, 2008,
14 bear on that?

15 I understand what you're telling me about the head
16 injuries. And if you can just clarify or elaborate how
17 that would, specifically, eliminate any issue in this
18 trial, it would help me in deciding the motion.

19 MR. O'CONNELL: Well, Your Honor, it's very difficult
20 for me in this case. Because somebody wants to say or
21 tell everything. And I keep trying to tell them that
22 evidence is -- evidence is relevant -- relevant evidence
23 and things that should be just brought up during the
24 hearing, and so on and so forth.

25 The problem in this case is that somebody wants to be

1 severed from the case because my client may say some
2 things that might go against her, because DSS was
3 involved. Other client's don't want evidence out there
4 because DSS was involved in this case.

5 And my position is they ought to hear the whole
6 thing. Everything -- this is a 21-month-old child, I
7 believe. And they ought to just know everything that
8 happened in this child's life, and see what was going on
9 in this child's life. Being relevant, I believe that's
10 fine, if you want to say it -- that's a jury question. I
11 think the jury should know everything that happened to
12 this young child in its life. And then they will have
13 more evidence to go by than just us trying to -- well, you
14 can't mention DSS. But then after a certain day, you can
15 mention DSS, and so on and so forth.

16 THE COURT: Okay. My ruling -- and, again, it is
17 made at the threshold of the trial in limine -- is that,
18 first of all, the evidence about prior care of the child
19 in the custody of DSS or the foster parents is not
20 admissible. Specifically, I find that whatever relevance
21 that historical fact may have is vastly outweighed by the
22 danger of unfair prejudice, or confusion of the issues,
23 and other considerations of Rule 403.

24 I find the issues, again, in this matter are the
25 determination by the jury of the facts of whether child

1 abuse or neglect occurred, and whether it proximately
2 caused the death of the child, minor

3 I find that the events that occurred before the dates
4 of the indictments, as has been explained to me so far,
5 would not have relevance to those issues. And even if it
6 did, the relevance is minimal compared to the overwhelming
7 prejudice it would cause to the Defendants, and confusion
8 it would sew with the jury. And it could inject improper
9 considerations into their deliberations, and with the risk
10 that they would decide the case on something other than
11 the facts, and be prejudiced by the history of the child's
12 care as bearing on the Defendants.

13 As to the motion for severance, I find that --

14 MR. HARBIN: Judge, with your ruling, I can withdraw
15 that motion. I think you solved exactly what I asked for.

16 THE COURT: Okay. Now, I anticipate that all the
17 lawyers are going to instruct their client's not to
18 discuss about DSS, foster parents. And if anyone has a
19 witness, either the State or the Defense, or any party
20 doesn't believe they can comply with that ruling, they
21 just need to let me know about that. Because I'll,
22 certainly, remedy that situation.

23 But, otherwise, everyone is on notice that no one is
24 to testify directly or indirectly about DSS involvement in
25 the case before March 14th. No one is to discuss the

1 foster parents and -- is there anyone who finds that to be
2 unclear or needs clarification on that ruling as to the
3 proper scope of the testimony, and my ruling on the
4 admissibility of the DSS evidence, and foster parent
5 evidence?

6 MR. O'CONNELL: Your Honor, may it please the Court.

7 I have prior gone over this with my client. I've
8 told her again what you've just said. She can't bring up
9 anything in her testimony prior to the receiving of the
10 child on that -- we received the child on that Friday. So
11 anything that happened prior to that date, she's not
12 supposed to bring up at the hearing. She has said, no,
13 she won't do that.

14 Is that correct?

15 DEFENDANT PHILLIPS: Yes. I --

16 MR. O'CONNELL: So she says she wants to testify as
17 to what occurred prior to them receiving the child.

18 THE COURT: Okay. So --

19 MR. O'CONNELL: Is that right?

20 DEFENDANT PHILLIPS: Yes. All scenarios.

21 THE COURT: I'm sorry, ma'am.

22 DEFENDANT PHILLIPS: All scenarios laid all out on
23 the table --

24 THE COURT: Okay. Well, you simply won't be allowed
25 to testify at all.

1 What's the next motion?

2 MR. RICHARDSON: Your Honor, I think you've clarified
3 all the motions from our standpoint. I did want to make a
4 clarification that when you said you're talking about
5 prior health care, also, before the --

6 THE COURT: What are you referring to?

7 MR. RICHARDSON: The pediatrician.

8 THE COURT: What, specifically, are you referring to?

9 MR. RICHARDSON: The child's pediatrician prior to
10 the dates that he was given back custody to the mother.

11 THE COURT: Would say what?

12 MR. RICHARDSON: Sir?

13 THE COURT: What's he or she going to say?

14 MR. RICHARDSON: He would testify as to the child's
15 health prior to --

16 THE COURT: Well, I think that's relevant. I mean, I
17 don't think there's any danger of unfair prejudice.

18 MR. RICHARDSON: Okay.

19 THE COURT: If it doesn't cast some doubt about the
20 parents ability or fitness, I don't anticipate any problem
21 with that.

22 Does anybody have any objection to that?

23 MR. HARBIN: Judge, if this Court -- I know the
24 concern is that they feel they need to tell the jury that
25 prior to all this happening, the baby was healthy. If

1 that's the point of it, I don't think there's any
2 objection to it from me.

3 I did want to ask the Court, though, March 14th, that
4 is --

5 Y'all help me. Is that Wednesday?

6 MS. BARWICK: Friday.

7 MR. HARBIN: Friday. I don't know if there's,
8 actually, any report that, actually, exists from -- or any
9 DSS commentary prior to the child going to the hospital.

10 Is that a correct understanding?

11 MR. RICHARDSON: That's correct.

12 MR. HARBIN: So, really, it's going to be March 17th,
13 I think is probably going to be the date at which
14 statements might come in from DSS workers.

15 Is that correct, Solicitor?

16 MS. BARWICK: Judge, Wednesday was the day that DSS
17 gave the child back to the parents. On Saturday evening,
18 DSS received a phone call from Jamie Morris stating that
19 the child was sick, and he needed the Medicaid card to
20 take the child to the doctor.

21 We would like to have that testimony -- be allowed to
22 say that. And I think he's wanting to do the cutoff date
23 on the 17th. Your Honor said the 14th. We would need
24 that 14th cutoff date to be able to get that record in,
25 Your Honor.

1 MR. HARBIN: Judge, I think the only problem with
2 that is that you're, again, referencing, specifically,
3 DSS. If he -- I don't know how -- the substance of the
4 call is not necessarily objectionable to me, as far as the
5 characterization -- or not the characterization, but who
6 he calls. Because the jury would naturally ask why in the
7 world is he calling DSS, you know, for a Medicaid card?

8 So I think that presents the same problem that the
9 Court just addressed. But, as to the substance of the
10 call, I don't know that I have anything that I would
11 object to.

12 MS. BARWICK: I'm unfamiliar with Medicaid. But
13 couldn't that be explained that DSS provides Medicaid
14 cards? I don't know.

15 THE COURT: I'm sorry. You lost me somewhere along
16 the way. I don't -- I'm not sure I fully understand
17 what's going on.

18 MR. HARBIN: Did I lose you, Judge?

19 MS. BARWICK: I might have.

20 MR. HARBIN: I'm sorry.

21 THE COURT: You told me that you wanted to have
22 something before July 14th -- I mean --

23 MR. HARBIN: Well, Judge, you had used the date July
24 14th --

25 THE COURT: March -- I'm sorry. March 14th.

1 MR. HARBIN: I'm sorry.

2 THE COURT: I'm confusing you now.

3 MR. HARBIN: Yeah. March 14th, the child goes to the
4 hospital. And that's kind of when everything starts.

5 THE COURT: He gets back March 14th; right?

6 MS. BARWICK: He got back on the 12th, which was a
7 Wednesday.

8 THE COURT: I'm sorry. March 12th, he gets back.

9 MR. HARBIN: But, Judge, what I was interested in
10 limiting is, actually, the -- March 17th is the Monday
11 when -- Monday morning when the child was delivered over
12 to the hospital. And he's found -- you know, he has to be
13 resuscitated, and all that stuff. That is the date that I
14 would prefer. Because, logically, the jury could simply
15 understand that DSS is naturally going to be involved in a
16 suspicious death.

17 THE COURT: Right.

18 MR. HARBIN: If it predates that, then they're going
19 to have suspicions aroused, Judge. That's the point I was
20 trying to make.

21 THE COURT: Oh, okay. Well --

22 MR. O'CONNELL: Your Honor, I know this is getting
23 very convoluted. But think of it this way, there is going
24 to be evidence -- or they might bring up evidence that on
25 that Saturday, a call was made to DSS by somebody claiming

1 the child had got burned and had taken Lortab.

2 So are they claiming they are not going to present
3 that evidence in court?

4 MR. RICHARDSON: We are not.

5 MR. O'CONNELL: So if they're honest and they're not
6 going to do that, I'll take them at their word.

7 But, further, they have a list of their witnesses and
8 some of them -- or most of them are DSS and Dr. Mahanes --
9 or however you say his name. They all testified at the
10 DSS hearing. How are we going to ask them questions about
11 testifying at that hearing, and then, you know, them not
12 being able to say they were at a DSS hearing?

13 THE COURT: Well, that happens --

14 MR. O'CONNELL: Because that goes back to -- they may
15 go back to why the child was there, and why minor was
16 there, and why the child was taken from them and, you
17 know, so forth.

18 THE COURT: Well, that happens all the time. You
19 just say, You testified at another proceeding. You don't
20 have to get into the nature of the proceeding.

21 MR. O'CONNELL: I just want to make that clear.

22 Because have you already said my client cannot
23 testify?

24 THE COURT: Sir?

25 MR. O'CONNELL: Have you already ruled that my client

1 cannot testify?

2 THE COURT: All I have ruled is that if anybody tells
3 me they are not going to comply with my order regarding
4 the scope of their testimony, they're going to forfeit
5 their right to testify entirely.

6 So she is going to have to make the decision. It's
7 in her court right now.

8 Yes, sir, Mr. DeJong.

9 MR. DEJONG: I'm really lost now.

10 THE COURT: All right.

11 MR. DEJONG: I gather the State is now saying that my
12 client called DSS on Saturday saying he needed a Medicaid
13 card?

14 MS. BARWICK: Yes, Your Honor. That's correct.

15 And that was in the DSS records that were provided
16 over in discovery.

17 THE COURT: That who called?

18 MS. BARWICK: That Jamie Morris called DSS the
19 Saturday after the child was given back asking for a
20 Medicaid card, because the child needed to be taken to the
21 doctor.

22 MR. DEJONG: But the child wasn't taken back on
23 Saturday.

24 MS. BARWICK: The child was taken back on Wednesday.
25 Your client got -- had access to the child from Friday

1 through Sunday. That Saturday evening, your client called
2 DSS asking for a Medicaid card.

3 THE COURT: So is there some objection to that, or
4 issue with that?

5 MR. DEJONG: No, Your Honor.

6 I think we're just going to have to deal with that
7 through testimony. The only -- well, the problem I do
8 have with it -- and I don't know anything about Medicaid.
9 I guess DSS administers Medicaid. But then the question
10 would be, if we're going to get into that, how then do we
11 get around the fact that DSS had already had involvement
12 with the deceased child in this case?

13 I'm not sure that we can do that. I -- like I say, I
14 guess we'll deal with it by testimony. I'm amiss as to
15 why you can call DSS on Saturday and get a Medicaid card
16 by Saturday night. It might be possible. I don't know.
17 But the thrust of what I'm saying is, again, I don't see
18 how we're not going to open that door on prior DSS
19 involvement.

20 MR. O'CONNELL: Your Honor, the testimony is going to
21 reveal that Mr. Morris offered the card to Ms. Honeycutt
22 when they delivered the child. And what are they going to
23 say, they gave him a card to go to the doctor, or -- it's
24 Medicaid --

25 THE COURT: I don't get the link between Medicaid and

1 the prior DSS involvement.

2 MR. O'CONNELL: Your Honor, from my involvement in
3 Title IV cases, to get Medicaid, you have to go to DSS and
4 apply for it. And they give you the Medicaid card and/or
5 you apply the child for it. So it is through the
6 Department of Social Services.

7 THE COURT: But it doesn't -- it's not a card that
8 they just give to people who've had their kids taken away;
9 right?

10 MR. O'CONNELL: No. It's anybody who applies that --
11 I think that doesn't have enough money to --

12 THE COURT: Yes. It's just financial assistance.

13 Well, I don't see where that would run the risk of
14 prejudicing the jury.

15 Okay. What's the next motion?

16 MR. DEJONG: Could I have one brief second, please,
17 Your Honor?

18 THE COURT: Yes.

19 MR. HARBIN: Judge, I don't have anything further
20 from Ms. Honeycutt.

21 MR. O'CONNELL: Nothing from us, Your Honor, except
22 my client will abide by your order as to not to testify to
23 anything before, you said, that Wednesday? And I want to
24 get this straight, Wednesday -- I may have my dates wrong,
25 Your Honor -- March 12th, 2008, backwards.

1 Anything forward from that date, she can testify to?

2 THE COURT: Wednesday, March 12th; is that correct?

3 MR. O'CONNELL: If I'm not mistaken, I thought the
4 child was given to Ms. Honeycutt that afternoon. But they
5 say it was at 9:00 in the morning.

6 MS. BARWICK: Your Honor, that was March 12th, which
7 was a Wednesday, the evening of March 12th.

8 THE COURT: Okay.

9 MR. HARBIN: Judge, my understanding of the -- our
10 dates got kind of mixed up, and mixed around. But that
11 the overarching point of the DSS conversation is to not
12 have any mention of DSS prior to the child going into the
13 hospital, which is the 17th. And I now understand there's
14 an exception about the Medicaid card. If the Court
15 doesn't feel that that's a prejudice, then I understand
16 that, that that's part of the ruling. That's okay.

17 But I still have a concern that the -- DSS,
18 essentially, from the juries point of view is going to be
19 called in because of the circumstance related to the
20 hospital, not anything before that.

21 MR. O'CONNELL: Your Honor, are they now -- okay. If
22 we do that, it will be from the 17th, which was the
23 Monday; is that right?

24 Monday -- that Monday morning. That means this thing
25 about the card is not coming in at all as to the --

1 because the Medicaid card -- because they're going to
2 mention the Medicaid card.

3 THE COURT: Well, what does that -- I mean, I
4 don't --

5 MR. O'CONNELL: I'm just trying to clarify.

6 THE COURT: Yes. I understand. And I understand
7 it's confusing. And I don't -- I'm not --

8 MR. O'CONNELL: Because if Chase wants to -- if
9 Mr. Harbin wants it his way, we can't -- nobody can
10 mention that card.

11 THE COURT: Well, I think the card is admissible.

12 MR. O'CONNELL: Okay.

13 THE COURT: If there's anything about -- outside of
14 the card, there's nothing concerning DSS that occurred
15 between the time the child was returned on Wednesday,
16 March 12th, and the time DSS appeared at the hospital on
17 March 17th.

18 I mean, there's no evidence of that anywhere; right?

19 MS. BARWICK: That's correct.

20 THE COURT: All right. So I think, Mr. Harbin, to
21 answer your question and to clarify it, then you would be
22 correct, that would be the first date that there would be
23 any testimony or any evidence presented directly or
24 indirectly concerning DSS involvement with the care, or
25 custody, or well-being of minor

1 Okay. What's the next motion?

2 (WHEREUPON, there was no response.)

3 THE COURT: Anything else, other than the Jackson v.
4 Denno?

5 MR. RICHARDSON: I think that exhausts anything the
6 State has, other than that.

7 THE COURT: Okay. You can proceed with the Jackson
8 v. Denno.

9 MR. RICHARDSON: The State calls Detective Rita
10 Burgess to the stand.

11 THE CLERK: Place your left hand on the Bible and
12 raise your right hand.

13 WHEREUPON,

14 RITA BURGESS,
15 after first having been duly sworn, testified as follows:

16 THE CLERK: If you'll have a seat.

17 And state your name for the record, please.

18 MR. O'CONNELL: Your Honor, if I may. My client is
19 asking that the person taking pictures in the courtroom
20 to, please, stop taking pictures in the courtroom. She
21 doesn't think it's right.

22 THE COURT: I don't know who's taking pictures.

23 Sir, who are you with?

24 MR. BROWN: You signed the order. Your Honor, you
25 signed the order. I'm with the Independent Mail.

1 THE COURT: Yes. He's got a right to be here under
2 the rules. I granted his right to cover the hearing.

3 And I didn't know about you taking pictures, though.
4 Did it say anything about taking pictures in there?

5 MR. RICHARDSON: Would you like to look at it?

6 THE COURT: Yes.

7 MR. BROWN: If not, Your Honor, I need to add that.

8 (Pause.)

9 THE COURT: All right. Are you, Mr. Brown?

10 MR. BROWN: Yes, sir.

11 THE COURT: You can take pictures.

12 This Rule 605 was adopted by our Supreme Court in
13 consultation with the media. And the media had a lot of
14 input into it. And I'm going to get you a copy of the
15 rule. Because it covers how you can take pictures and
16 doing it in a way that is unobtrusive and doesn't disturb
17 the proceedings. And you can't take pictures of the jury.

18 MR. BROWN: Right. I understand that.

19 THE COURT: So just make sure you understand all
20 that. We'll get you a copy of that.

21 THE CLERK: I'm going to make a copy of the rule.

22 MR. BROWN: Thank you, Your Honor.

23 THE COURT: Thank you.

24 MR. RICHARDSON: Your Honor, could we have one
25 moment, please?

1 The Detective needs to look for one waiver.

2 THE COURT: We'll take a five-minute break while
3 that's done. And then we'll resume.

4 Thank you.

5 (WHEREUPON, a break was taken.)

6 THE COURT: Yes, sir. Mr. Richardson, are you ready
7 to proceed?

8 MR. RICHARDSON: Yes, Your Honor.

9 Thank you.

10 DIRECT EXAMINATION

11 BY MR. RICHARDSON:

12 Q Can you, please, state your name for the record,
13 please?

14 A Rita Burgess.

15 Q Okay. And --

16 MR. DEJONG: Excuse me one moment.

17 Your Honor, could we close this hallway door? The
18 sun is just blaring through the window.

19 THE COURT: Sure.

20 BY MR. RICHARDSON:

21 Q And, ma'am, you are a detective with the Pickens
22 County Sheriff's Office; is that correct?

23 A Yes.

24 Q And how long have you been working in that capacity?

25 A For about the past seven years.

1 Q Okay, ma'am. And were you so working in that
2 capacity back in March of 2008?

3 A Yes, sir.

4 Q And, in March of 2008, did you have an occasion to
5 investigate a case involving the Defendants who are here
6 in the courtroom today?

7 A Yes, sir, I did.

8 Q And that was regarding the death of minor is
9 that correct?

10 A That is correct.

11 Q Okay, ma'am. And, in that investigation, did you
12 have an occasion to take both oral and written statements?

13 A I did.

14 Q Okay. And I want to do this by each separate
15 Defendant. So I'm going to start with Latasha Honeycutt.
16 Okay.

17 A Okay.

18 Q Did you speak to her on March the 17th of 2008?

19 A Yes, I did.

20 Q Okay. And where did you speak to her?

21 A I spoke to her at Easley Hospital.

22 Q Okay. And was that -- what was the reason that you
23 were at Easley Hospital with -- along with the Defendant
24 Honeycutt?

25 A I was notified through my lieutenant that we had

1 received a call about a child who was unresponsive. And
2 it's normal protocol for us to respond to those calls.

3 Q And can you tell the Court, what's the relation
4 between the Defendant Honeycutt and the child in
5 reference?

6 MR. O'CONNELL: Your Honor, may I ask that if --
7 somehow we can't hear too well.

8 THE COURT: You can't hear?

9 DEFENDANT PHILLIPS: We can't hear at all. I can't
10 hear nothing.

11 MR. DEJONG: If we could get the sound system turned
12 up a little bit.

13 MR. O'CONNELL: And especially if something is
14 driving by outside, if they could just wait.

15 (Pause.)

16 THE COURT: All right. Let's try that.

17 THE WITNESS: Is this better?

18 MR. HARBIN: It is.

19 BY MR. RICHARDSON:

20 Q Ma'am, and I believe, at that particular time, at
21 Easley Hospital, you had a conversation with the Defendant
22 Honeycutt; is that correct?

23 A Yes, I did.

24 Q All right. Now, at that particular time, when you
25 had that conversation, where was it in the hospital?

1 A We were in the emergency room.

2 Q Okay. And were other people around you?

3 A Yes.

4 Q Okay. And were you interrogating her, or were you
5 just asking questions, or how did it go?

6 A No. It was just -- I was asking questions about the
7 baby, and what brought him to be in the emergency room.

8 Q Okay. At that particular time, was she in custody?

9 A No, she was not.

10 Q Okay. And was she free to leave?

11 A Yes.

12 Q Okay. And did she respond to your questions?

13 A She did.

14 Q Okay. And can you tell the Court the conversation,
15 and what she revealed to you?

16 A She explained to me that on Friday -- the Friday
17 prior to that Monday that minor had been with his -- had
18 been picked up by his father, and had spent the weekend
19 with his father. And he was returned back to her on
20 Sunday night, she stated, around 8:00 or 9:00 p.m. She
21 stated Jamie brought him back to her. Jamie being the
22 father.

23 She said when he came home, minor was extremely
24 sleepy and pitching a fit. So she put him in his crib and
25 closed the door. She said Jamie told her that he had

1 given minor some Tylenol for a cold, and then he left the
2 residence. She said she went back in to check on minor
3 and he was still fussy. So she put him -- she put him to
4 bed. And he had slept all night.

5 She said that she did go in around 8:30 or 9:00 a.m.
6 the next morning to check on minor He was still
7 sleeping. She said around 11:00 a.m., she went back in to
8 check on him again and change his diaper, and found him
9 unresponsive. That's when she called her boyfriend,
10 Brandon, to come help. And she, also, called 911.

11 Q Okay, ma'am. Now, this conversation that you had
12 with her or March 17th, in the hospital, was that
13 everything that was said by her to you at that time?

14 A Yes.

15 Q Okay, ma'am. Now, did you, subsequently, with -- and
16 I'm staying with Defendant Honeycutt. Did you have a
17 second conversation with her?

18 A Yes, sir, I did.

19 Q Okay. And where was that conversation, and when was
20 that conversation?

21 A I met with her -- or she responded to my office on
22 March 27th, 2008.

23 Q Okay, ma'am. And by saying your "office," are we
24 talking about the law enforcement center here in Pickens
25 County?

1 A Yes, sir.

2 Q And was that -- did she come to you at your request?

3 A She did.

4 Q Okay. And where did you meet with her at that
5 particular time?

6 A In my office.

7 Q Okay. And was anybody else in your office at this
8 particular time?

9 A At that time, I shared an office with another
10 investigator. And, to be honest, I can't recall if he was
11 at his desk that day or not.

12 Q Okay. Now, at this time, prior to speaking to her,
13 did you give her any type of Miranda warnings?

14 A Yes, I did.

15 Q Okay. And when you give Miranda warnings, what's
16 your procedure in doing that?

17 A We have a form that we fill out. It's in writing.

18 Q Okay, ma'am. And have you brought that form with you
19 today?

20 A Yes, sir.

21 MR. RICHARDSON: And, just for the record, this has
22 been previously marked as State's Exhibit No. 2.

23 BY MR. RICHARDSON:

24 Q Is there a signature on that form?

25 A Yes, sir.

1 Q And whose signature is it?

2 A Latasha Honeycutt.

3 Q And did she, also, make any initials on that form?

4 A Yes, sir, she did.

5 Q Okay. Was it -- is it your practice to have her --
6 have a Defendant or a suspect read those warnings, or do
7 you read them to them?

8 A I read them to the individual. And, as I read them
9 to them, I mark the end of each sentence. And then I
10 provide the form to them and have them -- tell them to
11 read back over it, and to initial on each line.

12 Q Okay. And is that the procedure that you followed on
13 this date?

14 A Yes, sir, it is.

15 Q And this date was -- was this on March 27th?

16 A It was.

17 Q Of 2008?

18 A That's correct.

19 Q Okay. Can you read to the Court the warnings that
20 you gave her?

21 A Yes, sir. It's -- it reads, Before we ask you any
22 questions, you must understand your rights. You have the
23 right to remain silent. Anything you say can be used
24 against you in court. You have the right to talk to a
25 lawyer for advice before we ask you any questions, and to

1 have him or her with you during questioning.

2 If you have no money to pay a lawyer's fee, the Court
3 will appoint one to represent you without cost, if you
4 wish.

5 If you decide to answer questions without a lawyer
6 present, you still have the right to stop answering at any
7 time. You, also, have the right to stop answering at any
8 time until you talk to a lawyer.

9 Q Okay. And those rights that you just read, did she,
10 in fact, initial those?

11 A Yes, sir, she did.

12 Q And that was after she read them?

13 A Yes, sir.

14 Q And did she -- in fact, is there a waiver of those
15 rights on that form, also?

16 A Yes, sir, there is.

17 Q Okay. Can you read that to the Court, please?

18 A Yes, sir. It reads, I have read this statement of my
19 rights, and I understand what my rights are. I am willing
20 to make a statement and answer questions. I do not want a
21 lawyer at this time. I understand and know what I'm
22 doing. No promises or threats have been made to me. And
23 no pressure or coercion of any kind has been used against
24 me.

25 Q Okay. And did she waive her rights?

1 A She did.

2 Q And how did she denote that on the form?

3 A She initialled on that line, and she, also, signed
4 the form.

5 Q Okay. Now, prior to this, did you use any type of
6 coercion to get her to sign that form, or to initial those
7 rights?

8 A No, sir.

9 Q Did you prevent her from going to the restroom, or
10 prevent her food or water, or anything of that nature?

11 A No, sir.

12 Q Okay. Was she locked up at the time?

13 A No.

14 Q Okay. Was there any undue pressure whatsoever by you
15 towards her in her signing -- or her waiving those rights
16 to sign that form?

17 A No, sir.

18 Q Okay. Now, subsequent to that, did she, in fact,
19 make an oral statement to you?

20 A Yes, she did.

21 Q Okay. Can you tell me -- tell the Court what that
22 was?

23 A Once I read the rights to her and we went over the
24 form, we just started discussing minor and the time that
25 she had him at her home, and mostly what had taken place

1 on Monday morning -- Sunday night and Monday morning. And
2 what Ms. Honeycutt told me was that -- pardon me, I have
3 to go back to my report to be able to tell you everything.

4 She said, on Friday, while she was at work, Jamie had
5 called her wanting to take minor for the weekend. And
6 she woke up on Friday morning around 9:00 a.m., and left
7 for work. She said Jamie called her at work begging to
8 take minor for the weekend. So she called Brandon and
9 told Brandon that it was fine for Jamie to take minor for
10 the weekend visit.

11 She said they didn't hear from Jamie all weekend
12 until Sunday when he brought minor back home to her
13 around 7:30 or 7:45. She said when Jamie got there with
14 minor she was on the phone with her neighbor, Michelle
15 Henry, and Brandon wasn't home. She said Jamie's mother,
16 Lynn, came to the door while Jamie got minor out of the
17 car.

18 She said that Jamie, Lynn, and Laura, which I believe
19 was Jamie's sister, came inside for about five or 10
20 minutes while Latasha fed Ava. She said Jamie handed
21 minor to her, and Ava started crying. So she put minor
22 on the couch beside her so she could get the baby and take
23 care of the baby. Jamie was kneeling down in front of
24 minor and said, You might want to take him to the doctor.
25 He sounds congested. Here is his Medicaid card. She said

1 he did sound congested, and he had a runny nose.

2 And she went to put sheets on the crib. And Jamie
3 put minor in the crib. And minor was crying and
4 pitching a fit. She said Jamie and Lynn were leaving, and
5 Brandon and Jeremy came back home as Jamie and Lynn were
6 leaving her residence.

7 She said Brandon came in, fixed something to drink.
8 Ava was crying, so she was trying to finish feeding Ava.
9 And Brandon went and got minor from the crib to help calm
10 him down. She said she then got minor and held him for
11 five or 10 minutes. Brandon made minor a cup of milk.

12 She said she took minor back to the crib, removed
13 his clothes, because he sleeps in only his diaper and
14 socks. She said minor took a few sips of milk and gave
15 the cup back. She said she then covered him up, rubbed
16 his head, and gave him his Teddy bear.

17 She said she went back to the front room and watched
18 TV, and put Ava to sleep. She and Brandon watched some
19 more TV. And then they checked on minor again as she
20 went to bed. She said Ava woke her several times during
21 the night.

22 At around 8:00 a.m. on Monday, March 17th, Ava woke
23 her up and she changed minor's diaper. And he never woke
24 up. So she went back to bed and set the clock to wake her
25 up at 10:00, because she needed to be at work by 11:00.

1 She said she fed Ava, and changed her diaper. Then
2 she went to check on minor and found him not responding.
3 That's when she called out to Brandon for help and started
4 to do -- he started CPR while she called 911.

5 She, also, said that when Jamie brought minor home
6 on Sunday that Jamie was crying, and Lynn told him to stop
7 crying. She said that minor was acting sleepy. And
8 Jamie said he had been playing all day.

9 Q And she gave that statement freely and voluntarily?

10 A Yes, sir.

11 Q Okay. And, subsequent to that, did she give a
12 written statement?

13 A Yes, sir, she did.

14 Q Okay. Was this just after the oral statement that
15 you just read to the Court?

16 A Yes, sir.

17 Q Okay. And same day, just minutes later, is that the
18 best way to describe it?

19 A That's correct.

20 Q Okay. And do you have that written statement --

21 A Yes, sir, I do.

22 Q -- with you?

23 A Yes.

24 Q Okay. And when you -- your procedure in having a
25 written statement, do you have them write it, or do you

1 write it?

2 A They can write it. And, occasionally, we will be
3 asked -- someone will ask us to write the statement for
4 them.

5 Q And did -- Defendant Honeycutt, did she write her
6 statement?

7 A Yes, she did.

8 Q Okay. And can you tell the Court what she said in
9 her written statement?

10 A Would you like for me to read it -- read the
11 statement?

12 Q Yes, ma'am.

13 A Okay. It states, I, Latasha Honeycutt, can read and
14 write. On Sunday the 16th of '08, March, I was talking on
15 the phone -- telephone to my neighbor, Michelle Henry.
16 She stated, Your baby is home. I hear a knock on the
17 front door. I get off the phone and answer the door.
18 It's Lynn Phillips, Jamie Morris' mother. She said, Can
19 we come in, as Jamie was getting minor out of the
20 car.

21 Jamie, Lynn, Laura Phillips, and minor came in the
22 house. Ava started to cry. So they sat on the couch
23 while I go into the kitchen to fix A.R. a bottle.
24 Jamie was holding minor I sat down and start to feed
25 Ava. They said, minor had fun this weekend. He's tired.

1 He's been playing all day. I was sitting on the right
2 side of the couch, minor in the middle, Lynn on the left,
3 and Jamie crouched down in the floor in front of minor
4 crying. Jamie's mom, Lynn, said, Jamie, stop crying.
5 Jamie stopped crying.

6 So I sat Ava in the swing and go into minor 's room
7 and put the clean crib sheets on the mattress. Jamie was
8 standing beside me holding minor Lynn and Laura were
9 standing in the door -- in the doorway. Jamie sat minor
10 in the crib, and minor starts to pitch a fit. Jamie's
11 mom says, Come on, Jamie. Let's go. They walk out.

12 And as they pull out of the driveway, Brandon Roper
13 and his cousin, Jeremy Galloway, pull into the driveway
14 and come into the house. Brandon and Jeremy. Jeremy sits
15 in the recliner chair and Brandon walks into the kitchen
16 to fix something to drink.

17 minor is still crying and pitching a fit. Ava
18 starts to cry again, so I finish feeding her. And Brandon
19 goes and gets minor out of his crib, walks into the
20 living room rubbing minor 's back saying, It's okay,
21 buddy. It's okay. minor stops crying.

22 I finish feeding Ava. Brandon says, Want to stand
23 up, minor He stands him on the floor. minor begins to
24 cry and pitch a fit again, so Brandon picks him back up
25 and comforts him again. He stops crying. Jeremy says

1 he's going to go home, he'll see us later. He leaves.

2 I put Ava back in the swing. Brandon hands minor to
3 me. I hold him for about five or 10 minutes, as did
4 Brandon. I laid minor on the couch, feel his diaper.
5 It's dry. I asked Brandon to make a cup of milk. He
6 does. I take minor 's clothes off. They were a little
7 dirty. Plus, he sleeps in his diaper and socks.

8 I take him and put him in his crib, cover him up,
9 hand him his cup. He takes two or three sips, and hands
10 it back to me. I give it to Brandon, and he puts it into
11 the refrigerator. I kiss minor and say, I love you,
12 sweet dreams, and cover him up.

13 I go watch TV with Brandon. We watched TV for a
14 while. I go and check on minor and he's fine. Then me
15 and Brandon go on the back porch to smoke a cigarette. We
16 come back in. I go and check on minor he's fine. I
17 cover him up again. Then me and Brandon go to bed. Ava
18 wakes me up about three times that night. I check on
19 minor every time, and he's fine.

20 I wake up at about 8:00, feed and change Ava, change
21 minor and cover him up. He just peed. He didn't sound
22 as congested as before. While Jamie was crouched in the
23 floor, as mentioned earlier, he said minor sounds
24 congested. Here is his Medicaid card. You might want to
25 take him to the doctor. I go back to bed and set the

1 alarm for 10:00. I get up, feed and change Ava, and get
2 ready for work.

3 I go to get minor up, and he wouldn't respond. So I
4 was like, Brandon, come here, something is wrong. minor
5 is not responding. Brandon comes and is like, Oh, my God.
6 He's not breathing. Call 911. So I do. Brandon starts
7 CPR in the crib. Then he moves him to the floor, then
8 begins CPR while on the phone with 911 talking him through
9 it. minor has vomit that came out both times Brandon
10 gave minor air.

11 I'm panicking. I hear the ambulance coming, so I run
12 halfway down the driveway flagging them down. They come
13 in and take minor -- took minor We got someone to
14 watch Ava and drove straight to Easley emergency. End of
15 statement.

16 And, at the bottom, I wrote, I have received a copy
17 of each page of this statement. And she signed that.

18 Q Okay. And did you give her a copy of that statement?

19 A Yes, sir, I did.

20 Q And, after she signed it, did you, also, sign it as a
21 witness?

22 A Yes, sir, I did.

23 Q Okay. And did you force or coerce her to give that
24 statement in any way?

25 A No, sir, I did not.

1 MR. RICHARDSON: Your Honor, for -- procedurally, do
2 you want me to go ahead with each Defendant individually,
3 or would you just want me to go ahead with all Defendants?

4 THE COURT: Well, why don't we just, for purposes of
5 ease of understanding, let's just do them one at a time.
6 And once you finish whatever direct examination you need
7 to on each Defendant, we'll let the Defendants
8 cross-examine.

9 MR. RICHARDSON: Yes, sir.

10 BY MR. RICHARDSON:

11 Q And, after that statement was given, was there any
12 further communication between you and the Defendant
13 Honeycutt?

14 A No, sir.

15 MR. RICHARDSON: Okay. Please answer any questions
16 Defense counsel may have.

17 THE WITNESS: Yes, sir.

18 MR. HARBIN: May it please the Court.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. HARBIN:

22 Q Just a couple of very quick questions, Detective. In
23 the course of your questioning -- and there's three
24 separate times -- I'm sorry, two separate times. And one
25 is, basically, your report, and the other is her actual

1 written statement; is that correct?

2 A That's correct.

3 Q Did you -- and this is leading somewhere else. But
4 did you notice that -- did you have any suspicion that
5 there was any kind of deception because she thought she
6 was being interrogated, or in custody when she, actually,
7 wasn't, anything like that?

8 A Did she appear?

9 Q Did she appear deceptive? Did she appear to be
10 strained, or anything like that, based on some fear that
11 she was being or about to be arrested, or anything like
12 that?

13 A No, she did not.

14 Q And you didn't Mirandize her for the first statement,
15 but you did for the second statement. And they were about
16 10 days apart; is that about right?

17 A That's correct.

18 Q Okay. And can you tell the Court why she was
19 Mirandized for the second and not the first meeting?

20 A At the second meeting, it was already -- we were --
21 had already been advised that the child was positive for
22 opiates. And, at that point, we needed to determine where
23 possibly they came from.

24 MR. HARBIN: Got you.

25 Thank you.

1 No further questions, Judge.

2 THE COURT: Cross-examination.

3 MR. O'CONNELL: Your Honor, I have none.

4 MR. DEJONG: None on behalf of Mr. Morris, Your
5 Honor.

6 THE COURT: Okay.

7 REDIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q Detective, also, on March the 17th of 2008, did you,
10 also, have a conversation with Jamie Morris?

11 A Yes, I did.

12 Q Okay. And where did that conversation take place?

13 A At Greenville Memorial Hospital.

14 Q And can you tell the Court the relation between Jamie
15 Morris and the now deceased child, minor

16 A Jamie Morris is minor father.

17 Q Okay, ma'am. And was this at the same hospital at,
18 basically, the same time that you had the conversation
19 with the Defendant Honeycutt?

20 A No.

21 Q Okay. When was it?

22 A I spoke with Ms. Honeycutt at Easley Hospital. I
23 spoke with Mr. Morris at Greenville Hospital.

24 Q Okay. And where did you speak with him in Greenville
25 Hospital?

1 A I believe it was in a family waiting area.

2 Q Okay. Were you alone, or were people with you?

3 A There were other people there, yes.

4 Q And, at that particular time, was he in custody?

5 A No, sir, he was not.

6 Q Okay. Was he free to leave?

7 A Yes, sir.

8 Q Okay. And can you tell the Court the -- what was the
9 conversation between him and you at that time, what he
10 revealed to you at that time?

11 A Yes, sir. He told me that he picked minor up around
12 1:30 p.m. on Friday, March the 14th, 2008. He said minor
13 was fine all weekend until Sunday. And he was crying on
14 Sunday and acting ill. He said he took a nap from 12:00
15 to 1:00 p.m. And when he woke up, he was still acting
16 sleepy.

17 Jamie said around 3:45, he gave minor a dose of
18 Tylenol. And I asked him what he considered to be a dose.
19 And he said one dropper full of the liquid Tylenol. He
20 said they went to visit with his sister, Brandy Leslie, in
21 Fountain Inn. And when they were coming home, minor went
22 to sleep in the car and was breathing funny, wheezing, and
23 congested, and his jaw was shaking.

24 He said when he dropped minor off at 6:00 or 6:30
25 p.m., he told Latasha that she needed to take minor to

1 the doctor, and gave her the Medicaid card. He said he
2 told her minor was sick with a cold and coughing. He
3 said Latasha put minor in the crib and closed the door.
4 And he left.

5 Q Okay. And when he related that to you, did he do so
6 freely and voluntarily?

7 A Yes, sir, he did.

8 Q Did you force or coerce him in any way to give you
9 any of that information?

10 A No, sir, I did not.

11 Q Okay, ma'am. Subsequent to that, did you have a
12 second conversation with the Defendant Morris?

13 A I did.

14 Q And when was that?

15 A On April the 4th, 2008.

16 Q And was that -- on April the 4th 2008, was that at
17 the law enforcement center?

18 A Yes, sir, it was.

19 Q Okay. And was that at your request, or did he come
20 on his own?

21 A It was at my request.

22 Q Okay. Where did that take place in the law
23 enforcement center?

24 A In my office.

25 Q Okay. And do you recall, at that time, if anybody

1 else was in your office with you?

2 A There again, I shared that office with another
3 investigator. But I can't recall if he was at his desk
4 that day.

5 Q Okay. At that point in time, did you have an
6 occasion to give him any type of Miranda warnings?

7 A I did.

8 Q Okay. And, once again, what is the procedure when
9 you give Miranda rights?

10 A I, again, read from the written copy that we have.
11 And I check off at the end of each sentence, and have him
12 to initial it once they read it.

13 Q Okay. And this is a Miranda rights form?

14 A Yes, it is.

15 Q Okay. And you did a Miranda rights form regarding
16 the Defendant Morris; is that correct?

17 A Yes, sir, I did.

18 Q Do you have that with you?

19 A Yes, sir, I do.

20 Q Okay. Can you tell me what the Miranda form says,
21 please?

22 A Yes, sir. It says, Before we ask you any questions,
23 you must understand your rights. You have the right to
24 remain silent. Anything you say can be used against you
25 in court. You have the right to talk to a lawyer for

1 advice before we ask you any questions, and to have him or
2 her with you during questioning.

3 If you have no money to pay a lawyer's fee, the Court
4 will appoint one to represent you without cost, if you
5 wish.

6 If you decide to answer questions without a lawyer
7 present, you still have the right to stop answering at any
8 time. You, also, have the right to stop answering at any
9 time until you talk to a lawyer.

10 Q Okay. And, once again, do you recall, did you read
11 that to him, or let him read it, or how did that go?

12 A I read it to him.

13 Q Okay. And did he make any identifying marks on the
14 form itself?

15 A He did.

16 Q And how's that?

17 A Once I read it to him, I provided the paperwork to
18 him, and asked him to read back over it, and to initial on
19 the lines.

20 Q And that being the individual rights -- initial the
21 individual rights that you just enumerated to the Court?

22 A Yes, sir.

23 Q And is there, also, on that form a waiver of rights
24 section?

25 A Yes, sir.

1 Q Can you read that to the Court, please?

2 A I have read this statement of my rights, and I
3 understand what my rights are. I am willing to make a
4 statement and answer questions. I do not want a lawyer at
5 this time. I understand and know what I'm doing. No
6 promises or threats have been made to me. And no pressure
7 or coercion of any kind has been used against me.

8 Q And, in fact, had any pressure, or coercion, or
9 anything of that nature been used against him to sign that
10 form?

11 A No, sir.

12 Q And did he, in fact, waive his rights on that form?

13 A Yes, sir, he did.

14 Q And how do you know he did that?

15 A He initialled each line, and he signed at the bottom
16 of the page.

17 Q And did you witness it?

18 A Yes, sir, I did.

19 Q Okay, ma'am. Subsequent to him signing that form and
20 waiving his rights, did you, in fact, take an oral
21 statement from him?

22 A I did.

23 Q And can you tell the Court what the context of that
24 oral statement was?

25 A Yes, sir. Jamie said he and his mother, Lynn

1 Phillips, picked minor up around 1:00 p.m. on Friday,
2 March 14th, 2008. He said minor was still in his pajamas
3 when they arrived. And Brandon Roper offered to pack a
4 bag for minor but they told him they didn't need one
5 because they bought him some clothes to wear while he was
6 with them. Jamie said Brandon then went in -- went and
7 got a Teddy bear, and a duck, and a pair of socks and
8 shoes for minor

9 He said minor was fine on Friday. He played and
10 didn't appear to be sick at all. He went to bed around
11 10:00 p.m. and slept all night, except for a nightmare.
12 He woke up on Saturday morning, March 15th, 2008, at 6:30
13 a.m. He said later in the day on Saturday, they went to
14 visit Jamie's stepmother, Renee Shelton. And minor
15 played at her house, and ate lasagna.

16 minor took a nap from 12:00 to 1:00 p.m. on
17 Saturday, and went to bed at 8:00 p.m. that night. Jamie,
18 again, said minor slept all night, except for a
19 nightmare. And he woke up on Sunday morning, March 16th,
20 2008, at 7:30 a.m. On Sunday, they went to see his aunt,
21 Cindy Stevens, in Liberty, and then went to his sister,
22 Brandy Leslie's house in Greenville.

23 He said minor took a nap from 12:00 to 12:45 p.m.
24 And they arrived at Brandy's house around 2:00 or 2:30
25 p.m. He said minor ate a small portion of Beanie-Weenies

1 at Brandy's house.

2 And around 3:00 or 3:30 p.m., minor began acting
3 sleepy and tired, and would not go to sleep. He was
4 moving around a lot like fighting sleep, and rubbing his
5 face on their shirts. He said this went on for about 30
6 minutes. And minor felt warm like he had a fever. And
7 Jamie gave him a dose of Equate brand grape-flavored
8 Tylenol. I asked him how much he gave minor And he
9 said two droppers -- two full droppers.

10 He said minor continued to act tired and sleepy and
11 would not go to sleep. So he decided they needed to leave
12 and come back home. He said they left around 5:00 or 5:30
13 and minor went to Pickens. And minor was breathing
14 funny like he had pneumonia or something. He said he told
15 his mother, Lynn, that it didn't sound right. He said
16 minor had been coughing all weekend, but showed no other
17 signs of illness.

18 He said when minor -- when they got to Latasha's
19 house, she was alone with her daughter, Ava. And when
20 they got inside, minor woke up from his nap. He said
21 Latasha went in and put some sheets on the crib, and that
22 he put minor in the crib.

23 He said minor was crying for him. And he was
24 crying, because he was upset that minor's breathing
25 didn't sound right. And he then told Latasha that he

1 needed -- that she needed to take minor to the doctor.
2 She told him that she had already called the doctor about
3 a follow-up visit for minor's ears, and they would not
4 see him until his records were transferred. Jamie told
5 her to take him to the emergency room. And he gave her
6 the Medicaid card.

7 He said they then left and met Brandon coming home as
8 they were leaving. He said minor was fine all weekend
9 and ate well all weekend, and showed no signs of illness.

10 I asked if they had any medication minor would have
11 access to. And he stated all of their medications were
12 put away. He said he did have some concern about Latasha
13 having Vicoprofen and Oxycontin that was prescribed to her
14 after a cesarean with Ava.

15 Q Okay, ma'am. And, subsequent to that oral statement,
16 did he give a -- also, give a written statement?

17 A Yes, sir, he did.

18 Q And did he write that statement, or did you write
19 that statement?

20 A He wrote the statement.

21 Q Okay. Can you tell the Court what he wrote in his
22 statement?

23 A Yes, sir. He wrote, I, Jamie Edward Morris, can read
24 and write. On Friday, March 14th, I picked minor
25 my son, up at Latasha Honeycutt and Brandon Roper's

1 residence at approximately 1:00 to 1:30 p.m. minor and I
2 stayed at home on Friday all day long. minor acted fine
3 on Friday. minor had a nap between 12:00 and 1:00 on
4 Friday. And I got him to bed at 10:00 p.m.

5 He woke up Saturday morning at 6:30. On Saturday, I
6 took him to my step-mother's, Renee Shelton's house.
7 minor was fine all day Saturday. I got him to bed at
8 8:00 p.m. on Saturday.

9 minor and I woke up together at 7:30 on Sunday
10 morning. We went to my aunt's house, Cindy Stevens, on
11 Sunday. At that point, minor was still fine. My mother
12 was with me the whole time over the weekend. We all went
13 to my sister's, Brandy Leslie, on Sunday, and arrived
14 there about 2:00 or 2:30. minor was still just fine at
15 that point.

16 At about 3:30, minor was crying and acted sleepy. I
17 tried to get him to calm down and rest. But he would not
18 go to sleep. He acted like he was fighting sleep. I felt
19 his head and the back of his neck, and he felt hot. I
20 gave him some Equate brand grape-flavored infant Tylenol.
21 He still wouldn't calm down. After he acted like this for
22 about one hour, I decided we should leave my sister's
23 house. We left at about 5:30 to 6:00 p.m., and went back
24 to my house to get minor 's things.

25 minor slept in the car on the way back from

1 Brandy's. We took minor directly from my house back to
2 Latasha's. He was breathing bad on the way like he was
3 congested. I got upset about his breathing.

4 So when we arrived at Latasha's residence, I gave her
5 his Medicaid card, and told her to get him to the doctor.
6 She said something about his doctor saying she needed his
7 medical records before he could see him. I told her I
8 thought he should see one very soon, because his breathing
9 sounded bad.

10 minor was awake when I got him inside at Latasha's,
11 and was awake as I left. He was reaching for me when I
12 told him goodbye. I told him I loved him and I would see
13 him later. That was the last time I saw him conscious.
14 End of statement.

15 Q Okay, ma'am. And did he sign that form -- sign that
16 statement?

17 A Yes, sir, he did.

18 Q Okay. And did you, also, witness that statement?

19 A Yes, sir, I did.

20 Q All right. And so we're clear to the Court, at that
21 particular time, was he free to go?

22 A Yes, sir, he was.

23 Q Did he, in fact, leave?

24 A Yes, sir, he did.

25 Q Okay. And approximately how long did that interview

1 take place with Mr. Morris?

2 A He was provided his rights statement at 4:10 p.m.,
3 and his written statement was completed at 5:09 p.m.

4 Q And did you prevent him from going to the bathroom at
5 any time?

6 A No, sir.

7 Q Did you prevent him from having food or water, if he
8 requested it?

9 A No, sir.

10 Q Did he request either one of those?

11 A Not that I recall.

12 MR. RICHARDSON: Thank you.

13 Please answer any questions that Defense counsel may
14 have for you.

15 CROSS-EXAMINATION

16 BY MR. DEJONG:

17 Q So the first time you met with Mr. Morris was at
18 Greenville Memorial?

19 A Yes, sir.

20 Q And that was after the child had been airlifted from
21 Easley Baptist to Greenville Memorial?

22 A Yes, sir.

23 Q Was that pretty much right after he had been
24 airlifted to Greenville Memorial?

25 A Yes, sir. I went from Easley Hospital straight to

1 Greenville Hospital.

2 Q And once you got to Greenville Hospital, you talked
3 with Mr. Morris?

4 A I'm not sure that's the first thing that I did at the
5 hospital. But I did speak with him while I was there,
6 yes, sir.

7 Q Close proximity?

8 A Yes.

9 Q In other words, there was still a lot of anxiety and
10 everything going on at that point in time?

11 A Yes, sir.

12 Q Okay. So then you bring him back -- you ask him to
13 come back to your office on April the 4th; is that
14 correct?

15 A Yes, sir.

16 Q Now, at that point in time, you Mirandized him?

17 A Yes, sir.

18 Q Okay. Now, you didn't Mirandize him while he was at
19 the hospital?

20 A No, sir.

21 Q Okay. At that point in time, you were, basically,
22 investigating and gathering information, I gather?

23 A That is correct.

24 Q Okay. Well, when he came to your office on April the
25 4th, was he in custody?

1 A No, sir, he was not.

2 Q Okay. And what time did he sign the waiver?

3 A At 4:10 p.m.

4 Q And what time did he complete the written statement?

5 A His written statement was completed at 5:09 p.m.

6 Q Okay. So about an hour --

7 A Yes, sir. He was there about an hour.

8 Q -- between the waiver and the written statement?

9 A Yes.

10 Q During the course of the written statement, are you
11 continuing to ask him questions?

12 A Not that I recall.

13 Q Okay. At what point in time did you reduce his oral
14 statement to writing?

15 A I'm sorry. At what point in time did I do what?

16 Q Reduce his oral statement to writing that is in your
17 report?

18 A I, actually, wrote my supplemental report on April
19 the 4th, into a Word document.

20 Q Okay. I gather that was written after Mr. Morris had
21 given you the written statement; is that correct?

22 A Yes, sir.

23 Q And during the course of your oral statement -- his
24 oral statement, did you make any notes?

25 A I did.

1 Q And do you have those notes with you?

2 A I have them. I'm not sure if they're here with me,
3 or at my office.

4 Q Okay. I'm not sure those have been provided to me.
5 If they have not been provided to me, would you provide
6 them to me prior to tomorrow morning?

7 A Yes, sir, I can.

8 Q Okay. Now, did you do a tape recording of this
9 statement?

10 A No, sir.

11 Q Do you have a tape recorder available?

12 A There's some at our office, yes.

13 Q Okay. But there was no effort on your part to tape
14 record his statement?

15 A No, sir.

16 Q Now, after the statement was taken, both -- well, the
17 oral statement was taken. And I presume the oral
18 statement was taken as some sort of give and take question
19 and answer; is that correct?

20 A Basically, I asked him to tell me what -- you know,
21 what took place from the time he picked him up on Friday
22 until he returned him on Sunday.

23 Q Okay. And how long did it take him -- I gather on
24 the written statement, it started at 4:42, and ended at
25 5:09; is that correct?

1 A That's correct.

2 Q So the oral statement then took from 4:10 to 4:42; is
3 that correct?

4 A Yes, sir.

5 Q After he gave the statement, did he leave your
6 office?

7 A He did.

8 MR. DEJONG: Thank you, ma'am.

9 No further questions.

10 FURTHER EXAMINATION

11 BY MR. RICHARDSON:

12 Q And, ma'am, just a quick follow-up, another question.
13 Did you, in fact, give him a copy of that statement?

14 A Yes, sir, I did.

15 Q Okay. And I'm referring to Defendant Morris.

16 A Yes, sir, I did.

17 Q Regarding Defendant Phillips, did you, also, have an
18 occasion to speak with her?

19 A I did.

20 Q Did you speak with her on March the 17th of 2008?

21 A Yes, sir, I did.

22 Q And where was that?

23 A At Greenville Memorial Hospital.

24 Q Okay, ma'am. And do you recall where you spoke with
25 her?

1 A I believe it was in the same area that I spoke with
2 Jamie Morris.

3 Q And I believe you described that as a visiting area?

4 A Yes, sir, a family waiting --

5 Q A family waiting area. Okay, ma'am. Do you recall,
6 were there other people around, also, at that time?

7 A Yes, sir.

8 Q And, at that particular time, was the -- Defendant
9 Phillips, was she in custody?

10 A No, sir.

11 Q Okay. And what was the gist of the conversation that
12 you had with her?

13 A Ms. Phillips said that minor was fine all weekend,
14 that he and Jamie had stayed at her house on Ivey Hayes
15 Road in Pickens. She said they went to visit with several
16 family members over the weekend, and minor was fine.

17 She said, on Friday night, they did have trouble
18 getting him to go to sleep. And she put a pillow in her
19 lap and laid him on the pillow. And she rubbed his back
20 to comfort him, so he would calm down and rest. She said
21 he has nightmares [phonetic] and wakes up fighting and
22 crying.

23 She said, on Sunday, he was coughing and sounded
24 congested. And Jamie gave him some children's Tylenol.
25 And they took him home because he was not feeling well.

1 She said he was crying for Jamie when they dropped him
2 off. And Latasha put him in the crib and closed the door.
3 And she and Jamie left.

4 She said, on Sunday, he ate Beanie-Weenies and drank
5 a juice like V8. On several occasions, she was randomly
6 just saying, I hope he didn't eat any of my Lortab. And
7 she, also, stated, My sister takes Lortab. I hope he
8 didn't get any of her Lortab. She said she keeps hers in
9 her purse and tries to make sure he can't get anything
10 that would harm him.

11 Q Okay, ma'am. And, at the hospital, was there any
12 other statements given by that Defendant?

13 A No, sir.

14 Q Okay. And, subsequently, did you have an occasion
15 to, once again, talk to Defendant Phillips?

16 A Yes, sir, I did.

17 Q And where was that?

18 A That was at my office at the law enforcement center.

19 Q Okay, ma'am. And when was that?

20 A That was on April the 10th, 2008.

21 Q And did you request for her to come to your office?

22 A Yes, sir.

23 Q Okay. And, at that time, did you give the Defendant
24 any type of rights?

25 A I did.

1 Q And what is your procedure when you give rights?

2 A We have a written form that we follow.

3 Q Okay. And did you, also, use that written form
4 regarding Defendant Phillips?

5 A Yes, sir, I did.

6 Q Okay. And can you read to the Court what you read to
7 her regarding her rights?

8 A Yes, sir. Before we ask you any questions, you must
9 understand your rights. You have the right to remain
10 silent. Anything you say can be used against you in
11 court. You have the right to talk to a lawyer for advice
12 before we ask you any questions, and to have him or her
13 with you during questioning.

14 If you have no money to pay a lawyer's fee, the Court
15 will appoint one to represent you without cost, if you
16 wish.

17 If you decide to answer questions without a lawyer
18 present, you still have the right to stop answering at any
19 time. You, also, have the right to stop answering at any
20 time until you talk to a lawyer.

21 Q And did you, in fact, read those rights to her?

22 A Yes, sir, I did.

23 Q Okay. And did she make any type of marks regarding
24 those rights on that form?

25 A Yes, sir. She initialled each line.

1 Q Okay. And was that after she read each line, or --

2 A Yes, sir.

3 Q -- after you read it to her?

4 A I read them to her. I, actually, read the entire
5 form, then I provide it to them and have them to read over
6 it and initial each line.

7 Q Okay, ma'am. And is there, in addition, a waiver of
8 rights part of that form?

9 A Yes, sir.

10 Q And did you read that to the Defendant, also?

11 A Yes, sir, I did.

12 Q And can you read that to the Court?

13 A I have read this statement of my rights, and I
14 understand what my rights are. I am willing to make a
15 statement and answer questions. I do not want a lawyer at
16 this time. I understand and know what I'm doing. No
17 promises or threats have been made to me. And no pressure
18 or coercion of any kind has been used against me.

19 Q And did the Defendant Phillips, in fact, waive her
20 rights?

21 A Yes, sir, she did.

22 Q And how do you know that?

23 A She initialled each line, and signed at the bottom.

24 Q Okay, ma'am. And did you force or coerce her in any
25 way?

1 A No, sir.

2 Q And, after her signing that form, did she, in fact,
3 give you any type of statement, an oral statement?

4 A Yes, sir, she did.

5 Q Okay. And can you elaborate as to what she said to
6 the Court?

7 A Yes, sir. She said that she and Jamie went to
8 Latasha's house on Thursday, March the 13th, and visited
9 for about 30 minutes with minor She said, on Friday,
10 she and Jamie went to pick minor up from Brandon at
11 around 1:30 or 2:00 p.m. She said Latasha wanted them to
12 wait so she could pack a bag for him -- for minor but
13 they assured Brandon they had everything minor would
14 need.

15 When they got there, minor had on his pajamas. And
16 they knocked several times before Brandon came to the
17 door. And it appeared that they woke him up. Jamie
18 stepped outside. And Brandon was looking for some socks.
19 And Lynn asked if Jamie could see the baby. She said they
20 never questioned Brandon as to why -- as to if he was
21 asleep when they arrived, but he told them that he was
22 tired.

23 She said minor was fine on Friday. And, on
24 Saturday, he ate lasagna at Renee Shelton's house. She
25 said, on Sunday, he was congested and acting like he was

1 getting sick. He had a runny nose the entire weekend.
2 She was concerned about the congestion and runny nose the
3 entire time that he was not in their care.

4 She said, on each visit, he had a diaper rash when
5 they would go see him. And when they questioned about the
6 diaper rash, it was caused from antibiotics and juices.

7 She said during the weekend, he would wake up with
8 nightmares, at least, once during the night. She said
9 Jamie even told her he thought minor had stopped
10 breathing twice during the night, and thought he had sleep
11 apnea.

12 On Sunday, minor woke up at about 7:00 a.m. And
13 they went to Brandy's house at around 1:00 or 2:00 after
14 visiting with Ronnie Anders. She said Brandy and Clay
15 were the only ones at home. Donnie was at his father's
16 house.

17 She said minor played for a while and got sleepy.
18 He ate some Froot Loops and Beanie-Weenies, and drank some
19 juice. She said he was ill and irritated. And Jamie said
20 he felt warm and sounded congested. And Brandy told Jamie
21 she had some Equate Tylenol, if he wanted to give him a
22 dose. She said Jamie gave him the medicine, but she
23 didn't see how much was given.

24 Jamie then took minor to Clay's room for a nap, but
25 minor didn't go to sleep. They had plans to stay for a

1 cookout, but left because minor wasn't feeling well.

2 On the way back to Pickens, minor went to sleep.

3 And Jamie commented to her that minor 's breathing sounded
4 awful, and he seemed to be breathing hard. Jamie moved
5 him around in the seat and he sounded a little better, but
6 still congested. When they got home, Lynn and Laura went
7 inside to get minor 's pajama's and other stuff, and took
8 him home to Latasha.

9 When they arrived, Brandon wasn't home and minor was
10 still asleep. So Jamie put him on the couch and he woke
11 up crying. Jamie told Latasha that minor was sick and
12 needed to go to the doctor as soon as possible because of
13 his congestion. She and Laura were on the couch. And
14 Latasha went to minor 's room with minor Jamie followed
15 her, because minor was crying and screaming for Jamie.
16 But Latasha put minor in the crib. She said Latasha
17 closed the bedroom door and told them that's how she
18 handles minor when he's crying. She said he's trying to
19 get his way and he's having a temper tantrum.

20 Lynn talked to Latasha about the nightmares and
21 requested a copy of the paper from when he was not in
22 their care. Jamie, Lynn, and Laura then left. And, as
23 they were leaving, Brandon was coming in the driveway.

24 Lynn said she told Jamie that she didn't feel like
25 their home was safe for a baby, because it's under

1 construction. And that's why they stayed gone all weekend
2 with him because he couldn't get down and play at their
3 house. She said they would take him places that he could
4 get down and play and enjoy himself, instead of being held
5 to keep him from getting hurt.

6 Q Okay, ma'am. And, in giving that statement, did --
7 she did that freely and voluntarily?

8 A Yes, sir.

9 Q And did you force or coerce her in any way to give
10 that statement?

11 A No, sir.

12 Q Did you prevent her from going to the bathroom, food,
13 water, anything of that nature?

14 A No, sir.

15 Q After giving that oral statement, did she, also, give
16 a written statement?

17 A Yes, she did.

18 Q Okay, ma'am. And did she write that statement, or
19 did you write that statement?

20 A No. She requested that I write the statement for
21 her.

22 Q And why did -- why was -- did she tell you why she
23 wanted you to write the statement?

24 A She has arthritis in her hands.

25 Q Okay. And so, in fact, did you write the statement

1 for her?

2 A I did.

3 Q Okay. And, in writing the statement for her, did
4 she, then again, tell you what to write? Was this after
5 that oral statement you just read to the Court?

6 A Yes, she did.

7 Q And did she tell you in one lump, or did you write it
8 down in sentences as she spoke.

9 A I wrote it in sentences as she spoke.

10 Q Okay.

11 A And I would, also, stop and read it back to her to
12 make sure that it was exactly what she wanted it to say.

13 Q Okay. And, in doing that, when she was speaking to
14 you when you were writing, was she doing that freely and
15 voluntarily?

16 A Yes, sir.

17 Q Okay. Can you publish the statement that she gave to
18 the Court?

19 A Yes, sir.

20 Q I, Donna Lynn Phillips, have requested that Detective
21 Rita Burgess write this statement for me. Thursday, March
22 13th, 2008, I saw minor at Latasha Honeycutt's
23 house. They called for us to get his car seat. He was
24 crying and ill acting, sleepy, and would only let Jamie
25 hold him.

1 Friday, we, Jamie and I, went to pick minor up
2 around 1:30 or 2:00 p.m. We had a hard time getting
3 Brandon Roper to the door. And he knew we were coming,
4 because we talked to him on the phone. We started to
5 leave, giving up on him coming to the door. And Brandon
6 opened the door rubbing his eyes like he had been asleep
7 saying, Oh, man, I'm tired.

8 minor was running around in the house in his --
9 running around in his pajamas and had the cap to a Bic pen
10 in his hand. Jamie took the pen cap away and showed it to
11 me. I shook my head at Jamie. I looked around for a baby
12 monitor, because the baby was in the back bedroom with the
13 door closed. And I didn't see a monitor. That concerned
14 me, because the baby is a newborn.

15 Brandon got the baby, at my request, so Jamie could
16 see her. We got his Teddy bear and duck, and we left. He
17 was still wearing his pajamas. On the way to my house, he
18 was in the car seat and minor said, Daddy, and Nanny's
19 baby.

20 He woke up on schedule both mornings between 6:30 and
21 7:00 a.m. I was worried about him waking up at night
22 frightened from nightmares. And he, also, had a runny
23 nose, and started getting congested by Sunday. When we
24 carried him home on Sunday, I talked to Latasha about him
25 being sick and needing to go to the doctor. And she acted

1 like she wasn't listening. She just smiled and acted like
2 he was just having a temper tantrum.

3 Jamie later that night wanted to call Latasha and
4 check on him, because he thought minor needed to go to
5 the doctor. And I told him they were going to get upset
6 with him calling all the time. I later told him to go
7 ahead and call, but I'm not sure if he heard me.

8 Jamie gave Latasha the Medicaid card to take him to
9 the doctor. He was sick. And Latasha put him in the crib
10 and closed the door. And it made me feel uneasy.

11 On Monday, I carried Jamie to work and took Sydney to
12 get his license and wash the car out. Sidney got his
13 license, and we came back.

14 At about 12:30 p.m., someone was banging on the door.
15 And Brandon told them to come quick, it was minor I
16 asked if minor was alive. And he told me, yes, that they
17 are airlifting him to Greenville. I was running to my car
18 and he told me minor had stopped breathing, and said the
19 doctor said minor took something. And Brandon asked what
20 Jamie had given minor Brandon said he would go get
21 Jamie at work. And me and Sydney went to the hospital.

22 The nurse said Latasha said we brought him home at
23 9:00 p.m. covered in bruises. I told her all that was a
24 lie. minor only had a place on his face, a bite mark.
25 The nurse said we detected that it looks like a child's

1 bite mark. She took us through the emergency room as they
2 were rolling him out to the ambulance to take him to the
3 launch pad. And we went straight to Greenville.

4 Someone had mentioned minor had a trace of opiates
5 in his system. But I'm not sure who it was, but I think
6 it was the nurse.

7 When we got to Greenville Hospital, Latasha said
8 minor went to sleep about 15 minutes after we left on
9 Sunday night. She said he slept all night in his clothes
10 and never got up. Jamie questioned why she didn't get him
11 up before 10:00 a.m., and asked if she changed his diaper.
12 And she said she did change his diaper while he was in the
13 crib. I later asked Latasha if minor ate anything. And
14 she said he drank some milk.

15 The next day I asked Latasha if he had any of those
16 nightmares. And she said, yes, he woke up three times.
17 The nurse ran us out of the room one day saying only two
18 people could stay. And I said that should be the momma
19 and daddy. We went to a waiting room, me, Sydney, and
20 Brandon.

21 I asked Brandon if they had anything in the house
22 minor could have got. And he said, no, nothing. I told
23 Brandon I had Lortab, but I didn't think minor could have
24 gotten it. Brandon said he had been prescribed Lortab two
25 weeks before, but they were all gone.

1 At the funeral home, Jamie asked Brandon if he
2 noticed minor sounded congested. And he said, no, not
3 when I picked him up. Brandon said minor woke up four
4 times that night. End of statement.

5 Q And did she sign that statement?

6 A Yes, sir, she did.

7 Q And did you witness it?

8 A Yes, sir, I did.

9 Q And, prior to her signing the statement, did you give
10 her an opportunity to read the statement?

11 A Yes, sir.

12 Q Okay. Did she give that statement voluntarily of her
13 own free will.

14 A Yes, sir.

15 MR. RICHARDSON: That's all the questions I have.

16 Please answer any questions Defense counsel may have.

17 MR. O'CONNELL: Your Honor, may it please the Court.

18 THE COURT: Yes, sir Mr. McConnell.

19 CROSS-EXAMINATION

20 BY MR. O'CONNELL:

21 Q Ms. Bridges [sic] you're a lieutenant, or something,
22 with the police department in Pickens?

23 A I'm a detective sergeant.

24 Q Okay. You're currently a detective sergeant; is that
25 right?

1 A That's correct.

2 Q Okay. At the time you did these reports four years
3 ago, what was your rank?

4 A Detective sergeant.

5 Q Okay. When you interviewed my client at the
6 Greenville Hospital, did she sound confused, upset, or
7 didn't know what was going on, or anything of that nature?

8 A She was upset, but she appeared to know what was
9 going on.

10 Q Okay. And did she try to offer you a reason why
11 things might have happened? Did she mention Lortab?

12 A She did mention Lortab, yes.

13 Q Did you take it as a reason that something could have
14 happened -- or something could have been happening, or
15 what?

16 A I took it that she was concerned that minor may have
17 gotten her medication.

18 Q And when she gave you this written statement, didn't
19 she tell you she didn't have her glasses?

20 A I don't recall if she said she didn't have her
21 glasses or not.

22 Q Well, why did you write it out for her?

23 A She asked me to.

24 Q Okay. And you wrote it verbatim, you didn't change
25 anything she told you; is that right?

1 A No, sir, I did not.

2 Q And you have notes from both the interview and from
3 this meeting here, or do you -- well, do you have notes
4 from the interview?

5 A From the day she provided the written statement?

6 Q No, up at the hospital.

7 A At the hospital when I was gathering information,
8 yes, I have notes.

9 Q We have not been provided those notes, even though
10 we've asked for them numerous times. Why is that?

11 MR. RICHARDSON: Your Honor, I would object to the
12 relevancy of that. I'm not sure what he's getting into
13 now.

14 MR. O'CONNELL: Well, Your Honor, the -- Mr. DeJong
15 asked about the notes, and she said she'd give them to
16 him.

17 So why haven't we been given them, if she has notes?

18 MR. RICHARDSON: I'm just saying it doesn't have
19 anything to do with whether the statement was voluntarily
20 given.

21 BY MR. O'CONNELL:

22 Q Okay. Are you going to give us the notes, the same
23 as you will Mr. DeJong?

24 A Sure.

25 MR. O'CONNELL: I have no further questions.

1 THE COURT: All right.

2 MR. RICHARDSON: Your Honor, that's all the questions
3 I have for this witness.

4 THE COURT: You may call your next witness.

5 MR. RICHARDSON: We would call Lieutenant J.B.
6 Kelley.

7 WHEREUPON,

8 J.B. KELLEY,
9 after first having been duly sworn, testified as follows:

10 THE CLERK: Sir, if you would, have a seat.

11 And state your name for the record, please.

12 THE WITNESS: J.B. Kelley.

13 DIRECT EXAMINATION

14 BY MR. RICHARDSON:

15 Q Sir, where are you employed?

16 A The Pickens County Sheriff's Office.

17 Q In what capacity?

18 A Lieutenant of the criminal investigation division.

19 Q And were you so employed back in March of 2008?

20 A That's correct.

21 Q And back in March of 2008, were you involved with the
22 case that we're here about, in particular, regarding
23 Defendant Honeycutt?

24 A Yes, sir, I was.

25 Q Okay. And did you ever have an occasion to speak

1 with the Defendant Honeycutt?

2 A Yes, I did.

3 Q Okay. Do you recall when that was?

4 A That was on March the 17th, 2008, at her residence.

5 Q Okay. And was it inside her residence, or outside
6 her residence, or --

7 A Inside her residence, a mobile home at [REDACTED] minor --
8 excuse me, Brayden Court in Easley.

9 Q Okay. And, in particular, why were you at her
10 residence?

11 A On that particular date, I had received notification
12 from the Pickens County Sheriff's Office 911
13 Communications Center that they had dispatched EMS to that
14 residence in response to an unresponsive child that was
15 unconscious and unresponsive. The communications division
16 advised me that there was suspicious circumstances
17 surrounding the incident, that they dispatched the
18 ambulance only.

19 So, therefore, I had requested that Detective
20 Sergeant Rita Burgess respond to the hospital since they
21 told me the child had already been transported to Palmetto
22 Baptist Easley. And I was responding to the residence.
23 Upon notification due to circumstances, since the baby was
24 involved, I requested Lieutenant -- ID Lieutenant Tony
25 Robinson, also, respond to the residence and meet me

1 there.

2 Q Okay. And did you, in fact, when you were at her
3 residence have a conversation with the Defendant
4 Honeycutt?

5 A I did.

6 Q Okay. And you said it was inside her residence. But
7 was she in custody?

8 A No, she was not.

9 Q Did she have handcuffs on?

10 A No, she did not.

11 Q Was she under arrest?

12 A No, she was not.

13 Q Was she free to leave?

14 A Yes, sir, she was.

15 Q Did you force or coerce her to speak to you in any
16 way?

17 A No, I did not.

18 Q And, at that particular time, what did she disclose
19 to you?

20 A I advised her my reasoning for being there was to try
21 to learn what the circumstances were surrounding the
22 unconsciousness of her child and him being unresponsive.
23 She and Brandon Roper were at the residence. In talking
24 to them, I told them that I needed to take some
25 photographs, and try to obtain some information as far as

1 any articles or anything that may help us to determine
2 what had happened in this case.

3 I presented her with consent -- and Brandon with a
4 Consent to Search form, which they both signed freely and
5 voluntarily. I --

6 Q Okay. And we're not here really about that. But
7 prior to that -- or after that, did you have a
8 conversation with them?

9 A Yes, I did.

10 Q Okay. What I'd like for you to do is tell the Court
11 what that -- what she said to you.

12 A Basically, in talking to them about the circumstances
13 surrounding the incident, she took me to the first bedroom
14 on the right where the baby's bed was, told me that's
15 where the child's crib was. She showed me the crib.
16 There was stuffed animals and clothes in that room.

17 She stated she had put him in the bed and laid him on
18 his back around 8:00 the night before. She had used a
19 large pillow to put underneath his head to help prop him
20 up so he'd sleep better. She stated she placed a small
21 stuffed animal, also, in the crib with him. And that she
22 had gotten up during the night -- throughout the night and
23 checked on minor And he was fine.

24 She stated that the next morning when she checked on
25 minor around 8:00 a.m., he was rolled over on his

1 stomach, and she turned him back on his back. And he was
2 fine. She stated that when she came back in the room
3 around 10:30 that morning that he was lying on his back
4 face up. She noticed that he was not breathing. She
5 called to Brandon for help, to come quick. She informed
6 him that he wasn't breathing.

7 And she showed him the -- she showed me the pillow
8 that was on the floor that had stains on one side. And
9 she picked it up and showed me and said it was throw up
10 from the child, and that the stains I was seeing were made
11 by minor when he threw up. She tossed it back on the
12 floor then.

13 And I asked her if anything else was in the crib.
14 She picked up the stuffed animal from the floor and showed
15 it to me. And it had stains on it as well. And she
16 indicated that it was minor 's throw up. She, also,
17 pointed out the stains on the carpet.

18 And then she advised that Brayden -- that Brandon as
19 soon as he came in the room and noticed the baby was not
20 breathing that he started doing CPR on minor And she
21 called 911.

22 Q Is that it?

23 A She stated that as Brandon was doing CPR on minor
24 that the child threw up. She said that Brandon took the
25 child out of the crib and the throw up that was in his

1 mouth had come out, and that he had turned him over on the
2 floor. She had -- he had -- Brandon had put him on the
3 floor and continued to do CPR. I had asked them if they
4 had given any medication to the child. They stated they
5 had not -- both of them indicated they had not.

6 At that point, they stated that, if I remember
7 correctly, that Jamie had given the child some liquid
8 Tylenol the night before. He had brought minor home. I
9 continued talking with them. And she stated as well that
10 Jamie Morris picked minor up from her house on Friday,
11 March the 14th, around 1:30 p.m. Latasha stated that
12 Jamie is minor 's natural father. And even though they
13 were no longer together, she still allowed him to see the
14 child.

15 Latasha stated that Jamie and his mother returned
16 minor between 19:00 hours, which would be 7:30 [sic], and
17 20:00, which would be 8:00 p.m. on Sunday night, on March
18 the 16th, 2008. She stated that Jamie had told her that
19 minor seemed to be congested, so he gave the child some
20 children's Tylenol. Latasha stated she gave minor a
21 sippy cup with some milk in it. He drank just a little
22 bit of it. And she put the rest back in the refrigerator.

23 She stated that after she put him in his crib for him
24 to go to sleep that minor seemed to be resting and
25 that -- if I can remember. She put that in the

1 refrigerator. And then she stated that she put him in the
2 crib. And she stated that after she put him in the crib
3 for him to go to sleep, the rest was what she had already
4 previously indicated she had told me about what had
5 happened before EMS got there, and while EMS had arrived
6 what had happened.

7 At that point, Brandon showed me and produced a
8 folded piece of paper and indicated that the child had
9 been put on a 12-hour sleep schedule previously. And that
10 he usually went to bed around 7:00, and slept until around
11 7:00 a.m. the next morning. When I saw the piece of paper
12 and I looked at it and saw the schedule that was written
13 down, then I inquired as to why the child was still asleep
14 at that time of morning. And she indicated that she was
15 letting the child sleep so that she could get prepared to
16 go to work -- ready to go to work.

17 Of course, at that point, I was just in an
18 investigative stage trying to find out the facts
19 surrounding the child being unconscious and unresponsive.
20 They wanted to go to the hospital. So after I obtained
21 their personal information, they left going to Greenville
22 Hospital.

23 Q In fact, so you let them leave?

24 A Yes.

25 Q Okay. Did you force or coerce her to give that

1 statement to you in any way?

2 A I did not.

3 Q She gave it freely and voluntarily?

4 A Yes, she did.

5 MR. RICHARDSON: Thank you.

6 Please answer any questions the Defense counsel may
7 have for you.

8 MR. HARBIN: No questions for Lieutenant Kelley,
9 Judge.

10 Thank you.

11 MR. DEJONG: None on behalf of Mr. Morris, Your
12 Honor.

13 MR. O'CONNELL: Your Honor, we have no questions.

14 THE COURT: All right. Thank you, sir.

15 MR. RICHARDSON: That's it -- that's all from the
16 State.

17 THE COURT: All right. Does the Defense have any
18 evidence it wishes to submit on the issue of the
19 voluntariness of the statements, or the Jackson v. Denno
20 matters?

21 MR. HARBIN: Nothing from Ms. Honeycutt, Judge.

22 MR. O'CONNELL: Nothing from Donna Phillips.

23 MR. DEJONG: Nothing on the voluntariness, Your
24 Honor.

25 I don't know if you want to hear it now or later

1 on -- based on some of the Court's prior rulings, there
2 was one comment in one of the statements about medical
3 records, and I think Ms. Honeycutt not having the medical
4 records. I think that gets into the DSS thing. There was
5 one other thing.

6 MR. HARBIN: The statement made by Ms. Phillips as to
7 foster care --

8 MR. DEJONG: Right.

9 MR. HARBIN: -- her statement about foster care.

10 MR. DEJONG: Right. That the child had not been
11 home.

12 Thank you, Mr. Harbin.

13 Same thing there. I think it gets into what Your
14 Honor has already ruled on.

15 So I'm not big on redacting statements. But I
16 believe -- I would ask that the State redact those
17 portions of the statements. Other than that, I don't have
18 anything else.

19 THE COURT: Okay. Well, I find the statements were
20 given freely and voluntarily, and that they are
21 admissible. I find the State has proven by the greater
22 weight of the evidence that the Miranda warnings were
23 given.

24 And the rights of the Defendants, to the extent that
25 they were in custody, were scrupulously honored and the

1 Defendants waived their rights freely, knowingly, and
2 voluntarily, and intelligently. And I find that the
3 testimony was credible from the officers, and that nothing
4 coercive was applied. And the statements were the likes
5 of the Defendants free choice and will. So they're
6 admissible.

7 As far as redacting the statements, we can look at
8 that later regarding any kind of implicit suggestion about
9 DSS involvement that could be, perhaps, interpreted as
10 statements.

11 Anything else at this time pre-trial?

12 MR. RICHARDSON: Nothing from the State.

13 MR. O'CONNELL: Nothing from us.

14 MR. DEJONG: Not on behalf of Mr. Morris, Your Honor.

15 MR. HARBIN: No, Your Honor.

16 THE COURT: All right. Let's just take about a
17 five-minute break. And then we'll do the opening
18 statements.

19 (WHEREUPON, a break was taken.)

20 THE COURT: Anything before we bring the jury out?

21 MR. RICHARDSON: Nothing from the State, Judge.

22 MR. HARBIN: Nothing from Ms. Honeycutt, Judge.

23 MR. O'CONNELL: Nothing from Ms. Phillips.

24 MR. DEJONG: Not on behalf of Mr. Morris -- oh, Your
25 Honor, there is. I apologize.

1 THE COURT: That's okay.

2 MR. DEJONG: I am so sorry. I thought maybe it was
3 just me, because I'm old and hard of hearing. And my
4 hearing aids don't always kick in the way they're supposed
5 to. But, apparently, I wasn't the only one having
6 problems. So maybe I should have done this. I was just
7 embarrassed to. We could not really -- we understood your
8 ruling on allowing the statements in. I thought I heard
9 you say something about redaction. None of us really
10 heard that. And I apologize to the Court.

11 THE COURT: No. That's all right. I was
12 acknowledging your issue about possible redacting.

13 I don't think we have to get into that right now, do
14 we?

15 I mean, what I was suggesting is that if we need to
16 redact it, we can address that later.

17 MR. DEJONG: Well, of course, not. Mr. Richardson
18 may do it voluntarily, Your Honor.

19 MR. RICHARDSON: I think that probably we could get
20 together with Defense counsel and figure it out among us.

21 MR. DEJONG: And that will be fine. We just weren't
22 sure of Your Honor's ruling.

23 THE COURT: Well, I understand I was vague, but it
24 wasn't intentional. I was acknowledging that there was an
25 issue there that needed to be addressed. And I didn't

1 mean to --

2 MR. DEJONG: And not to be disrespectful to you.
3 We've got that microphone working pretty good. Yours
4 isn't working too good. And you may not be aware of it,
5 but you've got your computer kind of covering the
6 microphone.

7 So I won't speak for everybody else on this one, but
8 I've been a little -- having some difficulty hearing your.

9 THE COURT: That's because I've had to research all
10 this law that y'all keep bringing up.

11 MR. HARBIN: And, Judge, if I could ask -- because
12 I'm kind of on the other end of the world here.

13 Is that microphone on? Can we check and see?

14 THE CLERK: Which one?

15 MR. HARBIN: That one over --

16 THE CLERK: That's the court reporter's microphone --

17 MR. HARBIN: Oh, okay.

18 MS. BARWICK: Mr. Harbin, I'll be plenty loud.

19 MR. HARBIN: All right.

20 THE COURT: Well, at any time, if anybody can't hear
21 something I say and you want me to repeat it, I'll be glad
22 to do that. I know it's hard to hear in here. And I
23 don't claim to have a preacher's voice. So just let me
24 know if you need me to speak up.

25 All right. You can bring the jury on in.

1 Thank you.

2 (WHEREUPON, the jury came into open court at
3 approximately 4:45 p.m.)

4 INTRODUCTORY REMARKS

5 THE COURT: Ladies and gentlemen, thank you for your
6 patience. I know you've been sitting back there for over
7 an hour and -- without any kind of explanation. And I'm
8 sorry about that. It was unavoidable. As I mentioned
9 this morning, sometimes, things come up that cause delays.
10 And it's difficult for us to estimate how long things are
11 going to take. Although you would think we would be able
12 to do that, we really can't. It's hard to take into
13 account all the safeguards that we have to make sure are
14 honored.

15 So thank you for your understanding in that regard.

16 And I, also, want to thank you again for your
17 service. As I mentioned this morning, you're making it
18 possible for these parties to enjoy and exercise their
19 right to a jury trial. And that right was so important to
20 the founders of our country that they put it not only in
21 the federal Constitution but in our state Constitution.
22 And they, also, put it in three of the first 10 Amendments
23 to the federal Constitution, or the Bill of Rights.
24 That's how strongly they felt about the right to a jury
25 trial.

1 And John Adams said that the right to vote and the
2 right to serve on a jury were the heart and lungs of a
3 democracy. So we thank you for making the system function
4 this week, and making it possible for us to enjoy those
5 rights that our founders thought were so precious.

6 I know you understand that you were sent the summons
7 in the mail because you're either registered to vote, or
8 you have a driver's license, or an identification card
9 issued by the highway department, or the Department of
10 Motor Vehicles. I forget what they call themselves these
11 days.

12 But, nevertheless, you may be wondering why you were
13 selected to serve on this particular jury. The reason is
14 because both the State and the Defendants in this case
15 believe you can be fair and impartial, and you can decide
16 this case without any kind of bias, or prejudice, or
17 preconceived ideas. So that's why you were chosen.

18 And I know that you met the lawyers. They introduced
19 themselves to you. And, again, I'm Gary Hill, one of the
20 circuit judges here in Greenville County and Pickens
21 County. And I'm glad to be home this week. We often
22 travel around the state. And I'm glad to be in my home
23 circuit this week serving with you.

24 You haven't met some of the other people in the
25 courtroom. And I want to introduce them to you, and let

1 you know what their roles are, and what their jobs are.
2 And then I want to tell you what your role is, and what
3 your job is in this process.

4 So the first person I want to introduce is the court
5 reporter, and that's Ms. Hollie Jenkins. And, as you can
6 see, she takes down everything that is said, because
7 circuit court is a court of record. And then to her left
8 is your fine Clerk of Court, Pat Welborn. And, as you
9 saw, he helped with the jury qualification and selection.
10 And he will be in the courtroom, or one of his deputies,
11 or sometimes both will be in here making sure things are
12 running efficiently.

13 And then up on the bench with me is my law clerk,
14 Lindsey Overby. She's a lawyer. She is a graduate of the
15 USC School of Law. And she assists me with legal research
16 and other issues that arise during trials, and helps me
17 stay organized. And the bailiffs in this case are
18 Mr. Jimmy Garrett, who is there to your right, and
19 Mr. Jack Evans, who is to my right, and then Mr. Rick
20 Teal, who is up there beside Ms. Overby. They're here for
21 your assistance while you serve on the jury this week. So
22 if you have anything you need, they can try to meet your
23 needs in making your stay with us as comfortable as
24 possible.

25 Now, everybody I introduced and, certainly, the

1 lawyers did this, and I've done it, we've all taken an
2 oath to do our job. And you're going to take an oath to
3 do your job. So listen very carefully. Mr. Welborn is
4 going to administer the oath. And it tells you, in
5 essence, what your responsibilities are. And then I'm
6 going to expand upon that.

7 So, yes, sir, Mr. Welborn.

8 THE CLERK: If you would, please, stand. And after
9 the oath is administered, answer by saying "I will."
10 Raise your right hand.

11 (WHEREUPON, the jury was sworn at approximately
12 4:36 p.m.)

13 THE CLERK: Thank you very much.

14 You may be seated.

15 THE COURT: Thank you.

16 All right. Ladies and gentlemen, as I mentioned this
17 morning, there are always two judges when we try a case in
18 General Sessions court with a jury. There's the judge of
19 the law, which is the role that I fulfill, and there's the
20 judge of the facts, which is the role that you occupy.
21 And our roles are distinct. And I want to explain them to
22 you now, in general. And you'll note the contrast between
23 our perspective jobs.

24 As the judge of the law, I have two main
25 responsibilities. The first thing I will do is rule on

1 the admissibility of evidence under the law. I don't know
2 a whole lot about this case, and that's the way our system
3 is set up. I know just a little bit more than you do at
4 this point.

5 But, nevertheless, during this trial, we may have
6 objections to evidence. And, please, don't hold it
7 against the State or the Defense if they object to
8 evidence. The lawyers have an ethical obligation and duty
9 to object when they think evidence is improper.

10 And it's my role, as the judge of the law, to
11 determine whether the evidence is proper, if there is an
12 objection. If I sustain the objection, that simply means
13 that the evidence is not proper, and you can't consider
14 it. If I overrule the objection, that means the evidence
15 is proper, and you can consider it. So that's the first
16 thing I do as the judge of the law. And the second thing
17 I do is that, at the end of the case, I will give you the
18 instruction on the law that applies to the facts of this
19 case.

20 Now, you are the judge of the facts. And under our
21 Constitution and system of justice, I won't comment. I'm
22 not allowed to comment on the facts of this case. And,
23 please, don't interpret anything I may say or do during
24 the course of this trial as any indication as to what I
25 think the facts are, or what I think your verdict should

1 be. Because our Constitution gives you that sole and
2 exclusive responsibility, you, the jury.

3 And you will determine the facts from the evidence in
4 the case. And that's the only thing you can use to
5 determine the evidence in the case, and the evidence -- or
6 determine the facts in the case, rather. Because the
7 evidence consists of two things. The first source or form
8 of evidence is the one you're probably most familiar with,
9 and that is sworn witness testimony. And I anticipate we
10 will have witnesses who come in who are sworn that will
11 tell you things that are relevant to this case, and things
12 they know about it. And that's one form or source of
13 evidence you can use to determine what the facts are.

14 The second form or source of evidence is by way of an
15 exhibit. And we may have exhibits in this case. I'm not
16 sure if we will or not. But an exhibit is simply a
17 physical, tangible object, something you can feel or
18 touch. It may be a map, or a photograph, or something of
19 that nature. But you'll know it's an exhibit. And you'll
20 know it's something you can use in determining the facts,
21 because it will be back in the jury room with you at the
22 end of the trial and will have a sticker on it that says
23 exhibit number so and so.

24 Now, those are the only two things you can use to
25 determine what the facts are, sworn witness testimony and

1 exhibits. Everything else is not evidence. What the
2 lawyers say in this case is important, because they're
3 trying to help you understand the evidence. But always
4 keep in mind that the lawyers aren't witnesses. So what
5 they say is not in itself evidence. And if you remember
6 something differently than the way the lawyers remembered
7 it, your memory would control as the judge of the facts.

8 Now, as the judge of the facts, you will have to, by
9 necessity, determine the credibility of all the evidence,
10 including the believability of the witnesses and the
11 exhibits. So that means for every witness who testifies
12 and every exhibit that's introduced, you will have to
13 gauge its credibility.

14 Now, how do you do that in the case of a witness who
15 testifies? I, certainly, will give you some guidelines.
16 For instance, you can consider how the witnesses testimony
17 stacks up against the other evidence in the case. Is it
18 consistent or inconsistent? You can consider what
19 opportunity the witness has to observe the things they're
20 telling you they saw or observed. You may consider
21 whether the witness has an interest in the outcome of this
22 case, or some bias or prejudice towards someone or
23 something about this case. And you may consider their
24 demeanor on the stand. You may, also, use whatever you
25 use in your day-to-day life to determine whether someone

1 is telling the truth.

2 Because your common sense did not suddenly evaporate
3 when you walked into the Pickens County Courthouse. And I
4 hope it didn't evaporate while you were waiting back there
5 this past hour and 20 minutes. But, nevertheless, you may
6 use and are, certainly, expected to use your common sense
7 and your collective common sense as a jury in determining
8 the credibility or believability of the evidence.

9 Now, how many of y'all have sat as jurors in a
10 criminal trial before? If you'd just raise your hand for
11 me.

12 (WHEREUPON, several jurors raised their hand.)

13 THE COURT: So we have a couple people. And that's
14 about normal for the number of people who have previously
15 served on a jury.

16 But, nevertheless, for those of you who haven't
17 served in a criminal case, you may know from your own
18 experience a little bit about criminal law and how a
19 criminal trial unfolds. But let me go over some of those
20 things with you now just so it will demystify the
21 proceedings for you, perhaps, a little bit.

22 First of all, as I mentioned, in a criminal case, the
23 Defendant is always presumed innocent. And the State
24 bears the burden of proof. The indictment is not
25 evidence. It's not a witness, and it's not an exhibit.

1 So it's not something you can use in determining what the
2 facts are.

3 The Defendants in this case pled not guilty to the
4 indictment. And that put the burden of proof squarely on
5 the State. And the Defendants may only be convicted if,
6 and only if, you, the jury, unanimously find the State has
7 proven each and every element of the crime beyond a
8 reasonable doubt. So the State bears the burden of proof.

9 The Defendants are presumed innocent. And that
10 presumption of innocence stays with them throughout the
11 case and can only be removed if, and only if, you
12 unanimously determine the State has proven guilt beyond a
13 reasonable doubt. The Defendants don't have any burden of
14 proof. They don't have to offer any evidence or
15 explanation whatsoever. They don't have to prove
16 themselves innocent, or prove themselves not guilty.

17 Now, ladies and gentlemen, a criminal trial unfolds
18 like this. In just a few moments, the State, again,
19 because they have the burden of proof, will give their
20 opening statement, which will just be a brief outline of
21 what they think the evidence will be, and what the issues
22 will be in the trial. It's a road map, so to speak, of
23 where we're going.

24 The Defendants have the opportunity, but not the
25 obligation, to give an opening statement as well.

1 Because, you remember, they don't have to produce any
2 evidence or explanation whatsoever during this case.
3 After you've heard the opening statement -- or statements,
4 we will then have the presentation of evidence. Again,
5 the State will go first, because they have the burden of
6 proof. When the State produces their evidence, the
7 Defense can confront it and cross-examine the witnesses.

8 And after you've heard the presentation of evidence
9 by the State, we will have the opportunity, but, again,
10 not the obligation, for the Defendants to give any
11 evidence they wish to, which the State may confront. Then
12 after you've heard all the evidence, the case will go to
13 the phase where you'll hear the closing arguments of the
14 lawyers where they will try to tell you what they think
15 the evidence showed, and what your verdict should be.

16 And then I will give you the instruction on the law
17 that applies to the facts of this case. And then you will
18 determine the facts during your deliberations, and take
19 the law that I gave you and apply it to those facts and
20 reach a verdict in this matter.

21 Now, ladies and gentlemen, until we get to the point
22 at the end of the case where you've heard all the
23 evidence, and you've heard the instruction on the law, and
24 you've heard the closing arguments of the lawyers, please,
25 don't discuss this case with anyone. Because then and

1 only then will you have the tools you need to do your job.

2 We spent a lot of time today trying to find a jury
3 that could be fair and impartial. And we spent a lot of
4 your time doing that as well. And we want to keep you
5 having an open mind, because that's what the parties
6 believe they selected, a jury with an open mind. We don't
7 want you to have that clouded in any manner.

8 So don't talk about the case with anyone. Don't
9 discuss it. Don't do any kind of outside investigation.
10 Because always bear in mind, you have to confine your
11 decision to the evidence. And, as I've said, that
12 evidence consists of two things, sworn witness testimony
13 and exhibits, and nothing else.

14 So that is the structure of a criminal trial. And I
15 want to thank you for your attention to me. And I don't
16 know how long the case is going to last. It will probably
17 last several days. But, regardless of how short or long
18 this trial is, keep in mind it's very important to both
19 sides. And they're entitled to your full, fair, and
20 impartial consideration.

21 I know it's hard to sit there for long periods of
22 time and listen. Believe me, I can empathize with you
23 regarding that. But, please, try to keep keen attention
24 throughout this trial. We'll try to take breaks about
25 every hour and a half, as I said earlier. And if you need

1 a break before that, let me or one of the bailiffs know
2 and we'll, certainly, accommodate you. And the same goes
3 for any of the lawyers or the parties. But keep keen
4 attention throughout the trial.

5 And remember that the lawyers in this case are
6 advocates for their clients. They're going to zealously
7 represent them to the best of their ability. You and I,
8 ladies and gentlemen, are not advocates. Our job is to be
9 neutral, and fair, and impartial. And your job is to
10 determine the facts of the case, and determine whether the
11 State has met its burden of proof.

12 So, with that, we'll have the opening statement from
13 the State.

14 MS. BARWICK: Thank you, Your Honor.

15 THE COURT: Ms. Barwick.

16 OPENINGS STATEMENTS

17 MS. BARWICK: Good afternoon.

18 I've already introduced myself once. My name is
19 Jenny Barwick. Seated at the table with me is my
20 co-counsel, Doug Richardson, and Detective Rita Burgess.

21 Myself and Mr. Richardson, we represent the State of
22 South Carolina in its prosecution of criminals. That's
23 what we do. In some states, they call us DA's. In some
24 states, they call us prosecutors. In South Carolina, we
25 just happen to be called solicitors.

1 There are three Defendants in this case. They're all
2 seated over at that table. We have Latasha Honeycutt,
3 Jamie Morris, and Donna Phillips. They have all been
4 indicted by our Grand Jury of homicide by child abuse.

5 What is homicide by child abuse? The State must
6 prove four elements for you to be able to find these
7 individuals guilty of homicide by child abuse. Element
8 number one is that they caused the death of a child under
9 the age of 11 by committing abuse or neglect under
10 circumstances that are an extreme indifference to human
11 life. One can, also, be found guilty of homicide by child
12 abuse if they aid, abet, support, or encourage the action
13 or inaction. I know that was a lot of words. And it
14 sounded kind of wordy.

15 But what it boils down to is this. If by someone's
16 actions or inactions, they caused the death of a child, or
17 they helped somebody through their actions or inactions to
18 cause the death of that child under circumstances where
19 they're indifferent to human life, then they are guilty of
20 homicide by child abuse.

21 The Judge has already told you this. The State has
22 the burden of proof. We must prove each Defendant guilty
23 beyond a reasonable doubt in order for you to find each
24 Defendant guilty of this crime. What does beyond a
25 reasonable doubt mean? It's not beyond all doubt. It's

1 beyond a reasonable doubt. It's the kind of doubt that
2 would cause a person to hesitate to act in the most
3 important of their own affairs.

4 Now, when I say hesitate to act, I'm not saying
5 you're sitting there and you hear one witness, but not the
6 rest and you decide. I'm saying when you've heard all the
7 evidence and you go back into that jury room and you
8 discuss amongst yourselves, 12 minds are better than one,
9 and then you still feel like there's a reasonable doubt in
10 your mind, then you must let them go home. You must say
11 not guilty.

12 This crime is a little different. This crime is a
13 crime where you will never hear the victim's story.
14 Little minor is the victim in this crime. He was
15 21 months old when this happened. He has a story to tell,
16 but you will not hear it. Because minor is no
17 longer with us. You will have to listen to his story
18 through the evidence that is provided on this stand.

19 We have things called circumstantial evidence. And
20 we have things called direct evidence. They have to be
21 weighed the same. Direct evidence, say, there's a
22 convenience store robbery. Direct evidence would be a
23 witness saying, I saw John Smith rob that store.

24 This is what circumstantial evidence is. When you
25 put a witness on the stand and the witness says, I know

1 John Smith has the same kind of mask and the same kind of
2 gun that were used in that robbery. And I know he doesn't
3 have a job. And he just got a flat screen TV and paid for
4 it with cash. That's circumstantial evidence. They're to
5 be weighed the same.

6 Unfortunately, you will have nobody -- you will hear
7 from nobody who comes up on the stand and says, I gave
8 minor that lethal dose of an opiate. You will not
9 hear anybody say that. They will not admit to that. You
10 will not hear anybody take the stand and say, I saw who
11 gave minor that lethal dose of opiates. You won't
12 hear that either.

13 These kind of crimes are closed door crimes. People
14 do not abuse their children, for the most part, thank
15 goodness, out in public. And they do not neglect their
16 children in public. That's why you have to weed through
17 the evidence. You have to weed through all the various
18 statements. Each of these three people, you will hear
19 testimony to what statements they gave. And they gave
20 multiple statements. You will have to weed through those
21 statements. You will have to weed through the excuses to
22 figure out what minor would tell you, if he was
23 able to tell you himself.

24 I have to look at this, because I want to always
25 remember to apologize in these kinds of cases. I

1 apologize about what you're going to hear. Sometimes, in
2 my line of work and Mr. Richardson's line of work, it's
3 hard to forget that what we discuss pretty much on a daily
4 basis in our world is something that is unheard of and
5 most often -- thankfully, unheard of in most circles.

6 You're going to hear all kinds of evidence. And it's
7 going to be difficult to hear it. It is hard to wrap our
8 minds around the fact that people are able to do this to
9 children. It is hard for us to wrap our mind around the
10 fact that mothers, fathers, and grandmothers are able to
11 do this to our innocence. But it happens every day. So
12 keep your minds open. And don't shut down just because
13 it's hard to hear about it.

14 The evidence will show the following. March 14th was
15 a Friday. minor was given over to his father's
16 care for the weekend. They come up to Latasha Honeycutt's
17 house, the child's mother. That was Friday, the 14th of
18 March, 2008. There will be testimony conflicting with
19 each other a little bit about when this child, actually,
20 started showing some symptoms of being ill.

21 On Sunday, the father and the grandmother knew that
22 something was wrong with the victim. The evidence will
23 show that instead of taking the child to the doctor, they
24 took the child back to mom's house and told her to take
25 the child to the doctor. The evidence will show that the

1 mother did not take the child to the doctor, despite the
2 child having difficulty breathing.

3 The evidence will show that on Monday, after putting
4 the child to bed around 8:00 or 9:00 that evening, that
5 Monday, the child wasn't awake at 8:00. The mother
6 changed his diaper and went back to bed and set her alarm
7 clock for 10:00. Somewhere between 10:00 and 10:30 that
8 morning, the evidence will show that minor became
9 unresponsive, and that a 911 call was placed at 11:15 that
10 he was not breathing.

11 The evidence will, also, show that by the time EMS
12 arrived, he, also, did not have a heart beat. The
13 evidence will show that that Tuesday, the 19th of March,
14 2008, minor was pronounced brain dead. And he was
15 later taken off life support.

16 What I ask you to do and what I urge you to do is to
17 put the pieces together, read between the lines, and find
18 out the story that minor would tell you today, if he was
19 still alive.

20 Thank you for your time.

21 THE COURT: Mr. DeJong.

22 MR. DEJONG: Thank you, Your Honor.

23 May it please the Court.

24 Ladies and gentlemen of the jury, it's not up to you
25 to read between the lines. The burden of proof is here.

1 It's not for you to read between the lines. That's
2 speculation. That's conjecture. And that is not what
3 your verdict is to be based on.

4 I have the pleasure today of representing the
5 innocent Jamie Morris. And the thought could immediately
6 come to mind, are you kidding me? He's innocent? Yes, he
7 is, absolutely 100 percent. And I say it without
8 reservation. But he was indicted. He was. And His Honor
9 shared that with you.

10 But, more importantly, than that, ladies and
11 gentlemen, is a fundamental right that every citizen of
12 this country is guaranteed that is charged with a criminal
13 offense is what His Honor has already shared with you, and
14 that is the presumption of innocence. And there are no
15 facts in this case right now, none, zero, zilch. You are
16 the fact finders. You determine the facts. You decide
17 the 12 -- for the moment, the 14 of you, you decide what
18 those facts are.

19 Mr. Morris is charged with aiding and abetting.
20 We'll talk about that more at the back end of the case.
21 And I know the hour is getting late. I don't want to do a
22 disservice to my client. But, by the same token, I don't
23 want to keep us here any longer than we have to be this
24 evening.

25 But, as we go through this trial, I'm going to ask

1 you to pay particular note and to remember three things --
2 well, let's make it four. Number one is the presumption
3 of innocence. I ask you to keep that at the very top of
4 your mind throughout this case. And, as Ms. Barwick
5 shared with you, don't close your mind because of the
6 parties involved, that is, mother, father, and
7 grandmother. By the same token, ladies and gentlemen,
8 don't close your mind by the very nature of the charges.
9 I think that could be equally dangerous.

10 So I ask you just to keep an open mind, the
11 presumption of innocence, burden of proof. Yours is not
12 to speculate on what the State is trying to prove. The
13 burden of proof is on them. They've got the burden of
14 proof. I'm not asking you -- and I think what you're
15 going to find in this case is that's exactly what the
16 State is asking you to do. They're asking you to do their
17 job for them because they don't know. And they can't
18 prove it. So the presumption of innocence, open mind,
19 burden of proof.

20 The things I'm going to ask you to look at in this
21 case and to remember is the timeline. The timeline is,
22 basically -- well, it's not, basically. It's going to
23 stay the same, and to stay the same that this child died
24 of an overdose of opiates. The timeline that you're going
25 to hear I believe is -- and you take it from the witness

1 stand, not from me.

2 Let's just jump right up to March the 16th of 2008.
3 March the 16th of 2008, which was on a Sunday, the child
4 is returned to the mother, cranky, fussy, temper tantrums,
5 all of those things. Now, it is not until sometime -- and
6 there may be a little variance, but some -- anywhere from
7 12 to 16 hours later, the child becomes unresponsive.

8 Now, His Honor shared with you, you don't leave your
9 common sense out here. When you took the oath, you became
10 jurors. But think about a drug overdose taking 12 to 16
11 hours to kick in. You're probably going to hear all sorts
12 of things about the levels of hydrocodone, and all of
13 those things. But, again, think about 12 to 16 hours for
14 somebody to overdose. I suggest to you now, and I will
15 suggest to you at the end of the case that that is not
16 rational. That is not reasonable. It is not logical. So
17 that's the fourth thing I ask you to take into
18 consideration.

19 Now, please, remember, I only represent Mr. Jamie
20 Morris in this case. All three of these Defendants, you
21 will have to decide each one individually, although there
22 may be some overlap between the positions on them. I only
23 represent Jamie Morris on aiding and abetting homicide by
24 child abuse.

25 The hour is late. I want to thank you. I thank you

1 on behalf of Mr. Morris for being here. Hopefully, the
2 hour won't be so late when we get to close. Again, I'm
3 not trying to do a disservice to my client, but it is
4 getting late. I do thank you for being here. You are
5 important. His Honor has shared with you how important
6 you are. And you are, indeed, important to everybody --
7 all the players in this courtroom.

8 The great, late Winston Churchill may have said it
9 best. We have to paraphrase him a little bit. He said
10 that -- Winston Churchill said the greatest service a
11 citizen can provide for their country in peacetime is jury
12 service. I think we all can agree we're not in peacetime
13 right now. Perhaps, we can paraphrase the great, late
14 Winston Churchill a little better and say the greatest
15 service you can provide for your community is jury
16 service. It is that fundamental.

17 I simply ask -- I ask on behalf of Mr. Morris for you
18 to keep an open mind, to remember those four things, and
19 be impartial. And we'll get back together when the
20 evidence is in.

21 Thank you so much for your kind attention.

22 THE COURT: Thank you, Mr. DeJong.

23 Mr. McConnell.

24 MR. O'CONNELL: Thank you, Your Honor.

25 Ladies and gentlemen, that's the first time in a long

1 time I've heard that kind of an opening where you can read
2 between the lines. Mr. DeJong said the same thing.
3 That's not your job. You're going to listen to the facts.
4 You're going to go back in the jury room and deliberate.
5 That doesn't mean you sit here and say, I already know who
6 did this. You've got to listen to the facts of this case.
7 And, in a way, they're kind of real unique.

8 The child was brought home, taken care of, returned
9 on Sunday evening. The man says, hey, here is the card.
10 Take him to the doctor. He's a little sick. If I
11 understood the Prosecution right, my client should have
12 taken -- and my client is Donna Phillips right there --
13 the grandmother should have taken the child to the doctor
14 because the child was sick. Like when we have the flu or
15 something like that, how many of us do that? How many of
16 us say, well, I better run to the doctor right now? I'm
17 going to take the child to the doctor because he's sick.
18 He -- Mr. Morris had the foresight to say, here is the
19 Medicaid card right here. Take the child to the doctor.

20 You will hear testimony that the child was cranky,
21 moving around. Because, you know, the child had been
22 having -- had been up all day, had been moving around.
23 You're going to hear testimony from that stand that the
24 child had such a dose of opiates in him that the child
25 would have been like a sack of potatoes.

1 I'm asking you all to keep your mind on the facts of
2 the case. I understand, like Mr. DeJong has said, that
3 you've got to understand that this is a case where maybe
4 nobody did anything wrong. Maybe they all tried to do
5 everything right, and it just didn't work out. Now,
6 sometimes, that happens.

7 So what I'm asking you to do with many client is
8 listen to the facts. I believe she wants to testify so
9 you all will know what she, as the grandmother, was doing.
10 There's no harm in this case. How could they harm the
11 child when they took care of this child? Nobody even left
12 this child alone. They brought the child to the mother.
13 And the mother took care of the child after they dropped
14 the child off. They even went in and looked at the room
15 and made sure the child had a bed to sleep in.

16 After that, my clients [sic] are out of the picture
17 until -- you'll hear a different story. The mother didn't
18 go check. The mother didn't go check. All I know is
19 there are a lot of things -- and the facts when they all
20 come together, you're going to have to say, wait a minute.
21 That's not how it happened.

22 There's no reading between the lines. And there's no
23 deliberating or trying to make up your minds until the
24 Judge sends you back in the room and you're back there
25 thinking about the case and saying, what have we heard?

1 What are the facts of the case.

2 My client is innocent. Because she didn't do
3 anything. She was simply a grandmother taking care of her
4 grandkid.

5 Thank you very much.

6 THE COURT: Thank you, Mr. McConnell.

7 MR. O'CONNELL: Thank you.

8 THE COURT: Mr. Harbin.

9 MR. HARBIN: Thank you, Judge.

10 May it please the Court.

11 THE COURT: Yes, sir.

12 MR. HARBIN: I have to cheat with some notes
13 sometimes, so forgive me.

14 The Solicitor mentioned that we're here because
15 they've obtained three indictments in this case, three
16 charges. And although the Judge will tell you, as he
17 already has, that the indictments aren't evidence, I think
18 it's important that we reemphasize they're not evidence.
19 And I'll tell you why they shouldn't be. Because it's
20 really easy to get an indictment. All you have to do is
21 present an idea, kind of a couple of connecting factors to
22 a group of 18 people, and get 12 of them to say, yeah, go
23 pursue that charge. It's not in open public. There's no
24 Judge. There's no defense attorneys. It is easy to get
25 an indictment.

1 Jenny gave -- Ms. Barwick, I apologize. Ms. Barwick
2 gave you the definition of homicide by child abuse. And I
3 want to give you the exact definition, because I believe
4 every word is important in this. It says, A person is
5 guilty of homicide by child abuse if the person causes the
6 death of a child under the age of 11 while committing
7 child abuse -- while committing child abuse -- and the
8 death occurs under circumstances manifesting an extreme
9 indifference to human life.

10 And our courts have defined what that means. The
11 Judge will tell you. But it, essentially, is an intent.
12 It says you don't care if they live or die, or you wanted
13 them to die. This case is not going to be that. Whether
14 you read between the lines or the lines themselves -- I
15 agree with them. But if you want to read between the
16 lines, fine.

17 The facts are going to show that my client did
18 absolutely nothing wrong, that she was handed her child
19 Sunday evening with some congestion. They said the child
20 was cranky, irritable, and tired. The child went to bed.
21 She got up early in the morning and changed his diaper.
22 The child was fine. A couple hours later -- a couple and
23 a half hours later, she went in. And when she found the
24 child, he was unresponsive. And then what do you do?
25 What is your responsibility as a mother? You call 911.

1 And that's what she did. That's what the facts are going
2 to show.

3 I can't explain to you why the State has sought an
4 indictment against her today. But I can defend her. And
5 I can ask you to listen. I'll tell you that strangely
6 enough, young minor was 21 months old when he died. I
7 had my first daughter. And she is 21 months old. And I
8 couldn't bear it if she died. I'm sorry. I couldn't bear
9 it. It would destroy me. And I can't imagine what it
10 must be like to not only lose your kid, but then get
11 arrested for it after you called 911.

12 You can't help my client get her child back. You can
13 help her by listening, listening to everything. Come back
14 and tell the State they're wrong. They're dead wrong.
15 I'm going to ask you, at the end of this trial, to come
16 back with a guilty -- with a not guilty verdict. Because
17 she's not guilty. She didn't do anything wrong, nothing.

18 Thank you.

19 THE COURT: Thank you, Mr. Harbin.

20 All right. Ladies and gentlemen, we're going to go
21 ahead and break for the day. And we're going to reconvene
22 tomorrow morning at 9:00. Don't talk about the case.
23 Don't do any kind of outside investigation.

24 And thank you for your patience with us this
25 afternoon. Even though you probably don't think you were

1 doing anything back there when you were in the jury room
2 related to this case, you were. Because you were giving
3 us time to, hopefully, streamline some things and make the
4 case run a little faster, I hope.

5 So we will start tomorrow at 9:00. And have a good
6 evening.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 5:25 p.m.)

9 THE COURT: Anything before we recess?

10 THE CLERK: The door is still open.

11 THE COURT: Oh, it is?

12 THE CLERK: Yes, sir.

13 (Pause.)

14 THE COURT: Thank you.

15 Anything before we recess?

16 MR. O'CONNELL: Your Honor, I just want to make sure
17 that I understand.

18 Are you, Ms. Burgess, going to supply those notes to
19 the Solicitor's Office so I can pick them up tomorrow at
20 the Solicitor's Office first thing in the morning?

21 MS. RITA BURGESS: Yes, sir.

22 MR. O'CONNELL: The notes that --

23 THE COURT: Right.

24 MR. O'CONNELL: Thank you.

25 THE COURT: Okay. See you back at 9:00.

1 MR. RICHARDSON: Your Honor, just briefly. We want
2 to address them not being on bond any longer. I would ask
3 that the Court talk to the Defendants about that, if
4 you're not going to take them into custody.

5 THE COURT: Do what now? I couldn't hear what you
6 said.

7 MR. RICHARDSON: At this point in time, their bond is
8 no longer valid.

9 THE COURT: Right.

10 MR. RICHARDSON: So if you're not going to take them
11 into custody, I would ask that you address the Defendants
12 about that.

13 THE COURT: All right. Ladies and gentleman, your
14 bond is no longer in place. However, I'm going to allow
15 to you remain out. But bear in mind that if you don't
16 return to court, two things are going to happen. First,
17 the trial is going to continue whether you're here or not.
18 Second, you will subject yourself to further charges
19 related to not being here, which carry significant prison
20 penalties.

21 So anything else before we adjourn?

22 MR. HARBIN: Nothing from me, Judge.

23 MR. O'CONNELL: Nothing from us, Your Honor.

24 MR. DEJONG: Nothing on behalf of Mr. Morris, Your
25 Honor.

1 THE COURT: See you back at 9:00 a.m.
2 (WHEREUPON, the proceedings were concluded at
3 approximately 5:30 p.m., to be reconvened on
4 Tuesday, July 24, 2012.)
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TUESDAY, JULY 24, 2012

THE COURT: Anything before we bring the jury in?
Do we have all the jurors?

THE BAILIFF: Yes.

MR. RICHARDSON: Nothing from the State, Your Honor.

THE COURT: Anything from the Defense?

MR. O'CONNELL: Nothing from us, Judge.

MR. DEJONG: Nothing on behalf of Mr. Morris, Your Honor.

MS. BARWICK: Hey, Judge.

THE COURT: Hey.

MS. BARWICK: I'm sorry, Judge. I didn't mean to be disrespectful.

Our first witness is parking her car right now. So if we could have about three more minutes. I apologize.

THE COURT: Okay. Is there any issue related to the statements in terms of Bruton?

MR. RICHARDSON: My interpretation is no.

MR. DEJONG: I'm sorry. I didn't hear the question, Your Honor.

THE COURT: I just wondered if there was going to be any lingering Bruton issue about the statements?

MR. HARBIN: I don't believe so from my client's perspective.

MR. O'CONNELL: And I don't either.

1 MR. DEJONG: I don't believe so.

2 THE COURT: I just wanted to make sure, for the
3 record.

4 MR. RICHARDSON: And, Your Honor, for the record,
5 yesterday, the notes of Detective Rita Burgess were
6 requested by the Defense. She has photocopied those. And
7 I am now making them available to Mr. DeJong,
8 Mr. O'Connell, and Mr. Harbin, even though he didn't
9 request them.

10 (WHEREUPON, State's Exhibit Nos. 30, 31, 32, 33, 34,
11 35, 36, 37, and 38 were marked for identification
12 only.)

13 (Pause.)

14 THE COURT: Okay. You can bring the jury in.
15 Thank you.

16 (WHEREUPON, the jury came into open court at
17 approximately 9:08 a.m.)

18 THE COURT: Good morning, ladies and gentlemen.

19 I understand that some of y'all wish to take notes,
20 which is perfectly fine. But I just want to give you a
21 few comments in relation to taking notes.

22 First of all, remember that your notes are your notes
23 and nobody else's. And simply because one person takes
24 notes doesn't mean that their memory of the testimony is
25 any better than anyone else's. Also, don't become so

1 engrossed in taking the notes that you don't pay close
2 attention to the demeanor of the witnesses. Because, as
3 you know, the credibility and the believability of the
4 witnesses is something you must judge, as jurors.

5 I will be glad to allow you to take notes. And I
6 just wanted to give you those instructions.

7 All right. Yes, sir -- or, yes, ma'am. You may call
8 your first witness.

9 MS. BARWICK: Thank you, Your Honor.

10 The State would call Patience Johnson to the stand.

11 THE CLERK: Place your left hand on the Bible and
12 raise your right hand.

13 WHEREUPON,

14 PATIENCE JOHNSON,
15 after first having been duly sworn, testified as follows:

16 THE CLERK: Ma'am, if you would, have a seat.

17 And state your name for the record.

18 THE WITNESS: My name is Patience Johnson.

19 DIRECT EXAMINATION

20 BY MS. BARWICK:

21 Q Ms. Johnson, where do you work?

22 A The department of Social Services.

23 Q Back in 2008, where did you work?

24 A Pickens County Department of Social Services.

25 MR. DEJONG: Your Honor, I'm sorry. Before we get

1 into her testimony, could we turn the sound up just a
2 little bit?

3 THE COURT: Sure.

4 BY MS. BARWICK:

5 Q Ms. Johnson, where did you say you worked back in
6 2008?

7 A Pickens County Department of Social Services.

8 Q And how long have you been working with, as we know
9 it, DSS?

10 A For about 13 years now.

11 Q And, back in 2008, what were your duties with DSS?

12 A I was a supervisor involved with intake
13 investigations.

14 Q Back on March 17th of 2008, did you become acquainted
15 with minor

16 A I did.

17 Q Do you know minor's date of birth?

18 A Yes. His birthday was [REDACTED]

19 Q Okay. So back in March of 2008, he would have been,
20 what, about 21 months old?

21 A Yes.

22 Q How did you become involved in the case of minor
23 Morris?

24 A The Department of Social Services received a report
25 in regards to trauma and fatality of minor on March 17th

1 of that year.

2 Q And when you were notified of that, what did you do?

3 A I initiated an investigation that same day. I made
4 contact with law enforcement. And I went to the hospital,
5 and made contact with the family members there at the
6 hospital.

7 Q When you say "hospital," do you mean the hospital in
8 Easley or the one in Greenville?

9 A I initiated -- he went to Easley Hospital first. But
10 I initiated my contact with everyone at Greenville
11 Memorial.

12 Q Do you remember about what time of day that was?

13 A That was that afternoon between about 4:30 to 5:00,
14 somewhere in that time frame.

15 Q And, on March 17th of 2008, what day of the week
16 would that have been?

17 A I'm sorry?

18 Q March 17th --

19 A Oh, it was a Monday. I'm sorry.

20 Q I'm sorry. Sometimes, I'm not loud enough, and,
21 sometimes, I sound funny.

22 When you got to the hospital, what did you see?

23 A The family members -- or some of the family members
24 were in the waiting room. I went to minor room and,
25 initially, made contact with minor And the foster

1 parents were there, as well as the guardian ad litem --

2 Q Okay. Well --

3 MR. DEJONG: Your Honor, I'm going to object to all
4 that testimony, and move that it be stricken.

5 MR. HARBIN: Judge, I join in Mr. DeJong's motion.

6 MR. O'CONNELL: And, Judge, I do, too. It sounds
7 like hearsay.

8 MS. BARWICK: Your Honor, the State would agree.

9 THE COURT: All right. The jury is to disregard the
10 answer to the last question.

11 Go ahead.

12 BY MS. BARWICK:

13 Q When you got to the hospital, did you see 'minor

14 A I did.

15 Q Were Jamie Morris, or Latasha Honeycutt, or Donna
16 Phillips in the hospital room with 'minor

17 A They were not in the hospital room.

18 Q Where were they?

19 A They were in the waiting room.

20 Q When you saw 'minor what kind of condition was he in?

21 A He was non-responsive, connected to the machines and
22 the equipment there at the hospital.

23 Q Did you take any pictures of 'minor 's condition?

24 A I did.

25 MR. DEJONG: Your Honor, she hasn't offered them at

1 this point in time, but I will object at the appropriate
2 time.

3 MR. O'CONNELL: Same here.

4 MR. HARBIN: Same, Judge.

5 BY MS. BARWICK:

6 Q Do you recognize these photographs? If you'll look
7 through them.

8 A I do, yes, ma'am.

9 Q Are those photographs you took on March 17, 2008?

10 A It is.

11 Q Do they clearly and accurately depict what minor
12 looked like at that time?

13 A Yes.

14 MS. BARWICK: Your Honor, the State would like to
15 introduce State's Exhibit No. 14 -- I'm sorry, State's
16 Exhibit Nos. 9 through 14 into evidence at this time.

17 THE COURT: Mr. DeJong.

18 MR. DEJONG: Your Honor, I object. Your Honor, these
19 pictures have no probative value.

20 Can we approach, Your Honor?

21 THE COURT: Sure.

22 (WHEREUPON, a bench conference was held.)

23 BY MS. BARWICK:

24 Q Let me be clear, Ms. Johnson, you were the one that
25 took State's Exhibit Nos. 9 through 14?

1 THE COURT: And I sustain the objection to the
2 pictures. They're not admissible at this time.

3 MS. BARWICK: Thank you, Your Honor.

4 BY MS. BARWICK:

5 Q Ms. Johnson, did you, in fact, go and speak with
6 Latasha Honeycutt and Jamie Morris?

7 A I did.

8 Q That evening at the hospital?

9 A I did.

10 Q When you spoke with Ms. Honeycutt, did she say
11 anything about what happened that morning?

12 A Yes.

13 Q What did she say?

14 A She indicated that at approximately -- when he
15 returned home from visitation with his father that prior
16 evening, Sunday night, that he slept from -- anywhere from
17 between 6:30 when -- he got home between 6:30 and 7:30.
18 He was a little bit fussy, and he went to sleep. And she
19 stated that he slept throughout the night until that
20 following morning. She indicated she went into the room
21 at about 8:00 that morning, he was still asleep. She
22 changed his diaper. And she, in turn, went back to sleep,
23 as well.

24 Q Did she say what time she woke back up?

25 A At approximately somewhere between 10:00 to 10:30

1 that same morning. He wasn't responsive at that point in
2 time. And she called for her boyfriend, Brandon Roper,
3 and, also, called law enforcement -- not law enforcement,
4 911.

5 Q Okay. When she changed his diaper, did she say
6 whether or not he was awake at that point in time?

7 A She indicated he wasn't awoke [sic].

8 Q So he slept through the diaper change?

9 A Yes.

10 Q My next question is, at the time that this happened,
11 who was living in Latasha Honeycutt's house?

12 A Latasha Honeycutt, her boyfriend, Brandon Roper, and
13 their infant daughter, A.R.

14 Q Okay. So Jamie Morris is not the father of Ava?

15 A He's not.

16 Q And Brandon Roper, the boyfriend, is?

17 A Of Ava, yes.

18 Q How old was Ava back when all of this happened?

19 A Ava was born January 18th of 2008, so she was just a
20 few months old.

21 Q Now, let's back up. This was Monday. That Saturday
22 before, so that would have been March 15th of 2008, do you
23 recall hearing a voice mail that Jamie Morris left at DSS?

24 A I do.

25 Q And what was that voice mail regarding?

1 A Jamie had indicated to Nancy Bagwell, a fellow
2 coworker, that he had needed a Medicaid card, because
3 minor had been sick.

4 Q Okay. So say that again for me. I'm sorry.

5 A He indicated that he needed the Medicaid card,
6 because minor was sick that evening, I guess that
7 Saturday evening.

8 MS. BARWICK: No further questions at this time.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. DEJONG:

12 Q So, Ms. Johnson, you went to Greenville Memorial
13 Hospital on the 17th of March; correct?

14 A Yes, sir.

15 Q Do you know what time the child got to the hospital?

16 A I'm not sure of the exact time. It was earlier that
17 afternoon.

18 Q Okay. And I guess we're really talking two hospitals
19 here. He went to Easley Baptist -- the child went to
20 Easley Baptist first, and then was taken to Greenville
21 Memorial; is that correct?

22 A Yes, sir.

23 Q Is that correct?

24 A Yes.

25 Q All right. So the child -- when you got there, the

1 child was where?

2 A In the hospital room.

3 Q Where in the hospital?

4 A The pediatric intensive care unit.

5 Q All right. So, certainly, these people had been at
6 the hospital for some time; right? I'm speaking of Jamie
7 Morris, Donna Phillips, and Latasha Honeycutt; right?

8 A I could assume so.

9 Q Pardon me?

10 A I could assume so.

11 Q Well, did you ask?

12 A How long were they at the hospital?

13 Q Uh-huh.

14 A No, sir.

15 Q So after March 17th, did you talk to any of these
16 people again?

17 A I did.

18 Q When?

19 A On several different occasions throughout the
20 investigation.

21 Q Okay. But on March the 17th, between 4:30 -- I
22 believe you said 4:30 and 5:30, you went to Greenville
23 Memorial Hospital?

24 A Yes, sir.

25 Q Now, is that when you -- is that the time you talked

1 to these people?

2 A That was the first time that I spoke with them
3 face-to-face.

4 Q All right. Now, in talking to Ms. Honeycutt, she
5 said that Brandon -- or minor was returned at what time
6 on Saturday [sic]?

7 A I'm sorry. I can't hear you.

8 Q Pardon me?

9 A I can't hear you.

10 Q I'm sorry. I had my back to you, no wonder.
11 What time did Ms. Honeycutt say minor came back to
12 her house on March the 16th?

13 A Sunday.

14 Q Right. What time?

15 A Between 6:30 and 7:30 that evening.

16 Q 6:30 and 7:30?

17 A Yes, sir.

18 Q In the evening?

19 A Yes.

20 Q And you're sure about that?

21 A Yes, sir.

22 Q All right. Now, in talking with Ms. Honeycutt, she
23 said that minor went to bed about what time?

24 A Within 15 to 30 minutes of his arrival home.

25 Q Okay. He was fussy, did she say that?

1 A Yeah, he wouldn't be calm. He was fussy, a little
2 irritable, yes, sir.

3 Q Right. He was crying?

4 A Yes.

5 Q Okay. Did she say anything about him having any
6 congestion, or stuffy nose, or cold symptoms, or anything
7 like that?

8 A She indicated that Jamie Morris told her to take the
9 baby to the doctor, because he was sick.

10 Q Did she say what kind of sickness?

11 A She didn't say.

12 Q Okay. So from what you gathered on -- in your
13 interview with Latasha Honeycutt, 'minor' was returned to
14 his mother on March the 16th -- I've got my years wrong
15 here, 2008. 'minor' was returned to his mother on March
16 the 16th of 2008, between 6:30 and 7:30. And that was on
17 Sunday?

18 A Yes, sir.

19 Q Now, after that point in time, until -- do you know
20 what time EMS was called, or anything like that?

21 A I don't know the exact time.

22 Q Okay. That's fine. But, at any rate, from 6:30 to
23 7:30, when Jamie Morris returned 'minor' to his mother, did
24 your investigation reveal that he had any further contact
25 with the child until the child went into distress?

1 A I didn't hear what you said. Did who have any contact?

2 Q Okay. Did Jamie Morris have any further contact with

3 minor after, let's say, 7:30 on March the 16th?

4 A No.

5 Q Okay. Now, when she said she got up and changed his

6 diaper at 8:00, is that all she said, that she just

7 changed his diaper?

8 A In regards to what, specifically?

9 Q Well, is that all she said?

10 A She told me what happened within that timeframe.

11 That's about it.

12 Q Okay. Well, certainly, at 8:00 -- when she was

13 talking to you, at 8:00 in the morning when she got up to

14 change minor 's diaper, she didn't indicate that she

15 noticed anything wrong with the child, did she?

16 A She said that he was fine.

17 Q Said he was fine; right?

18 A Uh-huh.

19 Q He was breathing and doing everything that a mother

20 would expect a 21-month-old to do; right?

21 A Yes, sir.

22 Q And then she gets up around -- well, I'll ask you,

23 what time did she say she next went back and checked on

24 minor

25 A Approximately 10:00 or 10:30.

1 Q 10:00 or 10:30. And that's when she said he was not
2 responsive?

3 A Yes.

4 MR. DEJONG: May I have one moment, please, Your
5 Honor?

6 THE COURT: Sure.

7 (Pause.)

8 BY MR. DEJONG:

9 Q The phone call you say that came in from Jamie
10 Morris, was that taken off of an answering machine?

11 A Yes, sir. It was left on voice mail.

12 Q Okay. I'm old fashioned. I still call them
13 answering machines. I guess we don't call them that any
14 more. Left on voice mail on Saturday?

15 A Yes, sir.

16 Q All right. And who identified Mr. Morris's voice, or
17 did he identify himself, or how did that happen?

18 A Mr. Morris identified himself.

19 Q And he said he needed the Medicaid card; right?

20 A Yes, sir.

21 Q And he simply needed the Medicaid card because the
22 child was ill?

23 A Yes, sir.

24 Q Not the kind of illness or anything else, just that
25 the child was ill and he needed the Medicaid card?

1 A Yes, sir.

2 Q Was that -- well, let me ask you this. Prior to --
3 strike that.

4 Did the child have a Medicaid card?

5 A Do you -- I don't understand. Do you mean in his
6 possession?

7 Q No. You're right, you wouldn't understand that
8 question. Did the child have Medicaid available to him?

9 A Yes.

10 Q And was a card available for Medicaid benefits?

11 A Yes.

12 Q And was a card available for Medicaid benefits prior
13 to March the 16th of 2008?

14 A Yes.

15 Q So the Medicaid card would have been more that the
16 card had been lost, or something along those lines; correct?

17 A That's a possibility.

18 MR. DEJONG: The witness is with you, Mr. O'Connell.

19 MR. O'CONNELL: Thank you.

20 CROSS-EXAMINATION

21 BY MR. O'CONNELL:

22 Q Ms. Johnson, did Ms. Honeycutt state that she didn't
23 check on the child from about the time she went to bed --
24 you said 8:30, 9:00 Sunday evening -- until 8:00 the next
25 morning? Is that what you're telling the jury?

1 A Can you -- I don't understand your question.

2 Q Ms. Honeycutt, did she state to you that she did not
3 check on minor from the time the child went to bed n
4 Sunday evening, 8:00, 9:00 to 8:00 or 9:00 in the morning?

5 A Yes, sir.

6 Q So for 12 hours, she did not check on her son?

7 A That would be correct.

8 Q Okay. Did she state to you what she did between the
9 time of 8:00 in the morning on Monday until about 10:30?
10 Did she tell you what she was doing?

11 A She went back to lay down.

12 Q Okay. Did she tell you that she was putting on make
13 up, or anything of that nature?

14 A No, sir.

15 Q Did she tell you she was taking care of Ava at that
16 time?

17 A No, sir.

18 MR. O'CONNELL: That's all the questions I have.

19 Thank you very much.

20 MR. HARBIN: May it please the Court.

21 THE COURT: Mr. Harbin.

22 CROSS-EXAMINATION

23 BY MR. HARBIN:

24 Q Ms. Johnson, just a few questions. You mentioned,
25 specifically, that Ms. Honeycutt and Mr. Morris were in

1 the waiting room when you got to the hospital, and not in
2 the room with minor

3 A Yes, sir.

4 Q Isn't that because you asked them to meet you in the
5 waiting room?

6 A No.

7 Q And they were in the waiting room, you were in the
8 room taking the pictures that Ms. Barwick just asked you
9 about?

10 A No, sir.

11 Q Did you interview Jamie Morris that afternoon?

12 A I did.

13 Q Did you ask him why he didn't take the child to the
14 doctor after you learned that he had told my client to
15 take him to the doctor?

16 A I did.

17 Q And what did he say?

18 A He indicated that he told Latasha to do it.

19 Q So he didn't feel it urgent enough for him to do it
20 himself, but could do it on Latasha's time, is that the
21 way you took that?

22 A Yes, sir.

23 MR. HARBIN: Okay. No further questions.

24 Thank you, Judge.

25 THE COURT: Redirect?

1 MS. BARWICK: None, Your Honor.

2 Thank you.

3 THE COURT: Thank you, ma'am.

4 MS. BARWICK: May the witness be excused?

5 MR. DEJONG: On behalf of Mr. Morris, no objection.

6 MR. O'CONNELL: Your Honor, same from me -- us.

7 MR. HARBIN: No objection, Judge.

8 THE COURT: All witnesses will be automatically
9 excused, unless someone objects.

10 Thank you, ma'am.

11 You may call your next witness.

12 MS. BARWICK: The State would call Dr. John Yelton to
13 the stand.

14 THE CLERK: Place your left hand on the Bible and
15 raise your right.

16 WHEREUPON,

17 JOHN RICHARD YELTON, M.D.,
18 after first having been duly sworn, testified as follows:

19 THE CLERK: Thank you.

20 Have a seat.

21 State your name for the record, please.

22 THE WITNESS: John Richard Yelton.

23 DIRECT EXAMINATION

24 BY MS. BARWICK:

25 Q Doctor Yelton --

1 A Yes, ma'am.

2 Q -- what kind of doctor are you?

3 A Pediatrician.

4 Q Where do you work?

5 A At Palmetto Pediatrics in Spartanburg, South
6 Carolina.

7 Q And how long have you been a pediatrician?

8 A 15 years.

9 Q What kind of training would you have had to become a
10 pediatrician?

11 A College, medical school, and three years residency.

12 Q Was minor a patient of yours back in 2008?

13 A Yes, ma'am.

14 Q When did he first become a patient of yours?

15 A I first saw him at the end of May of 2007.

16 Q From May of 2007 through March of 2008?

17 A Yes.

18 Q About how many visits do you think you had with
19 minor

20 A He came to our office about five times during that
21 time period.

22 Q Can you, please, tell the jury about minor 's general
23 health, and his growth, and whether that falls within
24 normal ranges or not?

25 A During that time period, again, five visits. One was

1 a 12-month well visit. And then he had --

2 MR. DEJONG: I apologize. Could we get Dr. Yelton
3 just a little bit closer to the microphone, please?

4 THE WITNESS: Five visits. One of those was a well
5 visit. Four of those were sick visits for minor
6 illnesses. During that time, he was noted to be a healthy
7 child, well within his growth parameters, developing
8 normally. And, again, he had four very minor routine
9 illnesses within that time frame.

10 BY MS. BARWICK:

11 Q Okay. And what do you mean by "minor illnesses"? If
12 you could, elaborate on that for the jury.

13 A Yes. You know, an average child in the first two
14 years of life will, typically, have between six and 10
15 minor illnesses, upper respiratory infections, cough,
16 congestion, runny nose, ear infections, minor viral
17 illnesses, rashes, things like that.

18 Q Okay. And all of those things that minor came to
19 see you for were minor?

20 A Yes, ma'am.

21 Q And what about his motor skills? How would you
22 define those for the jury?

23 A He was noted to be developing well. He was sitting,
24 rolling, babbling, jabbering, all of the things that you
25 would -- crawling, cruising, all the things you would

1 expect of a child of 12 months of age.

2 Q And at 21 months of age -- well, actually, if you
3 would, tell the jury the last time you saw minor

4 A It was the first week of March of 2008. And that was
5 for an ear infection.

6 Q Did he appear normal to you for a child his age?

7 A Yes. At that point in time, he was social,
8 interactive, and no indication of distress.

9 Q And with ear infections, is it normal procedure to
10 have them check back?

11 A Typically, for children under the age of two, we like
12 to recheck them within two to three weeks to ensure the
13 infection has resolved, since they're not speaking that
14 well and can't verbally explain what's going on. We like
15 to, actually, look and make sure that it has resolved,
16 yes, ma'am.

17 Q And that last visit, that date again?

18 A I believe it's the 8th of March, if I'm correct. I
19 apologize.

20 Q So in the beginning of March would be fair to say?

21 A That's correct, within the first 10 days of March.

22 MS. BARWICK: No further questions for the witness at
23 this time.

24 THE COURT: Mr. DeJong.

25 MR. DEJONG: Thank you, Your Honor.

1 May it please the Court.

2 CROSS-EXAMINATION

3 BY MR. DEJONG:

4 Q Dr. Yelton, you're a pediatrician?

5 A Yes, sir.

6 Q How long have you been practicing?

7 A 15 years.

8 Q And this is a dumb question, but I get to ask dumb
9 questions. You had to go to medical school to be a
10 pediatrician; right?

11 A Yes, sir.

12 Q And is your specialty in pediatrics?

13 A Yes, sir.

14 Q So you saw minor from May of 2007 through
15 March of 2008; correct?

16 A Yes, sir.

17 Q And if I understood you correctly, one was a well
18 visit and four sick visits?

19 A Yes, sir.

20 Q Do you recall what the sick visits were for?

21 A Three were for ear infections. One was for pink eye,
22 and one was for mosquito bites, and a yeast diaper
23 infection.

24 Q A what?

25 A A yeast diaper infection.

1 Q All right. And yeast diaper infections are not
2 unusual in children, are they?

3 A No, sir.

4 Q Either in summertime or wintertime?

5 A That's correct.

6 Q And sometimes the wintertime, I guess, could be worse
7 because they're closed up more; right?

8 A It depends.

9 Q And it's, certainly, not unusual for a 21-month-old
10 child to have, as I believe you said, congestion problems,
11 upper respiratory problems; correct?

12 A Correct.

13 Q They need treatment, but, it's, certainly, not life
14 threatening; correct?

15 A Correct.

16 Q Now, as a pediatrician, Dr. Yelton, have you ever
17 dealt with any overdoses in children?

18 A When you say "dealt with" --

19 Q Pardon me?

20 A When you say "dealt with," do you mean within a
21 hospital setting?

22 Q Yes, a hospital setting, or whatever?

23 A Yes, sir.

24 Q Are you familiar with hydrocodone?

25 A Yes, sir.

1 Q Do you know what the peak time of hydrocodone is from
2 ingestion until its peak time?

3 That question was not very clear --

4 MS. BARWICK: Judge, I'm going to object at this
5 time. This witness is not a toxicologist, nor has he been
6 qualified as an expert in such.

7 MR. DEJONG: Well, I think, Your Honor, he's a
8 medical doctor. If he's familiar with it, he can answer
9 the question. If he doesn't know, he doesn't know.

10 THE COURT: Well, you can ask him some more questions
11 to lay a foundation and attempt to have him qualified, if
12 you wish to, sir.

13 MR. DEJONG: Okay.

14 BY MR. DEJONG:

15 Q So where did you go to medical school?

16 A The University of South Carolina.

17 Q All right. Where did you do your residency?

18 A I started at the University of Tennessee. And then I
19 served for three years in Germany before returning and
20 finishing at Brook Army Medical Center in San Antonio,
21 Texas.

22 Q And your residency, was that in pediatrics or --

23 A Yes, sir, pediatrics.

24 Q In medical school, did you study drugs, drug
25 interactions, overdoses, and that type of thing?

1 A Yes, sir.

2 Q All right. And I believe you have just indicated
3 that you have dealt with those issues in the past;
4 correct?

5 A Yes, sir.

6 Q With children?

7 A Correct.

8 MR. DEJONG: I'd offer him as an expert, Your Honor.

9 THE COURT: In what particular field?

10 MR. DEJONG: Pediatric medicine.

11 The Solicitor has raised the point that he's not a
12 toxicologist. I'm not asking him about toxicology. That
13 would be going into the blood in this case. And I'm not
14 going into that. I just want to ask him about what his
15 knowledge of overdoses in children is.

16 THE COURT: Any voir dire by the State at this
17 juncture?

18 VOIR DIRE EXAMINATION

19 BY MS. BARWICK:

20 Q Dr. Yelton, do you have any particularized training
21 in the half lives and -- hydrocodone half lives in
22 children?

23 A No, ma'am.

24 Q Do you have any special training in the Tussionex
25 half life in children?

1 A I do not prescribe that medication.

2 Q Okay. You said you don't prescribe that medication.
3 How come?

4 A Because of the side effects.

5 MR. DEJONG: Your Honor, I thought she was
6 qualifying. I don't think that's a qualifying question.

7 THE COURT: Okay. I agree.

8 BY MS. BARWICK:

9 Q Do you provide hydrocodone to children, Doctor?

10 A Not on any sort of routine basis.

11 Q Okay. What kind of -- what is the specialty for
12 determining the half life of a child -- or the half life
13 of those types of substances in a child? What's that
14 specialty called?

15 A Pharmacologists do that oftentimes, which are PhD's
16 in pharmacy medicine. But there are truly medical doctors
17 that are, also, toxicologists.

18 Q So are you a toxicologist?

19 A No, ma'am.

20 MS. BARWICK: No further questions, Your Honor.

21 THE COURT: All right.

22 MR. DEJONG: I move that he be qualified as an
23 expert, Your Honor, not in toxicology, but in medicine.

24 THE COURT: All right. Well, he's qualified as a --
25 what you've presented him as.

1 So you can go ahead.

2 RECROSS-EXAMINATION

3 BY MR. DEJONG:

4 Q Well, let's not talk about half lives. Let's just
5 talk about drug times. Given a 21-month-old that ingested
6 hydrocodone to the point of overdose, what would be, if
7 you know, the time that you would see the effects of the
8 overdose?

9 A Again, I think that would be highly variable based on
10 if the child was fed, if their stomach was full, if they
11 were taking any other concomitant medications at the time.
12 All of those things can interact or interfere with
13 absorption of the medicine and its peak onset of action.

14 Typically, if you're looking at hydrocodone dosing,
15 it's usually administered about every six to eight hours,
16 according to routine oral dosing as an outpatient if it's
17 being given for pain.

18 Q Okay. One dose, a large dose, would you see the
19 effects of that prior to 12 hours after the dose was
20 given?

21 A I do not know.

22 Q Pardon?

23 A I do not know.

24 MR. DEJONG: Okay. Very good.

25 The witness is with you, Mr. O'Connell.

1 MR. O'CONNELL: Thank you.

2 CROSS-EXAMINATION

3 BY MR. O'CONNELL:

4 Q Doctor, I don't move around so well, so I'll ask you
5 from over here.

6 A That's fine.

7 Q This yeast infection that you said -- generally
8 speaking, what is the term that it goes? How does it
9 start, and how long would it take to manifest?

10 A It can develop over a matter of two to three days.
11 Typically, it starts out as a typical erosive-type diaper
12 rash, just from irritation from feces and urine. And then
13 that gets secondarily infected with yeast.

14 So they, typically, evolve over two to five days.
15 And treated with topical antifungal creams, they usually
16 resolve within five to seven days. But treatments
17 continue for a full two weeks.

18 Q Is it treated with an antibiotic sometimes?

19 A No. It's, actually, induced by antibiotics. And if
20 I'm correct, he had been on an oral antibiotic for an ear
21 infection that probably predisposed him to developing a
22 yeast infection.

23 Q And if the child had been just laying in a crib for,
24 at least, 12 hours, could it start to manifest the yeast
25 infection, and to what degree?

1 A Typically, I don't think the yeast develops that
2 quickly. Again, the child sitting in a soiled diaper can
3 start to cause breakdown of the skin. And that serves as
4 an entry point for the yeast to secondarily infect it.

5 MR. O'CONNELL: That's all I have at this time.

6 Thank you very much.

7 MR. HARBIN: May it please the Court.

8 THE COURT: Mr. Harbin.

9 CROSS-EXAMINATION

10 BY MR. HARBIN:

11 Q Doctor, just a couple of quick questions. Is it fair
12 to say that an overdose, in this case, of hydrocodone, a
13 drug intended for adult use, if I'm correct, is it fair to
14 say there's very little reliable data as to how that would
15 effect a small child in this case?

16 A No. I think there's decent data. I mean, the data
17 would tell you to be cautious with its use. And that's
18 the main reason I do not prescribe it.

19 Q Is it an overstatement to say that it's potentially
20 dangerous to use it with a small child?

21 A Absolutely.

22 Q Okay. And -- well, it is or is not an overstatement
23 to say that, or it is dangerous?

24 A It is dangerous.

25 Q Got you. And, as a doctor -- and, certainly, not

1 necessarily an expert, just as a doctor, are you familiar
2 with Tussionex?

3 A Yes. I was in the Army for several years, so I had
4 to take care of older soldiers, so, yes.

5 Q And Tussionex has hydrocodone in it; is that correct?

6 A Correct.

7 Q Lortab has hydrocodone in it as well; is that
8 correct?

9 A That is correct.

10 Q Can you tell the Court the difference in the release
11 times for the hydrocodone found in Tussionex versus
12 Lortab, as you understand?

13 A I do not know.

14 MR. HARBIN: Thank you.

15 No further questions.

16 THE COURT: Redirect.

17 MS. BARWICK: Thank you, Your Honor.

18 REDIRECT EXAMINATION

19 BY MS. BARWICK:

20 Q You said you don't prescribe Tussionex for children,
21 why is that?

22 A Because of its dangers.

23 MS. BARWICK: No further questions.

24 THE COURT: Recross?

25 MR. O'CONNELL: Nothing from us, Your Honor.

1 THE COURT: All right. Thank you, Doctor.

2 You may call your next witness.

3 MS. BARWICK: The State would call Rhonda Whitaker to
4 the stand.

5 THE CLERK: Place your left hand on the Bible and
6 raise your right hand.

7 WHEREUPON,

8 RHONDA WHITAKER,
9 after first having been duly sworn, testified as follows:

10 THE CLERK: Thank you, ma'am.

11 If you'll have a seat.

12 And state your name for the record, please.

13 THE WITNESS: Rhonda Whitaker.

14 DIRECT EXAMINATION

15 BY MS. BARWICK:

16 Q Ms. Whitaker, how are you today?

17 A I'm good.

18 Q Good. Where do you work?

19 A At the Pickens County Sheriff's Office.

20 Q And how long have you worked there?

21 A 26 years.

22 Q What do you do there?

23 A I'm a communications specialist supervisor.

24 Q What does that mean?

25 A I work in the 911 dispatch center, which is a

1 combined center of law enforcement and EMS.

2 Q So law enforcement and EMS?

3 A Uh-huh.

4 Q And rescue?

5 A Uh-huh, and fire.

6 Q And fire. What are your duties there? What do you,
7 actually, do?

8 A Well, we take all the 911 calls within the county.
9 And we dispatch officers, EMS personnel, fire personnel,
10 rescue, whatever is needed.

11 Q Okay. Did you -- did 911 get a call on March 17th
12 from -- of 2008, from Latasha Honeycutt's house?

13 A Yes, ma'am.

14 Q Do you recognize these documents?

15 A I do.

16 Q And what are those?

17 A These are CAD sheets. And these are created when we
18 receive any type of call, whether it be emergent or
19 nonemergent. And it's the documentation.

20 Q Is that kept in the normal course of 911 business?
21 Is it a business record?

22 A Yes, it is.

23 Q And you said it's a CAD sheet. What does CAD stand
24 for?

25 A Computer-aided dispatch.

1 Q And those sheets I showed to you, were those the CAD
2 sheets from the call involving minor on the 17th
3 of March?

4 A Yes.

5 Q And there are two of them. What's the first one?

6 A The first one was the EMS CAD sheet, which is --
7 which was initiated as soon as the call was received.

8 Q Yes, ma'am.

9 A And the second was for law enforcement to respond.

10 MS. BARWICK: Your Honor, at this time, the State
11 would like to introduce State's Exhibit Nos. 16 and 17
12 into evidence.

13 MR. HARBIN: No objection, Judge.

14 MR. O'CONNELL: No objection from us.

15 MR. DEJONG: No objection.

16 THE COURT: All right. They're in evidence.

17 (WHEREUPON, State's Exhibit Nos. 16 and 17 were
18 admitted into evidence.)

19 BY MS. BARWICK:

20 Q All right. Now, Ms. Whitaker, I'm going to need you
21 to teach both myself and the jury what these sheets,
22 actually, mean.

23 A Okay.

24 Q Things are, actually, done in code down there?

25 A Correct.

1 Q Let's see if I can't make this bigger for you. What
2 time was 911 called?

3 A The call came in at 11:15.

4 Q And I don't --

5 A It says, Incoming call. That's the time we received
6 the call.

7 Q Right there?

8 A Correct.

9 Q So 11:15:44?

10 A Yes.

11 Q And does this form show who created the call?

12 A Yes, Officer Jaynes -- I'm sorry, Operator Jaynes.

13 Q All right.

14 A He was signed on to take the call.

15 Q And is this the EMS CAD sheet you were talking about,
16 or is this the law enforcement CAD sheet?

17 A That's the EMS CAD sheet.

18 Q I'm afraid in trying to make it bigger, it makes it
19 where you can't see everything. So if I need to adjust
20 this, just let me know.

21 A Okay.

22 Q What time did the first EMS worker arrive?

23 A Can you enlarge it just a little bit?

24 Q Yes, ma'am.

25 A It would be medic one. And it -- in the third column

1 from the left, it says, 1023.

2 Q What does 1023 --

3 A 1023 means on scene. And that's the time, at 11:25.

4 Q That's when the first emergency worker would have
5 arrived at the residence?

6 A Correct.

7 Q What does this line mean, 1017?

8 A 1017 means they're -- that particular truck is en
9 route. And then in that remark, it tells us where they're
10 going and what the out code and out signal are.

11 Q Do you know where they were going, according to this?

12 A I do, to Palmetto Health Baptist in Easley.

13 Q Can you tell when -- which line would indicate when
14 they, actually, arrived at Palmetto Health?

15 A The next one down where it's 10-6. And that would be
16 at 11:40.

17 Q At 11:40?

18 A Uh-huh.

19 Q Okay. And this next sheet, would this be the law
20 enforcement one you were talking about? Let me zoom out
21 so you can see it.

22 A Yes.

23 Q Okay. What time did law enforcement arrive on scene?

24 A I can't see that far.

25 Q Well, me neither.

1 A The first unit was that second documented at 11:35.

2 Is that --

3 Q Because 1023 means what?

4 A 1023, yes, ma'am. 11:35.

5 Q And 1023 means what again?

6 A On scene.

7 Q Okay. Do you recognize this CD?

8 A Yes.

9 Q And what is that a CD of?

10 A This is a CD of the 911 call we received.

11 Q And have you listened to that CD?

12 A I have.

13 Q Does that clearly and accurately depict the 911 call
14 that came in that day?

15 A It does.

16 Q And how do you know that?

17 A I listened to it. And I was, also, there and I
18 initialed the CD.

19 Q And you initialed the CD indicating --

20 A I did.

21 MR. DEJONG: Without objection on behalf of
22 Mr. Morris.

23 MR. O'CONNELL: We don't object, Your Honor.

24 MR. HARBIN: No objection, Judge.

25 THE COURT: It's in evidence.

1 MS. BARWICK: That's State's Exhibit No. 31, Your
2 Honor.

3 (WHEREUPON, State's Exhibit No. 31 was admitted into
4 evidence.)

5 MS. BARWICK: Your Honor, at this time, the State
6 would request permission to publish the CD to the jury.

7 THE COURT: Yes, ma'am.

8 MR. DEJONG: Your Honor, may I move over in the
9 corner so I can hear a little better?

10 THE COURT: Yes, sir.

11 MR. DEJONG: Thank you.

12 (WHEREUPON, State's Exhibit No. 31 was played in open
13 court.)

14 MS. BARWICK: No further questions at this time.

15 THE COURT: Mr. DeJong.

16 MR. DEJONG: Thank you, Your Honor.

17 I'm looking for CAD sheets.

18 CROSS-EXAMINATION

19 BY MR. DEJONG:

20 Q Ms. Whitaker, State's Exhibit No. 17, that says
21 Pickens County LEC, that would be the initial 911 report
22 to law enforcement; is that correct?

23 A Yes.

24 Q And if you need to look at these, please, let me
25 know. Okay.

1 A Okay.

2 Q Now, the computer -- well, the times. Do you punch
3 in the times, or does the computer automatically --

4 A The computer automatically --

5 Q Put in the date --

6 A -- stamps. It does date and time stamp.

7 Q Okay. So on what's been marked as State's Exhibit
8 No. 17, if I may show you that, please, ma'am.

9 Now, that is the initial call; is that correct, or is
10 that the EMS call?

11 A This is the law call. That would be the EMS call,
12 that one was created first.

13 Q This was created first?

14 A Yes.

15 Q So that's State's Exhibit No. 16. So on State's
16 Exhibit No. 16, the -- where the call, actually, came in,
17 that call came in at 11:15 in the morning?

18 A Correct.

19 Q And then, I gather, while looking at both
20 State's Exhibit Nos. 16 and 17, EMS was immediately
21 dispatched?

22 A Correct.

23 Q Okay. Now, EMS arrived -- well, can you look at
24 those documents, Ms. Whitaker, and tell me, did EMS arrive
25 before law enforcement, or how did that work?

1 A Let me look at the times.

2 Q If you can tell from that.

3 A Yes, EMS arrived first.

4 Q And what time did EMS arrive?

5 A 11:23 -- correction 11:25.

6 Q 11:25 in the morning on March the 17th?

7 A Yes, sir.

8 Q Okay. What time did law enforcement arrive?

9 A 11:35.

10 MR. DEJONG: The witness is with you, Mr. O'Connell.

11 MR. O'CONNELL: Thank you.

12 CROSS-EXAMINATION

13 BY MR. O'CONNELL:

14 Q Young lady, did you hear the tape that was just
15 played?

16 A Uh-huh.

17 Q Did Brandon Roper say on that tape, This can't be
18 happening again? Did you hear that?

19 A I can't say that I heard that. I couldn't really
20 hear it well from in here, but I don't recall.

21 MR. O'CONNELL: Okay. Thank you.

22 I have no further questions of the witness.

23 MR. HARBIN: No questions, Judge.

24 THE COURT: Any redirect?

25 MS. BARWICK: No, sir, Your Honor.

1 THE COURT: All right. Thank you, ma'am.

2 You're excused.

3 MR. RICHARDSON: Your Honor, may we approach?

4 THE COURT: Sure.

5 (WHEREUPON, a bench conference was held.)

6 THE COURT: Ladies and gentlemen, we're going to take
7 a short recess, about 10 minutes. Don't talk about the
8 case. And continue to keep an open mind.

9 Thank you very much.

10 (WHEREUPON, the jury was excused from open court at
11 approximately 10:10 a.m.)

12 (WHEREUPON, a break was taken.)

13 THE COURT: Anything before I bring the jury back in?

14 MR. HARBIN: No, Your Honor.

15 MR. DEJONG: Nothing on behalf of Defendant Morris,
16 Your Honor.

17 MR. O'CONNELL: No, Your Honor.

18 THE COURT: Bring the jury in, please.

19 (WHEREUPON, the jury came into open court at
20 approximately 10:22 a.m.)

21 THE COURT: The State may call its next witness.

22 MS. BARWICK: Your Honor, the State would call Julie
23 Sailors to the stand.

24 THE CLERK: Place your left hand on the Bible and
25 raise your right hand.

1 WHEREUPON,

2 JULIE SAILORS,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 If you would, have a seat.

6 And state your name for the record.

7 THE WITNESS: Julie Sailors.

8 DIRECT EXAMINATION

9 BY MS. BARWICK:

10 Q Ms. Sailors, where do you work?

11 A Pickens County EMS emergency room service.

12 Q How long have you been doing that?

13 A 15 years now.

14 Q Are you a paramedic?

15 A Yes, paramedic and EMS manager now.

16 Q Back in 2008, were you the same, or different?

17 A I was a paramedic, yes.

18 Q What were your duties as a paramedic?

19 A Well, of course, our first duty is to respond to
20 calls of the citizens of Pickens County, and to help save
21 lives.

22 Q Back on March 17th of 2008, did you respond to a
23 phone call in regards to minor

24 A Yes, I did.

25 Q How well do you remember that?

1 A Parts of it sketchy, other parts, I'll never forget.

2 Q Well, let's talk about the parts you'll never forget.
3 When you got to the scene, what did you see?

4 A We arrived on scene at the mobile home, the last
5 mobile home on the left. The mother was on the front
6 porch talking on the phone waving us down.

7 Q Was she doing anything else on the porch?

8 A Not that I recall.

9 Q It sounded like -- were you in here when the 911 tape
10 got played just now?

11 A Yes.

12 Q It sounded like there was some confusion as to where
13 the address was. Can you tell the jury about that?

14 A We were dispatched to, I believe, [REDACTED] Old Saw Mill
15 Road in Pickens.

16 Q Yes, ma'am.

17 A And the location of the call was, actually, a mobile
18 home community, left off of Brayden Drive, off of that
19 road.

20 Q Latasha Honeycutt's residence, is that in Pickens
21 County?

22 A Yes.

23 Q When you got there, and you said Ms. Honeycutt was on
24 the porch, what else did you see?

25 A As far as outside?

1 Q Yes. Did you see anything else worth noting on the
2 outside?

3 A Not that I could say at this time, no.

4 Q When -- tell me, and tell the jury what happened
5 after that point when you arrived.

6 A We're in gear mode. We're pumped, and pumped. We're
7 dispatched to a call of a child not breathing. Those are
8 the calls -- the nightmare calls that we absolutely do not
9 like to run up.

10 So we're ready, and we go in there. We walk in the
11 door, my partner and I, and immediately stopped in the
12 doorway, just right inside the doorway. And there's an
13 infant in a swing, jumpy thing, some little play thing.
14 And just eyes open, very alert. And I thought, whew, we
15 had an overreactive parent, everything is fine. This is
16 not a child not breathing. And a voice from behind us
17 said, No, he's in there. And she pointed around.

18 Q Whose voice was that?

19 A The mother's.

20 Q Okay.

21 A And we turned and looked to the right. We started
22 easing down that hallway. And we immediately saw him.

23 Q Okay. And where was the child?

24 A He was laying on the floor just inside the door, all
25 alone, cold, not breathing, no pulse, just laying there.

1 Q And he was laying -- was this in a bedroom, or where
2 was this?

3 A It appeared to be a child's room, yes.

4 Q Was there a crib in there?

5 A Yes.

6 Q And when you saw minor laying like that on the
7 floor, what did you do?

8 A My partner immediately scooped him up and started out
9 the door. I called the mom, as we were going out the
10 door, to start asking some questions. We start working,
11 usually, with calls like that in the back of the truck as
12 quickly as we possibly can to get them to the hospital.

13 Q And what kind of questions were you asking of the
14 mother?

15 A The typical questions of, what's going on? What --
16 When was the last time you saw the child awake? She
17 proceeded to tell me that the child had had a cold. That
18 question led into, Have you given the child any medicines?
19 Again, When did you see the child awake?

20 She kept giving me not clear answers. That's the
21 best way I could put it. They were back and forth, Well,
22 I -- you know, we gave him something for his cold.

23 And I said, Okay. Well, what did you give him?

24 Oh, no, I didn't, his dad did.

25 When did he -- you know, she said, We just got him

1 back.

2 And I said, Okay. What time was that?

3 Early this morning.

4 So what time early this morning? So that would give
5 me a time frame of how long the child would have been
6 dead.

7 And then that ended up being, No, that was last
8 night.

9 And I said, Okay. So you haven't seen your child
10 since you put the child in bed last night?

11 And she said, Yes, that is correct.

12 And so you found him like this?

13 And she said, Yes, that is correct.

14 And I said, Do you -- you didn't ever go in and check
15 on the child, or anything like that?

16 And she said, No.

17 And I guess I had that look of, really? It's been
18 that long? He's sick.

19 And she said, Well, I did go and change his diaper.

20 And I said, Oh, okay, about what time was that?

21 And she said, Two hours.

22 And I said, Okay. And by that time -- that seems all
23 very slow, but it was a lot faster than that.

24 Q When you said she said she had changed the diaper
25 about two hours ago, about two hours from the point you

1 got there?

2 A Uh-huh.

3 Q When you started getting these kinds of answers from
4 the mother, what did you do at that point?

5 A I knew that my general answer to the hospital --
6 because we have to report these things to the hospital --
7 was I have a child down, unknown down time. We just could
8 not get specifics of when the last time that this child --
9 it was incredible as far as the probability of it. We --
10 I just couldn't use any of it. It was too sketchy.

11 Q Well, let me ask you this question. When you left
12 the scene, where did you and your partner go to?

13 A Palmetto Health Baptist Easley.

14 Q And minor was in -- is it an ambulance? Is it a
15 rescue truck, or what is it?

16 A No. He was in an ambulance.

17 Q And did the mother go with you to the hospital?

18 A I never saw the mother after I left the porch.

19 Q Did she ask to go to the hospital with you?

20 A No.

21 Q You said you were a paramedic for 15 years?

22 A Yes.

23 Q Or you've been a paramedic for 15 years. If you had
24 to estimate, how many of these types of cases of a young
25 child being in critical condition have you responded to?

1 A Unfortunately, less than 20 -- around 20, give or
2 take a few. But they're unfortunate cases.

3 Q And, normally, when you respond to these calls, when
4 you arrive on scene, what is it that's happening? What
5 are the parents doing?

6 A Very hysterical, screaming, crying. At some points
7 in time, they're refusing to give us the child. And
8 they're taking off, or they're jumping in the ambulance
9 with the child and we're supposed to follow them. All
10 kinds of things, I've seen. I've seen parents try to lift
11 a car up, I mean, off their child. You see this natural
12 instinct of mother, father, it doesn't matter, kick in and
13 it's just...

14 Q All right. When you got into the house, where was
15 Latasha Honeycutt when you entered the trailer?

16 A Outside on the porch.

17 Q Where was the other male in the residence when you
18 got there?

19 A When I first walked in the door and I -- immediately,
20 the first thing I saw was the baby, I believe, known as
21 Ava. And he was -- the male subject was to the left side.
22 And he was gathering stuff off the table. I didn't pay
23 him any more attention after that.

24 Q Okay. So, say, I'm walking into the mobile home,
25 where would minor be?

1 A Straight in front of you.

2 Q minor or Ava?

3 A Oh, I'm sorry.

4 Q I'm sorry. I'll clarify my question. When I walk in
5 this mobile home, where is the healthy baby?

6 A Ava, she's straight in front of you.

7 Q Where is the unhealthy baby?

8 A To the right down the hallway.

9 Q And where is the male subject?

10 A To the left.

11 Q Over here?

12 A Uh-huh.

13 Q And the mother is still outside behind you?

14 A Yes.

15 MS. BARWICK: No further questions at this time.

16 THE WITNESS: Sure.

17 THE COURT: Cross-examination.

18 MR. DEJONG: Thank you, Your Honor.

19 May it please the Court.

20 CROSS-EXAMINATION

21 BY MR. DEJONG:

22 Q So, Ms. Sailors, are you familiar with CAD reports?

23 A Yes, I am.

24 Q All right. I get a little confused on these, so I'm
25 going to show them both to you.

1 A Okay.

2 Q These are two CAD reports that have been introduced
3 by the State. That would be State's Exhibit Nos. 16 and
4 17. I would ask you to look at them.

5 Which one of those is your report, EMS's report?

6 A This one.

7 Q And that would be State's Exhibit? If you will, just
8 look down at that little sticker.

9 A Let me just make sure. My first -- second glance is
10 this one.

11 Q You take your time.

12 A That's fine.

13 Q I'm sorry. Are you handing that one back to me?

14 A That one is ours.

15 Q So your report -- and I'm sorry to get so close to
16 you. But your report is what has been marked as State's
17 Exhibit No. 17; is that correct?

18 A It's been marked as mine?

19 Q If you'll look at the little sticker down at the
20 bottom.

21 A Okay. State's Exhibit No. 17.

22 Q So the call -- you got the call at what time? You
23 were dispatched -- well, the difference -- is there a
24 difference between the time you get a call and the time
25 you're, actually, dispatched? Does that make sense to

1 you?

2 A I'm sorry. Can you repeat? I was looking at that.

3 Q I apologize to you.

4 A That's okay.

5 Q Is there a difference between the time you get a call
6 and the time you're, actually, dispatched and get into
7 movement? Does that make sense?

8 A Yes. The call is received.

9 Q Yes, ma'am.

10 A That's when the 911 call comes into the dispatch.

11 The call is then dispatched --

12 Q Excuse me. I don't mean to interrupt you. If we can
13 take this one step at a time.

14 A Sure.

15 Q Okay. What time was the call received?

16 A Looking at these CAD reports, these aren't the same
17 CAD reports that, honestly, we get in EMS. When you say
18 are you familiar with CAD reports, I say, yes, sure.
19 These are separate. These look different than our CAD
20 reports.

21 Q So those are generated by law enforcement?

22 A Okay.

23 Q EMS, actually, generates their own; right?

24 A I have one specially done for my records, or for my
25 manager records.

1 Q Do you have your records with you?

2 A No, I do not. But I usually can look off of theirs.

3 Q Okay. As best you can tell, what time did y'all,
4 actually, leave to go to -- I guess Old Saw Mill Road;
5 right?

6 A I don't think these are my call.

7 Q Would the other one help you maybe?

8 A Yes.

9 Q I'll give it back to you.

10 A Yes.

11 Q Let's take a look at that one and see if that helps
12 you any, or if you have your records --

13 A Yes, I do.

14 Q You can look at your records.

15 A There we go. All right. We received the call at
16 11:15.

17 Q 11:15 on the morning of March the 17th?

18 A Uh-huh.

19 Q All right. And then you received the call, then you
20 dispatch?

21 A Uh-huh.

22 Q Or you, actually, get moving. What time do you,
23 actually, get moving?

24 A One minute later, 11:16.

25 Q Okay. One minute later. Pretty fast. Now, I'm

1 confused about something.

2 A Sure.

3 Q But maybe I misunderstood you. But if I understood
4 you correctly, there was some confusion over the address
5 you were responding to; is that correct?

6 A Yes. That is correct.

7 Q And if I understood you correctly, you said the 911
8 call came from a different place?

9 A No. I can't say where the 911 call came from. That
10 would be from the dispatcher. The dispatch -- we were
11 dispatched to [REDACTED] Old Saw Mill Road.

12 Q Okay. So you get there at what time?

13 A We arrive on scene at 11:25.

14 Q And that's at [REDACTED] Old Saw Mill Road?

15 A No, sir.

16 Q I'm sorry. I misunderstood you. Where did you get
17 to at 11:25?

18 A At Brayden.

19 Q I'm sorry.

20 A At Brayden Drive, the last trailer on the left.

21 Q Oh, okay. That's -- what's the connection, if you
22 know, between [REDACTED] Old Saw Mill Road and Brayden Drive?

23 A I personally do not know the connection between

24 that -- I do know that we were heading on [REDACTED] --

25 towards -- we were on Old Saw Mill Road headed towards [REDACTED]

1 when my partner looked to the left and saw a female
2 subject doing the wave.

3 Q Okay.

4 A And he says, Could that be it? And I think he
5 questioned dispatch at that time.

6 Q Okay. So you had to call back to dispatch at that
7 point in time?

8 A We was already backing up.

9 Q All right. So if I understand then, is Brayden Drive
10 off of Old Saw Mill Road?

11 A It's just right there.

12 Q All right. Now, you get there and the mother is --
13 did you identify her as the mother?

14 A No. She was a female subject --

15 Q A female subject. At any point -- I'm sorry. I
16 didn't mean to cut you off.

17 A That's okay.

18 Q At any point in time, did you identify her as the
19 mother of the child?

20 A Yes. She did say she was the mom.

21 Q Okay. So when you went -- were dispatched to either
22 Old Saw Mill Road or Brayden Drive, wherever it was, there
23 were two of you in the ambulance, I gather?

24 A Yes, there are.

25 Q Pardon me? .

1 A Yes, always.

2 Q And were you driving, or was your partner driving?

3 A My partner was driving.

4 Q Okay. So you're the first one out of the ambulance?

5 A Yes.

6 Q And when we say ambulance, y'all kind of drive these
7 truck things, but we still call them ambulances?

8 A Yes.

9 Q So you're the first one that gets out of the
10 ambulance, and you go to the porch?

11 A Yes.

12 Q Okay. Now, this is a mobile home; correct?

13 A Brayden Drive?

14 Q Yes, ma'am.

15 A It's a mobile home, yes.

16 Q Okay. And so there, obviously, is a porch on this
17 particular house, if I understand it correctly?

18 A Yes. There was a porch, just like a stoop porch.

19 Q Okay. Now, are there other -- were there other
20 mobile homes around there?

21 A Yes.

22 Q Okay. I want to get a little clearer picture, if I
23 can, Ms. Sailors.

24 A Sure.

25 Q When you pulled the ambulance into the driveway --

1 when you pulled in, I gather Old Saw Mill -- is it like a
2 fork in the road, or is Brayden just a right or a left off
3 of Old Saw Mill?

4 A Just a left.

5 Q So let's say this is Old Saw Mill down here. And if
6 you can't see --

7 A I can.

8 Q -- let me know. It's hard to get where everybody can
9 see. So if it was to the left, I guess we're back up in
10 here; correct?

11 A Yes.

12 Q Now, how far off of Old Saw Mill, if you know, a best
13 guess, was this mobile home?

14 A I'm not very good with distance.

15 Q Okay. That's fair enough.

16 A But there was, at least, probably two to three
17 trailers prior to.

18 Q So one, two, three, and then somewhere back up in
19 here?

20 A I know it was the last one.

21 Q Okay. Now, that trailer, was that porch facing the
22 driveway you pulled the ambulance up into?

23 A If you take Old Saw Mill Road and take Brayden Drive,
24 you would pull straight up.

25 Q So, really, the last trailer would be kind of more

1 like that where --

2 A No. They were -- to me, we pulled up to the last
3 trailer on that left.

4 Q On this left?

5 A Uh-huh.

6 Q So somewhere over here. So you pulled straight up to
7 this trailer?

8 A Uh-huh.

9 Q Now, the front of the trailer, was it facing where
10 you pulled up?

11 A Yes.

12 Q Okay. So you were, actually, looking at the porch
13 when you pulled up?

14 A Yes.

15 Q Now, at any time, did you see Latasha Honeycutt any
16 place in the driveway or any place -- did you see her any
17 place other than the front porch as you were arriving?

18 A I do not know.

19 Q Now, you immediately go into the trailer?

20 A Yes.

21 Q Does Ms. Honeycutt follow you into the trailer?

22 A I'm sure she probably -- she may have tried. We
23 immediately followed into the trailer. And, as soon as we
24 stepped into that front door of the trailer, we were
25 inside. We immediately stopped because of the child right

1 there in the swing.

2 Q Okay. So you come in the front door of the trailer;
3 correct? Now, do you recall what kind of room that was?
4 I'm not saying the door is located properly where I put
5 the two slash marks, but you went in the front door?

6 A Uh-huh.

7 Q Do you know the room you went into when you went into
8 that front door?

9 A It appeared to be set up as a living room.

10 Q A living room?

11 A Uh-huh.

12 Q Do you recall if the kitchen was to the left, or the
13 right?

14 A To the left, I believe.

15 Q To the left?

16 A Uh-huh.

17 Q So you walk into a living room, and the kitchen would
18 be off to the left.

19 Now, as I understand it, the bedroom you were talking
20 about where this child was was off to the right?

21 A It was. It was to the right.

22 Q So there's, basically, a hallway that went down here
23 and --

24 A That way.

25 Q More over here?

1 A To the right.

2 Q Okay. The bedroom was to the left?

3 A No. The bedroom was to the right.

4 Q Okay. But there was a hallway going down to the
5 bedroom is my question. Do you remember?

6 A If it was, it was very slight. It wasn't nothing.

7 Q And maybe to help out a little bit, was this a
8 single-wide trailer, double-wide trailer, or do you
9 recall?

10 A Yes. It was a single wide.

11 Q So when you get there, there's an infant in a swing?

12 A Uh-huh, in the front door.

13 Q And was that in this, basically, living room area?

14 A Yes.

15 Q Okay. And did -- well, then you had to ask a
16 question where the child was. Because you, initially,
17 thought the child was the one in the swing; right?

18 A Uh-huh.

19 Q So then somebody from behind you says what now?

20 A He's over there to the right.

21 Q Okay. And do you immediately go there?

22 A Yes. We immediately turn and go to the right.

23 Q Okay. Was anyone with the child?

24 A (Witness shook head.)

25 Q Was anyone attempting to do CPR on the child?

1 A (Witness shook head.)

2 Q Okay. Was the child in the crib, or on the floor?

3 A He was on the floor.

4 Q Let me borrow this.

5 Do you need a Kleenex, ma'am?

6 A He was on the floor.

7 Q At that point in time, did you -- well, let me back
8 up a little bit. Now, there was another male that was
9 present when you arrived, I gather -- not another male, a
10 male?

11 A There was a male subject on the scene, yes.

12 Q Okay. And, as I understood your testimony, the male
13 subject would have been more in the kitchen area?

14 A Yes. He was more towards the left area in between
15 the living room and the -- he was just -- in my visual, he
16 was just over there and he was getting stuff up.

17 Q Do you know what he was getting up, like off of a
18 coffee table, a counter?

19 A Yes, sir.

20 Q I asked two questions there, so I'm not sure what the
21 yes, sir is.

22 A Off of a table.

23 Q A table?

24 A Uh-huh.

25 Q Like a dinette table?

1 A I can't be more specific. I'm sorry. It was a
2 table.

3 Q That's all right. But, nonetheless, he was somewhere
4 kind of between the kitchen and the living room cleaning
5 stuff off of a table?

6 A Uh-huh.

7 Q And you don't know what he was cleaning off?

8 A Huh-uh.

9 Q So now -- and, of course, it all happened much more
10 quickly than this, I understand?

11 A Yes, it does.

12 Q But, now, you go back to the bedroom on the right?

13 A Uh-huh.

14 Q When you get back to the bedroom on the right, you
15 find this child?

16 A Uh-huh.

17 Q Was the child breathing?

18 A No, sir. The child was not breathing.

19 Q Did it have a pulse?

20 A No.

21 Q As a technician -- realizing you're not a doctor, and
22 I don't mean that demeaning.

23 A I understand that completely.

24 Q But, be that as it may, could you tell how long the
25 child had not been breathing, based on the condition of

1 the child when you found the child?

2 A I could tell the child couldn't have been breathing
3 for a while, because the skin was blue. When you hold
4 your breath -- if you hold your breath, you start to turn
5 blue. And you start to turn purple just after a few
6 minutes.

7 Q Okay. Was the child turning blue?

8 A The child was blue, very blue.

9 Q Did you get a pulse before you left Brayden Drive?

10 A Get a pulse, no.

11 Q Okay. So you then immediately rush him to?

12 A Baptist Easley.

13 Q And if you know, and if you need to look at your
14 note, what time did you leave Brayden Drive?

15 A Sure. We departed the scene at 11:34.

16 Q And arrived at Easley Baptist?

17 A Six minutes later, at 11:40.

18 Q When you transport a child -- I guess the word -- I'm
19 not sure I'm asking the right word. Is it permissible for
20 a parent to ride in the ambulance with the child?

21 A Our county policy states that if it is appropriate,
22 we can have riders in the ambulance, if there are no other
23 concerns. Especially with children, again, I know being a
24 mother, I would want to ride. We do allow it, especially
25 they can ride in the front seat. It just depends. If we

1 need -- sometimes, having a mother in the backseat to calm
2 a crying baby does the baby more good, so.

3 Q And -- I'm sorry, ma'am.

4 A Sure.

5 Q I didn't mean to cut you off. I jump the gun
6 sometimes. In this case, did the mother ask to ride in
7 the ambulance with you?

8 A Once I went to the ambulance, I never saw the mother
9 again, so, no.

10 Q So you go back to the bedroom. Now, is it you or
11 your partner that gets the child?

12 A My partner.

13 Q So did both of you go back to the bedroom or just --

14 A Yes.

15 Q Okay. Both of you go back to the bedroom. Does
16 either the mother or this male subject go back to the
17 bedroom with you?

18 A No, not that I recall. Because I remember whispering
19 something to my partner that something is not right. And
20 I wouldn't have done that if somebody was in the bedroom.

21 Q Okay. Now, when you left, your partner has scooped
22 up the child, and you left. Where -- to the best of your
23 knowledge, where was the mother, or did you --

24 A When we came back out, she was back on the porch.

25 Q On the porch. Where was the male subject? Did you

1 see him?

2 A He could have been there. I didn't pay any
3 attention. I'm sorry.

4 Q All right. So in your questioning of the mother, is
5 it safe to say that her answers were very inconsistent?

6 A Very inconsistent.

7 Q Were you able to gather any information from her at
8 all?

9 A That there was unknown down time because of
10 inconsistency.

11 Q I'm sorry?

12 A My answer that I got to give to the physicians was
13 approximate unknown down time due to inconsistencies.

14 Q And unknown down time, I'm not familiar with --

15 A I'm sorry. Down time is we like to know exactly how
16 long a subject, a patient, a child, whomever has been
17 without oxygen.

18 Q Okay.

19 A Organs start dying, tissues start dying.

20 Q And, in this case, there was no way of telling
21 because of the mother's inconsistent answers?

22 A No. I knew at the time that the child did not have
23 lividity, or any other signs.

24 Q When you got to the hospital -- well, let me ask you
25 this. When you went into this trailer, did you take a

1 gurney, or stretcher, or whatever we call them now days in
2 there?

3 A No.

4 Q A bag?

5 A We took a bag and a monitor. Because when we know
6 we're going to a child, we're two big people, scoop and
7 go.

8 Q I'm sorry, ma'am. I ask that -- there was nothing to
9 obstruct the mother or this male subject to come back to
10 the bedroom when y'all were back there checking on the
11 child, was there?

12 A Huh-uh.

13 Q And, by that, I mean there was no gurney in the
14 hallway, or anything?

15 A Oh, no.

16 Q When you get to the hospital, now, of course, you go
17 into the emergency -- the ambulance, I guess, emergency
18 entrance; right?

19 A Uh-huh.

20 Q Now, from the time you get to the hospital -- I
21 gather once you get there, you're pretty much immediately
22 turn the patient over to the medical personnel; is that
23 correct?

24 A That's correct.

25 Q Is that safe to say?

1 A That's correct.

2 Q And once you turn that patient over to the medical
3 personnel, do you immediately leave?

4 A Sometimes, not all the time.

5 Q In this case, do you remember, did you immediately
6 leave, or did you stay around the hospital?

7 A I stayed.

8 Q All right. And did you stay in an area where you
9 could observe, basically, people coming in or out, or
10 people coming to check on this particular patient?

11 A I stayed in the room with minor

12 Q Okay. And approximately how long were you there?

13 A Approximately 12:15, 12:20.

14 Q Until 12:15 or 12:20?

15 A Yeah.

16 Q Okay. I was --

17 A It could have been as late as 12:30, but the
18 supervisor started calling saying get back.

19 Q All right. So you got to the hospital at 11:40?

20 A Yes.

21 Q According to your report. And then I gather how long
22 you were there was pretty much based on your recollection;
23 is that right, or is that in your notes?

24 A No. It is not in my notes.

25 Q Okay. You get there at 11:40, and you stay with the

1 patient until 12:15 -- we'll say 12:15. During that
2 period of time, did you ever see the mother?

3 A Once.

4 Q Okay. Was that at the beginning, or the end?

5 A That was at the end. That was sometime after 12:00,
6 like -- that was kind of what I was waiting to see, how
7 long it took her to get there. It was 12:10, 12:15ish,
8 maybe. I can't testify to specifics.

9 Q Yes, ma'am. But you saw her pretty much towards the
10 end of your visit, if I understand what you're saying?

11 A Yes.

12 Q Which we said was roughly 12:15?

13 A Uh-huh.

14 Q Now, initially, the mother reported to you that the
15 child had come back to her that morning?

16 A Yeah. I don't know why, but, yes.

17 Q Okay.

18 A I can only testify to what I was told.

19 Q Yes, ma'am. I'm not asking you what happened. I'm
20 asking you what you heard.

21 A Yes.

22 Q Okay. And so, initially, the mother said he came
23 back on the morning of March the 17th?

24 A That Monday morning, early, early. She kept
25 stressing early.

1 Q Okay. Then that changed to the night before?

2 A The night before sometime between 7:00 and
3 sometime -- it was after 9:00.

4 Q Okay. And then, at one point in time, you were
5 asking about medication; right?

6 A Yes.

7 Q And if I recall what you said, at one point in time,
8 she said we gave him medication?

9 A Yes.

10 Q And then she changed that and said the daddy gave him
11 medication?

12 A The daddy gave him medication.

13 Q Were you there when law enforcement arrived?

14 A No. I never saw any law enforcement on the scene
15 whatsoever. I will say that, you know, at that quick
16 questioning, I went and immediately started working on
17 minor That was my priority. And I let law enforcement
18 do their thing. But I never saw them.

19 Q So when you were transporting the patient, you were
20 in the back and your partner was driving; is that correct?

21 A No, sir. I had rescue drive us in.

22 Q I'm sorry. You had what?

23 A A rescue squad member drive us in. So my partner and
24 I both were in the back.

25 Q Both of you were in the back?

1 A Uh-huh.

2 Q On the way to the hospital, did you ever get a pulse?

3 A No.

4 Q Did you take any other -- I'm not a medical person at
5 all. Did you take any other vitals, blood pressure,
6 anything like that?

7 A No. I can tell you what we did.

8 Q What was the blood pressure, if you recall?

9 A There would be no blood pressure, because there's not
10 a heart beat.

11 Q Okay.

12 A When we checked the pulse, the pulse was zero. The
13 respirations would be zero.

14 Q Did you check pupils, or anything like that?

15 A Yes, I did. The pupils were dilated.

16 MR. DEJONG: One moment, please, Your Honor.

17 (Pause.)

18 MR. DEJONG: Thank you so much.

19 The witness is with you, Mr. O'Connell.

20 MR. O'CONNELL: Thank you.

21 CROSS-EXAMINATION

22 BY MR. O'CONNELL:

23 Q Ma'am, I don't move around so good.

24 A That's quite all right.

25 Q Did this call come in on a land line or a cell phone?

1 A I cannot tell you that, sir.

2 Q When you arrived at the residence, the mom was on the
3 porch?

4 A Yes.

5 Q Was she on a cell phone?

6 A She appeared to be on the cell phone, yes.

7 Q When you went inside the residence, Brandon Roper was
8 doing something at a table; is that correct? He was
9 cleaning off a coffee table, or some kind of table?

10 A When I -- he was to the left. And, at some point,
11 either when I came back out of the child's room, yes, he
12 was doing something with the table.

13 Q Was either the mother or Brandon Roper crying or --
14 crying?

15 A No. They seemed upset, but they wasn't crying. They
16 wasn't sobbing crying. They just seemed upset, nervous.

17 Q And when you left, the police officers had not
18 arrived yet; is that correct?

19 A I don't know if they had arrived. I was in the back
20 of the truck working.

21 Q Okay. Well, when you went out the front door --

22 A They were not there.

23 Q They were not coming in?

24 A No, sir.

25 MR. O'CONNELL: That's all I have.

1 Thank you very much.

2 THE WITNESS: Okay.

3 MR. HARBIN: May it please the Court, Judge.

4 THE COURT: Yes, sir, Mr. Harbin.

5 CROSS-EXAMINATION

6 BY MR. HARBIN:

7 Q You've been referencing a report, I believe. Can I
8 take a look at that real quick?

9 A I'm sorry.

10 Q Do you have a report?

11 A Yes.

12 Q And does this appear to be the same?

13 A Uh-huh.

14 Q And I'm going to ask you a question about this
15 report, if you don't mind.

16 A That's fine. That's fine.

17 Q You had previously testified that you couldn't get
18 any answers out of my client?

19 A Yes.

20 Q Now, can you refer to -- it's the middle of your
21 report here.

22 A Sure.

23 Q And I see -- and this is your report; correct, what
24 we just referenced?

25 A Yes. This is my report.

1 Q And can you explain, it says, Mother states she last
2 seen the patient breathing approximately two hours ago?

3 A Yes.

4 Q That would seem to be an answer; is that correct?

5 A Yes.

6 Q Okay. And you said, also, the mother told a rescue
7 member that patient had a cold, that father had given
8 patient medication like Tylenol last night?

9 A That's correct.

10 Q That would be an answer to a question; correct?

11 A To a rescue member.

12 Q And let me ask you. You had, actually, described --
13 you said, unfortunately, you've had to do this before?

14 A Yes.

15 Q Calls like this?

16 A Yes.

17 Q And I believe your words, as close as I could get is
18 that -- where did I put it -- that people do all kinds of
19 things when they react, people react differently?

20 A Oh, yes, most definitely.

21 Q You're not suggesting that there's an appropriate or
22 inappropriate reaction. People react to stresses the way
23 they react to them. Is that what you've witnessed in your
24 job?

25 A What I've witnessed in my career is out of those 20

1 cases that I've run what has been the consistency, and
2 that has been the consistency of the agitation and
3 everything. This was unlike anything I ever had.

4 Q And you didn't really see -- all you saw was Brandon
5 to the left. You don't know what he was doing; is that
6 correct?

7 A No.

8 Q So he could have been packing things for Ava, the
9 small child he had to take. Is that possible?

10 A Sure.

11 Q And you heard the 911 tape. I believe you were in
12 the courtroom for the 911 tape being played?

13 A Yes.

14 Q And I don't know if you had an opportunity to hear
15 Brandon say, They're here now, I'm going to leave the
16 child.

17 A No.

18 Q So did you witness anything that would suggest to you
19 that he was not with the child immediately prior to you
20 walking in the house? Can you confirm or deny that he
21 was --

22 A I cannot confirm or deny that. I just know when I
23 walked in, he was all alone.

24 Q So it's entirely possible that he had just left the
25 child, as was indicated by the 911 tape. It's possible,

1 but you don't know?

2 A It's possible.

3 MR. HARBIN: No further questions.

4 Thank you.

5 THE WITNESS: Thank you.

6 THE COURT: Redirect?

7 MS. BARWICK: No, sir.

8 Thank you.

9 THE COURT: Thank you, ma'am.

10 You may call your next witness.

11 MS. BARWICK: The State would call Kathy Purdessy to
12 the stand.

13 THE CLERK: Place your left hand on the Bible and
14 raise your right hand.

15 WHEREUPON,

16 KATHY PURDESSY,
17 after first having been duly sworn, testified as follows:

18 THE CLERK: If you would, have a seat.

19 And state your name for the record.

20 THE WITNESS: My name is Kathy Purdessy.

21 DIRECT EXAMINATION

22 BY MS. BARWICK:

23 Q Did you say Purdussy or Purdessy?

24 A I get called all kinds of stuff, but it's Purdessy.

25 Q Ms. Purdessy, where do you work?

1 A I work at Baptist Easley Hospital in the emergency
2 department.

3 Q I'm going to remove this, so I don't trip again.

4 And how long have you been working there?

5 A I have been there for 14 years -- well, actually, it
6 will be 14 years, about 13 and a half years.

7 Q And what do you do there?

8 A I am a nationally-certified emergency room nurse.
9 I'm a registered nurse. And I save lives. I do my best
10 to save lives.

11 Q How long have you been a nurse?

12 A Okay. I graduated with my degree as an RN in 1994.
13 Prior to that, I was a licensed practical nurse in 1992.
14 And, prior to that, I was a certified nursing assistant in
15 the '80s.

16 Q So a long of time?

17 A About 28 years cumulative experience in health care.

18 Q Do you remember minor coming to your
19 emergency room?

20 A I'll never forget minor

21 Q When minor got there, how did he get there?

22 A He came by ambulance.

23 Q And what was your role in his treatment that day?

24 A I was his primary nurse.

25 Q Being a primary nurse, what does that entail?

1 A That means I take the report from EMS and gather all
2 the information I can possibly gather. I assist in his --
3 you have to realize whenever something like this comes in,
4 there's a whole team that goes to work. And we are all on
5 our game. This is why we do what we do.

6 Okay. My role was assisting getting him on to
7 monitors, rapidly trying to gather information from EMS,
8 from Julie Sailors on what she knew about this. Because
9 the cause of cardiac arrest is one thing that we have to
10 try to, as quickly as we can, figure out.

11 Q And you say "cardiac arrest," is that what minor was
12 in?

13 A Yes, ma'am. He had no pulse.

14 Q So cardiac arrest means what?

15 A That means the heart muscle is not pumping.

16 Q So his heart is not working?

17 A That's right.

18 Q Do you try to gather the history?

19 A Yes. As a matter of fact, gathering the history is
20 one of the most important aspects, other than physically
21 resuscitating the child, trying to determine a
22 differential diagnosis as to why the child is in cardiac
23 arrest.

24 Q And who do you normally gather the history from,
25 other than, of course, the EMS workers?

1 A Oh, the parents or the care giver, whoever the care
2 giver is.

3 Q When minor arrived, was there a parent to give you
4 that?

5 A No. There was no parent.

6 Q Is this normal or abnormal?

7 A This is abnormal.

8 Q So he gets in. Can you tell the jury what was going
9 on in minor 's body when he got there and how -- what his
10 condition was?

11 A Yes. He was intubated. He had a tube -- that means
12 he had a tube down his throat. And they were bagging him
13 to breathe for him. He had a needle stuck into the bone
14 of his leg, as EMS had been infusing IV fluids. He was
15 lifeless.

16 Q So it's fair to say he wasn't breathing?

17 A He wasn't breathing.

18 Q And his heart wasn't beating?

19 A His heart wasn't beating.

20 Q Did you draw any urine samples?

21 A Yes, ma'am. That's to try -- to try to put all the
22 pieces of the puzzle together -- we had no one to get a
23 family history -- I mean, minor 's history from, drug
24 allergies, nothing. We had no clue.

25 So we're gathering all the bodily fluids that we

1 possibly can. I did catheterize the child.

2 Q So when you took that urine sample, what did you do
3 with that?

4 A I immediately sealed it up, took minor IV sticker,
5 put it on there, put my initials, the date, and time,
6 sealed it tight, put it into a plastic bag, bio bag, and
7 put it in a tube system. And I tubed it directly to the
8 lab. And they received it.

9 Q Now, let's talk about this tubal system a little bit.
10 Is it like a conveyer belt, or is it like at the bank
11 where it shoots up?

12 A It's like the bank, yeah. It shoots up and it lands
13 at its destination.

14 Q And would it have any pit stops along the way?

15 A No. It goes straight there.

16 Q And what destination was that?

17 A To the laboratory.

18 Q At Baptist Easley?

19 A Yes, ma'am.

20 Q After you took the urine sample, do you recall the
21 first time you saw the mother?

22 A Yes, I do.

23 Q About what time was that?

24 A It was approximately 10 after 12:00.

25 Q 10 after 12:00?

1 A Yes.

2 Q How long had minor been at the hospital?

3 A He had gotten there -- I started generating a triage
4 sheet on him at 11:45. But he had already been there for
5 a couple of minutes.

6 Q Okay. The first time you recall seeing his mom was
7 at 12:10?

8 A 12:10, yes.

9 Q Did you speak with the mother?

10 A Yes, I did.

11 Q Do you recall anything about that conversation?

12 A Yes, I do.

13 Q Will you tell the jury about that conversation?

14 A Yes.

15 May I have a drink of water, please?

16 Q Absolutely.

17 Do you need anything else?

18 A No.

19 Thank you.

20 The mother was -- the mother seemed to act
21 inappropriate to me.

22 Thank you so much.

23 Q And what do you mean by that?

24 A I've probably worked -- in my experience as a
25 registered nurse, I've probably worked 60 cases like this.

1 Usually, it's respiratory arrest and cardiac arrest. So
2 I've got a lot of experience in dealing with parents. And
3 we, actually, encourage family presence in the room,
4 whether it's a baby, or whether it's your spouse, or your
5 brother.

6 There are a lot of studies that show that having the
7 family present, that that's an encouragement. And it,
8 also, helps the parent to see what's real. It helps them
9 in the closure. I -- when I saw her, she was just there
10 in the room. You've got to realize this happened super
11 fast.

12 Okay. I started asking her, you know, does the child
13 have any medical problems? Does he have any drug
14 allergies? Who's his pediatrician? What's been going on
15 with him? Has he had any kind of injury? Because we're
16 thinking maybe a head trauma. Oh, gosh. Has he gotten
17 into anything that he shouldn't have? Have you given him
18 anything? Her answers were so vague. She wasn't crying.
19 She was not even standing near minor

20 And, at that point, we started to encourage her to
21 touch minor that it's okay, you can touch him. And he
22 needs to feel your skin. And she did walk up to minor at
23 his feet and rubbed his foot. And then she stepped back.
24 Q Okay. I'm sure -- let's talk about your hospital a
25 little bit.

1 A Yeah.

2 Q The ER, when you walk into the ER, is there like a
3 lobby area?

4 A When you walk in the front entrance of the emergency
5 department, it's that scenario. There's a lobby, you
6 check in. And then you wait until you go to the back:

7 Q And just the general practices and protocol of the
8 hospital. When a parent comes in and their child is back
9 there in the condition that minor was in, what would be
10 the general protocol? Would the parents be made to wait,
11 or would they immediately be allowed back?

12 A No. We encourage that they immediately get back. We
13 give them -- actually, we kind of give them -- because
14 some parents, I've seen some parents that do not want to
15 go back. They do not want to remember their child that
16 way. And there are other parents that you can't keep them
17 out.

18 Q Okay. minor left your hospital that day?

19 A Yes, ma'am.

20 Q How did he leave that hospital? What did he leave
21 by?

22 A He left by helicopter.

23 Q And where did he go?

24 A To Greenville Memorial Hospital. And he was received
25 by a physician there.

1 Q What time did he leave your hospital? Do you
2 remember?

3 A I concluded my documentation on minor at 12:29. At
4 that point, minor had a pulse. We had resuscitated him
5 to the point that his heart rate was in the 120's. And he
6 was breathing assisting a little bit on his own. And so I
7 concluded my documentation at 12:29.

8 And then the process of the guys landing the
9 helicopter -- we know that they're down now. And they
10 have to come around to the ER to get a report from me, and
11 then take him back to the helipad and transport him.

12 Q So how many minutes after 12:29 do you think that --

13 A I would say probably six minutes, at the most,
14 something like that. Six or seven minutes.

15 Q So he was flown to Greenville Memorial?

16 A Yes, he was.

17 Q As part of that treatment, what kind of tests are
18 done on that urine?

19 A The basic protocol for that is a basic urinalysis to
20 see if the child has a bacterial infection. Because the
21 child can become septic and very, very sick from that.
22 And the other thing we do is to rule out any toxins in the
23 child's system. So we order a medical urine drug screen
24 and a basic urinalysis.

25 Q And was a medical drug screen conducted on minor's

1 urine?

2 A Yes, ma'am.

3 Q And what did it come back positive as?

4 A Opiates.

5 Q And when it came back positive for opiates, what, if
6 any, kind of treatment or measures were taken at that
7 point?

8 A At that point, we went ahead and started giving
9 Narcan, which is a reversal agent. We started giving
10 Narcan.

11 MS. BARWICK: One moment, Your Honor.

12 (Pause.)

13 BY MS. BARWICK:

14 Q I want to make sure I don't forget anything. You
15 said Narcan helps reverse the effects of opiates?

16 A That's correct.

17 Q Have you seen Narcan given in cases before?

18 A I've given Narcan thousands of times.

19 Q And have you seen it reverse the effects?

20 A I have. Oh, yes, I have. Yes.

21 Q Okay. Did y'all give minor anything that helped his
22 heart start beating?

23 A Yes, we did.

24 Q And what did you give him?

25 A Epinephrine.

1 Q What does that --

2 A Epinephrine stimulates everything. It stimulates the
3 heart muscle to beat again.

4 MS. BARWICK: No further questions at this time.

5 THE COURT: Cross-examination.

6 MR. DEJONG: Thank you, Your Honor.

7 May it please the Court.

8 CROSS-EXAMINATION

9 BY MR. DEJONG:

10 Q Ma'am, I apologize. I'm probably going to butcher
11 your name. So I apologize in advance.

12 Is it Purdessy?

13 A Purdessy.

14 Q Purdessy. I put the syllable -- I'll try --

15 A Okay.

16 Q -- but forgive me if I go astray.

17 So you are a trauma nurse?

18 A I am. I am a registered nurse.

19 Q Yes, ma'am.

20 A With certifications as a nationally-certified
21 emergency room nurse. I am certified as a pediatric
22 advanced life support specialist, and an adult cardiac
23 life support specialist. I'm, also, a forensic nurse.
24 And I conduct sane cases gathering evidence.

25 Q So when the ambulance arrives with this child, are

1 you one of the greeters, so to speak?

2 A I am in the room awaiting the child. We've got the
3 pediatric crash cart out, and we're ready to rock and
4 roll.

5 Q So do the medics bring him to the room?

6 A Oh, yes, they do.

7 Q So dispatch tells them exactly where to bring him,
8 and all that good stuff?

9 A They know where to go. They know in that kind of
10 case they're going to go to the closest hospital that has
11 equipment.

12 Q I'm sorry, ma'am.

13 A That's okay.

14 Q In this case -- well, you work on a team, if I gather
15 what you said right?

16 A Yes, sir. There are -- everybody from the
17 respiratory department, everybody is there and everybody
18 is focused on this child.

19 Q My question is, do the responsibilities change a
20 little bit sometimes on the team? For example, you said
21 in this case, you were the information gatherer; right?

22 A I was that and doing other things, too.

23 Q Yes, ma'am. I understand. But would you normally be
24 the information gatherer as if you were on this team, or
25 as a member of this team?

1 A Well, not necessarily. It could be another nurse
2 that, you know, starts immediately questioning the parent
3 about the condition of the child prior to this event.

4 Q Yes, ma'am. But, in this case, that happened to be
5 you; correct?

6 A It was me. I'm very aggressive with a child.

7 Q And the only person you had to gather information
8 from was the emergency medical personnel?

9 A The paramedics, yes, sir.

10 Q And so that I'm clear, did -- other than the EMS
11 technicians, what -- I'm not sure exactly what to call
12 them -- did anybody else come in with the child?

13 A No.

14 Q Okay. So you are now gathering information the best
15 you can from the EMS worker?

16 A Yes, sir.

17 Q Was the EMS worker able to give you much information?

18 A No, sir.

19 Q Okay. And, as I understand it, the mother did not
20 present herself until about 10 after 12:00?

21 A That's correct.

22 Q So that is some half hour after the child got to the
23 hospital?

24 A Yeah.

25 Q Now, one of the first things you do is you said you

1 got a urine sample; right?

2 A That's not the first thing we do. But, in the course
3 of treatment, we do that.

4 Q Yes, ma'am. If I said first thing --

5 A That's okay.

6 Q It's in the front stages?

7 A It's in the protocol in the pediatric events.

8 Q You said you, also, drew other bodily fluids, if I
9 understood you correctly. What other bodily fluids would
10 you have drawn?

11 A There was blood drawn from minor to check things
12 like a white blood cell count to see if that was elevated,
13 maybe he was septic, to check all of his electrolytes, and
14 those things.

15 Q Okay. Do you know how much blood was drawn?

16 A Enough to fill up pediatric tubes. We have an adult
17 tube size, and we have the pediatric tube size.

18 Q Okay.

19 A With a child, we don't want to take a lot of blood.
20 So we use pediatric tubes on that.

21 Q So you take a little less blood from a child than you
22 would take from me?

23 A Certainly.

24 Q All right, ma'am. Now, did the lab at Easley
25 Baptist -- they look at that blood; right?

1 A Yes, sir. They receive it, and they immediately
2 start analyzing it.

3 Q And the urine; correct?

4 A Yes, sir.

5 Q Now, the urine screening, that is, basically, what it
6 is, it is a screen; right?

7 A Yes, sir.

8 Q Just for the presence of stuff?

9 A Yes, sir.

10 Q Now, not to be offensive or insulting in any way, but
11 you are not qualified -- other than to read those results,
12 you couldn't interpret the results; is that correct?

13 A If the drug screen came back with positive for THC, I
14 would know that there's marijuana in the child's system.

15 Q Yes, ma'am.

16 A If it's positive for opiates, I would know that there
17 would be some type of Lortab, hydrocodone, or morphine in
18 it.

19 Q But as to when it was ingested or amounts, you would
20 have no basis to testify or to know that; right?

21 A I'm not a toxicologist.

22 Q Yes, ma'am. I guess that's what I'm getting at. I
23 could have cut through the chase a little bit.

24 So, certainly, you would know, based on that urine
25 screen, that there were opiates in the screen, but that's

1 pretty much it?

2 A Yes, sir.

3 Q And you would know then what treatment protocol --

4 A That's right. Those things that we gather, the blood
5 work, the urine specimen, these things do help determine
6 the course of treatment.

7 Q Yes, ma'am. I, certainly, understand that.

8 Now, to your knowledge, was there more than one urine
9 sample taken, or one urine sample taken, or do you know?

10 A There was only one urine sample taken, and that was
11 by me. And I catheterized the child to get it.

12 Q That urine sample went to your lab -- not your lab,
13 but at Easley Baptist; right?

14 A Yes, sir.

15 Q Now, once that screen is done, if you know, ma'am, is
16 that urine discarded, kept for further testing, or do you
17 know?

18 A I think that they keep it for further testing. They
19 send it off to an alternate lab.

20 Q The same thing on the blood?

21 A Not necessarily for the blood.

22 Q Okay.

23 A I'm not sure about the blood. But I do know that
24 about the urine.

25 Q Okay. When you did see the mother at approximately

1 12:10 in the afternoon, where did you see her?

2 A In the -- somebody brought her to the room. I'm not
3 certain who brought her to the room. But I saw her in the
4 resuscitation room, trauma room with minor

5 Q But, as I understand it, she had to be encouraged to
6 speak to the child -- or touch the child?

7 A I have never seen a parent act quite this way before.
8 She seemed to be very detached.

9 Q Very what?

10 A Detached.

11 Q Detached?

12 A From the child.

13 Q Did she in any way -- based on what you could
14 observe, was she more nervous, or upset, or could you say
15 either one?

16 A She was emotionless is the only way I could describe
17 it. It was like there was kind of no emotion there.

18 Q Did the father ever come to the -- did you ever see
19 the father?

20 A Not to my knowledge.

21 Q Okay. That's fine. Do you know which entrance the
22 mother came in?

23 A No, sir. I can't answer that, because I was busy
24 working on minor

25 Q Okay. Now, you said you did -- you were able to --

1 you and this team were able to resuscitate the child?

2 A That's correct.

3 Q You got a heart beat?

4 A Yes, we did.

5 Q In terms of that, ma'am, to resuscitate a person --
6 and bear with me on this question, because I don't really
7 know quite how to ask it. Okay. Well, let's back up a
8 little bit.

9 The child came in and had no heart rate, no heart
10 beat, cardiac arrest, and you were able to resuscitate
11 him. If you know, ma'am, from -- does it make a
12 difference as far as resuscitating someone -- let me try
13 this again.

14 Is it easier to resuscitate someone that hasn't had a
15 heart beat for a short time, as opposed to a long time?
16 Is that clear at all?

17 A I think I've got that. The shorter the down time --
18 it depends. I'll have to back up on that. I'll retract
19 that statement. It depends on the cause of arrest. Okay.

20 Q All right. Can you elaborate on that for me just a
21 little bit?

22 A Yes, sir. If the child is septic -- in other words,
23 if he has so much infection in his body that his body is
24 overwhelmed and goes into shock, those cases are very
25 difficult to resuscitate. I was told that minor had an

1 unknown down time. But when you have a child in front of
2 you like this, you pull all the stops, you do everything.

3 Q Sure. I understand.

4 A Because he was laying all by himself, you know.

5 Q I understand. I understand. So you -- and I think
6 you answered my question. You didn't know the down time.
7 So without knowing that --

8 A We did not know, so we just went all out.

9 Q Well, let me ask you this. And is it easier to
10 resuscitate someone who hasn't had as long of down time as
11 somebody that's had a longer down time?

12 A Again, sir, it depends on the cause of the down time.

13 Q Okay.

14 A But, in general, I would say the shorter the down
15 time -- if they can receive medical resuscitation as soon
16 as possible, they do have a better chance of surviving.

17 Q Do you know how long it took to resuscitate the
18 child, that is to get a heartbeat?

19 A How long did it take for minor

20 Q Yes.

21 A Yeah. I have a note.

22 Can I look --

23 Q If you have notes, ma'am, please, refresh your
24 memory.

25 A Okay. Chest compressions were being done on minor

1 when he came in, because he had -- he was a flat line on
2 the monitor. So that was about 11:42, 11:43. And we
3 stopped compressions at 12:04, because minor had a pulse
4 of his own.

5 Q Okay. So within about 20 minutes, you were able to
6 resuscitate him?

7 A That's a very long time.

8 Q Now, you said something a moment ago about being in
9 toxic shock?

10 A Well, it's septic shock.

11 Q What does that mean?

12 A It just means that the tissues of the body are not
13 getting oxygen. And many times, we'll see in children
14 that sepsis can happen because of infection.

15 Q If you know, would a hydrocodone overdose be similar
16 to septic shock?

17 A No, sir. It presents differently. Usually, there
18 are very objective signs of shock in a child. Usually,
19 they have a very high temperature whenever they are
20 presented.

21 Q With an overdose or --

22 A No, with sepsis.

23 Q Did minor have a fever, or anything?

24 A Oh, no. He, actually, was --

25 Q Well, I guess he didn't, he was in cardiac arrest.

1 A Well, his body temperature was, actually, very low.

2 Q Okay. And the -- I was having a difficult time
3 hearing you. I gather either in the process of
4 resuscitating him, or once he was resuscitated, you gave
5 him certain medications; is that right?

6 A He was given medications all along the way.

7 Q Okay. What was the one in particular that kind of
8 jump starts everything?

9 A Epinephrine.

10 Q Epinephrine?

11 A Yes, sir.

12 Q Was he given any, to your knowledge, at Easley
13 Baptist, any type of opiates?

14 A Oh, no, sir. We were trying to rule out that, you
15 know. The child is toxic from drugs, so we, certainly,
16 did not give him anything.

17 MR. DEJONG: One moment, please, Your Honor.

18 (Pause.)

19 MR. DEJONG: The witness is with you, Mr. O'Connell.

20 MR. O'CONNELL: Thank you, Your Honor.

21 THE COURT: Yes.

22 CROSS-EXAMINATION

23 BY MR. O'CONNELL:

24 Q You are a trauma nurse, the head trauma nurse?

25 A I was not the charge nurse in the ER that day. I was

1 assigned to trauma rooms.

2 Q Okay. You made a point of saying the parents weren't
3 there. Would you change your point if the father was
4 being picked up from his place of employment and brought
5 to the ER?

6 A I have no knowledge of that.

7 Q No. I said, would you change your statement that
8 both parents weren't there if you knew the father was
9 being picked up and brought to the hospital from his place
10 of employment?

11 A Sir, I document everything objectively. And if he is
12 not in front of my face, then I cannot document that he's
13 present.

14 Q So if he was on his way there, you might have said it
15 differently. You would have said the father was on his
16 way there, if you knew that?

17 A If I knew that there were parents en route, then,
18 yes.

19 Q Was the grandmother there?

20 A No.

21 Q The grandmother was not at the ER?

22 A I do not recall seeing her. She could have been
23 there, but I do not recall seeing her.

24 Q Did one of your nurses -- I'm saying this because
25 you're the head; is that correct? You're the one in

1 charge?

2 A No, I'm not. I'm a staff nurse.

3 Q Did one of the nurses come out and say, Where did the
4 bruises come from the child -- on the child?

5 A I'm not aware of that. But we did -- I, myself, did
6 note bruises on the child's buttocks.

7 Q Did one of the nurses note a little bite mark on the
8 child?

9 A Not to my knowledge.

10 Q And you didn't notice it either?

11 A The child had like -- it almost looked like almost a
12 bruise on his cheek.

13 MR. O'CONNELL: That's all the questions I have.

14 THE COURT: Mr. Harbin.

15 MR. HARBIN: May it please the Court.

16 CROSS-EXAMINATION

17 BY MR. HARBIN:

18 Q Ms. Purdessy, did I get that right?

19 A Yes.

20 Q I've got one question. You seem very concerned that
21 you weren't given a lot of information about minor on his
22 trip in. You wanted more information. And I assume that
23 had to be because that would help you help him; is that
24 correct?

25 A That's right.

1 Q And this might be an unfair question kind of in
2 hindsight. Is it not true that the most important you
3 information you could have gotten was that he had ingested
4 hydrocodone?

5 A That he had what? I'm sorry.

6 Q The most important piece of information that you
7 could have been provided, had somebody been there to
8 provide it for you, would be that he had ingested
9 hydrocodone. If you had known that, it could have helped
10 him more?

11 A He would have received Narcan earlier.

12 Q And would that be the single most piece -- important
13 piece of information that you could use as a nurse, or as
14 a medical professional to help him at the time?

15 A That would help determine our treatment plan for him.
16 But the most important aspect of what was going on with
17 minor was that he was dead. He didn't have a heart beat.
18 So we were all working desperately to help oxygenate his
19 tissues.

20 Q Maybe I'm not being clear. My understanding is
21 minor died as a result of a hydrocodone overdose. Is
22 that your understanding?

23 A Yes, sir.

24 Q Okay. And would it not be a terribly important piece
25 of information to receive?

1 A Absolutely.

2 Q That he had ingested hydrocodone as soon as he got to
3 the hospital?

4 A Yes, sir.

5 MR. HARBIN: Okay. Thank you.

6 No further questions.

7 THE COURT: Redirect?

8 MS. BARWICK: Yes, sir, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. BARWICK:

11 Q Is hydrocodone considered an opiate?

12 A Yeah, down the food chain of opiates, yes, ma'am.

13 MS. BARWICK: No further questions.

14 THE COURT: Any recross?

15 MR. DEJONG: Not on behalf of Mr. Morris, Your Honor.

16 MR. O'CONNELL: No, sir.

17 MR. HARBIN: No, Your Honor.

18 THE COURT: Thank you.

19 You may step down.

20 You may call your next witness.

21 MR. RICHARDSON: Thank you, Your Honor.

22 We would call Stacy Garmon to the stand, Dr. Stacy
23 Garmon.

24 THE CLERK: Place your left hand on the Bible and
25 raise your right hand.

1 WHEREUPON,

2 STACY GARMON, M.D.,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: You may have a seat.

5 And state your name for the record.

6 THE WITNESS: I'm Dr. Garmon, Stacy Garmon.

7 DIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q Good morning, Doctor.

10 A Good morning.

11 Q Doctor, where are you presently employed?

12 A Easley Pediatrics is what most people know it by.

13 Recently, the name has changed to Pediatric Associates of
14 Easley, but it's the same place.

15 Q All right, sir. And in what capacity are you
16 employed there?

17 A A general pediatrician. I've been in practice for, I
18 guess, about 18 years now.

19 Q Okay. Have you practiced that type of medicine the
20 entire time?

21 A Yes, sir.

22 Q Okay. And where did you go to school?

23 A Medical school, the University of South Alabama.

24 Q And did you do your residency there, or elsewhere?

25 A No. I did my residency in Greenville at the

1 Greenville Hospital System from 1991 to 1994. And then I
2 joined the practice here in 1994.

3 Q Okay, sir. Now, I want to take your memory back to
4 March the 17th of 2008. Did you have an occasion to be
5 involved with a child by the name of minor

6 A Yes.

7 Q And how did that come to be?

8 A It was a normal day. I was working in my office.
9 And I received a message that a child had presented in
10 distress in the emergency room at Baptist Easley, and
11 could I, please, come over and offer my assistance.

12 Q Okay. Now, is that a normal procedure at Easley
13 Baptist to have a pediatrician come to the hospital?

14 A Sometimes, it is, yes, especially if the ER physician
15 and the team feels that we may have something to help
16 with, to offer. So they often call us when they have a
17 child in distress and feel like we can help them.

18 Q Okay, sir. So did you, in fact, go to Easley Baptist
19 and attend to minor

20 A I did.

21 Q Okay. And when you arrived, were you the -- I want
22 to call it the main physician, or was some other physician
23 working on the child?

24 A I would not consider myself the main physician. The
25 ER physician was the primary physician who was in charge.

1 I played a supportive role.

2 Q Okay. And what, in particular, did you do to -- in a
3 supportive role?

4 A I monitored what was being done by the team, and I
5 offered my advice. I think, at one point, I may have
6 given a couple of orders for medications.

7 Q Is it fair to say you have an emergency room doctor
8 and a pediatrician because we're dealing with a child?

9 A Correct.

10 Q And you're kind of using each other's knowledge?

11 A Yes.

12 Q Is that fair to say?

13 A Yes, sir.

14 Q And I assume in doing that, you viewed minor
15 there in the hospital in the hospital bed?

16 A I did.

17 Q Okay, sir. And did you -- do you recall noticing any
18 sores about his rear end?

19 A Yes, I did.

20 Q Okay, sir. Let me hand you what's been previously
21 marked for identification purposes as State's Exhibit
22 Nos. 13 and 11. Sir, can you take a look at those,
23 please?

24 A Sure.

25 Q And can you identify those pictures?

1 A Yes. This is what I saw in the emergency room that
2 day on the child.

3 Q Okay. And on the child minor

4 A Yes, on minor

5 Q Sir, if I may have those back, please, sir.

6 A Yes.

7 MR. RICHARDSON: Your Honor, at this time, the State
8 would offer State's Exhibit Nos. 11 and 13 into evidence.

9 THE COURT: Any objection?

10 MR. DEJONG: Your Honor, I object, basically, on the
11 same basis we objected to before, and that would be the
12 probative value. If we were trying a little different
13 case, I wouldn't have the objection. But, in light of
14 what we're trying, I do not see any probative value
15 whatsoever.

16 If we were trying just a pure unlawful neglect case,
17 it might have some probative value. We're not trying an
18 unlawful neglect case. We're trying a homicide by child
19 abuse case. And I just -- I don't see the relevance of
20 it, nor that it is probative.

21 MR. HARBIN: I join that objection, Your Honor.

22 MR. O'CONNELL: Your Honor, and I would join, also.

23 THE COURT: Let me see the pictures, please.

24 (Pause.)

25 THE COURT: I sustain the objection.

1 MR. RICHARDSON: Your Honor, if I may, I'll follow-up
2 and lay some further foundation.

3 THE COURT: Okay. Sure.

4 BY MR. RICHARDSON:

5 Q Doctor, the wounds -- or the injury -- or the -- what
6 you saw on the child that you testified to, what, in your
7 opinion, was that consistent of?

8 A It's a red rash around the child's bottom. I don't
9 know how it got there, but it looks like maybe from
10 pressure from something pushed against the child.

11 Q And by pressure, would that be a scenario where the
12 child had not moved for a lengthy period of time?

13 A It could be.

14 Q And could it be consistent with a bed sore?

15 A Yes.

16 Q And as far as a bed sore is concerned, how does that
17 come to be?

18 A From lack of movement.

19 Q Okay. Is it lack of movement for --

20 A And pressure against the skin from another source,
21 something pressing against it.

22 Q Okay, sir. And would that be a -- would it take a
23 lengthy period of pressure for that to take place?

24 A It's hard to say. I don't think that that happened
25 very quickly. I think that that probably developed over

1 some period of time. But I don't know how long.

2 MR. RICHARDSON: Your Honor, once again, I would
3 offer these into evidence. I believe that the probative
4 value has been established. Simply, this is a hydrocodone
5 overdose. And there has been testimony about how long the
6 child was --

7 THE COURT: Okay. I'm going to ask the jury just to
8 step out for a moment while we discuss this. Don't talk
9 about the case. And continue to keep an open mind.

10 (WHEREUPON, the jury was excused from open court at
11 approximately 11:45 a.m.)

12 THE COURT: Okay. I appreciate everyone adhering to
13 the rule of no speaking objections. I understand y'all
14 probably have some things you want to put on the record.
15 So that's why I took the jury out.

16 MR. DEJONG: I'm sorry, Your Honor. I'm having a
17 difficult time hearing you.

18 THE COURT: I said that I appreciate everyone
19 adhering to the rule of no speaking objections. But I
20 wanted to give everyone the opportunity to put their
21 positions on the record in full at this time regarding the
22 photographs.

23 Yes, sir.

24 MR. RICHARDSON: Your Honor, as I stated, there has
25 been testimony about the length of time that the child --

1 whether it was seen or not seen by the mother, and the
2 length of time the child was laying in the bed. The
3 premise here is that this was caused due to the child not
4 moving.

5 So if we have a hydrocodone overdose, there's a
6 relevancy to that aspect of it, and when that took place.
7 And I apologize for the speaker.

8 MR. HARBIN: I'll let Mr. DeJong go first, Judge.

9 MR. DEJONG: Well, Your Honor, based on the testimony
10 I've heard so far, again, I don't even see the relevance
11 now. Because if I understood what the good Doctor just
12 testified to, he said it would have developed over time.
13 How much time he didn't know, but it would have developed
14 over time.

15 If that is the case, we're talking about, as I
16 understand it, a window of less than 24 hours here. And
17 if that were the case, it developed over time, which would
18 have been more than 24 house. What's the relevance of it?
19 I submit to the Court with all due respect that it has no
20 relevance whatsoever.

21 THE COURT: Let me see the pictures one more time,
22 please.

23 (Pause.)

24 THE COURT: Okay. Anybody else?

25 MR. HARBIN: Yes, sir, Judge, quickly.

1 I think that based on the Doctor's ability to testify
2 to a reasonable degree of medical certainty, I don't think
3 he can honestly answer the question to a reasonable degree
4 of medical certainty, because there's too many
5 possibilities of what could have caused that rash. He was
6 asked the direct question, which he honestly answered,
7 that could it be a bed sore?

8 And he said, Yes.

9 But he has no way of telling us what it is or where
10 it came from. And that, essentially, becomes conjecture.
11 And with "Doctor" in front of his first name, it gives a
12 little too much weight to his conjecture. And I don't
13 think he's doing it on purpose, but that's the basis of my
14 objection.

15 MR. O'CONNELL: And, Your Honor, mine is that I don't
16 think anyone has mentioned or they've laid enough ground
17 as to what other sources could there be. This child was
18 supposed to be taking medicine for an earache, supposed to
19 have taken Amoxicillin, supposed to have taken some other
20 medicines.

21 So could those medicines caused this rash, or
22 whatever we want to call this thing?

23 THE COURT: Okay.

24 MR. RICHARDSON: Your Honor, in response to
25 Mr. O'Connell, that would be subject to cross-examination.

1 What the Doctor said is that this was some abnormality
2 caused by pressure, and that it took place over a period
3 of time. It took a while to develop. And that's the
4 purpose that we're putting it in. We're showing the jury
5 that it was there, and it took a period of time for it to
6 come when the child did not move.

7 THE COURT: My ruling is that State's Exhibit No. 11
8 is not admissible.

9 State's Exhibit No. 13 can come in. But I want the
10 picture to be redacted so there's not anything below where
11 this tube starts and that can give, I think, the witnesses
12 and the jury sufficient information about what the picture
13 contains that's relevant to the case without injecting any
14 kind of unfair prejudice, or other improper consideration
15 excluded by Rule 403.

16 I think State's Exhibit No. 11 is just too graphic,
17 in my opinion, and doesn't advance the probative value to
18 a point where it's not vastly outweighed by the
19 prejudicial nature of it.

20 MR. RICHARDSON: Okay, sir.

21 THE COURT: So do you see what I'm saying?

22 MR. RICHARDSON: Yes, sir.

23 I just need to see --

24 THE COURT: Go ahead.

25 MR. HARBIN: I wanted to make a request. I believe

1 Mr. Richardson inadvertently in shifting the papers and
2 stuff, he's very close to the jury. And I watched, at
3 least, three of them. They're trying to see what's in his
4 hand. And it's natural, I understand that. But if he
5 could be very careful and keep the white side of the
6 paper -- I don't know if he has any more photos. But
7 there were a couple of times where they had the
8 opportunity to get a glance.

9 THE COURT: Well, everybody is aware of the rule not
10 to show exhibits that have not been introduced into
11 evidence to the jury, or to put them in places where they
12 might be seen by the jury.

13 MR. HARBIN: Judge, I don't believe it was -- I
14 believe it was inadvertent.

15 THE COURT: I understand. So that's what I'm talking
16 about.

17 MR. RICHARDSON: Yes, sir.

18 THE COURT: So if you can redact that and --

19 MR. RICHARDSON: Would you like me to do that at this
20 time and simply cut it off?

21 THE COURT: Yes.

22 MR. DEJONG: And I'm not arguing with Your Honor's
23 ruling. I just ask that my exception be noted, for the
24 record, Your Honor.

25 MR. O'CONNELL: Same here.

1 MS. BARWICK: And, Judge, the exhibit numbers are up
2 here. We would just have to replace that.

3 Is that going to be a problem for the court reporter?

4 THE COURT REPORTER: No.

5 (Pause.)

6 MR. RICHARDSON: Your Honor, if I may show the Court
7 and the Defense attorneys to make sure it's okay?

8 THE COURT: Sure, yes.

9 (WHEREUPON, State's Exhibit No. 13 was remarked for
10 identification only.)

11 (Pause.)

12 MR. RICHARDSON: Your Honor, we're ready.

13 THE COURT: Okay. You can bring the jury back in.
14 Thank you.

15 (WHEREUPON, the jury came into open court at
16 approximately 11:55 a.m.)

17 THE COURT: Yes, sir.

18 MR. RICHARDSON: Thank you, Your Honor.

19 May it please the Court.

20 Your Honor, at this time, the State would move
21 State's Exhibit No. 13 into evidence.

22 THE COURT: All right. It's admitted subject to the
23 earlier ruling, and subject to the earlier objection and
24 exceptions.

25 Go ahead.

1 MR. RICHARDSON: Thank you, Your Honor.

2 (WHEREUPON, State's Exhibit No. 13 was admitted into
3 evidence.)

4 CONTINUED DIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q Now, Doctor, I'm just going to ask you, is that what
7 you saw at the hospital on March 17th of 2008, on minor
8 Morris?

9 A Yes, it is.

10 Q And can you show the jury the area -- if you could,
11 stand up and just show the jury the area that that is on
12 your body. Just point to where it is.

13 A Okay.

14 Q Or you can explain it, if you would like.

15 A That's what I would call the perianal area, the area
16 around the child's anus around his hips, basically, his
17 buttocks.

18 MR. RICHARDSON: Thank you, sir.

19 That's all the questions I have. Please answer any
20 questions Defense counsel may have.

21 MR. DEJONG: Turn that off. I don't need that. Turn
22 it off.

23 CROSS-EXAMINATION

24 BY MR. DEJONG:

25 Q So, Dr. Garmon, you were, basically, called in, I

1 guess, as a -- in a consulting capacity?

2 A Yes, I suppose so.

3 Q Okay. Who called you, Easley Baptist, the ER doctor,
4 or who called you?

5 A Honestly, I don't know who made the phone call.
6 Someone from the ER called our office and said, Your
7 assistance is needed. So I dropped what I was doing and
8 went there.

9 Q So you were there to -- were you monitoring the
10 doctor, the whole team, the whole situation? What were
11 you monitoring?

12 A I was an observer of everything that was going on
13 from the time I walked in. And I was there to offer
14 advice and support, if needed.

15 Q Okay. And I believe you said, at one point in time,
16 you may have ordered medications?

17 A Yes, sir.

18 Q Do you recall what you ordered?

19 A I ordered Narcan. It's a medication that is given to
20 reverse opiate toxicity.

21 Q All right. Were there any others?

22 A I didn't order any other medications that I recall.

23 Q Okay. Well, let's talk a little bit about this
24 picture the Solicitor flashed up on the screen. You said,
25 if I understood you correctly, that it appeared that it

1 could be a pressure-type sore?

2 A It could be consistent with that.

3 Q All right. And then I think the Solicitor said,
4 well, a bed sore; right? And you said it could be?

5 A It could be.

6 Q Yeah. How long would it take a bed sore to develop?

7 A I don't know. It depends on how deep it is.

8 Q Do you know how deep that one was?

9 A I don't know how deep that was.

10 Q Well, it would take longer than 12 hours for a bed
11 sore to develop, wouldn't it?

12 A For one that causes the skin to be broken down, I
13 would think, yes, it would.

14 Q Was the skin broken down on this one?

15 A The skin appeared to be raw. So I think the surface
16 layers of the skin were eroded.

17 Q But, certainly, when you say developed over a period
18 of time, are we talking a period of minutes, hours, days,
19 weeks? What are we talking about?

20 A Hours to days, not minutes.

21 Q Pardon me?

22 A Not minutes.

23 Q Not minutes. Okay. And this would be from simply
24 being inactive; right? We think of bed sores more when we
25 start thinking about geriatrics; right?

1 A I would think so, yes.

2 Q Not pediatrics. And the bed sores are developed
3 because of pressure points on the mattress or the
4 body's pressure points where they're just laying there;
5 right?

6 A Yes.

7 Q And even though it may be consistent with that, if I
8 understand, there could be other explanations for it as
9 well. Is that what you're saying?

10 A There could be.

11 Q All right. Suppose -- well, given a 21-month-old
12 child who is allergic to Amoxicillin, or, perhaps, some
13 other antibiotic, if they were given that, they could
14 develop a rash?

15 A They could develop a rash if they had an allergic
16 reaction to the medication.

17 Q And so would that be consistent with that?

18 A No, sir.

19 Q It would not?

20 A Not in my opinion.

21 Q What would that be consistent with, other than a
22 pressure sore?

23 A That's a localized rash. The only thing I can think
24 that might cause that would be something that put pressure
25 against the child's skin. An antibiotic-associated rash

1 would be more a generalized rash. It would affect
2 multiple area of the body, not just one localized area
3 like that.

4 Q Well, to say that what you saw is consistent with a
5 pressure sore or bed sore, if that's what we're going to
6 call it, then it could be consistent with other things as
7 well; correct?

8 Forget the rash for a moment. It could just be
9 consistent with other things?

10 A Yes.

11 Q Such as?

12 A Anything that made contact with the child's skin that
13 put pressure on it could cause that.

14 Q Okay. But not necessarily because he was unconscious
15 laying there for some period of time? It could be other
16 things?

17 A Yes.

18 MR. DEJONG: The witness is with you, Mr. O'Connell.

19 MR. O'CONNELL: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. O'CONNELL:

23 Q Doctor, could a yeast rash -- don't kids get yeast
24 rashes, things like that over a period of time?

25 A Kids do get yeast rashes. And they do get them in

1 that area. That didn't look like a yeast rash to me.
2 Because a yeast rash is, typically, more of a bumpy rash
3 with individual bumps raised up on the skin's surface. I
4 don't recall seeing bumps.

5 Q What about -- excuse me. Are you finished? Were you
6 finished?

7 A Yes, sir.

8 Q Okay. If you -- what about if you put some kind of
9 ointment on the child in that area, say, like a Desitin,
10 say?

11 A I don't think a baby rash ointment would cause that.
12 But if some type of substance that the child was very
13 sensitive to were rubbed on that area, it could cause the
14 same type of rash.

15 Q Have you, in your practice, known about certain
16 diapers that would cause rashes?

17 A Yes. Some kids are sensitive to some diapers.

18 Q Certain bed sheets that they're laying on, especially
19 unwashed new bedsheets; right?

20 A Yes.

21 Q Even some plush toys can cause some rashes in
22 children?

23 A They can, yes.

24 MR. O'CONNELL: Thank you very much.

25 THE COURT: Mr. Harbin.

1 CROSS-EXAMINATION

2 BY MR. HARBIN:

3 Q Doctor, would it be fair to say that as much of an
4 expert opinion as you can offer, you can't offer one on
5 this particular subject? To a reasonable degree of
6 medical certainty, you can't really say what caused this
7 particular --

8 A That is true. I can't tell you what caused it.

9 MR. HARBIN: Thank you, sir.

10 THE COURT: Any redirect?

11 MR. RICHARDSON: Nothing from the State, Your Honor.

12 THE COURT: Thank you.

13 You can step down.

14 How long is your next witness going to be, do you
15 think?

16 MR. RICHARDSON: It will be a little bit of time.
17 I'd say 30 or 40 minutes.

18 THE COURT: Okay. Call your next witness.

19 MR. RICHARDSON: The State calls Detective Rita
20 Burgess.

21 THE CLERK: Place your left hand on the Bible and
22 raise your right hand.

23 WHEREUPON,

24 RITA BURGESS,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: If you would, have a seat.

2 State your name for the record, please.

3 THE WITNESS: Rita Burgess.

4 DIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q Ma'am, where are you presently employed?

7 A The Pickens County Sheriff's Office.

8 Q And in what capacity are you employed there?

9 A I'm a detective sergeant in the juvenile division.

10 Q And how long have you been a police officer?

11 A 22 years.

12 Q Okay. And back in March of 2008, how were you
13 employed? What was the capacity of your employment at
14 that time?

15 A It was the same as it is now.

16 Q And did you have an investigation regarding the death
17 of minor

18 A Yes, sir, I did.

19 Q Okay. And when did you begin that investigation?

20 A On March the 17th, 2008.

21 Q Okay. And how did you begin that investigation?

22 A I was contacted by my lieutenant to respond to Easley
23 Hospital in reference to a child that had been transported
24 by EMS and was unresponsive.

25 Q And did you, in fact, go to the hospital?

1 A Yes, sir.

2 Q And, at the hospital, did you have contact with any
3 of the Defendants?

4 A Yes, I did.

5 Q Okay. Prior to that contact, were you given any
6 information about the child's condition?

7 A Other than the child had been transported to the
8 hospital unresponsive, that's the only thing I knew upon
9 arriving at the hospital.

10 Q At some point in time, were you given information
11 that the child had opiates in his system?

12 A Yes, sir.

13 Q Now, and we're at Easley Memorial -- excuse me,
14 Easley Baptist Hospital at this time; right?

15 A Yes, sir.

16 Q Who did you have contact with at Easley?

17 A As far as the Defendants?

18 Q Yes.

19 A I met with Ms. Honeycutt.

20 Q Okay. Where did you meet with Ms. Honeycutt?

21 A When I arrived at the hospital, I went into the room
22 where minor had been taken to by EMS. And Ms. Honeycutt
23 was in the room with minor

24 Q And is that -- was it the actual emergency room?

25 A Yes, sir.

1 Q Okay. Now, at some point in time, did you enter into
2 a conversation with Defendant Honeycutt?

3 A I did, yes, sir.

4 Q Okay. And where did that conversation take place?

5 A I don't recall if we spent -- we may have spoken very
6 briefly in the room where minor was. But most of our
7 conversation was outside the room and outside the hospital
8 in the parking lot after minor had been transported to
9 Greenville.

10 Q Okay. So your conversation took place after minor
11 had been transported?

12 A They were in the process of transporting him when I
13 arrived. They were awaiting for a helicopter to arrive.
14 And they left with him shortly after my arrival.

15 Q Okay. Now, at this time, was -- Defendant Honeycutt,
16 was she in custody?

17 A No, sir.

18 Q Was she free to go of her own free will?

19 A Yes, she was.

20 Q Okay. And did you ask her some questions?

21 A Yes, sir.

22 Q What did you ask her?

23 A I just asked if she could kind of give me an idea of
24 what was going on, what brought him to be at the hospital,
25 and who he had contact with, just the basic information

1 that I would have needed in order to start an
2 investigation to try to figure out what was going on with
3 minor

4 Q Okay, ma'am. And, at that time, what, if anything,
5 did she tell you about the time that she received the
6 child from the father?

7 A She told me that minor had been with his father from
8 Friday, March the 14th, 2008, until Sunday, March the
9 16th, 2008, between 8:00 and 9:00.

10 Q Okay. And when the child was with -- I'm sorry.
11 What time was it that the child was returned to her?

12 A She told me between 8:00 and 9:00.

13 Q And that was Sunday, the 16th?

14 A Yes, sir.

15 Q At that time, did she -- what, if anything, did she
16 tell you about the condition of the child upon returning
17 him to her?

18 A She said when he came home on Sunday night that
19 minor was extremely sleepy and pitching a fit. So she
20 put him in his crib and closed the door.

21 Q Okay. And did she state at any time that she checked
22 on him?

23 A She said she did go back and check on minor and he
24 was still fussy. And she cared for him a little bit and
25 put him to bed. And then he slept all night.

1 Q And did she tell you what time she put him back to
2 bed the second time?

3 A No, sir.

4 Q Now, did she tell you -- what, if anything, did she
5 tell you about when was the next time she saw minor

6 A She told me that she awoke around 8:30 or 9:00 the
7 next morning, that minor was still sleeping. She went in
8 to check on him and he was still sleeping.

9 Then she went back to bed and woke up around 11:00 is
10 what she told me. At approximately 11:00, she woke up.
11 She checked on him again and was going to change his
12 diaper. That's when she found him unresponsive. And she
13 called Brandon, her boyfriend, to come for help and, also,
14 called 911.

15 Q And what, if anything, did she tell you at that time
16 about going in at 8:00 in the morning and changing his
17 diaper?

18 A At that point, she did not mention that.

19 Q Okay. Now, this incident took place -- do you know
20 the location that they lived where the child was found
21 unresponsive?

22 A Yes, sir, I do.

23 Q And where is that?

24 A [REDACTED] Brayden Drive, Easley.

25 Q And that's, certainly, in Pickens County?

1 A Yes, sir, it is.

2 Q And so we have a complete understanding, she is the
3 mother of the child?

4 A Yes, she is.

5 Q And she did not live with the father or the
6 grandmother, the other two Defendants?

7 A No, she did not.

8 Q Okay. Now, after that conversation with Defendant
9 Honeycutt, did you then, again, have contact with her?

10 A Yes, sir.

11 Q And where was that?

12 A At my office.

13 Q Okay. And where is your office?

14 A At the Pickens Law Enforcement Center.

15 Q And did you request that she come to you, or how did
16 that take place?

17 A Yes, sir, I did. I requested she come and speak with
18 me.

19 Q Okay. And did you at that particular time -- what
20 date was that?

21 A That was on March 27th.

22 Q Did you say March 22nd?

23 A 27th.

24 Q March 27th. Okay. And, at that particular time, had
25 you got any information about the cause of the child's

1 death?

2 A Yes, sir.

3 Q And when you bring somebody in in an investigative
4 mode, do you have a certain procedure that you go by?

5 A Yes, sir.

6 Q Okay. And what is that procedure?

7 A We give them their Miranda warning.

8 Q Okay. Let me hand you what's been previously marked
9 as State's Exhibit No. 2. Do you recognize that?

10 A Yes, sir, I do.

11 Q And what is that?

12 A This is the form that we use in order to give them --
13 the person we're speaking with their Miranda warning.

14 Q And who does that pertain to?

15 A This is for Latasha Honeycutt.

16 MR. DEJONG: No objection on the part of Mr. Morris,
17 Your Honor.

18 MR. HARBIN: Without objection.

19 MR. O'CONNELL: No objection, Your Honor.

20 THE COURT: It's in evidence.

21 (WHEREUPON, State's Exhibit No. 2 was admitted into
22 evidence.)

23 BY MR. RICHARDSON:

24 Q Ma'am, I'll hand you State's Exhibit No. 2. When you
25 Mirandize somebody from that form, can you explain to the

1 jury exactly how you do it?

2 A Yes, sir. It's broken into sections. And I read
3 each individual line. As I read it, I mark it on the
4 side. And then I read the bottom section of it to them,
5 which is a waiver of rights. And then I ask them to read
6 the form and to initial on each line. And then they will
7 sign at the bottom.

8 Q Okay. Can you publish to the jury what you -- at
9 that point, what you read to her?

10 A Yes, sir. Before we ask you any questions, you must
11 understand your rights. You have the right to remain
12 silent. Anything you say can be used against you in
13 court. You have the right to talk to a lawyer for advice
14 before we ask you any questions, and to have him or her
15 with you during questioning.

16 If you have no money to pay a lawyer's fee, the Court
17 will appoint one to represent you without cost, if you
18 wish.

19 If you decide to answer questions without a lawyer
20 present, you still have the right to stop answering at any
21 time. You, also, have the right to stop answering at any
22 time until you talk to a lawyer.

23 Q Okay, ma'am. And did she, in fact, initial each of
24 those rights?

25 A Yes, sir.

1 Q And is there, also, a waiver of those rights at the
2 bottom?

3 A Yes, sir.

4 Q Can you read that, please?

5 A I have read this statement of my rights and I
6 understand what my rights are. I'm willing to make a
7 statement and answer questions. I do not want a lawyer at
8 this time. I understand and know what I'm doing. No
9 promises or threats have been made to me. And no pressure
10 or coercion of any kind has been used against me.

11 Q Okay, ma'am. And did she, in fact, waive her rights?

12 A Yes, she did.

13 Q How do you know that?

14 A Because she initialled each line, and she signed the
15 form.

16 Q Okay, ma'am. And did you force or coerce her in any
17 way to sign the form?

18 A No, sir.

19 Q And, at that point in time, did she, in fact, give
20 you a statement?

21 A Yes, sir.

22 Q Okay. Initially, did she give you an oral statement?

23 A Yes.

24 Q And what, if anything, did she tell you at that time
25 about the condition of the child when the child arrived

1 home?

2 A She said that Jamie and Lynn brought minor home on
3 Sunday evening. She said he came home around
4 approximately 7:30 to 7:45.

5 She said Jamie told her that minor was sick and
6 needed to go to the doctor, because he was congested. And
7 he gave her the Medicaid card.

8 She said he sounded congested. He had a runny nose.
9 He was crying, pitching a fit. So she was trying to calm
10 him and put him to bed.

11 Q Okay. Now, during that statement, did she mention
12 anything to you about changing his diaper at 8:00 a.m.?

13 A No, not at that point.

14 Q Okay. And did she mention to you anything about when
15 she had to be at work the next day?

16 A Well, during that time, she was just telling me about
17 him coming home that night. And then she did tell me she
18 got him to bed. And he, finally, went to sleep, and that
19 he never woke up.

20 And she got up at 8:00 for -- Ava had woken her up at
21 8:00 that morning. And when she went into minor's room,
22 she said she changed minor's diaper that morning. And he
23 never woke up while she changed his diaper. She said, at
24 that point, she went back to bed and set her clock for
25 10:00. Because she needed to be at work by 11:00.

1 Q Okay. Now, at some point, did you allow her to write
2 her statement down?

3 A Yes, sir.

4 Q Okay. And let me hand you what's been marked as
5 State's Exhibit No. 1.

6 A Yes, sir.

7 Q What is that?

8 A This is her written statement.

9 Q Okay. And was that given after you had given the
10 Miranda warning that you previously --

11 A Yes, sir.

12 MR. DEJONG: Without objection, Your Honor.

13 MR. HARBIN: Without objection.

14 MR. O'CONNELL: Without objection, Your Honor.

15 THE COURT: All right. It's in evidence.

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

18 BY MR. RICHARDSON:

19 Q Let me hand you back State's Exhibit No. 1, which has
20 been placed into evidence.

21 MR. RICHARDSON: Your Honor, at this time, I would
22 ask to allow her to publish that to the jury.

23 THE COURT: All right.

24 BY MR. RICHARDSON:

25 Q Could you read that to the jury?

1 A Yes. It reads, I, Latasha Honeycutt, can read and
2 write. On Sunday, 3/16/08, I was talking on the telephone
3 to my neighbor, Michelle Henry. She stated, Your baby is
4 home.

5 I hear a knock on the front door. I get off the
6 phone and answer the door. It's Lynn Phillips, Jamie
7 Morris' mother. She said, can we come in, as Jamie was
8 getting minor out of the car. Jamie, Lynn, Laura
9 Phillips, and minor came in the house.

10 Ava started to cry. So they sat on the couch while I
11 go into the kitchen to fix A.R. a bottle. Jamie was
12 holding minor I sat down and start to feed Ava. They
13 said, minor had fun this weekend, and he's tired. He's
14 been playing all day.

15 I was sitting on the right side of the couch, minor
16 in the middle, and Lynn on the left. Jamie was crouched
17 down on the floor in front of minor crying. Jamie's
18 mother, Lynn, said, Jamie, stop crying.

19 So I sat Ava in the swing and go into minor 's room
20 and put the clean crib sheet on the mattress. Jamie was
21 standing beside me holding minor Lynn and Laura standing
22 in the doorway. Jamie sat minor in the crib and minor
23 starts to pitch a fit. Jamie's mom says, Come on, Jamie,
24 let's go. They walk out.

25 And as they pull out of the driveway, Brandon Roper

1 and his cousin, Jeremy Galloway, pull into the driveway
2 and come into the house. Brandon and Jeremy. Jeremy sat
3 in the recliner chair. And Brandon walks into the kitchen
4 to fix something to drink.

5 minor is still crying and pitching a fit. Ava
6 starts to cry again. So I finish feeding her. And
7 Brandon goes and gets minor out of his crib. He walks
8 into the living room rubbing minor 's back saying, It's
9 okay, buddy, it's okay. minor stops crying. I finish
10 feeding Ava.

11 And Brandon says, Want to stand up, minor He
12 stands him up on the floor. minor begins to cry and
13 pitch a fit again. So Brandon picks him back up and
14 comforts him again. He stops crying. Jeremy says he's
15 going to go home, he'll see us later. He leaves.

16 I put Ava back in the swing. Brandon hands minor to
17 me. I hold him for five or 10 minutes, as did Brandon. I
18 laid minor on the couch and felt his diaper. It's dry.
19 I asked Brandon to make a cup of milk. He does.

20 I take minor 's clothes off. They were a little
21 dirty, plus he sleeps in his diaper and socks. I take him
22 and put him in his crib, cover him up, hand him his cup.
23 He takes two or three sips, and hands it back to me. I
24 give it to Brandon and he puts it into the refrigerator.
25 I kiss minor and say, I love you, sweet dreams, and cover

1 him up.

2 I go watch TV with Brandon. We watch TV for a while.
3 I go check on minor he's fine. Then me and Brandon go
4 on the back porch to spoke a cigarette. We come back in.
5 I go and check on minor He's fine. I cover him up
6 again. Then me and Brandon go to bed.

7 Ava wakes me up about three times that night. I
8 check on minor every time, and he's fine. I wake up
9 about 8:00, feed and change Ava, change minor cover him
10 up. He just peed. He didn't sound as congested as
11 before.

12 While Jamie was crouched in the floor, as I mentioned
13 earlier, he said, minor sounds congested. Here's his
14 Medicaid card. You might want to take him to the doctor.

15 I go back to bed and set the alarm clock for 10:00.
16 I get up, feed and change Ava, and get ready for work. I
17 go to get minor up, and he wouldn't respond. So I was
18 like, Brandon, come here, something is wrong. minor is
19 not responding. Brandon comes and is like, Oh, my God.
20 He's not breathing, call 911. So I do.

21 Brandon starts CPR in the crib, then moves him to the
22 floor and then begins CPR while on the phone with 911
23 talking him through it. minor has vomit that came out
24 both times Brandon gave minor air.

25 I'm panicking. I hear the ambulance coming. So I

1 run halfway down the driveway flagging them down. They
2 came in and took minor We got someone to watch Ava and
3 drove straight to Easley emergency. End of statement.

4 Q Okay. And did she sign that statement?

5 A She did.

6 Q And did you witness it?

7 A Yes, sir, I did.

8 Q Okay. Now, back to March 17th of 2008, did you,
9 also, make contact with Donna Phillips?

10 A Yes, sir.

11 Q And where was that?

12 A At Greenville Memorial Hospital.

13 Q And where at Greenville Memorial Hospital was it?

14 A It was in like a family waiting area.

15 Q Okay. And, at that time, did you have -- did you
16 talk to her?

17 A Yes, sir.

18 Q Okay. And was she in custody? Was she free to go?

19 A Yes. She was free to go.

20 Q And in speaking to her, what, if anything, did she
21 tell you about the child having problems sleeping?

22 A She told me that on Friday, they had trouble getting
23 him to sleep while he was at their house. And that she
24 put a pillow in her lap and laid him across the pillow and
25 rubbed his back to help comfort him and calm him down.

1 Q And did she mention anything about him waking up?

2 A She did say that he had what she called nightmares,
3 that he would have those during the night.

4 Q Okay. And what do you know nightmares as?

5 A I'm sorry.

6 Q What are nightmares? Do you know?

7 A She said he would wake up fighting and crying.

8 Q Okay. And, during that conversation, did she tell
9 you anything about the condition of the child -- the
10 condition of the child while they had possession of the
11 child?

12 A She did say that Sunday, he was coughing and
13 congested and that Jamie had given him only Tylenol, some
14 children's Tylenol. But she did not know how much of a
15 dose he had given.

16 And that when they took him home that day on that
17 Sunday, they were upset. Because Latasha put the baby in
18 the bedroom and closed the door. And they felt like he
19 should not be in there. That worried her.

20 Q Okay. Now, was there anything said about Lortab?

21 A Yes. She made random statements -- just in talking,
22 she would randomly say, I hope he didn't get any of my
23 Lortab. She said that a couple of times. And then she,
24 also, made the statement that her sister takes Lortab.
25 And she hoped he did not get her sister's Lortab.

1 Q Now, did you have any further conversation with her
2 at Greenville -- that was Greenville Memorial; correct?

3 A That was at Greenville Memorial, correct.

4 Q At that time?

5 A Yes -- no. I did not have any more contact with her.

6 Q Okay. Subsequently, did you, again, make contact
7 with Defendant Phillips?

8 A Yes, I did.

9 Q Okay. And where was that?

10 A At my office on April the 10th, 2008.

11 Q Okay. And did you follow the same procedure that you
12 just testified to regarding Defendant Honeycutt?

13 A Yes, I did.

14 Q And let me hand you what's been marked as State's
15 Exhibit No. 6. Do you recognize that?

16 A Yes, sir, I do.

17 Q And what is that?

18 A This is her Miranda rights.

19 Q And when you say "her," who are we talking about?

20 A Donna Phillips.

21 MR. RICHARDSON: Your Honor, I would move this into
22 evidence at this time.

23 MR. O'CONNELL: Your Honor, I don't object.

24 MR. HARBIN: No objection.

25 MR. DEJONG: Without objection, Your Honor.

1 THE COURT: It's in evidence.

2 (WHEREUPON, State's Exhibit No. 6 was admitted into
3 evidence.)

4 BY MR. RICHARDSON:

5 Q I hand you back State's Exhibit No. 6. And did you,
6 in fact, give Defendant Phillips Miranda warnings at that
7 time?

8 A Yes, I did.

9 Q And how do you know that?

10 A I read it from this form and did the same with
11 Ms. Honeycutt. I marked each one as I read them to her.

12 Q Okay. And you read those same rights that you had
13 read Ms. Honeycutt?

14 A Yes, sir, I did.

15 Q And did the Defendant Phillips initial those rights?

16 A Yes, she did.

17 Q Okay. And did you, also, have her read the waiver of
18 those rights on that same form?

19 A Yes. I did the same procedure with her as I did with
20 Ms. Honeycutt. I go over them myself -- read them to
21 them, to the person. Then I will hand them the form and
22 have them to read them. And they will initial and sign.

23 Q Okay. And did she, in fact, sign and waive her
24 rights at that time?

25 A Yes, she did.

1 Q And did you force or coerce her to do that?

2 A No, sir, I did not.

3 Q Let me hand you what's been previously marked as
4 State's Exhibit No. 5. Can you identify that for me,
5 please, ma'am?

6 A This is a written statement that Ms. Phillips
7 provided.

8 Q Okay. And was that done after the Miranda warnings
9 were given to her?

10 A Yes, it was.

11 MR. RICHARDSON: Your Honor, at this time, I would
12 move State's Exhibit No. 5 into evidence.

13 MR. DEJONG: Without objection, Your Honor.

14 MR. O'CONNELL: Your Honor, I object because my
15 client didn't read it. It was read to her because she
16 didn't have her glasses. If they would clarify that, I
17 won't object.

18 THE COURT: All right. It's in evidence.

19 Thank you.

20 (WHEREUPON, State's Exhibit No. 5 was admitted into
21 evidence.)

22 BY MR. RICHARDSON:

23 Q Let me hand that back to you. Again, it's State's
24 Exhibit No. 5. Now, in this case, did you -- did the
25 Defendant write the statement, or did you write the

1 statement?

2 A She requested that I write the statement for her.

3 Q And why was that?

4 A She told me that she had rheumatoid arthritis and it
5 was hard for her -- difficult for her to write for a long
6 period of time. And she asked if I would write this for
7 her.

8 Q And did you write it as she told it to you?

9 A Yes, sir.

10 Q Okay. Did you do it in single sentences, or did she
11 tell you and then you just write it all, or how did that
12 work?

13 A No. I do it in single sentences. And when I finish
14 writing one sentence, I read it back to the person and
15 make sure it's exactly what they wanted to say.

16 MR. RICHARDSON: Your Honor, at this time, I would
17 ask that -- allow her to publish that to the jury.

18 THE COURT: Yes, sir.

19 THE WITNESS: It reads, I Donna Lynn Phillips, have
20 requested that Detective Rita Burgess write this story for
21 me.

22 Thursday, March 13th, 2008, I saw minor at
23 Latasha Honeycutt's house. They called for us to get his
24 car seat. He was crying and ill acting, sleepy, and would
25 only let Jamie hold him.

1 Friday, we, Jamie and I, went to pick minor up
2 around 1:30 or 2:00 p.m. We had a hard time getting
3 Brandon Roper to the door. And he knew we were coming
4 because we talked to him on the phone. We started to
5 leave giving up on him coming to the door. And Brandon
6 opened the door rubbing his eyes-like he had been asleep
7 saying, Oh, man, I'm tired.

8 minor was running around in his pajamas and had the
9 cap to a Bic pen in his hand. Jamie took the pen cap away
10 and showed it to me. I shook my head at Jamie.

11 I looked around for a baby monitor, because the baby
12 was in the back bedroom with the door closed. And I
13 didn't see a monitor. That concerned me because the baby
14 is a newborn. Brandon got the baby at my request so Jamie
15 could see her.

16 We got his Teddy bear and duck and we left. He was
17 still wearing his pajamas. On the way to my house, he was
18 in the car seat and minor said, Daddy, and Nanny's baby.

19 He woke up on schedule both mornings between 6:30 and
20 7:00 a.m. I was worried about him waking up at night
21 frightened from nightmares. And he had a runny nose and
22 started getting congested by Sunday.

23 When we carried him home on Sunday, I talked to
24 Latasha about him being sick and needing to go to the
25 doctor. And she acted like she wasn't listening. She

1 just smiled and acted like he was just having a temper
2 tantrum. Jamie, later that night, wanted to call Latasha
3 and check on him, because he thought minor needed to go
4 to the doctor. And I told him they were going to get
5 upset with him calling all the time. I later told him to
6 go ahead and call, but I'm not sure if he heard me.

7 Jamie gave Latasha the Medicaid card to take him to
8 the doctor. He was sick and Latasha put him in the crib
9 and closed the door. And it made me feel uneasy.

10 On Monday, I carried Jamie to work and took Sydney to
11 get his license and wash the car out. Sydney got his
12 license and we came back.

13 At about 12:30 p.m., someone was banging on the door.
14 And Brandon told them to come quick, it was minor I
15 asked if minor was alive. And he told me, Yes, but they
16 are airlifting him to Greenville. I was running to my
17 car. And he told me minor had stopped breathing and said
18 the doctor said minor took something. And Brandon asked
19 what Jamie had given minor Brandon said he would go to
20 get Jamie at work. And me and Sydney went to the
21 hospital.

22 The nurse said Latasha said we brought him home at
23 9:00 p.m. covered in bruises. I told her all of that was
24 a lie. minor only had a place on his face, a bite mark.
25 The nurse said we detect that it looks like a child's bite

1 mark.

2 She took us through the emergency room as they were
3 rolling him out to the ambulance to take him to the launch
4 pad. And we went straight to Greenville. Someone
5 mentioned that minor had a trace of opiates in his
6 system, but I'm not sure who it was. But I think it was
7 the nurse.

8 When we got to Greenville Hospital, Latasha said
9 minor went to sleep about 15 minutes after we left on
10 Sunday night. She said he slept all night in his clothes
11 and never got up. Jamie questioned why she didn't get him
12 up before 10:00 a.m., and asked if she changed his diaper.
13 And she said she did change his diaper while he was in the
14 crib. I later asked Latasha if minor ate anything. And
15 she said he drank some milk.

16 The next day I asked Latasha if he had any of those
17 nightmares. And she said, yes, he woke up three times.
18 The nurse ran us out of the room one day saying only two
19 people could stay. And I said that that should be the
20 momma and daddy. We went to a waiting room, me, Sydney
21 and Brandon. I asked Brandon if they had anything in the
22 house minor could have got. And he said, No, nothing. I
23 told Brandon I had Lortab, but I didn't think minor could
24 have gotten it. Brandon said he had been prescribed
25 Lortab two weeks before, but they were all gone.

1 At the funeral home, Jamie asked Brandon if he
2 noticed minor sounded congested and he said no, not when
3 I picked him up. Brandon said minor woke up four times
4 that night. End of statement.

5 BY MR. RICHARDSON:

6 Q Okay, ma'am. And did she sign that statement?

7 A Yes, sir, she did.

8 Q Okay. Now, prior to her giving that statement, did
9 you have a conversation with her?

10 A Yes, sir.

11 Q Okay. And did she reveal to you anything about how
12 the child was breathing?

13 A She did. She said he had a runny nose all weekend.
14 And by Sunday, he had started getting congested, and that
15 he had become ill and irritated. And they decided to
16 leave Greenville where they were visiting a family member.

17 And, on the way home, he was breathing hard -- what
18 she called hard in the car. And that Jamie had moved him
19 around in the car seat to try to help his breathing in the
20 car.

21 Q Okay. Now, did you have any further conversations
22 with Defendant Phillips after that?

23 A On that day?

24 Q Yes.

25 A No, sir.

1 Q Okay. Now, regarding the Defendant Morris, did you
2 have a conversation with him at the hospital, also?

3 A Yes, sir, I did.

4 Q Okay. And which hospital was that?

5 A At Greenville Hospital.

6 Q And what day was that?

7 A It was March 17th.

8 Q And, at that particular time, was he in any type of
9 custody or control of yours?

10 A No, sir.

11 Q Okay. Was he free to leave?

12 A Yes, he was.

13 Q Okay. And did he speak to you freely?

14 A Yes, he did.

15 Q Okay. And what, if anything, did he say about the
16 child, minor being sick?

17 A He, actually, said that minor had been fine all
18 weekend and that around 3:00 on Sunday, he started crying
19 and acting ill. And around 4:00 that day, he started
20 breathing funny. He was wheezing, congested, his jaw was
21 shaking. And he was concerned about the way minor was
22 breathing that day.

23 Q Okay. And what, if anything, did he say about giving
24 him any type of medication?

25 A He said around 3:45 that day, he did give him one

1 dropper full of infant Tylenol, Equate brand,
2 grape-flavored infant Tylenol.

3 Q At any time, did he say he gave him more than that
4 one dropper full?

5 A On that day?

6 Q Yes.

7 A At that time, he did not.

8 Q Okay. Now, was that the extent of your conversation
9 with him?

10 A Basically, that day, yes.

11 Q Okay. And, subsequently, did you, also, have a
12 second contact him?

13 A Yes, sir.

14 Q Okay. And where was that?

15 A That was at my office.

16 Q Okay. And did you follow the same procedures in
17 speaking to him -- what day was that?

18 A That was on April the 4th, 2008.

19 Q Okay. And did you follow the same procedures in
20 speaking to him as you did the other two Defendants?

21 A Yes, sir.

22 Q And let me hand you what's been marked as State's
23 Exhibit No. 4. What is that?

24 A This is his Miranda.

25 Q And did you -- that's the same Miranda that you had

1 given the other two Defendants?

2 A Yes, sir. It's the same form.

3 Q Okay. And did he initial those rights?

4 A Yes, sir.

5 Q Okay. And did he, also, waive those rights?

6 A Yes, sir.

7 Q And how do you know?

8 A Because he initialled each line, and he signed the
9 bottom.

10 Q Okay. And did you force or coerce him to sign this
11 form in any manner?

12 A No, sir.

13 MR. RICHARDSON: Your Honor, at this time, I would
14 move State's Exhibit No. 4 into evidence.

15 MR. DEJONG: Without objection on behalf of
16 Mr. Morris.

17 MR. O'CONNELL: No objection.

18 MR. HARBIN: Without objection.

19 THE COURT: It's in evidence.

20 (WHEREUPON, State's Exhibit No. 4 was admitted into
21 evidence.)

22 BY MR. RICHARDSON:

23 Q After you gave him those Miranda warnings at your
24 office, did you have a conversation with him?

25 A Yes, sir.

1 Q During that conversation, what, if anything, did he
2 reveal to you about pneumonia?

3 A He described minor breathing as sounding like he
4 may be having pneumonia.

5 Q Okay. And what, if anything, did he say at that time
6 about the child being sick, and how long the child had
7 been sick?

8 A He said minor was fine on Friday. He didn't appear
9 sick at all. He, actually, described that he slept well
10 Friday night. He had one nightmare that night. The same
11 thing on Saturday. He said he seemed to be fine on
12 Saturday. He slept all night, had one nightmare on
13 Saturday. And he stated on Sunday between 3:00 and 3:30,
14 he started acting ill and crying.

15 Q And that -- was that when the breathing that you
16 described before --

17 A That's when he said he started crying and he was
18 acting sleepy, acting like he was fighting sleep. And
19 that this went on for about 30 minutes, and he rubbed his
20 face into his shirt. When he was holding minor
21 rubbed his face into Jamie's shirt. And, at that point,
22 he said that went on for about 30 minutes.

23 Q Okay. And after your oral conversation with him, did
24 he give a written statement to you?

25 A He did. And he, also, mentioned the Equate Tylenol

1 when we were talking in my office.

2 Q Let me hand you what's been previously marked as
3 State's Exhibit No. 3. Can you identify that?

4 A Yes, sir. It's Jamie Morris' written statement.

5 MR. DEJONG: Without objection, Your Honor.

6 MR. O'CONNELL: No objection, Your Honor.

7 MR. HARBIN: No objection, Judge.

8 THE COURT: It's in evidence.

9 (WHEREUPON, State's Exhibit No. 3 was admitted into
10 evidence.)

11 BY MR. RICHARDSON:

12 Q Let me hand you back State's Exhibit No. 3.

13 MR. RICHARDSON: Your Honor, at this time, I would
14 ask that she be allowed to publish that to the jury.

15 THE COURT: Go ahead.

16 THE WITNESS: It reads, I, Jamie Edward Morris, can
17 read and write.

18 On Friday, March 14th, I picked minor my son, up at
19 Latasha Honeycutt and Brandon Roper's residence at
20 approximately 1:00 to 1:30 p.m. minor and I stayed at
21 home on Friday all day long. minor acted fine on Friday.
22 minor had a nap between noon, 12:00 and 1:00 Friday. I
23 got him home -- I'm sorry. I got him to bed at 10:00 p.m.
24 He woke up Saturday morning at 6:30.

25 On Saturday, I took him to my stepmother's, Renee

1 Shelton's house. 'minor was fine all day Saturday. I got
2 him to bed at 8:00 p.m. on Saturday. 'minor and I woke up
3 together at 7:30 on Sunday morning. We went to my aunt's
4 house, Cindy Stevens, Sunday.

5 At that point, 'minor was still fine. My mother was
6 with me the whole time over the weekend. We all went to
7 my sister's, Brandy Leslie, on Sunday and arrived there at
8 about 2:00 or 2:30. 'minor was still just fine at that
9 point.

10 At about 3:30, 'minor started crying and acted
11 sleepy. I tried to get him to calm down and rest, but he
12 would not go to sleep. He acted like he was fighting
13 sleep. I felt his head and the back of his neck, and he
14 felt hot. I gave him some Equate brand grape-flavored
15 infant Tylenol. He still wouldn't calm down. After he
16 acted like this for about one hour, I decided we should
17 leave my sister's house.

18 We left at about 5:30 to 6:00 and went back to my
19 house to get 'minor 's things. 'minor slept in the car on
20 the way back from Brandy's. We took 'minor directly from
21 my house back to Latasha's. He was breathing bad on the
22 way like he was congested. I got upset about his
23 breathing.

24 So when we arrived at Latasha's residence, I gave her
25 his Medicaid card and told her to get him to the doctor.

1 She said something about his doctor said he needed his
2 medical records before he could see him. I told her I
3 thought he should see one very soon because his breathing
4 sounded bad. minor was awake when I got him inside at
5 Latasha's, and was awake when I left. He was reaching for
6 me when I told him goodbye. I told him I loved him and
7 would see him later. That was the last time I saw him
8 conscious.

9 BY MR. RICHARDSON:

10 Q Okay, ma'am. Now, after all of this, did you have --
11 did you receive anything from Defendant Phillips?

12 A Yes.

13 Q And what did you receive from her?

14 A I received an envelope that contained an Equate
15 bottle of Tylenol, Equate brand.

16 Q And how did you receive that?

17 A It was, actually, in my mail box at work.

18 Q And who sent it to you?

19 A It was enclosed in an envelope, sealed up.

20 Q Do you have that envelope?

21 A I do.

22 Q Okay, ma'am. And who did you -- is that the note you
23 received the Equate or the Tylenol from?

24 A Yes, sir. It was left with Sergeant Kristy Leopard,
25 who works in our detention center.

1 Q And did she put any type of marks on there?

2 A Ms. Leopard?

3 Q Yes.

4 A Yes, she did.

5 Q And what kind of marks are those?

6 A She wrote a note on here. She, also, dated and
7 signed it, and timed it. And she sealed it up with a date
8 and time. And it's, also, signed by Ms. Phillips.

9 Q Okay. And after you received that Tylenol, what did
10 you do?

11 A After I received the Tylenol -- I'm sorry?

12 Q After you received the Tylenol, what did you do with
13 it?

14 A I turned it over to our ID division for -- to put
15 into evidence.

16 Q Okay. And was that the last time you had anything to
17 do with that Tylenol?

18 A Yes.

19 MR. RICHARDSON: Thank you, ma'am.

20 Please answer any questions the Defense might have
21 for you.

22 THE COURT: All right. I think we're just going to
23 go ahead and take a break for lunch. We'll just resume at
24 2:00. Be back in the jury room at 2:00. Don't talk about
25 the case. Don't do any outside investigation. And

1 continue to keep an open mind.

2 Thank you very much.

3 (WHEREUPON, the jury was excused from open court at
4 approximately 12:45 p.m.)

5 MR. HARBIN: Judge, I just wanted to bring to the
6 attention -- Mr. O'Connell brought to my attention, the
7 third juror from the left, he's the young man with the
8 long black hair, he appears to be sleeping.

9 THE COURT: Okay. I hadn't noticed. I'll keep an
10 eye on him.

11 MR. HARBIN: Thank you.

12 THE COURT: We'll reconvene at 2:00.

13 (WHEREUPON, a lunch break was taken.)

14 (WHEREUPON, State's Exhibit No. 39 was marked for
15 identification only.)

16 THE COURT: Anything before we resume?

17 MR. DEJONG: Not on behalf of Mr. Morris.

18 MR. O'CONNELL: Not from us, Your Honor.

19 MR. HARBIN: Nothing from us, Your Honor.

20 THE COURT: Ma'am, you may resume your seat.

21 And bring the jury on in.

22 (WHEREUPON, the jury came into open court at
23 approximately 2:01 p.m.)

24 THE COURT: Cross-examination.

25 MR. DEJONG: Thank you, Your Honor.

1 May it please the Court.

2 CROSS-EXAMINATION

3 BY MR. DEJONG:

4 Q Ms. Burgess, if we can, what I'd like to do is try to
5 get some times and, basically, a timeline, if we could.
6 And then we'll talk about some other stuff.

7 A Yes, sir.

8 Q And I gather -- before we do that, I gather you were
9 the chief investigating officer, detective, lead, whatever
10 they call y'all?

11 A Yes, sir.

12 Q It's your case?

13 A Yes, sir.

14 Q All right. Now, of course, it goes without saying
15 that you were not present when anything happened, if
16 anything happened?

17 A That's correct.

18 Q Okay. So let's start out with -- we'll try this.
19 Let's start out with Friday, March the 14th. What time
20 did your investigation reveal that Mr. Morris picked up
21 the child in this case?

22 A Okay. It would be between 1:00 and 1:30.

23 Q In the afternoon?

24 A Yes, sir.

25 Q And I kind of got my back to you, so if you can't

1 hear me, holler at me. Okay.

2 A Sure.

3 Q Between 1:30 and 2:00?

4 A Between 1:00 and 1:30.

5 Q 1:00 and 1:30. Okay. Now, from 1:30 on the 14th,
6 the child was with his father and/or grandmother, is that
7 an accurate statement? That's what your investigation
8 revealed; right?

9 A Yes, sir.

10 Q Now, on 3-16, the child is returned to his mother; is
11 that correct?

12 A That's correct.

13 Q Now, I've heard a lot of varying times in there. But
14 I think -- well, I've heard everywhere from 6:30 to 9:00.

15 A That's correct.

16 Q Okay. And that was, basically, reported by the
17 mother, Ms. Honeycutt?

18 A Those times, I gathered from all three of them.

19 Q All three of them?

20 A Yes, sir.

21 Q Okay. So the latest would be 9:00 on the -- 9:00 in
22 the evening, nighttime, if you will, and the earliest
23 would be 6:30; right?

24 A Yes, sir.

25 Q Now, after 6:30, or whatever that window was when he

1 was returned, until the child was at the hospital, does
2 your investigation reveal that Mr. Morris had any further
3 contact with that child?

4 A Once he left him with Latasha, not to my knowledge,
5 he had no more contact.

6 Q All right. So somewhere after 6:30 or 9:00 on March
7 the 16th, Mr. Morris had no further dealings with this
8 child?

9 A No, sir.

10 Q Or Ms. Phillips, as far as that goes?

11 A That's right.

12 Q Okay. Now, we get a little fuzzy, I think, after
13 that. How many statements did you, actually, take from
14 Ms. Honeycutt?

15 A Written statements?

16 Q No, statements via oral.

17 A Just in general talking, we talked several times. We
18 talked at Easley Hospital. We talked at my office. I
19 believe I even spoke with her on the phone. And I likely
20 spoke with her at Greenville Hospital, just in general.

21 Q Okay. So you spoke -- well, let's deal with Easley
22 Baptist. You spoke with Ms. Honeycutt there?

23 A Yes, sir.

24 Q Did you speak to Mr. Morris there?

25 A No. I did see him very briefly.

1 Q But you did not speak with him?

2 A I did not speak with him.

3 Q Now, the two times, as I understand it, that you
4 talked with Mr. Morris was at Greenville Memorial, and
5 then when he came to your office on April the 10th?

6 A April the 4th.

7 Q April the 4th. Okay. Those were the two times.
8 Now, the first time when you talked to Ms. Honeycutt --
9 well, let's go way to the far end. We can agree and your
10 investigation revealed and paperwork you got, the 911 call
11 came in at 11:15 in the morning on March the 17th;
12 correct?

13 A That's correct.

14 Q All right. And, for purposes of my timeline, I'm not
15 too concerned about the times after that. I think we've
16 got that part.

17 A Okay.

18 Q Now, when you talked to Ms. Honeycutt at Easley
19 Baptist Hospital --

20 A Yes.

21 Q -- she said she put minor down at what time?

22 A Let me get my notes here in front of me so I can tell
23 you correctly. What time she put him down that night?

24 Q Yes, ma'am. What did she tell you at Easley Baptist
25 Hospital?

1 A She said that she put him down approximately 15
2 minutes after he was dropped off by his father.

3 Q So that would have been anywhere from 6:15 to 9:15 at
4 night?

5 A Well, 6:45 to 9:15.

6 Q Well, 6:45?

7 A Yes.

8 Q Is my 6:30 here wrong? Should that be 6:45?

9 A No, 15 minutes after he was dropped off.

10 Q Oh, I'm sorry. My math is cockamamie. Too much
11 lunch, I believe. 6:45 to 9:15, that's what?

12 A Actually, what she said is approximately 15 minutes
13 after Mr. Morris left her house is when she, finally, got
14 minor settled.

15 Q Right. Okay.

16 A And I believe she said they stayed at her house maybe
17 five to 10 minutes.

18 Q So they did stay there for a while?

19 A Yes, for five to 10 minutes, she said.

20 Q Which could -- so we don't know if that's the time
21 they left or got there; correct?

22 A Correct.

23 Q But, nonetheless, at Easley Baptist, she said about
24 15 minutes after they left, she put minor down?

25 A Yes, sir.

1 Q Now, during that conversation, when did she say was
2 the next time that she saw minor

3 A During that conversation?

4 Q Yes, ma'am.

5 A During that conversation, she, actually, said she
6 checked on him before she went to bed. And then she woke
7 back up around 8:30 or 9:00 the next morning.

8 Q So, in that statement, she does not say anything
9 about getting up during the night?

10 A No, not during that statement.

11 Q So she put him down around 9:15, checked on him
12 around what time?

13 A She said she woke up around 8:30 or 9:00 the next
14 morning.

15 Q All right. Now, how long was your conversation with
16 her at Easley Baptist?

17 A It was very brief.

18 Q Okay. Well, I do need to ask the time a little bit.
19 What time did you get to Easley Baptist Hospital?

20 A Do we have the CAD sheet available?

21 Q Yes, ma'am, certainly. If I can find it here.

22 MR. DEJONG: You don't have the exhibits, do you,
23 Ms. Barwick? State's Exhibit Nos. 16 and 17?

24 MS. BARWICK: Yes, I do. I apologize. Here's one.

25 MR. DEJONG: No, I'm looking for the CAD report.

1 That's not the CAD report.

2 BY MR. DEJONG:

3 Q Well, maybe we can kind of back into it this way.

4 A I have a copy in my file.

5 Q If you would like to step down.

6 A I have it. I just have to find it.

7 Q I'm looking for it.

8 A I arrived at Easley Hospital at 12:09.

9 Q 12:09?

10 A Yes.

11 Q Now, was Ms. Honeycutt there when you got there?

12 A Yes, she was.

13 Q So how long did you spend with her at Easley Baptist?

14 A It was very brief. When I got the hospital, they
15 were already preparing to take minor to Greenville. And
16 I did not hold her up very long at all, just, basically,
17 long enough to get some information as to what brought him
18 to the hospital that morning.

19 Q And that information was?

20 A That she woke up that morning and found him
21 unresponsive.

22 Q Okay. Now, did you talk to her again at Greenville
23 Memorial Hospital?

24 A I'm sure I probably spoke with her briefly there, but
25 nothing that was of importance to the case at that point.

1 Q Okay. So there's nothing at Easley -- Greenville
2 Memorial that you made notes of, or anything else with
3 regard to Latasha Honeycutt?

4 A Concerning Latasha, no.

5 Q So the next time you talked to her is in your office;
6 is that correct?

7 A Outside of -- I'm pretty well sure we spoke on the
8 phone a couple of times, just her asking about updates.
9 But, as far as interviewing, no, not until she came back
10 to my office.

11 Q And my question wasn't clear. I shouldn't have used
12 the word just talking to her, that encompasses a lot of
13 things. But as far as trying to get a statement from her
14 was in your office --

15 A That's correct.

16 Q And on what date was that?

17 A That was on March the 27th, 2008.

18 Q All right. Now, basically, on March the 27th, you
19 have a situation where there were -- for want of a better
20 term, there were two statements; correct?

21 A Correct.

22 Q There was, basically, a verbal statement, and then an
23 oral statement -- I mean, an oral statement and then
24 followed up by a written statement; right?

25 A That's correct.

1 Q Now, in the verbal statement -- the oral statement,
2 did she say anything about getting up through the night
3 and checking on minor

4 A I believe she did. Let me go back here and look.
5 Let me look at my notes.

6 Q Surely, please do, ma'am.

7 A She said Ava woke her that night several times during
8 the night, and that she looked in on minor when she got
9 up with Ava.

10 Q Okay. So that was in the oral portion?

11 A Yes, sir.

12 Q Okay. Oral on -- what was the date?

13 A March 27th.

14 Q Thank you.

15 She got up several times; is that correct?

16 A Let me make sure she did not give me a specific
17 number here. Ava woke her several times. She changed
18 minor 's diaper at 8:00. He never woke up.

19 Q When she said Ava woke her up several times, did she
20 talk about checking on minor

21 A I apologize. She did not say that during her oral
22 statement. She said Ava woke her up several times, and
23 she changed minor 's diaper.

24 Q Now, I'm confused. Was that the oral part?

25 A That's the oral part. I apologize.

1 Q No problem. Now, we get to her written statement.

2 A Yes, sir.

3 Q Okay. Now, during the oral portion of this statement
4 on April [sic] the 27th, was that an ask and answer type
5 thing, or how did that work?

6 A Yes, sir. It, basically, is. I just ask to kind of
7 give me a timeline and explain some -- you know, tell me
8 what happened from the time he was brought back home to
9 her by Mr. Morris until he ended up at the hospital on
10 Monday morning.

11 Q Okay. So the next step on the 27th is you get the
12 written statement?

13 A Yes, sir.

14 Q Okay. Now, in the written statement -- and that was,
15 again, on 4-27 of '08; correct?

16 A 3-27.

17 Q 3-27. I'm sorry. That was both of them, the oral
18 and the written?

19 A Yes, sir.

20 Q Okay. Now, in the written statement, she -- does she
21 indicate whether or not she checked on minor through the
22 night?

23 A Yes, she did.

24 Q And did she indicate how many times she checked on
25 minor

1 A She wrote in her statement, Ava wakes me up about
2 three times that night. I check on minor every time, and
3 he was fine.

4 Q Okay. So there's no indication -- well, do we know
5 if one of those times was the 8:00 or 8:30 when she
6 changed the diaper, or does she go on further and talk
7 about changing the diaper?

8 A She does say that he was -- after she says he was
9 fine, she says I wake up at 8:00 to feed and change Ava,
10 cover him up. He just peed.

11 Q All right. So, again -- well, in either the oral
12 statement on 3-27, or the written statement on 3-27, does
13 she say what time minor went to bed?

14 A Not a specific time, no, sir.

15 Q Okay. But, nonetheless, at least, three times, as I
16 understand the statement, she got up through the night and
17 checked on minor

18 A Yes. In her written statement, that is what she
19 says.

20 Q That's correct -- I mean; is that correct?

21 A Yes, sir.

22 Q And she said there's no indication that there was any
23 problems those three times she got up to check on him?

24 A That's correct.

25 Q All right. Now, we get to 8:00 or 8:30 in the

1 morning. That's when we get the diaper change; right?

2 A Yes, sir.

3 Q All right. And in any of your conversations, was
4 there any indication that she said that minor was
5 unresponsive at that point in time?

6 A At 8:00 that morning?

7 Q 8:00 or 8:30, whatever time it was.

8 A No. She doesn't say he was unresponsive at that
9 time.

10 Q She said he was asleep, but she changed his diaper?

11 A That's right.

12 Q Nothing in her statements would have indicated that
13 she had any alarm over minor at that point in time?

14 A That's right.

15 Q Okay. And then she goes back to bed -- well, she
16 sets her alarm clock, I believe; right?

17 A Yes, sir. That's what she indicated.

18 Q And then what time does she say she gets up again?

19 A She wrote, I go back to bed and set the alarm clock
20 for 10:00. I get up, feed and change Ava, get ready for
21 work, go to get minor up, and he wouldn't respond.

22 Q Okay. So we don't know if she got up at 10:00 or
23 not, but that's when she set her alarm clock for?

24 A Correct.

25 Q So 10:00 -- again, we're on Monday the 17th; right?

1 A That's correct.

2 Q Okay. As I understand her statement, she doesn't
3 immediately go check on minor

4 A No. What she wrote is that she fed Ava, changed Ava,
5 and got herself ready for work before she went to check on
6 minor

7 Q Okay. So then after she gets up at 10:00, the next
8 step that we're really sure of is the 911 call at 11:15 on
9 the 17th?

10 A Yes, sir.

11 Q So from the time -- we'll even take the latest time
12 that people -- various people used different times, but we
13 use the 9:00. So from the time the child was returned,
14 the latest time being 9:00 on the 16th, some about 14
15 hours passed before the 911 call went in?

16 A Yes.

17 Q Okay. Now, you talked to -- well, the talk of the
18 child -- let's just deal with March the 16th, when the
19 child is returned.

20 A Yes, sir.

21 Q Pretty much what your investigation revealed is there
22 was an agreement -- or it was agreed, not a good choice of
23 words. But everybody said about the same thing, the child
24 was fussy?

25 A Yes, sir.

1 Q Pitched a fit?

2 A Yes, sir.

3 Q He cried?

4 A Yes.

5 Q And he was sleepy?

6 A Yes.

7 Q Okay. Maybe had a runny nose?

8 A Congested, breathing difficulties.

9 Q Yes. Right. And, again, this was a 21-month-old
10 child; right?

11 A Yes, sir.

12 Q And this was in March of '08?

13 A Yes, sir.

14 Q What is that, late winter, wintertime?

15 A Early spring.

16 Q Late winter or early spring. I'm not sure. But it's
17 still fairly cold outside, that type of thing?

18 A Sure.

19 Q Okay. And then even after that -- well, after that,
20 when he was returned, she says he remained fussy?

21 A Yes, for approximately 15 minutes after he was
22 dropped off.

23 Q And, at some point in time, she went and closed the
24 door on his room, or something?

25 A Yes. I believe that was while Mr. Morris was still

1 there.

2 Q Okay. But, certainly, there's no indication by
3 anyone at that point in time when the child was returned
4 to his mother that he was in any distress, other than
5 congestion, runny nose, cold-like symptoms, that type of
6 thing?

7 A Right. He was congested. He had difficulty
8 breathing. They were all concerned about that.

9 Q Right. Now, in the course of your investigation, did
10 it come about as to whether there was any kind of custody
11 order or agreement between Ms. Honeycutt and Mr. Morris?

12 A No. None that was brought to my attention.

13 Q Okay. Was anything brought to your attention as to
14 the time he was -- minor -- was to be returned on March the
15 16th?

16 A No, sir.

17 Q Okay. Now, I think we're clear, but let's be sure
18 we're clear. Your investigation did reveal that Jamie
19 Morris -- well, number one, Jamie Morris was the
20 biological father -- is the biological father of minor
21 correct?

22 A Yes, sir.

23 Q And Latasha Honeycutt was the biological mother?

24 A Yes, sir.

25 Q But, at this point in time, and I think it's implicit

1 that they were not living together?

2 A No, sir, they were not.

3 Q Okay. Do you know how long they had -- or if they
4 had ever?

5 A No, sir. I know Ms. Honeycutt and Mr. Roper had a
6 child together that was a newborn.

7 Q But that child was younger than minor correct?

8 A Yes.

9 Q Speaking of Mr. Roper, was he at the emergency room
10 at Easley Baptist when you got there?

11 A When I arrived?

12 Q Uh-huh.

13 A No, he was not.

14 Q Did he come later?

15 A Yes.

16 Q To the best of your recollection, was he at
17 Greenville Memorial?

18 A Yes, sir, I believe he was.

19 Q So if you know --

20 A Actually, I can say he was. Because he was in the
21 room with minor at one point while I was there.

22 Q So do you know if Ms. Honeycutt and Mr. Roper came
23 to Easley Baptist together, or separately, or do you
24 know?

25 A I do not know.

1 Q Okay. Very good. Did you ever ask about the
2 Medicaid card? Did you ever get a Medicaid card?

3 A I never saw a Medicaid card.

4 Q So then the next person you talked to at Easley --
5 Greenville Memorial, I gather the sequence of events
6 was -- well, really, the first person you talked to at
7 Greenville Memorial was Donna Phillips?

8 A Actually, out of the ones I talked to at Greenville
9 Memorial, I couldn't tell you which one I spoke to first.
10 I just had general conversation with all of them,
11 including the hospital staff.

12 Q Okay. Well, nonetheless, your conversation with --
13 well, let me back up a little further. What time did you
14 get to Greenville Memorial? Do you know?

15 A I can tell you.

16 At 1:26.

17 Q In the afternoon, I gather?

18 A Yes, sir.

19 Q On the 17th?

20 A Yes, sir.

21 Q Now, in your conversation with Ms. Phillips at the
22 hospital, I believe you said she randomly said on a couple
23 of -- or she talked about Lortab?

24 A Yes, sir.

25 Q Okay. Now, did she ever say she gave Jamie Lortab --

1 I mean, I'm sorry, not Jamie, minor

2 A No, sir, she did not.

3 Q She, basically, said she hoped he hadn't found it or
4 gotten it; right?

5 A Right. She was upset. And she was just making a
6 random statement, I hope he didn't eat my Lortab.

7 Q And even if he had, she didn't say Jamie had any
8 knowledge of that, did she?

9 A No, she did not.

10 Q And there would be nothing in your investigation that
11 would indicate, even if that happened, that Jamie had any
12 knowledge of that?

13 A No, sir.

14 Q Okay. Or as far as that goes, I think Ms. Phillips
15 mentioned her sister?

16 A Her sister, yes, sir.

17 Q And the same thing. Number one, there's no
18 indication that the sister gave minor any hydrocodone;
19 correct?

20 A That's correct.

21 Q And if hydrocodone was found or even given by
22 anybody, nothing in your investigation would reveal that
23 Jamie Morris knew anything about that?

24 A That's correct.

25 Q Do you know at this time how old Jamie Morris was?

1 A At that time -- I can look on his statement. He was
2 24.

3 Q All right. And do you know where he was living?

4 A His address was [REDACTED] Ivey Hayes Road in Pickens.

5 Q Do you know if he lived with anyone at that point in
6 time?

7 A That's, also, his mother's address.

8 Q Okay. Now, while you were at the hospital, you,
9 also, talked to Jamie. And we're not sure which -- what
10 the sequence was and who you talked to first or second,
11 but you did talk to Jamie?

12 A Yes, sir.

13 Q Now, again, you got there at one something in the
14 afternoon?

15 A 1:26.

16 Q Okay. And you did see, I believe you said, Jamie at
17 Easley Baptist; right?

18 A I saw him very briefly in a hallway. And he turned
19 and went back out the door.

20 Q Okay. Was that about the time they were transporting
21 minor to Greenville Memorial?

22 A They were preparing to take him to Greenville.

23 Q So that would have been about 12:30 in the
24 afternoon -- roughly, 12:30, somewhere around there? Do
25 you know?

1 A It would have been around that time. I can't give
2 you a specific time.

3 Q I'm not asking for a specific time, but around that
4 time?

5 A Yes, sir.

6 Q So by the time you got to Jamie, several hours had
7 elapsed from the time the 911 call was made?

8 A At least, a couple of hours, yes.

9 Q Okay. And, now, while you were at the hospital,
10 Jamie talked about congestion on Sunday, I believe;
11 correct?

12 A That's correct.

13 Q I believe runny nose, some congestion, and a shaking
14 jaw?

15 A That's right.

16 Q But he never said anything about minor being
17 unresponsive, did he?

18 A No. He never said he was unresponsive.

19 Q He was fussy?

20 A Yes.

21 Q Crying?

22 A Yes.

23 Q And the breathing issue was more one of congestion,
24 or what they suspected was congestion; correct?

25 A He said when minor went to sleep in the car, he was

1 wheezing, congested, and his jaw was shaking.

2 Q And then -- well, Jamie reported that he really
3 started getting sick on Sunday?

4 A Yes.

5 Q Okay. Remembering he's the daddy; right?

6 A That's right.

7 Q Daddy's aren't quite as observant sometimes as
8 momma's, or even grandma's are. Would you agree with
9 that?

10 A True.

11 Q Now, the bottle of Equate Tylenol that you said you
12 came into possession of --

13 A Yes, sir.

14 Q I think -- I don't think it's been introduced. But I
15 think that was dropped off to Ms. Leopard. And then it
16 came to you, and you turned it over to who?

17 A Let me look on the property sheet, and I can tell
18 you.

19 Lieutenant Robinson.

20 Q And he's in?

21 A He's in our ID division.

22 Q All right. So, once you turned it over to Lieutenant
23 Robinson, what was or was not done with it? You don't
24 know?

25 A I had nothing else to do with that.

1 Q Well, let me ask you this. Do you know -- and you
2 were the chief investigating officer on the case;
3 correct?

4 A Yes, sir.

5 Q Do you know if -- let me back up. Was there a
6 substance in that bottle when you got it?

7 A Yes, sir.

8 Q Was there liquid in there?

9 A Yes, sir.

10 Q Do you recall how full or empty it was, whichever way
11 you want to look at it?

12 A I don't recall.

13 Q Okay. But -- well, let me ask you this. Had the
14 seal been broken on it?

15 A Yes, sir.

16 Q It was open?

17 A If I recall correctly -- and just going by feeling
18 the bottle and taking a look in there, there was not a lot
19 in the bottle.

20 Q Okay. How long someone had the bottle before it was
21 turned over to you, you would have no way of knowing that,
22 would you?

23 A No.

24 MR. DEJONG: One moment, please, Your Honor.

25 (Pause.)

1 BY MR. DEJONG:

2 Q What were your conversations with the hospital staff?

3 A Checking on his condition.

4 Q And what was his condition at that point in time?

5 A At which point in time?

6 Q Well, you said you got to the hospital about 1:26 on
7 the 17th. Did you check on his condition?

8 A Right. I spoke with the nurses. And I spoke with --
9 I did speak with -- there's an advocate, a family
10 advocate. I spoke with her. And I spoke with the doctor,
11 Dr. Burning.

12 Q Doctor who?

13 A Dr. Burning.

14 Q Okay.

15 A And he was still unresponsive. His condition had not
16 changed from the time when he left Easley.

17 Q Was he still breathing? Do you know?

18 A Yes, he was. I believe he was on a ventilator at
19 that point.

20 Q What time did you leave Greenville Memorial?

21 A At 4:58 p.m.

22 Q So you were there roughly three and a half hours?

23 A Yes, sir.

24 Q Now, were you talking to people that whole three and
25 a half hours?

1 A In some capacity, yes.

2 Q Did you receive anything by way of investigation as
3 far as reports as to the mother while you were at
4 Greenville Hospital System?

5 A As to the mother?

6 Q Yes.

7 A Ms. Honeycutt.

8 Q Yes.

9 A Medical records?

10 Q No. Just any reports at all.

11 A Not that I recall.

12 Q Well, when you went to Easley Baptist and first saw
13 Ms. Honeycutt, what was her demeanor as you observed her?

14 A When she was in the emergency room with minor In
15 the room?

16 Q Uh-huh.

17 A There was no emotion.

18 Q Okay. Where was she in the room, as compared to
19 where minor was?

20 A I don't recall if she was at the head of the bed, or
21 the foot of the bed. But she was there by the bed.

22 Q And when she came to your office on March the 27th,
23 was there any more emotion?

24 A There was some. She did get emotional at one point.
25 But she was not overly emotional.

1 Q By and large, pretty emotional if there is such a
2 word, no emotion?

3 A At the hospital -- at Easley Hospital, there was no
4 emotion.

5 MR. DEJONG: The witness is with you, Mr. O'Connell.

6 MR. O'CONNELL: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. O'CONNELL:

9 Q Ms. Burgess, my client was at Baptist Hospital, also?

10 A I saw her very briefly when I saw Jamie at the
11 hospital.

12 Q And you didn't question her at Baptist Hospital?

13 A No, sir.

14 Q You then go over to Greenville Hospital, and that's
15 where you questioned most of these folks; is that right?

16 A Right.

17 Q And she was more helpful, trying to help you out. Is
18 that what she was trying to do?

19 A They were all very helpful. No one seemed to be
20 holding anything back.

21 Q She never said or even hinted that she gave any kind
22 of medicine to this child; is that right?

23 A No. She never said she gave him anything.

24 Q She was trying to be helpful; is that right?

25 A Yes.

1 Q Later on, is she the one who, actually, brought you
2 the -- what do you call that, the tube of medicine and
3 stuff?

4 A Which tube of medicine?

5 Q That one that you were talking about earlier. What's
6 that, the child Equate stuff?

7 A She did not give it directly to me. It was left with
8 someone else at the Sheriff's Office, but she did drop it
9 off.

10 Q You had asked her to get it, didn't you?

11 A I think I spoke with Jamie by phone and asked him.
12 Because they had left the bottle at his sister's house.

13 Q Everything you've asked her, she's done, she's
14 brought you whatever you asked for; is that right?

15 A Yes.

16 Q Did you take any other statements from any other
17 people in this case?

18 A Yes, I did.

19 Q Okay. Were they consistent with the facts we have
20 right now? In other words, the child was crying, fussy,
21 or more or less active when the child was returned to the
22 mother that evening between 6:30, 7:30, whatever that time
23 frame is on Sunday evening?

24 A That he was "active"?

25 Q In other words, fussing, crying?

1 A He was fussing, and crying, and having difficulty
2 breathing, yes.

3 Q And, further, that the child was put to bed and the
4 child seemed to be okay?

5 A Yes.

6 Q And Brandon Roper even said the same thing in his
7 statement; is that correct?

8 A That's correct.

9 Q Okay. Actually, there were other people involved.
10 Wasn't there some other fellow at the house when they
11 were all at the house? There was another gentleman
12 there?

13 A Yes.

14 Q And he said about the same thing?

15 MR. RICHARDSON: Your Honor, I'm going to object to
16 the hearsay.

17 BY MR. O'CONNELL:

18 Q Well, he stated the same -- you took a statement from
19 him?

20 A No, sir. I did not.

21 MR. RICHARDSON: Your Honor, my objection is hearsay.
22 He's asking for what another person said.

23 MR. O'CONNELL: No. I'm asking did she take a
24 statement, and what did that statement --

25 THE COURT: Overruled.

1 BY MR. O'CONNELL:

2 Q What did that other fellow's statement --

3 MR. RICHARDSON: Your Honor, I object.

4 THE COURT: Sir --

5 MR. O'CONNELL: I'm trying to get there were other
6 people involved, and other people saying the same thing.

7 THE COURT: Okay. You can ask if she took
8 statements. But I don't think you can get into the
9 substance of the statements.

10 MR. O'CONNELL: Okay.

11 BY MR. O'CONNELL:

12 Q But they all indicated the same thing, the child was
13 active?

14 MR. RICHARDSON: Your Honor, I object.

15 THE COURT: Sustained.

16 MR. O'CONNELL: Right at the moment, I don't have any
17 other questions.

18 CROSS-EXAMINATION

19 BY MR. HARBIN:

20 Q Detective, the first conversation you had with my
21 client, Ms. Honeycutt, was pretty much right after she
22 arrived at the hospital, or in the immediate aftermath of
23 her arrival at the hospital; right?

24 A That's correct.

25 Q And you described it as a brief meeting?

1 A Yes.

2 Q And opposed to a more extensive conversation you had
3 with her a few days later on the 27th?

4 A That's correct.

5 Q Would you consider the conversation on the 27th,
6 perhaps, more informative than the one -- the brief
7 conversation you had at the hospital? Did you have more
8 time to really get into the facts?

9 A Oh, absolutely, yes, sir.

10 Q Do you recall when you -- well, actually -- and I
11 don't know if this is your decision or not. But do you
12 recall when Mr. Morris and Ms. Phillips were indicted?

13 A I may have a copy of it, but I'm not certain.

14 Q Well, just for my purposes, would it sound accurate
15 that it is -- I've got December 16th, 2008. Would that
16 be --

17 A It was in December of 2008, I'm pretty sure.

18 Q And, at that time, prior to trying to get an
19 indictment, what information -- kind of generally
20 speaking, I know there's a whole bunch of information
21 here. But what information had you gathered prior to
22 presenting that information to the Grand Jury? And by
23 that -- and, perhaps, maybe I can just ask you if you've
24 received certain things. Had you received the
25 toxicologist's report by them?

1 A By December of '08?

2 Q Yes, ma'am.

3 A I believe so, yes.

4 Q And the coroner's report by then as well?

5 A Yes.

6 Q And you had had an opportunity to speak with doctors
7 and witnesses by then?

8 A Yes, sir.

9 Q In other words, you're going to do the best you can
10 to do a complete investigation prior to presenting
11 something to the Grand Jury; is that correct?

12 A Absolutely.

13 Q Okay. Can you recall when the last time you spoke
14 with my client, Ms. Honeycutt, was?

15 A No, sir, I honestly cannot. Because, like I say, I
16 did speak with her by phone. She would call and ask for
17 updates, just the same as Ms. Phillips and Mr. Morris
18 would do. And, also, Mr. Roper would call me.

19 Q Perhaps, a better phrased question would be, when was
20 the last substantive conversation you had with her? Would
21 it be the interview on the 27th?

22 A Yes.

23 Q And that would be March 27, 2008?

24 A Yes, sir.

25 Q Okay. And I wanted to back up. I totally forgot

1 about this. Mr. DeJong was asking about the various time
2 frames given for when minor was dropped off Sunday
3 evening. And your first, I believe, it was the oral
4 statement that my client gave you and, perhaps, the same
5 time frame given in her written statement. She estimated
6 that minor had been dropped off between 8:00 and 9:00
7 p.m. in her first statement; is that correct?

8 A When I spoke with her at Easley Hospital, yes.

9 Q Now, Mr. DeJong had suggested, perhaps -- I think
10 there was some confusion. She didn't suggest that he had
11 ever come as early as 6:30?

12 A I don't believe she did.

13 Q And, in her written statement, Detective, I believe
14 she was, perhaps, more -- trying to be more specific. And
15 she believed he was dropped off between 7:30 and 7:45?

16 A Yes. That's correct.

17 Q So she never said it was as early as 6:30?

18 A Yes, sir.

19 Q And to go back to a statement given to you by
20 Mr. Morris, he had given some fairly specific descriptions
21 of minor and said that even -- and I'm paraphrasing here,
22 you can correct me, that he had some kind of what he
23 thought might be pneumonia?

24 A Yes.

25 Q Did he mention that, specifically?

1 A That his breathing sounded like someone who had
2 pneumonia.

3 Q And I believe he mentioned in one statement that he
4 gave one dropper full of Children's Tylenol, and in
5 another statement, he said he gave two dropper fulls of
6 Children's Tylenol?

7 A Yes, sir.

8 Q And that is your recollection?

9 A Yes, sir.

10 Q Can you tell me -- do you recall when you presented
11 evidence to the Grand Jury to get an indictment for my
12 client, Ms. Honeycutt?

13 A It was in 2009.

14 Q I've got a date, and you can tell me if this jives
15 with your recollection. October 13th of 2009, does
16 that --

17 A I would say, yes. I don't know for certain, but it
18 was in late 2009.

19 Q Late 2009. That's perfectly good enough.

20 A Yes, sir.

21 Q Okay. And my final question, Detective, do you
22 recognize the name Renee Shelton?

23 A I do.

24 Q And who is that to you?

25 A To me?

1 Q Yes, ma'am.

2 A That is my husband's sister.

3 Q And did your investigation lead you to believe that
4 Renee Shelton is related to Mr. Morris?

5 A Yes. She, back in the '90s, I believe, was married
6 at one time to Jamie's father.

7 Q Father?

8 A Until he passed away.

9 Q Okay. And was there any communication between you
10 and Ms. Shelton regarding this case at all?

11 A No, sir.

12 MR. HARBIN: Thank you very much.

13 No further questions, Judge.

14 THE COURT: Redirect?

15 MR. RICHARDSON: Nothing further from the State, Your
16 Honor.

17 THE COURT: Thank you, ma'am.

18 All right. You may call your next witness.

19 MS. BARWICK: The State would call Deputy J.T.
20 Albrecht to the stand.

21 THE CLERK: Place your left hand on the Bible and
22 raise your right hand.

23 WHEREUPON,

24 J.T. ALBRECHT,

25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. BARWICK:

Q Deputy Albrecht, where do you work?

A The Pickens County Sheriff's Office.

Q And how long have you worked there?

A Since 2001.

Q What's your official title there?

A I'm a sergeant of forensics.

Q I apologize for calling you a deputy. I know there's a difference.

A That's all right.

Q Sergeant Albrecht, what do you do as a normal course of your duties?

A Crime scene preservation, identification,
documentation, evidence collection.

Q And how long have you been doing that?

A Since 2006.

Q Okay. Back in 2008, after March 17th of 2008, did you go out to Donna Lynn Phillips' residence?

A Yes, ma'am.

Q And when you went out to her residence, did Ms. Phillips give you anything?

A Yes, ma'am. She gave me a bottle of Tussin cough syrup, and a bottle of Tussionex.

Q And that bottle of Tussionex, which day was that that

1 you went out there to collect them?

2 A May the 29th, 2008.

3 Q May the 29th of 2008?

4 A Yes, ma'am.

5 Q And once you got that Tussionex, what did you do with
6 it?

7 A I turned it into evidence at the Sheriff's Office in
8 our evidence holding area.

9 Q And who has access to that evidence holding area?

10 A Myself, my lieutenant, Lieutenant Robinson, and
11 Sergeant Gibson, who is, also, in forensics.

12 Q So only the forensic department has access to your
13 storage area?

14 A Yes, ma'am.

15 MS. BARWICK: Nothing further for this witness.

16 MR. DEJONG: Thank you, Your Honor.

17 May it please the Court.

18 THE COURT: Sure.

19 CROSS-EXAMINATION

20 BY MR. DEJONG:

21 Q When did you pick up these items?

22 A May the 29th.

23 Q Of 2008?

24 A Yes, sir.

25 Q Okay. And was there two bottles, did I understand?

1 A Correct. A bottle of Tussin cough syrup and a bottle
2 of Tussionex.

3 Q And did both of those go into property and evidence?

4 A That's correct.

5 Q How did you come about going out to get those?

6 A I can't recall if it was Lieutenant Kelly or
7 Detective Burgess requested I go out there and pick them
8 up.

9 Q When you went out there, Ms. Phillips just gave them
10 to you?

11 A Yes, sir.

12 Q Just met you at the door?

13 A Yes, sir.

14 Q No indication that she had ever given this child any
15 of these medications, were there?

16 A I don't know.

17 Q Right. Well, I'm asking you. From your point of
18 view, your part of this case, there was no indication by
19 her that she had given --

20 A I was sent to get those --

21 Q Pardon me?

22 A I was sent to go pick up the medicine. That's all I
23 know.

24 Q So you didn't even talk to her?

25 A Briefly.

1 Q All right. Did you turn the Tussin cough syrup into
2 property and evidence, too?

3 A I turned both bottles in, yes.

4 Q And once they went into property and evidence, do you
5 know where they went after that?

6 A They were signed out by Lieutenant Robinson to be
7 delivered to Micro Analytical.

8 Q To who?

9 A Micro Analytical.

10 Q Where is that?

11 A I have no idea.

12 Q Okay. You're just reading off the chain of custody?

13 A I'm just reading off the chain of custody, sir.

14 Q And after it went to Micro Analytical --

15 A That's correct.

16 Q So as not to be demeaning in any way, you were the
17 gopher on this day; right?

18 A You got it.

19 Q You went to --

20 A That is correct.

21 Q -- go get the bottles, they were handed to you, and
22 you turned them into P&E?

23 A Yes, sir.

24 MR. DEJONG: The witness is with you, Mr. O'Connell.

25 MR. O'CONNELL: Thank you.

1 CROSS-EXAMINATION

2 BY MR. O'CONNELL:

3 Q Officer, just one or two questions. Were these items
4 returned? Were they brought back to evidence? Are they
5 in evidence now?

6 A Yes, sir.

7 MR. O'CONNELL: Thank you.

8 MR. HARBIN: Judge, I don't have any questions for
9 this witness.

10 Thank you.

11 THE COURT: Any redirect?

12 MS. BARWICK: No, sir, Your Honor.

13 THE COURT: All right. Thank you, Sergeant.

14 You may step down.

15 You may call your next witness.

16 MS. BARWICK: The State would call Lieutenant Tony
17 Robinson to the stand.

18 THE CLERK: Place your left hand on the Bible and
19 raise your right hand.

20 WHEREUPON,

21 TONY ROBINSON,

22 after first having been duly sworn, testified as follows:

23 THE CLERK: If you would, have a seat.

24 And state your name for the record, please, sir.

25 THE WITNESS: Tony Robinson.

DIRECT EXAMINATION

BY MS. BARWICK:

Q Lieutenant Robinson, where do you work?

A I'm with the Pickens County Sheriff's Office.

Q What's your position there?

A I'm the lieutenant over the ID division, which is commonly referred to as the crime scene unit. And we, also, handle property and evidence storage.

Q Lieutenant, does that mean you're the boss over that division?

A I am the supervisor over two other members of that division.

Q Yes, sir. You got involved in this case. Did you ever have the opportunity to go over to Latasha Honeycutt's house and Brandon Roper's house?

A I did.

Q And what day would that have been?

A March the 17th, 2008.

Q Okay. You may or may not recall. Do you recall what time you got there?

A It was around 1:00 in the afternoon.

Q And when you got there, what did you do?

A I met Lieutenant Kelly there. And he gave me a brief understanding of what we knew at that point, which was, basically, we had a very sick child at Baptist Hospital

1 being transferred to Greenville. And that we needed to do
2 an investigation at that point. And we were going to go
3 in the house and look around.

4 Q And did you go inside the house and look around?

5 A Yes, we did.

6 Q And when you were inside the house, did you take any
7 photographs?

8 A I took several, yes.

9 Q Can you tell me if these are those photographs?

10 A Yes, they are.

11 Q Before you went in the house, can you tell me if
12 Latasha Honeycutt or Brandon Roper signed a Consent to
13 Search form?

14 A Lieutenant Kelly handled that, but I believe he
15 received it from Latasha.

16 Q And would you have witnessed that?

17 A I did witness it. And he obtained it from both of
18 them.

19 Q And did you sign your name saying you did witness
20 that?

21 A I did, yes.

22 Q And while we're waiting, can you tell the jury what a
23 Consent to Search Form is?

24 A It's a form we obtain. There's two ways to go into
25 someone's house and search for any type of evidence when

1 we think there may have been a crime, or similar
2 situation. We can do it with a search warrant, or we can
3 receive consent from the people who live there.

4 MS. BARWICK: Thank you, Your Honor.

5 At this time, we would offer the Consent to Search
6 form, State's Exhibit No. 20, and then the photographs,
7 State's Exhibit Nos. 32 through 38.

8 MR. DEJONG: No objection, Your Honor.

9 MR. O'CONNELL: No objection, Your Honor.

10 MR. HARBIN: No objection, Judge.

11 THE COURT: Okay. They're in evidence.

12 (WHEREUPON, State's Exhibit Nos. 20, 32, 33, 34, 35,
13 36, 37, and 38 were admitted into evidence.)

14 BY MR. BARWICK:

15 Q Lieutenant Robinson, if you would, just kind of walk
16 us through this a little bit on what we're seeing.

17 MS. BARWICK: Is there any way to dim the lights
18 right over this?

19 THE CLERK: They've already dimmed them.

20 BY MS. BARWICK:

21 Q This top portion, Lieutenant Robinson, what is that a
22 picture of?

23 A The top photo is a photo of the outside of the
24 residence at [REDACTED] Brayden.

25 Q Would that be the front of the residence?

1 A Yes.

2 Q And this picture, what is this a picture of?

3 A That's the bedroom where -- that's minor bedroom.

4 Q Okay. And I notice there's something on the ground
5 here and here. Do you know what that is?

6 A You're referring to the stain-type substance?

7 Q Yes, sir.

8 A It appeared to me to be vomit.

9 Q And these photos?

10 A They're additional shots further inside the room just
11 showing the baby's bed.

12 Q Would this have been the door to the bedroom?

13 A I believe that's correct.

14 Q Is that the crib in the bedroom?

15 A That's the crib. That's a picture down inside the
16 crib.

17 Q And, that pillow, was that on the ground or in the
18 crib?

19 A It was on the floor.

20 Q This bottom picture?

21 A That's a photograph of the refrigerator in the
22 kitchen. And there's a sippy cup -- what we call a sippy
23 cup for little children.

24 Q Is that what you're referring to as the sippy cup?

25 A It is.

1 Q And did you, in fact, take that into custody?

2 A I did.

3 Q And why did you do that?

4 A On these cases, that's routine to take the last food
5 or bottle that the child has drank from.

6 Q Is that what you were informed of, that that was the
7 last bottle that he had?

8 A That's what I was informed, yes.

9 Q Did you take anything else from the house?

10 A I took several of the -- I took the bed sheet out of
11 the crib. There was a paper towel or a baby wipe with it.
12 I took some of the stuffed animals that you saw on the
13 floor. I took a small little blanket, a little blue
14 blanket, the pillow, and the pillow case. I took a bottle
15 of Tylenol infant drops, and an empty prescription bottle
16 for Amoxicillin with the name Latasha Honeycutt on it. I
17 took a Tylenol infant drop box. There was no bottle in
18 the box. And I took that sippy cup.

19 Q Okay. And did you take -- I'm sorry if you already
20 said it. You said you took some Tylenol from the house?

21 A I took a bottle of Tylenol infant drops, yes.

22 Q And where was that bottle found?

23 A Latasha gave us that bottle.

24 Q At the house?

25 A At the house, yes.

1 Q And when you got all of those items, what did you do
2 with those items?

3 A I took those items to the Sheriff's Office and
4 secured them in the evidence room.

5 Q Again, who has access to that evidence room?

6 A Just myself, Sergeant Albrecht and Sergeant Dickson.

7 Q Once in the evidence room, did you do anything with
8 those items after that point?

9 A I carried two of those items that I've already
10 mentioned to SLED to be analyzed.

11 Q And which were those items?

12 A The Tylenol infant drops and the sippy cup were sent
13 to SLED.

14 Q And when you say Tylenol, are you just using that as
15 a generic term for it, or was it the actual Tylenol brand?

16 A It was the Tylenol brand.

17 Q And the sippy cup, you took that as well?

18 A I did.

19 Q And when you brought it to SLED -- how would you have
20 brought it to SLED? What kind -- would you have had it
21 sealed in a container? How would that have been brought
22 to SLED?

23 A It would have been sealed in some type of bag.

24 Q And would you have put your initials on the bag?

25 A Yes.

1 Q And when you dropped it off at SLED, did you ever get
2 those items back?

3 A No. SLED did not send those items back after they
4 analyzed them.

5 Q Let's back up a little bit. You just heard Sergeant
6 Albrecht testify about the Tussionex received from Donna
7 Phillips. Did you do anything with that Tussionex once it
8 hit your storage room?

9 A He received two items. He received a bottle of
10 Tussin cough syrup, and a bottle of Tussionex.

11 Q Let me be clear on that, the Tussin cough syrup,
12 that's over the counter?

13 A As far as I know, yes.

14 Q And then the Tussionex, is that a prescription?

15 A That's a prescription, yes.

16 Q And the Tussionex prescription, was anything done
17 with that?

18 A I fingerprinted the bottle the next day after I --
19 Sergeant Albrecht was working nights. And he picked it up
20 on the night shift, or in the late afternoon, or evening
21 time. And the next morning, Detective Burgess requested
22 we process it for prints.

23 Q Did you find anything?

24 A I did not find anything.

25 Q Is that unusual to you?

1 A No, it's not.

2 Q Why is it not unusual to you?

3 A Fingerprinting works sometimes, and sometimes it
4 doesn't. This particular bottle had a paper label that
5 wrapped pretty much all the way around it. That doesn't
6 help any when you're processing items for prints.

7 Q Okay. After you fingerprinted it, what did you do
8 with that Tussionex bottle?

9 A It remained in evidence until I delivered it to Micro
10 Analytical to have the contents analyzed.

11 Q And who did you deliver that to at Micro Analytical?

12 A Jeff Hollifield.

13 Q Did Mr. Hollifield then give you that Tussionex
14 bottle back?

15 A He did.

16 Q When was that?

17 A He gave it back to me on the 24th of July, 2008.

18 Q And do you have that Tussionex container with you
19 today?

20 A I do.

21 Q May I look at it?

22 A (Witness complied.)

23 MS. BARWICK: I'd like to have this marked.

24 (WHEREUPON, State's Exhibit No. 41 was marked for
25 identification only.)

1 BY MS. BARWICK:

2 Q Without looking at it, if your memory will serve you,
3 that Tussionex bottle, whose name was on that Tussionex
4 bottle?

5 A Donna Phillips.

6 Q While they're looking at that, let me back up a
7 little bit. When you were in Latasha Honeycutt's house,
8 did you see any other drugs, be it over-the-counter or
9 prescription?

10 A We found the Tylenol infant drop box. And I found an
11 empty prescription bottle that said it was Amoxicillin for
12 Latasha Honeycutt.

13 MS. BARWICK: Your Honor, at this time, the State
14 would like to introduce State's Exhibit No. 41.

15 MR. DEJONG: Without objection.

16 MR. HARBIN: No objection.

17 MR. O'CONNELL: No objection.

18 THE COURT: It's in evidence.

19 (WHEREUPON, State's Exhibit No. 41 was admitted into
20 evidence.)

21 BY MS. BARWICK:

22 Q Can you tell the jury what that bottle says, if it
23 says anything, as to who that medication is supposed to go
24 to, and who it's not supposed to go to?

25 A It's a prescription from CVS pharmacy to Donna

1 Phillips. There's no other name on it.

2 Q Is there anything on there about not giving it to
3 anybody else?

4 A There's small very finely written print that mentions
5 federal law that prescribed medications are only for the
6 person they're prescribed to. They're not supposed to be
7 given to other people.

8 Q Fair enough. Did you, also, receive -- thank you for
9 that.

10 Did you, also, receive something from Rita Burgess in
11 this case?

12 A Detective Burgess turned in a bottle of Equate infant
13 pain relief to me on March 24th, 2008.

14 Q You said Equate?

15 A Equate, yes.

16 Q So not the Tylenol brand, the Equate brand?

17 A Yes.

18 Q And she gave you an Equate brand bottle -- and I'm
19 sorry. Say that again for us.

20 A She wrote -- she filled out the evidence sheet. She
21 described it as a one-ounce bottle of Equate infant's pain
22 relief.

23 Q And what, if anything, did you do with that
24 container?

25 A That went to SLED with the items I collected at the

1 Brayden Drive address.

2 Q So just so we're clear, the sippy cup of what was
3 told to you as being milk, the Tylenol brand container
4 from Latasha Honeycutt's house, and the Equate infant pain
5 relief from Detective Burgess all went down to SLED?

6 A They went to SLED, yes.

7 MS. BARWICK: Your Honor, at this time, we have no
8 further questions.

9 THE COURT: Cross-examination.

10 MR. DEJONG: Thank you, Your Honor.

11 May it please the Court.

12 CROSS-EXAMINATION

13 BY MR. DEJONG:

14 Q So you went out to [REDACTED] Brayden Court on March the
15 17th?

16 A Yes, I did.

17 Q And when you got there, who all was there?

18 A I met with Lieutenant Kelly, and Latasha, and
19 Mr. Morris -- or Mr. Roper. I apologize.

20 Q Okay. And this was on the 17th, Monday?

21 A It was.

22 Q And you got out there about what time?

23 A Around 1:00.

24 Q Around 1:00. So when you got there at 1:00,
25 Lieutenant Kelly was there, Latasha Honeycutt was there,

1 and Brandon Roper was there?

2 A I don't recall if we all got there at the same time,
3 or if they were already there when I got there. I do not
4 recall that.

5 Q All right. Well, how long were you there?

6 A About an hour.

7 Q Okay. So sometime between 1:00 and 2:00, Latasha
8 Honeycutt and Brandon Roper were there; correct?

9 A They would have had to have been there pretty much
10 around 1:00, because they signed the consent. And I
11 wouldn't have done anything before.

12 Q And what has been marked as State's Exhibit No. 32, I
13 hand to you, Lieutenant Robinson. And there's two
14 pictures on there. The top one appears to be a picture of
15 a mobile home; is that correct?

16 A Yes, it is.

17 Q And there are two vehicles in that picture; is that
18 correct?

19 A Yes, there are.

20 Q Do you know who those vehicles belong to?

21 A No, sir.

22 Q Okay. Now, looking at the mobile home, there's a
23 porch there. Is that the only porch, to the best of your
24 recollection, on that mobile home?

25 A I don't recall even walking to the back of the

1 residence. So there may be one at the back, but that's
2 the main side, the front.

3 Q And this consent to search that you got from
4 Ms. Honeycutt, basically, you confined your search to the
5 area where the child was found; correct?

6 A We looked through the house. We knew enough at that
7 point -- we didn't know much at that point. But we knew
8 enough to know that medication may have played a role in
9 whatever was wrong with this child. So we did walk
10 through the house looking for anything to do with
11 medication.

12 Q And probably a question for Lieutenant Kelly, but do
13 you know what time Lieutenant Kelly got to [REDACTED] Brayden
14 Court?

15 A It would have been around the same time I got there.
16 It would have been in the 1:00 range.

17 Q About 1:00. So you refer to this, I guess, as part
18 of your title -- you refer to it as a crime scene;
19 correct?

20 A I suppose you could call it that.

21 Q Now, EMS left this place, Bearden Court, if I'm
22 saying that right. Is it --

23 A Brayden.

24 Q I'm sorry. I've got Bearden on the mind for some
25 reason. EMS left Brayden somewhere around 11:30?

1 A That was what I understood from the testimony, yes.

2 Q Okay. And we're not arguing the point. But you
3 would agree that they left around 11:30?

4 A Yes.

5 Q Now, to your knowledge, were you and Lieutenant Kelly
6 the first people that arrived on this scene at 109 -- REDACTED
7 Brayden Court?

8 A To my knowledge, we were the first officers who got
9 out there.

10 Q Okay. So between roughly 11:30 and 1:00, an hour and
11 a half, this crime scene was not secured, was it?

12 A I cannot say. It was not secured by an officer, no,
13 sir.

14 Q And that's my question.

15 A And I don't know if anybody had been there during
16 that hour and a half or not.

17 Q But it wasn't secured by law enforcement?

18 A No, sir.

19 Q So you cannot say that when you arrived at roughly
20 1:00 in the afternoon that -- if you want to refer to it
21 as a crime scene, that the crime scene was intact, could
22 you?

23 A No. I could not say what happened during that hour,
24 no, sir.

25 Q Yes, sir. Now, I'm a little -- well, let's back up

1 here a little bit. I'm a little bit -- while you were at
2 ■■■ Brayden Court, you take an infant Tylenol bottle into
3 evidence?

4 A Yes, sir.

5 Q And a box?

6 A The box for that bottle. I'm assuming it was for
7 that bottle. It was in the trash can.

8 Q Okay. But they weren't together?

9 A No.

10 Q A sippy cup?

11 A That's correct.

12 Q Pillow sheets -- pillow case?

13 A Pillow with pillow case, yes.

14 Q Sheets?

15 A Yes, a bed sheet.

16 Q And a blanket, or a couple of blankets?

17 A A couple of stuffed animals and a blanket.

18 Q Did you -- those stains that were on the carpet in
19 State's Exhibit No. 32, did you take any samples of those
20 stains or that carpet?

21 A I didn't take any samples. It appeared to be the
22 same stuff that's on the pillow, and the stuffed animal,
23 and the blanket.

24 Q Okay. And you took some stuffed animals?

25 A I did.

1 Q Now, the pillow, the pillow slips, the -- by the way,
2 did you bring any of that with you today?

3 A I did not. They were not going to introduce that.

4 Q Okay. So other than what we're seeing in these
5 pictures, we don't know what's in property and evidence at
6 this point in time, whether it's the same thing or not?

7 A Yes. I can show you in the photograph what I have,
8 if you'd like me to, what I do have in evidence.

9 Q Okay. Are you operating off of memory, or off the
10 P&E sheet, or what are you operating off of?

11 A If you'll show me the photograph, I'll be operating
12 off of that.

13 Q I'll just show you the whole stack here, Lieutenant.
14 I'll tell you, I'm not good with this equipment. But
15 maybe, for purposes of the jury, it would be better if we
16 put it on the screen here.

17 MR. DEJONG: Did y'all furnish him with the magic
18 wand.

19 MS. BARWICK: No, sir.

20 THE WITNESS: I think if you'll use that one right
21 there, I'll be able to answer your question.

22 MR. DEJONG: Hang on just a second. I don't know how
23 to work that thing.

24 BY MR. DEJONG:

25 Q Do you know how to work it, Lieutenant?

1 A Yes, sir.

2 Q Well, you handed me back the whole stack, but on top
3 is State's Exhibit -- it's been marked as State's Exhibit
4 No. 33. In that picture -- and that, again, is a picture
5 of the room where, presumptively, the child was found; is
6 that correct?

7 A That's correct, yes, sir.

8 Q And those are, basically, the same pictures from
9 slightly different angles; right?

10 A Yes, sir.

11 Q In those pictures, what did you take into property
12 and evidence?

13 A The bed sheet, and there was a paper towel with it.
14 I took a green stuffed animal, which is in the bed, I
15 believe. I took a purple stuffed animal, which is like a
16 duck, right there. I took the pillow and pillow case on
17 it. And that's it.

18 Q That's it?

19 A That's it for what's in that room, yes, sir.

20 Q Okay. So one, two, three, four, if we count the
21 pillows and pillow slip separately, four, sheet -- sheet
22 or sheets?

23 A Just the bed sheet. The sheet that was on the
24 mattress.

25 Q Now, when you're referring to this sheet, is that

1 the -- basically, what appears to be a colorful thing up
2 here on the top?

3 A Yeah. There's another photograph looking directly
4 down into the crib. If you can find that, it might be
5 better.

6 Q Well, maybe this one. I'm putting up here State's
7 Exhibit No. 36. Again, I presume this is the pillow?

8 A That's the pillow from the floor.

9 Q Okay. And that's the bed sheet and the green stuffed
10 animal right there. Okay. Well, I guess my question --
11 is that more of a blanket or a sheet?

12 A It's a sheet.

13 Q It's a sheet. Okay. Now, you said you, also, took a
14 blanket; is that correct?

15 A There was a small blue blanket on the floor. I don't
16 think I pointed that out a moment ago. It was hard to see
17 from this distance.

18 Q I see something blue right in there. Do you know if
19 that was it or not?

20 A I don't think that's it. That's the pillow and the
21 pillow case. There was another angle that showed a small
22 blue blanket on the floor. That's it right there.

23 Q Right where?

24 A I think that's a distant shot of it, and that's it
25 closer up.

1 Q Okay. So bed sheet, pillow, pillow slip, two stuffed
2 animals?

3 A Yes.

4 Q Now, once you took those into property and
5 evidence -- into your custody, property and evidence, as
6 far as the sheets, the pillow slips, the pillow, any of
7 those things, was any testing done on them at all?

8 A I don't know of anything to test that for, other than
9 it appeared to have vomit on it. And I don't know what
10 else we could do with that.

11 Q And down the road, you saw no need to test it either?

12 A No, sir. Not after we obtained -- the samples had
13 been obtained from the child, blood, and urine. So I
14 didn't see where that would help us.

15 Q So we don't know what that regurgitation would have
16 shown us, it was never tested; right?

17 A I don't -- and I'm not a toxicologist. But I don't
18 believe it would have shown anything.

19 Q Now, I'm a little confused. What did you try to take
20 prints off of?

21 A The bottle of Tussionex.

22 Q Do you know how that bottle of Tussionex came into
23 Ms. Burgess' possession?

24 A It never was in Ms. Burgess' possession. The bottle
25 of Tussionex is what Sergeant Albrecht picked up from

1 Donna Phillips.

2 Q I stand corrected. You are right, sir.

3 Okay. So Sergeant Albrecht picked up the Tussionex
4 from Donna Phillips?

5 A That's correct.

6 Q And that's what you tried to get prints from?

7 A I did.

8 Q And you were not able to?

9 A I was not, no.

10 Q But, to your knowledge, it had come from Donna
11 Phillips?

12 A Yes.

13 Q Now, there's nothing in your part of this case or
14 your part of this investigation that would have indicated
15 that Donna Phillips ever gave that child any of that
16 Tussionex?

17 A Nothing on my part, no, sir.

18 Q Or as far as that goes, the Tussin cough syrup?

19 A I have no knowledge of any of that.

20 Q Or anything else. So when Madam Solicitor asked you
21 about that print on the bottle, about not giving it to
22 anybody else, you can't say it wasn't given to anybody
23 else, can you?

24 A No, sir.

25 Q I may have asked you, I don't think I did. I

1 apologize if I did. Do you know how it came about that
2 Sergeant Albrecht went out to Donna Phillips' residence to
3 pick up that Tussionex and/or the infant Tylenol?

4 A I know that one of the investigators asked him to do
5 it.

6 Q What led up to it, you don't know?

7 A No, sir.

8 Q Whether she volunteered, or whatever?

9 A No, sir, I don't.

10 Q Okay. The sippy cup, you took that out of the
11 refrigerator; right?

12 A Yes, sir.

13 Q And how long did it stay in property and evidence
14 until it went to -- I guess it went to Micro Analytical?

15 A No. The sippy cup went to SLED.

16 Q When did it go to SLED?

17 A I collected it on the 17th of March. And I delivered
18 it to SLED on the 27th of March.

19 Q Did it stay refrigerated, to your knowledge?

20 A Yes, it did.

21 Q So the -- there were four items that were tested in
22 this case, I believe, or that you sent to SLED for
23 testing?

24 A I sent three to SLED. And I sent one to Micro
25 Analytical.

1 Q What did you send to Micro Analytical?

2 A The Tussionex.

3 Q The Tussionex?

4 A Yes, sir.

5 Q Micro Analytical, is that local?

6 A Micro Analytical is a private company. It was based
7 in Mauldin at that time. And I had used him several times
8 before. It was close and you could, usually, get results
9 fairly quickly from him.

10 Q So the Tussionex went to Micro Analytical, then the
11 Tussin, and the Tylenol infant pain drops, and the
12 Equate --

13 A The Tussin was not analyzed.

14 Q It was not analyzed?

15 A It was not analyzed. Nobody requested that I analyze
16 that.

17 Q So that never went to SLED or Micro Analytical?

18 A No.

19 Q Okay. But then the Equate went to SLED; right?

20 A The Equate went to SLED.

21 Q So I'm clear now, the Equate came from Donna
22 Phillips?

23 A According to my paperwork, it came from Donna
24 Phillips. It is the bottle that came through Sergeant
25 Leopard in the jail, and Detective Burgess turned it into

1 me.

2 Q And the Tussin came from?

3 A Donna Phillips at a different time.

4 Q Okay. Now, I'm getting myself confused now. I'm
5 sorry. What did you get at [REDACTED] Brayden Court?

6 A I got the sippy cup and bottle of infant Tylenol
7 drops.

8 Q Was that tested?

9 A Yes.

10 Q Okay. The Tussin that you got from Donna Phillips
11 was never tested?

12 A The Tussin was not. The Tussionex was.

13 Q Okay. I'm with you. So some of the items you send,
14 I guess, to SLED, they send back to you, and some of them
15 they don't?

16 A I -- normally, they would send, at least, the
17 container back, but they did not send the container back
18 on these items.

19 Q And, of course, what's been marked as State's Exhibit
20 No. 41, that's a Tussionex bottle?

21 A That's the Tussionex.

22 Q That went to Micro Analytical?

23 A Yes, sir.

24 Q Do you know how much -- when you came into possession
25 of it how much was in the bottle?

1 A I do not. There was some in it.

2 MR. DEJONG: The witness is with you, Mr. O'Connell.

3 MR. O'CONNELL: Thank you.

4 CROSS-EXAMINATION

5 BY MR. O'CONNELL:

6 Q That State's Exhibit No. 41, the Tussionex, would you
7 read the name of that?

8 MR. O'CONNELL: Will you hand that to him?

9 MR. DEJONG: I'll get it, Madam Court Reporter.

10 BY MR. O'CONNELL:

11 Q Would you read the full name on the bottle there --
12 Tussionex -- what's the rest of that?

13 A Tussionex Pennkinetic SUSP MPI. It says SUSP MPI, so
14 I'm assuming that means suspension.

15 Q Does it have a date when it was given to her, like
16 when a pharmacy gives the medicine?

17 A Yes. It was filled on January 4th, 2008.

18 Q January 4th, a quick calculation, about 80 days
19 before the incident that happened at this house on the
20 17th; is that right?

21 A I'd say between 60 and 70 days, yes.

22 Q When you and the other officer -- I think you said it
23 was Officer Kelly?

24 A Yes.

25 Q And you said you went looking around. Did you open

1 drawers and look in the drawers? Did you look in
2 cabinets, behind things, or --

3 A We looked in places that we felt like we might find
4 medication. We didn't tear the place apart. We didn't
5 know enough at that point. We weren't trying to do that.

6 Q But there was a time frame involved where everybody
7 had left, or the -- let's see, Ms. Honeycutt and Mr. Roper
8 were left there and you arrived. Between the time the
9 child was taken away and the time you got there, there was
10 a time frame --

11 A I don't know who was there during that time frame. I
12 don't know if they stayed there, or locked the door and
13 left. I don't know.

14 MR. O'CONNELL: Okay. Thank you.

15 MR. HARBIN: May it please the Court.

16 CROSS-EXAMINATION

17 BY MR. HARBIN:

18 Q Lieutenant, Rhonda Whitaker testified earlier that --
19 she read a CAD report into the record. And she said Code
20 1023 means on the scene; is that right?

21 A That's right.

22 Q She had you on the scene at 11:35 and 13 seconds; is
23 that right?

24 A She didn't have me on the scene at 11:35.

25 Q Can I hand you this CAD report, and you can tell me

1 what I'm looking at? Is there any way for you to decipher
2 that?

3 A This is an EMS CAD report. This is not from the
4 Sheriff's Office.

5 Q So if she put into the record that police were on the
6 scene at 11:35, Code 1023, she's wrong?

7 A Yes. She -- EMS was on the scene, I think, at that
8 time. But --

9 Q If she had said police, then she would be mistaken,
10 she would be wrong?

11 A Based on what I'm seeing there, yes.

12 Q You arrived with Lieutenant Kelly; correct?

13 A Roughly, at the same time we got there.

14 Q Got you. And, to your knowledge, did Mr. Roper and
15 Ms. Honeycutt comply with whatever requests you had? Were
16 they cooperative?

17 A Yes.

18 Q Did they appear to be hiding anything?

19 A I wasn't there to speak with them. I was there to
20 help Lieutenant Kelly. And I didn't really interact with
21 them very much. But they didn't appear to be causing any
22 problems or hiding anything.

23 Q Do you recall when you were there Mr. Roper packing
24 up anything for Ava? I don't know if you recall that
25 there was a small child in the house.

1 A There was a baby in the house, yes. I do not recall
2 him doing any of that.

3 Q Okay. And I want to be clear. The Consent to Search
4 form that you have, is that a limited Consent to Search
5 form, or is that a whatever you want to search you get to
6 search?

7 A We --

8 Q Is there --

9 A They can stop us at any point during that. But, as
10 far as I'm concerned, it means we can search anywhere we
11 want to search. And if they didn't like what we were
12 doing, they could stop us.

13 Q And they did not stop you?

14 A They did not.

15 Q And you did not find anything, other than the Tylenol
16 they, actually, handed you; is that correct?

17 A That's right.

18 Q As far as medications?

19 A As far as medications. And the empty bottle of
20 Amoxicillin, but it's empty.

21 MR. HARBIN: Thank you.

22 No further questions.

23 MS. BARWICK: Nothing further, Your Honor.

24 THE COURT: All right. Thank you, sir.

25 Ladies and gentlemen, we're going to take a 10-minute

1 recess. Don't talk about the case. Continue to keep an
2 open mind.

3 If you would, select somebody during the break to be
4 the Foreperson of the jury, and write the name down and
5 give it to the bailiffs.

6 Thank you very much.

7 (WHEREUPON, the jury was excused from open court at
8 approximately 3:29 p.m.)

9 MS. BARWICK: Judge, I know there's some question as
10 to where the CAD reports were. When Mr. DeJong
11 cross-examined Ms. Sailors about the CAD reports, she took
12 them with her. We have them back. So we're going to go
13 ahead and put them up there.

14 THE COURT: All right. Thank you.

15 (WHEREUPON, a break was taken.)

16 THE COURT: Anything before the jury returns to the
17 courtroom?

18 MR. RICHARDSON: Nothing from the State, Your Honor.

19 THE COURT: Okay. Thank you.

20 (WHEREUPON, the jury came into open court at
21 approximately 3:43 p.m.)

22 THE COURT: Mr. Allison, you've been selected to be
23 the Foreperson. That just means you'll preside over the
24 deliberations. And if you need to communicate with me or
25 any member of the jury needs to communicate with me, the

1 only way I can talk with you is either out here on the
2 record, or by a note that's made part of the record. The
3 note is the preferred way to communicate.

4 But with that, the State may call its next witness.

5 MS. BARWICK: Thank you.

6 The State would call Mr. Jeffrey Hollifield.

7 THE CLERK: Place your left hand on the Bible and
8 raise your right hand.

9 WHEREUPON,

10 JEFFREY MORRIS HOLLIFIELD,
11 after first having been duly sworn, testified as follows:

12 THE CLERK: Thank you, sir.

13 If you will, have a seat.

14 And state your name for the record, please.

15 THE WITNESS: My name is Jeffrey Morris Hollifield,
16 H-O-L-L-I-F-I-E-L-D.

17 DIRECT EXAMINATION

18 BY MS. BARWICK:

19 Q Mr. Hollifield, where do you work?

20 A I own and operate Micro Analytical, which is a
21 private chemical laboratory in Mauldin, to do like small
22 particle identification, trace evidence identification,
23 and just general chemical analysis, including drug
24 analysis. And I, also, teach chemistry at Lander
25 University in Greenwood.

1 Q Are you a chemist?

2 A I am. My background is in chemistry and in
3 microscopy.

4 Q And what exactly is -- we all hear are you a chemist,
5 but what is chemistry?

6 A Chemistry is the study of matter and interactions of
7 matter. Most of what I do is look at unknown particles,
8 samples, solutions, powders, and identify what they are,
9 what possible sources are potential, but identify those so
10 far as what its made of chemically and what the chemical
11 component is.

12 Q Okay. And were you asked to examine a substance back
13 in 2008?

14 A I was. Lieutenant Robinson with Pickens County
15 Sheriff's Office brought to my office and submitted to me
16 on July the 14th of 2008, one heat-sealed pouch with a
17 bottle of liquid.

18 Q And if you'll tell the jury a little bit about your
19 education and training in the chemistry field.

20 A I received a Bachelor's Degree in Chemistry from
21 Furman University in '84, a Master's in Chemistry, also,
22 from Furman in '86. And then I received a Master's Degree
23 in chemical microscopy from the Chrome Research Institute
24 in Chicago in 1997.

25 Q And what about any certificates or licenses, do you

1 have any of those?

2 A I'm licensed by the DEA and DHEC to handle controlled
3 substances. I worked at SLED for 10 years, received a lot
4 of training there, both with instrumentation and analysis.
5 And I've attended various schools and seminars over the
6 years.

7 MS. BARWICK: Your Honor, at this time, the State
8 would like to introduce him as an expert in chemistry.

9 MR. DEJONG: No voir dire, Your Honor.

10 MR. O'CONNELL: None, Your Honor.

11 MR. HARBIN: Nothing, Judge.

12 THE COURT: All right. He's qualified.

13 Ladies and gentlemen, let me just briefly instruct
14 you that, typically, witnesses may only testify about
15 things they personally observed or absorbed through one of
16 their five senses. There is an exception under the law
17 for witnesses who by reason of their training, education,
18 or experience have achieved expertise in their field.

19 An expert witness is allowed to testify not only
20 about things they've observed, but about their opinions as
21 to things they've observed. So that's the difference.
22 However, expert witnesses, like all witnesses, must have
23 their credibility judged by you, the jury.

24 So, yes, ma'am, you may continue.

25 MS. BARWICK: Thank you, Your Honor.

1 BY MS. BARWICK:

2 Q Did Lieutenant Robinson provide you with this bottle
3 marked as exhibit -- entered into evidence as State's
4 Exhibit No. 41?

5 A He did. This is the heat-sealed pouch he submitted
6 to me. After I completed the analysis, I resealed it and
7 initialled it. And it's marked as item #12, which is the
8 Pickens County #12.

9 Q I'm just going to leave that with you for a little
10 bit.

11 When you got the substance, what did you do with it?

12 A The first thing I did was I photographed it in the
13 package, inside the heat-sealed pouch. I then opened it
14 on the opposite end from where it had been heat-sealed. I
15 removed the bottle. I photographed the bottle. And then
16 I emptied the contents of the bottle into a small glass
17 container, a beaker. And I photographed it again.

18 The next thing I did was to weigh the liquid, just
19 the liquid portion that was in the bottle to get a total
20 weight. And then I did the chemical analysis to identify
21 what drugs or controlled substances might be present. And
22 then I submitted a report.

23 Q Okay. Did you -- you said you emptied the Tussionex
24 into a container to do all the measurements and whatnot
25 with it. Do you have a container with you today that is

1 similar to the container you used that day?

2 A I do. You asked me to bring a beaker. That's the
3 same size as the one I used. It's a 50 milliliter glass
4 beaker.

5 Q So this isn't the same beaker, just one like it?

6 A Same size.

7 Q Now, when you tested the substance, what kinds of
8 things were you looking for?

9 A I was asked to do a drug analysis. So I carried out
10 the routine general screening tests that were done on
11 drugs. Those tests would detect any street drug or
12 illicit drug, as well as any pharmaceutical that might be
13 present. It would, also, pick up any petroleum-type
14 products that would be present.

15 And once I identified the presence of two drug-like
16 substances, I then extracted those and analyzed those with
17 an additional test, which is very specific and that
18 identified, specifically, what drugs were present.

19 Q And before we get to that, you said you took
20 pictures. Are those the pictures you took?

21 A They are, yes.

22 MS. BARWICK: At this time, the State would like to
23 introduce State's Exhibit No. 22 into evidence.

24 MR. DEJONG: Without objection, Your Honor.

25 MR. O'CONNELL: No objection.

1 MR. HARBIN: No objection.

2 THE COURT: It's in evidence.

3 MS. BARWICK: Thank you, Your Honor.

4 (WHEREUPON, State's Exhibit No. 22 was admitted into
5 evidence.)

6 BY MS. BARWICK:

7 Q Will you just briefly tell the jury what that is?

8 A That's a photograph of the heat-sealed pouch
9 containing the bottle.

10 Q Is #2 just a close up of that?

11 A That's a close up of the same thing.

12 Q Okay. And #3 and #4, is that just a picture of the
13 bottle?

14 A Figures three and four are taken after I removed the
15 bottle from the plastic bag. It just gives a close up of
16 the label, yes.

17 Q And five and six?

18 A Five and six are two -- just two different
19 perspectives of the liquid in the glass beaker. That's
20 what I poured out of the medicine bottle into the glass
21 container. And that green background is a scale bar,
22 which is marked off in inches and centimeters just to give
23 a perspective as to how -- what size the glass is.

24 Q And that glass container and this pitcher are the
25 same size as that glass container sitting right there?

1 A It is. It will hold approximately 50 milliliters.

2 Q Okay. Did you come up with the results of what was
3 found in that liquid?

4 A I did. I detected two drug substances, one was
5 hydrocodone and the other was chlorpheniramine.

6 Q And I always have a hard time with the pronunciation,
7 but chlorpheniramine and hydrocodone, is that consistent
8 with the drug Tussionex?

9 A It would be. I first examined the liquid visually.
10 I, typically, look at the color, the texture, any odor.
11 In this case, there was a sweet odor to it. That would be
12 consistent with what one would expect to find in
13 Tussionex, or cough syrup. Chemically, those two drugs
14 that were detected would be consistent with what one would
15 expect to find in Tussionex.

16 Q And those two drugs that you found, are those
17 controlled drugs?

18 A They are.

19 Q Did you create a lab report as to your results?

20 A I did. I issued a report on July 22nd of 2008. And
21 that report was submitted to Lieutenant Robinson.

22 Q Is this that report?

23 A It is. State's Exhibit No. 39, that's a copy of my
24 report.

25 Q And while they're looking at it, did you see anything

1 else? I think you used the word "adulterants," or
2 anything -- do you know what I'm asking?

3 A The last statement in my report says, No adulterants
4 or contaminants were detected. What that simply means is
5 I did not detect any odor of drugs that would not be found
6 in Tussionex or any -- there was no discolorization or
7 odor of foreign street drugs, or petroleum products, or
8 anything to lead me to find that it was anything but what,
9 again, one would expect to find in Tussionex.

10 MS. BARWICK: Your Honor, at this time, the State
11 would like to introduce State's Exhibit No. 39 into
12 evidence.

13 MR. DEJONG: No objection.

14 MR. O'CONNELL: None from us.

15 MR. HARBIN: No objection.

16 THE COURT: That's the report?

17 MS. BARWICK: Yes, sir, Your Honor.

18 (WHEREUPON, State's Exhibit No. 39 was admitted into
19 evidence.)

20 BY MS. BARWICK:

21 Q When you got that container of Tussionex, it was not
22 completely full, was it?

23 A It wasn't.

24 Q How many grams were in the container when you
25 received it?

1 A Just the liquid, after I removed it from the
2 container, weighed 18.401. So just slightly over 18
3 grams.

4 Q Okay. And how many grams would have been prescribed
5 if it was prescribed in accordance with that prescription
6 label on the bottle?

7 A The label exhibits a quantity, which, typically, is
8 the amount prescribed. And it's marked as 60, which would
9 be equivalent to 60 grams or 60 milliliters. That's a
10 liquid.

11 Q So if it started with 60 grams -- and how many grams
12 did you have when you looked at it?

13 A I found a little over 18 grams.

14 Q So how many grams were missing?

15 A If one subtracts the 18.40 grams from 60, that means
16 41.60 grams were potentially missing, and were not in the
17 bottle.

18 Q Is that about two-thirds missing?

19 A That's about two-thirds. What I found was about a
20 third of what the prescription indicates with respect to
21 the label.

22 Q And then are you able to convert the grams into
23 teaspoons?

24 A I did. The 60 gram total volume would be equivalent
25 to 12 teaspoons. I measured 3.68 teaspoons. And that

1 means that approximately -- or 8.32 teaspoons had been
2 removed at some point from the bottle. Again, about a
3 third of the 12 was left in the bottle.

4 Q And does that prescription say how many teaspoons are
5 supposed to be taken a day? Does it have an amount that's
6 supposed to be taken?

7 A It has a prescription -- a prescribed amount. Each
8 dose is one half teaspoon, according to the label, and
9 given twice daily, which means a 24-hour period. So that
10 would be 1 teaspoon per day.

11 Q And to back up a little bit. I know we're getting
12 kind of confusing. How many total teaspoons would have
13 been in it, in 60 grams?

14 A Originally, there would have been 12 teaspoons.

15 Q So 24 doses?

16 A 24 doses.

17 Q Now, we're going to break this down even further.
18 There should have been, at full, 24 doses in the
19 container. How many doses were left?

20 A There was 7.36 doses remaining, which means 16.64
21 doses has been used or removed.

22 MS. BARWICK: No further questions at this time.

23 THE COURT: Cross-examination.

24 MR. DEJONG: Thank you, Your Honor.

25 May it please the Court.

CROSS-EXAMINATION

BY MR. DEJONG:

Q Is it, Doctor?

A No, Mr.

Q No doctor, not yet. All right. Mr. Hollifield;
correct?

A That's correct.

Q Do you know what Tussionex Pennkinetic -- I can't pronounce it. It's on the bottle. It's in your report.

A Yeah. Tussionex Pennkinetic suspension, a trade name, basically, that just means it's a syrup-type substance, as opposed to a tablet or capsule.

Q So, basically, that says it's a liquid?

A It's a liquid.

Q So nothing particular, unique, or unusual about that name being on the bottle?

A No, sir.

Q Just one of the regulations that designates it presumptively as a liquid, as opposed to a tablet?

A That's my understanding.

Q If someone was looking at the bottle. Now, you may have, if you have not, I would ask that you do. Can you look on that bottle and see when the prescription was filled?

A The date filled was January 4, 2008, January the 4th,

1 2008.

2 Q All right, sir. Now, as in your profession, you deal
3 with analyzing substances; is that correct?

4 A That's correct.

5 Q Do you deal at all with the effects of those
6 substances on the human body?

7 A No, I don't.

8 Q Okay. Fair enough. Now, there were some 24 doses at
9 a half a teaspoon, I gather; right?

10 A Correct.

11 Q Originally, in that bottle?

12 A Correct.

13 Q And I think we said, what was it, 12 teaspoons left?

14 A There were eight -- a little over eight teaspoons --
15 or I'm sorry. There were three and a half teaspoons
16 remaining, or 7.36 doses remaining.

17 Q Certainly, you analyzed the substance. But when that
18 bottle started depleting, you don't know when it started
19 depleting, or how it depleted, do you?

20 A I have no way of knowing that.

21 Q Right. And, certainly, between January the 4th of
22 2008, and March the 16th or 17th of 2008, a considerable
23 amount of time had passed?

24 A That's correct.

25 Q About, what, 60, 70 days, something like that?

1 A Right.

2 Q Okay. So you say you found hydrocodone and
3 chlorpheniramine --

4 A And chlorpheniramine, that's right.

5 Q They don't name these things so we can pronounce
6 them, do they?

7 Okay. So, basically, those are the two things that
8 you found in this liquid substance?

9 A That's what I detected, yes, sir.

10 Q Okay. And I believe you've already testified, but
11 that's consistent with Tussionex?

12 A It would be.

13 Q Now, is there anything -- let's talk about the
14 hydrocodone for a moment. Is there anything particularly
15 significant about that hydrocodone?

16 A It's used as an anti-tussin, which means to prevent
17 cough and an analgesic, which is a painkiller. But I
18 don't know of anything particularly unusual about it.
19 This is the same hydrocodone that would be in any other
20 hydrocodone drug.

21 Q Right. But, in terms of anything significant,
22 there's nothing about this substance that would indicate
23 that it's time released, or takes a long time for it to
24 kick in, or anything else is there?

25 A That information is, typically, given in the

1 Physicians Desk Reference, the information that comes with
2 the bottle with the prescription when it's distributed. I
3 mean, all of that information is documented, but I don't
4 know what that would be.

5 Q Okay. So just based on your analysis, you found
6 hydrocodone and that other funny named stuff?

7 A That's it.

8 Q Nothing else? You didn't find anything else?

9 A No, sir. That's it.

10 Q Did you look for anything else?

11 A My tests were, specifically, to look for drug-like
12 substances. I did not do a complete deformation to find
13 out what the inactive ingredients would be, no. But no
14 other drugs were found.

15 Q So when we talk about active and inactive
16 ingredients, I guess; right? So what I hear you saying
17 were there were two active ingredients, hydrocodone and
18 the other thing?

19 A Correct.

20 MR. DEJONG: The witness is with you, Mr. O'Connell.

21 MR. O'CONNELL: Thank you.

22 CROSS-EXAMINATION

23 BY MR. O'CONNELL:

24 Q Young Doctor -- I'll call you Doctor because you have
25 all those degrees and all that.

1 So you're saying this medicine has, actually, 24
2 doses; is that correct?

3 A If the bottle were full as prescribed by the label,
4 it would contain a total -- it would have contained a
5 total of 24 doses, yes, sir.

6 Q And there was how much remaining again, about seven
7 or eight?

8 A A little over seven doses, yes, sir.

9 Q So if it was given out in January and the person
10 took it, they were pretty good about taking it, weren't
11 they?

12 A I don't know.

13 Q Okay. So there's nothing particularly different
14 about that either, is there, some people do save their
15 medicine; right?

16 A That's true.

17 Q And some people when they feel better, they stop
18 using it; right?

19 A That's true.

20 Q And there's no indication here anybody gave it to
21 anybody else, is there?

22 A I have no knowledge of that. I don't know.

23 MR. O'CONNELL: Okay. That's all I wanted to ask
24 you.

25 Thank you very much.

CROSS-EXAMINATION

BY MR. HARBIN:

Q You're good enough at what you do to tell me with all confidence that all your results are correct, and that is the two substances found in Tussionex; is that correct?

A In my opinion, this bottle contained those two drugs that are consistent with Tussionex, yes, sir.

MR. HARBIN: Thank you.

No further questions.

MS. BARWICK: Nothing further, Your Honor.

THE COURT: All right. Thank you, Mr. Hollifield.

You may call your next witness.

MS. BARWICK: Thank you, Your Honor.

The State would call Kristy Leopard to stand.

THE CLERK: Place your left hand on the Bible and raise your right hand.

WHEREUPON,

KRISTY LEOPARD,

after first having been duly sworn, testified as follows:

THE CLERK: If you would, have a seat.

And state your name.

THE WITNESS: Kristy Leopard.

DIRECT EXAMINATION

BY MS. BARWICK:

Q Ms. Leopard, where do you work?

1 A The Pickens County Sheriff's Office.

2 Q What do you do there?

3 A I'm a sergeant deputy sheriff, and I'm the supervisor
4 over the detention center.

5 Q And what are your normal duties?

6 A To supervise the jail, supervise inmates, maintain
7 safety and security of the jail.

8 Q Back in 2008, did Donna Phillips ask you to do
9 something that was kind of outside the normal of your
10 duties?

11 A Yes.

12 Q And what did Donna Phillips do?

13 A She brought a bottle of medication to the window of
14 the jail and said that Rita Burgess -- that Detective Rita
15 Burgess had asked her to bring it. And if the calender I
16 checked was correct, that would have been on a Sunday.

17 So there were no ID officers or detectives working at
18 that time. So I had to take the medication and seal it in
19 an envelope. And I took it to Ms. Burgess' office.

20 Q Okay. Is this that envelope?

21 A Yes.

22 Q And is that your writing on the front of it?

23 A It is.

24 Q Whose writing is on the back of it?

25 A That would be Donna Phillips.

1 Q And did you have Donna Phillips write on the back of
2 that?

3 A I did.

4 Q What was the purpose of her writing on the back of
5 that?

6 A Just so she could witness me putting it in this
7 envelope. I sealed it. And I had her and myself both
8 sign over the tape where I sealed it just so she would
9 know it was in the envelope.

10 Q And where is Detective Burgess' box?

11 A That would have been in the control room in the
12 sheriff's office, which is across the hall from the
13 detention center.

14 Q Does the general public have access to that?

15 A No, ma'am.

16 Q You might not remember the date right off the top of
17 your head. Do you?

18 A I don't. I had to refer to the envelope.

19 Q And you wrote the date on the envelope?

20 A I did.

21 MS. BARWICK: Your Honor, at this time, the State
22 would like to introduce State's Exhibit No. 40 into
23 evidence.

24 MR. DEJONG: No objection, Your Honor.

25 MR. O'CONNELL: No objection.

1 MR. HARBIN: No objection.

2 THE COURT: It's in evidence.

3 (WHEREUPON, State's Exhibit No. 40 was marked for
4 identification and admitted into evidence.)

5 BY MS. BARWICK:

6 Q Can you tell the date that Donna Philips came down
7 there to give you that?

8 A March 23rd, 2008. And I noted the time, which was
9 20:15, so that would have been 8:15 p.m. at night.
10 Because I don't come into work until 6:00 p.m.

11 Q Thank you very much.

12 Other than that, did you have any other involvement
13 in this case?

14 A None.

15 MS. BARWICK: No further questions at this time.

16 THE COURT: Cross-examination.

17 MR. DEJONG: Very briefly.

18 Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. DEJONG:

21 Q So you were working at the jail, this was on March
22 the 23rd of 2008; right?

23 A That's correct.

24 Q At 8:15?

25 A Yes, sir.

1 Q And, now, this is your handwriting right here;
2 correct?

3 A Yes, sir.

4 Q And then on the back are the initials, and it looks
5 like "903"?

6 A That would have been my unit number at the time.

7 Q Okay. That was your unit number at the time. And
8 Ms. Phillips appeared at the window and she had a
9 bottle?

10 A That's correct.

11 Q Did you look at the bottle?

12 A I did. I did not look -- I'm sure I looked at the
13 bottle. But as far as knowing what it was or anything
14 like that, no.

15 Q So you put it in this envelope and gave it -- well,
16 this was on a Sunday, you said?

17 A Yes, sir.

18 Q And you gave it to Ms. Burgess on?

19 A I would have put it in her box. She would have
20 received it on Monday morning when she returned.

21 Q Is that a secured box?

22 A It's in the patrol room where only deputies have
23 access to it, so it's as secure as that.

24 MR. DEJONG: The witness is with you, Mr. O'Connell.

25 MR. O'CONNELL: Thank you, Your Honor.

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CROSS-EXAMINATION

BY MR. O'CONNELL:

Q Officer, did my client state -- I think you said this, that Officer Bridges [sic] asked her to bring it to the police department; is that right?

A Yes. And I believe I noted that on the note as well.

Q So she was doing what she was asked to do; correct, as far as you know?

A I can only assume, yes.

MR. O'CONNELL: Thank you very much.

MR. HARBIN: No questions, Judge.

THE COURT: Thank you.

You may step down, Ms. Leopard.

All right. You may call your next witness.

MS. BARWICK: The State would call Jennifer Brown.

THE CLERK: Place your left hand on the Bible and raise your right hand.

WHEREUPON,

JENNIFER MICHELLE GARDNER BROWN,
after first having been duly sworn, testified as follows:

THE CLERK: If you will, have a seat.

And state your name for the record.

You may need to slide up to the microphone.

THE WITNESS: Jennifer Michelle Gardner Brown.

DIRECT EXAMINATION

BY MS. BARWICK:

Q Ms. Brown, where do you work?

A I work at the South Carolina Law Enforcement Division, commonly known as SLED.

Q What do you do there?

A I'm a forensic toxicologist.

Q And how long have you been working at SLED?

A For about five and a half years.

Q Were you asked to test any substances in this case?

A Yes.

Q What were you asked to test?

A I was asked to test two bottles that came into us, one was Tylenol, and one was a more generic type of Tylenol, and a baby sippy bottle that came in.

Q And when you got this evidence, would it have been in a sealed container?

A Yes.

Q And why is it in a sealed container?

A So that we can show if there's any tampering, also, just easier for us if something leaks to not get it everywhere.

Q And would you have tested this substance if it had not been sealed?

A No.

1 Q And let's talk a little bit about SLED's procedure.

2 SLED stands for what?

3 A The South Carolina Law Enforcement Division.

4 Q All right. And SLED's procedure when a deputy or
5 lieutenant -- like Lieutenant Tony Robinson, when he drops
6 off something to be processed and tested, is it kept
7 within a secured facility?

8 A Yes.

9 Q Would anybody, other than SLED personnel, have access
10 to that facility?

11 A No.

12 Q When you got these substances, you said Tylenol, the
13 generic brand of pain relief and a sippy cup, did you
14 perform tests on those three containers?

15 A Yes.

16 Q What was the purpose of that test? What were you
17 testing for?

18 A Well, whatever was asked for. So, in this case, just
19 to see what's in it.

20 Q Okay. Did you find anything in any of those
21 substances?

22 A In any --

23 Q In any of the containers. I'm sorry.

24 A Yes.

25 Q And let's start with the Equate Tylenol. What did

1 you find in there?

2 A Acetaminophen, which is commonly known as Tylenol.

3 Q So the Tylenol container had Tylenol in it?

4 A Correct.

5 Q Anything else?

6 A No.

7 Q Let's talk about the generic container that came to
8 you. What did that test for?

9 A Acetaminophen.

10 Q Tylenol again?

11 A Yes.

12 Q The sippy cup, did that test for anything?

13 A No. We didn't find any drugs in it.

14 Q No drugs?

15 A No.

16 MS. BARWICK: No further questions, Your Honor.

17 MR. DEJONG: Very briefly.

18 CROSS-EXAMINATION

19 BY MR. DEJONG:

20 Q Ms. Brown, acetaminophen is kind of an off the
21 shoe -- kind of like aspirin; right? It's not aspirin,
22 but it's kind of like aspirin?

23 A It's a pain reliever.

24 Q I'm sorry?

25 A A pain reliever.

1 Q Over the counter?

2 A Yeah.

3 Q It is not a controlled substance?

4 A No.

5 Q And both of these came to you in bottles; correct?

6 A Yes.

7 Q One of which was Tylenol?

8 A Uh-huh.

9 Q And the other one, was that Equate?

10 A Yes.

11 Q And they both tested for the same thing,
12 acetaminophen?

13 A Yes.

14 MR. DEJONG: Thank you, ma'am.

15 Nothing further.

16 MR. O'CONNELL: Your Honor, I have no questions.

17 Thank you.

18 MR. HARBIN: No questions, Judge.

19 THE COURT: All right. Anything further?

20 MS. BARWICK: No further questions, Your Honor.

21 THE COURT: Thank you, Ms. Brown.

22 You may call your next witness.

23 MS. BARWICK: The State would call William Gassman to
24 the stand.

25 THE CLERK: Place your left hand on the Bible and

1 raise your right hand.

2 WHEREUPON,

3 WILLIAM GASSMAN,

4 after first having been duly sworn, testified as follows:

5 THE CLERK: Thank you, sir.

6 If you would, have a seat.

7 And state your name for the record, please.

8 THE WITNESS: My name is William Gassman.

9 DIRECT EXAMINATION

10 BY MS. BARWICK:

11 Q Mr. Gassman, where do you work?

12 A Baptist Medical Center in Easley.

13 Q What do you do there?

14 A Supervisor of chemistry, toxicology.

15 Q Do you work in their lab?

16 A I do.

17 Q And what are your normal duties at that lab?

18 A I supervise the chemistry department, which is
19 analyzing blood, urine, spinal fluid.

20 Q Did the lab receive any urine samples -- or a urine
21 sample from minor back on March 17th of 2008?

22 A Yes, we did.

23 Q At what time did that urine come to your lab?

24 A It was received into our lab on 3/17 at 11:54 a.m.
25 in the morning.

1 Q And do you know what time it was, actually, sent to
2 your lab?

3 A It was collected at 11:52 that morning.

4 Q And when it gets sent to the lab, how does it get
5 sent there?

6 A Via pneumatic tube system. The ER has a tube system.
7 They seal the urine in a zip lock container to biohazard.
8 It's sent to us. And then it drops into our lab, an alarm
9 goes off, tells us a courier has arrived. We open the
10 courier and receive it in the computer system.

11 Q And would it have had any information on it
12 identifying minor

13 A It has to have that information on it. It has to
14 have name, date of birth. It, also, has the sex. It,
15 also, has identifying marks of who collected it, when they
16 collected it, and the time they collected it.

17 Q I understand. Once that urine sample gets to the
18 lab, what happens to it?

19 A After we receive it into the laboratory, a bar code
20 is stamped and a label prints off with what we call
21 container ID. It's a bar code to cue that sample, which
22 has the same exact information on it. And then we analyze
23 it for the test that was ordered from the physician. And
24 on this specimen, we ordered a medical drug screen.

25 Q A medical drug screen. Does that mean it was for

1 medical purposes?

2 A That's correct.

3 Q And was a drug screen performed on minor
4 blood -- I'm sorry, minor urine?

5 A On the urine, yes, it was.

6 Q And do you recognize this?

7 A Yes, that's a printout of the report.

8 Q With the results of his urine screen?

9 A That's correct.

10 Q Now, do you take the whole sample of the urine and
11 test the whole sample?

12 A No. We take an aliquant. The container itself
13 cannot go into the instrument to be analyzed. The amount
14 that's needed to be analyzed is ported off with a label
15 that we -- that printed automatically as soon as we
16 receive it. And then it's analyzed.

17 Q Okay. And what's done with the rest of the urine?

18 A The container is then put into a refrigerator,
19 limited access refrigerator is what we have for -- we are
20 inspected by the College of American Pathologists, and a
21 requirement if we do any kind of drug testing is we have
22 to have limited access.

23 Q Okay. Was the reserve -- I'm going to call it the
24 reserve urine sample. Was that later given to anybody?

25 A Yes, it was.

1 Q Who was it given to?

2 A Dr. Mahanes.

3 Q When was it given to Dr. Mahanes?

4 A The next day.

5 MS. BARWICK: One moment. I apologize.

6 (Pause.)

7 MS. BARWICK: Your Honor, at this time, the State
8 would like to introduce State's Exhibit No. 23 into
9 evidence.

10 MR. DEJONG: No objection, Your Honor.

11 MR. O'CONNELL: No objection.

12 MR. HARBIN: No objection.

13 THE COURT: It's in evidence.

14 (WHEREUPON, State's Exhibit No. 23 was admitted into
15 evidence.)

16 BY MS. BARWICK:

17 Q What were the results of that drug screen?

18 A Negative for amphetamines, barbiturates,
19 benzodiazepines, cocaine, methadone, phencyclidine, THC,
20 which is, also, known as marijuana, and positive for
21 opiates.

22 Q So negative for everything else, positive for
23 opiates?

24 A That's correct.

25 Q What time would those results have been available to

1 the doctor?

2 A We resulted at 12:14.

3 Q When you say you "resulted," would those results be
4 immediately available to that doctor?

5 A Within seconds, yes, in the computer system.

6 MS. BARWICK: Thank you.

7 Nothing further at this time.

8 THE COURT: Mr. DeJong.

9 MR. DEJONG: Thank you, Your Honor.

10 May it please the Court.

11 CROSS-EXAMINATION

12 BY MR. DEJONG:

13 Q Dr. Gassman --

14 A No, medical laboratory scientist.

15 Q I'm sorry.

16 A That's okay.

17 Q We have all sorts of titles floating around here. I
18 didn't mean to offend you.

19 A No problem.

20 Q Okay. You're a toxicologist?

21 A No, I'm not.

22 Q You're not a toxicologist?

23 A I'm a medical laboratory scientist.

24 Q A medical laboratory scientist?

25 A I have an Associate's Degree in medical laboratory

1 technology. I have a Bachelor's Degree in Health Science.
2 I'm qualified to run urine, blood, and spinal fluid
3 specimens.

4 Q Okay. So you -- you, actually, did this report?

5 A No, I did not. I supervise the people that do that.

6 Q So how many people were involved in doing this?

7 A One person.

8 Q Okay. Other than yourself?

9 A Yeah. I supervise the department. Only one person,
10 actually, analyzed that specimen, yes.

11 Q Okay. That's what I'm getting at. And this was a
12 urine specimen; right?

13 A That's correct.

14 Q Now, when you run something for a drug screen, which
15 that's what this was; right?

16 A That's correct.

17 Q You don't quantitate anything?

18 A No, we do not.

19 Q The only thing you're looking for here is presence?

20 A That's correct.

21 Q And I note here it says -- well, let me back up a
22 little bit. So you got the urine specimen -- and if you
23 need this, please, let me know.

24 A I've got a copy.

25 Q All right. I didn't mean to try to keep it from you.

1 What came to the lab was a urine sample; correct?

2 A That's correct.

3 Q Okay. Did blood, also, come?

4 A No. We did not receive any blood.

5 Q Okay. If blood were taken, would that normally come
6 to you?

7 A Yes, it would.

8 Q Okay. So, now, looking at this, you don't quantitate
9 it; right?

10 A Yes.

11 Q And you don't really interpret it?

12 A We have a cut off of what is positive, and what is
13 negative.

14 Q Right. And then I see here it says, Drug screen
15 positive, screening method, not confirmed?

16 A That's correct.

17 Q For medical purposes only?

18 A That's correct.

19 Q What does "not confirmed" mean?

20 A It means we have not confirmed that. We have
21 screened it only. We are doing it for the medical
22 purpose, to aid a physician in diagnosis.

23 Q And then it could have gone some place else in the
24 hospital to be confirmed, I guess?

25 A No. It does not. It goes outside the laboratory.

1 We do not confirm anything.

2 Q So no department at Easley Baptist would do the
3 confirmation?

4 A No.

5 Q Do you know how the confirmation is done?

6 A Mass speck.

7 Q Also, through blood?

8 A You can do that, also, yes.

9 Q And blood is somewhat more reliable than urine?

10 A No, sir. We're looking for a metabolite. We're not
11 looking for the active drug itself.

12 Q Okay. So when you say this was a metabolite, you
13 didn't, actually, find hydrocodone, you found a metabolite
14 in the urine specimen?

15 A We found a metabolite of opiates. Hydrocodone is an
16 opiate.

17 Q Right.

18 A Synthetic opiate.

19 Q But the metabolite is hydromorphone. Is that what
20 you found?

21 A We found the metabolite opiate.

22 Q Okay. So you don't know what it was?

23 A It was a metabolite of an opiate.

24 Q Other than an opiate; right?

25 A (There was no response.)

1 Q Let's talk about metabolites just for a minute. A
2 metabolite is, basically, what would be in the urine after
3 the body has started breaking down a substance; right?

4 A That's correct.

5 Q And that can -- once a substance is taken, the body
6 almost immediately starts breaking it down, does it not?

7 A That's correct.

8 Q So, again, in this particular case -- well, if I get
9 out of your field -- I'm not trying to be offensive.

10 A No problem.

11 Q You yell at me. Okay. The liver, basically, starts
12 metabolizing these substances?

13 A Among other organs, yes.

14 Q But -- well, the whole gizmo works together somehow?

15 A That's correct.

16 Q But, basically, the liver and some of the other
17 organs almost immediately start breaking these drugs down,
18 if it is a drug?

19 A Exactly.

20 Q Okay. So you're going to find metabolites pretty
21 quickly after the drug has been ingested?

22 A Depending on the half life of the medicine.

23 Q Do you know what the half life of hydrocodone is?

24 A Out of my area of expertise.

25 Q Out of your area. That's fair enough. Now, the

1 urine specimen was -- after you ran your screen, the
2 balance of it was given to Dr. Mahanes?

3 A It was, actually, stored in a refrigerator.

4 Q Okay. For what period of time?

5 A We store our urines for seven days.

6 Q So are you saying at seven days or within seven days,
7 it was turned over to Dr. Mahanes?

8 A Dr. Mahanes presented us with a subpoena. That's the
9 only reason -- or any reason we'd, actually, give it to
10 anybody outside the laboratory.

11 Q Your report says, Specimen integrity check performed
12 on the sample submitted to the laboratory. What does that
13 mean?

14 A That means we verify that it is concentrated, and it
15 has not been altered in any way. We run all the PH and
16 creatinine are the two alternates that we look for.

17 Q Okay. Well, when it says there hasn't been an
18 integrity check performed, are you talking about the
19 specimen you got?

20 A The urine itself.

21 Q All right. So, basically, all that is saying is that
22 hasn't been messed with?

23 A Okay. Your phraseology.

24 Q Yeah. It's not technical, I'll be the first to
25 admit. But, basically, that's what it boils down to?

1 A Yes. It hasn't been diluted. It is, actually, human
2 urine.

3 Q The specimen was taken and went into the zip tube and
4 came to you and --

5 A Was processed.

6 Q In doing this drug screen, though, there's nothing
7 there that indicates when the drug was ingested, or
8 anything else?

9 A No, there's not.

10 Q Okay. It's just that the body has started breaking
11 down the drug, and you've got metabolites in the urine?

12 A That's correct.

13 MR. DEJONG: The witness is with you, Mr. O'Connell.

14 CROSS-EXAMINATION

15 BY MR. O'CONNELL:

16 Q You're not a doctor, but you're like a doctor; right?

17 A I'm a medical laboratory scientist.

18 Q The question I have is, you don't know where or how
19 this child got any of this stuff into his system?

20 A No, I do not.

21 MR. O'CONNELL: Thank you very much.

22 MR. HARBIN: No questions, Judge.

23 MS. BARWICK: Nothing further for Mr. Hollifield.

24 THE COURT: Thank you, Mr. Gassman.

25 MS. BARWICK: Mr. Gassman. I'm sorry.

1 THE COURT: You may call your next witness.

2 MS. BARWICK: Your Honor, at this time, the State
3 would call Dr. Mahanes to the stand.

4 THE CLERK: Place your left hand on the Bible and
5 raise your right hand.

6 WHEREUPON,

7 JAMES MAHANES,
8 after first having been duly sworn, testified as follows:

9 THE CLERK: Sir, if you would, have a seat.

10 And state your name for the record.

11 THE WITNESS: May name is James Mahanes.

12 DIRECT EXAMINATION

13 BY MS. BARWICK:

14 Q Dr. Mahanes, back when all of this was going on in
15 March of 2008, where were you working?

16 A I was the coroner for Pickens County.

17 Q And were you involved in the minor case?

18 A Yes, I was.

19 Q Do you recall collecting the urine sample from
20 Baptist Easley?

21 A Yes, I do.

22 Q When did you collect that? Would it have been the
23 same day you subpoenaed it?

24 A It would have been the day I subpoenaed it. I don't
25 know which day that was, Tuesday or Wednesday, whatever.

1 Q Would this refresh your memory?

2 A Probably the 18th of March, 2008.

3 Q And once you got that urine sample, what, if
4 anything, did you do with it?

5 A Well, I took that urine sample to my office,
6 initially, and refrigerated it in the locked office that I
7 had upstairs in this building.

8 Q Yes, sir. And what about a blood sample from minor
9 Morris, did you collect that from anywhere?

10 A I did. I went to Greenville Memorial Hospital. And,
11 through subpoena, I collected what's called "first drawn
12 blood," the initial blood sample that was taken when the
13 child came to the hospital.

14 Q Over in Greenville?

15 A In Greenville.

16 Q What day did you collect that sample from that
17 laboratory?

18 A Let me look, please.

19 The 20th of March, 2008.

20 Q So three days after being admitted to the hospital?

21 A Yes.

22 Q And once you collected that sample from the
23 Greenville -- the blood sample from the Greenville
24 laboratory, what did you then do with that?

25 A I took both the urine sample and the blood sample to

1 the Medical Examiner's Office in Greenville.

2 Q Okay. And that's the question -- the urine sample
3 came from Baptist Easley?

4 A Right.

5 Q And the blood came from Greenville Memorial?

6 A Correct. Baptist Hospital did not draw any blood
7 from the child.

8 Q And you took both of those items to the coroner's --
9 I'm sorry, the Medical Examiner's Office?

10 A Yes, ma'am.

11 MS. BARWICK: Let me grab those from you.

12 No further questions at this time.

13 CROSS-EXAMINATION

14 BY MR. DEJONG:

15 Q So that I'm clear, Dr. Mahanes, Easley Baptist did
16 not draw any blood?

17 A No, sir.

18 Q Okay. So the blood draw -- well, let me ask you
19 this, if you know. When did Greenville Memorial do the
20 blood draw?

21 A My assumption is when the child arrived in the PICU
22 unit at Greenville Memorial.

23 Q Are you familiar with how the child got to Greenville
24 Memorial?

25 A I know he went by ambulance from Baptist Hospital.

1 Q Well, to the best of the information that you have,
2 the blood draw would have been done on March the 17th?

3 A The day he was transported there, yes, sir.

4 Q Yes, sir?

5 A Yes, sir.

6 Q And so March the 20th, there's nothing significant
7 about that, other than that's the day you, actually,
8 picked the blood up; right?

9 A That's correct.

10 Q And then you kept it in your office here in the
11 courthouse?

12 A Not the blood.

13 Q Not the blood?

14 A No, just the urine.

15 Q Okay.

16 A Correct.

17 Q So the urine stayed here for some period of time, a
18 day or two?

19 A A day or two, 40 hours, correct.

20 Q And then you picked the blood up at Greenville
21 Memorial?

22 A Correct.

23 Q And then did everything at that point in time go to
24 the ME?

25 A Yes, it did.

1 Q And was that pretty much your involvement with it?

2 A Well, that was my involvement with the samples,
3 correct.

4 Q Somebody else did all the testing?

5 A That's correct.

6 Q Somebody else did the interpretation of the testing?

7 A That's correct.

8 Q So the samples, you, basically, collected, were
9 turned over to somebody else, and that was it; correct?

10 A Well, and we sent our samples to a laboratory called
11 AIT. It was a certified laboratory out in the Midwest.
12 And we sent all the samples there for analysis.

13 Q When you say "we," were those samples sent by the
14 Greenville medical examiner, or did you send them?

15 A The medical examiner sent those, yes.

16 Q Who exactly is the medical examiner, if I may ask?

17 A Well, Dr. Michael Ward is currently and Dr. Fulcher.
18 But Dr. Eric Christensen is the physician that handled
19 this case.

20 Q Okay. So when we talk about the medical examiner, I
21 guess we could -- maybe use my language, a pathologist?

22 A A forensic pathologist.

23 Q A forensic pathologist?

24 A Yeah.

25 Q The people who do the autopsies is, basically, what

1 it boils down to?

2 A Right.

3 Q So you turn that over to the people who do the
4 autopsy, and they gather up whatever, and ship it off to
5 AIT?

6 A Well, we ship some items of our own, but not in this
7 particular case. Because the critical issue here was the
8 anti-mortem specimens that were collected that were
9 critical to the analysis of the case.

10 Q What do you mean by "anti-mortem"?

11 A Before death.

12 Q Okay. Which was the blood and the urine; right?

13 A That's correct.

14 MR. DEJONG: Thank you, Dr. Mahanes.

15 The witness is with you, Mr. O'Connell.

16 CROSS-EXAMINATION

17 BY MR. O'CONNELL:

18 Q Dr. Mahanes, are you the coroner that did the death
19 certificate?

20 A Yes.

21 Q And the death certificate originally read, Under
22 investigation; is that correct?

23 A That -- I think that's correct, yes.

24 Q And then later, it was written on there what the
25 cause of death was; is that right?

1 A Correct.

2 Q Did you previously give any testimony in any previous
3 hearings as to the same parties?

4 A No.

5 Q You've never given any testimony in any previous
6 hearings?

7 A No.

8 MR. O'CONNELL: Thank you very much.

9 THE WITNESS: My primary duty as the coroner --

10 MR. O'CONNELL: Your Honor, I stopped asking my
11 question.

12 THE COURT: He's got the right to explain his answer.

13 Do you need to explain your answer, sir?

14 THE WITNESS: Well, my primary duty as the coroner is
15 to find the cause and manner of death. And, in this
16 instance, I filled in and certified the death certificate
17 of minor

18 MR. HARBIN: May it please the Court.

19 CROSS-EXAMINATION

20 BY MR. HARBIN:

21 Q And what did you find was the manner of death? You
22 may have already answered this questions and I just missed
23 it.

24 A Well, I found the manner of death to be homicide.

25 Q And did you formulate an opinion as to what caused

1 the homicide?

2 A That the child died from an overdose of hydrocodone.

3 Q Did you have a specific method by which he received
4 this hydrocodone? In other words, where did the
5 hydrocodone come from, or what formulation was the
6 hydrocodone part of?

7 A Well, the hydrocodone came from the grandmother's
8 home. That's where I was told that it was positioned and
9 collected by law enforcement.

10 Q And can you expand upon that a bit? You said "from
11 the grandmother's home." In what formulation? Do you
12 know?

13 A In the form of Tussionex.

14 Q In the form of Tussionex?

15 A Yes.

16 Q And what leads you to be confident that it was
17 Tussionex, and not some other form of hydrocodone?

18 A Because it was a combination of hydrocodone and
19 chlorpheniramine, and that's Tussionex.

20 MR. HARBIN: Thank you.

21 No further questions.

22 THE COURT: Redirect?

23 MS. BARWICK: Nothing further, Your Honor.

24 THE COURT: Thank you, Doctor.

25 THE WITNESS: Thank you.

1 THE COURT: You may call your next witness.

2 MR. RICHARDSON: Your Honor, may we approach?

3 THE COURT: Sure.

4 (WHEREUPON, a bench conference was held.)

5 THE COURT: All right. Ladies and gentlemen, we're
6 going to go ahead and break for the day. We've had a lot
7 of witnesses, and it's been a long day for everyone. So
8 we're going to go ahead and recess. We've reached a good
9 breaking point.

10 Don't talk about the case. Keep an open mind. And
11 we'll resume tomorrow morning at 9:00.

12 THE BAILIFF: Do I take their notes, or just leave
13 them in jury room?

14 THE COURT: Yes, just leave them in the jury room.
15 Thank you.

16 (WHEREUPON, the jury was excused from open court at
17 approximately 4:39 p.m.)

18 THE COURT: I will see you all in the morning.

19 (WHEREUPON, the proceedings were concluded at
20 approximately 4:40 p.m., to be reconvened on
21 Wednesday, July 25, 2012.)
22
23
24
25

1 WEDNESDAY, JULY 25, 2012

2 THE COURT: Anything before we bring the jury in?

3 MR. RICHARDSON: Judge, we have one matter. It is
4 the intent of the State to call Michael Lark to the stand.
5 He is a polygrapher. The purpose of his testimony would
6 be to testify to certain things that the Defendant Morris
7 and Defendant Phillips said to him in a pre-polygraph
8 interview.

9 Our intent would be -- obviously, we can't bring up
10 anything from the polygraph, and we can't refer to him as
11 a polygrapher. But we would refer to him as an
12 investigative consultant who had an interview with these
13 individuals.

14 I believe there's going to be an objection to that.
15 So I wanted to go ahead and get that on the floor.

16 THE COURT: All right.

17 MR. DEJONG: Your Honor, there is an objection to
18 that on behalf of Mr. Morris. Obviously, this came about
19 as a result of a polygraph. That request for the
20 polygraph was made by law enforcement.

21 The thrust of where I'm going is that I believe they
22 can call him an investigative consultant, or call him
23 whatever they want to call him. But, nonetheless, he was
24 a polygrapher and this polygraph was done at the behest of
25 law enforcement. It was done in, I believe, May of -- May

1 the 29th, to be precise, of 2008.

2 Now, Mr. Morris had already been in and talked to
3 Rita Burgess. I understand that. And I believe that was
4 in April, if memory serves me correctly. It may be late
5 May.

6 My problem is this, I can't candidly stand here and
7 say that my client was in custody. But it was done and he
8 did come in with some pressuring on behalf of law
9 enforcement, which puts me to the argument that he was
10 Mirandized back when Detective Burgess talked to him. He
11 was not, to my knowledge, Mirandized prior to the
12 pre-interview -- or the interview for the polygraph that
13 was done at the request of law enforcement. And law
14 enforcement took the polygraph.

15 I think -- and I doubt seriously that this would come
16 out in testimony. But I think we're very close to
17 Missouri v. Siebert, a United States Supreme Court case,
18 where they addressed the issue of asking first and
19 Mirandizing later. And, quite candidly, Your Honor, I
20 think that was the intent of this polygraph. That is, to
21 see what they could get out of my client either
22 pre-polygraph, or polygraph, or post-polygraph, and try to
23 use that to get him to make some incriminating statement.

24 So I simply submit two things. Number one -- and I'm
25 sure you well know and I mean no disrespect, if the word

1 "polygraph" comes out on that witness stand, I'm going to
2 stand on my head and ask for a mistrial.

3 Number two, I don't think he should be allowed to
4 testify, period. He was, obviously, an agent of law
5 enforcement. Whether my client knew that or not, I don't
6 know.

7 But, number two, I suggest, Your Honor, and believe
8 and argue that he should have been Mirandized or, at
9 least -- well, he should have been Mirandized, Your Honor.
10 I think he was not. And, therefore, I would move to
11 suppress or not allow Mr. Lark's testimony.

12 MR. O'CONNELL: May it please the Court.

13 THE COURT: Mr. O'Connell.

14 MR. O'CONNELL: Your Honor, I join in the motion.
15 Because, one, my client is informing me that she
16 repeatedly told the person giving the polygraph test that
17 she was ill, that she was taking medicine, and she was
18 sick, and that he shouldn't give her the polygraph test,
19 or ask her any questions.

20 And I was just asking her -- I was remiss on this, I
21 guess. Was this polygraph test done before or after they
22 gave their statements where they were Mirandized? If it
23 was done afterwards, I think they shouldn't have even
24 given the polygraph test.

25 My point is that why bring somebody up and, actually,

1 misinform the jury of what the person does. The person is
2 a polygraph examiner. And they're going to make a
3 creative jump -- just like that missing link they're
4 talking about where the jury can substitute their own
5 stuff for it. They're saying that, okay, what we're going
6 to do is he's a polygraph man, but we're going to call him
7 a creative -- or some kind of investigator. It's not what
8 the man does.

9 I object to it because he's going to testify to
10 something that -- they come in and they are under the
11 color of law, you know. They're trying to help out.
12 That's what my client was trying to do. I think
13 Mr. Morris was, too. And, yet, they're still saying,
14 well, weigh it like this, your child died because of so
15 and so. We need you to give a polygraph test. Tell me
16 how many people would say, no, I want to see my lawyer
17 first.

18 And you've got to remember that none of these people
19 were even indicted then and even had a lawyer. So what
20 I'm getting at is that they gave a statement and made
21 comments to the investigator under the color of law. And
22 it should never come in.

23 THE COURT: Thank you, sir.

24 Mr. Richardson.

25 MR. RICHARDSON: I probably should have said this

1 from the beginning. They were Mirandized.

2 THE COURT: When? By this gentleman?

3 MR. RICHARDSON: No. They were Mirandized by
4 Detective Burgess before they went in.

5 THE COURT: What date? Are you talking about when
6 she did --

7 MR. RICHARDSON: The date of the polygraph.

8 THE COURT: Oh, the date of the polygraph.

9 MR. RICHARDSON: I'm sorry. It's a separate Miranda
10 from than what we've already done.

11 THE COURT: Okay.

12 MR. DEJONG: Well, that, certainly, puts a different
13 complexion on it then, Your Honor. But, again, at least,
14 in limine, the word polygraph, polygrapher, or anything as
15 to the interpretation of a polygraph, I submit, does not
16 come in.

17 THE COURT: Well, do we need to do a Jackson v. Denno
18 on this statement?

19 MR. RICHARDSON: At this point, it sounds, based upon
20 Mr. DeJong's argument that, yes, we do.

21 THE COURT: Let's go ahead and do it.

22 MR. RICHARDSON: At this time, I would call Rita
23 Burgess.

24 THE CLERK: Place your left hand on the Bible and
25 raise your right hand.

1 WHEREUPON,

2 RITA BURGESS,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: If you'll take the stand.

5 And state your name.

6 THE WITNESS: Rita Burgess.

7 DIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q Ms. Burgess, you've already testified you're a
10 detective with the Pickens County Sheriff's Office?

11 A Yes, sir.

12 Q And in relation to the case that we're here today
13 about, did there come an occasion that you offered a
14 polygraph examination to the Defendant, Jamie Morris, and
15 to the Defendant, Donna Phillips?

16 A Yes, sir.

17 Q And when you offered that, did they -- what was their
18 response?

19 A They both agreed to take the polygraph.

20 Q Okay. And where did you -- did you meet them at the
21 polygrapher's office, or how did that happen?

22 A No, sir. There's a room at our office that the
23 polygraph operator will use. He brings his equipment, and
24 sets it up in our office.

25 Q Okay. And were you there?

1 A I was at the Sheriff's Office. I was not in the room
2 with them.

3 Q Yes. Okay. And prior to being -- prior to the
4 polygraph test, did you assert or give certain rights to
5 them?

6 A Yes, sir, I did.

7 Q Okay. Let me hand you what's marked as State's
8 Exhibit No. 18.

9 A Yes, sir.

10 Q What is that?

11 A It's Miranda warning for Jamie Edward Morris.

12 Q Okay. And when you gave those rights to him, did you
13 read it to him, or did he read it?

14 A I read it to him and marked each line as I read it.
15 And then I gave it to him to read and initial that he
16 understood.

17 Q Okay. And what was the date of that?

18 A May the 29th, 2008.

19 MR. DEJONG: No objection, Your Honor.

20 I guess he's not introducing it at this point.

21 BY MR. RICHARDSON:

22 Q Okay, ma'am. Can you tell the Court what you read to
23 the Defendant?

24 A Yes, sir. It reads, Before we ask you any questions,
25 you must understand your rights. You have the right to

1 remain silent. Anything you say can be used against you
2 in court. You have the right to talk to a lawyer for
3 advice before we ask you any questions, and to have him or
4 her with you during questioning.

5 If you have no money to pay a lawyer's fee, the Court
6 will appoint one to represent you without cost, if you
7 wish.

8 If you decide to answer questions without a lawyer
9 present, you still have the right to stop answering at any
10 time. You, also, have the right to stop answering at any
11 time until you talk to a lawyer.

12 Q And did the Defendant put any initials on that?

13 A Yes, sir, he did.

14 Q And is it next to each right you just read to the
15 Court?

16 A Yes, sir.

17 Q And did you force or coerce him in any way to do
18 that?

19 A No, sir. I, also, read him the waiver at the bottom,
20 which he initialled and signed.

21 Q Okay. And can you read -- where he waived his
22 rights, can you read that to the Court?

23 A Yes, sir. It says, I have read this statement of my
24 rights. And I understand what my rights are. I am
25 willing to make a statement and answer questions. I do

1 not want a lawyer at this time. I understand and know
2 what I'm doing. No promises or threats have been made to
3 me. And no pressure or coercion of any kind has been used
4 against me.

5 Q And did he voluntarily of his own free will sign
6 those forms?

7 A Yes, sir.

8 Q Did you force or coerce him in any way to sign?

9 A No, sir.

10 Q Let me hand you what's been marked as State's Exhibit
11 No. 19. What is that?

12 A It's a Miranda warning for Donna Lynn Phillips.

13 Q And when was that Miranda warning taken -- or given
14 to her?

15 A June the 4th, 2008.

16 Q Okay. And is that -- are both of these on the
17 same day that the polygraph was offered and given to
18 them?

19 A Yes, sir.

20 Q And, in regard to her, what rights did you read her?

21 A I read to her, Before we ask you any questions, you
22 must understand your rights. You have the right to remain
23 silent. Anything you say can be used against you in
24 court. You have the right to talk to a lawyer for advice
25 before we ask you any questions and to have him or her

1 with you during questioning.

2 If you have no money to pay a lawyer's fee, the Court
3 will appoint one to represent you without cost, if you
4 wish.

5 If you decide to answer questions without a lawyer
6 present, you will still have the right to stop answering
7 at any time. You, also, have the right to stop answering
8 at any time until you talk to a lawyer.

9 Q Okay, ma'am. And did he initial those rights?

10 A She did.

11 Q Excuse me, she. And is there, also, a waiver on that
12 form?

13 A Yes, sir.

14 Q Can you read that to the Court, please?

15 A I have read this statement of my rights and I
16 understand what my rights are. I'm willing to make a
17 statement and answer questions. I do not want a lawyer at
18 this time. I understand and know what I'm doing. No
19 promises or threats have been made to me. No pressure or
20 coercion of any kind has been used against me.

21 Q Okay. And did she sign and initial there?

22 A Yes, sir.

23 Q Okay. And did you force or coerce her in any way to
24 give that?

25 A No, sir.

1 Q To sign that?

2 A No, sir.

3 Q And did you force or coerce either one of these
4 Defendants to submit to a polygraph test?

5 A No, sir.

6 Q Or to submit to questioning prior to a polygraph
7 test?

8 A No, sir.

9 MR. RICHARDSON: Thank you.

10 That's all the questions I have. Please answer any
11 questions Defense counsel may have.

12 MR. DEJONG: May it please the Court.

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. DEJONG:

16 Q Ms. Burgess, you requested that they come in for the
17 polygraph?

18 A We -- I had been talking with them, of course,
19 throughout the investigation. And we had mentioned
20 polygraph several times. And, on this particular day,
21 Mr. Morris agreed to take the polygraph.

22 Q Well, let's talk about those conversations just a
23 little bit that you had over the course of time. Is there
24 any conversation that if he took the polygraph and passed
25 it, he would not be charged?

1 A No, sir.

2 Q Is there any -- then what was the purpose for the
3 polygraph?

4 A We use that as an investigative tool. It just helps
5 us along with the investigation.

6 Q So you're saying that nothing was shared with him if
7 he did or did not take the polygraph?

8 A Nothing was shared with him if he did or did not?

9 Q Yeah. Y'all didn't talk about what would or would
10 not happen if he didn't take the polygraph?

11 A No, sir.

12 Q Or what would or would not happen if he took the
13 polygraph?

14 A No, sir, none of it. I never told any of the
15 Defendants that they would not be charged or would
16 be charged depending on the outcome of a
17 polygraph.

18 Q Were you in the room when Mr. Lark talked to these
19 people?

20 A No, sir.

21 Q But that was done at the law enforcement center;
22 correct?

23 A Yes, sir.

24 MR. DEJONG: The witness is with you, Mr. O'Connell.

25 MR. O'CONNELL: Thank you.

CROSS-EXAMINATION

BY MR. O'CONNELL:

Q Detective Bridges [sic], what's the date on that Miranda rights?

A Which one, sir?

Q The one you just read.

A For Mr. Morris or Ms. Phillips?

Q For my client.

A June the 4th, 2008.

Q June the 4th?

A Yes, sir.

Q And that is after they gave their statement; is that correct?

A Yes, sir.

Q That's about, what, a month or a month and a half after they gave their statement?

A Yes, sir.

Q And it was done at the law enforcement center; right?

A Yes, sir.

Q Did you not tell my client at that moment that you had found nine or 10 times the lethal dose of codeine in the child?

A I told her there was a large amount of hydrocodone in minor .

Q Did you believe it would not upset anybody or cause

1 them to react?

2 A I did not -- I can't say I talked to her about
3 anything before I read her these rights. Because I do not
4 question them before they take a polygraph.

5 Q Okay.

6 A The only thing I do is read the rights.

7 Q So if she told you she was on different kinds of
8 medicine for arthritis, and she is having problems
9 breathing, and everything, and then you tell her that this
10 child died of an overdose, you don't believe any reaction
11 would have happened, or they would have gone into some
12 kind of, wait a minute, what are you telling us, anything
13 like that, and you still go ahead with asking them to
14 waive their rights?

15 A Mr. O'Connell, your client requested to take the
16 polygraph.

17 Q Ma'am, I'm just asking you what happened, please.

18 A I'm trying to tell you what happened. I did not
19 coerce her to take the polygraph. She called me and asked
20 me could she take a polygraph.

21 Q My client is saying she didn't know, she was upset at
22 the time. And you knew that and you still went forward?

23 A Your client called and requested to take a polygraph.
24 And I contacted the polygraph operator and set it up for
25 her.

1 Q Did she ask to do another polygraph test?

2 A She may have. I can't recall.

3 MR. O'CONNELL: Your Honor, I have no more questions
4 at this time.

5 Thank you.

6 MR. HARBIN: Nothing, Judge.

7 MR. RICHARDSON: Nothing further.

8 THE COURT: Thank you, ma'am.

9 Yes, sir.

10 MR. RICHARDSON: Your Honor, at this time, we would
11 ask that Michael Lark be allowed to testify.

12 MR. DEJONG: Your Honor, would you hear testimony
13 from Mr. Morris just on the Jackson v. Denno?

14 THE COURT: Sure.

15 MR. DEJONG: Come around, Mr. Morris.

16 Obviously, this is only for purposes of the Jackson
17 v. Denno.

18 THE CLERK: Place your left hand on the Bible and
19 raise your right.

20 WHEREUPON,

21 JAMIE EDWARD MORRIS,
22 after first having been duly sworn, testified as follows:

23 THE CLERK: If you'll have a seat.

24 And state your name for the record.

25 THE WITNESS: Jamie Morris.

DIRECT EXAMINATION

BY MR. DEJONG:

Q Jamie, pull up to that microphone so we can hear you.

Do you recall May the 29th of 2008, when you went to the law enforcement center to take the polygraph?

A I do.

Q Did you request to take a polygraph?

A Yes, sir. I did take it willingly. I didn't contest it, but I didn't request it either.

Q Right. So how did it come about that you went to the law enforcement center on May the 29th of 2008, to take this polygraph?

A Like she said, she had contacted me.

Q Go ahead.

A She had contacted me several times and requested that.

Q Requested what?

A That I take one.

Q A polygraph?

A She didn't, actually, tell me I had to, but she asked me to.

Q On more than one occasion?

A More than one.

Q Were any threats or promises made if you did or did not take the polygraph?

1 A No, sir.

2 Q When you went on May the 29th of 2008, once you --
3 well, you've seen what has been introduced into evidence
4 as -- no, it hasn't been introduced into evidence. It's
5 been marked for purposes of ID at this point in time.

6 For purposes of identification, State's Exhibit
7 No. 18, is that your signature on that document?

8 A That is my signature.

9 Q Okay. Before you signed this on May the 29th of
10 2008, did you have any conversation with Ms. Burgess?

11 A Yes, sir. She and another detective or -- I don't
12 remember who it was. There was two people in the room,
13 and they interrogated me.

14 Q They did what?

15 A They interrogated me.

16 Q What kind of questions were they asking?

17 A They were asking if my mother had given him
18 hydrocodone. I said, no, several times. And they kept on
19 harassing me about it, asking -- you know, just kept on
20 over and over asking after I done told them no.

21 Q Is that before you talked to Mr. Lark?

22 A Yes, sir.

23 Q All right. And how long did they interrogate you
24 before you talked to Mr. Lark?

25 A For a good while. I can't say exactly how long. It

1 was a long time ago.

2 Q Okay. And from start to finish, do you remember how
3 long you were down at the law enforcement center that day?

4 A It was several hours. Rita took me home afterwards,
5 because I didn't have a ride.

6 Q Who took you home?

7 A Rita did.

8 Q Ms. Burgess?

9 A Yes, sir.

10 Q All right. Was your mom there?

11 A No, not on that day, I don't think at that time.

12 Q Okay.

13 A Not at the exact same time I was --

14 DEFENDANT PHILLIPS: Jamie, I took --

15 THE WITNESS: -- she had left before I did.

16 MR. DEJONG: Wait a minute.

17 Ms. Phillips, hush, please.

18 BY MR. DEJONG:

19 Q What?

20 A She had left before I did.

21 Q Did you feel any pressure or coercion to either
22 answer those questions, or talk to Mr. Lark?

23 A I did feel pressure, because of the interrogation.

24 THE COURT: Sir, just -- will you back up from the
25 microphone a little bit?

1 THE WITNESS: Yes, sir.

2 BY MR. DEJONG:

3 Q You listened to me too good, Mr. Morris.

4 So after that interrogation, you proceeded to talk to
5 Mr. Lark?

6 A Yes, sir.

7 MR. DEJONG: Okay. The witness is with you,
8 Mr. Richardson, or, Ms. Barwick.

9 CROSS-EXAMINATION

10 BY MR. RICHARDSON:

11 Q Just so I'm clear, you were down there of your own
12 free will; is that right?

13 A Yes. I was down there of my own free will.

14 Q And when you spoke to Detective Burgess, it was after
15 you had signed that form; is that correct?

16 A I cannot remember that.

17 Q Okay. Do you recall signing the Miranda form?

18 A I do not recall. I guess I had to sign it, my
19 signature is on it.

20 Q And you said you were down there a couple of hours?

21 A I was down there for a good while. I don't know
22 exactly how long, but it was a good while.

23 Q And you willingly took the polygraph; is that right?

24 A I did willingly take the polygraph.

25 Q And she didn't force you to do that, did she?

1 A There was some coercion on that.

2 Q Did she put a gun to your head and make you go back
3 there?

4 A No. She didn't put a gun to my head.

5 Q Did she prevent you from having food or water?

6 A It was the interrogation that had took place, what
7 made me feel that I had to take the polygraph.

8 Q She didn't personally force you to take that
9 polygraph?

10 A No.

11 Q You testified you did it willingly of your own free
12 will; is that right?

13 A Correct.

14 MR. RICHARDSON: Thank you.

15 MR. DEJONG: Nothing further of this witness, Your
16 Honor.

17 Step down.

18 THE COURT: Okay. Step down.

19 MR. O'CONNELL: Your Honor, I would call Ms. Phillips.

20 THE CLERK: Place your left hand on the Bible and
21 raise your right hand.

22 WHEREUPON,

23 DONNA LYNN PHILLIPS,

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

25 THE CLERK: Thank you, ma'am.

1 If you would, have a seat.

2 And state your name for the record.

3 THE WITNESS: I'm Donna Lynn Phillips.

4 MR. O'CONNELL: Your Honor, may it please the Court.

5 THE COURT: Sure.

6 DIRECT EXAMINATION

7 BY MR. O'CONNELL:

8 Q Ms. Phillips, do you recall taking a polygraph?

9 A Yes, I do. I recall taking it right after I was
10 told -- me and Jamie did go there together. Jamie blocks
11 things out. He's been blocking things out for a long
12 time, because of pain and stuff.

13 But I recall going there that day, me and my son. I
14 had to go there. We both went. They had asked us. And
15 we dispute taking it, but we was not told everything as
16 far as medications, or this or that, or don't do this and
17 that that I recall.

18 Because I was on a medication that I had to take for
19 like 14 years almost. That's prednisone. That's a
20 hormonal pill that makes your hormones go up. I had
21 emphysema. And I was asked over and over about this,
22 about my breathing. Just when they would stop asking
23 questions, I would take a deep breath just like I'm fixing
24 to have to do now.

25 We was told he had nine times the potentially lethal

1 dose in his system that day. And that was hard to hear
2 something like that, to know that your child -- your
3 grandchild got that much medicine in his system.

4 Q Did you still go on and take the polygraph?

5 A And to be interrogated about it. And that's the very
6 day that I told them to come get my bottles. When they
7 asked me if I had any, I said, yes. I had asked them to
8 come and look at my house. I had asked them to come and
9 look at the construction where we had to hold that baby
10 all the time --

11 Q Ma'am --

12 A -- and I told them to come get that medicine. And I
13 said, follow me, follow me there.

14 Q Ma'am, we're talking about the polygraph exam.

15 A Okay.

16 Q Did you sign any more than one Miranda rights form?

17 A Not that I know of.

18 Q Okay. So you signed one when you did your statement;
19 is that correct, when you made your statement?

20 A That was only because I didn't have my glasses. And
21 I was upset. They gave us this information. They gave us
22 the polygraph and harassed us. They harassed us first
23 about that --

24 Q Okay, ma'am. Ma'am --

25 A -- then they gave us the statement.

1 Q Ma'am, did you make the statement and the polygraph
2 test on the same day?

3 A Yes, all three.

4 Q You did?

5 A All three things that day.

6 Q Did you know that by signing that --

7 A We have a witness, too, about what she had said
8 about --

9 Q Did you know by signing that Miranda form that you
10 were waiving your rights before a polygraph examiner?
11 Were you informed that by signing the Miranda rights, you
12 were giving up your rights to an attorney, and everything
13 else if you --

14 A No. I didn't know about the attorney.

15 Q What about anything -- did you sign it under duress?
16 Is that what you're telling the Court today? You took the
17 polygraph test under duress; is that correct?

18 A Yes.

19 MR. O'CONNELL: Answer any questions the other side
20 may have.

21 CROSS-EXAMINATION

22 BY MR. RICHARDSON:

23 Q Ma'am, you heard the detective testify that the
24 rights were read to you?

25 A Yes. After the fact that we had been interrogated

1 about the medicine when we was told he had that.

2 Q Okay.

3 A That was an awful feeling to hear something like
4 that, to know that that baby had got so much medicine in
5 his system that it killed him after I had worked --

6 Q I understand.

7 A We had worked years to get him.

8 Q Pertaining to this, those rights were read to you; is
9 that correct?

10 A Sir?

11 Q Those rights were read to you; is that right?

12 A Yes, sir.

13 Q Okay. And you signed a form stating that those
14 rights were read to you, didn't you?

15 A Yes, sir. But I didn't have my glasses that day. I
16 couldn't read it.

17 Q Okay. Well, you signed the form, also, waiving your
18 rights to an attorney, and those other rights that you
19 have, didn't you?

20 A But I didn't understand about medications and having
21 osteo, how it don't show up sometimes true to the fact.
22 And it's no real biggie. Mine is no real biggie. Because
23 of -- I mean, I don't think they had the right kind of
24 equipment. And, sometimes, I don't think they had the
25 right kind of people to test all of this stuff.

1 Q Okay, ma'am.

2 A Things has not been tested through this whole thing.

3 Q Okay. But --

4 A All the cards ain't been laid out on the table.

5 Q Ma'am, I would appreciate it if you didn't interrupt
6 me. Okay.

7 The rights were read to you, and you signed this
8 waiver of rights form, did you not?

9 A I signed something.

10 Q Okay.

11 A I didn't have my glasses.

12 Q And after that is when you talked to the polygrapher,
13 Mr. Lark?

14 A Like I said, I was in shock.

15 Do what?

16 Q After that -- after you signed this form, it was
17 after that that you went and talked to Mr. Lark; is that
18 not right?

19 A Mr. Lark? Is that the one that gave the polygraph?

20 Q Yes, ma'am.

21 A Mr. Lark talked to me?

22 Q Yes, ma'am.

23 A Asking me the same questions he asked before.

24 Q Okay. And that was after this form was signed; is
25 that correct?

1 A No. That wasn't what he was asking.

2 Q No, ma'am. I'm asking you, you signed this form, and
3 after you signed this form --

4 A I don't know if that's the form I signed or not. I
5 didn't have my glasses.

6 Q You just stated that the detective read you your
7 rights; is that correct? You just stated that; right?

8 A I didn't know what they was being read for.

9 Q Okay. And after that, you went into the polygraph
10 room, and you talked to Mr. Lark; is that not correct?

11 A (There was no response.)

12 Q "Yes" or "no"?

13 A Did I talk to who?

14 Q Mr. Lark, the polygrapher? "Yes" or "no"?

15 A I don't remember talking to him after -- I remember
16 going in that room for Rita. And I'm pretty sure that it
17 was my case that was there. Because I think he was there
18 while I was giving my written testimony.

19 Q That's not my question. Do you remember talking to
20 the polygrapher, Mr. Lark?

21 A Before what?

22 Q Just -- do you remember --

23 A When?

24 Q Did you talk to the polygrapher, Mr. Lark? You just
25 testified to your attorney that you did.

1 A What are you referring to? Did I talk to him when?
2 About what?

3 Q I want to know, did you speak with him?

4 A About what?

5 Q Did you speak with him, period?

6 A I spoke to him.

7 MR. RICHARDSON: Thank you.

8 That's all the questions I have.

9 MR. O'CONNELL: Your Honor, I have nothing.

10 THE COURT: Thank you, Ms. Phillips.

11 Anything else on this issue?

12 MR. RICHARDSON: Your Honor, at this time, I would
13 ask that he be able to testify as to the statements that
14 were given.

15 THE COURT: Any further argument?

16 MR. DEJONG: No, Your Honor.

17 MR. O'CONNELL: Not from me, Your Honor.

18 Thank you.

19 THE COURT: All right. Well, initially, the question
20 would be whether they were in custody. And based on Howes
21 vs. Fields, 132 Supreme Court 1181, which is a 2012 case,
22 I find that a reasonable person in their position would
23 not have believed they were not at liberty to terminate
24 the interview, or leave the premises. I find that even if
25 they were in custody, they were given Miranda warnings

1 scrupulously and they voluntarily, freely, and knowingly
2 waived their rights under Miranda.

3 And there's no other evidence that I've heard that
4 would support a finding that their will was overborne, or
5 they were coerced in any manner, and their statements were
6 not the product of their free and voluntary choice. So
7 they are admissible.

8 The jury will have to determine, of course, the
9 believability of the statements, and they'll be instructed
10 on that. But as far as them being Constitutionally
11 procured, they were.

12 Anything else at this time?

13 MR. DEJONG: Your Honor, I just want to make it
14 abundantly -- and I'm not arguing. I understand Your
15 Honor's ruling. I'm not arguing with that.

16 THE COURT: Right, sure.

17 MR. DEJONG: I want it abundantly clear, on the
18 record, that the word polygraph or polygrapher, or
19 anything with an interpretation to the results of a
20 polygraph, or anything else is not coming in.

21 THE COURT: Okay.

22 MR. DEJONG: And I'm sorry, I made that a bit
23 demanding.

24 THE COURT: No. I agree.

25 MR. DEJONG: I'm not asking for a ruling on it.

1 THE COURT: I'm sure the State has instructed their
2 witnesses on that.

3 MR. RICHARDSON: I have, Your Honor.

4 It would simply be our intent to call Detective
5 Burgess to the stand, and explain that she gave the
6 rights, and the investigator at that point in time and
7 questioning of the Defendants, and what was said.

8 THE COURT: All right.

9 MR. RICHARDSON: And he's in the courtroom today and
10 is hearing this conversation.

11 MR. O'CONNELL: Your Honor, may it please the Court.

12 THE COURT: Yes, sir.

13 MR. O'CONNELL: First of all, we're having trouble
14 hearing you. So could you move the microphone?

15 THE COURT: Yes, sure.

16 MR. O'CONNELL: And I go along with the motion of
17 Mr. DeJong. And I want it clear, for the record, that my
18 client testified that she was under duress. She was on
19 medication.

20 And that I still have a problem with the date this
21 was given. My records indicate that they signed their
22 statements on April 10th of 2008. And here, I'm being
23 told that this statement was given earlier -- or later, a
24 month later. So how can the same Miranda rights be used
25 twice. I'm under the impression they should have gave

1 another set of Miranda warnings that was done.

2 THE COURT: What's the State's position on that?

3 I thought I --

4 MR. RICHARDSON: It was two separate rights.

5 THE COURT: That's what I thought.

6 MR. RICHARDSON: And this one, I just went over on
7 the stand. I had her testify to the date, which was the
8 same date that they talked to Mr. Michael Lark.

9 MR. O'CONNELL: Just for the record, Your Honor.

10 THE COURT: Okay.

11 MR. HARBIN: Judge, one other thing, this is
12 unrelated to their matter. And there may be a later date
13 and hour we can discuss this. But I've been informed that
14 the State intends on calling two more folks related to DSS
15 actions. And I've got concerns I want to raise about
16 that.

17 I don't know if the State would rather get some other
18 witnesses out of the way, and then handle that matter
19 later. I'm perfectly willing to wait and do that.

20 MR. RICHARDSON: I would be -- our intent is to call
21 one witness, and then call Dr. Ward, and, also, the
22 toxicologist, and then those witnesses later. So it may
23 be better if we did that at a break.

24 THE COURT: Okay. I agree.

25 MR. HARBIN: Yes, sir.

1 MR. RICHARDSON: And, lastly, Your Honor, it's our
2 intent to call Dr. Ward -- we're going to call him twice,
3 once for custody issues, and then the other one for the
4 autopsy aspect of it. So I'm going to recall him. I just
5 wanted to let the Court know that.

6 THE COURT: Okay. Well, let's take about a
7 five-minute break. Then we'll have the witnesses.

8 (WHEREUPON, a break was taken.)

9 THE COURT: Anything else before we bring the jury
10 in?

11 MR. RICHARDSON: No, Your Honor.

12 MR. HARBIN: Judge, I can put on the record that I've
13 spoken with the Solicitor about the DSS concerns I had,
14 and I believe we've worked out an agreement. Essentially,
15 what I'd ask is they testify only to that, not to the
16 characterizations, as they often do.

17 THE COURT: Thank you, Mr. Harbin.

18 You can bring the jury on in.

19 (WHEREUPON, the jury came into open court at
20 approximately 10:02 a.m.)

21 THE COURT: Good morning.

22 I apologize for the delay. We had to take up one
23 matter unexpectedly.

24 The State may call its next witness to the stand.

25 MS. BARWICK: Thank you, Your Honor.

1 The State would call Michelle Henry to the stand.

2 THE CLERK: Place your left hand on the Bible and
3 raise your right hand.

4 WHEREUPON,

5 MICHELLE HENRY,

6 after first having been duly sworn, testified as follows:

7 THE CLERK: Thank you.

8 If you'll have a seat.

9 And state your name for the record, please.

10 THE WITNESS: Michelle Henry.

11 DIRECT EXAMINATION

12 BY MS. BARWICK:

13 Q Ms. Henry, if you'll speak up a little more. You
14 might scoot closer to the microphone. I know it's kind of
15 weird for you.

16 Let's try that now.

17 A Michelle Henry.

18 Q Ms. Henry, do you know Latasha Honeycutt?

19 A Yes, ma'am.

20 Q And how do you know her?

21 A She was my neighbor.

22 Q Okay. And if you'll speak up just a little bit more.
23 They have to hear it way over there.

24 She was your neighbor?

25 A Yes, ma'am.

1 Q And was this back in 2008?

2 A Yes, ma'am.

3 Q Did you ever have the opportunity to talk to
4 Ms. Honeycutt about minor condition the Sunday
5 before -- the Sunday before he was unresponsive?

6 A As far as?

7 Q As to how minor was?

8 A Yes.

9 Q And did she tell you a little bit about his
10 condition, physically, how he was?

11 A I have seen minor and played with minor And he,
12 basically, was a normal child.

13 Q Okay. Now, the Sunday before the Monday when he is
14 sent to the hospital, did Latasha say anything about how
15 he was acting that Sunday evening?

16 A After everything was all over with, she told me when
17 minor came home, he was sleeping a lot. And she couldn't
18 wake him up. He was very drowsy.

19 Q Did she tell you about any efforts that she had done
20 to try to wake him up that Sunday evening?

21 A They had tried to wake him up, as far as like
22 standing him up and stuff like that. And he was just too
23 drowsy.

24 Q Was he -- did she say whether or not he was
25 successful in standing up?

1 A She said that he wasn't.

2 MS. BARWICK: No further questions.

3 THE COURT: Cross-examination.

4 MR. DEJONG: Thank you, Your Honor.

5 May it please the Court.

6 CROSS-EXAMINATION

7 BY MR. DEJONG:

8 Q Did she tell you about him pitching fits?

9 A No.

10 Q Did she tell you about checking on him three or four
11 times during the night?

12 A No, not that I remember.

13 Q Okay. So what she told you was after minor went to
14 the hospital; correct?

15 A Correct.

16 Q Do you remember when this conversation was?

17 A The following weeks after.

18 Q I'm sorry?

19 A The following weeks after minor had gone to the
20 hospital.

21 Q The following week?

22 A Yes.

23 Q Okay. So some days after minor went to the
24 hospital, she shared this with you?

25 A Yes.

1 MR. DEJONG: Thank you, ma'am.

2 No further questions.

3 The witness is with you, Mr. O'Connell.

4 MR. O'CONNELL: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. O'CONNELL:

7 Q Ms. Henry, do you know if Ms. Honeycutt was taking
8 any kind of medications?

9 A I don't know that for sure.

10 Q Okay. Do you know if Mr. Roper was taking any kind
11 of medication?

12 A Prescribed by a doctor, I don't think so. But I
13 don't know all of his personal business.

14 Q Okay. Did you help or clean up the house any after
15 the -- let's say the 17th of March?

16 A Yes. After minor went to the hospital, I did clean
17 the house.

18 Q Okay. What did you remove from the house?

19 A I just -- I got the groceries and stuff out of the
20 house, because they weren't going to be there for a while.
21 Other than that, there was nothing.

22 Q What about the throw up on the floor of the little
23 boy's room?

24 A That's what I cleaned up.

25 Q Okay. What did you do with that, the rags and stuff?

1 A I threw them away.

2 Q Okay. So you weren't there the evening my client
3 brought the child back to Ms. Honeycutt; is that right?

4 A I never saw minor that afternoon.

5 Q Okay. And you weren't there the next day until you
6 cleaned out the house?

7 A Right. That was a couple days later.

8 Q A couple days later. So you really don't know
9 anything that occurred between Sunday evening and noon --
10 or about 11:00 on the Monday; is that correct?

11 A No, sir.

12 MR. O'CONNELL: Thank you very much.

13 MR. HARBIN: May it please the Court.

14 CROSS-EXAMINATION

15 BY MR. HARBIN:

16 Q Ms. Henry, I know it was sometime ago, and I'm going
17 to ask you some things maybe you don't remember,
18 specifically. But the conversation you recalled having
19 with Latasha, would it be fair to say that she was
20 describing a toddler that was ill, that had a cold,
21 congestion, that kind of thing? Did she share those facts
22 with you?

23 A No.

24 Q Did she tell that you when his father had brought him
25 home the night before that he had reported being cold,

1 congested, and cranky, irritable, sleepy?

2 A No.

3 Q None of that?

4 A No.

5 Q How did the conversation occur then?

6 A When -- after all this was happening, after 'minor'
7 was in the hospital, that's when it had been confirmed
8 that he had been overdosed. And that's when I was told
9 that when he came home, he was groggy.

10 Q That he was what?

11 A Groggy, as in sleepy.

12 Q And you said you had interacted with 'minor' before?
13 You had played with him; right?

14 A Yes, sir.

15 Q As a neighbor would, I guess; right?

16 A Yes, sir.

17 Q And you've done that with Brandon as well, and
18 Latasha, and all of them?

19 A Yes.

20 Q Interacting as a normal neighbor and family would?

21 A Yes.

22 MR. HARBIN: Thank you.

23 No further questions.

24 THE COURT: Any redirect?

25 MS. BARWICK: No, sir, Your Honor.