

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County
R. Knox McMahon, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JOSHUA WARREN HOPKINS,

APPELLANT

APPELLATE CASE NO 2016-002129

RECORD ON APPEAL

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2 County of Lexington) Of General Sessions

3
4 Indictment No: 2015-GS-32-1395
2016-GS-32-2515

5 State of South Carolina,)
Plaintiff.)

6
7 vs.)

Transcript of Record

8
9 Joshua Hopkins,)
Defendant.)

10
11
12 October 3-7, 2016
Lexington, South Carolina

13
14
15 B E F O R E:

16 The Honorable R. Knox McMahon, Judge and a jury.

17
18 A P P E A R A N C E S:

19 Suzanne Mayes, Assistant Solicitor
20 Micah Caskey, Assistant Solicitor
Attorneys for the State

21 Robert R. Williams, Esquire
22 Attorney for the Defendant

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24 Brenda J. Sigwald, Circuit Court Reporter
To The Honorable R. Knox McMahon
25 P.O. Box 206, Jackson, South Carolina 29831

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1 MONDAY, OCTOBER 3, 2016

2 THE COURT: All right. Madame Solicitor, if you
3 would please call your first case for trial.

4 MS. MAYES: May it please the Court?

5 THE COURT: Yes, ma'am.

6 MS. MAYES: Your Honor, before you is the State of
7 South Carolina versus Joshua Warren Hopkins, Indictment
8 Number 2015-GS-32-1395; this indictment is for homicide by
9 child abuse. Indictment Number 2016-GS-32-2515, the State
10 versus Joshua Warren Hopkins, this indictment is for aiding
11 and abetting homicide by child abuse.

12 Your Honor; Mr. Hopkins is present in the courtroom
13 with his attorney, Mr. Williams, and the State is ready for
14 trial in this case.

15 THE COURT: Thank you. Thank you, Solicitor.

16 **JURY VOIR DIRE**

17 THE COURT: Ladies and gentlemen of the jury panel,
18 if you'll please give me your complete and undivided
19 attention, we're now going to go through a procedure
20 whereby we select a trial jury for the first case that has
21 been called for trial. As a result of that, I will ask you
22 certain questions concerning your qualifications and
23 eligibility to serve as members of this jury panel. You
24 have been generally qualified to serve as jurors in this
25 court. These questions will be specific to this specific

1 case.

2 Momentarily I will read or publish the indictments
3 to you. Ladies and gentlemen, the indictments are not
4 evidence. The indictments are the formal charging
5 documents by which an individual is placed on notice of
6 charges that have been brought against him or her. The
7 indictments contain mere allegations and in no way are they
8 evidence of the indictments contained therein. It's a
9 notice document. I read it, I publish to you these
10 indictments as a result, again, as I say of the questions
11 that I'll ask you to determine your qualifications.

12 Mr. Williams, you represent Joshua Warren Hopkins?

13 MR. WILLIAMS: I do, Your Honor.

14 THE COURT: And is Mr. Hopkins present and ready
15 for trial?

16 MR. WILLIAMS: He is present and ready.

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

18 MR. WILLIAMS: Thank you, Your Honor.

19 THE COURT: Ladies and gentlemen, also again,
20 please consider yourselves still under oath in regards to
21 answering these questions as the clerk placed you under
22 oath earlier this morning. Your responses should be
23 accurate, complete, and, of course, truthful. And I know
24 you will abide by that oath.

25 Indictment Number 2015-GS-32-01395 reads that

1 Joshua Warren Hopkins did in Lexington County on or about
2 November 12, 2013, through November 27, 2013, cause the
3 death of a child who was under the age of 11 years at the
4 time of his death in that the defendant did cause the death
5 of said child while committing child abuse or negligence
6 and the death of said child occurred under circumstances
7 manifesting in extreme indifference to human life, such
8 being an act or omission which caused harm to the child's
9 physical health or welfare. Such act or omission included
10 child physical abuse and/or medical negligence, and/or
11 failure to protect child from harm. The aforesaid child
12 abuse and negligence caused the negligent of Minor [REDACTED]
13 [REDACTED], date of birth, [REDACTED], in
14 violation of Section 16-3-85(A)1 and (B) of the South
15 Carolina Code of Laws, 1976, as amended. That is an
16 indictment for homicide by child abuse.

17 The next indictment, 2016-GS-32-02515 reads that
18 Joshua Hopkins did, in Lexington County South Carolina
19 between November 12, 2013 and November 27, 2013 knowingly
20 aid and abet another person, Sabrina Haynes, to commit
21 child abuse and negligence and the child abuse and
22 negligence, whether by act, omission, resulted in the death
23 of a child under the age of 11, to wit Minor [REDACTED],
24 date of birth, [REDACTED].

25 If you remember the aforesaid child died on

1 November 27, 2013 as a result of child abuse and negligence
2 whether by act or omission and such child abuse and
3 negligence caused harm to the child's physical health or
4 welfare in violation of 16-3-85(A)2 and (B) of the South
5 Carolina Code of Laws, 1976, as amended. That is an
6 indictment for aiding and abetting homicide by child abuse.

7 The State is represented by Assistant Solicitor
8 Mayes and Caskey.

9 If y'all would please stand and introduce
10 yourselves to the jury panel and any member of the
11 solicitor's staff that will assist you during the trial of
12 this case.

13 MS. MAYES: Yes, sir, Your Honor.

14 My name the Suzanne Mayes. I'm a prosecuting
15 attorney here in Lexington County with the Eleventh Circuit
16 Solicitor's Office.

17 MR. CASKEY: My name is Micah Caskey and I'm also a
18 prosecutor here in the Eleventh Circuit. To my --

19 THE COURT: Thank you -- go right ahead, I'm sorry.

20 MR. CASKEY: I was just going to say, to my right
21 is Investigator Kevin Wilson who is with our office. He
22 will be helping us. From time to time you will see him in
23 and out of the courtroom; as well as Stephanie Fonville,
24 who is a paralegal with our office.

25 Thank you, Your Honor.

1 THE COURT: Thank you, Solicitors.

2 Mr. Hopkins is represented by Mr. Theo Williams of
3 the Lexington County Bar.

4 Mr. Williams, if you'd please stand and introduce
5 yourself and your client to the jury panel.

6 MR. WILLIAMS: I'm Theo Williams. I practice law
7 with the firm of Williams, Stitely and Brink. My offices
8 is right there on the corner on Main Street.

9 And this is the person -- one of the persons
10 charged, Joshua Hopkins, in this case.

11 THE COURT: Thank you, Mr. Williams. Thank you,
12 Mr. Hopkins.

13 We will start with the attorneys, ladies and
14 gentlemen. Is any member of the jury panel related by
15 blood or marriage, close personal friends, have any social,
16 business, or professional relationship with any of the
17 attorneys involved in the trial of this case, Assistant
18 Solicitor Mayes, Caskey or Mr. Williams? If so, please
19 stand.

20 (A juror stood.)

21 THE COURT: Yes, your number and name, please.

22 THE JUROR: I'm 58. Luther Duffy.

23 THE COURT: And association?

24 THE JUROR: My wife's cousin is the ex-wife of
25 Mr. Williams.

1 THE COURT: Let me make sure I'm tracking. Your
2 wife's --

3 THE JUROR: My wife's cousin was married to Theo
4 Williams.

5 THE COURT: I don't know how to respond to that.
6 All right. That had to be a while ago.

7 THE JUROR: It was.

8 THE COURT: Yes, sir. How many years ago was that,
9 Mr. Williams?

10 MR. WILLIAMS: Oh God. It would be -- my wife and
11 I were married on February 6, of 1986, so it had to be
12 before that, Your Honor. Had to be before February 6 of
13 1986.

14 THE COURT: Your current wife you married in '86?

15 MR. WILLIAMS: I did.

16 THE COURT: Thank you.

17 Given that fact -- given that fact can you be a
18 fair and impartial juror in the trial of this case for both
19 Mr. Hopkins and the State?

20 THE JUROR: Yes, sir.

21 THE COURT: Thank you, you may stay with us. Any
22 others?

23 (No one stood.)

24 THE COURT: And has any member of the jury panel
25 ever been a party to a law -- well ever been represented by

1 any of the attorneys or been a party to a lawsuit in which
2 any of the attorneys represented the opposing party? If
3 so, please stand.

4 (A juror stood.)

5 THE COURT: Yes, sir, your name and number, please.

6 THE JUROR: 149 David Morris. Once Mr. Williams
7 represented somebody who sued me in a malpractice.

8 THE COURT: All right. And this is a doctor?

9 THE JUROR: Yes, sir.

10 THE COURT: All right. I don't have my glasses on,
11 Doctor. But I can't see any better with them, so...

12 THE JUROR: It was long ago, it was in 1984 or '85
13 or something like that.

14 THE COURT: I was going to ask you that time frame.
15 So he represented the plaintiff?

16 THE JUROR: Yes.

17 THE COURT: All right. In a lawsuit against you?

18 THE JUROR: Yes.

19 THE COURT: Given that fact can you be a fair and
20 impartial juror in the trial of this case for both Mr.
21 Hopkins and the State?

22 THE JUROR: Yes, sir, I believe I can. I have no
23 ill feelings about anything.

24 THE COURT: All right. And when you say you
25 believe you can, I guess that's --

1 THE JUROR: Well, absolutely.

2 THE COURT: All right. Thank you, thank you very
3 much. You may stay with us.

4 Any others?

5 (No one stood.)

6 THE COURT: Is any member of the jury panel related
7 by blood or marriage, close personal friends, have any
8 social, business, professional relationship with Joshua
9 Warren Hopkins who has been -- who is Mr. Williams's
10 client, who has been introduced to you? If so, please
11 stand.

12 (No one stood.)

13 THE COURT: Does any member of the jury panel have
14 any knowledge about the case from any source whatsoever:
15 hearsay; radio, if there should have been any; television;
16 internet; news reports from any source whatsoever. Does
17 any member of the jury panel have any knowledge about the
18 case? If so, please stand.

19 (No one stood.)

20 THE COURT: Does any member of the jury panel have
21 any bias or prejudice towards the parties, either Mr.
22 Hopkins or the State, or the subject matter involved in the
23 case? If so, please stand.

24 (A juror stood.)

25 THE COURT: Your number, please.

1 THE JUROR: 69.

2 THE COURT: Would you step up here to my court
3 reporter, please.

4 (There was a bench conference out of the hearing of
5 the jury venire on the record.)

6 THE COURT: Yes, ma'am.

7 THE BAILIFF: 69, Your Honor.

8 THE COURT: Thank you.

9 I didn't bring my list of the names.

10 THE JUROR: Michelle Fuller.

11 THE COURT: Your name is Fuller?

12 THE JUROR: Yes, sir.

13 THE COURT: All right. And tell me your response
14 to that question.

15 THE JUROR: I work at the South Carolina Children's
16 Advocacy and Medical Facility and I deal with child abuse
17 on a day-to-day basis.

18 THE COURT: All right. And as a result of your
19 employment, you do not feel like you could be a fair and
20 impartial in the trial of this case --

21 THE JUROR: No, sir.

22 THE COURT: And nothing -- your answer is your
23 answer. There's no right or wrong. It's right whatever
24 your answer is.

25 THE JUROR: I don't know if I have any knowledge of

1 this particular case, but I don't want this to be a
2 conflict.

3 THE COURT: Sure. All right. I'll set you aside
4 for the trial of this case. Please do not -- you need to
5 remain with us until I excuse the panel that's not
6 selected. But do not say anything to your other jurors.

7 THE JUROR: All right. Thank you, Ms. Fuller.

8 (The bench conference ended.)

9 THE COURT: Any others?

10 (A juror stood.)

11 THE COURT: Yes, your number and name, please.

12 THE JUROR: 137, Jeanelle McCain.

13 THE COURT: All right. Yes, ma'am.

14 (There was a bench conference out of the hearing of
15 the jury venire.)

16 THE COURT: And tell me your number again, 137.

17 THE JUROR: Juror 137, Jeanelle McCain.

18 THE COURT: McCain, M-C-C-A-I-N.

19 THE JUROR: M-C-C-A-I-N.

20 THE COURT: All right.

21 THE JUROR: I've previously served as a Guardian ad
22 Litem in abuse and negligent cases and I kind of --

23 THE COURT: And tell me that time frame.

24 THE JUROR: My first time was in law school back at
25 Wake Forest back in the 80's.

1 THE COURT: So you went to Wake Forest.

2 THE JUROR: I did. I'm licensed in North Carolina
3 though.

4 THE COURT: Are you a lawyer?

5 THE JUROR: Yes.

6 THE COURT: A smart lawyer, this is a Wake Forest
7 lawyer here, guys, ladies.

8 THE JUROR: Not licensed here in South Carolina,
9 though.

10 THE COURT: Yes, ma'am.

11 THE JUROR: And then when I came to South Carolina
12 in '96, I was a guardian for several years for Richland
13 County. And I handled abuse and negligent cases.

14 THE COURT: And you feel like you could be -- given
15 that history, background, you feel like you can be a fair
16 and impartial juror in the trial of this case for both Mr.
17 Hopkins and the State?

18 THE WITNESS: I feel like I would be -- not be able
19 to be completely impartial.

20 THE COURT: Thank you very much.

21 THE JUROR: I have to be honest with you.

22 THE COURT: No, your response is the right
23 response.

24 Thank you. I'm going to excuse you from the trial
25 of this case. Please do not say anything to your fellow

1 jurors, but remain us for now.

2 THE JUROR: Okay.

3 THE COURT: Thank you, Ms. McCain.

4 And 137 is excused from the trial of this case.

5 (The bench conference ended.)

6 THE COURT: Any others?

7 (No one stood.)

8 THE COURT: Has any member of the jury panel or any
9 member of your immediate family ever been involved with the
10 investigation of or charged with an offense involving child
11 abuse or negligent. And I'm trying to balance that
12 question, whether investigated for, charged with, you or a
13 family member, or reported for an investigation or a
14 potential charge of a third party being involved in child
15 abuse or negligent? If so, please stand.

16 (Several jurors stood.)

17 THE COURT: Let's see -- give me a moment.

18 THE JUROR: Number 23.

19 THE COURT: Well, see, I wanted to test my
20 concentration skills.

21 You're Number 23; is that correct?

22 THE JUROR: That's correct.

23 THE COURT: All right. And your number and name,
24 please.

25 THE JUROR: Number 50.

1 THE COURT: All right. If you'd come forward,
2 please.

3 (The following bench conferences were held out of
4 the hearing of the jury venire on the record:)

5 THE COURT: All right. Yes, ma'am.

6 THE BAILIFF: 23, Your Honor.

7 THE COURT: And tell me your -- is it Bonner?

8 THE JUROR: Bonner, yes.

9 THE COURT: See, I did remember.

10 THE JUROR: Yes, you did.

11 THE COURT: All right. And let's see, tell me your
12 response.

13 THE JUROR: Okay. You said immediate family. I
14 have a -- which I guess what you call them, but my -- my
15 niece's daughter --

16 THE COURT: Okay. So your grand niece.

17 THE JUROR: Right. Is currently being held in
18 Lexington County for homicide by child abuse.

19 THE COURT: All right. And tell me -- how long has
20 she been in there, or what's the --

21 THE JUROR: She's been -- she was arrested about
22 three or four months ago.

23 THE COURT: What's her name.

24 THE JUROR: Heather Lawson.

25 THE COURT: Heather Lawson?

1 THE JUROR: Uh-huh.

2 THE COURT: And given that fact that it's your
3 great niece, your niece's daughter, that is incarcerated in
4 Lexington County jail --

5 THE JUROR: Uh-huh.

6 THE COURT: -- for homicide by child abuse --

7 THE JUROR: Uh-huh.

8 THE COURT: Can you be a fair and impartial juror
9 in the trial of this case for both Mr. Hopkins and the
10 State?

11 THE JUROR: I believe I could. I don't -- I'm not
12 sure if there's evidence that comes up that's horrific,
13 whether I can stand that, but being a judge of this kind of
14 circumstances, I think I could be fair.

15 THE COURT: And let's talk about that just a
16 minute. If you're selected as a member of the trial jury,
17 you base -- you and your jury members base their verdict on
18 facts of the case as they --

19 THE JUROR: Yes.

20 THE COURT: -- find them to be from the witnesses
21 testifying under oath from the witness stand.

22 THE JUROR: Right.

23 THE COURT: Any physical items of evidence that may
24 be introduced or the like.

25 THE JUROR: Right.

1 THE COURT: Any inferences that the jury thinks may
2 properly be drawn and the law as I tell them the law is.

3 THE JUROR: Right.

4 THE COURT: So, can you set aside whatever may have
5 happened with your great niece, and the child, and base
6 your verdict on what you hear within the four walls of this
7 courtroom and follow the law as I tell you the law is.

8 THE JUROR: Yes, sir.

9 THE COURT: And before you said, well, I think I
10 can, or this that and the other, and that may be a matter
11 of semantics.

12 THE JUROR: Yes.

13 THE COURT: You ever been on a jury panel before?

14 THE JUROR: No, sir.

15 THE COURT: So this is your first flight.

16 THE JUROR: I've been, but I was dismissed, I mean,
17 they didn't need me.

18 THE COURT: So you don't have any doubt in your
19 mind you could be fair to both Mr. Hopkins and the State?

20 THE JUROR: Yes, sir.

21 THE COURT: All right. I think you can stay with
22 us.

23 THE JUROR: Okay.

24 THE COURT: Thank you very much.

25 23 is going to stay with us.

1 THE BAILIFF: Number 50, Your Honor.

2 THE COURT: Good morning. Tell me your name,
3 please.

4 THE JUROR: Phillip Curiale.

5 THE COURT: Okay. See Mr. Curiale with Mr. Boger.

6 THE JUROR: Yes, sir.

7 THE COURT: All right. Yes, sir?

8 THE JUROR: I was a cop in Greenville for two, two
9 and a half years, I investigated an occasional child cases
10 of negligent. And my youngest brother was a victim by his
11 stepmother, his mother, my stepmother. And that's about
12 it.

13 THE COURT: And that was when he was a child?

14 THE JUROR: Yeah.

15 THE COURT: A number of years ago.

16 THE JUROR: Yeah, ten years ago or so.

17 THE COURT: Say again?

18 THE JUROR: Ten years ago.

19 THE COURT: Given that fact that your brother was a
20 victim of child abuse, can you be a fair and impartial
21 juror in the trial of this case for both Mr. Hopkins and
22 the State?

23 THE JUROR: Yes, I can.

24 THE COURT: Any doubt in your mind about that?

25 THE JUROR: No doubt.

1 THE COURT: I think you can stay with us. Thank
2 you very much.

3 Yes, sir.

4 THE BAILIFF: Number 76, Your Honor.

5 THE COURT: Good morning. Give me your name,
6 please.

7 THE JUROR: Melissa Gore.

8 THE COURT: G-O-R-E.

9 THE JUROR: Yes.

10 THE COURT: Yes, ma'am and tell me your response to
11 that question.

12 THE JUROR: I kind of look for child abuse and
13 negligent. I work at palmetto health Baptist. So in a
14 professional capacity --

15 THE COURT: And you're a required reporter under
16 the statute.

17 THE JUROR: Yes, sir.

18 THE COURT: And tell me what you do at Palmetto --

19 THE JUROR: I'm a manager. I manage a group of
20 social workers and nurses, but I am a social worker, a
21 licensed social worker.

22 THE COURT: Okay. So as a result of your
23 profession being a required, mandatory reporter, you
24 have -- you have reported child abuse and neglect.

25 THE JUROR: Yes, I have.

1 THE COURT: Okay. Your entire professional career?

2 THE JUROR: No, within the past three years.

3 THE COURT: For the past three years. Given those
4 facts and your responsibilities in that record, statutory
5 responsibilities, can you be a fair and impartial juror in
6 the trial of this case for both Mr. Hopkins and the State?

7 THE JUROR: Yes, sir.

8 THE COURT: Any doubt in your mind about that?

9 THE JUROR: No.

10 THE COURT: Thank you. I believe you can stay with
11 us.

12 Number 76 is going to stay with us.

13 Yes.

14 THE BAILIFF: 181, Your Honor.

15 THE COURT: Good morning. Can you give me your
16 number?

17 THE JUROR: 181.

18 THE COURT: Excuse me, your name.

19 THE JUROR: Michael Sharpe.

20 THE COURT: All right, Mr. Sharpe. And tell me
21 your response.

22 THE JUROR: At one point, six or seven years ago,
23 all our grand kids was put in our custody, me and my wife's
24 custody. And I just didn't want nothing to be an issue. I
25 just thought I'd come tell you.

1 THE COURT: Sure. And was that a result of
2 allegations of child neglect?

3 THE JUROR: Neglect, yeah.

4 THE COURT: All right. And how many years ago was
5 that.

6 THE JUROR: Probably six.

7 THE COURT: They still in your custody.

8 THE JUROR: No, sir.

9 THE COURT: They're reunited?

10 THE JUROR: Uh-huh, they're with their parents
11 again.

12 THE COURT: Given those facts can you be a fair and
13 impartial juror in the trial of this case for both Mr.
14 Hopkins and the State?

15 THE JUROR: I believe so.

16 THE COURT: When you I believe so --

17 THE JUROR: Yeah.

18 THE COURT: -- you can decide --

19 THE JUROR: Yes, sir.

20 THE COURT: -- based on what you hear in the
21 courtroom, not what may have happened with your
22 grandchildren?

23 THE JUROR: Right.

24 THE COURT: And the law as I tell you the law is?

25 THE JUROR: Okay.

1 THE COURT: You ever been on jury duty before.

2 THE JUROR: No, sir.

3 THE COURT: This is your first trip, first round,
4 first flight.

5 THE JUROR: First time I got this far; I mean,
6 usually I get disqualified or told to go home before now.

7 THE COURT: Well, see, you run up and down the
8 railroad track long enough you get hit by the train.

9 THE JUROR: I'm afraid so.

10 THE COURT: Well, I appreciate you being here.

11 THE JUROR: Okay.

12 THE COURT: All right. Mr. Sharpe, 181 is staying
13 with us.

14 Yes.

15 THE BAILIFF: 48, Your Honor.

16 THE COURT: Good morning. And tell me your name,
17 please.

18 THE JUROR: Timothy Craig.

19 THE COURT: Craig?

20 THE JUROR: Uh-huh, C-R-A-I-G.

21 THE COURT: And tell me your response.

22 THE JUROR: My response is, I was molested and
23 abused as a child. And, of course, it's been a long, long
24 time ago, back when I was eight. But back in those days,
25 you didn't report it.

1 THE COURT: Yes, sir.

2 THE JUROR: So I just wanted the Court to know
3 that.

4 THE COURT: Given that -- given those facts can you
5 be a fair and impartial juror in the trial of this case for
6 both Mr. Hopkins and the State?

7 THE JUROR: I'm going to have to say no, because it
8 really messed me up throughout my life.

9 THE COURT: Yes, sir. All right. All right.
10 Thank you, thank you very much, Mr. Craig. I'll excuse you
11 from the trial of this case, just remain with the panel, do
12 not say anything to your fellow jurors.

13 THE JUROR: Just sit back out here?

14 THE COURT: Yes, sir.

15 Number 48 is excused.

16 THE BAILIFF: 125, Your Honor.

17 THE COURT: And tell me your name, please -- good
18 morning.

19 THE JUROR: Kenneth L. Long Jr.

20 THE COURT: All right. And tell me your response,
21 Mr. Long.

22 THE JUROR: My sister works with the City of
23 Columbia. She was a victim advocate when she first
24 started. I believe she may have been -- I'm not exactly
25 positive. It would have been probably eight or ten years

1 ago.

2 THE COURT: All right. Given those facts, can you
3 be a fair and impartial juror in the trial of this case for
4 both Mr. Hopkins and the State?

5 THE JUROR: Yes, Your Honor.

6 THE COURT: All right. I believe you can stay with
7 us.

8 THE JUROR: Thank you.

9 THE COURT: 125 is going to stay with us.

10 Yes, sir.

11 THE BAILIFF: 149, Your Honor.

12 THE COURT: Good morning.

13 THE JUROR: David Morris.

14 THE COURT: Yes, sir.

15 THE JUROR: My ex-wife, from whom I've been
16 divorced for 16 years and separated for much longer than
17 that, what time we were married had some very severe
18 psychological problems and had an emotional break down
19 causing some behavior that concerned some people and they
20 called in DSS to investigate and there was no abuse, just
21 some neglect kind of things and they recommended that I get
22 sole custody of the kids; which I did from that point on.

23 THE COURT: Given those facts, can you be a fair
24 and impartial juror in the trial of this case for both Mr.
25 Hopkins --

1 THE JUROR: Yes.

2 THE COURT: -- and the State?

3 THE JUROR: Yes, sir.

4 THE COURT: Thank you. I believe you can stay with
5 us.

6 149 is going to stay with us.

7 THE BAILIFF: 74, Your Honor.

8 THE COURT: Good morning.

9 THE JUROR: Good morning.

10 THE COURT: Tell me your name, please.

11 THE JUROR: Ernest Goodwin.

12 THE COURT: All right.

13 THE JUROR: I had a second cousin that abused her
14 child and she actually served time and I just -- I didn't
15 really know her that well, so --

16 THE COURT: What time frame are we talking about?

17 THE JUROR: It's probably been five or six years
18 ago.

19 THE COURT: Given that fact, can you be a fair and
20 impartial juror in the trial of this case for both Mr.
21 Hopkins and the State?

22 THE JUROR: Yes, sir.

23 THE COURT: I believe you can stay with us.

24 Number 74 is going to stay with us.

25 All right. Any others?

1 (No one stood.)

2 (The bench conferences ended.)

3 THE COURT: Has any member of the jury panel ever
4 been employed by the McDonalds restaurant located at 4364
5 Augusta Road, Highway Number 1, in the Oak Grove area of
6 Lexington County? If so, please stand.

7 (No one stood.)

8 THE COURT: Thank you.

9 Does any member of the jury panel have any
10 religious or moral beliefs which would prevent you from
11 passing judgment on another person? If so, please stand.

12 (No one stood.)

13 THE COURT: I'm going call a number of names,
14 ladies and gentlemen, of potential witnesses in the trial
15 of this case. The question, of course, is: Is any member
16 of the jury panel related by blood or marriage, know, close
17 friends, social acquaintances, business, or professional
18 relationships with any of these parties whose names I call?
19 If so, please stand.

20 I'm going to call them in lists of ten. I would
21 advise the panel that the witnesses or potential witnesses
22 are not required to be here during this proceeding. I
23 would ask if any of the witnesses are present, when your
24 names are called, if you would please stand and face the
25 jury panel. However, ladies and gentlemen, names may be

1 called and no one stands.

2 Captain Joshua Bice, Springdale Police Department.

3 This is Captain Bice to my front right.

4 Thank you.

5 Patrolman T. D. Jackson, Springdale Police

6 Department; Chief Kevin Cornett, Springdale Police

7 Department; Agent Trista Baird, B-A-I-R-D, with SLED; Agent

8 Christine Cauthen, also with SLED.

9 This is Agent Cauthen to my front right.

10 Thank you.

11 Andrew Diehl, D-I-E-H-L, Lexington County EMS;

12 Timothy Tucker, Lexington County EMS; Lieutenant Munn,

13 M-U-N-N, Lexington County EMS; Pricilla Haynes, Springdale,

14 South Carolina; Timothy Swearington, Lexington, South

15 Carolina.

16 The next ten names, ladies and gentlemen, also have

17 a notation of Lexington, South Carolina behind their names.

18 Tarkie Reese; Shawn Robinson; Martha Bovain; **Curtis B.** ;

19 Regina Washington; Ya'Nyia Daniels; Yantis Daniels; Helen

20 Hopkins; Justin Roundtree; Rachel Smith; again all from

21 Lexington, South Carolina.

22 Again, the question is: Is any member of the jury

23 panel related by blood or marriage, close personal friends,

24 know them, have any business, social, professional

25 relationship with any of those individuals whose names I

1 just called? If so, please stand.

2 The next ten names: Ya'Nasia Daniels of Lexington;
3 Reverend Kenneth Taylor, Lexington; Sergina White,
4 Lexington; Waysolbert, that's W-A-Y-S-O-L-B-E-R-T, Hopkins,
5 Lexington; John Nobles, Lexington; Dale Driggers, Lexington
6 County Department of Social Services; June Skinner, South
7 Carolina Department of Social Services; Agent Jamie Elsy
8 Johnson, State Law Enforcement Division Crime Scene Unit --
9 I'm sorry.

10 This is Agent Johnson; is that correct? To my
11 front right?

12 AGENT JOHNSON: Yes, sir.

13 THE COURT: Thank you. Thank you, Agent Johnson.

14 Lieutenant Jeff Crooks, SLED Crime Scene Unit;
15 Agent Todd Schenk, S-C-H-E-N-K, SLED Crime Scene Unit.

16 The next ten names: Investigator Michael Phipps,
17 Crime Scene Lexington County Sheriff's Office; Lieutenant
18 Chris Johnson, SLED; Agent Shana Sorrells, SLED Toxicology;
19 Agent Dustin Smith, SLED Toxicology; Agent Ashley Bell,
20 SLED Evidence Processing; Agent Verona Gibson Herrera,
21 SLED Evidence Processing; Agent Jessica Heron Stowe, SLED
22 Serology; Agent Catherine Leisy, L-E-I-S-Y, DNA Analysis;
23 Dr. John Spalding, M.D., Lexington Medical Center.

24 (Several jurors stood.)

25 THE COURT: Yes, your number, please?

1 THE JUROR: 27.

2 THE COURT: All right. And step up here for me,
3 please.

4 (The following bench conferences were held out of
5 the hearing of the jury venire:)

6 THE COURT: Yes, sir. Tell me your name.

7 THE JUROR: John Bridges.

8 THE COURT: All right. Thank you. And tell me
9 your response, Mr. Bridges.

10 THE JUROR: I work with Doctor Spalding at
11 Lexington Center, professionally.

12 THE COURT: Okay. And how long have you worked
13 with Doctor Spalding.

14 THE JUROR: Probably for at least the last six
15 years.

16 THE COURT: And it's a professional -- what do you
17 do at the hospital?

18 THE JUROR: I'm an administrator there.

19 THE COURT: Given that fact, can you be a fair and
20 impartial juror in the trial of this case for both Mr.
21 Hopkins and the State?

22 THE JUROR: I believe so.

23 THE COURT: All right. When you say you believe
24 so, you been on jury duty before?

25 THE JUROR: I have not.

1 THE COURT: And you understand if you're selected
2 you would make your decision based on the evidence or
3 testimony of the witnesses testifying under oath.

4 THE JUROR: Yes, Your Honor.

5 THE COURT: Is there any doubt in your mind you can
6 be fair and impartial?

7 THE JUROR: I can be fair.

8 THE COURT: I believe you can stay with us. Thank
9 you, thank you very much.

10 THE BAILIFF: Number 170, Your Honor.

11 THE COURT: All right. Yes, sir.

12 Good morning. And tell me your name, please.

13 THE JUROR: Cameron Rikard.

14 THE COURT: And tell me your response.

15 THE JUROR: I believe Mr. Bovain is a former
16 client.

17 THE COURT: Mr. Bovain. Let me look back here.

18 I have a **Curtis B. [REDACTED]**. And when you say a former
19 client, what do you do?

20 THE JUROR: I used to work for Andrew Farley.

21 THE COURT: Okay. So you worked for Mr. Farley.

22 THE JUROR: Yes, sir.

23 THE COURT: And what time frame.

24 THE JUROR: Probably until July of this year.

25 THE COURT: And Mr. Bovain was a client of

1 Mr. Farley?

2 THE JUROR: I believe so.

3 THE COURT: And he had a case with Mr. Farley.

4 THE JUROR: Yes, sir. We had lots of DSS cases.

5 THE COURT: All right. Given those facts, can you
6 be a fair and impartial juror in the trial of this case for
7 both Mr. Hopkins and the State?

8 THE JUROR: Yes, sir.

9 THE COURT: Now, what type of case did Mr. Bovain
10 have -- well, I'm not going to ask you that. That's -- I'm
11 not going to ask you that.

12 Thank you, thank you very much. I believe you can
13 stay with us.

14 THE BAILIFF: 106, Your Honor.

15 THE COURT: 106, yes, ma'am. Yes, ma'am, please.
16 Good morning. And tell me your name, please.

17 THE JUROR: Veronica Johnson.

18 THE COURT: And tell me your response.

19 THE JUROR: I am cousins with Rachel Smith, Ya'Nya
20 Daniels, Yantis Daniels, and Ya'Nasia Daniels, which was --

21 THE COURT: Now, Ya'Nasia and --

22 THE JUROR: Rachel Smith.

23 THE COURT: And Ya'Nya Daniels?

24 THE JUROR: Uh-huh.

25 THE COURT: And Yantis?

1 THE JUROR: Uh-huh.

2 THE COURT: They're your first cousins?

3 THE JUROR: (The juror nodded head.)

4 THE COURT: Do you know Mr. Hopkins?

5 THE JUROR: The face, but not the name.

6 THE COURT: Explain that, you know him by face.

7 Explain that to me.

8 THE JUROR: Maybe if I see him. I don't know him
9 by the name.

10 THE COURT: Now, he stood up in front of you
11 earlier. Mr. Hopkins? His lawyer introduced you to him.

12 THE JUROR: Oh, no, I didn't know him.

13 THE COURT: Okay. You don't know him by face or
14 name?

15 THE JUROR: Huh-huh.

16 THE COURT: All right. And Mr. -- Ms. -- are your
17 cousins?

18 THE JUROR: Uh-huh.

19 THE COURT: Have they said anything to you about
20 this case?

21 THE JUROR: Huh-huh.

22 THE COURT: You know why they would be witnesses or
23 anything of that nature.

24 THE JUROR: Huh-huh.

25 THE COURT: You know anything about it?

1 THE JUROR: Huh-huh.

2 THE COURT: No. Given the fact that you're related
3 to three potential witnesses in the case, can you be a fair
4 and impartial juror in the trial of this case for both Mr.
5 Hopkins and the State?

6 THE JUROR: Yes, sir.

7 THE COURT: Any doubt in your mind?

8 THE JUROR: No, sir.

9 THE COURT: All right.

10 THE JUROR: Well, I have a couple of child abuse
11 cases and --

12 THE COURT: You what now?

13 THE JUROR: I've had like a problem with child
14 abuse cases.

15 THE COURT: Explain that to me, I'm not sure I
16 understand.

17 THE JUROR: When it comes to getting hurt or
18 abused, I have a problem with that. I had a little sister
19 that passed because of being abused.

20 THE COURT: Okay. So you had a sister that was a
21 victim of and passed because she was -- was being abused as
22 a child.

23 THE JUROR: From her step dad.

24 THE COURT: And were you living in the home during
25 that same time?

1 THE JUROR: No, it was her.

2 THE COURT: Okay. Now, given that fact that that
3 happened in your family to your sister as a victim, can you
4 be a fair and impartial juror in the trial of this case for
5 Mr. Hopkins?

6 THE JUROR: I don't think so.

7 THE COURT: You don't think so.

8 THE JUROR: No.

9 THE COURT: Because of what happened to you.

10 THE JUROR: Right.

11 THE COURT: Not happened to you, but happened in
12 your family.

13 THE JUROR: Right.

14 THE COURT: All right. I'm going to set you aside
15 for the trial of this case. Do not say anything to your
16 fellow jurors.

17 Okay. All right. Just go back and have a seat.
18 Thank you very much.

19 (The bench conferences ended.)

20 THE COURT: All right. Back to our list, again the
21 question is: Is any member of the jury panel related by
22 blood or marriage, personal friends, any social, business,
23 any professional relationship with any of these individuals
24 I called. Additionally, a number of these individuals are
25 medical doctors. If you or a member of your family, your

1 immediate family is a patient or has been a patient in the
2 past of any of these doctors, please stand.

3 Dr. James Fulcher, M.D., Greenville County Medical
4 Examiner; Dr. Susan Luberoff, M.D., Assessment and Resource
5 Center, Columbia.

6 (A juror stood.)

7 THE COURT: Tell me your number, again.

8 THE JUROR: 69.

9 THE COURT: Didn't I set her aside?

10 THE CLERK: Yes, sir, Your Honor.

11 THE COURT: All right. Thank you. I set you aside
12 for the trial of this case. Thank you, thank you very
13 much.

14 Dr. Susan Lamb, M.D. Assessment and Resource
15 Center; Dr. Stephen Schwab, S-C-H-W-A-B, M.D., Lexington
16 Medical Center; Dr. Stephen Platt, M.D., Lexington Medical
17 Center; Dr. Wesley Shuler, Lexington Medical Center.

18 All right. And we had talked about Dr. John
19 Spalding -- I'm sorry the gentleman --

20 (Several jurors stood.)

21 THE COURT: Y'all come on forward.

22 (The following bench conferences were held out of
23 th hearing of the jury venire.)

24 THE COURT: Yes, tell me your number.

25 THE JUROR: 149.

1 THE COURT: 49?

2 THE CLERK: 149, Your Honor.

3 THE JUROR: I may be making a mountain out of a
4 mole hill, but I just need to let you know that I have
5 known Dr. Shuler off and on. It's not socially, but just
6 interactions with him being on a case of mine in Richland.
7 I don't know him socially or personally.

8 THE COURT: Sure. Given those facts, can you be a
9 fair and impartial juror in the trial of this case for
10 both --

11 THE JUROR: Yes.

12 THE COURT: -- Mr. Hopkins and the State?

13 THE JUROR: Yeah, sure.

14 THE COURT: I believe you can stay with us.

15 149 will stay with us.

16 Thank you, Doctor.

17 THE BAILIFF: 27, Your Honor.

18 THE COURT: All right. And tell me your response,
19 again.

20 THE JUROR: I work with Dr. Shuler professionally.
21 I could be a fair juror.

22 THE COURT: Given that fact that Dr. Shuler is a
23 potential witness in the trial of the case, you can be a
24 fair and impartial juror for both Mr. Hopkins and the
25 State?

1 THE JUROR: Yes, sir.

2 THE COURT: Thank you. You can stay with us.

3 27 will stay with us.

4 Any others?

5 (No one stood.)

6 THE COURT: Dr. Ragin Monteith, Brookland

7 Pediatrics, Lexington, South Carolina; Amy Stephens, SLED;

8 Stephanie Koellner, K-O-E-L-L-N-E-R, Lexington Medical

9 Center; Laura Grimes, Lexington; Sandra Hazzard, Lexington

10 Medical Center.

11 The next is listed as custo -- is either Patricia

12 Lee and/or the custodian of records at McDonalds

13 Corporation; no name listed, Custodian of Records Verizon

14 Wireless Corporation; no name listed, Custodian of Records,

15 Sprint Corporation; no name listed, Custodian of Records

16 AT&T Corporation; and Nikki Rodgers and/or Custodian of

17 Records, Lexington County Communications Center.

18 Again, ladies and gentlemen, is any member of the

19 jury panel related by blood or marriage, have any -- know

20 them, social, business, professional relationship with any

21 of these individuals, these potential witnesses whose names

22 I called and/or who stood before you? If so, please stand.

23 (No one stood.)

24 THE COURT: Any additional voir dire from the

25 defense, Mr. Williams?

1 MR. WILLIAMS: No, Your Honor.

2 THE COURT: From the State, Solicitor?

3 MS. MAYES: Nothing further from the State, Your
4 Honor.

5 THE COURT: All right. Would y'all step up here
6 for just a moment, please, Solicitor and Mr. Williams?

7 (There was a bench conference out of the hearing of
8 the jury and the Court Reporter.)

9 THE COURT: All right. Finally, ladies and
10 gentlemen, you know what our purpose in this procedure is,
11 is to select a jury that will be a fair and impartial jury
12 in the trial of this case for both Mr. Hopkins and the
13 State. I have read the indictments to you, I have asked
14 you a number of questions both as to any prior knowledge
15 you may have, any concerns you may have about the parties
16 and/or subject matter, any type of exposure you may have
17 whatsoever to any of the potential witnesses in the trial
18 of this case. Well, you know yourselves best.

19 Is there any member of the jury panel that knows
20 any reason whatsoever, not only based on the questions I
21 asked, but anything that you may have in your mind, in your
22 history, any reason whatsoever, why you feel like you could
23 not be a fair and impartial juror in the trial of this case
24 for both Mr. Hopkins and the State? If so, please stand.

25 If it concerns you, it concerns me. I want to

1 address it now and not when you're sitting over here in the
2 jury box. So if any member of the jury panel knows of any
3 reason whatsoever why you feel like you could not be a fair
4 and impartial juror to the parties, please stand.

5 Thank you, thank you very much, no one stands.

6 With the exception of those that I have set aside
7 during this qualification, I find our panel is qualified.

8 Madam Solicitor, the strikes, please?

9 MS. MAYES: Five and five, Your Honor.

10 THE COURT: Is that correct, Mr. Williams?

11 MR. WILLIAMS: It is, Your Honor.

12 THE COURT: All right. Five for the State, five
13 for the defense.

14 Madam Clerk.

15 THE CLERK: Yes, sir, Your Honor.

16 (The clerk is preparing the list with the strike
17 list on the computer.)

18 THE CLERK: Ready, Judge?

19 THE COURT: Yes, ma'am, please, Madam Clerk, give
20 us a jury -- give them instructions and give us a jury.

21 **JURY SELECTION**

22 THE CLERK: Yes, sir.

23 THE COURT: As I call your name, please come
24 forward. Make sure you bring your purses, whatever you
25 have with you. Come forward and stand in front of the

1 podium like you were instructed and shown earlier. Just
2 like he's doing right now.

3 Okay. Number 126, Robert Long (white male).

4 What say you for the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say for the defense?

7 MR. WILLIAMS: Please swear the juror.

8 THE CLERK: Have a seat in the jury box, sir.

9 172, Allan Rotan (white male).

10 Backup just a little bit more for me, please, sir.

11 What say for the State?

12 MS. MAYES: Please present the juror.

13 THE CLERK: What say for the defense?

14 MR. WILLIAMS: Please swear the juror.

15 THE CLERK: Have a seat in the jury box, sir.

16 167, Ashley Register (white female).

17 What say for the State?

18 MS. MAYES: Beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 MS. MAYES: Please excuse the juror from the trial
21 of this case.

22 THE CLERK: Return to your seat, please, ma'am.

23 192, Margaret Spence (white female).

24 What say for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say for the defense?

2 MR. WILLIAMS: Please swear the juror.

3 THE CLERK: Have a seat in the jury box, ma'am.

4 63, Michael Elkins (white male).

5 MS. MAYES: That number again, Madam Clerk?

6 THE CLERK: 6-3, 63.

7 What say for the State?

8 MS. MAYES: Please present the juror.

9 THE CLERK: What say for the defense?

10 MR. WILLIAMS: Please swear the juror.

11 THE CLERK: Have a seat in the jury box, sir.

12 100, Charles Jeffcoat (black male).

13 What say for the State?

14 MS. MAYES: Please excuse the juror from the trial
15 of this case.

16 THE CLERK: Return to your seat, please, sir.

17 Number 58, Luther Duffie (white male).

18 What say for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say for the defense?

21 MR. WILLIAMS: Please swear the juror.

22 THE CLERK: Have a seat in the jury box, sir.

23 Number 46, Dustin Cook (white male).

24 What say for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say for the defense?

2 MR. WILLIAMS: Please swear the juror.

3 THE CLERK: 171, Vivian Robertson (white female).

4 What say for the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say for the defense?

7 MR. WILLIAMS: Please excuse the juror from the
8 trial of this case.

9 THE CLERK: Return to your seat, please, ma'am.

10 153, Mary Nowicki (white female).

11 What say for the State?

12 MS. MAYES: Please present the juror.

13 THE CLERK: What say for the defense?

14 MR. WILLIAMS: Please swear the juror.

15 THE CLERK: Have a seat in the jury box, ma'am.

16 170, Marion Rikard -- Excuse me, I said -- I meant
17 Cameron, Cameron Rikard (white female).

18 What say for the State?

19 MS. MAYES: Your Honor, may we approach?

20 THE COURT: Yes, ma'am.

21 (There was a bench conference out of the hearing of
22 the jury and the Court Reporter.)

23 THE COURT: Ms. Ricard would you step over here?

24 (The following bench conference was held out of the
25 hearing of the jury venire:)

1 THE COURT: If you'd step right here in front of my
2 court reporter, please.

3 THE JUROR: Yes, sir.

4 THE COURT: I know we talked about your employment
5 with Mr. Farley and you knowing Mr. Bovain --

6 THE JUROR: Yes, sir.

7 THE COURT: -- as a client of Mr. Farley's.

8 THE JUROR: Yes, sir.

9 THE COURT: Did his case involve a DSS matter.

10 THE JUROR: I don't think so. I was employed for
11 seven years.

12 THE COURT: Did it involve any of his family
13 members whether it was his siblings, his children anything
14 like that?

15 THE JUROR: I --

16 THE COURT: Tell me as best you can, briefly,
17 generally, how much contact you would have had with
18 Mr. Bovain.

19 THE JUROR: It's hard to say, I was Mr. Farley's
20 only paralegal, so probably as much as he would have.

21 THE COURT: As a paralegal, part of your work
22 product would have been in Mr. Bovain's case.

23 THE JUROR: Drafting pleadings and whatever else
24 was involved.

25 THE COURT: Was it a civil or a criminal matter.

1 THE JUROR: I really can't remember, it's been so
2 long.

3 THE COURT: Do you mind -- I don't want you to
4 think I'm singling you out, and then I say that after I've
5 singled you out; but I have to ask certain questions. If
6 you would, would you return to the podium for me, please.

7 THE JUROR: Yes, sir.

8 (There was a bench conference out of the hearing of
9 the jury and the Court Reporter.)

10 THE COURT: All right. Thank you, Mr. Williams,
11 thank you, Ms. Mayes.

12 MS. MAYES: Please present the juror.

13 THE CLERK: What say for the defense?

14 MR. WILLIAMS: Please swear the juror.

15 THE CLERK: Have a seat in the jury box, ma'am.
16 184, Christy Shirey (white female).

17 What say for the State?

18 MS. MAYES: Please present the juror.

19 THE CLERK: What say for the defense?

20 MR. WILLIAMS: Please excuse the juror from the
21 trial of this case.

22 THE CLERK: Return to your seat, please, ma'am.
23 129, Landon Luesing (white male).

24 What say for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say for the defense?

2 MR. WILLIAMS: Please swear the juror.

3 THE CLERK: Have a seat in the jury box, sir.

4 Number 50, Phillip Curiale (white male).

5 What say for the State?

6 MS. MAYES: Please excuse the juror from the trial
7 of this case.

8 THE CLERK: Return to your seat, please, sir.

9 42, Alexander Collins (white male).

10 What say for the State?

11 MS. MAYES: Beg the Court's indulgence.

12 (There was a pause in the proceedings.)

13 MS. MAYES: Please present the juror.

14 THE CLERK: What say for the defense?

15 MR. WILLIAMS: Please swear the juror.

16 THE CLERK: Have a seat in the jury box, sir.

17 109, Robert Justice (white male).

18 What say for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say for the defense?

21 MR. WILLIAMS: Please swear the juror.

22 THE CLERK: Have a seat in the jury box, sir.

23 Number 27, Jon Bridges (white male).

24 What say for the State?

25 MS. MAYES: Please present the juror.

1 THE CLERK: What say for the defense?

2 MR. WILLIAMS: Please excuse the juror from the
3 trial of this case.

4 THE CLERK: Return to your seat, please, sir.

5 Number 178, Brandolyn Scott (black female).

6 What say for the State?

7 MS. MAYES: Please present the juror.

8 THE CLERK: What say for the defense?

9 MR. WILLIAMS: Please swear the juror.

10 THE CLERK: Have a seat in the jury box, ma'am.

11 Alternates, Your Honor?

12 THE COURT: Two alternates, please.

13 THE CLERK: Yes, sir.

14 127, Eileen Looney (white female).

15 What say for the State?

16 MS. MAYES: Please present the juror.

17 THE CLERK: What say for the defense?

18 MR. WILLIAMS: Please excuse the juror from the
19 trial of this case.

20 THE CLERK: Return to your seat, ma'am.

21 149, David Morris (white male).

22 What say for the State?

23 MS. MAYES: Please excuse the juror from the trial
24 of this case.

25 THE CLERK: Return to your seat, sir.

1 29, Christiann Broughton (white female).

2 What say for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say for the defense?

5 MR. WILLIAMS: Please excuse the juror from the
6 trial of this case.

7 THE CLERK: Return to your seat, please, ma'am.

8 17, Karen Bickley (white female).

9 What say for the State?

10 MS. MAYES: Please present the juror.

11 THE CLERK: What say for the defense?

12 MR. WILLIAMS: Please swear the juror.

13 THE CLERK: Have a seat in the jury box, ma'am.

14 That's Alternate Number 1, Your Honor.

15 139, Stephanie McMillan (white female).

16 What say for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say for the defense?

19 MR. WILLIAMS: Please swear the juror.

20 THE CLERK: Have a seat in the jury box, ma'am.

21 That's Alternate Number 2, Your Honor.

22 THE COURT: Any motions regarding the jury
23 selection process from the State?

24 MS. MAYES: None from the State, Your Honor.

25 THE COURT: From the defense?

1 MR. WILLIAMS: None by the defendant, Your Honor.

2 THE COURT: Thank you, thank you very much.

3 Step up here, please, Mr. Williams, Solicitor.

4 (There was a bench conference out of the hearing of
5 the jury and the Court Reporter.)

6 THE COURT: Ladies and gentlemen, that were
7 selected as members of this trial jury, momentarily I'm
8 going to release you from your jury service for your
9 luncheon recess. I would remind you during this luncheon
10 recess and throughout the trial of this case, you may not
11 discuss this case with anyone. That includes your fellow
12 jurors, lunch mates, family, friends or anyone else. If
13 anyone tries to talk to you about the case, please let me
14 know.

15 You may not read, watch, or listen to any news
16 reports about the case, should there be any. You may not
17 use, as you know, your computer, cellular phone or any
18 other electronic device with communication capabilities
19 while in attendance at trial or during deliberations.
20 These devices may, of course, be used during lunch
21 recesses and evening recesses, but may not be used to
22 obtain or disclose information which is prohibited.

23 Information which is prohibited about the case
24 includes, but it is not limited to the following:

25 Information about a party, a witness, an attorney, or a

1 court officer; news accounts about the case, present or
2 past, should they be or should there have been any;
3 information collected through juror research on any topics
4 raised or testimony offered by any witness; or information
5 collected through juror research on any other topic that
6 the juror might think would be helpful in deciding the
7 case.

8 Remember you decide the case based on the evidence
9 and the testimony of the sworn witnesses testifying before
10 you from this witness stand in this courtroom, any physical
11 items of evidence that will be introduced and any
12 inferences that you as a juror feel may properly be drawn
13 from the evidence. You are the finders of the facts in the
14 case.

15 I am going to release you until 2:45. I have
16 certain pretrial matters I must take up outside of your
17 presence. I don't want to bring you back too early and
18 hold you captive any longer than necessary, so hope fully I
19 will have those pretrial matters resolved upon your return.
20 I will tell you we're moving from this courtroom to the
21 third floor courtroom. The bailiffs will show you how to
22 return, where to return to and your new temporary home,
23 your jury room.

24 Upon your return, I will have an election in your
25 absence and will select one of your number, besides either

1 one of our -- I can't select either one of your two fine
2 alternates, although I'm sure either one of them would make
3 fine jury forepersons. But I will -- I will elect one of
4 your number to serve as the foreperson, the voluntary
5 foreperson, of course, of this jury panel.

6 So with that being said you are now excused and if
7 you would please be back at 2:45. If you would go with
8 your bailiff with the instructions that I have given you.
9 Thank you, thank you very much. Hope y'all have a pleasant
10 lunch.

11 (The jury left the courtroom at 12:16 p.m.)

12 (The remaining jury venire was released for the day
13 with instructions from the Court.)

14 THE COURT: Anything further from the State, Madame
15 Solicitor?

16 MS. MAYES: Yes, sir, Your Honor, if I could just
17 put on the record. We did have a conference earlier this
18 morning with Mr. Williams to discuss the matter of
19 potential statements in this case. There were at least two
20 sets of statements that would potentially be offered by the
21 State in its case that were made by the defendant, Mr.
22 Hopkins. They involve statements made on December 27th,
23 2013, (verbatim) which is the date of the child's death.
24 Those statements include an audio interview, a waiver of
25 Miranda Rights and then a written statement provided to

1 Captain Bice and Agent Cauthen of the State Law Enforcement
2 Division.

3 Also on that date of November 27, 2013, there was a
4 video taped interview or statement made by the defendant.
5 Also on 11/27/13 and that was to Agent Cauthen of the State
6 Law Enforcement Division and in the presence of Agent
7 Johnson with the State Law Enforcement Division. The State
8 would potentially offer those statements.

9 Secondly, Your Honor, in April of 2014, on the
10 17th, 2014, there was a waiver of Miranda Rights and then a
11 statement made to Captain Bice of Springdale Police
12 Department and Agent Trista Baird of the State Law
13 Enforcement Division. The State would intend to offer that
14 audio tape in its entirety and wanted to go ahead and put
15 that on the record.

16 My understanding is that the defense is not
17 contesting those statements. I will note that we have
18 redacted -- there were a couple of references in those
19 statements to a prior arrest of Mr. Hopkins and in both of
20 those audio tapes, those statements have been redacted.

21 THE COURT: Thank you, Solicitor.

22 Mr. Williams?

23 MR. WILLIAMS: Based on the redactions that are
24 coming out of those statements, we would have no objection
25 to that, Your Honor.

1 THE COURT: All right. Thank you. Thank you very
2 much, Mr. Williams.

3 MS. MAYES: I would also add that, I believe it's
4 the second audio taped statement makes a reference to some
5 injuries from the spring which they're questioning Mr.
6 Hopkins about. Those injuries would be outside the time
7 frame of the indictment and we've redacted that portion as
8 well as, I believe, references to a bite mark and
9 references to a burn, which are not included among the
10 findings at autopsy.

11 If there's anything else that needs to be redacted,
12 we just want to take it up at this time.

13 MR. WILLIAMS: I think that's correct and I think
14 that's appropriate, Your Honor.

15 THE COURT: All right. Thank you, Mr. Williams.

16 MS. MAYES: Next, Your Honor, there was a search
17 warrant that was conducted at [REDACTED]. That
18 was the residence of Mr. Hopkins and also the residence of
19 the child. They were living there at the time with an aunt
20 of the codefendant in this case, Sabrina Haynes, they were
21 living with her aunt. A search warrant was conducted by
22 the State Law Enforcement Division and by the Springdale
23 Police Department. My understanding is there --
24 Mr. Williams does not contest any items removed or the
25 search and seizure process in that case.

1 MR. WILLIAMS: We do not, Your Honor.

2 THE COURT: Thank you, Mr. Williams.

3 MS. MAYES: Finally, Your Honor, that brings us to
4 the State's motion in limine and this is just a general
5 motion in limine at this time to exclude any hearsay
6 statements allegedly made by the codefendant in the case,
7 Sabrina Haynes, Your Honor. She is also charged with
8 homicide by child abuse and aiding and abetting homicide by
9 child abuse. She will have a separate court proceeding,
10 whether she ultimately requests a trial or pleads guilty.
11 And, Your Honor, we would move to exclude any hearsay
12 statements made by Ms. Haynes, and also any hearsay
13 statements that are alleged to have been made or attributed
14 to the two-year-old victim in this case.

15 Your Honor, I'm not aware of any statements from
16 the victim that would qualify as excited utterance, so we
17 just want to make sure that there isn't any improper
18 hearsay.

19 THE COURT: Mr. Williams?

20 MR. WILLIAMS: There may be -- of course, I'm not
21 sure of the time frame here. There's an alleged hearsay
22 statement that was made by the alleged victim, the
23 deceased, to another party, but I think it's too far
24 removed from the time this victim died.

25 THE COURT: How old was the victim?

1 MR. WILLIAMS: The victim was almost three years of
2 age and the victim alledgedly made a statement to a family
3 member about how the victim was injured. But it -- I
4 think --

5 THE COURT: How do you -- you would still have to
6 somehow qualify a three-year-old victim as to -- wouldn't
7 you still have to qualify a three-year-old hearsay
8 declarant that they were competent --

9 MR. WILLIAMS: It's problematic, yes, Your Honor.

10 THE COURT: -- to start with? Wouldn't -- number
11 one, wouldn't you have to do that?

12 MR. WILLIAMS: To determine whether or not the
13 witness the competent? True.

14 THE COURT: The hearsay declarant.

15 MR. WILLIAMS: True.

16 THE COURT: I say this because a blind woman taught
17 me how to read, so it would be like this is not -- as I
18 hold her in the highest regard because it was never a
19 handicap to her, she was a fascinating woman. So it's not
20 disrespectful, but it's like you have someone that's
21 sighted or not sighted or someone that can't hear and say,
22 well, I saw so and so, or I heard so and so and they don't
23 have those capabilities. Wouldn't you first have to do
24 that?

25 MR. WILLIAMS: Yes, sir. I see what the Court's

1 thought is.

2 THE COURT: If you get to that point, Mr. Williams,
3 you know, you've tried enough cases in front of me, as has
4 the solicitor. Just tell me you've got a matter of law to
5 take up and I'll take it up.

6 MR. WILLIAMS: All right, sir.

7 THE COURT: A motion in limine is about worth what
8 my orders are worth, you know, they're -- I think they're
9 advisory. They last less than 24 hours.

10 MR. WILLIAMS: Yes, sir.

11 THE COURT: If they're injunctions.

12 MR. WILLIAMS: Thank you, Your Honor.

13 THE COURT: All right. Anything else, Solicitor?

14 MS. MAYES: Your Honor, we do have a number of
15 exhibits to mark. We can meet with the court reporter once
16 we move courtrooms and make sure those are marked.

17 THE COURT: Well, I want her to have her break.
18 You know my life is much happier when that -- when she's
19 happy.

20 MS. MAYES: Yes, sir.

21 THE COURT: Right Madam Court Reporter?

22 THE COURT REPORTER: Yes, sir, I agree.

23 THE COURT: It goes both ways, right.

24 THE COURT REPORTER: It goes both ways, definitely.

25 THE COURT: Thank y'all, thank y'all very much.

1 MS. MAYES: Thank you, Judge.

2 THE COURT: I'll see y'all in 3 Charlie.

3 (A recess for lunch was observed.)

4 (State's Exhibit Numbers 1 through 69 were
5 premarked by the Solicitors.)

6 THE COURT: All right, anything from the State
7 before we bring in our jury, Solicitor?

8 MS. MAYES: Nothing from the State, Your Honor.

9 THE COURT: Mr. Williams?

10 MR. WILLIAMS: Nothing from the defendant, Your
11 Honor.

12 THE COURT: All right. Mr. Bailiff, Juror Number
13 63 --

14 THE BAILIFF: Yes, sir.

15 THE COURT: Mr. Elkins, is our foreperson.

16 THE BAILIFF: All right, sir.

17 THE COURT: If you would seat him appropriately.

18 THE BAILIFF: Yes, sir.

19 THE COURT: And you may bring our jury.

20 (The jury entered the courtroom at 2:50 p.m.)

21 THE BAILIFF: All present, sir.

22 THE COURT: Thank you. Thank you, Mr. Bailiff.

23 All right. Our jury is present in the courtroom.

24 Madam Clerk, would you swear our jury, please.

25 (The jury was sworn at 2:51 p.m.)

1 THE COURT: Was there any member of the jury panel
2 unable to take the oath? If so, please stand.

3 (No one stood.)

4 THE COURT: Thank you.

5 **OPENING REMARKS BY THE COURT**

6 THE COURT: Ladies and gentlemen of the jury, the
7 case we are about to try is the case of the State versus
8 Joshua Warren Hopkins, the defendant to my front left.
9 What I will now say is intended to serve as an introduction
10 to the trial of this case. These remarks are not an
11 instruction on the law in the case. I will instruct you on
12 the law applicable to this case during and at the end of
13 the trial before you retire to consider your verdicts.
14 This is merely an explanation of the procedures that we
15 will follow in the trial of this case so that you may
16 better understand and follow what may be happening.

17 Mr. Hopkins is charged by indictments filed in this
18 case with the crimes of homicide by child abuse and aiding
19 and abetting homicide by child abuse. The elements of
20 which will be explained to you later.

21 Again, ladies and gentlemen, these indictments are
22 simply the formal charging documents by which the case is
23 brought before the Court and they are not in any sense
24 evidence of any of the allegations they contain.

25 Mr. Hopkins has pled not guilty to these

1 indictments. The State, the party to my front right,
2 therefore, has the burden of proving each of the elements
3 of the indictments beyond a reasonable doubt. And it will
4 be your duty, ladies and gentlemen, to decide whether or
5 not the State has met that burden. Your purpose as jurors
6 is to find and determine the facts. You are the sole judge
7 of the facts of the case. If at any time I make any
8 comment regarding the facts, you must disregard it. You
9 are to determine the facts from the testimony that you hear
10 from the witnesses testifying before you under oath from
11 this witness stand and any other evidence that may be
12 introduced into court. It is up to you to determine the
13 inferences which you feel may properly be drawn from the
14 evidence.

15 It is especially important that you perform your
16 duty of determining the facts diligently and
17 conscientiously because ordinarily, there is no way to
18 correct an erroneous determination of the facts by a jury.

19 On the other hand and with equal emphasis, the same
20 law that makes you the judges of the facts, makes me the
21 judge of the law. The law that's given by the Court is the
22 only law you may consider. You must accept it and follow
23 it, even though you may disagree with it. I cannot tell
24 you what the facts are and you cannot disagree with me
25 about what the law is or what the law should be.

1 Your job is to take the law as I give it to you,
2 apply it to the facts as you find them from the testimony
3 of the witnesses and any other evidence that is introduced.
4 After doing that, you will render your verdicts true and
5 just verdicts, under the solemn oath that you have just
6 taken as jurors.

7 It is important that you keep an open mind and not
8 decide any issue in the case until all of the evidence has
9 been presented, the parties have made their closing
10 arguments to you, and I have instructed you on the law in
11 this case. It is your solemn responsibility to determine
12 the guilt or innocence of Mr. Hopkins and your verdicts
13 must be based solely on the evidence as it is presented to
14 you in this trial as I instruct you during and at the close
15 of the trial.

16 Now, in just a moment, ladies and gentlemen, the
17 solicitor will make what is called an opening statement in
18 which the solicitor will explain to you the issues in this
19 case or at least what the solicitor thinks the issues are
20 in this case. Mr. Williams, Mr. Hopkins's attorney, may
21 also make an opening statement, although he is not required
22 to do so. A criminal defendant in South Carolina,
23 regardless of what the seriousness of the charges may be,
24 is always presumed to be innocent and has no burden of
25 proving himself or herself innocent. The burden of proof

1 is on and remains on the State to prove its case beyond a
2 reasonable doubt.

3 What the attorneys tell you during their opening
4 statements is not evidence in the case. It is only their
5 contention as to what the issues are. What the attorneys
6 tell you during their closing arguments is not evidence in
7 the case. The questions by the attorneys is not evidence
8 in the case. That is the framework by which the evidence,
9 the testimony, is extracted from the witnesses that are
10 testifying under oath. Their responses, their answers,
11 that is evidence in the case. It will be presented to you
12 by the testimony of those sworn witnesses and by any
13 exhibits that may be introduced into evidence.

14 From time to time during the trial, you may hear
15 one of the attorneys say something like, Your Honor, I
16 believe we have a question of law or a matter of law to
17 discuss with you; or, Your Honor, may we approach the
18 bench; or sometimes, I, myself, might find it necessary to
19 excuse you from the courtroom for a short while so the
20 attorneys and I can discuss a matter of law.

21 The reason I excuse you is not to hide anything
22 from you. This is because you are the sole judges of the
23 facts in the case and sometimes when I am discussing
24 matters law with the attorneys, it may be necessary for me
25 to make some comment as to the facts in connection with

1 ruling whether or not a particular law applies.

2 I am not supposed to tell you what the facts are,
3 so I'll excuse you from the courtroom while these
4 discussions take place so that in no way will you be
5 influenced by anything I might say or do in connection with
6 the facts. In determining what the true facts are in this
7 case, you must decide whether or not the testimony of the
8 witnesses is believable. It will be my responsibility to
9 rule as a matter of law as to whether certain testimony is
10 admissible at all or not; in other words, whether you hear
11 it at all or not. But once the testimony is admitted,
12 whether or not you believe it is solely for you, the jury,
13 to determine.

14 In deciding whether to believe a witness and using
15 your individual and collective good judgment and common
16 sense, you have a right to consider the interest of any
17 witness, the bias of any witness, the prejudice of any
18 witness, the opportunity for the witness to have seen the
19 matters and things about which the witness may testify and
20 the way the witness acts on the witness stand. You have
21 the right to consider anything that is in the record that
22 will help you evaluate the testimony, the believability,
23 the credibility of the witnesses. That means it will be
24 your duty to pay close attention to these witnesses, to
25 observe, to listen to them, to pay close attention to the

1 attorneys and to the Court. Don't let your thoughts
2 wander, but give strict attention to the testimony in this
3 case so that at the end of all of the testimony, after the
4 closing arguments by the attorneys and the instruction on
5 the law by the Court, you will then be in a position to
6 determine what the true facts are and to apply the law to
7 those facts as you find them to be and thus render true and
8 just verdicts.

9 It will be your added responsibility,
10 Mr. Foreperson, to preside in the jury room and be the jury
11 spokesperson here in court. It will also be your duty to
12 write the verdicts, but I will give you further
13 instructions about that at the conclusion of the case.

14 Thank you, by the way, very much, Mr. Foreperson,
15 for volunteering for that very important duty.

16 And just a few administrative matters. This is
17 actually -- obviously, we were in the larger courtroom,
18 we're in the smaller courtroom now. The size of the
19 courtroom has nothing to do with the quality of justice
20 whatsoever; length of the trial has nothing to do with the
21 quality of justice. It's very important, important cases.
22 There's justice, hopefully, being done on each and every
23 floor in this courtroom that affects many people.

24 But with that being said, if you cannot hear or see
25 a particular witness or something of that nature, please

1 get my attention, the attention of one of our fine bailiffs
2 and we'll have them sit up or speak up.

3 Evidence: I don't know what may be introduced into
4 evidence as far as physical items of evidence, photographs
5 or the like, I don't know. Many times -- well, they have a
6 board set up, perhaps a screen also set up. They may be
7 displayed on the screen. Some time they may be handed to
8 your foreperson, photographs, or something of that nature
9 and handed among the members of the jury while you're out
10 here in your jury box. You may look at those items all you
11 wish. Keep in mind, if I allow an item into evidence, you
12 will also have that item with you in the jury room at the
13 time of your deliberations. So out here will not be the
14 only time, the last time, you'll have the opportunity to
15 view those physical items of evidence.

16 I need to keep up with fourteen people. With those
17 fourteen people, I need to keep up, primarily -- not
18 primarily, no one juror is more important than the next,
19 but I need our foreperson to always maintain that seat. I
20 need our two fine alternates to always maintain those
21 seats. Others, members of the primary jury -- I have
22 observed over the course of being in courtrooms forever,
23 that jurors tend to be very territorial. They like to sit
24 in the same place, the same seat, have the same view of the
25 witness stand, the same view of the courtroom. I like it.

1 I like it up here. You may sit in your same seat, you may
2 sit, those other members of the jury, wherever you would
3 like in the jury box.

4 Finally, what am I in charge of? I'm in charge of
5 taking breaks. That's what I'm in charge of. I usually go
6 about an hour 15 minutes, hour and a half before we take a
7 break. I have a real simple rule, if I want to take a
8 break, we all take a break; works out great. If you sit
9 out here too long, your thoughts get to wandering, please,
10 please, raise your hand, y'all will take y'all's break, we
11 will take ours. This is not a judicial marathon. Again,
12 it's an important case. It's an important case to Mr.
13 Hopkins; it's an important case to the State of South
14 Carolina. I assure you if your thoughts start to wander,
15 you need a break, you're probably not the only person in
16 the jury box or in the courtroom that needs the same. So
17 any time anyone of you needs a break for any reason, just
18 raise your hand, y'all will take y'all's break, we will
19 take ours.

20 Any objections to anything I've told the jury from
21 the State, Solicitor?

22 MS. MAYES: None from the State, Your Honor.

23 THE COURT: Defense, Mr. Williams?

24 MR. WILLIAMS: Nothing from the defendant, Your
25 Honor.

1 THE COURT: Thank you. Thank you very much.

2 Solicitor, you may address the jury.

3 MR. CASKEY: Thank you, Your Honor; Mr. Williams.

4 May it please the Court?

5 THE COURT: Yes, sir.

6 **OPENING STATEMENTS**

7 MR. CASKEY: As the judge has said, this is the
8 part of the trial or the proceeding, where we start with
9 opening statements. And as you've probably seen in
10 television and the movies, this is the part where I kind of
11 give you a preview of what's to come and tell you about the
12 case that's before you this week.

13 And I'll be honest, ordinarily, I would stand in
14 front of you and tell you an interesting story and would
15 share a compelling quote, all to get your attention. But
16 some things are different. Some moments in life are
17 different, some experiences are different, things that we
18 do or hear or see, touch the very core of who we are as
19 human beings.

20 Ladies and gentlemen, up until this point, you have
21 been told only that this case is a homicide by child abuse.
22 Let's pause there for just a second.

23 Homicide, the killing of another, by child abuse.

24 There is no way that we can enter into this trial
25 without acknowledging that we will be touching on some

1 viscerally emotional moments. It's hard to do that. Your
2 attention will want to wander at various points and it's
3 human nature to turn your eyes from some of the facts that
4 you're going to see. I offer this to you by way of warning
5 that this case will be gruesome. It is brutal, it is
6 absolutely nothing short of a horror story.

7 This case began, in essence, in November, 2013. A
8 baby boy named Minor [REDACTED], what everybody
9 called him, he lived with his mother, Sabrina Haynes, some
10 people will call her Penny along the way, and the
11 defendant, Joshua Hopkins. They were living at [REDACTED]
12 [REDACTED] in West Columbia, the Springdale area, just
13 off of Platt Springs Road between Zestos and Springdale
14 Town Hall.

15 They were staying, the evidence will show, at the
16 home of Penny's aunt, Sabrina's aunt, Priscilla in an
17 upstairs bedroom. On the morning of November 27th, 2013,
18 just one day before Thanksgiving, Sabrina left for work at
19 McDonalds in the early morning hours. I think the evidence
20 is going to show that she clocked into work at 6:01 a.m.

21 At 9:30 a.m., a 9-1-1 call is placed from the home
22 to 9-1-1. In fact, after we're done with opening
23 statements, you're going to hear that 9-1-1 call. You're
24 going to hear the absolute absence of caring. You're going
25 to hear Mr. Hopkins on the phone trying to click over while

1 he's on the line with 9-1-1. Medical workers from
2 Lexington County EMS are going to take the stand and
3 they're going to tell you what they saw when they got
4 there. A boy who was unresponsive, who was in cardiac
5 arrest. And they're going to tell you about what they did
6 that day. They're going to tell you how difficult it was
7 to perform a standard medical procedure because of the
8 condition of the boy's body. Pay very close attention.

9 You're going to hear from doctors who were at the
10 hospital that day and they're going to tell you, for
11 example, that his body at the time that it was taken into
12 the emergency room was 89 degrees. You're going to hear
13 from law enforcement. They're going to tell you about the
14 investigation that ensued. You're going to hear what State
15 Law Enforcement Divisions Crime Scene Unit found. You're
16 going to hear what other officers found.

17 You're going to hear from some of the agents at
18 SLED who were assigned to the child fatality task force.
19 They're going to tell you about their involvement in this
20 case. You're going to hear that over the course of their
21 investigation, they talked to the defendant multiple times.
22 And you're going to hear the tangled web of stories he
23 gives them. Pay very close attention to those stories.

24 You're going the hear from some of the State's
25 leading medical experts, forensic pathology, forensic

1 pediatrics. They're going to tell you ultimately about the
2 cause of death of Minor that Minor died, ultimately, from a
3 medical condition known as a fat embolism. They'll explain
4 that to you. And they'll also explain to you that that
5 little boy was beaten so savagely that it dislodged and
6 caused his heart to stop beating.

7 And ladies and gentlemen, I don't know any other
8 way to put it, but you're going to have to look at pictures
9 of his beaten body. You are going to look at the bruises
10 and we're going to ask you to look carefully because
11 there's chronic bruising you will see and acute bruising
12 you will see from a very recent attack. An attack that
13 occurred on November 27th, 2013, Minor last moments.

14 Along the way, you're going to hear some things
15 about Sabrina Haynes. You're going to end up hearing that
16 she, in fact, is charged in the case too. Her day in court
17 will come, but this week, this trial is about Joshua
18 Hopkins and he alone. Her day is another day. The only
19 issue before you this week is the guilt of Joshua Hopkins.
20 And as the judge mentioned along the way from time to time,
21 you will see us lawyers objecting, I'm sure. You wouldn't
22 want anyone to come to the courthouse and not see some
23 lawyering happen. But don't let that mislead you or
24 discourage you from focussing on the facts of an absolutely
25 horrific case. That is the duty that you have been called

1 to do. Because at the very end of this case, you're going
2 to have an opportunity that no one else has. You're going
3 to have the opportunity to tell the world that Joshua
4 Hopkins is guilty.

5 I appreciate your attention and ask that you focus
6 throughout this trial, particularly so when it's most
7 difficult. Thank you.

8 THE COURT: Thank you. Thank you, Solicitor.
9 Mr. Williams?

10 MR. WILLIAMS: May it please the Court?

11 THE COURT: Yes, sir.

12 MR. WILLIAMS: Mr. Foreman, ladies and gentlemen of
13 the jury, I also want to -- well, you didn't have a choice,
14 but I want to thank you for being here. It's going to be a
15 long trial. There's no way to say it, it's going to be a
16 long trial. It's probably going to be something you don't
17 want to spend your week doing, but it's a thing that you as
18 good citizens, it's a thing that we all should do because
19 we have that obligation underneath the system that we're
20 in, which is a democratic system, a jury system, to do.
21 Wouldn't have it any other way.

22 And, you know, one of the things that I thought
23 about, you know, there's something new for me in every case
24 that I try, which is great, because when I first started
25 practicing law, it was like you'd come up with these things

1 you'd say and then the next trial, you'd say these things
2 and you try to make it similar, and I know a lot of times
3 young lawyers come up here and they try to think of a --
4 they'll start off with a story. I think you heard the
5 solicitor say that, or they'll come up with some kind of
6 quote, but what the truth is, the older I get, the more I
7 learn. You don't forget learning.

8 I've been doing this 40 years and you learn more
9 about things and about how the system works. I think the
10 judge was explaining to you what the system is all about
11 and why it's set up this way and how the burden of proof is
12 always on the State and how the defendant doesn't have
13 anything that he has to prove, doesn't have -- I don't even
14 have to give an opening statement. You don't really
15 appreciate that until you get involved here and start
16 trying a case, perhaps trying a case like this; because,
17 you know, I always wondered, you know, what the jury thinks
18 they're supposed to do, you know. This isn't -- y'all
19 don't have an obligation to solve a mystery. It's not --
20 you don't have an obligation to fill in a puzzle and answer
21 all the right answers to the questions.

22 And it didn't strike me, it really didn't hit me
23 and it's embarrassing to say this, until this morning, that
24 you -- as jurors, you don't have to answer the questions.
25 You only analyze the evidence. And I realized while I was

1 thinking of this because of this particular case that we're
2 dealing with.

3 This case, you actually had two people charged.
4 You actually had two people charged with a homicide by
5 child abuse and you also had the charge of aiding and
6 abetting because you set up these things and then you tend
7 to present that evidence which will tend to prove the guilt
8 of the person charged or the lack thereof. So you start
9 off with a proposition that at least there are two charges,
10 there are at least two people who have been charged with
11 this case and which you'll also learn through this long
12 ordeal -- and I keep saying it's long, for me it's long.

13 It may not be long for you because it may be that
14 interesting for you. But you'll find out that, that a
15 person is arrested. And they are. When charges that are
16 made, there's a warrant which is brought. When that
17 warrant is brought and the person is arrested, it doesn't
18 mean the person's guilty, it means that someone is accusing
19 somebody of doing something and then after they are accused
20 of doing something, then there is an indictment which is
21 brought, which doesn't mean they're guilty, it means that
22 that's the procedure for which you twelve or twelve plus
23 two jurors, depending on which -- if two drop off, that you
24 determine the guilt of the person charged -- or innocence.

25 This particular case starts out with an allegation

1 that something happened to that poor child and no one is
2 arrested for months, for months. And that's important to
3 remember because even in the indictments, the indictments
4 don't give you a date and time that a person is arrested
5 for this type of charge. It says between the two time
6 periods of and it gives you a time from such and such to
7 such and such. And the reason why that's important is
8 because when you look at pictures of this child, you may
9 want to substitute yourself for being a doctor. You may
10 want to substitute yourself and what you think happened
11 with a body, with that of being a doctor. And that's what
12 you kind of have to stay away from -- I don't think we have
13 any doctors out here, but you're all coming in here and
14 you're analyzing the evidence is what you're doing and
15 that's why the judge kept telling you that you determine
16 what the truth is based on the -- or the truth of the facts
17 because you're not determining the truth, you're
18 determining whether or not what the facts are in this case
19 and you're applying those facts to the law as His Honor
20 gives you.

21 But you determine who's saying what. What do they
22 have to gain? What do they have to lose? You don't have
23 to come up with the person responsible for this small
24 child's death. As much as you would like to, I mean who
25 wouldn't like to do that? I mean, the solicitor told you

1 about it being an emotional thing. Of course it is. We
2 would all like to come up with the cause of death for this
3 child and the person responsible for the death of this
4 child. But you don't get to just pick out somebody and put
5 it on him. It has to be proven. And I hope that you
6 recall that as we go through this.

7 Because what you'll learn is not only does it take
8 months before someone's arrested, they don't even come up
9 with the cause of death for quite some time and then they
10 call it something known as FES, which you'll learn from the
11 doctor has to do with trauma, fat embolisms or getting into
12 the circulatory system.

13 I want you to pay attention to what every witness
14 says, whether that witness is an expert witness or a lay
15 witness. When I talk about expert witnesses, the judge
16 will charge you later on that because of the type of
17 testimony that certain people give you that they are
18 qualified as experts because they have that educational
19 background. But you still have to evaluate that evidence.

20 The story you will hear is obviously about this
21 poor child who was almost turning three, would have been
22 three, I think maybe two or three more months later. But
23 he was under three and he was not the child -- he was not
24 the son of my client, Mr. Hopkins. He was the son of
25 another person who was charged with this offense. And

1 you'll learn that my client was living with this woman and
2 something happened to the child and because he was staying
3 with that woman that he gets charged also, eventually. So
4 remember you're not here to solve a puzzle. It's not up to
5 you to find the answer to the question. It's up to you to
6 evaluate the evidence and determine whether or not they
7 have the evidence to prove the guilt of my person charged
8 because there's somebody else charged with this case also.
9 You're trying my client today, Joshua Hopkins. You're not
10 trying anybody else's client. You're not speculating on
11 anything.

12 I apologize for what you're going to have to see,
13 but -- I shouldn't apologize for it. It's your job, just
14 like it's my job to represent my client. I'd ask that you
15 do -- that you remain that fair and impartial person that
16 you were when you were sworn in and I think you -- I'm
17 pretty sure you will because I've looked at the jury that
18 we have up here today, you're an excellent jury. You come
19 from all walks of life, all ages, all backgrounds, you
20 bring everything to the table and that's what you want
21 because with the collective knowledge of all of y'all, I'm
22 sure that you will evaluate this case correctly. Thank
23 you.

24 THE COURT: Thank you. Thank you, Mr. Williams.

25 MR. WILLIAMS: Thank you, Your Honor.

1 THE COURT: Solicitor, you may call your first
2 witness.

3 MS. MAYES: May it please the Court, the State
4 calls Nikki Rodgers.

5 THE COURT: All right. Ms. Rodgers, if you would
6 come around and join us, please.

7 Mr. Foreman, ladies and gentlemen, a number of
8 witnesses I have ordered to be sequestered. They're not in
9 the courtroom; they're not in the courtroom until their
10 called. That's no disrespect to you in any manner. That's
11 based on my prior ruling.

12 (There was a bench conference between the bailiff
13 and the Court.)

14 NIKKI RODGERS,
15 having been duly sworn, testified as follows:

16 THE CLERK: If you'll have a seat over here. State
17 your name, please and spell your last for the record.

18 THE WITNESS: Nikki Rodgers, R-O-D-G-E-R-S.

19 THE COURT: Give me just a moment, Solicitor.
20 Good afternoon, Ms. Rodgers Rogers.

21 THE WITNESS: Thank you.

22 THE COURT: Mr. Foreman, ladies and gentlemen, I
23 understand some of you may want to take notes.

24 THE FOREPERSON: Yes, sir.

25 THE COURT: All right. Will you get the supplies?

1 Or does the Court have the supplies?

2 All right. I -- you may take notes during the
3 trial of this case; however, please remember that some
4 people are better note takers than others. Jurors notes
5 should not be given any greater weight than the
6 recollection of any other juror. The recollection of
7 individual jurors should be considered as reliable as notes
8 taken by any other juror.

9 I would also advise you that when you're taking
10 notes, you may not notice body language or the demeanor of
11 the witness, which would be used by you in determining and
12 deciding the credibility of witnesses. Further, during the
13 breaks, I would ask you if you take notes, write your juror
14 number down on the front page of the note or on the back
15 and when we take breaks or luncheon recess or evening
16 recess, just leave them upside down on your chair and they
17 will be secured by the clerk's office during those periods
18 of time.

19 In other words, you can't take your notes to the
20 jury room until the case has been submitted to you for
21 your -- you can't take them out of the courtroom, for that
22 matter, until it's been submitted to you for your
23 deliberations, but if any of you want notes, Mr. Bailiff,
24 you may provide notes and pencils or pens, what have you.

25 (The supplies were provided to the jury for note

Nikki Rodger - Direct Examination by Ms. Mayes

1 taking.)

2 THE COURT: And just one further thing I neglected
3 to tell you in my opening remarks, from time to time you
4 will see me on my computer. I don't tweet, I don't repeat,
5 I'm faceless, I don't know what snapchat is, none of that.
6 These are very good -- they've all appeared in front of me
7 in the last -- very good trial lawyers. And from time to
8 time I may think I see up in the distance of that dusty
9 bumpy trail a legal issue and I will do legal research. I
10 stay focused on the trial of the case throughout the trial
11 of the case.

12 If it annoys you, please let me know. I actually
13 had a juror say I annoyed that juror. I blamed it on my
14 computer, but I could have just been annoying. But, please
15 let me know if it distracts you in any manner.

16 Thank you, thank you very much, Solicitor, you may
17 continue.

18 MS. MAYES: Yes, sir, Your Honor.

19 **DIRECT EXAMINATION**

20 BY MS. MAYES:

21 Q Would you state your full name for the record?

22 A Nikki Rodgers.

23 Q And tell us where you are employed and in what
24 capacity?

25 A I'm employed with Lexington County 9-1-1

Nikki Rodger - Direct Examination by Ms. Mayes

1 communications and I'm the communications chief there.

2 Q All right. 9-1-1 communications. Tell us what
3 services they offer to the County of Lexington.

4 A Lexington County 9-1-1 is a consolidated 9-1-1
5 center. We provide emergency services for fire, EMS, and
6 law enforcement, for the citizens of Lexington County. We
7 dispatch for the sheriff's department, eleven municipal
8 police departments, Lexington County EMS, Lexington County
9 Fire Service, Irmo Fire district, West Columbia Fire
10 Service and Batesburg-Leesville Fire Service. We also take
11 all 9-1-1 calls within the municipality boundaries and the
12 County jurisdiction except for Cayce, West Columbia, and
13 Batesburg.

14 Q Now, when we talk about 9-1-1 calls, does the
15 communications center have a way of tracking 9-1-1 calls?

16 A 9-1-1 calls come into the center and everything is
17 recorded and everything is logged, yes.

18 Q And do you also have a mechanism that will signify
19 to you what number is calling you?

20 A When you make a 9-1-1 call, that information is
21 sent from your telephone to the 9-1-1 center. For landline
22 calls, that is your hardwire telephone call from your home
23 or your business, that gives us the exact location and your
24 telephone number; and whoever the information of the date
25 and a time that you made that call.

Nikki Rodger - Direct Examination by Ms. Mayes

1 If it's a wireless call from a cell phone provider,
2 we do not get the location of that call, we get the
3 location of the tower and then it's triangulated to give us
4 a radius around the point in which you are calling, so it's
5 not an exact location, but landline phones are exact.

6 Q Now, at the communications center, are records
7 pertaining to 9-1-1 calls maintained in the ordinary course
8 of business?

9 A We do, we maintain 9-1-1 recordings for ninety days
10 and 9-1-1 reports or CAD reports, what we call Computer
11 Aided Dispatch logs for five years.

12 Q And who has access to such records as a custodian
13 of records, including audio recordings?

14 A I am the keeper of the record and we receive
15 requests all the time requesting -- from police
16 departments, lawyers, EMS providers, even insurance
17 companies, all that kind of thing.

18 Q Now, did you receive a subpoena or a request in
19 this case to access audio recordings pertaining to a 9-1-1
20 call that was made on November 27th, 2013?

21 A Yes, ma'am.

22 Q And is it the regular practice of the
23 communications officer to maintain these records or data?

24 A Yes.

25 Q And specifically in this case, can you tell us

Nikki Rodger - Direct Examination by Ms. Mayes

1 whether or not an audio recording of that 9-1-1 call was
2 maintained?

3 A It was.

4 Q Have you had an opportunity to review that call?

5 A Yes.

6 Q I'm going to show you this item which is marked as
7 State's Exhibit Number 61 and ask you whether or not you
8 recognize it and if you do, how so?

9 A Yes, ma'am. It has my initials on it.

10 Q Okay. And can you tell us, Ms. Rodgers whether you
11 had an opportunity to listen to the recording as it's
12 contained here with your initials?

13 A I did.

14 Q Can you tell us whether or not it's a fair and
15 accurate representation of the original recording?

16 A Yes, ma'am, it is.

17 MS. MAYES: Your Honor, at this time, we would
18 offer the 9-1-1 call as evidence.

19 MR. WILLIAMS: Without objection, Your Honor.

20 THE COURT: State's 61 is in evidence without
21 objection.

22 (State's Exhibit Number 61 was entered into
23 evidence.)

24 BY MS. MAYES:

25 Q Before I actually publish this, Ms. Rodgers, I want

Nikki Rodger - Direct Examination by Ms. Mayes

1 to ask you whether or not in addition to the audio
2 recording, you actually have call records as well?

3 A We do.

4 Q Have you had an opportunity to review the call
5 record associated with this case?

6 A Yes, ma'am.

7 Q I'm going to move over here and ask you whether or
8 not you have a copy of that call record with you today?

9 A I do.

10 Q And specifically, we're talking about a call that
11 is associated with an address which is [REDACTED]?

12 A Yes, ma'am.

13 Q And specifically a call which was made on November
14 27th, 2013.

15 A Yes, ma'am.

16 Q What time, Ms. Rodgers, was that call received at
17 the 9-1-1 center?

18 A The time the call was received was at 0930 and 29
19 seconds.

20 Q All right. And do the records tell you whether
21 we're talking a.m. or p.m.?

22 A It is a.m.

23 Q All right. So 9:30 a.m. is the time that the call
24 was received there at the communication center?

25 A Correct.

Nikki Rodger - Direct Examination by Ms. Mayes

1 Q And then do the records also tell you the time in
2 which the first unit -- well, first of all, let me ask you
3 this --

4 A Okay.

5 Q -- once the 9-1-1 call is received, what action is
6 taken if, for example, someone needs an ambulance or
7 requests an ambulance?

8 A The 9-1-1 call taker will answer the phone and
9 gather the information such as what emergency service is
10 needed, the location of the call and any other call
11 information: The callers name, phone number verification,
12 and then they go through and ask what is going on,
13 basically to be able to translate that stuff or that
14 information to the responders and that is all entered into
15 the computer and date and time stamped.

16 Q All right. And in this particular case, was an
17 ambulance or EMS, emergency medical services, sent out to
18 the location of [REDACTED]?

19 A Yes.

20 Q And do the records tell you what the time was for
21 the first EMS unit to arrive?

22 A The first EMS unit arrived at 9:42 and 27 seconds
23 and that's a.m.

24 Q Now, before we listen to the call -- I know you
25 said you had an opportunity to review it, what, if any

Nikki Rodger - Direct Examination by Ms. Mayes

1 mechanism is in place through the 9-1-1 system to keep a
2 caller focused or to prevent any distractions that may come
3 about during a 9-1-1 call?

4 A Once you make a 9-1-1 call, you're locked into that
5 call until it is disconnected from the 9-1-1 center. So
6 they have to stay on the line with you and that prevents
7 them from trying to disconnect the call or the call
8 disconnecting -- having the chance of it disconnecting.

9 Q All right. What if someone else called in through
10 call waiting while someone's on the phone with 9-1-1?

11 A You are locked into that call with the 9-1-1
12 operator, so you wouldn't be able to take that secondary
13 call or your call waiting.

14 Q All right.

15 MS. MAYES: Your Honor, at this time, the State
16 would request permission to publish the 9-1-1 call.

17 THE COURT: You may publish it.

18 BY MS. MAYES:

19 Q And also let me ask you, what if any, measures are
20 taken to preserve the actual time of the call? Is there
21 anything that is heard over the call that records for
22 posterity the time the call is being made?

23 A Our recording system does that all in the
24 background and it date and time stamps the recordings as
25 they are recorded and after 90 days they're automatically

Nikki Rodger - Cross-Examination by Mr. Williams

1 recorded over. It's a digital system.

2 (The 9-1-1 call is being played for the jury.)

3 BY MS MAYES:

4 Q So in response to that call, the dispatcher sends
5 the EMS unit out to the residence; is that correct?

6 A Yes, ma'am.

7 Q And in this case, the call is that his son was not
8 responding?

9 A Correct..

10 Q And the numerous attempts we heard to click over or
11 to switch lines was unsuccessful due for -- for what
12 reason?

13 A Due to that caller calling into 9-1-1, it would not
14 let them take the caller waiting function of their phone.

15 MS. MAYES: Beg the Court's indulgence.

16 THE COURT: Yes, ma'am.

17 MS. MAYES: Nothing further at this time.

18 THE COURT: Thank you, thank you, Solicitor.

19 Mr. Williams?

20 MR. WILLIAMS: May it please the Court?

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION.

23 BY MR. WILLIAMS:

24 Q You have a list there, of phone calls that were
25 made on that particular day from that number?

Nikki Rodger - Cross-Examination by Mr. Williams

1 A I actually have the CAD report which is the
2 Computer Aided Dispatch Report. It's specifically a record
3 of that particular call.

4 Q All right. Can you tell from looking at your CAD
5 report if there's -- there was more than one phone call to
6 9-1-1 on that particular day?

7 A Not this specific record, but we could pull that
8 report to see if there were multiple calls.

9 Q Did you check before you came to court today to see
10 whether or not there was more than one phone call to 9-1-1
11 on that particular day?

12 A No, sir.

13 Q Did you check to see if there had been more than
14 this one 9-1-1 call on that particular day, maybe within
15 the last two weeks prior that or any time within the two
16 weeks prior to that?

17 A When the request for the information is made, it's
18 usually specific and gives the exact date and time that
19 they want. That is the only information that we pull.

20 Q So no one requested that you pull all the 9-1-1
21 calls for that location or for that phone number -- well,
22 you go by location, don't you?

23 A Location.

24 Q So no one has requested that?

25 A Well, this request would have been for all the

Nikki Rodger - Cross-Examination by Mr. Williams

1 telephone recordings in regard to this particular incident,
2 this particular 9-1-1 call, so if there were multiple calls
3 made, they should all be on that one recording.

4 Q But you would have a CAD report that would show
5 what the other phone calls were also, wouldn't you?

6 A Correct.

7 Q And you haven't checked to see if there were other
8 phone calls? The request that you got -- maybe we can --

9 A Yes.

10 Q -- be even clearer than that. The request that you
11 got was, Please send me a report of a 9-1-1 call on that
12 particular day at that particular time at this particular
13 address?

14 A In regards to this report, yes. Because it's an
15 event and an event -- I have not only the initial 9-1-1
16 call, but I have also the law enforcement dispatch, the
17 fire dispatch, the EMS dispatch, so I have actually more
18 than one report.

19 Q All right. So you have reports where you contact
20 what, the ambulance; and you contact law enforcement also?

21 A Correct.

22 Q But did anyone check to see if there's been another
23 9-1-1 call made to this particular location on that
24 particular day?

25 A No, sir.

Nikki Rodger - Cross-Examination by Mr. Williams

1 Q And there could have been?

2 A There could have been.

3 Q And all you would have to do to determine that
4 would be basically take the location and see how many 9-1-1
5 calls had been made to that location?

6 A It usually gives us all the event history for that
7 location or that address.

8 Q And you could have -- someone could have asked for
9 that and it would have been produced?

10 A Absolutely.

11 Q Now, the clicking in this particular case -- I
12 think you've already described that the fact that when
13 someone else is calling in on the phone that it will not
14 release the phone call and I guess we heard that going on
15 in that particular call?

16 A Right.

17 Q That wasn't you on the 9-1-1, was it?

18 A It was not.

19 Q Somebody else working for the 9-1-1?

20 A Yes, sir.

21 Q Do you -- is it standard practice not to explain to
22 the person calling in what's going on?

23 A We actually just try to get them to give us more
24 information and we do not explain all of that. That
25 actually -- if we can get the information that we need out

Nikki Rodger - Cross-Examination by Mr. Williams

1 of them, it's really hard for us to give them any
2 additional information because they're really just in a
3 mode of, they need help.

4 Q So whoever was on that -- whoever was on that 9-1-1
5 just basically had no idea what was happening on that
6 phone?

7 A Correct.

8 Q Now --

9 A And if they did, they shouldn't have told him to
10 try to click over, they should have tried to keep them in
11 that phone conversation, so we wouldn't explain any of that
12 to them.

13 Q Right. But now y'all -- do you explain it now to
14 people --

15 A No.

16 Q -- so if that happens they're not just sitting
17 there trying to --

18 A No.

19 Q Okay. Now, the -- in terms of how you notify
20 individuals or -- being like the ambulance or the law
21 enforcement, how did you know which emergency -- I guess
22 ambulance, to send to that location?

23 A For the ambulance, we have a system that actually
24 tells us the closest ambulance to that location, so based
25 on the time of day, previous call volumes during that time

Nikki Rodger - Cross-Examination by Mr. Williams

1 period, it is called a Marvelous System. And what it does
2 is track time of day, day, hour, the week, and it basically
3 tells you where you are most likely going to get another
4 call, in what we call like a hot spot area.

5 Based on that, you get a call for service, it pins
6 it on the map, it tells you what ambulance is closest to
7 that particular location to get the quickest ambulance
8 there.

9 Q Now, is there any specialization by that, meaning
10 are there different ambulance EMT people more qualified
11 depending on the type of injury that the person has or that
12 the alleged -- the victim or a person has?

13 A In Lexington County, until July of this past year,
14 2016, or the year that we're in, all ambulances had an EMT
15 and a paramedic on board. So they were all equally
16 trained. They're trying to do more staffing of EMS and I'm
17 sure you can get the EMS person to give you more
18 information on this, but we are using a different system
19 currently, in 2016, that prioritizes calls and gives you a
20 higher priority if you're having a heart attack versus a
21 lower priority if you have a hangnail. And based on that,
22 you will get the appropriate response based on the level of
23 training that the EMT or the paramedic has.

24 Q So in the future, you'll be able to pick out an
25 ambulance or an EMT group that's more able to handle

Nikki Rodger - Cross-Examination by Mr. Williams

1 whatever emergency you have, plus it will be expedited in
2 terms of how quick it gets to the location?

3 A Depending on the priority of the call, yes.

4 Q Should the person on the phone have talked about
5 how old the person -- how old the victim was?

6 A They should have and the 9-1-1 operator should have
7 asked that information.

8 Q And they didn't ask that information?

9 A They did not.

10 Q So essentially, you've got whoever is closest going
11 to that location without really knowing what the situation
12 was, how old the victim was, other than the fact that the
13 child appeared to be having some sort of issue?

14 A Well, they do get the information that is -- as
15 soon as we're entering it in the computer, it's coming out
16 in the ambulances computer also. So they're able to see
17 that it is a child and it's, as they said, they were unsure
18 sure of what was going on. And since we dispatched for
19 Springdale, they're pretty close also.

20 Q Thank you, ma'am.

21 A Thank you.

22 THE COURT: Redirect, Solicitor?

23 MS. MAYES: Yes, sir, Your Honor.

24 ///

25 ///

Nikki Rodger - Redirect Examination by Ms. Mayes

REDIRECT EXAMINATION

BY MS. MAYES:

Q Do you recall a reference during the call of the child being two?

A Oh, I did not.

Q Now, let me clarify a little bit more about Mr. Williams's question to you regarding a request that you receive for event history. For example, this is a call that was made on November 27th, 2013, for an event or incident at [REDACTED]. Now, when you receive a request, are you able to look and see how many calls are made that day to that address?

A Yes.

Q All right. And normally would you provide any other calls associated with this event?

A Yes.

Q And how many calls did you find and actually document?

A One caller.

Q And this one call came from what number?

A It came from 803-926-1070.

Q 1070?

A Yes.

Q And are you able to tell from looking at that document whether that's a cell phone or a landline?

Nikki Rodger - Redirect Examination by Ms. Mayes

1 A It is a landline.

2 Q All right. And are you able to determine an
3 address associated with that landline?

4 A Yes.

5 Q What --

6 A [REDACTED].

7 Q All right. And are you given a name of the caller?

8 A He stated his name which was Josh Hopkins. The
9 phone is registered or has the name tagged from the
10 telephone company as Priscilla Geiger.

11 Q Okay. And I also wanted to ask you about the
12 dispatching of an EMS unit out there. If you had received
13 other calls earlier before that call and had an EMS unit
14 already en route or at the scene, would your dispatch have
15 a way of knowing that?

16 A Yes, ma'am.

17 Q All right. And based upon all of your records and
18 the communications contained in this case, that unit that
19 arrived at 9:42, was that the first unit at the scene?

20 A That was the first unit at the scene.

21 Q And when you checked the history for this event,
22 did you find any other call associated with [REDACTED]
23 [REDACTED] on November 27th, 2013?

24 A No, ma'am.

25 MS. MAYES: Nothing further.

Nikki Rodger - Recross-Examination by Mr. Williams

1 MR. WILLIAMS: Just a couple of questions.

2 THE COURT: Mr. Williams.

3 **RECROSS EXAMINATION**

4 BY MR. WILLIAMS:

5 Q Now, again, you were not the person working for
6 9-1-1 on that particular night; is that correct?

7 A I was not the call taker.

8 Q You were not the call taker?

9 A Correct.

10 Q So whoever took this call is an individual that
11 would know exactly what that person did on that particular
12 night, correct?

13 A Yes.

14 Q And when you were researching this -- it's my
15 understanding that you said you didn't check to see if
16 there'd been other -- any other phone calls made from that
17 location on that particular night?

18 A When we get the call -- the request for calls, we
19 check for any calls related to an incident, so there's no
20 other calls related to this incident from that location for
21 that date and location.

22 Q Could there have been other phone calls made to
23 9-1-1 on that particular day from, from that location?
24 Maybe not the same incident but for that location?

25 A They would each have a call document and there's no

Nikki Rodger - Recross-Examination by Mr. Williams

1 other call documents for that location for that date in
2 this incident.

3 Q All right. Say that again.

4 A They would each have a call record, a call of
5 record if you want -- a 9-1-1 record --

6 Q Right.

7 A -- if they called. And they do not.

8 Q Did you check to see if there were other 9-1-1 call
9 records?

10 A Yes. For this incident, yes.

11 Q For that day and that time?

12 A Yes.

13 Q For that day and that time at that location?

14 A Basically you put in the Oakland Avenue and no
15 numerics, just Oakland Avenue on that date, all day long,
16 2359 hours --

17 Q Okay.

18 A -- 23.59 hours.

19 Q Okay.

20 A And these are all the call records that come up is
21 this one.

22 Q May I see what you're referring to?

23 A Sure.

24 (Mr. Williams is looking at the CAD Report.)

25 THE WITNESS: This is one for each -- it's all one

Nikki Rodger - Recross-Examination by Mr. Williams

1 caller, but multiple records because we dispatch for so
2 many agencies. So they share all the same call
3 information. One is for the fire service, one is for the
4 EMS, one is for the law enforcement, and one is a report
5 only for the EMS supervisor.

6 Q And the way that you know it's [REDACTED]
7 is because you pulled that off the landline?

8 A Correct. And the call taker verified the
9 information with the caller.

10 Q So if the phone number came from a cell phone, it
11 would not come --

12 A It would show.

13 Q The cell phone would show that?

14 A Yes, sir. The cell phone would not show the
15 address, the cell phone would show on this 9-1-1
16 information.

17 Q All right. But again, you tracked that phone
18 number down to that address based on -- or you went to the
19 address and then looked for the phone number?

20 A It's all one record.

21 Q Okay.

22 A But you can search it -- you can search it by very,
23 various different --

24 Q Okay.

25 A -- fields.

Nikki Rodger - Recross-Examination by Mr. Williams

1 Q If a cell phone number had been used for 9-1-1 --

2 A It would have came up --

3 Q -- it would have come up with the same address?

4 A Correct because we're -- this is the call record
5 after the dispatcher has sent someone to the location.

6 Q After they've sent someone to the location?

7 A Correct.

8 Q But not before?

9 A Correct.

10 MR. WILLIAMS: That's all the questions I have,
11 Your Honor.

12 THE COURT: Thank you. Thank you very much,
13 Ms. Rodgers. Thank you for being with us this afternoon.

14 THE WITNESS: Is that it?

15 THE COURT: Yes, ma'am, you may step down.

16 THE WITNESS: Thank you.

17 THE COURT: Any objections to Ms. Rodgers being
18 excused?

19 MS. MAYES: None from the State, Your Honor.

20 MR. WILLIAMS: None from the defendant, Your Honor.

21 THE COURT: Thank you, Ms. Rodgers.

22 All right. Solicitor?

23 MR. CASKEY: Thank you Your Honor, the State would
24 call Sergeant Timothy Tucker.

25 THE COURT: All right. If you'd come around and be

Timothy Tucker - Direct Examination by Mr. Caskey

1 sworn for us, please.

2 TIMOTHY TUCKER,

3 having been duly sworn, testified as follows:

4 THE CLERK: If you'll have a seat over here,
5 please. State your name, please, and spell your last for
6 the record.

7 THE WITNESS: My name is Timothy Tucker.

8 **DIRECT EXAMINATION**

9 BY MR. CASKEY:

10 Q Sergeant Tucker, would you spell your last name for
11 the court reporter, please.

12 A Tucker, T-U-C-K-E-R.

13 Q Thank you. Sergeant Tucker.

14 If you would, please, tell the jury where you work
15 and what you do there.

16 A I'm a paramedic with Lexington County EMS. I've
17 been there since August 19th of 2013; and I moved here from
18 Horry County, where I was a paramedic/firefighter for Horry
19 County Fire and Rescue since January of 2006. And I had
20 moved from Roanoke, Virginia, where I'm originally from. I
21 moved to South Carolina back in 2003 from Roanoke,
22 Virginia.

23 Q And what did you do in Virginia?

24 A I got my bachelors degree in physical education and
25 sports medicine from Ferrum College, a little division 3

Timothy Tucker - Direct Examination by Mr. Caskey

1 school out in the mountains, the Blue Ridge Mountains. And
2 when -- as soon as I graduated from there, I went and got
3 my associates degree in emergency health sciences as
4 paramedic from the Jefferson College of Health Sciences in
5 Roanoke, Virginia.

6 Q So Sergeant -- am I correct in calling you
7 Sergeant? Is that your rank?

8 A Yes, sir, that's fine.

9 Q Okay. Sergeant Tucker, how long have you been in
10 emergency medicine?

11 A I've been -- I was an EMT basic in 1998 and I got
12 my national registered paramedic and state certification in
13 the State of Virginia in 2000 and then Virginia and South
14 Carolina, North Carolina, and Georgia, these all
15 participate in the national registry, so I can apply for
16 reciprocity so when I move state lines, I just became a
17 South Carolina state paramedic.

18 Q Let me just pause you there.

19 A Okay.

20 Q If you would, please, explain to the jury what you
21 mean by EMT basic and EMT paramedic, I think you said.

22 A Yes, sir. EMS is divided up into various different
23 levels of training. It's all acronyms, EMT meaning
24 emergency medical technician and then there's a letter
25 behind it. The basic one is EMT B which is EMT basic,

Timothy Tucker - Direct Examination by Mr. Caskey

1 which is pretty self-explanatory. It's a basic
2 certification, primarily just vital signs and, you know,
3 stopping major bleeding or anything like that and just
4 basically transport.

5 And then the next level, the EMT intermediate
6 which, again is self-explanatory. It's a little bit more
7 training. And then the highest training is EMT paramedic,
8 which is what I am. Basically I'm an extension -- I am an
9 extension of my medical director. In Lexington County EMS,
10 my medical director is Doctor Denato.

11 Q Okay. Sergeant Tucker, if you would, please, tell
12 the jury about your training as it pertains to emergency
13 medicine and particularly any certifications that you hold.

14 A Can you -- explain again, now.

15 Q Talk about your training as an EMT paramedic.

16 A Sure. And this is not -- this is not required.
17 You can get your paramedic with -- by just going to a local
18 community college. I went to a private school and got
19 another two year degree on top of the four year degree I'd
20 gotten before in physical education. In that time, we have
21 to have certain certifications.

22 Q And which ones do you hold, Sergeant Tucker?

23 A I hold -- the American Heart Association. We have
24 to get these renewed every two years. Number one we get is
25 ACLS, which stands for Advanced Cardiac Life Support; PALS,

Timothy Tucker - Direct Examination by Mr. Caskey

1 which is Pediatric Advanced Life Support; EPC, which is
2 Emergency Pediatric Care; PEP, which is Prehospital
3 Emergency Pediatric Care; there -- it's -- CPR, obviously,
4 that's a basic one; trauma, we have a PHTLS, which is
5 Prehospital Trauma Life Support; oh goodness --

6 Q Just -- I don't mean to interrupt you, but let me
7 just make sure I've got -- your pediatric advanced life
8 support, cardiac advanced life support, immediate --
9 emergency pediatric care, those are some of the pertinent
10 ones?

11 A Yes, sir, yes, sir.

12 Q Okay. So is it accurate to say that you have over
13 16 years, I think if I did the math right, experience as a
14 learned medical professional?

15 A Yes, sir.

16 Q Let me just go ahead and jump us into November
17 2013. Where were you employed at this time?

18 A November, 2013?

19 Q Yes, sir.

20 A Lexington County EMS.

21 Q Okay. And what did you do at that time?

22 A I was a sergeant rank of paramedic, a crew chief,
23 so I would have -- I'm the crew chief of my truck and I
24 have a EMT basic partner with me who is essentially my
25 assistant and my driver and I was basically -- I was in

Timothy Tucker - Direct Examination by Mr. Caskey

1 charge of that truck.

2 Q So you're the crew -- you're the supervisor of a
3 crew that is yourself and an EMT basic?

4 A That is correct.

5 Q Okay. Let me ask you, on November 27th, 2013, did
6 you have occasion to respond the [REDACTED]?

7 A Yes, sir.

8 Q All right. Do you know the time of your response?

9 A I just have to defer back to the -- to the actual
10 CAD report.

11 Q Let me pause just one second. Let me just see what
12 you've got there in front of you.

13 All right. You recognize this document?

14 A Yes, sir.

15 Q Feel free to refresh your memory with those.

16 A What time did -- you asked what time did we
17 respond?

18 Q Yes, sir.

19 A We were en route at 9 -- at 9:35, it's 9:35:33.

20 Q Okay. What time did you arrive on location?

21 A We arrived at 9:42:27.

22 Q All right. That location, is it Lexington County?

23 A Yes, sir.

24 Q Okay. Now, when you arrived initially, what was
25 your understanding of the situation you were walking into,

Timothy Tucker - Direct Examination by Mr. Caskey

1 based on the information you had available to you?

2 A We were dispatched to a sick child that -- which is
3 a generalization from dispatch. We'd like to get some
4 pertinent information from the call taker. They try to
5 give that to us, pass that onto us, that way we kind of
6 have a general idea of what we're getting into before we
7 get on scene, so we know what kind of equipment to grab.

8 We were dispatched to a sick person, so we didn't
9 really -- there was a few comments by the call taker that
10 said, caller stated son got out of the tub. Does not
11 appear normal. You know, not sure as to what is going on.

12 Q Okay.

13 A So that's what I saw. I have an on board computer
14 and that's what I read on my dispatch information.

15 Q All right. Now, if you would, Sergeant Tucker,
16 tell the jury what you saw and did as you first arrived on
17 location?

18 A Yes, sir. We pulled up -- my partner and I will
19 get out of the truck, go to the front door, knock on the
20 door. An adult male answers the door and he's holding a
21 child in pajamas.

22 Q Do you remember the adult male that you're
23 referring to?

24 A All I know is he was an adult male, a black male.
25 That's all -- and he was holding a small -- holding a

Timothy Tucker - Direct Examination by Mr. Caskey

1 child.

2 Q If you would, please, show the jury how the child
3 was being held.

4 A Like you were holding a child that's sleeping on
5 your shoulder. You know, just arms up here, just holding
6 your child, the child's head just laying there sleeping.

7 Q Okay. What happened at that point?

8 A You know I -- I said, did somebody call 9-1-1. And
9 he said yes. And then he -- he gave me his child. He gave
10 me the child. I assumed it was his child. I didn't know
11 whose child it was. But the male gave me the child and
12 then -- the child was very listless and just not even any
13 type of muscle response at all, so --

14 Q What do you mean by listless?

15 A Listless meaning, no muscle contractions, no
16 movement, no -- I didn't feel any breathing, I didn't -- I
17 can tell in some 16 years with EMS, I can tell, I get the
18 gut feeling.

19 Q Okay. What, if anything, was the child wearing?

20 A He was wearing onesie pajamas, it was pajamas that
21 had footies, it had a zipper, long sleeve pajamas, white
22 color -- whitish color, yes. Or light colored.

23 Q Sergeant, I'm handing you what's been marked as
24 State's Exhibit's 65. If you would, please, I'm going to
25 hand you some gloves. If you'll just take a look inside

Timothy Tucker - Direct Examination by Mr. Caskey

1 here and see if you recognize what this item is. I would
2 ask though, when you're taking a look at it, it's not
3 appropriate at this time to share it with the jury.

4 A Yes, sir. It's wrapped in a bag again. Outside of
5 ripping it, which I can do --

6 Q You can do that?

7 A Yes, sir.

8 Q Do you recognize that item?

9 A Yes, sir.

10 Q What does that item appear to be?

11 A That is the pajamas that the child was wearing.

12 Q And these were the pajamas the child was wearing on
13 the 17th when you responded to [REDACTED]?

14 A Yes, sir.

15 Q Okay.

16 A Do you need me to wear the gloves anymore or --

17 Q You can take those off.

18 A I didn't know if you had anymore evidence you
19 needed me to hold.

20 Q And you recognize that item from the day you
21 responded to the incident location?

22 A Yes, sir.

23 MR. CASKEY: Your Honor, at this time, we would
24 move State's 65 into evidence.

25 MR. WILLIAMS: Without objection, Your Honor.

Timothy Tucker - Direct Examination by Mr. Caskey

1 THE COURT: State's 65's in evidence without
2 objection.

3 (State's Exhibit Number 65 was entered into
4 evidence.)

5 BY MR. CASKEY:

6 Q Now, Sergeant Tucker, when you saw the child in
7 those clothes, if you would, please, take us through the
8 initial moments of your treatment. What did you observe
9 about the patient?

10 A The child was -- I remember -- vaguely remember the
11 comments on my on board computer that said that he'd got
12 on -- there was something about a tub and so I was
13 expecting a child to have some water on him or at least a
14 drop or something like that. I certainly wasn't expecting
15 it to be clothed. So I was -- but, you know, I didn't
16 think anything of it, I just let it go because sometimes
17 dispatch doesn't give us all the information or sometimes
18 things get lost in the translation. So I just let it go
19 for a minute. But it stayed in the back of my mind. It
20 was like, this seems weird, but okay. Let's keep going.

21 What I was really focused on was the fact that this
22 child was unresponsive and he was not breathing, so I
23 lowered him to the floor and he was dry. And he was fully
24 clothed, so -- you know, and -- you know, a lot of times
25 with EMS, you know, children --

Timothy Tucker - Direct Examination by Mr. Caskey

1 Q Take your time.

2 A It's hard to deal with kids.

3 Q Sergeant, was the patient breathing?

4 A No, sir.

5 Q Were you able to obtain a pulse?

6 A No, sir. I checked with my fingers and just so I
7 didn't have adrenaline running and feel the pulse in my own
8 fingers, I went ahead and put a stethoscope on his chest
9 over his heart to make sure I didn't hear the valves
10 opening and closing, making that heartbeat noise. There
11 was no noise, no, sir.

12 Q So at this point, what did you decide to do in
13 terms of treatment?

14 A We -- training kicks in. Number one thing is, you
15 know, this is a cardiac arrest and now we have to work.
16 This is a lot of work and time is of the essence. We
17 don't -- I'm not focused on anything around me except what
18 is directly in front of me. The number one thing with
19 children is -- and I'm sure physicians will attest to
20 this -- 99 percent of the time, children, it's respiratory
21 driven. If we can crank him up -- if we can get air in and
22 out of them, then we can get their heart going again.
23 Unless they have some underlying medical condition
24 otherwise told to us, like a special needs child, nine
25 times out of ten if we can get air in and out of them, we

Timothy Tucker - Direct Examination by Mr. Caskey

1 can crank them backup or get their heart going back.

2 So the number one things I was trying to do was get
3 an open airway, get him on the heart monitor, get chest
4 compressions going. The number one things we learn in
5 cardiac arrest is get those chest compressions going
6 immediately. We want to get pressure -- we want to get
7 whatever oxygenated blood is in his system, we want to go
8 ahead and start circulating that because time is of the
9 essence. And time is heart and time is brain. And we
10 don't want to have any type of brain damage from when they
11 go to that oxygen for an extended period of time, you can
12 see effects.

13 There's people we see out here with strokes that
14 have no deoxygenated brains and they're not able to talk
15 out of the sides of their mouth. There's people that have
16 had postcardiac arrest because they were without oxygen for
17 a matter of minutes. So with children, obviously, you
18 know, emotions are involved because we -- this is a child.
19 And, you know, we -- that's just one of the things we try
20 the work on really quickly is airway, airway, airway, and
21 chest compressions.

22 Q So let me just ask you there, Sergeant Tucker, what
23 was -- what was **Minor** position? In a chair, standing --

24 A Where was the child?

25 Q How did you position the child?

Timothy Tucker - Direct Examination by Mr. Caskey

1 A When I took the child, I lowered him to the floor
2 on the hardwood floor of the house.

3 Q Okay.

4 A On his back.

5 Q All right. And you're working for airway while **Minor**
6 is on his back and what did you try to do at that point?

7 A First of all -- first of all, we want to start
8 chest compression, we need to get him on the monitor. I
9 had to get him on the EKG monitor to see what kind of
10 rhythm I had. Did I have any kind of electrical activity
11 in the heart whatsoever.

12 Q So does an EKG monitor tell you that?

13 A Yes, sir, it does.

14 Q What does the EKG monitor tell you?

15 A The EKG told me asystole, which in layman's terms
16 would be a flat line.

17 Q Okay.

18 A Which means absolutely no electrical activity in
19 the heart.

20 Q So what did you do at that point?

21 A We knew -- I contacted radio -- I had my radio on
22 my chest here, so I contacted dispatch that it was a
23 cardiac arrest and I needed first responders to help, to
24 show up. That's when -- the fire department is all knee
25 jerk, they'll go ahead and dispatch the fire department

Timothy Tucker - Direct Examination by Mr. Caskey

1 because at this time it's just me and my partner. We need
2 extra sets of hands to get things going.

3 Get him on the monitor, again start doing chest
4 compressions and -- my partner, Andy Diehl at the time was
5 getting that done, doing chest compressions. I look at the
6 monitor and I go ahead and -- he's doing chest compressions
7 and bagging with supplemental oxygen, trying to get some
8 air in the child while I'm getting my IV line ready because
9 I need to get some drugs in him immediately; cardiac drugs,
10 epinephrine is what I was trying to get in him.

11 So I used -- we have a method of getting -- quickly
12 instead of having to put a tourniquet on somebody's arm
13 like when they draw blood or IV's, when cardiac arrest time
14 is of the essence, we don't have time to look for veins so
15 we have a device called intraosseus needle. It's an actual
16 medical device -- it's a drill and it's a needle -- we have
17 pediatric size needle and I drilled into his right leg,
18 right tibial tuberosity, it's the bone just below the
19 kneecap on his right leg. There's a flat spot on your bone
20 right there. That's where we will drill because your bones
21 are hollow and we can get a needle in there. We can --
22 studies have shown, ACLS, American Heart Association has
23 proven that intraosseous drugs are just as fast if not
24 faster in getting to the heart, which is where we want this
25 drug to get, is to the heart; epinephrine is what I'm

Timothy Tucker - Direct Examination by Mr. Caskey

1 referring to.

2 Q So when you're attempting this procedure --

3 A Yes, sir.

4 Q -- who else was present. You mentioned a Diehl a
5 second ago. Who else was present?

6 A The male, the adult male.

7 Q Okay. What do you recall about him at that point?

8 A You know, I just -- it was just a gut with me. I
9 noticed he squatted down next to me, you know, and
10 obviously, I'm -- I've got tunnel vision and I don't mean
11 to be snarky or anything with anybody, but -- and he's
12 like, Hey man, is everything all right; and I said,
13 Brother, I've got a lot of work to do here, you know. And
14 I just noticed it didn't really seem like -- it didn't
15 really -- you know, normally when -- even adults, like,
16 when I have family members and I'm working a cardiac arrest
17 and it's adult, I mean, people are crying and I mean
18 there's -- there was really none of that going on. I just
19 didn't pick up on any of that and that's something you pick
20 up on. Quickly. It was just more, Hey, is everything --
21 is he going to be all right.

22 Q Okay.

23 A That's it.

24 Q How would you describe his demeanor?

25 A Like, Oh my God what just happened. You know, I --

Timothy Tucker - Direct Examination by Mr. Caskey

1 Q Okay. Let me ask you though -- so you're going
2 forward with the IO Drill.

3 A Yes, sir.

4 Q Any other procedures you performed there on the
5 living room floor?

6 A Yes, we did try to -- I did try to intubate him.

7 Q What is intubate?

8 A Intubation, basically -- it's a tube. We're going
9 to put a tube down your windpipe to actually isolate, to
10 actually isolate because your windpipe is right next to
11 your -- the pipe -- your esophagus -- that your esophagus
12 goes down into your stomach. They're both -- those pipes
13 are right next to each other, so we want to keep stomach
14 contents from getting into the airway, also known as
15 aspiration. We want to stop that because that can
16 complicate the cardiac arrest. So we try to isolate that
17 airway with an actual plastic tube.

18 Q And how do you perform that procedure?

19 A We have -- we have a thing, it's called a
20 Laryngoscope. It's just -- all it is -- it's like a
21 flashlight with a curved tip on it and at the end of the
22 tip is the light bulb and we stick it in the patient's
23 mouth and we pick up on the jaw and we can visualize the
24 vocal chords. When we visualize the vocal chords, we can
25 slide the tube through the vocal chords into his airway and

Timothy Tucker - Direct Examination by Mr. Caskey

1 then we can inflate a bulb at the bottom of it and isolate
2 the airway so no aspiration from the stomach can get into
3 the patients airway.

4 Q Was your intubation successful there in the living
5 room?

6 A No, sir. No, sir. That was another thing that
7 really -- you know, set on me, was -- I couldn't -- for
8 the -- you know -- gosh, I tell you, I tried. You know,
9 opened his mouth and redirected it. I tilted his head a
10 little bit and I just couldn't get that -- it was hard for
11 me to -- I didn't think of it as first because, you know,
12 I'm just an adrenaline rush, I was trying to get a lot of
13 things done. I just couldn't get his mouth open that well.
14 So I was like, well, I'm not going to delay transport.
15 Let's go ahead and get him packaged, let's get in the back
16 of my truck where I have fluorescent lights because it was
17 a little darker in there for me. And I wanted to get in my
18 controlled environment in the back of my truck and try to
19 intubate him again.

20 Q So -- I'm sorry, where do you -- you were tugging
21 on the chin there. What are you referring to?

22 A We have to obviously open the mouth to get the
23 blade in there -- to get the laryngoscope blade in there so
24 I can pick up on the patient's jaw and I couldn't -- it was
25 just really hard to open that mouth. It was really hard.

Timothy Tucker - Direct Examination by Mr. Caskey

1 Q Had you -- or have you experienced that sort of
2 condition or characteristics of the jaw in your experience
3 as a paramedic.

4 A No, I have not experienced that. It was kind of
5 unusual. I didn't know what that -- I mean, I've dealt
6 with stiff joints before, but I've never dealt with that.
7 Because all of his other joints weren't stiff, so I wasn't
8 thinking of anything but, you know, what was that about
9 that I was like -- maybe it was me. Maybe my adrenaline
10 was rushing, maybe if I get him in the truck and try again.
11 So I got him in the truck and I tried again and I couldn't
12 get it.

13 And about that time was when I asked my supervisor
14 who pulled on scene, Hey man, give me a hand getting him
15 tubed because I can't get his mouth open. I was having
16 difficulty getting his mouth open.

17 Q I see. So let me ask you, as you're performing all
18 these procedures, did you do anything to modify the onesie,
19 the pajamas here, or Item 65?

20 A Yes, sir. We had to -- because he was completely
21 zipped up in the pajamas. So we had to, obviously,
22 unbutton, I mean unzip it and then to get to his knee where
23 I'm going to drill is -- I don't know if I did it or if
24 Andy did it. One of us cut -- we had to cut down to expose
25 the leg, to expose the knee so that way we can get to that

Timothy Tucker - Direct Examination by Mr. Caskey

1 area.

2 Q Did you remove the onesie or did you just cut it?

3 A Just cut. We just -- I unzipped it and then just
4 open and then exposed his chest and then just cut -- I
5 exposed that knee, exposed the leg.

6 MR. CASKEY: Your Honor, I'd just ask for
7 permission to publish the exhibit.

8 THE COURT: Yes, sir, you may publish it.

9 (Showing the exhibit to the jury.)

10 BY MR. CASKEY:

11 Q This is the onesie you're referring to?

12 A Yes, sir.

13 Q Okay. You were talking about -- did you say you
14 removed this at all?

15 A No, sir.

16 Q And the patient was prone on his back the entire
17 time?

18 A He was -- prone would be on his face --

19 Q Okay.

20 A -- so he was on his back, supine, yes, sir.

21 Q Supine?

22 A Yes, sir.

23 Q Okay. So at some point, did you move the patient?

24 A Yes, we did.

25 Q How did you move the patient?

Timothy Tucker - Direct Examination by Mr. Caskey

1 A We had to get him on a long spine board. We have a
2 yellow, long spine board, it's a plastic board that have
3 seat belts so we can package the patient and get him
4 into -- onto the stretcher and into the back of the truck.
5 We did log roll him to get him to -- you know, I had to --
6 some firm, we'd log roll him and then slide the board up
7 underneath and then lower him back and then put the straps
8 on and put a sheet over him -- not over, over him, but just
9 over his body and then, you know, go out to the truck, yes.

10 Q Sergeant Tucker, I'm showing you what has been
11 marked as State's 33 and 34. Do you recognize these
12 photographs?

13 A Yes, sir.

14 Q Do you recognize that yellow object?

15 A That's our long spine board, yes, sir.

16 Q Is that the long spine board you used that day?

17 A Yes, sir.

18 Q Okay. And do you recognize the person on top of
19 that?

20 A Yes, sir, that was the child.

21 Q Okay. All right. Once you transported him on the
22 spine board to the ambulance, I believe you said -- what
23 happened at that point?

24 A Once we got him to the ambulance, that's when I
25 asked my supervisor, Lieutenant Munn, who had pulled up

Timothy Tucker - Direct Examination by Mr. Caskey

1 to -- and he's also a paramedic. That's one of his jobs,
2 especially with cardiac arrest is you assist the paramedic,
3 initial paramedic on scene, give him a hand. Because
4 sometimes we've got a lot of work to do and I just said,
5 Hey, man, can you give me a hand getting him intubated.

6 Q Who is Lieutenant Munn?

7 A Who is he? He was the supervisor that day for
8 Lexington County. I think he was the North Region
9 supervisor that day.

10 Q So a supervisor arrived on scene and assisted you
11 in the back of the ambulance?

12 A Yes, sir.

13 Q Okay.

14 A Yes, sir.

15 Q At any point, either during the initial care or the
16 transport or placing the patient, **Minor** in the ambulance,
17 did you drop him?

18 A No, sir.

19 Q Did you drop anything on him?

20 A No, sir.

21 Q Did you do anything to cause any sort of bruising
22 or other injury other than the IO drill we talked about?

23 A The only other part would be, we did do chest
24 compressions, but with a child, you know, we're not doing,
25 what would normally use two hands with an adult, a grown

Timothy Tucker - Direct Examination by Mr. Caskey

1 person, but with a child, you're using one hand. And he
2 was two years old, so we didn't -- you know, it wasn't the
3 true traumatic incident that we would do with an adult. In
4 adults, you usually end up breaking ribs with an adult, but
5 with children they have very pliable bones so they don't
6 break.

7 Q At any point did you use any force or otherwise
8 cause any sort of trauma to the backside of **Minor** that would
9 have caused injury?

10 A No, sir.

11 Q When you and Lieutenant Munn were in the back of
12 the ambulance, tell us again what he did?

13 A We -- I helped Donde -- he grabbed the laryngoscope
14 blade and I helped him try to open the mouth and, you know,
15 we're trying to reposition the head to see if we can get
16 the airway in and I looked at Donde, I was like, He's dead.
17 And I just -- and then it started to kick in, this is
18 rigor. This is -- he's real stiff and it just -- it --
19 just -- something clicked on me right then and there
20 because I'm in the back of my truck. I'm actually talking
21 to a fellow colleague about this, this incident and I was
22 like, you know, and it's the first thing that you think
23 of -- and he noticed it to. He was like -- he just nodded
24 or give me acknowledgment. I don't know if he ever said
25 anything, period, but he ended up getting him intubated,

Timothy Tucker - Direct Examination by Mr. Caskey

1 but, you know, he had spoke with me later and said he had
2 noticed it was difficult to get him intubated as well, yes,
3 sir.

4 Q Sergeant Tucker, you said rigor?

5 A Yes, sir.

6 Q What does that refer to?

7 A It's just a state of muscles, the muscles after --
8 and I'm sure a physician can give you a better terminology
9 about this, but from what I understand, when you -- it
10 takes -- you have to be dead for a prolonged period of
11 time, not just five minutes. You're going to have to be
12 dead for longer than that to -- for your bones -- for your
13 muscles to become stiff.

14 Q So when you say rigor, you're referring to a
15 post-death stiffness of muscles?

16 A Yes, sir.

17 Q Okay. And that's what you observed in **Minor** while
18 you were on scene in the ambulance?

19 A On scene and in the ambulance, yes, sir. In the
20 house and in the ambulance, yes, sir.

21 Q At some point, did you leave the incident location?

22 A Yes, sir, we did leave the incident location.

23 Q Where did you go?

24 A We transported, emergent, red lights and sirens to
25 the Lexington Medical Center ER.

Timothy Tucker - Direct Examination by Mr. Caskey

1 Q And could you tell the jury what time you arrived
2 at Lexington Medical Center?

3 A Let me look at the CAD report here. Here it is
4 right here. We departed the scene at 10:04 and we arrived
5 at Lexington Medical Center at 10:16.

6 Q And is that the a.m. or p.m.?

7 A a.m., sir.

8 Q 10:16 you said? Is that correct? You said 10:16?

9 A Yes, sir. At 10:16 we arrived at Lexington Medical
10 Center.

11 Q Sergeant Tucker, once you arrived at Lexington
12 Medical Center, what was your involvement in the case?

13 A Once we arrive at the hospital, I give verbal
14 report face-to-face with the ER physician who is standing
15 there. They direct us to a room. We go to that room. The
16 ER physician is standing there because I've already given
17 report over the radio. They already know I'm coming, I've
18 already told them. And with pediatric there's a team
19 waiting for us as soon as we get to the ER. They direct me
20 straight to a room. We wheel our stretcher to the room.
21 My partner and I, we take the backboard, the long spine
22 board, the yellow spine board with the child on it and
23 transfer him over to the ER bed where the physician and his
24 team then take over once I give verbal report.

25 Q Okay. One last question. When you arrived at [REDACTED]

Timothy Tucker - Direct Examination by Mr. Caskey

1 [REDACTED] initially --

2 A Yes, sir.

3 Q -- was the mother present?

4 A Not that I was aware -- no, sir, I only saw the
5 male.

6 Q Okay. Did she arrive before you left for Lexington
7 Medical Center?

8 A I think somebody had said to me when we were
9 walking out to the ambulance --

10 MR. WILLIAMS: Objection to hearsay, Your Honor.

11 THE COURT: I would sustain the objection.

12 BY MR. CASKEY:

13 Q Sergeant Tucker, what was your focus throughout all
14 this?

15 A I wasn't focused on anything except for the child.
16 I didn't really -- you know, I just -- I didn't really pay
17 attention to a lot of what was going on around me, outside
18 of, you know, the first initial interactions with the grown
19 male, the adult male.

20 Q When you said to Lieutenant Munn in the back of
21 that ambulance, He's dead --

22 A Yes, sir.

23 Q -- did you give up?

24 A No, sir.

25 Q What did you do?

Timothy Tucker - Direct Examination by Mr. Caskey

1 A Continued on.

2 Q And why?

3 A It's what you got to do.

4 Q Thank you, Sergeant Tucker.

5 THE COURT: I'm going to take about a 15 minute
6 recess. You may remain like that for a moment, Sergeant
7 Tucker.

8 THE WITNESS: Yes, sir.

9 THE COURT: Ladies and gentlemen, if you would
10 please turn your notes upside down on your chair, we're
11 going to take about a 15 minute recess. Do not discuss the
12 case during this brief recess.

13 (The jury left the courtroom at 4:29 p.m.)

14 THE COURT: Sergeant, you may certainly step down
15 and refresh yourself during this brief recess. Do not
16 discuss your testimony with anyone.

17 THE WITNESS: Yes, sir.

18 THE COURT: Thank you. Thank you very much.

19 How many more witnesses you have for today,
20 Solicitor?

21 MS. MAYES: We have two more present, but whatever
22 time the Court --

23 THE COURT: What would their length be.

24 MS. MAYES: Also persons from the scene, Your
25 Honor. First responders at the scene.

Timothy Tucker - Direct Examination by Mr. Caskey

1 THE COURT: I'm sorry?

2 MS. MAYES: First responders at the scene.

3 THE COURT: Well, perhaps we'll end the day with
4 Sergeant Tucker.

5 All right. Thank you, thank you very much. Court
6 will be in recess 15 minutes.

7 (A brief recess was observed.)

8 THE COURT: All right, Sergeant, you want to come
9 back around and join us.

10 (The witness returned to the stand.)

11 THE COURT: Anything from the State before we bring
12 out our jury, Solicitor?

13 MR. CASKEY: Nothing from the State, Your Honor.

14 THE COURT: Defense, Mr. Williams?

15 MR. WILLIAMS: No, Your Honor.

16 (The jury entered the courtroom at 4:45 p.m.)

17 THE COURT: All right. Our jury is back, present.

18 Ladies and gentlemen, as you recall, we're
19 beginning the cross-examination of Sergeant Tucker by
20 Mr. Williams, if you would please continue to give the
21 parties your complete and undivided attention as you have
22 done throughout the trial of the case.

23 And we'll probably break for the day at the end of
24 cross-examination and/or redirect and/or recross
25 examination. Thank you, thank you very much.

Timothy Tucker - Cross-Examination by Mr. Williams

1 Mr. Williams.

2 MR. WILLIAMS: May it please the Court?

3 CROSS-EXAMINATION

4 BY MR. WILLIAMS:

5 Q Sergeant Tucker, as I understand, you got the
6 call -- you and another individual got the call -- who was
7 with you on scene?

8 A Initially on scene was my partner Andrew Diehl.
9 He's an EMT basic.

10 Q He is EMT basic?

11 A Yes, sir.

12 Q So that means your the -- you would have the higher
13 rank or you'd be first in charge?

14 A I'm a Sergeant. He's also a private, but yes, that
15 is correct. I'm a paramedic and a sergeant. He's a
16 private and an EMT basic.

17 Q Okay. And are you the one that drives the truck in
18 there?

19 A We alternate.

20 Q On this particular morning, were you the one that
21 drove the truck in there?

22 A I don't believe so. I don't know if I did or
23 didn't to be honest with you. I don't even recall.

24 Q All right. So you do not recall who actually drove
25 there?

Timothy Tucker - Cross-Examination by Mr. Williams

1 A No, I don't.

2 Q Now, do you recall what the area looked like?

3 A It --

4 Q Referring was it an apartment complex or a --

5 A No, sir it was a house.

6 Q -- house?

7 A Yes, sir, it was a house.

8 Q All right. And did you pull down a driveway?

9 A I don't know if I pulled down a driveway. I don't
10 know. All I know is it was overcast that day, it was a
11 house. I don't know if -- it could have been a driveway.
12 It could have. I don't -- I don't know. I don't want to
13 say things that I don't know the answer to.

14 Q Okay. Well, when the truck is pulled in there, did
15 you pull up to the front porch or did you stay out near the
16 road or how did you do that?

17 A We pulled up to the -- I don't know if that was the
18 front of the house or the back of the house, but we pulled
19 up to one of the -- either the front or the back. We
20 didn't pull up to the side of the house, no, sir.

21 Q But you don't remember whether it was the front or
22 the back?

23 A No, sir, I don't recall.

24 Q Well, when you normally get directions to go to
25 locations, do they tell you the address of where you're

Timothy Tucker - Cross-Examination by Mr. Williams

1 going?

2 A They do depending on -- depending on the terrain
3 and -- we don't want to get our truck stuck. You know,
4 some people have sugar sand, some people have mud. And so
5 whether it was me or Andy, we try to use good judgment so
6 that way we don't get ourselves in a situation where our
7 trucks can get stuck and we have to get towed out. So I
8 don't recall if -- all I know is we make sure that we can
9 get in and out kind of --

10 Q So do you recall whether or not that you went to
11 the -- you have a computer that tells you how to go to the
12 location --

13 A Yes, sir.

14 Q -- like we all have in our cars now.

15 A Yes, sir.

16 Q So do you know if that sent you to like the -- what
17 was the street address?

18 A I have to refer back to this. (Looking at report.)

19 [REDACTED].

20 Q Okay. So do you recall whether or not you actually
21 arrived at [REDACTED] -- was there like a -- on the
22 side of the house or on the side of the mailbox or was
23 there some indication --

24 A There was some sort of indication denoting numerics
25 on that residence, yes, sir.

Timothy Tucker - Cross-Examination by Mr. Williams

1 Q Was it on the residence or the mailbox?

2 A It -- it's usually on the residence and/or on the
3 mailbox. I can't recall that. I don't want to say either
4 way.

5 Q Had you driven past it?

6 A I don't -- no, I don't believe we drove past it
7 either.

8 Q Well, did you indicate that the male had come out
9 to the road with the child?

10 A No, sir, I did not. I came to the front door of
11 the house.

12 Q And he was in the house when you got there?

13 A He was -- yes, well, he was at the front door at
14 the threshold of the house, inside the threshold of the
15 door, yes, sir.

16 Q Was the door open?

17 A Once I came to the door, he had opened the door,
18 yes.

19 Q So you actually got there and he opened the door
20 after you pulled up?

21 A Yes, sir. After we came up to the front door, yes,
22 sir.

23 Q So he hadn't walked out to the road when y'all came
24 in?

25 A No, sir.

Timothy Tucker - Cross-Examination by Mr. Williams

1 Q And who accompanied you to the front door?

2 A My partner Andrew Diehl.

3 Q Okay. And when you got there, did you ask him what
4 was wrong?

5 A There were -- there was some -- I don't know,
6 recall exactly what our exchange of words were as far as --
7 because there's so many calls that I've ran since then and
8 I don't want to -- this is very -- the gravity of the
9 situation, I don't want to start saying things that may or
10 may not have been said. I want to be as truthful as I can
11 for the best of my knowledge. All I can -- all that I can
12 recall is that he was holding the child who was in pajamas
13 and the child was laying on his shoulder and exchange of
14 words were like -- I don't want to speculate.

15 Q So you don't remember what he said?

16 A I don't recall if he said anything except for,
17 basically what's going on? He's not doing right.

18 Q Well, he said that, though, after you put him down
19 to the floor, right?

20 A No, he asked me that after I started working on
21 him. He asked me, Hey is he going to be okay.

22 Q So you don't remember what he said before that?

23 A No, I don't recall what he specifically said
24 before, no.

25 Q Well, I assume -- I shouldn't assume anything, but

Timothy Tucker - Cross-Examination by Mr. Williams

1 when you come to a situation, you would normally ask what
2 the situation is to find out about the person you're
3 getting ready to treat, right?

4 A Uh-huh, yes, sir.

5 Q So did you ask him about --

6 A My senses --

7 Q -- how long he'd been like this or --

8 A My -- there was not a lot of information offered
9 up, except for the fact that he was not right. That was
10 the only information I gathered and obviously with my
11 senses actually looking at the child, seeing that
12 something, you know, my gut kicked in real quick and he
13 wasn't -- this child was not right.

14 Q So did you ask him anything?

15 A I don't know if I asked him or -- I can't recall.
16 Honestly, I can't.

17 Q Okay. So how is it that you end up getting the
18 child on the floor? Did you reach up there and grab him
19 or --

20 A No, sir, he handed me the child. Yes, sir.

21 Q Okay. And you placed the child on the floor?

22 A Yes, sir.

23 Q And then you realized that he wasn't breathing at
24 that time?

25 A He had no pulse and he was not breathing; that is

Timothy Tucker - Cross-Examination by Mr. Williams

1 correct.

2 Q Could you tell anything else at that particular
3 time?

4 A Tell anything else as --

5 Q About the child.

6 A I don't understand. He was not breathing and he
7 had no pulse. That's exactly what I was trying to find out
8 initially.

9 Q Did you notice if there was blood on him?

10 A No, sir.

11 Q Did you notice he'd been cut?

12 A I didn't notice anything -- I think I even denoted
13 in my narrative, no trauma noted. And that being said, no
14 trauma noted meaning I didn't see any major bleeding, I
15 didn't see any bones jutting out. I didn't see any signs
16 incompatible with life.

17 Q Okay. So you saw no evidence of trauma and
18 obviously, we know that he wasn't -- he wasn't -- he wasn't
19 breathing?

20 A Yes, sir.

21 Q And at that point in time, did you start CPR on
22 him?

23 A Yes, sir, we started doing chest compressions and
24 we put the pediatric defibrillator pads on him to see what
25 his electrical activity was and the muscle in the heart.

Timothy Tucker - Cross-Examination by Mr. Williams

1 Q Did you notice anything after you started the chest
2 compressions other than the fact that he still wasn't
3 breathing and he still didn't have a heartbeat?

4 A No, sir.

5 Q Well, you didn't know the child was dead for a
6 period of time; is that correct?

7 A Period of time referencing a matter of minute or
8 two?

9 Q Well, I don't know, you tell me?

10 A Well, that's what -- all this stuff that's
11 transpired, this all transpired in a matter of a minute,
12 maybe 30 seconds. This didn't take long. It really
13 doesn't take long to have a child handed to you and with
14 the years that I've done this, I'm like, this is -- we put
15 him down on the floor. I check, look and listen and feel
16 for a heartbeat and breathing. I'm not getting it, we
17 start doing compressions.

18 Q Right. Because you thought there was a chance to
19 bring him back?

20 A Yes, sir. Yes, sir.

21 Q So this is not an example of some child that's been
22 dead for a period of time that you thought there was no
23 chance of bringing this child back?

24 A That is correct.

25 Q Let me ask you about the epinephrine. Is it

Timothy Tucker - Cross-Examination by Mr. Williams

1 epinephrine, is that what you call it?

2 A Yes, sir.

3 Q And when you look on TV, you always see them
4 sticking that thing in the chest or that big needle in the
5 chest.

6 A Sure.

7 Q Is that the epinephrine, that -- we're referring,
8 but you stuck it in a different place?

9 A I've never ever heard of epinephrine being --
10 except for Hollywood, I've never seen it --

11 Q Okay.

12 A Yes, sir.

13 Q So the normal place you would stick it would be
14 like in the arms unless it's a child?

15 A Epinephrine is a drug -- the epinephrine, is
16 concentration, the doses that I was using is for cardiac
17 arrest. This epinephrine is used for intravenous only.

18 Q Okay. So I think you were describing that you
19 didn't stick it in his arm --

20 A That's correct.

21 Q -- because the quicker way --

22 A No, not the quicker way, the easiest way at that
23 moment because time is of the essence. I don't want to
24 spend time applying a tourniquet and trying to find a vein
25 when I know there's a bone there that I can go ahead and

Timothy Tucker - Cross-Examination by Mr. Williams

1 drill and go ahead and get that line and get those drugs in
2 him quickly.

3 Q All right. When you use the word drill, are you
4 actually --

5 A Inserting an intraosseous needle into the bone,
6 yes, sir.

7 Q So, I just want to make sure I know what you're
8 talking about with the drill.

9 A Yes, sir.

10 Q You're talking about taking a needle and sticking
11 it in or are you talking about actually drilling a hole --

12 A This is --

13 Q -- then putting a needle in?

14 A This is a medical drill, an easy IO drill. And we
15 have a pediatric needle and it's -- it's actually pink in
16 color. It denotes that it's made for peds. I use that and
17 I just put it on the end of -- it's just a small lithium
18 battery drill; it's just about this big.

19 Q Right.

20 A And we have them for adults and we have them for
21 peds.

22 Q Okay.

23 A The needles. That depends on the length of the
24 needle. The pediatric needles are obviously going to be
25 shorter. And we use this to get through the bone because

Timothy Tucker - Cross-Examination by Mr. Williams

1 the bone is hollow. Right there is where we can get a
2 lot -- we can get medicine in them quickly.

3 Q Now, on direct examination, you said that you stuck
4 it in the child's right leg; is that correct?

5 A That is correct.

6 Q The -- you were shown these pictures.

7 A Yes, sir.

8 Q And you identified those pictures?

9 A Yes, sir.

10 Q Now, you're sure you stuck it in the child's right
11 leg?

12 A I did; sir.

13 Q Okay. Now, is there a reason why you stick it in
14 the child's right leg?

15 A No reason.

16 Q I mean, is there like a physiological reason, like
17 does the right leg get the medicine to his heart quicker?

18 A No, sir, no, sir.

19 Q Why do you choose the right leg?

20 A It was just the one closest to me at that time,
21 where -- on what side of the child I was on.

22 Q Okay.

23 A And I know what you're referring to. I see the
24 other needle. And I don't -- I don't know -- I didn't
25 insert that.

Timothy Tucker - Cross-Examination by Mr. Williams

1 Q All right. So after you stick, shoot him with the
2 epinephrine, who was standing near you when you were there
3 doing that besides -- was my client there?

4 A I had my partner, but the epinephrine is given --
5 just referring back to my -- my actual run report,
6 according to our protocols, and this is in conjunction with
7 pediatric advanced life support and for American Heart
8 Association, Advanced Cardiac Life Support. What we do is
9 we -- these drugs are given every three to five minutes. I
10 documented that I administered epinephrine at 9:55, .018
11 milligrams. This goes according to his weight. When I had
12 asked the family -- I had asked the male -- yes, I'd asked
13 him about how much the patient weighed and he told me and I
14 have to transfer -- I have to transfer that from pounds to
15 kilograms. And once I -- so I figured it out to be he was
16 18 kilos.

17 Q So you'd had some conversation with the man --

18 A Well, the --

19 Q -- more than --

20 A Right. He had squatted down and he asked me --
21 because, again, I'm focused. I'm working, so I just --
22 what I need to know is -- and I'm sure -- honestly, I'll be
23 honest with you. I've asked people before how long have
24 they been down. But I don't want to say something -- I
25 don't want to say whether or not -- I mean, I'm sure I

Timothy Tucker - Cross-Examination by Mr. Williams

1 probably did ask him because that's usually one of my
2 questions that I ask on cardiac arrest, but I don't want to
3 say either way with that because I don't want to speculate.

4 Q So you did ask him how much the child weighed?

5 A I did ask for -- yes.

6 Q You remember saying that?

7 A I do, yes, sir. Yes, sir.

8 Q And he told you how much the child weighed?

9 A Yes, sir, and I converted that to -- because it's
10 2.2 pounds per kilo, so I had to convert that. So I got it
11 to be 18 -- he weighed 18 kilos.

12 Q So you did that after you realized that CPR was not
13 going to work, you asked him well, how much does the child
14 weigh --

15 A No, with a pediatric, when we're doing CPR as a
16 pediatric, we have the go ahead -- because all of our drugs
17 are weight base. All of our treatment is weight based for
18 children.

19 Q So you asked him that before you started CPR?

20 A I don't know if I asked him before or after. All I
21 know is we asked him and we got an answer and we got to
22 work.

23 Q Okay. So now, you're in the front room of the
24 house; is that right?

25 A We were in a room that was wide open space. I

Timothy Tucker - Cross-Examination by Mr. Williams

1 don't know if it was in the front or back. It was a
2 hardwood floor --

3 Q All right.

4 A -- and it was an open room, yes, sir.

5 Q Was there a lady, an older lady there also as you
6 were doing this?

7 A I wasn't focused on other people. I couldn't tell
8 you that.

9 Q What was your partner doing during this time span?

10 A He was giving me assistance. You know, he's
11 basically the guy -- he's going to be the guy doing chest
12 compressions, helping me get oxygen, bagging the patient
13 with oxygen. You know, I'm trying to draw up drugs and --
14 I've got -- drilling -- spiking a bag of -- I get a bag of
15 saline going. Got to get the fire department -- getting
16 equipment -- Andy's got a lot of work to do.

17 Q So who's the next person who pulled up?

18 A All I know I is requested for first responders and
19 again, I'm busy with -- me and my partner doing chest
20 compressions and everything else, I don't know who was
21 next. It could have been fire department, it could have
22 been police. I don't know.

23 Q You remember anybody else besides fire department
24 or the police pulling up?

25 A Lieutenant Munn did pull up, yes, sir.

Timothy Tucker - Cross-Examination by Mr. Williams

1 Q Do you recall individuals who were not law
2 enforcement or police pulling up on the scene?

3 A I can't recall. I did not -- I cannot be focused
4 on that, sir.

5 Q Do you remember who was there before you left?
6 Because you actually had to leave to take him --

7 A I was in the back of an ambulance. Again, I'm
8 focused. I don't look outside to see who -- knows who's
9 doing what.

10 Q Okay.

11 A Yes, sir.

12 Q So you don't remember how much family was there at
13 the time?

14 A I can't recall. All I -- I remember out of the
15 side of the corner of my eye, I did see some adults at the
16 front door, but I don't know who it was or who -- whether
17 they were -- I don't know if they were law enforcement or
18 they were family, I don't know. I heard some female voices
19 in the background, but it -- I didn't -- it wasn't anything
20 that really stuck out to me.

21 Q Do you know how many females you heard in the
22 house?

23 A No, sir, I don't.

24 MR. WILLIAMS: That's all the questions I have,
25 Your Honor.

Timothy Tucker - Redirect Examination by Mr. Caskey

1 THE COURT: Redirect, Solicitor?

2 MR. CASKEY: Yes, Your Honor, very briefly.

3 REDIRECT EXAMINATION

4 BY MR. CASKEY:

5 Q Sergeant Tucker, you've mentioned in your
6 discussions with Mr. Williams about trauma and you said
7 you'd written on your report no trauma noted. If you
8 could, please, what did you mean by that?

9 A Well, we have to find out -- I mean, initially, we
10 need to know what kind of treatments we're doing for a
11 cardiac arrest. We have -- we have to play a little bit of
12 investigator but obviously, with children it's a little bit
13 easier because again if we can get respiratory, we can get
14 their heart going again.

15 But I want to know some major things. Are they
16 bleeding out, is there a pool of blood? Is that why -- is
17 that why they're having cardiac arrest right now is because
18 they're hypovolemic or without volume; without blood in
19 their container, in their vessels. Are -- is there any
20 signs incompatible with life, like is there brain matter
21 coming out of the side of his head. These are the things
22 that I would say no trauma noted for.

23 Q Okay. Let me ask you, you talked earlier in direct
24 examination about the dryness. What do you recall about
25 that?

Timothy Tucker - Redirect Examination by Mr. Caskey

1 A I didn't -- he was fully clothed, there was no
2 water on him whatsoever, no, sir.

3 Q Now, you put the IO needle in the right leg and
4 those photographs you had up there that you were looking
5 at, were those taken in the back of the ambulance?

6 A No, sir.

7 Q Were they taken at the incident location?

8 A No, sir.

9 Q Does that appear to be a photo that was taken
10 later?

11 A That appears to be a photo that was taken later,
12 yes, sir.

13 Q All right. Sergeants Tucker, is it your job to
14 pronounce death?

15 A I can. I can call it -- in Lexington County they
16 call it a signal nine. Then we can request the coroner;
17 that is correct.

18 Q Did you do that in this case?

19 A No, sir, I did not.

20 Q Did you keep working?

21 A Yes, sir.

22 Q Did you keep trying to revive **Minor**

23 A Yes, sir.

24 Q Thank you.

25 MR. CASKEY: I don't have any further questions,

Timothy Tucker - Redirect Examination by Mr. Caskey

1 Your Honor.

2 THE COURT: Recross, Mr. Williams?

3 MR. WILLIAMS: No questions on recross.

4 THE COURT: Thank you, thank you very much
5 Sergeant. You may step down. You may be excused. Thank
6 you for being with us today.

7 THE WITNESS: Yes, sir.

8 THE COURT: This afternoon.

9 Mr. Foreman, ladies and gentlemen of the jury
10 perhaps now would be a good time to take our evening
11 recess. I would remind you during this recess do not
12 discuss this case with others. That includes your fellow
13 jurors, family, friends or anyone else. Do not read,
14 listen to, or watch any news reports about the case should
15 there be any. Do not use your computer, cellular phone or
16 any other electronic device with communication capabilities
17 to obtain or disclose information about the case when
18 you're not in court that is prohibited.

19 Information that the prohibited includes, but it is
20 not limited to: information about a party, a witness, an
21 attorney, or a court officer, news accounts about the case
22 past or present, should there have been or should there be
23 any; information collected through juror research on any
24 topics raised or testimony offered by any witness or
25 information collected through juror research on any other

1 topic that the juror, that you might think would be helpful
2 in deciding the case.

3 Remember, you decide this case based on the
4 evidence and testimony presented before you in this
5 courtroom by the sworn witnesses, the reasonable inferences
6 that you think may properly be drawn, and any physical
7 items of evidence. Again, if you would please leave your
8 notes upside down on your chair, they will be secured by
9 the clerk's office and distributed again in the morning for
10 your use. I hope you all have a pleasant evening. I would
11 ask you to please be back promptly at 9:30 in the morning.
12 Promptly at 9:30 in the morning. Thank you. Thank you
13 very much.

14 (The jury left the courtroom at 5:07 p.m.)

15 THE COURT: Anything further from the State,
16 Solicitor?

17 MS. MAYES: Nothing from the State, Your Honor.

18 THE COURT: Defense?

19 MR. WILLIAMS: Nothing from the defendant, Your
20 Honor.

21 THE COURT: All right. Court will be in recess
22 until 9:30 in the morning. Thank y'all very much.

23 (Court was in recess for the evening.)

24 TUESDAY, OCTOBER 4, 2016

25 THE COURT: Anything from the defense before we

1 bring in our jury?

2 MR. WILLIAMS: Nothing from the defendant, Your
3 Honor.

4 THE COURT: The State, Solicitor?

5 MS. MAYES: Nothing from the State, Your Honor.

6 THE COURT: Just one -- two matters, I guess. The
7 first one, one of our jurors has an opportunity to -- has
8 an interview for -- a job interview and can do it today at
9 either 12:30, 2, or 3:30. I'm going to wait until the
10 break and let her call over there and see if there's
11 another time -- if we can accommodate that, I would like
12 to. I'd like to in that regard, we'll just see how we're
13 going.

14 The other thing, of course, I won't have court
15 tomorrow afternoon. I have another commitment in regards
16 to Judge Gee and we have to be there at a certain time. We
17 have to be there at like 3 o'clock, 3:15, so we'll probably
18 only be able to one to about two or something like that.

19 MS. MAYES: Your Honor, we would have no objection
20 that 12:30 time.

21 THE COURT: Yes.

22 MR. WILLIAMS: Also, we don't care, Your Honor,
23 whenever the Court wants to have it.

24 THE COURT: Well, I guess I'd have to -- it sounds
25 like the interview may be in Columbia so I'd probably have

1 to break at 12 -- I'll ask her when she comes out. She can
2 check at the break. That will be fine.

3 All right with that being said...

4 (The jury entered the courtroom at 9:40 a.m.)

5 THE COURT: Good morning, ladies and gentlemen. I
6 hope y'all have had a pleasant evening.

7 As to Juror Number 192, I talked with the
8 attorneys, we will try to accommodate that. If 12:30 is
9 the time frame, we'll take our lunch break just a little
10 bit early, you think about 12 -- if that gives you time the
11 get to the location.

12 THE JUROR: Yes, sir.

13 THE COURT: If you want to make a call at the break
14 and adjust that time, just let me know and we'll try to
15 accommodate that for you.

16 THE JUROR: Thank you.

17 THE COURT: All right. Ladies and gentlemen, we're
18 continuing the trial of the case by the presentation of
19 evidence and testimony by the State in its case in chief.
20 If you would please continue to give the parties your
21 complete and undivided attention as you have done
22 throughout the trial of the case.

23 Solicitor, you may call your next witness.

24 MR. CASKEY: Thank you, Your Honor, may it please
25 the Court.

Donde Munn - Direct Examination by Mr. Caskey

1 The State would call Lieutenant Donde Munn.

2 THE COURT: All right. Lieutenant, if you'd come
3 around and be sworn, please.

4 DONDE MUNN,
5 having been duly sworn, testified as follows:

6 THE CLERK: If you'll have a seat over here. State
7 your name, please, and spell your last for the record.

8 THE WITNESS: My name is Donde Munn, M-U-N-N.

9 **DIRECT EXAMINATION**

10 BY MR. CASKEY:

11 Q Good morning, Lieutenant Munn.

12 A Good morning.

13 Q Where do you work and what do you do there?

14 A I work for Lexington County Public Safety in the
15 division of EMS. I'm a lieutenant paramedic. My job
16 responsibilities are first to protecting life and health
17 and secondly is supervision of field staff.

18 Q Lieutenant Munn if you would please, tell the jury
19 a little bit about your training, education, and experience
20 as it pertains to emergency medicine.

21 A There's three levels of certification in South
22 Carolina, the first being a basic EMT and that's what I
23 started out at. Shortly after high school, actually, in
24 1983, I certified. In '84, I went onto the second level,
25 which is the intermediate EMT. From the basic you have

Donde Munn - Direct Examination by Mr. Caskey

1 basic life saving skills, advanced first aid including CPR.
2 As intermediate, you're added airway skills and IV skills,
3 you start IV's and use advanced airways.

4 1988 and '89 I graduated from Florence Darlington
5 technical college as a paramedic and in addition to the IV
6 skills, the advanced first aid and everything, EMT the IV
7 skills and airway skills as an intermediate EMT and then as
8 a paramedic, we're added medications, cardiac rhythm
9 interpretation. If a patient's heart stops, and there's a
10 lethal rhythm called ventricular fibrillation, you would
11 shock that, so we're taught to read these different rhythms
12 whether they're lethal, meaning life threatening or nonlife
13 threatening and how to treat those.

14 Q Lieutenant Munn, do you hold any other
15 certifications in emergency medicine?

16 A Yes, sir, I hold certifications and I'm an
17 instructor in PALS, Pediatric Advanced Life Support.
18 Advanced Cardiac Life Support; those and basic cardiac life
19 support. All those are with the American Red Cross through
20 the National Association of EMT's. I'm an instructor in
21 advanced medical life support and prehospital trauma life
22 support.

23 Q Well, Lieutenant Munn, in November of 2013, where
24 were you employed?

25 A Lexington County EMS.

Donde Munn - Direct Examination by Mr. Caskey

1 Q In what role were you then?

2 A I was the field supervisor for that day for the
3 South, the South Region, anything below I-20 our EMS agency
4 describes that as the South End of Lexington County.

5 Q So you were a supervisor?

6 A Yes, sir.

7 Q And let's just jump to this case on November 27th,
8 2013. Did you have occasion to respond to [REDACTED]?

9 A Yes, sir. As field supervisor on high acuity
10 calls, meaning the worse cause or any cause that may be
11 taxing or require more manpower, the field commander
12 supervisors will respond to those calls.

13 Q Okay. And you did, in fact, respond to that
14 address?

15 A I did.

16 Q All right. When you arrived on scene, what did you
17 see?

18 A I arrived to -- on the scene, the ambulance was
19 parked at the back of a grey house, down the driveway. So
20 I parked out on Oakland and left my vehicle on foot. I
21 knew that the crew need me -- needed me and I knew that
22 they were already boarding the ambulance, meaning they had
23 the patient and they were caring for a patient in the back
24 of the ambulance. So I directly went to the ambulance,
25 boarded it and asked Sergeant Tucker, the paramedic on that

Donde Munn - Direct Examination by Mr. Caskey

1 unit for the day what he needed me to do and he asked me
2 would I take care of intubating the child.

3 Q All right. So let me just pause you there and
4 backup. You arrived on scene and you go straight into the
5 ambulance; is that correct?

6 A Yes, sir.

7 Q Okay. So at any point did you go inside the home?

8 A No, sir, I did not.

9 Q Okay. So you go straight into the ambulance and
10 you have an initial conversation with Sergeant Tucker and
11 he asked you to help with what?

12 A Intubation -- intubation is one of the skills I was
13 describing earlier and when you have a cardiac arrest with
14 a child, one of the first things that you're taught that
15 most children when they get into trouble, meaning that
16 their health is in jeopardy, normally it is an airway
17 issue. So in addition to other things that we focus on,
18 airway is in the forethought of our mind. So he wanted --
19 he had had some difficulty intubating this child, putting
20 this airway down, which is a tube. They come in different
21 sizes. In this particular case, I used a Number 5 Tube.
22 We use a special flashlight and it's call a laryngoscope,
23 and if you look at it, it looks like the letter L. You
24 would place that into the mouth. You would gently go
25 forward and just -- there's just a slight flick of the

Donde Munn - Direct Examination by Mr. Caskey

1 wrist because the airway is just so small and tender. Just
2 deflected the wrist and you should see the vocal chords.
3 The vocal chords is the gatekeeper, so to speak to your
4 windpipe.

5 Q Okay. So you're helping to put a tube into the
6 throat?

7 A Yes, sir.

8 Q All right. Let me just ask you. You used the term
9 cardiac arrest, I believe, a second ago. What does that
10 mean?

11 A Cardiac --

12 Q Is that a heart attack --

13 A No, sir. Heart attack and cardiac arrest are two
14 different illnesses, and both are acute.

15 Q So when you say cardiac arrest, you mean what?

16 A Cardiac arrest is the ceasing of the heart to beat
17 and for breathing. Both breathing and the heartbeat had
18 stopped. And a heart attack, you have a blocked vessels in
19 the heart muscle and -- just two different things. A heart
20 attack can cause cardiac arrest, but in this case we were
21 facing cardiac arrest.

22 Q Okay. I just want to make sure I'm -- we're clear.
23 When you say cardiac arrest, you just mean that the heart
24 had stopped and there was no breathing?

25 A The heart had stopped and there was no breathing.

Donde Munn - Direct Examination by Mr. Caskey

1 Q Okay. So did you, in fact, assist in the
2 intubation?

3 A I did.

4 Q What do you recall observing about that intubation?

5 A Well --

6 Q Let me pause you there first -- let me ask you.

7 Can you describe the patient that you were treating?

8 A A small black male, two to three years then, just a
9 rough estimate now. In documents it's a two year old. A
10 small black male, 30, 40 pounds. He was supine on one of
11 our back boards.

12 Q Supine means?

13 A I'm sorry, he was laying flat on his back.

14 Q All right. And what do you recall about intubating
15 that boy?

16 A I -- when I started to intubate, I noticed -- a
17 child's head -- normally if something had just happened, it
18 would be pliable. It would be easily bendable and
19 manipulated into the position I need. It took more effort
20 than I was anticipating and so it just didn't seem right
21 when I tried to open the mouth, there was stiffness. And
22 so when you're thinking on one -- in one moment this is
23 supposed to be something that just happened and then you're
24 confronted with something that seems like it has not just
25 happened --

Donde Munn - Direct Examination by Mr. Caskey

1 Q What do you mean by that?

2 A -- it was a bit disturbing.

3 Q What do you mean by that?

4 A My expectation was, reading our CAD notes, that the
5 child had just been in the bathtub and wasn't acting right.
6 I forget the exact verbiage of the note, but it said that
7 it just wasn't right or something to that effect. So I was
8 expecting a child that was not as stiff.

9 Q Why is stiffness inconsistent with what you --

10 A The note said that the child had been in the tub --
11 it had had a bath or something, I believe is what the CAD
12 notes said. And that when he come out, he just wasn't
13 acting right. So in my mind, my timeline, I'm saying,
14 okay, this is -- just had a bath, not acting right,
15 something's not acting right, now he's in cardiac arrest,
16 so he should be pretty limber.

17 Q Right. What -- why -- what does stiffness indicate
18 to you?

19 A That this was not something that had just happened.

20 Q Okay.

21 A It did not appear to me that it was something that
22 had just happened.

23 Q Okay. What other observations did you make of the
24 patient's condition when you were treating him?

25 A When I went to intubate, the process -- you get all

Donde Munn - Direct Examination by Mr. Caskey

1 your equipment ready, your laryngoscope, which is the
2 flashlight. You make sure everything's good to go. As I
3 placed it into his mouth and I was trying to pull the head
4 back just a little bit, children don't require a lot of
5 head tilt like it would for you or I. But as I went in
6 with the laryngoscope, I noticed again that the mouth was
7 stiff, so it caused me to use greater force than I
8 anticipated. And as I look into the mouth, there's no
9 moisture. If any one of us was to go into cardiac arrest,
10 when I would look into your mouth, I would see moisture.
11 There was no moisture.

12 So I got a visualization of the vocal chords,
13 picked my tube up and placed in between the vocal chords.
14 Again, the vocal cord being the gatekeeper of the trachea,
15 which is your windpipe; got placement there, withdrew the
16 laryngoscope and secured the tube, starting ventilating and
17 secured the tube.

18 Q Okay. Did you have any other further involvement
19 in this case?

20 A No, sir. After that we needed to transport so I
21 exited the ambulance and helped them to backup to get out
22 and to get under way.

23 Q When you were examining the patient, the baby, did
24 you observe him to be dry?

25 A Yes, sir. He was dry.

Donde Munn - Cross-Examination by Mr. Williams

1 Q As in the body was?

2 A The body was dry.

3 Q In addition to the throat?

4 A Yes, sir.

5 Q And the mouth?

6 A Yes, sir.

7 Q Okay. Thank you, Lieutenant Munn. Please answer
8 any questions that defense counsel may have for you.

9 A Yes, sir.

10 THE COURT: Thank you, Solicitor.

11 Mr. Williams?

12 MR. WILLIAMS: Thank you, Your Honor.

13 **CROSS-EXAMINATION**

14 BY MR. WILLIAMS:

15 Q Lieutenant Munn, are you the supervisor for the
16 crew that was already on the scene?

17 A I was that day, yes, sir.

18 Q Which means you rotate in terms of who you
19 supervise?

20 A Yes, sir. During that time, I was assigned to that
21 shift. I'm on a different rotating shift at this point.

22 Q And on that particular day, you had received a
23 phone call from one of -- one of those two individuals to
24 come to the scene or radio call to come to the scene?

25 A It was a radio call. I was simultaneously

Donde Munn - Cross-Examination by Mr. Williams

1 dispatched along with them -- well, there are times we're
2 not dispatched, so I would -- I would have to say either
3 County called me on the radio, dispatch called me on the
4 radio or I overheard something about that, read the notes
5 and I'll do that frequently just from my experience, there
6 are things that I may pick up on that's concerning to me
7 and I may respond to something that other supervisors may
8 not.

9 Q So you don't know if -- when you say County, you
10 don't know if the 9-1-1, the communications person
11 contacted you to go there or whether or not they called you
12 or you had simply read something over the screen and
13 thought that maybe you ought to go there?

14 A That's correct.

15 Q Would there be a record if they had actually
16 notified you the be there?

17 A Yes, sir. I -- I could not speak for the dispatch
18 agency. But if they called me, it would be recorded.

19 Q Okay. So there should be a record that you were
20 called to be there?

21 A I would think so.

22 Q Now, in that you were on call --- are you on call
23 like you're at home and somebody calls you out? Or are you
24 in a truck --

25 A No, I'm --

Donde Munn - Cross-Examination by Mr. Williams

1 Q -- and you're traveling the County or maybe sitting
2 at an intersection like you see ambulances and stuff like
3 that?

4 A May be a bunch, may be in an ambulance moving or in
5 the rescue moving, maybe in a meeting, it's just --

6 Q Do you recall on that particular morning whether or
7 not you were actually in a meeting or if you're on the road
8 or anything like that?

9 A I do not.

10 Q How long -- and the reason I'm asking you,
11 obviously --

12 A Yes, sir.

13 Q -- is talking about time. You don't recall how
14 long it took you to go from wherever you were to go to this
15 particular location?

16 A I'm sure it's in the dispatch log. I'd be happy to
17 take a look.

18 Q Okay.

19 A (Looking.) The dispatch report has me en route at
20 0948.

21 Q So it has you en route at that time. Does that
22 mean you contacted dispatch and told them that you were
23 going there?

24 A It -- that's the -- that is the time that I signed
25 on as en route. Whether or not they called me or --

Donde Munn - Cross-Examination by Mr. Williams

1 Q Or you called them?

2 A Or I called them. It has me dispatched at 0948.2.
3 I was en route at 948.3. So evidently I was already
4 mobile.

5 Q Are you saying that it doesn't really record who
6 calls who, but it records when you're moving? Is that what
7 you're saying?

8 A We have ADL, which actually tracks the vehicles --

9 Q Okay.

10 A -- as well as -- so we would get a call for help,
11 first and then it would already show where you're at. And
12 then has you removing -- responding to that voice command.

13 Q Okay. So it could be simply showing you moving
14 towards the scene, whether they called you or you called
15 them that is correct?

16 A Okay.

17 Q Now, who is in the vehicle with you?

18 A No one.

19 Q Are you by yourself?

20 A Yes, sir.

21 Q Were you in an ambulance or in a private car?

22 A In a rescue vehicle that -- the unit I was in that
23 day is a large F350 or 450 with a rescue body on it, but
24 it's kind of like a contractor's body on the back with arms
25 and so forth.

Donde Munn - Cross-Examination by Mr. Williams

1 Q Okay. Got you. So out of -- you've already
2 described coming to the back of that residence?

3 A Yes, sir.

4 Q You said -- you said that they were located at the
5 back of the residence?

6 A They were parked down the driveway towards the back
7 of the residence where the back door was, I believe. I
8 parked out on Oakland at the front of the residence.

9 Q Well, did you know by the location was or did you
10 simply -- and I don't mean to use the word simply
11 indicating a lack of care or anything --

12 A Yes, sir.

13 Q -- or did you look at like -- in my car I can type
14 in a number --

15 A That's right.

16 Q -- and it will direct me to a location?

17 A Yes, sir.

18 Q Is that how you went to this scene?

19 A We have GPS tracking, so that gives us a route and
20 it's the closest calculated route. So we would follow that
21 route.

22 Q And is that the route that all paramedics use in
23 Lexington County? That -- there is a route to go to a
24 particular location and they will be directed to that
25 route. Because a lot of times we see ambulances going down

Donde Munn - Cross-Examination by Mr. Williams

1 Main Street in Lexington --

2 A Yes, sir.

3 Q -- whether that may or may not be the quickest and
4 shortest route?

5 A Yes, sir, yes.

6 MR. CASKEY: Objection I don't think that we heard
7 a question there, Your Honor.

8 THE COURT: Whether that may or may not --

9 Restate your question, Mr. Williams.

10 BY MR. WILLIAMS:

11 Q Are you directed to go by the County's directions
12 to a particular location or is this some other monitoring
13 device or company that directs you how you would go to the
14 location?

15 A We -- our mobile data terminal, the MDT gives us a
16 route. It's a greenline and it shows where you are and
17 then where the call is and you would follow the green line.
18 Now, we are given the liberty of going off course if we
19 know that there is a particular outage, maybe a bridge
20 that's out, or an accident that we have other units on and
21 we know that that is -- that's blocked off, so we have the
22 liberty to use that, as long as we can justify the
23 deviation in court.

24 Q All right. But this course direction is actually
25 provided by the County?

Donde Munn - Cross-Examination by Mr. Williams

1 A It's provided by our mobile data terminal, which
2 is -- I couldn't tell you right off who our provider for
3 that service is.

4 Q Did it -- did it take you to the front of the house
5 or did it take you to the back of the house? You saw them
6 at the back of the house.

7 A Right.

8 Q It took you to the front of the house?

9 A It took me to the [REDACTED] I parked out on
10 Oakland and then walked, I guess, 20 or 30 yards.

11 Q Okay. Do you recall anything about whether or not
12 there was a front driveway, a back driveway, or just one
13 driveway?

14 A I do not recall.

15 Q All right. But you don't know if there was more
16 than one entrance going to that location?

17 A I don't recall that, no, sir.

18 Q All right. So when you got -- you parked out on
19 the road because you don't want to block anybody, right?

20 A Yes, sir. I didn't want to -- I didn't want to
21 block the egress of the ambulance, block the exit path of
22 the ambulance.

23 Q And you walked down there; is that correct?

24 A I did.

25 Q And when you walked down there, you saw two people

Donde Munn - Cross-Examination by Mr. Williams

1 who worked for you and a truck or an ambulance, right?

2 A I saw the ambulance. There was a person standing
3 in the yard. Law enforcement was on the scene, so my
4 situational awareness was that I didn't see any obvious
5 threats that was to myself or my personnel and I -- so I
6 directly boarded the ambulance when I approached it.

7 Q Okay. Do you recall how much law enforcement was
8 on the scene?

9 A I do not.

10 Q Was it more than one vehicle?

11 A I don't -- it was two or three years ago.

12 Q Do you recall which law enforcement it was?

13 A No, sir, I don't.

14 Q And you said you saw one individual besides law
15 enforcement. Can you describe that individual that you
16 saw?

17 A I could not, no, sir. Again, I saw -- I believe
18 there was two individuals there and one of them, I don't
19 believe was in uniform. I can't tell you if they were
20 standing together or standing -- again, my concern was
21 getting in the back of the ambulance and helping.

22 Q I got you. I got you. So you weren't there to
23 look at the scene then?

24 A No.

25 Q You was there to help if needed in the ambulance?

Donde Munn - Cross-Examination by Mr. Williams

1 A That's correct.

2 Q So -- and you -- and after you were done, you had
3 them on their way, did you remain on scene to look at the
4 area, did you look at the scene?

5 A No, sir. My job following that is to go to the
6 hospital to help the crews with whatever they may need.
7 And in this case, we had an additional firefighter that was
8 driving, so our normal routine, if available is to return
9 the firefighter to that section.

10 Q Are you -- do you possess the authority as well as
11 the ability to pronounce someone deceased on scene?

12 A No, sir. My job is to determine viability. If the
13 patient is viable, should we be able to resuscitate this
14 person or not. There is a fine line there and a lot of
15 folks, including certified folks, I don't -- and this is
16 probably more opinion than anything, but our job is to --
17 is the patient viable. We don't pronounce anyone -- the
18 coroner gets on scene, that's the coroner's job. We
19 determine that this person -- we're not going to
20 resuscitate this person. The coroner arrives on scene
21 to --

22 Q When Sergeant Tucker -- he works underneath you,
23 right?

24 A He does.

25 Q Now, why would he have the ability to pronounce

Donde Munn - Cross-Examination by Mr. Williams

1 someone is deceased?

2 A It's not my opinion that he does.

3 Q Okay. Now, after you attempted to intubate the
4 child, did you observe any trauma on the child's body?

5 A I did not observe any angulation and -- what I deem
6 as gross trauma would mean any angulation of extremities:
7 arms, legs, any opening of the large vessel cavities like
8 an open head wound, an open chest, abdominal wound. It's
9 things that we're focused on. I got brief eyes on the
10 patient and saw, you know, that everything's in line,
11 there's no exsanguinating, no heavy bleeding. And Sergeant
12 Tucker needed me to intubate and that's what I focussed on.

13 Q Besides the problem that you had intubating the
14 child, which you said there was a stiffness, did you notice
15 anything else about the child's body that was unique or
16 different?

17 A No, sir.

18 Q So the child did not appear to be cold?

19 A The child was cold to the touch. More cold than I
20 would have expected.

21 Q Well, why did you not say that when I asked you
22 just two seconds ago?

23 A As far as looking at the child, no, I didn't see
24 anything that said -- when I touched the child to position
25 the head and so forth, the child was cool to the touch.

Donde Munn - Cross-Examination by Mr. Williams

1 Q Could you note then, if he was cool to the touch,
2 degrees, in terms of coolness?

3 A No, sir, no, sir. I can tell you, you know, if I
4 touch this and I touch a living human being, there's a
5 definite temperature, but -- I may guess that this is 78
6 degrees and that you're 98 degrees, but I can't tell you
7 that --

8 Q So you couldn't tell the child was already
9 deceased?

10 A Again, that's not my job. My job is to determine
11 the viability. Sergeant Tucker has the -- or had began
12 resuscitation as I entered the airway and noticed there was
13 a dry airway, he was cool to the touch, there was some
14 stiffness. I did wonder why we were so far into this,
15 however, we -- and this situation that we're faced with and
16 many times that I've been faced with in my career is that
17 you arrive on the scene and you're given one story, but you
18 see that you -- that the story and the presentation, so to
19 speak is two different things.

20 We're trying -- and you only have seconds to make
21 that decision. Is this so grossly overwhelmed that this is
22 not -- or am I going to err on the side of the patient and
23 more often than not, we will err on the side of the
24 patient.

25 Q Did you record that information anywhere? Did you

Donde Munn - Redirect Examination by Mr. Caskey

1 write that information down? What you've just talked
2 about?

3 A No, sir. The report states, Sergeant Tucker's
4 report, skin cold and gray, cyanotic lips, asystole, which
5 is a flat line on the monitor, pediatric fib pad -- being a
6 pediatric fib pads which means he placed the pads on the
7 child's chest --

8 Q Okay. I'm actually asking about your report.

9 A No, sir, I did not. No, sir. My report just
10 simply said, I backed up Sergeant Tucker's unit, assisted
11 with intubation and exited the vehicle.

12 Q So you have nothing written down in your report
13 about the condition of the child?

14 A No, sir.

15 Q Just that you intubated?

16 A That is correct.

17 MR. WILLIAMS: That's all the questions I have,
18 Your Honor.

19 THE COURT: Redirect?

20 MR. CASKEY: Yes, Your Honor.

21 **REDIRECT EXAMINATION**

22 BY MR. CASKEY:

23 Q Lieutenant Munn, as Sergeant Tucker's supervisor,
24 you're familiar with this case?

25 A Yes, sir.

Donde Munn - Redirect Examination by Mr. Caskey

1 Q You've reviewed all the details of this case?

2 A Yes, sir.

3 Q At any point were efforts on the part of EMS to
4 revive the patient, did those stop?

5 A No, sir.

6 Q You tried?

7 A Yes, sir.

8 Q Now, did your observations that day fit with the
9 story of a fresh death?

10 A No, sir.

11 Q Did Sergeant Tucker actually pronounce the victim
12 to be dead?

13 A No, sir.

14 Q Okay. You recall what the patient was wearing that
15 day? Or whether or not he was even dressed. If you
16 recall?

17 A I don't -- I don't recall.

18 Q Sergeant Munn, I'm showing you State's 30, 31 and
19 32. If you would, please, take a look at those and tell me
20 whether or not you can identify that.

21 A Yes, sir, this is the house -- again, it's been so,
22 long ago, I remember a gray building.

23 Q Do you recall that -- the -- what's in those photos
24 there?

25 A I -- it looks like the house that I responded to

Donde Munn - Redirect Examination by Mr. Caskey

1 and parked in front of, yes, sir.

2 Q Is that a fair and accurate representation of what
3 it looked like?

4 A Yes, sir.

5 Q Okay.

6 MR. CASKEY: Your Honor, we would move State's 30,
7 31, and 32 into evidence.

8 MR. WILLIAMS: Your Honor, I would object. He has
9 not laid a proper foundation because based on the testimony
10 of the witness, he says all he remembers is it's a gray
11 house and after persistent questioning, he says, Well, it
12 looks like it could be the house that I saw. He hasn't
13 identified this as being the house, under oath, that he
14 reported to.

15 THE COURT: May I see the photographs, please.

16 (There was a pause in the proceedings.)

17 THE COURT: All right. I would sustain the
18 objection. You can lay a proper foundation.

19 BY MR. CASKEY:

20 Q Let me just one last time, Lieutenant Munn, you
21 recall these -- or can you identify what's portrayed in
22 these photographs?

23 MR. WILLIAMS: Objection. Asked and answered, Your
24 Honor.

25 THE COURT: Overruled.

Allen Farley - Direct Examination by Ms. Mayes

1 BY MR. CASKEY:

2 Q If you're sure?

3 A Yes, sir. Again I arrived on the scene of a gray
4 house and this looks much like the house that I arrived at.
5 As far as -- it looks like the residence that I arrived at.

6 MR. CASKEY: All right. We'll take this up later.

7 Thank you, Lieutenant Munn.

8 I don't have any further questions, Your Honor.

9 MR. WILLIAMS: No questions on recross, Your Honor.

10 THE COURT: Thank you, thank you very much,
11 Lieutenant, for being with us today. You may step down.

12 Any objections to the Lieutenant being excused?

13 MR. CASKEY: None from the State, Your Honor.

14 MR. WILLIAMS: No objection, Your Honor.

15 THE COURT: You may be excused.

16 MS. MAYES: The State calls Allen Farley.

17 ALLEN FARLEY,

18 having been duly sworn, testified as follows:

19 THE CLERK: If you'll have a seat over here. State
20 your name, please and spell your last for the record.

21 THE WITNESS: Allen Farley, F-A-R-L-E-Y.

22 **DIRECT EXAMINATION**

23 BY MS. MAYES:

24 Q Good morning.

25 A Good morning.

Allen Farley - Direct Examination by Ms. Mayes

1 Q Could you give us some information about yourself,
2 including where you are currently employed.

3 A Yes, ma'am, I'm currently a Lexington County
4 firefighter. I've been in fire fighting and para medicine
5 for the last thirty years. Along with the para medicine,
6 I'm a nationally registered paramedic. I'm also a South
7 Carolina licensed paramedic. I have certifications in CPR,
8 prehospital trauma life support, advanced cardiac life
9 support, pediatric events life support.

10 At the time of this incident, I was part of the
11 emergency response team.

12 Q All right. So let me ask you, with the Lexington
13 County Fire Department, how long have you been a
14 firefighter?

15 A I've been a firefighter paramedic for thirty years.

16 Q And specifically in Lexington County?

17 A At that time? Close to five years.

18 Q Now, you mentioned your involvement in this case,
19 which would be November 27th, 2013, and a response to a
20 critical care -- a pediatric patient at [REDACTED].
21 Where were you working that day?

22 A At that time I was Engine 19, which is out of Pine
23 Grove.

24 Q All right. Engine 19, who else was with you when
25 you responded to the scene?

Allen Farley - Direct Examination by Ms. Mayes

1 A Engineer Chris Hallman.

2 Q So y'all took the fire truck out there?

3 A Yes, ma'am.

4 Q Now, why is it sometimes necessary for the fire
5 department or a fire engine to provide backup or assistant
6 medical services?

7 A The reason that we respond to EMS calls is for a
8 lot of times, manpower. They'll have a patient that is
9 critically injured and they need all of the EMS people to
10 ride in the back of the vehicle, so we will drive and it
11 allows them to provide better medical care to a
12 critically injured or ill patient.

13 Q All right. Now, what's the first thing you do when
14 you get a call and you're en route to a scene?

15 A Initially, we will -- dispatch will tell us what
16 the call is. And depending on the call, we would get into
17 the vehicle, put our seat belts on, put ourselves en route
18 via radio to the dispatch.

19 Q And what was your understanding of the type of call
20 that you responded to on this day?

21 A Initially this call came in for us as a driver
22 emergent. And that's all the information we got. Because
23 at this time, we didn't have -- right now we have computers
24 in the truck and we also get what's called a rip and run,
25 so when we get information now, it comes on both. At that

Allen Farley - Direct Examination by Ms. Mayes

1 time, we didn't have either. So the only information we
2 got, dispatch would give us over the radio.

3 Q All right. And when you arrived, what was your
4 understanding regarding the patient's condition?

5 A When we arrived, we didn't know anything about the
6 patient. We had just been told that it was a driver
7 emergent and that's -- that could be a seizure, that could
8 be someone who's cut themselves badly with a knife. We
9 didn't know it was a pediatric patient, we didn't have any
10 of that information.

11 Q And what did you see when you arrived?

12 A We arrived on scene. An ambulance was already
13 parked in the driveway, so we parked, exited our vehicle
14 wearing medical gloves, went to the -- it would be the back
15 entrance and there was police officers already on scene and
16 normally when we get there and the police are there,
17 they're like, yeah, you know, come on. And they were
18 excitable so we already knew this was going to be more than
19 that.

20 The door was initially closed. When we opened the
21 door to enter the residence, EMS was already doing CPR to a
22 small child and that's when we knew this was going to be a
23 CPR or a cardiac arrest of a very young child.

24 Q And what was the next step?

25 A The next step for us was, Chris initially started

Allen Farley - Direct Examination by Ms. Mayes

1 helping them. I took one step in and they didn't have any
2 of the equipment to be able to transport this child with
3 them. Their normal course of action is to take what they
4 need into the residence and begin patient care. When fire
5 service gets there, we will normally get the equipment
6 there and assist them in any way necessary.

7 Q All right.

8 A So Chris helped them. I went back out to the
9 truck, got the stretcher and what's a long spine board, one
10 of them long plastic boards, because we do CPR, it's got
11 to -- CPR has to be done on a firm surface and the
12 stretcher doesn't provide that, so we always use a spine
13 board. We return with that equipment. One of the police
14 officers took the spine board while I got the stretcher
15 ready for them to exit because they're going to come out
16 with a patient. They're going to come out with their EKG
17 machine.

18 They may or may not take that blue -- they have a
19 blue medical bag, sometimes they'll leave it and we'll get
20 it for them because they have other equipment on the
21 ambulance itself.

22 Q All right. So tell us what, if anything, you
23 observed, when you saw the patient on the ground?

24 A Initially the one thing that struck me because I
25 found out right after we got there that this was going to

Allen Farley - Direct Examination by Ms. Mayes

1 be a drowning and initially the one thing that got me was
2 the child's hair. It was the first thing I noticed. And
3 in the middle of the corn rolls, the hair was really,
4 really frizzy -- I don't know what other word -- frizzy,
5 which would tell me his hair was bone dry.

6 I've done a lot of drownings and I've yet to see a
7 child that has dry hair. But that was the first thing that
8 got me was this child's hair was just bone dry.

9 Q You had received information for purposes of
10 medical diagnoses and treatment that the child had been
11 found near a tub?

12 A Yes, ma'am.

13 MR. WILLIAMS: Objection, leading.

14 THE COURT: Rephrase your question, please.

15 MS. MAYES: Yes, sir, Your Honor.

16 THE COURT: Sustained.

17 BY MS. MAYES:

18 Q For purposes of medical diagnosis and treatment,
19 can you tell us whether or not you obtained some type of
20 history on the patient as to what may have occurred?

21 A Yes, ma'am, right after we got there, we were
22 informed from EMS that this was going to be a drowning.

23 Q All right. So let me ask you this, you mentioned
24 the child's hair. Did you also have an opportunity to
25 observe his body and his clothing?

Allen Farley - Direct Examination by Ms. Mayes

1 A Yes, ma'am, I did. One thing I noticed was the
2 type of diaper. It had like that elastic stuff -- I don't
3 know what they call it, it's not a regular diaper. It's
4 what children normally use when they're potty training, I
5 guess would be -- where they can remove it themselves, go to
6 the bathroom and pull it back up.

7 Q A Pullup?

8 MR. WILLIAMS: Objection, leading.

9 THE COURT: What was your answer (verbatim),
10 Solicitor? I'm sorry.

11 MS. MAYES: He mentioned that the child was wearing
12 a diaper that could be pulled up.

13 THE COURT: All right.

14 THE WITNESS: I don't know what else to call the
15 thing, Judge...

16 THE COURT: I don't either.

17 THE WITNESS: I don't have small children.

18 THE COURT: Mine are all out of the house, off the
19 payroll. I don't know either.

20 You may can your next question, Solicitor.

21 MS. MAYES: Yes, sir, Your Honor.

22 BY MS. MAYES:

23 Q In addition to the Pullup, do you know whether or
24 not the child had any other type of clothing?

25 A He had like a onesie, but EMS had already cut that.

Allen Farley - Direct Examination by Ms. Mayes

1 But I didn't notice any other clothing. The diaper or the
2 Pullup was the one thing -- only because it's different.

3 Q All right. And how was he positioned? Let me ask
4 you that.

5 A When we got there, EMS was already doing patient
6 care and CPR. The normal position would be what they call
7 an anatomically correct position, which is with the
8 person's back on the ground so they can do the proper chest
9 compressions and airway.

10 Q Now, did you have the opportunity to observe any
11 attempts by emergency medical services to intubate the
12 patient? By that I mean put a tubing into his mouth so he
13 could breathe?

14 A Yes, ma'am, once the small child was moved to the
15 back of the ambulance, we're doing CPR while we were moving
16 this child on the stretcher. This stretcher was then put
17 into the back of the ambulance. I went to the side door.
18 The way an ambulance is made, you've got two doors in the
19 back and one on the side. So there was already quite a few
20 between fire and EMS -- there was already quite a few
21 people with that child, so I went around to the side door
22 and what I observed was Lieutenant Munn was attempting to
23 intubate this child.

24 And what that is, is we have a -- you'll have a
25 handle with a metal blade that comes out. I don't know if

Allen Farley - Direct Examination by Ms. Mayes

1 you've ever seen it. And what that is, is a lifting device
2 so you can open the airway and it's got a light on the end
3 so you can visualize the person's vocal chords and then
4 they'll put a plastic breathing tube in. So he was
5 attempting to do that too where he could put that plastic
6 tube in, but the -- that child's lower jaw was already
7 stiff, which is an indication of early rigor mortis.

8 Q Did you observe any efforts or difficulty that they
9 encountered in trying to open the mouth or the jaw?

10 A Yes, ma'am. When Lieutenant Munn was trying to
11 intubate and he lifted, instead of the jaw being able to
12 move from the rest of the mouth, it was stuff, so he had to
13 do what's called a cross-finger technique, initially where
14 you put your fingers in, you can cross your fingers to help
15 open the mouth to assist it and that was the only way he
16 was able to even look in with a laryngoscope.

17 Q Can you tell us in your experience, your thirty
18 years in para medicine as you put it, have you had the
19 opportunity to do that same procedure on patients?

20 A Yes, ma'am. It's not uncommon because we don't
21 make a determination in the field, unless this person is
22 obviously dead. We don't make a determination as to end of
23 life, so we will do every effort necessary to try to make
24 these people alive or revive them. It's not uncommon to do
25 that. It could be somebody that you -- you know, has a

Allen Farley - Direct Examination by Ms. Mayes

1 medical condition that causes that, so you do -- it's not
2 uncommon to do a cross-finger technique in order to get
3 your intubation.

4 Q Have you had the opportunity to work on patients
5 who are freshly deceased?

6 A Yes, ma'am. Last year, I received an award from
7 the fire department. I received a life-saving award last
8 year for the same exact thing.

9 Q In a patient who is freshly deceased, do you
10 normally encounter such difficulty in opening the jaw of a
11 patient?

12 A No, ma'am. Normally if somebody has just -- I
13 couldn't call them expired because we're still going to
14 work them. If you have a patient who recently has not had
15 a heartbeat, has no pulse, is not breathing, normally the
16 jaw is not locked down like that. It's normally the same
17 as what ours is right now. It usually takes at least a
18 little bit of time before you get early rigor mortis.

19 Q Now, in addition to assisting with manpower, what
20 other assistance did you provide in terms of actually
21 getting the patient to the hospital.

22 A That particular case I drove for EMS. Initially
23 that's what they called us for was for a driver. So I was
24 standing in the side door and Lieutenant Munn was getting
25 his airway, and he said listen, I'm going to be ready to go

Allen Farley - Direct Examination by Ms. Mayes

1 in two minutes. Go ahead and put the family members in the
2 front seat and go ahead and get ready to go.

3 Q All right. And ultimately, did you move to the
4 front of the ambulance while Lieutenant Munn and Sergeant
5 Tucker were in the back continuing their efforts to
6 resuscitate the victim?

7 A Yes, ma'am, I shut the side door. I walked around
8 to the side -- the mother at this point was there, the lady
9 who identified herself as the child's mother was there.

10 Q All right.

11 A I opened the passenger-side door. I had her sit
12 inside. I put the seatbelt on for her because we don't
13 travel anybody without a seatbelt on. Then I went around
14 to the driver's side and shut the door. When you're
15 sitting in an ambulance here and a passenger seat here. We
16 have a small window right here, so normally I'll turn
17 around and I'll tell them, let me know when you're ready to
18 go. I will not move that vehicle until they're ready to go
19 because you can't see in the back and you don't know
20 what -- you know, how far along they are with the patient
21 care.

22 Q All right. And while she was sitting in front of
23 the ambulance with you, what, if anything, did you observe?

24 A She was sitting in the passenger seat in the front
25 and the gentleman who was the only nonsafety person on

Allen Farley - Direct Examination by Ms. Mayes

1 scene walked up to the vehicle and knocked on the
2 passenger-side window. She at that point opened the door
3 and he asked for a cigarette and a lighter.

4 Q And what happened next.

5 A She gave him a cigarette and a lighter and then she
6 looked at me and I told her don't even think about it. We
7 don't smoke in county vehicles.

8 Q All right. And did you observe her with any type
9 of phone or communication device?

10 A Yes, ma'am. As we were transporting, the EMS folks
11 in the back of the truck said they were ready to go to the
12 hospital. We put the vehicle en route. We tell dispatch
13 over the radio we're traveling to whichever hospital it is,
14 we're going to Lexington County, we're going to Lexington
15 County ER, emergent cardiac arrest. Shortly after I
16 started to drive, she took a cell phone out of her purse --
17 it was -- and it's the only reason I remember it, at that
18 time, most people had those phones that flip, like you
19 could flip it; it was a bigger phone, it was touch screen.
20 So the whole way to the hospital, she's either texting
21 people or talking to them on this phone.

22 Q All right. So you observed her -- observed her to
23 have that phone in her purse?

24 A Yes, ma'am. She had it with her when she got in
25 the vehicle.

Allen Farley - Direct Examination by Ms. Mayes

1 Q All right. Now, based on your observations there
2 at the scene of the mother and the male individual, what,
3 if anything can you tell us about their demeanor?

4 A I can tell you that it seemed like they were very
5 non --

6 MR. WILLIAMS: Objection, Your Honor, in regards to
7 his qualifications to say anything other than how they
8 appeared. He hasn't been qualified as --

9 THE COURT: Could you rephrase the question ---he
10 can describe what he saw.

11 MS. MAYES: Yes, sir, Your Honor.

12 BY MS. MAYES:

13 Q Let me ask you this. You mentioned that you have a
14 specific training in pediatric critical care?

15 A Yes, ma'am.

16 Q Could you tell us whether or not you've had the
17 opportunity to participate with critically ill children in
18 the past?

19 A Yes, ma'am. Prior to coming to South Carolina in
20 the State of Rhode Island, I was -- my occupation was
21 critical care paramedic ground transport. I've done
22 everything from premature infants, straight up until 104
23 year old family members, normally very critically ill, a
24 lot of them not expected to be able to survive a ride in
25 the ambulance from point A to point B.

Allen Farley - Direct Examination by Ms. Mayes

1 Q What, if anything, did you observe in this case
2 that appeared unusual?

3 MR. WILLIAMS: Objection, Your Honor. Still not a
4 proper foundation for this type of questioning.

5 THE COURT: Restate your question, Solicitor.

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

7 BY MS. MAYES:

8 Q What, if anything, did you observe, regarding the
9 demeanor of both the mother and the defendant in this case
10 while you were at the scene and the patient was being
11 treated?

12 A The demeanor that I noted that seemed different
13 than most --

14 MR. WILLIAMS: Objection, Your Honor.

15 THE COURT: Overruled.

16 THE WITNESS: The demeanor that I noticed that was
17 different than most folks that I've encountered over a
18 thirty year span of time, with a child that's critically
19 injured, it's non assuming. It would be basically like it
20 was not a big deal to them, it was just another day at the
21 office.

22 MR. WILLIAMS: Renew my objection, Your Honor.

23 THE COURT: I'll renew my ruling.

24 MR. WILLIAMS: Thank you, Your Honor.

25 THE WITNESS: Where normally parents, especially a

Allen Farley - Cross-Examination by Mr. Williams

1 mother, they're beyond frantic. Sometimes we've had to
2 have police actually hold the moms so we could treat the
3 children because they're so -- they don't know what to do.
4 You're talking about a mother -- they're assuming this
5 child's not alive anymore and that doesn't necessarily mean
6 they're not. We're trying to correct whatever medical
7 abnormalities have taken place. And normally, these
8 parents are very excitable and that was absolutely not the
9 case.

10 BY MS. MAYES:

11 Q All right. And did she ultimately give a cigarette
12 to the defendant there at the scene?

13 A Yes, ma'am, she opened the door to the ambulance,
14 reached in her purse, gave him a cigarette and the lighter
15 and looked at me and I told her she was not going to have a
16 cigarette.

17 Q All right. And he had his cigarette, did he light
18 it?

19 A Yes.

20 MS. MAYES: Nothing further.

21 THE COURT: Thank you, Solicitor.

22 Mr. Williams?

23 **CROSS-EXAMINATION**

24 BY MR. WILLIAMS:

25 Q Now, the male did not ride in the ambulance with

Allen Farley - Cross-Examination by Mr. Williams

1 you to the hospital; is that correct?

2 A That's correct.

3 Q So you did not observe the male on the cell phone
4 texting anybody, did you?

5 A No, sir, I did not.

6 Q The only thing you can say about the male is that
7 the male asked for a cigarette when he was out in the yard.

8 A That's correct.

9 Q So he is not the person you are describing when you
10 said calm --

11 A No, they both were, sir.

12 Q Well, exactly what did he do which you thought was
13 unusual?

14 A I wouldn't say unusual; what I would say is
15 abnormal. The behavior that he exhibited was that of
16 someone who was nonchalant would be the words that I'd use.

17 Q Did you actually think that he was the father of
18 this child?

19 A No, sir, I don't assume anything. I was told by
20 the officers on scene that he was a boyfriend.

21 Q All right. So if he's a boyfriend, then you would
22 have no idea if he was the father or not the father?

23 A No, sir, I don't assume anything.

24 Q Had you ever met this man before?

25 A No, sir, I never met either one of them.

Allen Farley - Cross-Examination by Mr. Williams

1 Q Did you know anything about his personality before?

2 A No, sir.

3 Q Did you know whether or not he got upset all the
4 time or did not get upset all the time?

5 A No, sir.

6 Q And what would you think about a paramedic or an
7 EMT that got upset in an emergency situation, would you
8 think that that was unusual?

9 A It would depend on the situation; it would depend
10 on the person.

11 Q Right. But you would expect an EMT or paramedic to
12 remain calm when they're in an emergent situation, wouldn't
13 you?

14 A For the most part, yes, sir.

15 Q So it would be bad if a paramedic or EMT was upset
16 during an emergency situation, wouldn't it?

17 A Yes, sir, but the difference is, we have no
18 emotional -- emotional connection to any of these people.

19 Q So you don't care about these people?

20 A No, sir, I do care. The problem is, I care too
21 much. I've spent the greater part of thirty years
22 educating myself and gaining experience so that if I were
23 to come to your house I can treat your mom and I'm not
24 excited. You may be, but I won't be.

25 Q Right. And that's because you are not related to

Allen Farley - Cross-Examination by Mr. Williams

1 most of the people that you treat; is that correct?

2 A That's correct, sir.

3 Q And if the individual that you saw in the yard was
4 not related to the person that you were treating, he'd be
5 in the same position that you're in; ain't that correct?

6 A No, sir, he's responsible for that child, I'm not.

7 Q Well, wouldn't you be responsible to the person
8 that you were treating in your --

9 A I'm responsible to the patients I take care of 100
10 percent. I am liable to those people. However, I am not
11 related to those people, I don't live with those people, I
12 have no emotional attachment to those people.

13 Q So what types of courses in psychology have you
14 ever taken?

15 A I'm presently -- I'm glad you asked. I'm presently
16 taking nursing. I've been through Psych 1 and 2. I've
17 been through Sociology 1 and 2. I've taken advanced
18 psychology through EMS.

19 Q So you think you're now prepared to evaluate people
20 in regards to their personalities?

21 A No, sir, I'm not a psychologist. I can only tell
22 you what normal sociology is worldwide, as the -- the
23 general populace.

24 Q So you can tell what the general sociology is for
25 people worldwide?

Allen Farley - Cross-Examination by Mr. Williams

1 A Yes, sir, as far as the last census that was taken.

2 Q Okay. And what does that statement mean?

3 A What that --

4 THE COURT: Sociology is not relevant. You asked
5 about psychology.

6 MR. WILLIAMS: I did.

7 THE COURT: State your next question.

8 BY MR. WILLIAMS:

9 Q What is the relevance of your sociology statement?

10 A Basically it just tells you what the general
11 populace is at this time, trending and such.

12 Q And is there a trend towards people not caring when
13 they're having children picked up from ambulances or
14 something?

15 A Say again?

16 Q I'm trying to figure out what the relevance is to
17 this particular case that we're dealing with when you
18 referenced sociology?

19 A You asked what his demeanor was.

20 Q Right.

21 A His demeanor as opposed to what the general
22 population that I've observed over thirty years in para
23 medicine, his demeanor was abnormal.

24 Q Because he was calm?

25 A Yes, sir, because he wasn't excited. And it was a

Allen Farley - Cross-Examination by Mr. Williams

1 small child.

2 Q Okay. Now, when you arrived there, is it your
3 testimony that you were there before Mr. Munn, before --

4 A No, sir, EMS -- EMS was on scene way before we
5 were, so were the police.

6 Q So Lieutenant Munn was there before you got there?

7 A Yes, sir. All the EMS people and all the police
8 minus SLED, who did the investigation, they were all there
9 way before we were there.

10 Q All right. Now, tell me about putting family
11 members in the front of your vehicle.

12 A Yes, sir.

13 Q Did you ask the male that had asked for the
14 cigarette if he wanted to ride in the front of the vehicle?

15 A No, sir. Prior to us -- just prior to us putting
16 that small child in the back of the truck, a vehicle pulled
17 up with the mother, which I didn't know it was the mother
18 at the time. I was standing in the side door of the truck
19 while Lieutenant Munn was attempting to intubate. When I
20 stepped down, the lady identified herself as the mother.
21 And I said are you going to ride to the hospital with the
22 child.

23 She said she wanted to, so I opened the passenger's
24 door of the truck. She sat inside. I then put the seat
25 belt on her and told her, keep your arms and legs in, and I

Allen Farley - Cross-Examination by Mr. Williams

1 shut the door. And then I walked around to the driver's
2 side and sat in the seat, put my seat belt on and waited on
3 the EMS folks in the back of the truck to let me know when
4 they were ready to go.

5 Q And did you ask the gentleman on the scene whether
6 or not he wanted a ride to the hospital or not?

7 A No, sir, because we can only take one person.

8 Q So he wasn't even asked to go to the hospital,
9 correct?

10 A Not after she identified herself as the mother.
11 And we were told by the police that he was a boyfriend.

12 Q Okay.

13 A She requested the ride.

14 Q I think the question was, you didn't ask him?

15 A No, did not.

16 Q And it was your understanding that there had been a
17 drowning, correct?

18 A That's correct.

19 Q And this information was received from --

20 A EMT's once we arrived on scene.

21 Q Now, the -- the clothing that the child had on --

22 A Yes, sir.

23 Q -- you said that the child had on Pullups; is that
24 correct?

25 A Yes, sir.

Allen Farley - Cross-Examination by Mr. Williams

1 Q Did you maintain possession of those Pullups?

2 A No, sir, I'm with the fire department. We don't
3 maintain possession of anything.

4 Q Well, when you report to a scene where someone is
5 critically injured, don't you try to prevent evidence from
6 being destroyed or taken away?

7 A Our main care when we get on scene is patient care
8 and assisting EMS. That's my main concern.

9 Q So when you put this child in the ambulance, what
10 did that child have on him when he went to the hospital?

11 A When he was in the very back of the ambulance --

12 Q Right.

13 A -- I believe he was nude at that time.

14 THE COURT: Wait just a minute, Lieutenant.

15 Restate that question, please.

16 BY MR. WILLIAMS:

17 Q When the child is placed in the ambulance and taken
18 to the hospital, what did the child have on him at that
19 time?

20 THE COURT: Thank you.

21 You may answer. Thank you.

22 THE WITNESS: I'm not sure when he was in the back
23 of the truck because they had him covered for the most
24 part.

25 ///

Allen Farley - Cross-Examination by Mr. Williams

1 BY MR. WILLIAMS:

2 Q I thought you said he was nude?

3 A Say again?

4 Q You said --

5 A I said I believe he was, I'm not positive though.

6 Q So tell me again about watching these Pullups that
7 you say he had on?

8 A He had them on inside the residence in the -- I
9 don't know what the area of the house was exactly because
10 we didn't come through the front door. We came around what
11 would be the back. We came through the yard. We didn't
12 come through the front door.

13 Q So you -- you assisted, did you not, in loading the
14 patient to the ambulance; is that correct?

15 A Yes, sir, and moving the stretcher.

16 Q So that in that you were there assisting, moving
17 the patient, did you observe what the patient had on?

18 A No, sir, because they had him covered.

19 Q Well, now when they were performing CPR and when
20 they were attempting to revitalize this child, did they
21 have the blanket covering the child?

22 A They had a blanket on him, yes, sir.

23 Q So they were working through the blanket?

24 A No, sir, they had part of the blanket open and
25 pulled down.

Allen Farley - Cross-Examination by Mr. Williams

1 Q So you couldn't tell what -- if the child had any
2 clothing on or not?

3 A No, sir. Not initially. Not when they -- not when
4 they put him in the unit.

5 Q What about when you were there in the house?

6 A In the house he did.

7 Q All right. So you saw what they did with the
8 clothing when they --

9 A No, sir, I did not see what they did with the
10 clothing. When I arrived on scene and we went inside, the
11 EMS folks told us what it is that happened because they
12 were doing CPR. We didn't know it was a CPR call
13 initially. We got inside and they told us it was cardiac
14 arrest secondary to a drowning. They had their EKG
15 equipment on; they had the pads on; already had IV going.
16 They had three of their own people, Engineer Hallman was in
17 there, and they said they needed equipment, which means
18 they're getting ready to move this person from where
19 they're at to the point.

20 So I went outside and got the stretcher and the
21 spine board. The police officer took the spine board
22 itself inside. I didn't go back inside. The police
23 officer took the spine board and then I waited outside with
24 a stretcher because the police officer didn't know how to
25 operate the stretcher. It's an electronic stretcher. It's

Allen Farley - Cross-Examination by Mr. Williams

1 not a manual, it's an electronic stretcher.

2 Q So you didn't observe them treating the child; is
3 that correct?

4 A Yes, sir, initially I did because -- because they
5 were doing CPR and pushing drugs and I'm very familiar with
6 what they're doing.

7 Q So what clothing, if any, did the child have on
8 when they were doing this?

9 A They had the onesie that was cut and that diaper --
10 I don't know what that diaper thing is called.

11 Q Pullup?

12 A Pullup.

13 Q And the Pullup was on the child at the time?

14 A Yes, sir.

15 Q And the next time -- did you ever see them take the
16 Pullup off the child?

17 A No, sir, I was outside.

18 Q Did you ever see them take the onesie off the
19 child?

20 A No, sir.

21 Q And when you say that you assumed the child was
22 nude under the blanket, could the child have had the onesie
23 and the Pullup on when he went in the ambulance and was
24 transported to Lexington County hospital?

25 A He most certainly could.

Allen Farley - Cross-Examination by Mr. Williams

1 Q So you don't know?

2 A I'm not positive is what I said.

3 Q All right. At any point in time, did you ever

4 touch the child?

5 A Yes, sir, to do CPR when we're moving the stretcher

6 from the house to the ambulance.

7 Q So you touched the child while you were moving the

8 child -- you did CPR while they were moving the child?

9 A Yes, sir. Because CPR cannot be stopped for more

10 than ten seconds.

11 Q Okay. And when you were doing CPR, could you tell

12 if the child had clothing on or not?

13 A No, sir, because the blankets and all the medical

14 equipment and everything else.

15 Q And is that why you thought it was unusual because

16 you thought the child's hair should have been wet and he

17 should have been wet? Is that when you felt -- made that

18 determination?

19 A No, sir. Because I actually looked at him.

20 Q But that's the only time you actually touched the

21 child.

22 A Physically touched him, yes.

23 MR. WILLIAMS: That's all the questions I have,

24 Your Honor.

25 THE COURT: Redirect, Solicitor?

Allen Farley - Redirect Examination by Ms. Mayes

1 MS. MAYES: Yes, sir, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. MAYES:

4 Q So just to clarify, you mentioned that the
5 mother -- you were actually outside when the mother
6 arrived?

7 A Yes, ma'am.

8 Q All right. And --

9 A We're outside the residence in the yard.

10 Q Okay. And by what means did she arrive there at
11 the scene?

12 A In another vehicle. Somebody drove her. I don't
13 know who the person was, but someone drove her to the
14 residence.

15 Q Okay. So do you remember how many people were in
16 that vehicle that pulled up that the mother was in?

17 A No, ma'am. I mostly just observed her because she
18 come out of the vehicle and came straight away to us.

19 Q Okay. And you mentioned that the defendant was the
20 only male at the scene, other than law enforcement or EMS?

21 A Yes, ma'am.

22 Q Now, Mr. Williams was asking you about touching the
23 child, that you touched the child in order to participate
24 in CPR, correct?

25 A Yes, ma'am.

Allen Farley - Redirect Examination by Ms. Mayes

1 Q Was there anything that you did that would injure
2 him or result in bruising to his arms, legs or buttocks?

3 A No, ma'am.

4 Q What about the CPR that you observed being
5 administered by the other EMS personnel?

6 A No, ma'am, we have a standard in which we use.

7 Q Okay. And Mr. Williams was asking you about your
8 observations concerning the child being dry.

9 A Yes, ma'am.

10 Q What about the male individual at the scene? Was
11 he wet in any way?

12 A No, ma'am, not that I observed.

13 MS. MAYES: Nothing further.

14 THE COURT: Any --

15 MR. WILLIAMS: No questions on recross, Your Honor.

16 THE COURT: Thank you. Thank you very much,
17 Officer Farley, I appreciate you being with us today. You
18 may step down.

19 THE WITNESS: I've never been in court before, what
20 do we do with this? Do I give it --

21 THE COURT: You expect me to know that answer?

22 THE WITNESS: I would hope that you would know
23 better than I would, Judge.

24 THE COURT: Is that your file?

25 THE WITNESS: Yes, sir.

1 THE COURT: It hasn't been introduced into
2 evidence?

3 MS. MAYES: No, sir, Your Honor, he can take it
4 with him.

5 THE COURT: All right.

6 THE WITNESS: Okay.

7 THE COURT: Thank you very much.

8 Any objections to Officer Farley being excused?

9 MR. WILLIAMS: No objections, Your Honor.

10 MS. MAYES: None from the State.

11 THE COURT: Thank you. Thank you for being with
12 us.

13 Let's take about a ten minute recess.

14 Mr. Foreman, ladies and gentlemen, if you would
15 leave your notes. Step to your jury room for about ten
16 minutes. Do not discuss the case during this brief recess.
17 Thank you, thank you very much.

18 (The jury left the courtroom at 10:47 a.m.)

19 THE COURT: Solicitor, Mr. Williams, I do not see
20 Mr. Farley's name on the witness list. Perhaps I didn't
21 have --

22 MR. WILLIAMS: I didn't see it either, Your Honor.

23 THE COURT: -- an updated witness list?

24 MS. MAYES: Your Honor, the witness list that you
25 printed out from e-mail or the one I sent in yesterday --

1 the one I sent in yesterday, it should have been on that
2 one.

3 THE COURT: Is that it?

4 MS. MAYES: So what we did, Your Honor, is
5 initially I had e-mailed a witness list earlier in the week
6 to you and Mr. Williams and then we updated it yesterday
7 and that's the one that the jury was actually qualified on.

8 THE COURT: So those are both of the witness lists,
9 those are all the witness lists I have, one I got by e-mail
10 and one that was on the bench yesterday.

11 MS. MAYES: Okay.

12 That would be an oversight, Your Honor. If we need
13 to qualify the jury in that regard, we certainly don't
14 object.

15 MR. WILLIAMS: I think I would like it qualified.

16 THE COURT: All right. I'll ask them when they
17 come back. I just wanted -- I knew I had two lists and I
18 just wanted to check on that.

19 We'll take about ten minutes. Thank y'all very
20 much.

21 (A brief recess was observed.)

22 THE COURT: All right. Anything before we bring in
23 the jury from the State?

24 MS. MAYES: Nothing from the State, Your Honor.

25 THE COURT: Defense?

1 MR. WILLIAMS: Nothing, other than to have the jury
2 qualified in reference to that last witness, Your Honor.

3 THE COURT: All right. Thank you.

4 (The jury entered the courtroom at 11:03 a.m.)

5 THE BAILIFF: All the jurors are present, Your
6 Honor.

7 THE COURT: Thank you, thank you very much.

8 Mr. Foreman, ladies and gentlemen of the jury, I
9 noticed I failed during the qualification of the jury panel
10 to ask you as to the last witness, Mr. Allen Farley, as I
11 did many other potential witnesses in the case.

12 So I ask you now, does any member of the jury panel
13 know Allen Farley, have any social, personal, business, or
14 professional relationship with Mr. Andrew (sic) Farley, the
15 last witness who testified? If so, please stand.

16 All right. The record will reflect that no one
17 stands.

18 So with that being said, Solicitor, you may call
19 your next witness.

20 MS. MAYES: The State calls Dr. Stephen Platte.

21 DR. STEPHEN PLATTE,

22 having been duly sworn, testified as follows:

23 THE CLERK: If you'll have a seat over here. State
24 your name, please and spell your last for the record.

25 THE WITNESS: My name the Stephen J. Platte,

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 P-L-A-T-T-E.

2 DIRECT EXAMINATION

3 BY MS. MAYES:

4 Q And Dr. Platte, would you give us some information
5 about yourself concerning your educational background and
6 training?

7 A Sure. I'm an emergency physician. I went to
8 medical school at Medical College of Georgia; and then went
9 to residency in emergency medicine at Wake Forest
10 University; and have been practicing emergency medicine for
11 eighteen years. I'm board certified in emergency medicine
12 and have been for the past eighteen years.

13 Q All right. And I'm going to move this microphone
14 up just a little bit closer to you.

15 A I can scoot up a bit.

16 Q Okay. All right. And Dr. Platte, you mentioned
17 emergency medicine. What is meant in the medical field by
18 the term emergency medicine?

19 A Well, emergency medicine is a specialty that was
20 formulated in the 70's and it's been around for, I guess
21 thirty, forty-five years. And what we do is we work in the
22 emergency room. We're specialized just like a cardiologist
23 would work on the heart or a general surgeon would do
24 surgery. Your specialty is in the emergency room.

25 Q Okay. So you're an emergency room doctor?

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 A That's correct.

2 Q And is there any specific type of board
3 certification that's required in addition to becoming a
4 medical doctor that allows you to become an emergency
5 medicine physician?

6 A Yes. You have to take boards through the American
7 Board of Emergency Medicine and then you have to re-qualify
8 for those boards every ten years --

9 Q All right.

10 A -- and perform CME qualifications as well.

11 Q Okay. And do you have your certification in
12 emergency medicine?

13 A I do.

14 Q Is it possible for you to estimate how many
15 emergency room patients you treat on a yearly basis?

16 A Probably -- it depends on where you're working, but
17 me personally in the first thirteen years, I probably saw
18 about six or seven thousand a year and now currently, I'm
19 probably seeing about that as well.

20 MS. MAYES: Your Honor, the State at this time
21 would offer Dr. Stephen Platte as an expert in the field of
22 emergency medicine.

23 THE COURT: Any objection?

24 MR. WILLIAMS: No objection, Your Honor.

25 THE COURT: And Doctor, CME, is that continuing

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 medical education; is that correct?

2 THE WITNESS: Yes, sir, thank you.

3 THE COURT: All right. No, thank you. Thank you
4 very much.

5 Mr. Foreman, ladies and gentlemen of the jury,
6 normally a person cannot give opinion testimony. Normally
7 when a person testifies, they must testify as to what they
8 either saw, heard, or sensed by smell or something of that
9 nature; however, there is an exception when someone is
10 qualified because of education, training, experience in a
11 particular art, science, profession, occupation or craft.
12 They are permitted to also give their opinions in certain
13 areas if the Court qualifies them that way.

14 This witness, Dr. Stephen Platte, will be qualified
15 in the area of emergency room medicine, board certified, to
16 give opinion testimony in that area. That does not mean
17 that you must accept the opinion or opinions, but it is
18 evidence for you the jury to use in any way you deem fit or
19 appropriate.

20 Thank you, Solicitor, you may continue.

21 BY MS. MAYES:

22 Q Now, Dr. Platte, speaking in terms of the Lexington
23 Medical Center emergency room, were you working there as an
24 emergency room physician on November 27th of 2013?

25 A I was.

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 Q All right. And I want to take you, specifically
2 to the time frame of around 10:04 a.m. that morning. I'm
3 sorry 10:16 a.m. that morning. Can you tell us when a
4 critical care patient is getting ready to be brought into
5 the emergency room, how do you receive notice that that
6 patient is coming and what efforts do you undertake to go
7 ahead and make plans to meet that patient?

8 A We have a system that's called an EMS radio. It's
9 an emergency medical services radio. And whenever they
10 bring in a patient by ambulance, they'll notify us so that
11 we can get prepared for those emergencies and so -- usually
12 they'll notify us by radio and we'll prepare a bed and get
13 ready for whatever type patient that might be.

14 Q All right. And in this particular case, had you
15 received notice or word that EMS had already started CPR on
16 this pediatric patient?

17 A We did.

18 Q All right. And tell us what, if any involvement,
19 you had in treating **Minor** on that morning.

20 A Well, the patient was assigned to my -- we call it
21 a zone, my particular set of beds that I was responsible
22 for, Room 13 if I recall properly. And so we would get
23 prepared the things that we would need to help resuscitate
24 a young child who was no longer breathing and did not have
25 a heartbeat and get things prepared. Usually there would

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 be a set of two or three nurses, several techs, and myself
2 would be standing at the bedside awaiting their arrival.

3 Q All right. And can you tell us what happened next
4 after he was brought in by the emergency -- or EMS crew?

5 A To the best of my recollection through the medical
6 records, it was a two-year-old black male who was receiving
7 cardio pulmonary resuscitation from the emergency medical
8 services. They had already put a tube into his lungs to
9 breathe for him because he wasn't breathing and they were
10 doing chest compressions, which is what we call CPR.

11 And they had not gotten any response despite some
12 medication that they had given en route, including some --
13 a medicine called epinephrine as well as some bicarbonate
14 which we give into a vein to try and stimulate the heart to
15 start beating again.

16 Q Okay. And once he arrived in your care, did you
17 personally take over those efforts to resuscitate Minor
18 Swearington?

19 A Yes. We continued cardiopulmonary resuscitation.
20 We made sure that the tube was in the EG -- that the
21 endotracheal tube was in the proper position in his lungs.
22 We checked to see if he had pulses. We continued to try to
23 hydrate and do anything that we can do, to include warming
24 him up and trying to check to see if we could get a return
25 of vital signs.

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 Q Were you ever able to get any signs of life in this
2 child?

3 A No, we were unable.

4 Q Did you ever get a heartbeat?

5 A We did not.

6 Q Or a pulse?

7 A No.

8 Q And, Doctor, when he's being treated by the
9 additional staff that you mentioned, can you tell us
10 whether or not taking vital signs, such as body temperature
11 is an aspect of that?

12 A It is. We usually try to obtain vital signs as
13 soon as possible, your temperature, blood pressure, and
14 pulse, and respiratory rate are all kind of what we call
15 vital signs. When anybody comes into the emergency room,
16 we usually try to obtain those as quickly as possible.

17 Q What was his body temperature according to the
18 information you have and that you relied on for his medical
19 treatment?

20 A His body temperature was 89 degrees. I'm sorry,
21 let me double check that, excuse me.

22 Yes. 89 degree's Farenheit or 31.7 celsius.

23 Q Okay. I'm going to go with Farenheit. 89 degrees
24 Farenheit. (Writing on a chart.)

25 And Dr. Platte, does your record indicate at what

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 time that body temperature was noted to be 89 degrees?

2 A It looks like it's indicated at 10:20 a.m.

3 Q (Writing on the chart.)

4 And in addition to noting the body temperature
5 being 89 degrees, what, if anything was noted regarding the
6 feel of his skin?

7 A The temperature of his skin was cool. A normal
8 temperature is about 98.6, so 89 degrees is considerably
9 cooler than a normal body temperature.

10 Q And ultimately, Dr. Platte, who made the
11 pronouncement of death in this case?

12 A I did.

13 Q Can you tell us the time that he was pronounced
14 dead?

15 A Yes. At 10:38 a.m.

16 Q At 10:38 a.m. (Writing on the chart.)

17 Now, you've indicated that there were never any
18 signs of life from the time of his arrival on through the
19 official pronouncement of death at 10:38 a.m. Why is it
20 that a patient isn't necessarily pronounced deceased as
21 soon as they come through the doorway of the medical
22 center?

23 A Oftentimes we try to resuscitate the patient and
24 make every effort that we can to make sure that they're
25 deceased, make sure that there's not anything else that we

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 can do to try to resuscitate that person and give them a
2 chance of resuscitation in the hospital by a physician.

3 Q All right. And in addition to what was noted about
4 his body temperature and the skin being cool, what if
5 anything was noted about his airway?

6 A His airway, there was an endotracheal tube in his
7 airway, and so he was not breathing on his own but was
8 getting assisted in his ventilations or his breathing by
9 our hospital staff and previously by the EMS staff.

10 Q What, if anything was indicated about the condition
11 of the airway?

12 A The -- the only other thing that we noticed was
13 that his skin was dry and his oral pharynx, which is where
14 his -- your mouth -- basically, seemed to be dry. No --
15 mucosa is what we call that and it's -- can be a sign of
16 dehydration.

17 Q Now, once he was pronounced deceased, did you have
18 an opportunity to actually examine his body or assess his
19 body beyond the immediate need to provide CPR and life
20 saving measures?

21 A Sure. Initially when someone comes in extremis or
22 their heart has stopped or they're pulseless, we're very
23 concerned about -- we have a phrase that says A B C, so
24 airway, breathing, and circulation. That's kind of what we
25 focus on. Those are the most important things initially

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 and so initially during resuscitation, sometimes you'll not
2 ever get off the airway, if you can't get the airway, but
3 he had an airway that was created for him with the
4 endotracheal tube and so his breathing was okay. And he
5 was getting breathed for us.

6 And so we go to C and this's for circulation and so
7 that we -- we try the reestablish his pulse and that was
8 kind of what our main focus was there. Despite additional
9 medicines that we were able to give him and additional --
10 some warming techniques, we were not able to get him to
11 start his circulatory system back, so his heart never
12 started -- never had a heartbeat.

13 So when we can't reestablish that, we continue to
14 try to reestablish that, so initially we do a survey of the
15 body, a general survey; and then that's kind of my focus
16 initially and then -- resuscitate a heart. Once he was
17 pronounced deceased, once we could not get a return on a
18 pulse, and there was reasonable belief that there would
19 be -- we could no longer reestablish that and that he was
20 deceased, I had an opportunity to look a little bit more
21 over on his body and examining things, especially after the
22 nurses had had a chance to move him around a little bit and
23 got a chance to examine him a little bit more closely.

24 Q All right. Doctor, what if anything, were you able
25 to note once you had that opportunity postmortem to examine

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 his body?

2 A He had some significant areas of bruising on his
3 buttocks that seemed to cover nearly his entire buttocks on
4 both sides, as well as some abrasions to the -- to the
5 areas where his skin was either sloughed off or removed
6 for -- through some mechanism. I'm not sure what the
7 mechanism was. And he had some abrasions and bruising
8 on -- some on his extremities.

9 Q Doctor, you had the opportunity throughout your
10 years of experience to see, unfortunately, situations where
11 a patient arrived in the emergency room freshly deceased?

12 A I have seen hundreds of people -- adults that
13 arrive in cardiopulmonary arrest and probably dozens --
14 several dozen children that have come the same way. One of
15 the things that kind of stood out with me with **Minor** was
16 that he just seemed more rigid than what I've experienced
17 in the past. Normally someone that's recently deceased or
18 go in cardio pulmonary resuscitation, their body is just
19 like what you would be when you're asleep, so it would be
20 almost floppy is what, for lack of a better term -- it
21 would just be where if your arm dropped over, it would drop
22 off the bed.

23 With **Minor**, he just seemed a little more stiff.
24 And when we went to move him over, his body would kind of
25 move almost as a unit instead of having to worry about each

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 arm and each leg over, it was, you roll him over and things
2 would stay very close together. Not stiff as concrete, but
3 it would be more stiff than what, what I would expect.

4 Q (Writing on the chart.)

5 When you say his body moved as a unit, Dr. Platte,
6 what is meant in the medical profession by the term rigor
7 mortis?

8 A That's a state of your body after death and
9 certainly not my area of expertise, but having seen
10 hundreds of people that are post resuscitation, death in
11 the emergency room, it causes your musculature, the best I
12 understand it, and the pathologist would be a much better
13 person to ask, but it causes your body to become stiff over
14 a certain period of time. And environmental factors can
15 play a difference in that, but it causes your muscles to
16 tighten up and stiffen up.

17 Q All right. And based upon your experience having
18 treated other patients who are freshly deceased, can you
19 tell us whether or not **Minor** appeared to be
20 freshly deceased?

21 A From my experience with other resuscitations, he
22 certainly seemed to be much more inflexible or rigid or
23 stiff than my experience in over the past 18 to 20 years.

24 Q And Dr. Platte you mentioned the bruising that was
25 noted to the patient. I'm going to show you some

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 photographs and ask you whether or not you recognize them.

2 Would you -- take your time and look through these
3 exhibits, which would be State's Exhibit 34, State's
4 Exhibit 35, State's Exhibit 36, 37, and 38. If you could
5 tell us whether or not you recognize those photos.

6 A (Looking at the photographs.)

7 Yes, that looks like the photographs of the same
8 child I took care of.

9 Q All right. And in these photographs, he is on a
10 yellow board. What is that board?

11 A We call that a spine board and we use that to the
12 stabilize patients that would need to be stabilized. In
13 some cases it's for trauma and other cases it's for doing
14 cardiopulmonary resuscitation so that there's a certain
15 stiffness behind the person so that when you do
16 compressions on their chest then you actually are
17 compressing their chest instead of just pushing him down
18 into the cot or into the bed.

19 Q All right. And this would be how he arrived there
20 at LMC?

21 A It was.

22 Q For your care?

23 A (Witness nodded head.)

24 Q And once he is pronounced deceased, does he remain
25 there -- can you tell us what the procedure is in a

Dr. Stephen Platte - Direct Examination by Ms. Mayes

1 situation like this once a child is pronounced deceased and
2 you have noticed bruising on the child?

3 A Sure. Once we have -- once we've pronounced or
4 even have a child in the emergency room that we're
5 suspicious that has suspicious bruising or a -- something
6 that -- a story that doesn't fit with the bruising pattern,
7 then we usually will notify the police in that jurisdiction
8 and oftentimes the Department of Social Services.

9 Q All right. And in this particular case, what --
10 were police notified?

11 A They were.

12 Q And did they respond to the scene?

13 A They did.

14 Q There at the hospital?

15 A Yes, ma'am.

16 Q And once he is pronounced deceased, can you tell us
17 whether or not personnel such as law enforcement and the
18 coroner's office have access to the body?

19 A They do.

20 MS. MAYES: Your Honor, at this time, the State
21 would offer 34, 37, 38, 35, and 36 as evidence.

22 THE COURT: May I see them, please.

23 MS. MAYES: Yes, sir.

24 THE COURT: Any objections, Mr. Williams?

25 MR. WILLIAMS: Only a slight objection, Your Honor.

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1 I think it's -- in him laying the proper foundation, I'm
2 not sure he actually testified that this was how the child
3 appeared when he observed the child as reflected in the
4 photographs.

5 MS. MAYES: I can clarify that, Your Honor.

6 THE COURT: All right. Solicitor, please.

7 BY MS. MAYES:

8 Q Now, Dr. Platte you mentioned that you had noted in
9 your records that he had bruising.

10 A (Witness nodded head.)

11 Q And that you had an opportunity to conduct an
12 assessment postmortem?

13 A I did.

14 Q All right. And can you tell us whether or not you
15 recognize the location in which those photos were taken?

16 A Yes, I do. That was in the emergency room, in room
17 13.

18 Q All right. So those photos were taken there at the
19 emergency room on the same date and within the same time
20 frame that you observed him?

21 A Yes, ma'am, to the best of my knowledge.

22 Q All right. And can you tell us whether or not the
23 photos that you observed are a fair and accurate
24 representation of his physical condition once you had an
25 opportunity to conduct the postmortem assessment?

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1 A They are.

2 MS. MAYES: For evidence, Your Honor.

3 THE COURT: Mr. Williams?

4 MR. WILLIAMS: I would not have an objection, Your
5 Honor.

6 THE COURT: Thank you. State's 34, 35, 36, 37, 38,
7 in evidence without objection.

8 (State's Exhibit Number 34, Number 35, Number 36,
9 Number 37, and Number 38 was entered into evidence.)

10 BY MS. MAYES:

11 Q And Dr. Platte, you mentioned history when law
12 enforcement or DSS may be notified regarding whether the
13 injuries that may be observed match the history that you're
14 given. In this case, can you tell us whether or not, for
15 purposes of medical diagnosis and treatment, you obtained a
16 history or background on **Minor**?

17 A Whenever there's someone that's in cardiopulmonary
18 arrest, we try to take care of the patient first, but we
19 also try to find out what the historical background may
20 be. We obtain that from different people. We would obtain
21 it, of course, from the emergency medical services folks
22 that come in and have gotten the history from the family.
23 We also try to get in touch with the family, any friends of
24 the family, and any other way that we can get history.
25 We'll call pharmacies to find out what medicine they're on,

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1 just different ways we can try to glean a history.

2 Oftentimes, when someone's not breathing and their
3 heartbeat is not beating, then sometimes the history
4 sometimes is not as accurate as we'd like to have it, but
5 we try to collect as much as we can, while at the same time
6 trying to treat the patient as aggressively as we can to
7 try the restore their heartbeat and try the save their
8 life.

9 Q All right. And do your records indicate who you
10 spoke with up there at Lexington Medical Center or who
11 provided the history there at Lexington Medical Center as
12 to what may have happened to Minor [REDACTED]?

13 A I know I went to visit the family and the friends
14 that are in what we call our family room. We usually have
15 them in a separate place that we can bring folks back to so
16 that they can be out of the general waiting room and then
17 as a physician, I would go back and talk to them and ask
18 them their -- what's been going on with the child and how
19 that was.

20 And I know I was notified that the child had some
21 nausea and vomiting in the previous weeks and then had a
22 reoccurrence of some nausea, vomiting, and diarrhea a few
23 days beforehand. But it was also -- and I'm not sure where
24 I got the history from, that the child was possibly in the
25 bathtub at one time that morning and another historical

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1 data that maybe the child had fallen down steps. But I
2 don't -- I don't know where that history came from.
3 Sometimes it's from EMS, sometimes it's from police,
4 sometimes it's from the family, or from friends.

5 Q All right. And do you recall whether or not the
6 child's mother was present there in the family room?

7 A I believe she was.

8 Q And do you recall whether or not the boyfriend or
9 caregiver for the child at the time he became unresponsive
10 was present?

11 A I believe he was.

12 Q And Dr. Platte were you ever given a history that
13 would explain the constellation or collection of bruising
14 that you observed on **Minor** body?

15 A No, I was not.

16 MS. MAYES: Your Honor, at this time, the State
17 would request permission to publish 34, 35, 36, 37, and 38
18 to the jury.

19 THE COURT: You may publish.

20 (The photographs were passed around the jury box.)

21 THE COURT: Do you have any further questions,
22 Solicitor?

23 MS. MAYES: No, sir, Your Honor.

24 THE COURT: All right. Thank you.

25 Mr. Williams?

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 MR. WILLIAMS: May it please the Court?

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. WILLIAMS:

5 Q Doctor, when you were referencing history, you say
6 you get history from whoever brings the child in, you call
7 pharmacies, things like that to get a good view of what the
8 child's -- what the patient has been experiencing. Did you
9 also check the Lexington Medical patient information --
10 with your own hospital to see when the last time the child
11 was at the hospital?

12 A Normally if I'm doing cardiopulmonary resuscitation
13 at the bedside, I don't go back to look at the older
14 medical record, but the nurses had and they had told me
15 that the child had been there previously for nausea,
16 vomiting, and diarrhea; but I don't think I checked it
17 myself.

18 Q The child had actually been there on November 11th
19 and this -- what date was this? 11/27?

20 A I believe it was the 27th, yes, sir.

21 Q So how many days apart is that? Is that -- those
22 two hospital visits?

23 A You said the first day was when, sir?

24 Q 11, 11th.

25 A 11?

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 Q Yeah.

2 A 11th to the 27th?

3 Q Right.

4 A So that would be --

5 Q Two weeks.

6 A Yeah.

7 Q Two weeks?

8 A Yes, sir.

9 Q So in reviewing the prior hospital visit that the
10 child had, what else did you find out about the prior
11 hospital visit the child had?

12 A I did not review the prior hospital visit. The
13 nurses had told me the child had been there.

14 Q All right. And did they tell you what
15 everything -- everything that was wrong with the child when
16 they came -- when the child was there sixteen days earlier?

17 A I think they told me that he had received some IV
18 fluids, but I don't know --

19 Q Did you --

20 A -- and that -- but I did not review the record, no,
21 sir.

22 Q Did you know that the child had actually been
23 x-rayed sixteen days before?

24 A No, sir.

25 Q All right. Do you know who the doctor was that saw

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 the child sixteen days before?

2 A No, sir.

3 Q If I handed you some medical records and you looked
4 at it, would you be able to tell me if -- after reviewing
5 these records who the doctor was that actually saw this
6 child sixteen days before?

7 A I think it says that Steven Schwab was the doctor.

8 Q And who is that doctor?

9 A That's an emergency physician at Lexington Medical
10 Center.

11 Q Works at the same hospital that you work at; is
12 that right?

13 A Not currently, but at the time he did, yes, sir.

14 Q All right. And the symptoms that the child had
15 when he showed up two weeks before were what?

16 A The chief complaint is fever and nasal congestion
17 and eye pain is what the nurse had written.

18 Q And what did -- did the doctor -- did the records
19 indicate that the doctor examined the body?

20 A I don't see a physical exam here, but I do notice
21 there are several pages, maybe -- let me double check. I
22 may be missing, but I don't think --

23 In this collection, I do not see a physical exam,
24 no, sir.

25 Q Is there an indication that the doctor made a

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 diagnosis on that particular visit?

2 A I'm sorry. I think I did miss the -- I apologize.

3 There is a physical exam and I apologize, it's on
4 the backside, yeah. Thank you.

5 Q And what did the physical exam reveal?

6 A Normal vital signs with temperature of 99, blood
7 pressure 115 over 75, pulse at 99, a respiratory rate of
8 21, and an oxygen saturation of 100 percent and his weight
9 was 28 pounds.

10 Q What about bruising? Was there any evidence of
11 bruising?

12 A It says he had a large bruise to the anterior chest
13 wall.

14 Q And are there other steps taken besides the
15 physical exam of this -- of the child when those x-rays are
16 ordered?

17 A Yes, sir.

18 Q And is it -- if you have a two-year-old child with
19 bruising and x-rays are ordered, is that -- is it normal
20 that that doctor would not report that to law enforcement?

21 A Depends on what they thought that the injuries were
22 due to.

23 Q Having reviewed those records, do you think it
24 should have been reported to law enforcement?

25 A I haven't really reviewed the records. I've looked

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 at some of the specific areas that you asked me to, but I
2 haven't looked at the records extensively.

3 Q Are there more records than what you have right
4 there?

5 A I don't know. I don't see any, but -- you've given
6 me this list, but I haven't got a chance to look or go
7 check, but -- but...

8 Q You were aware, were you not, prior to coming in
9 here and testifying that there'd been another hospital
10 visit for this child, weren't you?

11 A Absolutely.

12 Q And you are well aware that the -- there were
13 x-rays taken. And did you express concern that it was not
14 reported?

15 A Not to my knowledge, no. And I was not well aware
16 that there were x-rays taken.

17 Q All right. Is this the first time that you
18 examined the medical reports for that particular day of
19 November 11th, 2013?

20 A Yes, sir.

21 Q All right. Now, what position do you hold at the
22 Lexington Medical Center?

23 A An emergency physician.

24 Q Are you the chief in charge of the medical -- of
25 the ER group there?

Dr. Stephen Platte - Cross-Examination by Mr. Williams

- 1 A I am not.
- 2 Q Who is the chief of that?
- 3 A Wesley Shuler.
- 4 Q All right. So he would be like your supervisor; is
- 5 that correct?
- 6 A That's correct.
- 7 Q All right. Now, on that particular date when you
- 8 saw this child on 11/27 of 2013, you did not review any
- 9 prior admissions that this child had with the hospital?
- 10 A No, sir.
- 11 Q Okay. And you made -- what was your diagnosis of
- 12 what was wrong with the child when you got through
- 13 examining this deceased child?
- 14 A Cardiopul -- let me -- cardiopulmonary arrest,
- 15 nausea, and vomiting and diarrhea.
- 16 Q So you did not diagnose that this illness or the
- 17 death was caused by trauma, did you?
- 18 A I did not.
- 19 Q So you made no determination with regards to what
- 20 the bruising on the buttocks had to do with the death of
- 21 this child; is that correct?
- 22 A That's correct.
- 23 Q All right. Could you tell how old the bruising on
- 24 the buttocks was?
- 25 A I'm not an expert on bruises on the buttocks on

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 deceased children, but it looked like there was -- it was a
2 dark purple and it looked -- it's hard to tell, but it's
3 purple for sure.

4 Q But you can't tell the age; is that correct?

5 A Typically with bruising that is purple, we would
6 usually see it a few days --

7 Q Days?

8 A Could be. But, of course -- well, yes, sir.

9 Q Okay.

10 A Yeah.

11 Q All right. Now, is -- are there any other -- were
12 there any other reports in that particular 11/11 visit
13 other than the large bruise on the chest that you noted?
14 Any bruising on the buttocks?

15 A No, I don't see anything documented for bruising on
16 the buttocks.

17 Q When the child appeared, what was the child dressed
18 in? When the child appeared in the emergency room.

19 A To the best of my recollection, it was a -- like
20 one of the -- a flannel, one suit pajamas that had a zipper
21 on the sides and went down one leg.

22 Q And anything else?

23 A Not that I recall.

24 Q I'll ask you to look at this medical record. Tell
25 me if you recognize that as being one of the records that

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 was generated from that visit.

2 A Yes, sir, it appears to be.

3 Q All right. So having looked at the record, does
4 that refresh your memory as to what the child had on when
5 he appeared at the hospital? Besides the one piece
6 flannel?

7 A It says there was underwear underneath.

8 Q Thank you.

9 A Yes, sir.

10 Q Now, I believe your testimony -- you talked about
11 the stiffness that the child had. Do you recall whether or
12 not -- what is H-E-N-T stand for in a medical record?

13 A The E-N-T part stands for ears, eyes, nose, and
14 throat. And H is the head.

15 Q Do you recall what the -- what the diagnosis that
16 you provided in regards to stiffness with the head, the
17 eyes -- well, obviously, it would be the neck, wouldn't it?

18 Did you recall whether or not you indicated that
19 the child had a stiff neck or not?

20 A I don't recall whether I had the stiff neck or not.

21 Q Let me ask you to review -- you review the symptoms
22 on that particular night.

23 A Yes, sir. (Reading.)

24 THE COURT: Ask your question, Mr. Williams.

25 ///

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 BY MR. WILLIAMS:

2 Q Have you reviewed that? Does that indicate whether
3 or not you noted this the child had any stiffness at all?

4 A The physical part? Of the medical exam?

5 Q Yes.

6 A No, it does not note that.

7 Q What does that actually indicate? No stiffness,
8 correct?

9 A That -- what -- the way that we do our electronic
10 medical records is that we have a template and the template
11 is a normal exam to expedite care of patients. When we
12 push on the template, it puts in a normal exam and then we
13 go back and we'll change the things that we find that are
14 abnormal.. And I think in the neck exam, I probably did not
15 go back and re-change that. So I -- that's probably -- my
16 medical record on the neck exam, physical exam part, is
17 incorrect.

18 Q So on that particular night when you examined the
19 child you indicated that the child had nothing wrong with
20 the neck, correct?

21 A No, I think I noted that it was supple.

22 Q Okay. Supple?

23 A Yes, sir.

24 Q Supple, meaning what?

25 A Means that it will move around.

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 Q Right. No stiffness?

2 A I didn't say no stiffness, it just said -- yeah --
3 I missed that.

4 Q What is the opposite of stiff? Supple?

5 A Okay.

6 Q True?

7 A It can be, yes, sir.

8 Q So was there any indication that anything was wrong
9 with the child's neck on that particular night?

10 A Not through my medical records, no, sir.

11 Q Now, did you take the temperature of the child?

12 A I did not personally take the temperature, no, sir.

13 Q So you did not record the temperature of the
14 infant?

15 A The nurses -- that's usually their job.

16 Q Which nurse recorded the temperature of the child?

17 A I'm not sure. I can look through the medical
18 record and try to find that if you'd like.

19 Q Okay.

20 A (Looking.) I don't see where the -- let me see if
21 that's -- I see where it's recorded at 10:24. And I'm not
22 sure if that's HMS, Holly that recorded that, or not. I
23 mean it's possibly Holly McLauren.

24 Q HMS?

25 A I don't know if it got cut off when it got -- it

Dr. Stephen Platte - Cross-Examination by Mr. Williams

1 just says HM.

2 Q I thought -- I'm sorry, my hearing is going. I
3 thought you said HMS?

4 A No, HM. I think that's Holly McLauren.

5 Q Do you know whether or not it is?

6 A I don't. This is the first time I've seen the
7 records in this format. I usually don't look at them in
8 this format. We usually can see the medical records
9 through our system in a different format, so this is the
10 first time I'm seeing it in this format.

11 Q And -- and you've never seen the records from
12 11/11/2013; is that correct?

13 THE COURT: That's been asked and answered.

14 THE WITNESS: I've not seen the records, no, sir.

15 THE COURT: And again.

16 BY MR. WILLIAMS:

17 Q Now, did you -- do you know what happened to the
18 items of clothing that the child had on at the time that he
19 arrived at the emergency room? Did they stay with you or
20 did they go to the coroner when the child went to the
21 coroner?

22 A I do not know.

23 Q And, of course, you didn't do the any type of
24 analysis of -- of the blood -- or did you draw blood or --
25 was that done by the coroner?

Dr. Stephen Platte - Redirect Examination by Ms. Mayes

1 A We did not draw blood.

2 Q So you didn't do anything else to check out what
3 the systems were -- what the child -- by drawing the blood
4 or any x-rays or anything like that, anything in that
5 regard since the child was deceased would have been done by
6 the coroner; is that correct?

7 A I'm not aware of what was drawn, so I'm not sure if
8 the coroner drew blood or not, but I'm aware of the blood
9 that -- we did not draw blood.)

10 Q You did nothing other than see if you could
11 resuscitate the child or pronounce the child deceased and
12 then turn the body over to the coroner?

13 A Yes, sir, we tried to resuscitate the child and
14 pronounced the child.

15 Q All right. Thank you, sir.

16 MR. WILLIAMS: That's all the questions I have.

17 THE WITNESS: Thank you.

18 **REDIRECT EXAMINATION**

19 **BY MS. MAYES:**

20 Q And briefly, Dr. Platte, just to clarify. When
21 we're talking about bruising, are -- other than
22 microscopically is there any way to get a definitive
23 timeline on a bruise based on color alone?

24 A Not based on color alone.

25 Q All right. And the redness -- what does redness

Dr. Stephen Platte - Redirect Examination by Ms. Mayes

1 indicate?

2 A Redness can mean that there's some irritation to
3 the skin or that the -- that this area may be more acutely
4 injured or more recently injured.

5 Q All right. And now working in the emergency room
6 have you had an opportunity to treat patients with deep
7 bruising such as bruising into deep skin tissue?

8 A I have.

9 Q All right. And when there is a deep or severe
10 bruising, can a fresh bruise or a bruise obtained within
11 hours appear purple?

12 A It can.

13 Q Now, in speaking in terms of what Mr. Williams was
14 asking you about concerning a previous visit two weeks
15 beforehand, you noted that those records indicate that
16 there was a chest bruise or chest contusion?

17 A That's correct.

18 Q But is there any indication that **Minor** had the
19 extensive bruising that was ultimately noted by your
20 physical assessment?

21 A Not that was documented.

22 Q And he was asking you about the notation in the
23 record about the neck. Can you briefly explain to us about
24 how those medical forms are sometimes preformatted and how
25 that may have contributed to that error?

Dr. Stephen Platte - Redirect Examination by Ms. Mayes

1 A Yes, that -- with the advent of medical --
2 electronic medical records, there's -- oftentimes there's
3 what we call a template that we use to help us to fill out
4 those medical records; and part of the physical template is
5 basically a normal physical exam that's loaded -- can be
6 loaded in and nearly 100 percent of physicians will use
7 that loaded template and then change the things that are
8 abnormal and so that's one of the things I probably did is
9 routinely load the template and then go back and re-change
10 things that are abnormal.

11 Q All right.

12 A One of the -- one of the things that we indicate
13 with supple is to make sure that there's no signs of
14 meningitis is what we usually use supple as the description
15 as a -- we talked about the things that are opposites of
16 one another. So supple in the medical lingo is the
17 opposite of what we call Meningismus, which is a sign of
18 meningitis. And so that's why that supple was loaded into
19 there as a normal part of that template and I failed to
20 change it to not as supple, not moving around.

21 Q Okay. And specifically, Dr. Platte, Mr. Williams
22 was asking you about the notation of pronouncement of
23 death, but do you actually determine cause of death?

24 A I do not.

25 Q Okay. And ultimately in a case such as this,

Dr. Stephen Platte - Redirect Examination by Ms. Mayes

1 there -- is the patient deferred -- this patient, the
2 deceased patient referred for an examination by a forensic
3 pathologist?

4 A/ Yes, the body is.

5 MS. MAYES: Nothing further.

6 MR. WILLIAMS: No questions on recross, Your Honor.

7 THE COURT: Thank you. Thank you very much, Mr. --
8 thank you, Mr. Williams.

9 Thank you for being with us this morning, Doctor.
10 You may step down.

11 THE WITNESS: Thank you.

12 THE COURT: Any objection to the doctor being
13 excused?

14 MR. WILLIAMS: No objection, Your Honor.

15 THE COURT: And you may be excused. Thank you,
16 sir.

17 THE WITNESS: Thank you.

18 (The witness gave the exhibits to the court
19 reporter.)

20 THE COURT: The only thing that can happen to you,
21 Doctor, is if you take an exhibit, you might end up in the
22 emergency room because she will attack you on the way out,
23 our court reporter. But outside of that, you're free to
24 go.

25 THE WITNESS: Thank you.

1 THE COURT: All right. Mr. Foreman, as you recall,
2 I was going to take an early recess for -- to accommodate
3 one of your colleagues, so now would be a good time to take
4 that recess. Please remember, do not discuss this case
5 with others, fellow jurors, lunch mates, family, friends,
6 anyone else. Do not read or listen or watch any news
7 reports about the case should there be any. Do not do any
8 independent investigation or any investigation on the
9 internet or otherwise.

10 Remember to keep an open mind. Do not begin your
11 deliberations until you've heard all the evidence,
12 testimony, closing arguments by the attorneys, instruction
13 on the law by the Court, and then directed by the Court to
14 begin your deliberations with your fellow jurors in your
15 jury room.

16 If you -- of course, leave your notes upside down,
17 the clerk's office will secure them during the luncheon
18 recess.

19 I'm trying to get a feel for the time. You've got
20 to go to Columbia; is that right?

21 THE JUROR: Downtown. Columbia.

22 THE COURT: If I say -- let's see, 1:45, do you
23 know if that will be time enough, 1:45.

24 THE JUROR: That will be great.

25 THE COURT: 1:45? Any others want to kick in on

1 that option of time?

2 We'll say 1:45, 1345 hours; if you'd be back
3 promptly at 1345 hours, that will give the others of y'all
4 the opportunity to sit in Lexington lunchtime, downtown
5 traffic.

6 Thank you, thank you very much, hope y'all have a
7 pleasant lunch.

8 (The jury left the courtroom at 12:01 p.m.)

9 THE COURT: Anything from the State before we take
10 our recess, Solicitor?

11 MS. MAYES: Nothing from the State, Your Honor.

12 THE COURT: The defense, Mr. Williams?

13 MR. WILLIAMS: Nothing from the defendant, Your
14 Honor.

15 THE COURT: All right. 1:45. Thank y'all, thank
16 y'all very much.

17 (A recess for lunch was observed.)

18 THE COURT: Anything from the State before we bring
19 in our jury, Solicitor?

20 MS. MAYES: No, sir, Your Honor.

21 THE COURT: Defense?

22 MR. WILLIAMS: Nothing from the defendant, Your
23 Honor.

24 (The jury entered the courtroom at 1:50 p.m.)

25 THE BAILIFF: All are present, Your Honor.

Kevin Cornett - Direct Examination by Mr. Caskey

1 THE COURT: Thank you.

2 Welcome back, ladies and gentlemen. I hope y'all
3 had a pleasant lunch. We are continuing the trial of the
4 case by the presentation of evidence and testimony by the
5 State in its case in chief. If you would please continue
6 to give the parties your complete and undivided attention
7 as you have done throughout the trial of this case.

8 Solicitor, you may call your next witness.

9 MR. CASKEY: Thank you, Your Honor. The State
10 would call Chief Kevin Cornett.

11 THE COURT: All right. Chief, if you would come
12 around and be sworn for us please.

13 KEVIN CORNETT,

14 having been duly sworn, testified as follows:

15 THE CLERK: If you'll have a seat over here. State
16 your name, please and spell your last for the record.

17 THE WITNESS: Kevin Cornett. You wanted me to
18 spell the last name?

19 THE COURT REPORTER: Yes, sir.

20 THE WITNESS: C-O-R-N-E-T-T.

21 **DIRECT EXAMINATION**

22 BY MR. CASKEY:

23 Q Chief, where do you work and what do you do there?

24 A I work for the Springdale Police Department where I
25 am the chief of police.

Kevin Cornett - Direct Examination by Mr. Caskey

1 Q And as chief of police, what are your
2 responsibilities, generally?

3 A Generally, I handle the day-to-day operation of the
4 police department and due to the fact that we're a smaller
5 agency, that can include responding to calls for service
6 for some of the officers.

7 Q Where were you employed November 27th of 2014?

8 A With the Springdale Police Department.

9 Q In what capacity?

10 A As the chief of police.

11 Q Okay. Now, chief, on the 27th of November, 2013,
12 did you have occasion to respond to [REDACTED]?

13 A I did, yes, sir.

14 Q All right. Chief I'm handing you what's been
15 marked as States 30, 31, and 32. If you would, please,
16 take a look at those and tell me if you recognize what's in
17 those photographs.

18 A (Looking.) I do. These are pictures of the
19 residence at [REDACTED] that I took.

20 Q Does that fairly and accurately represent the
21 residence of [REDACTED] on the 27th when you were there?

22 A Yes, sir.

23 MR. CASKEY: Your Honor, at this time, the State
24 would move 30, 31, and 32 into evidence.

25 MR. WILLIAMS: Without objection, Your Honor.

Kevin Cornett - Direct Examination by Mr. Caskey

1 THE COURT: State's 30, 31, and 32 in evidence
2 without objection.

3 (State's Exhibit Number 30, Number 31, and Number
4 32 was entered into evidence.)

5 MR. CASKEY: Your Honor, I just request permission
6 to publish these to the jury.

7 THE COURT: You may publish.

8 BY MR. CASKEY:

9 Q (Showing the photographs on the overhead.)

10 Chief, looking at State's 30, what does that view
11 appear to portray?

12 A That is the front of the residence facing Oakland
13 Avenue.

14 Q All right. And 32?

15 A This is going to be the corner of the left side of
16 the house and the front of the house.

17 Q And 31?

18 A And this is the rear and also the left side of the
19 residence.

20 Q All right. Now, Chief, tell the jury if you would,
21 please, about your initial response. What happened when
22 you arrived?

23 A We responded after being dispatched to [REDACTED] for a
24 medical call. We were asked to assist. And we responded.
25 Upon arriving, I arrived just a couple of moments after

Kevin Cornett - Direct Examination by Mr. Caskey

1 Officer Jackson and went into the back door. I first
2 attempted to go in the front door, but that is not a door
3 that's used, so I went into the rear door of the residence
4 and -- which is like a kitchen, dining area and as I stood
5 there, I -- there were medics working on a child in the
6 floor of what is the living room and there was a group of
7 people in the living room, and then that group of people
8 standing in the kitchen area as well.

9 Q All right. Let me pause you there.

10 I'm going to hand you a laser pointer. If you
11 would, please, looking at State's 31, if the door you're
12 referring to is in that photograph, please point it out to
13 the jury.

14 A It would be this door right here. That is the back
15 door that we were all coming and going out of.

16 Q All right. So you're there. You said EMS was
17 there, was -- and they were doing what?

18 A They were -- they were working on a baby in the
19 floor, or a child in the floor.

20 Q Okay. Were you able to obtain a good view of their
21 efforts with the patient?

22 A Yes, sir. The first thing I did when I came in,
23 since Officer Jackson was already there, since I just kind
24 of stopped and I stood and I observed what was taking
25 place. And I observed the two individuals work on the baby

Kevin Cornett - Direct Examination by Mr. Caskey

1 and then the individuals -- I couldn't tell you who it was,
2 but there were some individuals in the living room on the
3 opposite side of the room and then there were a couple of
4 individuals in the kitchen, standing close to the cabinets.

5 Q Okay. I want to talk specifically about the
6 patient that the medics were working on. You said it was a
7 child. What do you remember from your observations?

8 A Honestly, everything felt wrong standing there and
9 seeing individuals working on the baby and the emotions and
10 just the whole setting of the room. It all felt wrong.

11 Q What do you mean by that? You mentioned emotions,
12 what do you mean by that?

13 A What I saw did not appear to be behavior that most
14 parents would have when a child was laying in the floor
15 being operated on -- not operated on, but worked on by
16 medical technicians or anybody if a child was sick. The
17 emotions did not fit what was taking place.

18 Q All right. Do you recall what, if anything, the
19 child was wearing at this time?

20 A Absolutely. He was wearing a footed pajama onesie
21 with long sleeves and it was kind of a brown color.

22 Q You said it had a brownish color?

23 A I believe brownish.

24 Q Does that stand out in your mind for any particular
25 reason?

Kevin Cornett - Direct Examination by Mr. Caskey

1 A It was very similar to the one my son was wearing
2 when I left the house that morning.

3 Q All right. Chief, I'm going to show you what's
4 previously been entered into evidence as State's 65, if I
5 can get these gloves to work.

6 Chief do you recognize this?

7 A Yes, sir. That would be the onesie that the child
8 was wearing.

9 Q Did you have any involvement in the medical
10 treatment?

11 A The only thing I did was EMS asked somebody to
12 retrieve the stretcher out of the ambulance and I went
13 outside to retrieve that since nobody was there at that
14 point and was assisted by a fireman doing that and then
15 they took it inside and that was -- that's the only part I
16 had.

17 Q You helped them carry the stretcher or backboard
18 inside?

19 A I helped them try to get it out of the back, but I
20 couldn't figure out how to get it out of the ambulance, so
21 the fire worker helped me do that.

22 Q Okay. Were you present when the ambulance departed
23 the scene?

24 A I was, yes, sir.

25 Q All right. Once the ambulance departed, what did

Kevin Cornett - Direct Examination by Mr. Caskey

1 you do?

2 A I -- at this point, prior to the ambulance leaving,
3 the corporal had shown up, who was the patrol supervisor,
4 and I had told him that, I mean, something felt wrong and I
5 wasn't comfortable with the incident --

6 Q Let me just pause you there, chief, just so we're
7 clear. The corporal who's the supervisor, is that the
8 police officer?

9 A It is -- yes, sir, he was a police officer with a
10 Springdale Police Department.

11 Q Okay. So someone you supervise?

12 A Correct.

13 Q Okay. Now, you can continue.

14 A And when the ambulance began to leave, I told the
15 corporal to lock the place down that I thought it was a
16 crime scene and that we needed to secure it.

17 Q All right. When you say secure the scene or lock
18 it down, what does that mean?

19 A That means, basically that we want to keep
20 individuals outside of the residence and we don't want to
21 let random people come inside that may be inside the
22 residence. We want to control the people who are already
23 there in the places that they are at.

24 Q Okay. At that point, were you able to identify
25 who all was there?

Kevin Cornett - Direct Examination by Mr. Caskey

1 A We -- after the ambulance left or during --

2 Q During and after, I think it -- why don't we cover
3 both.

4 A Okay. There were a lot of people. I can't
5 remember exactly who all was there to be honest. I know
6 that the homeowner was there, her mother was there. I
7 believe the defendant and codefendant were there.

8 Q All right. Let me ask you, what, if anything, do
9 you recall about the homeowner's mother.

10 A She was in a room -- honestly, we didn't know she
11 was there at first. She was kind of in a different room
12 where she couldn't move on her own. She needed care and
13 assistance to move about.

14 Q Did she appear to be able to move upon her own?

15 A No, sir, she did not. She required assistance when
16 she finally was taken out of the residence by friends or
17 family -- I'm not sure who it was, but she required
18 assistance to be taken out.

19 Q Okay. So once you decided to then secure The
20 scene, did you let those people stay inside?

21 A Only the, other and then Priscilla, which was the
22 property owner, to assist with the mother while we were
23 doing the search warrant or getting a search warrant.

24 Q Were you or -- were you or your officers able to
25 view the activities of those people at that time?

Kevin Cornett - Direct Examination by Mr. Caskey

1 A Yes, sir.

2 Q Okay. At any point were they unsupervised?

3 A No, sir.

4 Q All right. Once you secured the scene, what other
5 actions, if any, did you take?

6 A Once we secured it, I notified Captain Bice, who
7 was actually on vacation, but he is our investigator and I
8 asked him to come in off of vacation to investigate the
9 incident that was taking place. I also called the South
10 Carolina Law Enforcement Division to request assistance
11 from their crime scene investigators and while on the phone
12 with the individual taking the call, he asked if I would
13 also -- they ask a litany of questions, like what type of
14 crime do you have and things like that. And when I
15 explained what we had, he asked me if we would like the
16 Child Fatality Unit from SLED to respond as well, to which
17 I said absolutely, so them as well.

18 Q Let me just parse that -- two points -- well, never
19 mind.

20 So, you then requested the SLED Crime Scene
21 Investigation Unit. And why did you do that?

22 A Because we're a small agency and we don't have our
23 own crime scene investigators and my experience with
24 everything that was taking place and the feel of it, we
25 needed to have somebody that could gather evidence and with

Kevin Cornett - Direct Examination by Mr. Caskey

1 it being a crime involving a possible death, I wanted to
2 make sure that we treated it as careful as possible.

3 Q Would it be accurate to characterize your approach
4 to this case as a major case?

5 A Absolutely.

6 Q Okay. So after you had contacted Captain Bice as
7 you said and crime scene unit from SLED and the SLED Child
8 Fatality Task Force, what other -- what else did you do?

9 A I obtained a search warrant for the residence,
10 which I knew was a common practice. We had just worked
11 another incident where we used SLED crime scene
12 investigators and I knew that they would require us to
13 obtain the search warrant and so at that time I did obtain
14 the search warrant.

15 Q And what was the probable cause you used to obtain
16 that search warrant?

17 A The probable cause was using information I'd
18 gathered from Captain Bice and evidence that I had seen at
19 the incident location was that there was an unknown
20 responsive toddler that we responded to. Shortly after the
21 incident, the toddler was pronounced dead at the Lexington
22 Medical Center and the state of the body led the affiant,
23 myself, to believe that there was forensic and physical
24 evidence inside pertaining to how that death had occurred.

25 Q Okay. Just so we're clear on the timeline here, I

Kevin Cornett - Direct Examination by Mr. Caskey

1 think we probably need to clarify, you called Captain Bice
2 and then some amount of time passed --

3 A Correct.

4 Q -- and then having received that information --

5 A That's correct.

6 Q Did you in fact receive a search warrant in this
7 case?

8 A I did, yes, sir.

9 Q All right. And as a result of that search warrant,
10 was a search executed at the home?

11 A It was, yes, sir.

12 Q By whom?

13 A It -- the search was executed by SLED crime scene
14 unit was there, being Agent Johnson, Lieutenant Crooks and
15 Todd Schenk, I think I said that correctly; myself, and
16 Corporal Powell who was the patrol supervisor for
17 Springdale Police Department.

18 Q What did you do for the duration of that day? What
19 did you do after the search warrant?

20 A Well, the search warrant took the majority of the
21 day. I stayed on scene at the residence until the search
22 was complete.

23 Q All right. Did you have any further involvement in
24 the case that day?

25 A No, sir.

Kevin Cornett - Cross-Examination by Mr. Williams

1 Q Thank you, chief. Please answer any questions the
2 Mr. Williams may have for you.

3 A Yes, sir.

4 THE COURT: Thank you, Solicitor.

5 Mr. Williams?

6 MR. WILLIAMS: May it please the Court.

7 **CROSS-EXAMINATION**

8 BY MR. WILLIAMS:

9 Q Chief.

10 A Yes, sir.

11 Q You've described, I guess, the date of November
12 27th, 2013, am I to understand that you had no other
13 involvement in this case other than that particular day?

14 A No, sir. This was all I did on that day.

15 Q All right. Well, let me take you back to that day
16 then. On that particular day, and I think you had already
17 described the fact that there was -- you got there the
18 child was there, EMS was working on the child?

19 A Correct.

20 Q And you said that there were individuals in the
21 living room, individuals in the kitchen?

22 A Correct.

23 Q Which individuals were in the living room and the
24 kitchen?

25 A I couldn't tell you.

Kevin Cornett - Cross-Examination by Mr. Williams

1 Q Well, you also said something about securing the
2 scene, meaning that you thought it was a crime scene, you
3 didn't want anybody walking in and out?

4 A Correct.

5 Q So I think you said you attempted to find out who
6 was there at the time so that you would be able to mark
7 them off if you found fingerprints or something like that,
8 plus, you'd be able to see who all was coming in and coming
9 out?

10 A Correct. That would have been something that I
11 assigned to one of my officers that was on scene.

12 Q And I believe you said that the homeowner was
13 there, the mother was -- the mother of the homeowner was
14 there and the codefendant was there; is that correct?

15 A Yes, sir, as far as I can remember.

16 Q Who was the homeowner?

17 A I believe Priscilla is --- who I was under the
18 understanding was the homeowner.

19 Q Priscilla who?

20 A I don't know the last name, I'm not sure. We've
21 referred to her as Priscilla throughout the investigation.

22 Q Okay. So the homeowner is an individual by the
23 name of Priscilla?

24 A Correct.

25 Q But you don't know her last name?

Kevin Cornett - Cross-Examination by Mr. Williams

1 A I don't have it on the paper in front of me, no,
2 sir.

3 Q And in that she was the homeowner, did she live
4 there?

5 A Yes, sir.

6 Q So did you identify which bedroom she stayed in?

7 A Yes, sir, we did.

8 Q And which bedroom was that?

9 A It was one of the bedrooms upstairs. This was one
10 of those times where the crime scene investigator from SLED
11 went upstairs with her and she -- I'm not a crime scene
12 investigator, so I would leave that to the people that are
13 certified in that area.

14 Q Okay. So she had the bedroom upstairs?

15 A As far as I remember, yes, sir.

16 Q All right. And then I believe you said that her
17 mother was there also; is that correct?

18 A That's correct. Yes, sir.

19 Q And what is the mother's name?

20 A I do not remember, sir.

21 Q Did you document the name of the mother?

22 A I did not, no, sir. Again, crime scene log was
23 tasked to one of the officers on scene.

24 Q And did you document which bedroom the mother was
25 supposed to be staying in?

Kevin Cornett - Cross-Examination by Mr. Williams

1 A No, sir, I did not. That would have been something
2 I would have left to crime scene investigators.

3 Q Do you know which room she was staying in?

4 A She was in a room right off of the kitchen.

5 Q All right. Was there more than one bedroom on the
6 first floor?

7 A I cannot remember.

8 Q All right. And you said that the defendant was
9 there and the codefendant was there. When you refer to the
10 defendant, are you referring to my client?

11 A Yes, sir, as far as I can remember, he was there.

12 Q Do you recall what he looked like?

13 A It's three years ago, sir.

14 Q Okay. Well, when you refer to the codefendant, who
15 are you referring to?

16 A Sabrina Haynes.

17 Q Sabrina Haynes is the codefendant. And what
18 relationship is Sabrina Haynes to the deceased?

19 A As far as I know that's the mother.

20 Q Is there any doubt about it?

21 A Not that I'm aware of but Captain Bice was the
22 investigator and --

23 Q Okay. All right. And where were they located in
24 the room?

25 A I couldn't tell you. I don't remember who was in

Kevin Cornett - Cross-Examination by Mr. Williams

1 what room.

2 Q All right. So did they leave the area or did they
3 remain in the house?

4 A During which time, sir?

5 Q During this time in which you said that you -- you
6 sealed it down, you locked it down. Did they leave the
7 house?

8 A They left it with -- when the child was transported
9 by ambulance.

10 Q Okay. So everybody left -- well, you tell me, who
11 all left when that child was transported?

12 A As far as I can remember everybody except for the
13 mother, Priscilla's mother left.

14 Q Did Priscilla leave?

15 A If I remember correctly, she did.

16 Q All right. And did you remain on scene at that
17 time?

18 A Yes, sir, up until I obtained the search warrant.

19 Q All right. When you say -- obviously, when you
20 obtained the search warrant, did you go and find a judge to
21 get a search warrant or did you -- how did you obtain the
22 search warrant?

23 A Well, first I had to go back to the police
24 department and type the search warrant.

25 Q Okay.

Kevin Cornett - Cross-Examination by Mr. Williams

1 A And then I had to go to the judge to have it
2 signed.

3 Q So you left the scene?

4 A Correct.

5 Q And then when you left the scene, did you leave
6 somebody at the scene?

7 A Absolutely.

8 Q And who did you leave at the scene?

9 A Corporal Powell.

10 Q And you secured the search warrant and you got the
11 judge to sign it and you came back, what, the next day or
12 the same day?

13 A The same day.

14 Q About what time?

15 A I don't recall, sir.

16 Q And when you came back, did you execute the search
17 of the house?

18 A No, sir, I waited for crime scene investigators
19 from South Carolina Law Enforcement Division. I did not
20 want to tamper with anything that could potentially be
21 evidence.

22 Q Okay. So you gave the search warrant to SLED and
23 SLED conducted the search of the house?

24 A I was there with them.

25 Q Okay.

Kevin Cornett - Cross-Examination by Mr. Williams

1 A While they did -- they took pictures and gathered
2 evidence.

3 Q Okay. And what evidence did they obtain?

4 A I think that would be a question probably better
5 for them. I can't read what all they wrote on the return
6 with this.

7 Q Okay. So you really didn't do anything in terms of
8 collecting evidence or anything like that?

9 A No, sir. That's crime scene investigators probably
10 do better at than I.

11 Q All right. So how long were they at the scene?

12 A I can't recall. They were there most of the day as
13 far as I can remember.

14 Q And I assume they -- after they secured whatever
15 evidence they were taking then you left -- did you lock the
16 place up and leave?

17 A Ms. Priscilla was back at that point.

18 Q Okay. What about the mother of the child?

19 A I don't remember who all was back. I know that
20 Ms. Priscilla was there and it's her house, so we left it
21 in her care.

22 Q So Priscilla is the name of the homeowner?

23 A As far as I can recall, yes, sir. The homeowner
24 was there and we turned it back over to them.

25 Q All right. And in terms of the involvement in this

Kevin Cornett - Cross-Examination by Mr. Williams

1 particular case, were you involved in this case anymore?

2 A No, sir, other than being a supervisor who looks at
3 reports. Other than that, no, sir.

4 Q All right. So you didn't secure an arrest warrant
5 or anything like that?

6 A No, sir.

7 Q And you didn't -- you didn't secure any medical
8 reports from the hospital?

9 A No, sir.

10 Q You didn't secure any pathology reports from the
11 coroner?

12 A No, sir.

13 Q You had no interviews with any of the possible
14 witnesses in the case?

15 A No, sir.

16 Q Did you determine which witnesses that you were
17 going to talk to?

18 A No, sir.

19 Q You had actually no other involvement in this case?

20 A That's pretty much it, yes, sir.

21 Q Okay. And --

22 MR. WILLIAMS: That's all the questions I have,
23 Your Honor.

24 THE COURT: Thank you, Mr. Williams.

25 Redirect, Solicitor?

Kevin Cornett - Redirect Examination By Mr. Caskey

1 MR. CASKEY: Very briefly, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. CASKEY:

4 Q Chief would it be accurate to say that your role in
5 this case was to initiate the criminal investigation?

6 A Correct.

7 Q And to insure that the investigation included the
8 State Law Enforcement Division?

9 A Yes, sir.

10 Q To include their child fatality task force?

11 A Yes, sir.

12 Q And the crime scene investigations unit?

13 A Yes, sir.

14 Q Thank you, Chief.

15 A You're welcome.

16 THE COURT: Recross, Mr. Williams?

17 MR. WILLIAMS: No, Your Honor.

18 THE COURT: Thank you. Thank you very much, Chief,
19 you may step down.

20 THE WITNESS: Thank you.

21 MR. CASKEY: Your Honor, could the chief be excused
22 from his subpoena?

23 THE COURT: Any objection?

24 MR. WILLIAMS: No objection, Your Honor.

25 THE COURT: You may be excused, Chief.

Joshua Bice - Direct Examination by Ms. Mayes

1 THE WITNESS: Thank you.

2 THE COURT: All right. Solicitor?

3 MS. MAYES: The State calls Captain Joshua Bice to
4 the stand.

5 JOSHUA BICE,

6 having been duly sworn, testified as follows:

7 THE CLERK: If you'll have a seat over here. State
8 your name, please and spell your last for the record.

9 THE WITNESS: Good afternoon, Your Honor.

10 THE COURT: Good afternoon.

11 THE WITNESS: My name is Captain Bice. I'm with
12 the Springdale Police Department. B-I-C-E.

13 **DIRECT EXAMINATION**

14 BY MS. MAYES:

15 Q All right. I'm going to need you to speak up and
16 pull that microphone closer.

17 A There we go.

18 Q Could you give us some information about yourself
19 concerning your current employment and what led you to a
20 career in law enforcement?

21 A Sure. I'm the operations commander at the
22 Springdale Police Department. My primary role is as the
23 head detective there at Springdale. I started my career
24 out when I was young, when I was about 16 I was an
25 explorer. When I got done with that, I went in the United

Joshua Bice - Direct Examination by Ms. Mayes

1 States Marine Corp and here I am. I've been in law
2 enforcement for approximately ten years.

3 Q All right. And specifically at Springdale, tell us
4 a little bit about the Springdale Police Department, how
5 big your force is.

6 A We are approximately nine police fully sworn
7 officers. Once again, I am the number two in the chain of
8 command there.

9 Q And speaking specifically about Springdale, when
10 you have an investigation that requires extensive
11 recourses, crime scene investigations, things of that
12 nature, what is your ordinary protocol?

13 A We normally call on SLED primarily because they
14 have all the resources that we do not have. So in this
15 case, yes, we did call SLED for their resources.

16 Q Now Captain Bice, how did you become involved in
17 the investigation of a child fatality at [REDACTED]
18 on November 27th, 2013?

19 A Well, originally I was on leave and Chief Cornett
20 called me on my cell phone and advised me that we had a
21 serious case at hand, that there was a child involved. So
22 I went ahead and got ready and came on in.

23 Q All right. And looking at a calendar -- let me get
24 my calendar out now.

25 November of 2013. Looking here at this calendar,

Joshua Bice - Direct Examination by Ms. Mayes

1 how close in time did this incident fall to Thanksgiving
2 Day?

3 A The day prior.

4 Q All right. So if this incident occurred on
5 November 27th, being a Wednesday, this following day --

6 A Was Thanksgiving.

7 Q Was Thanksgiving Day?

8 A That's correct.

9 Q Okay. And you received a call you said from Chief
10 Cornett?

11 A That's correct.

12 Q And what specifically was your first role in this
13 investigation?

14 A My first role was to go the Lexington Medical
15 Center to make contact with some of the parties involved.
16 When I arrived, I made contact with Laura Grimes who was
17 the coroner at that time. I did see the family in the
18 waiting room at that time, however, I did not make contact
19 with them. I went straight in to speak with Laura in the
20 ER.

21 Q And when you say Laura, you're referring to, at
22 that time, an employee of the Lexington County Coroner's
23 Office?

24 A That is correct, yes, ma'am.

25 Q And do you know who or what facility had notified

Joshua Bice - Direct Examination by Ms. Mayes

1 Law enforcement to respond to the hospital as a result of
2 this suspicious death?

3 A The Lexington Medical Center advised us that they
4 did have a child that was deceased, and therefore, we were
5 going to be responding. Law enforcement was going to
6 respond.

7 Q All right. So they called you in themselves.

8 A Yes.

9 Q The hospital actually notified you?

10 A Yes.

11 Q All right. You mentioned a family in the waiting
12 area there at the hospital.

13 A That's correct.

14 Q I'm going to ask you a little bit about that.

15 A Okay.

16 Q Based on your investigation thus far in this case,
17 Captain Bice, what can you tell us about the family members
18 who were residing at [REDACTED]?

19 A Okay. You had Joshua, the defendant. You had
20 Sabrina Haynes.

21 Q Hang on, let me stop you right they're?

22 A Sure.

23 Q The defendant, Joshua Hopkins?

24 A That's correct.

25 Q And the next person you mentioned?

Joshua Bice - Direct Examination by Ms. Mayes

- 1 A Is Sabrina Haynes.
- 2 Q Sabrina Haynes. Does she have a nickname that she
- 3 is sometimes referred to?
- 4 A Yes. Her nickname is Penny. That's what the
- 5 family calls her.
- 6 Q And what was her relationship to the defendant?
- 7 A Boyfriend and girlfriend.
- 8 Q All right. And what was her relationship to [REDACTED]
- 9 [REDACTED] Minor
- 10 A That was his mother.
- 11 Q Okay. Who else?
- 12 A You also had Priscilla, who is Sabrina's aunt.
- 13 Q Okay. And her last name?
- 14 A Haynes.
- 15 Q All right. Priscilla Haynes. She is the aunt of
- 16 Sabrina Haynes.
- 17 A That's correct.
- 18 Q And what was -- what do you understand Priscilla's
- 19 role to be in terms of the actual residence?
- 20 A She was kind of the head hold provider. She was
- 21 the property owner.
- 22 Q It was her residence?
- 23 A That's correct. She's the one that allowed them to
- 24 stay at the residence.
- 25 Q Okay. Who else?

Joshua Bice - Direct Examination by Ms. Mayes

- 1 A And then you also had Wilhelmina.
- 2 Q Okay.
- 3 A And that's grandma.
- 4 Q Okay.
- 5 A And she stayed downstairs.
- 6 Q And she is the grandmother -- just to clarify, she
- 7 is the mother of who?
- 8 A She's the mother of Priscilla and the grandmother
- 9 of Sabrina.
- 10 Q All right. So that would make her great
- 11 grandmother to Minor [REDACTED] ?
- 12 A That's correct.
- 13 Q And you said she also stayed in a room at the home?
- 14 A That's correct.
- 15 Q All right. And who else?
- 16 A That's it -- excuse me Minor [REDACTED] And he was the
- 17 only child staying at the residence.
- 18 Q Okay. Only child there?
- 19 A That's correct.
- 20 Q All right. So do you recall whether or not when
- 21 you responded to the hospital Sabrina Haynes was there?
- 22 A She was.
- 23 Q And was the defendant Joshua Hopkins there?
- 24 A He was.
- 25 Q Did you get an opportunity to actually speak with

Joshua Bice - Direct Examination by Ms. Mayes

1 family members, including the defendant?

2 A I did after speaking to Laura.

3 Q All right. Tell us about that initial contact with
4 the defendant there at the hospital and the purpose of this
5 contact and what if anything he revealed to you?

6 A Okay. The initial contact was to provide some type
7 of past medical history, see if he had any type of medical
8 issues; try and create some kind of a timeline as to a 24
9 hour period prior to his death. Just a preliminary
10 investigation at that point.

11 Q All right. And based on that information, who did
12 you determine -- who did he reveal to you was actually
13 present at the home at the time that **Minor** became
14 unresponsive?

15 A It was just him and Wilhelmina downstairs.

16 Q All right. And Wilhelmina, the great grandmother,
17 based upon your investigation and your knowledge in this
18 case, is she mobile?

19 A She is not -- excuse me, she is not.

20 Q Is she still living?

21 A I'm unsure, ma'am. I'm not sure.

22 Q Okay. And regarding that timeline, where did he
23 report to you that Sabrina Haynes was during the time frame
24 that **Minor** became unresponsive?

25 A He states that she was at work at McDonalds.

Joshua Bice - Direct Examination by Ms. Mayes

1 Q Did he reveal information to you as to what time
2 she left for work?

3 A Approximately 0600 hours, 5:30, 600 somewhere
4 around there.

5 Q Between 5:30 a.m. and 6 a.m.?

6 A Yes, ma'am.

7 Q And was anyone else caretaking for Minor
8 after Sabrina Haynes went to work at McDonalds by 6 a.m.
9 that morning?

10 A That was going to be Joshua, the defendant.

11 Q The defendant was his only caretaker?

12 A That is correct, yes, ma'am. Priscilla actually,
13 she goes to work fairly early. She leaves for work around
14 04 in the morning, so the only person home was great
15 grandma and Joshua and Minor

16 Q And what did the defendant report to you as to who
17 actually was caring for Minor that morning or in the role of
18 caretaker that morning after Sabrina left for work.

19 A He stated he was taking care of him.

20 Q Now, based upon your investigation and the
21 information you obtained from Mr. Hopkins, where did
22 Sabrina, the defendant, and Minor normally sleep in this
23 home?

24 A It was upstairs.

25 Q All right.

Joshua Bice - Direct Examination by Ms. Mayes

1 A I want to say in the first room to the left.

2 Q All right. So the defendant, Sabrina, and Minor all
3 shared a room?

4 A That's correct. They slept in the same bed.

5 Q And that was upstairs?

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

7 Q And that's information that he provided to you on
8 November 27th?

9 A That's correct.

10 Q And what, if anything -- what, if any, account did
11 he provide as to what occurred with Minor that led him to
12 have to call EMS?

13 A He stated that he and Minor got up that morning. Minor
14 had used the potty in his britches, therefore, he cleaned
15 him up and ran a bath. At that point in time, he went
16 downstairs to heat up some food. He comes back upstairs
17 and he states that Minor was on his hands and knees
18 facing towards the door gasping, making a moaning and
19 groaning noise.

20 Q All right. So he reported to you that Minor had
21 soiled his, either pajamas or underwear?

22 A Correct.

23 Q And as a result he had put him in the bathtub?

24 A That's correct.

25 Q That he'd gone downstairs?

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1 A That's correct.

2 Q And when he came back up, he found the child in
3 what room and in what condition?

4 A In the bathroom on his hands and knees with his
5 head facing towards the door.

6 Q And what did he report he did in response to
7 finding him in that condition?

8 A He reports that he picked the child up, that
9 **Minor** was not responding to him like he normally does
10 that his eyes were wondering, that he didn't appear as
11 though he was breathing very well. At that point in time,
12 he puts **Minor** on the bed upright and he states at that
13 point in time he started making phone calls.

14 Q Did he report to you anything about CPR?

15 A He did. He states that while he has the child up
16 that he was tapping on his chest and blowing in his mouth.

17 Q Okay. Would that have been prior to any phone
18 calls?

19 A Yes, yes, I apologize.

20 Q And while at the hospital, you mentioned that you
21 had the opportunity to meet with the defendant. Did he
22 agree to participate in any type of formal interview?

23 A He did.

24 Q And where was that to take place?

25 A That was going to take place at the police

Joshua Bice - Direct Examination by Ms. Mayes

1 department.

2 Q And ultimately did that occur?

3 A It did, yes, ma'am.

4 Q Was that on the same day?

5 A It was, yes, ma'am.

6 Q And who was present for that interview?

7 A Myself and Agent Cauthen with SLED.

8 Q Now, prior to leaving the hospital, did you
9 yourself have an opportunity to actually see **Minor** body?

10 A Yes, ma'am, I did.

11 Q Where were you at when you saw him?

12 A I was in the ER. And originally -- when I first
13 came the contact with **Minor** he was on the yellow back board
14 from the pictures that you guys observed earlier. On his
15 back, face up. And I helped Laura Grimes in some of the
16 photo taking while we were in the ER; so therefore, I went
17 ahead and put on some blue gloves and helped her take the
18 pictures, turning him over and taking photographs of some
19 of the injuries.

20 Q I'm going to show you what is State's Exhibit 34,
21 35, 36, 37, and 38 already in evidence. I'm going to ask
22 you if you recognize those photos and if so, how?

23 A I do, yes, ma'am, I was the one actually assisting
24 in taking the pictures.

25 Q And I'm going to show you State's Exhibit 33 and

Joshua Bice - Direct Examination by Ms. Mayes

1 ask you if you recognize it?

2 A Yes, ma'am, I do.

3 Q How so?

4 A The first time I came in contact with **Minor** that's
5 what he looked like.

6 Q Is that a fair an accurate representation of your
7 memory of him that day?

8 A It is unfortunately, yes, ma'am.

9 MS. MAYES: Your Honor, this would be State's
10 Exhibit 33 for evidence.

11 THE COURT: All right. Mr. Williams?

12 MR. WILLIAMS: Without objection, Your Honor.

13 THE COURT: All right. State's 33 is in evidence
14 without objection.

15 (State's Exhibit Number 33 was entered into
16 evidence.)

17 BY MS. MAYE:

18 Q Now, Captain Bice you mentioned blue gloves in the
19 photographs?

20 A Yes, ma'am.

21 Q Are you in one of these -- or are you in these
22 photographs?

23 A Yes, ma'am.

24 Q Okay. And what color gloves are you wearing?

25 A I'm wearing blue gloves.

Joshua Bice - Direct Examination by Ms. Mayes

1 Q Okay. That's you?

2 A Yes, ma'am.

3 Q All right. What, if anything, did you notice or
4 observe, Captain Bice regarding the color of his skin and
5 the color of the bruising that you witnessed?

6 A Well, originally my first assessment, my first view
7 of **Minor**, I noticed that he had significant injuries on
8 his arms and on his hands and I didn't see the actual --
9 see the injury on his bottom until I assisted her in
10 rolling the child over. And at that point in time, I saw
11 this horrific injury on his bottom that -- you know, I have
12 a child that's the same age and so for me, it was difficult
13 to see it.

14 The injuries were dark purple in some areas and red
15 in others as though they were fresh. And you also have a
16 part of the skin that appears that it was sloughed off and
17 still healing. So you had some injuries -- I'm trying to
18 look at it as a detective. But you have some new injuries,
19 you have some old injuries. And my job is to try the
20 figure out the timeline on those injuries.

21 Q So you recall red, dark purple; and do you recall
22 any other colors.

23 A I do. A couple of the injuries on his arms, he had
24 some purple marks on his arms. But on the top of his hand,
25 his little hand was swollen out pretty far and he had a --

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1 almost -- if you've ever skinned your knee up or something,
2 you see that white -- that white fleshy material that comes
3 off as though it's fresh. Once you take a shower, usually
4 that comes off, you know if it's a small abrasion. But
5 this was still there. It was still on top of his hand and
6 I can remember a couple other small injuries on the inside
7 of his beginning fingers almost as though he was trying to
8 protect his bottom as he was being spanked.

9 Q Were you present for the autopsy of [REDACTED]
10 Minor [REDACTED].

11 A Yes, ma'am, I was.

12 Q When was the autopsy conducted?

13 A It was conducted at Lexington Medical Center.

14 Q On what date?

15 A On the 28th, which was Thanksgiving Day.

16 Q You attended that autopsy?

17 A Yes, ma'am, I did.

18 Q On Thanksgiving Day?

19 A Yes, ma'am, I did.

20 Q Were you present when photos were taken during the
21 autopsy?

22 A Yes, I was.

23 Q Now, for the purpose of identification, I'm going
24 to show you some photos and ask you whether or not you
25 recognize them?

Joshua Bice - Direct Examination by Ms. Mayes

1 A Yes, ma'am. (Looking.)

2 Q If you could just clarify -- this one, if you could
3 just clarify when that photo was taken?

4 A Okay. Exhibit 49 was taken on the same date -- on
5 the 11/27/13, same date as this one.

6 Q All right. Is that a fair and accurate
7 representation of your memory?

8 A It is, yes, ma'am.

9 MS. MAYES: That would be State's Exhibit 49 for
10 evidence.

11 MR. WILLIAMS: Without objection, Your Honor.

12 THE COURT: State's 49 is in evidence without
13 objection.

14 (States Exhibit Number 49 was entered into
15 evidence.)

16 MS. MAYES: Your Honor, the State would ask
17 permission for the witness to step down.

18 THE COURT: For what purpose?

19 MS. MAYES: To illustrate something on the photo.

20 THE COURT: To the jury?

21 MS. MAYES: Yes, sir, Your Honor.

22 THE COURT: All right. Just give me a minute to
23 come down, please.

24 You may step down. Do not resume testimony yet.

25 (The Court steps down to observe.)

Joshua Bice - Direct Examination by Ms. Mayes

1 THE COURT: Thank you, Solicitor, you may continue.

2 BY MS. MAYES:

3 Q Looking here at State's Exhibit 49, Captain Bice,
4 your testimony earlier, regarding a fresh injury to the
5 hand, what if anything, are you referring to in this
6 photograph?

7 A This right here, which the skin is kind of sloughed
8 off, kind of pulled up a little bit there if you can see
9 that.

10 Q And we'll move down here and ask you.

11 A Right their.

12 Q And what, if anything else, is significant about
13 **Minor** hand in this photograph?

14 A Well, you can see the swelling here and it's
15 obviously -- there's new and old injury on there. There's
16 one right there that's a little bit greenish there.

17 Q You may return to your seat.

18 A Okay.

19 (The Court returned to the bench.)

20 BY MS. MAYES:

21 Q And Captain Bice, I need you to speak up a little
22 bit louder and keep your voice up?

23 A Sure.

24 Q Now, I'm going to show you these additional
25 photographs, which are going to be State's Exhibit 50,

Joshua Bice - Direct Examination by Ms. Mayes

1 State's Exhibit 51, State's Exhibit 52, 53, 47, 48, 40?

2 THE COURT: 40?

3 MS. MAYES: Yes, sir, Your Honor.

4 BY MS. MAYES:

5 Q 45, 44, 43, 42, 39, and 41. And if you could just
6 tell us whether or not you recognize those photos?

7 A I do recognize them, yes.

8 Q And who is in those photos?

9 A Well, Laura Grimes is in a few of them, but I am in
10 the background on one of them.

11 Q Okay. And those photos were taken where and for
12 what purpose?

13 A In was at the autopsy at the Lexington Medical
14 Center.

15 Q Is this a fair and accurate representation of how
16 Minor appeared during his autopsy?

17 A Yes, it is.

18 Q Can you tell us whether or not it's routine for law
19 enforcement to be present and have photographs taken of any
20 suspicious injuries?

21 A Yes, it is.

22 MS. MAYES: Your Honor, at this time, the State
23 would offer these exhibits as evidence.

24 THE COURT: All right. Mr. Williams?

25 (Mr. Williams is looking at the photographs.)

Joshua Bice - Direct Examination by Ms. Mayes

1 MR. WILLIAMS: I have no objection to the
2 introduction of these exhibits, Your Honor.

3 THE COURT: All right. Let me see if my numbers
4 are correct, Solicitor. I have 39 through 45; 46 I do not
5 have as offered; 47, 48, and 50 through 53; is that
6 correct?

7 MS. MAYES: Yes, sir, Your Honor. That is correct,
8 Your Honor.

9 THE COURT: And those are in evidence without
10 objection, Mr. Williams?

11 MR. WILLIAMS: That's correct, Your Honor.

12 THE COURT: All right. Thank you. Without
13 objection.

14 (State's Exhibit Number 35, Number 36, Number 37,
15 Number 38, Number 39, Number 40, Number 41, Number 42,
16 Number 43, Number 44, Number 45, Number 47, Number 48,
17 Number 50, Number 51, Number 53 was entered into evidence.)

18 BY MS. MAYES:

19 Q When you -- when you spoke of various colors that
20 you observed, where are some of the different colors that
21 you observed.

22 A Right around this region. It was still red in the
23 center right in here it was a little darker. And then you
24 had some new and old on the legs and the arms.

25 Q What, if anything, did you observe here?

Joshua Bice - Direct Examination by Ms. Mayes

1 A There's an injury here. You can't really see it,
2 but there's skin that's sloughed off right there on the
3 outside of the finger. And then there's another mark right
4 here, right in line with the fingernail there and then
5 there's two. There's one here and one here on the inside
6 of the index finger. And that's the same hand that had the
7 skin that was sloughed on the top.

8 THE COURT: What number is that exhibit, Solicitor.

9 MS. MAYES: This is 40, Your Honor.

10 THE COURT: Thank you.

11 BY MS. MAYES:

12 Q And this is going to be 43 where you had previously
13 noted from this angle. You had previously noted from this
14 angle what you observed concerning the right hand. Can you
15 tell us whether or not that swelling appeared to be on the
16 bottom of the hand as well?

17 A That's correct, yes, ma'am, it did.

18 Q I'm showing you State's Exhibit 42. What, if
19 anything, did you note there concerning that right hand?

20 A The swelling right here and on the outside of that
21 finger.

22 Q Now, Captain Bice, having observed **Minor** body at
23 LMC with the coroner's office on November 27th and then the
24 following day at autopsy, can you tell us whether or not
25 you consider this a criminal investigation?

Joshua Bice - Direct Examination by Ms. Mayes

1 A Yes, ma'am, I would say so.

2 Q And what other agency was involved in assisting
3 during the course of this investigation?

4 A Myself, SLED, South Carolina Law Enforcement
5 Division, the coroner's office, and SLED Crime Scene.

6 Q All right. Now, speaking of SLED Crime Scene, what
7 roll, if any, did they play during this investigation,
8 starting with the original date of the incident, November
9 27th?

10 A They responded out in reference to Chief Cornett
11 asking for additional resources. They came to the
12 residence. They processed the scene with their crime scene
13 unit, taking photographs, collecting the evidence, anything
14 that had to do with the preservation or the collection of
15 evidence at [REDACTED].

16 Q All right. Now, you mentioned beforehand that you
17 were present at LMC, Lexington Medical Center to observe
18 [REDACTED] Minor body, that you spoke with the defendant there. And
19 did you also speak with Sabrina Haynes there?

20 A We did.

21 Q Did both of those individuals agree to participate
22 in an interview following your contact with them at
23 Lexington Hospital?

24 A Yes, they did. We -- we basically advised them,
25 you know, if you guys would accompany us to the police

Joshua Bice - Direct Examination by Ms. Mayes

1 department, we'd like to get further statements from you
2 and they agreed.

3 Q Was this voluntary based on what you observed?

4 A Yes, ma'am, absolutely.

5 Q And were they in police custody at the time?

6 A No, they were not.

7 Q And ultimately, did the defendant, Joshua Hopkins
8 meet up with you that same day at Springdale Police
9 Department?

10 A He did, yes, ma'am.

11 Q Who, if anyone, was present with you for that
12 interview?

13 A Agent Cauthen with SLED.

14 Q And she is with what division at the State Law
15 Enforcement Division?

16 A She's with the child fatalities unit.

17 Q All right. So the child fatalities unit is a
18 subdivision of the State Law Enforcement Division?

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

20 Q And initially when he arrived there at Springdale
21 Police Department -- and can you just clarify, was he
22 threatened or coerced into participating in an interview?

23 A No, ma'am, he was not.

24 Q Were any promises made in exchange for an
25 interview?

Joshua Bice - Direct Examination by Ms. Mayes

1 A No, no, ma'am.

2 Q What was the general purpose at that point for this
3 interview?

4 A At this point, we were trying to get a little bit
5 more facts in the case. We did the preliminary at the
6 hospital trying to get medical information. This was more
7 trying to figure out what happened within the last 24
8 hours. What happened within the last week of his life.
9 Was he a sick child, was he a well child. You know, did he
10 like to run around and play.

11 These were all really important things in our
12 investigation. So it was those type of things that we were
13 asking about, not necessarily just what happened within the
14 last eight hours, but what happened within the last few
15 weeks.

16 Q And is anyone else present for that interview? Can
17 you tell us what the normal protocol is?

18 A Yes, Agent Cauthen was also in the interview with
19 me.

20 Q But for example Sabrina Haynes or his mother or
21 other family members, are they allowed to sit in and
22 participate in that interview?

23 A No, ma'am, they are interviewed separate.

24 Q Okay. So all of these potential witnesses in the
25 case were interviewed separately?

Joshua Bice - Direct Examination by Ms. Mayes

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

2 Q Now, prior to actually -- can you tell us, it's
3 routine to read Miranda Rights to an individual that you're
4 bringing in to question in such an investigation?

5 A Yes, it is, even though they're technically not in
6 custody, since we're investigating a possible criminal
7 action, we go ahead and read Miranda.

8 Q All right. And did he arrive there in custody or
9 was there some other procedure to get him there?

10 A No, ma'am, he came on his own free will.

11 Q What information did he give -- let me backup just
12 a little bit.

13 Did he provide some information prior to actually
14 giving you a written statement?

15 A Yes, he did.

16 Q Were you taking notes during that interview?

17 A I was, yes, ma'am.

18 Q Were those notes contemporaneous with the
19 interview?

20 A Yes, ma'am, there were a few things here or there
21 that changed.

22 Q Did -- were you actually -- do you have the pen and
23 paper to make notes as it was --

24 A Yes, ma'am, I did.

25 Q -- being given to you.

Joshua Bice - Direct Examination by Ms. Mayes

1 A Yes, ma'am.

2 Q Ultimately, was he read his Miranda Rights?

3 A Yes, he was.

4 Q By who?

5 A By Agent Cauthen with SLED.

6 Q Were you present for that?

7 A Yes, ma'am, I was.

8 Q Do you have with you that original Miranda Rights
9 form --

10 A Yes, I do.

11 Q -- that was read to him?

12 A Yes, ma'am.

13 Q Just, in general, you don't have to read everything
14 on the form, but what are the general rights that most
15 citizens of this country are familiar with that are read to
16 persons in such an investigation?

17 A Okay. Before we ask any questions, you must
18 understand your rights. You have the right to remain
19 silent. Anything you say can be used against you in a
20 court of law.

21 You have the right the talk to a lawyer for advice
22 before we ask any questions and have him with him, or her
23 with you during question. If you have no money to pay for
24 a lawyer's fee, the Court will appoint one to represent you
25 without cost if you wish.

Joshua Bice - Direct Examination by Ms. Mayes

1 If you decide to answer questions now without a
2 lawyer present, you'll still have the right to stop
3 answering at any time. You also have the right to stop
4 answering at any time until you speak with your attorney.

5 Now that I have read this statement to you, do you
6 understand your rights; and at that point in time he did;
7 and he signs.

8 Q Is your signature on that form as well?

9 A Yes, it is.

10 Q As a witness to the waiver he gave of his Miranda
11 Rights?

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

13 Q And he agreed to speak with you at that point?

14 A He did.

15 Q Did that appear to be freely and voluntarily?

16 A Absolutely, yes, ma'am.

17 MS. MAYES: This Miranda form, Your Honor would be
18 State's Exhibit -- it would be for evidence number 66.

19 MR. WILLIAMS: Without objection, Your Honor.

20 THE COURT: State's 66 in evidence without
21 objection.

22 (State's Exhibit Number 66 was entered into
23 evidence.)

24 BY MS. MAYES:

25 Q - And you mentioned that you had spoken with him

Joshua Bice - Direct Examination by Ms. Mayes

1 prior to the formal waiver of Miranda Rights?

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

3 Q Can you tell us whether or not he agreed to
4 summarize the information in any other type of format?

5 A He did. He advised that he would put it on a
6 written statement for us.

7 Q In the form of the written statement?

8 A That's correct.

9 Q And did he do so?

10 A He did, yes, ma'am.

11 Q And do you have that original written statement
12 with you today?

13 A I do, yes, ma'am.

14 Q Do you recognize that?

15 A Yes, I do.

16 Q And is your signature on it in any location?

17 A It is in the witness portion.

18 Q And whose actual handwriting was the statement made
19 in?

20 A Josh's.

21 Q Referring to the defendant?

22 A That's correct.

23 Q Josh Hopkins?

24 A That's correct.

25 Q And there are three pages to this statement?

Joshua Bice - Direct Examination by Ms. Mayes

1 A Yes, ma'am.

2 MS. MAYES: Your Honor, this will be State's
3 Exhibit 67 --

4 MR. WILLIAMS: Without objection, Your Honor.

5 MS. MAYES: -- for evidence.

6 THE COURT: State's 67's in evidence without
7 objection.

8 (State's Exhibit Number 67 was entered into
9 evidence.)

10 BY MS. MAYES:

11 Q Now, looking here at that original, I'm going to
12 ask you to start at the beginning and we're going to need
13 you to read very slowly and continue to read slowly enough
14 for the court reporter to document the statement?

15 A Okay. All right. It states, I went in at 5
16 o'clock p.m. and got off at 12:30 p.m.

17 Q All right. Let me stop you right there. You
18 mentioned before that part of what you were inquiring about
19 was the whole 24-hour period?

20 A That's correct.

21 Q So what time is he referring to there?

22 A He's referring to 12:30 p.m.

23 Q Let me back up, what date is he referring to there?

24 A He's referring to the 27th, 11/27/13.

25 Q All right. So 11/27/13 is the date that this

Joshua Bice - Direct Examination by Ms. Mayes

1 happened. When he's talking about going in at -- what time
2 did you say?

3 A At 5 o'clock p.m.

4 Q All right. So he went in at 5 p.m. and left at
5 what time?

6 A And he left at 12:30 p.m. so that's going to be on
7 the 26th.

8 Q And when he's talking about going in, he's
9 referring to what?

10 A Going to work.

11 MR. WILLIAMS: Objection -- objection to that Your
12 Honor. The statement speaks for itself.

13 THE COURT: I'll overrule that objection.

14 BY MS. MAYES:

15 Q During the course of your conversation with him and
16 your requesting that he put it in writing, you're trying to
17 get an account for the final 24 hours, with what was he
18 referring to?

19 A That's correct. He's referring to the 26th, 5
20 o'clock on the 26th.

21 Q Okay. And he's going into where?

22 A He's going to work at McDonalds.

23 Q Okay. So he worked at McDonalds?

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

25 Q All right. So he says that would run into the 26th

Joshua Bice - Direct Examination by Ms. Mayes

1 it would be 11/26/13, he goes in at approximately 5, he
2 says?

3 A That's correct.

4 Q And gets off -- and that would be 11/27/13?

5 A That's correct.

6 Q At what time?

7 A 12:30 p.m.

8 Q Okay.

9 THE COURT: I'm not tracking that.

10 BY MS. MAYES:

11 Q It says p.m., did he write p.m. on the statement?

12 A He did. It's a.m. It should be a.m.

13 Q All right. Okay. Okay.

14 THE COURT: Thank you.

15 BY MS. MAYES:

16 Q And again, just to clarify, he's writing the
17 statement himself?

18 A That's correct.

19 Q But based on your communication with him, he's
20 referring to a shift at McDonalds?

21 A Yes, ma'am.

22 Q All right. Please continue.

23 A I got home, Penny came out and we smoked a
24 cigarette. We went upstairs. [Minor] was laying in the bed.
25 He told me hey and then I asked Penny was she ready for her

Joshua Bice - Direct Examination by Ms. Mayes

1 food. She said yes, so me and Minor got up and was walking
2 downstairs. Penny was -- Penny was behind us and I turned
3 around talking to her and Minor slipped down the stairs
4 sliding on his behind. I pick him up, ask him if he's
5 okay. Was crying at first until me and his mom embrace
6 him. She, meaning Penny, had some Gatorade and was giving
7 to him and I said let me give him some Hi-C because it has
8 vitamin C in it and it's better for him.

9 So I warm up my food. Penny warm up hers and we
10 eat in the kitchen. I asked Minor did he want some. He said
11 yes. So I gave him some of my McDougle. He threw up the
12 juice and a couple minutes later, he threw up the burger.
13 Penny told me he threw up before got there while they were
14 laying in the bed.

15 So I try to give him another piece. He threw that
16 up too. We all went back upstairs and I ask Minor did he
17 have to use the bathroom and he said yes. Took him to the
18 bathroom and he peed. So I took him back in the room. Me,
19 him, and Sabrina laid down. So we were laying down and
20 about 15 minutes later, I asked him again before we went to
21 sleep did he have so use it again. He said yes. So he poo
22 this time and went back to lay down. Sabrina had to have a
23 towel on the bed because he kept throwing up.

24 Before we went to sleep, we put a Pamper on him.
25 He had scrape on him from falling. We told him good night.

Joshua Bice - Direct Examination by Ms. Mayes

1 We all fell asleep.

2 So about 4, 4:30. Penny aunt wake me up asking
3 does Penny still need the ride. She said no she had
4 another ride because she didn't want to get up that early.
5 She had to be there at 6.

6 Around 5:30 a.m. Penny left for work. Me and Minor
7 were still in bed.

8 Q All right. Let me stop you right there. What is
9 your understanding of -- I know you testified before that
10 based on your conversation with them at the hospital that
11 Penny was not home. Penny was where?

12 A She was at work.

13 Q Okay. And she works at what location?

14 A At McDonalds as well.

15 Q Okay. Is this the same McDonalds?

16 A It is.

17 Q Okay. And that McDonalds is located in what area
18 of Lexington County?

19 A It's on Augusta Road in Lexington County. I'm not
20 sure exactly.

21 Q Okay. On Augusta Road in Lexington County?

22 A Yes.

23 Q Okay. And based on his statement there, she left
24 at 5:30 and had to be there at 6?

25 A Correct.

Joshua Bice - Direct Examination by Ms. Mayes

1 Q Please continue.

2 A All right.

3 We got around 7:30, 8 a.m., I went downstairs look
4 in, peep to make sure Grandma was okay.

5 Q Okay. Let me stop you right there.

6 A Okay.

7 Q All right. So he says got up around 7:30 to 8?

8 A That's correct. 7:30, 8 a.m.

9 Q Did he say he got up or we got up?

10 A It says we got -- we got around 7:30, 8 a.m.

11 Q Okay. So referring to himself and the child?

12 A That's correct.

13 Q And then he said he had to check on Grandma?

14 A Wilhelmina.

15 Q Okay. Please continue.

16 A All right. I went downstairs look in, peep to make
17 sure Grandma was okay. **Minor** was still lying in the bed when
18 I went downstairs. I stayed downstairs maybe 5 minutes,
19 got me some Gatorade and went back upstairs. When I went
20 in the room, **Minor** was laying down, so I asked him, **Minor** do
21 you want to use the bathroom. He said yes. He had on the
22 Pamper. It was wet. I took it off, ran his water about to
23 his belly button and went downstairs. Excuse me, was
24 brushing my teeth -- excuse me, brushing my teeth while he
25 was sitting in the tub.

Joshua Bice - Direct Examination by Ms. Mayes

1 So I went downstairs to check on Grandma and to
2 warm me and Minor something to eat. I stayed downstairs
3 about five minutes, ten at the most. As I was walking
4 upstairs, I noticed Minor on the floor on his hands and knees
5 making a moan or a groaning sound.

6 Q All right. Let me stop you right there.

7 All right. So he has indicated that he put Minor in
8 a bathtub and then went downstairs for five to ten minutes
9 at the most and he returns to what location?

10 A He returns back upstairs.

11 Q And states he found the child where?

12 A On the bathroom floor.

13 Q All right. And what specifically does the
14 statement say regarding his condition?

15 A States on the floor on his hand and knees, making a
16 moan or groaning noise -- sound, excuse me.

17 Q Okay. What's next?

18 A I immediately pick him up and begin calling his
19 name. Minor His eyes were open, but he was still
20 making a weird sound, moaning, groaning sound. So I pick
21 up -- I pick him up, holding him in the air. I tap his
22 chest to try and get him to respond. He still wasn't. He
23 did that before when we had laid him down for a while he
24 was okay.

25 So after that, I took him in the room, propped him

Joshua Bice - Direct Examination by Ms. Mayes

1 up on the bed. So I laid him down and was checking his
2 pulse and began blowing in his mouth. While I was blowing
3 mucus begun to run out of his nose. I picked him up from
4 that point and rushed downstairs, pick up the phone and
5 call his -- Penny to see if she could come home or tell me
6 something I could do for **Minor** She told she was coming, to
7 hang up and dial 9-1-1.

8 Q All right. So according to this statement, Penny
9 tells him to dial 9-1-1?

10 A That's correct.

11 Q Okay.

12 A I hung up with her and dialled 9-1-1, talked to the
13 operator and told him the address. Let's see, I was sure
14 if that was the correct address, so he started asking me
15 the location and I told him Springdale. He said someone
16 was on the way. I heard the ambulance sound and it sounded
17 like they passed the address.

18 I ran outside to let them see me, waiving my hands
19 at them. The paramedics asked me what was going on. I
20 said my son wasn't responding. He let the driver know that
21 he could backup in the yard. It took them a couple of
22 minutes to get in. Finally when they did get to him, **Minor**
23 was propped up, him in the chair. When I ran outside his
24 eyes were still open.

25 Also when me and my mama got to the hospital

Joshua Bice - Direct Examination by Ms. Mayes

1 Sabrina told me they passed the exit for Lexington
2 hospital --

3 Q All right.

4 A -- and had to get off at Bush River exit and turn
5 around. I brought Minor downstairs with before calling Penny
6 and 9-1-1 and propped him up in the chair. From my belief
7 he was still breathing and eyes open when I ran outside.

8 Q All right. So his statement there to you is that
9 from his belief the child was still alive when EMS arrived?

10 A That's correct.

11 Q And his statement here to you, mentions a series of
12 events that follow him finding Minor in the bathroom,
13 correct?

14 A That's correct.

15 Q And he stated there that prior to going downstairs
16 he had placed Minor where?

17 A In the tub.

18 Q All right. And when he arrives back up -- that
19 statement indicates that Minor was on the floor?

20 A That's correct.

21 Q Now is there anything about this written form of
22 the statement that did not include information that he had
23 documented receiving that statement from the defendant
24 elsewhere?

25 A Yes.

Joshua Bice - Direct Examination by Ms. Mayes

1 Q Specifically, I want to ask you about the tub?

2 A Okay. In reference to the tub, he had verbally
3 advised us that during the process of trying to figure out
4 what was wrong with Minor that he pulled the plug to let --
5 to drain the water out of the tub, so therefore, when we
6 responded, there was no water in the tub.

7 Q All right. So after finding the child in that
8 condition, but before calling 9-1-1, he stated to you that
9 he took the time to unstop the tub and drain the tub?

10 A That's correct.

11 Q And in that written statement, does he mention the
12 fact that Minor was dressed or the reason he dressed Minor
13 prior to EMS arriving?

14 A He was does not state why he dresses Minor. He took
15 the time to go ahead and put a onesie on Minor before calling
16 9-1-1.

17 Q And was anything else -- is there anything else
18 that you documented that he told you verbally that was not
19 included in that written statement regarding any of the
20 events prior to actually calling 9-1-1?

21 A Yes, in his initial interview, his oral interview,
22 he advised that Minor wasn't acting like himself and during
23 this whole incident he ends up putting his finger in Minor
24 mouth. He states that he bites down on his finger so at
25 some point he gets a banana and takes a piece off the

Joshua Bice - Direct Examination by Ms. Mayes

1 banana and puts it in Minor mouth; and physically moves his
2 jaw up and down to see if he would take it, see if he would
3 come back.

4 Q Okay. So during the effort to resuscitate him, he
5 gave him a piece of banana?

6 A He did, yes.

7 Q And he reported to you that he had to physically
8 move Minor mouth? Minor was not responding at that point?

9 A He was not.

10 Q Following that written statement and your contact
11 with him on November 27th, do you have the opportunity to
12 participate in any followup interviews with the defendant?

13 A We did, yes, ma'am.

14 Q Okay. Who was with you for the followup interview?

15 A Agent Trista Baird.

16 Q And she's with what agency?

17 A She's with South Carolina Law Enforcement Division.

18 Q And what was the date of that interview?

19 A One second. That was going to be 4/17 of '14.

20 Q April 17th of 2014?

21 A That's correct.

22 Q Okay. Up until that day of April 7th -- 17th of
23 2014, had Mr. Hopkins been arrested?

24 A No, he had not.

25 Q Had Ms. Haynes been arrested?

Joshua Bice - Direct Examination by Ms. Mayes

1 A No, she had not.

2 Q This was an ongoing investigation?

3 A Absolutely.

4 Q Did SLED remain involved between those dates of
5 November 27th, 2013, and up until today?

6 A They did, yes, ma'am.

7 Q And for that second interview, did he also waive
8 his Miranda Rights?

9 A He did, yes, ma'am.

10 Q Did he participate in an interview on that date?

11 A He did.

12 Q Was that a free and voluntary interview based on
13 everything you observed?

14 A Yes, it was.

15 Q Did he ever acknowledge how **Minor** was injured or why
16 he had so many bruises on him on November 27th -- when he
17 was found on November 27th?

18 A He states that he slipped down the stairs.

19 Q His explanation for the entirety of **Minor** injuries
20 is that he had fallen down the stairs?

21 A That's correct.

22 Q And that was alledgedly the night before after he
23 came home from working at McDonalds?

24 A That's correct.

25 Q You mentioned that you were present for the

Joshua Bice - Direct Examination by Ms. Mayes

1 autopsy?

2 A Yes, ma'am.

3 Q Is evidence actually collected from the autopsy for
4 purposes of analysis by the State Law Enforcement Division?

5 A Yes, it was.

6 Q Does that include a buccal swab or DNA sample from
7 **Minor** himself?

8 A Yes, it does.

9 Q And was one collected that date?

10 A There was, yes, ma'am.

11 Q Also a toxicology sample from the child?

12 A That's correct.

13 Q And when those samples were obtained there at
14 autopsy, can you tell us whether or not they were sealed?

15 A They were sealed. Yes, they were sealed and handed
16 to SLED.

17 Q Okay. Was Agent Baird, Agent Trista Baird, seated
18 here behind the State's table, was she present at that
19 autopsy as well?

20 A Yes, she was.

21 Q Can you tell us whether or not she received those
22 sealed samples from the victim's DNA and the toxicology?

23 A She did.

24 Q Based on your knowledge of this case were they
25 submitted to the State Law Enforcement Division?

Joshua Bice - Direct Examination by Ms. Mayes

1 A Yes, they were.

2 Q Now, back at the scene on the incident date,
3 November 27th, 2013, you mentioned before that you started
4 at the hospital. You saw Minor You had contact with the
5 defendant and also the mother, Sabrina Haynes. You go to
6 the Springdale Police Department, you interview the
7 defendant. Ultimately did you have an opportunity to go to
8 the scene that day?

9 A I did; yes, ma'am.

10 Q The residence at [REDACTED]?

11 A Yes, ma'am, I did.

12 Q Can you tell us whether or not the defendant also
13 went back to the scene?

14 A He did.

15 Q Was he in custody at that time?

16 A No, he was not.

17 Q Was Sabrina Haynes in custody at that time?

18 A No, she was not.

19 Q Were you present back at the scene when he arrived?

20 A I was.

21 Q And ultimately, can you tell us whether or not any
22 type of investigative measure was taken when he reenacted
23 or took law enforcement through the series of what he
24 alleged occurred that day?

25 A Yes, he did.

Joshua Bice - Direct Examination by Ms. Mayes

1 Q Were you present for that as well?

2 A I was, yes, ma'am.

3 Q Who was that reenactment done for?

4 A Agent Cauthen with South Carolina Law Enforcement
5 Division and also SLED Crime Scene.

6 Q SLED Crime Scene Unit was still there on the scene?

7 A Yes, they were.

8 Q And are you evidence custodian in this case?

9 A Yes, I am.

10 Q I'm going to show you a couple of items and ask you
11 whether or not you recognize them and if so, how. Once
12 evidence is examined by the State Law Enforcement Division,
13 is it normally returned to the agency for safekeeping?

14 A Yes, it is.

15 Q I'll ask you to take a look at all of these items
16 for identification only and ask you who brought them to
17 court today?

18 A I did.

19 Q All right.

20 A Uh-huh.

21 Q And you served as evidence custodian for all of
22 those items?

23 A Yes, I am.

24 Q Do you know whether or not a diaper was retrieved
25 from the crime scene?

Joshua Bice - Direct Examination by Ms. Mayes

1 A Yes, I do.

2 Q Were you present when that diaper was found or
3 photographed by the State Law Enforcement Division?

4 A I don't -- I was not present, but it was collected
5 and tagged in by SLED Crime Scene.

6 Q All right. As well as the other items previously
7 mentioned, including the victim's DNA swab, all of those
8 items ultimately were returned to your agency?

9 A Yes, they were.

10 Q I finally want to ask you Captain Bice, on what
11 day, ultimately was the defendant, Joshua Hopkins arrested?

12 A He was arrested after the second interview that we
13 conducted, after his mother brought him in freely and
14 voluntarily. He gave us a written and oral statement that
15 day and afterwards is when he was taken into custody.

16 Q Are you referring to a recorded statement?

17 A Yes.

18 Q An audio recorded statement on that date?

19 A That's correct.

20 Q And who conducted that arrest?

21 A The Springdale Police Department.

22 Q Can you tell us whether various medical
23 professionals were consulted with during the course of this
24 investigation?

25 A Yes, there were multiple between the pathologist,

Joshua Bice - Direct Examination by Ms. Mayes

1 other doctors at the ARC, Dr. Fulcher in Greenville. There
2 were multiple different doctors involved.

3 Q Can you tell us whether anyone else was arrested in
4 addition to the defendant, Joshua Hopkins?

5 A Yes, Sabrina Haynes.

6 Q The mother of Minor

7 A That's correct.

8 Q Her charges, can you tell us what -- whether or not
9 her charges include homicide by child abuse?

10 A They do. Homicide by child abuse and aiding and
11 abetting homicide by child abuse.

12 Q Are her charges currently pending?

13 A They are.

14 MS. MAYES: Beg the Court's indulgence.

15 That's all for Captain Bice at this time, Your
16 Honor.

17 THE COURT: All right. Thank you. You may remain
18 right there. Let me finish up.

19 Mr. Foreman, ladies and gentlemen, I believe now
20 would be a good time to take our afternoon recess. Please
21 leave your notes on the table. Do not discuss the case
22 during this brief recess.

23 Thank you. Thank you very much. We'll take about
24 15 minutes.

25 (The jury left the courtroom at 3:16 p.m.)

Joshua Bice - Cross-Examination by Mr. Williams

1 THE COURT: Captain, you may certainly step down
2 during this brief recess --

3 THE WITNESS: Thank you, Your Honor.

4 THE COURT: -- and refresh yourself. You may not
5 discuss your testimony.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: All right. We'll take about 15
8 minutes. Thank you, thank you very much. We'll take our
9 recess at this time.

10 (A brief recess was observed.)

11 THE COURT: Anything before we bring in the jury,
12 Solicitor?

13 MS. MAYES: Nothing from the State, Your Honor.

14 THE COURT: Mr. Williams?

15 MR. WILLIAMS: Nothing from the defendant, Your
16 Honor.

17 (The jury entered the courtroom at 3:37 p.m.)

18 THE COURT: All right. Our jury is back in place.
19 Mr. Williams.

20 MR. WILLIAMS: May it please the Court.

21 **CROSS-EXAMINATION**

22 BY MR. WILLIAMS:

23 Q Captain Bice, how are you this afternoon?

24 A Doing well, sir, how about yourself?

25 Q I'm doing okay.

Joshua Bice - Cross-Examination by Mr. Williams

1 I kind of wanted to get an overall all view if I
2 can of what your participation is in this case because
3 there are so many people involved. It would appear that
4 you were working hand-in-hand with SLED in this case?

5 A That is correct. We lead a parallel investigation.

6 Q So obviously, we've already heard -- I think you
7 were in here at the time, we heard, I guess your superior
8 indicate what his relationship was. But yours is more
9 hands on. You're actually standing there with the SLED
10 officers. You're investigating at the same time that they
11 are. You're receiving evidence at the same time they're
12 receiving evidence?

13 A That's correct.

14 Q And -- a parallel investigation?

15 A Yes, sir.

16 Q Now, your involvement with this case began 11/27/
17 of 2013; is that correct?

18 A That's correct, yes, sir.

19 Q And of course, you reported to the scene at the
20 same time the ambulance reported and EMT's reported and all
21 that?

22 A No, sir. I responded to the Lexington Medical
23 Center.

24 Q Okay.

25 A I never actually responded to the scene while crime

Joshua Bice - Cross-Examination by Mr. Williams

1 scene was collecting crime scene evidence there.

2 Q So you were not a party to the execution of the
3 search warrant and the seizure of any items that might have
4 come from the house?

5 A That's correct.

6 Q So you don't know what was -- do you know what was
7 seized from the house?

8 A I have an idea yes, sir. I'm the chain of custody
9 from SLED.

10 Q All right. So you mean once SLED -- once they
11 receive these items and they had them tested, if you will,
12 if some of them were tested or not, they would have turned
13 them over to you at the town of Springdale?

14 A That's correct.

15 Q And what items to you actually possess that
16 actually came from SLED?

17 A Well, I can look and see if I've got a list.

18 Q Okay.

19 A Hold on one second. (Looking).

20 It does not appear as though I've got a list of
21 those up here.

22 Q So you don't really know what you got from SLED?

23 A I mean there's -- there's many different facets to
24 this case in reference to evidence. There was a ton of
25 evidence taken from the scene. There was a bunch of

Joshua Bice - Cross-Examination by Mr. Williams

1 evidence that was returned back to me from SLED.

2 Q So you're saying that some items were not returned
3 back to you. I guess somebody seized them at the scene and
4 they kept them for some reason?

5 A Negative sir. Basically their crime scene
6 responded to the scene. That was a direct chain of custody
7 from SLED from that crime scene to SLED headquarters.
8 Anything that had to be returned back to the police
9 department, I was the custodian that actually took
10 possession of those items from SLED, signed over the
11 written chain of custody and I took it into the Springdale
12 Police Department's chain of custody.

13 Q So tell me what you got from SLED that you put in
14 the Springdale Police Department's custody?

15 A I mean, I couldn't tell you off the top of my head,
16 sir.

17 Q Those items that were handed to you earlier, did
18 you testify that those items were received from SLED?

19 A Yes, sir. Yes, sir.

20 Q Can you at least tell me what those items were?

21 A They're actually labeled here as L-1315246, Items
22 B; L-1315246, Number 6; and Items L-1315216, Number 2.

23 Q So you really don't know what those items are?

24 A I do not personally know what's in those bags.

25 Q Okay. All right. Well let me take you then to

Joshua Bice - Cross-Examination by Mr. Williams

1 your involvement from -- all right. You went to the
2 hospital and you interviewed somebody at the hospital; is
3 that right?

4 A That's correct.

5 Q And who did you interview at the hospital?

6 A Well, basically we did a preliminary interview of
7 Joshua and Sabrina, just a timeline, trying to figure out
8 what's going on, medical history, things like that at the
9 hospital.

10 Q And at that point in time, did you take a recorded
11 conversation of my client?

12 A We did not.

13 Q Did you take a written statement from my client at
14 that time?

15 A We did not.

16 Q So it's an oral statement that they gave you, but
17 it's not recorded in any form?

18 A That's correct.

19 Q And after you did that and -- did you subsequently
20 go to the scene with SLED?

21 A Yes, later that evening, yes.

22 Q All right. And when you went to the scene with
23 SLED, you were present when SLED received certain items and
24 took certain items; is that right?

25 A Which items are you referring to, sir?

Joshua Bice - Cross-Examination by Mr. Williams

1 Q I don't know, I wasn't there.

2 A Okay.

3 Q I'm just asking were you there when SLED took
4 certain items from the house?

5 A I was there when they performed the video of the
6 reenactment.

7 Q All right. So there was a video which was done at
8 the house that night?

9 A That's correct.

10 Q And who participated in the video that SLED ran?

11 A That was the defendant, Josh, Agent Cauthen, and
12 I'm not sure what the crime scene tech's name was, but she
13 filmed it.

14 Q So that night, which would be the same date of
15 November 27th, my client came back to the scene and someone
16 asked him to go through some sort of reenactment about what
17 occurred that night and it was video taped?

18 A That's correct, after Mirandizing him.

19 Q Okay. And you were present the whole time when
20 this video tape was done?

21 A I was downstairs.

22 Q So you weren't present when it was done?

23 A I was at the residence. I was at [REDACTED], I
24 just wasn't upstairs where they were filming. It was tight
25 quarters up there.

Joshua Bice - Cross-Examination by Mr. Williams

1 Q So you did not observe how the video was done?

2 A That's correct.

3 Q Have you seen the video?

4 A Yes.

5 Q So there was a video made with my client in it,
6 telling about what he remembered occurring; is that right?

7 A Yes.

8 Q All right. So he gave a video -- that was 11 --
9 November 27, 2013, right?

10 A That's correct.

11 Q All right. And then I assumed y'all left the house
12 that night?

13 A That's correct.

14 Q And when was the next time that you came back to
15 the house?

16 A I don't recall to be honest with you.

17 Q Did you interview anybody else at the house
18 besides -- well, you tell me who you interviewed at the
19 house that night.

20 A Well, I know at some point we interviewed the aunt,
21 Priscilla.

22 Q Right.

23 A The elderly female was taken from the residence
24 that night. I never had the opportunity to meet her. But
25 basically it would have been in reference to Priscilla.

Joshua Bice - Cross-Examination by Mr. Williams

1 Q So you interviewed Priscilla?

2 A Not that -- not at the residence.

3 Q Where did you interview Priscilla?

4 A Well, that was later on down the road when we made
5 contact with Priscilla and interviewed her.

6 Q So you had no interview with Priscilla that
7 particular date?

8 A Not to my -- not to my recollection.

9 Q Well, you do understand that one of the things the
10 statement that Joshua gave was some sort of statement that
11 is -- someone came in to wake up his girlfriend, slash --
12 well, I don't know what she is, but asked her if she was
13 going to leave or she needed a ride or something like that
14 to go to work?

15 A Correct.

16 Q Who was that individual that supposedly came in to
17 the bedroom that particular night and said do you need a
18 ride?

19 A That was actually a phone call.

20 Q That was a phone call?

21 A Yes, that was the -- I want to say of Sabrina's
22 sister making a phone call to her.

23 Q All right. And did you interview -- did you
24 interview Sabrina's sister?

25 A Yes.

Joshua Bice - Cross-Examination by Mr. Williams

1 Q And what was her name?

2 A Regina.

3 Q And you interviewed her about the phone call she
4 made to her sister with whether or not she needed a ride?

5 A Yes, I believe so.

6 Q All right. Were there any other vehicles at the
7 scene on that particular night that would have afforded
8 transportation?

9 A I can't recall, sir.

10 Q Well, you said the individuals who lived there was
11 the elderly lady and then the owner of the house and her
12 name was what, Priscilla?

13 A Yes. Yes, Priscilla.

14 Q All right. And was Priscilla there that night when
15 you came back to do the, I guess interview with my client?

16 A Yes, she was.

17 Q And did you take a statement from Priscilla?

18 A Not to my knowledge.

19 Q Did you know where Priscilla was the night that the
20 child was injured or the morning that -- or at least the
21 time the child died? Let's put it that way.

22 A She was at work.

23 Q Do you know what time she went to work?

24 A That was early, I want to say around 4:30 a.m.

25 Q So you're saying that Priscilla was there that

Joshua Bice - Cross-Examination by Mr. Williams

1 morning before Sabrina went to work at 5?

2 A Yes.

3 Q So in the statement where it talks about somebody
4 coming into his room wanting to know -- and asked --
5 someone had asked her whether or not she needs a ride, that
6 would not have been the person who was actually staying in
7 the house whose name was Sabrina?

8 A Let me refer to the statement really quick --

9 Q Okay.

10 A -- and I'll answer that for you. I just want to
11 make sure I'm not getting my facts mixed up here. If
12 you'll bare with me just a minute, please.

13 Q Sure.

14 A (Looking.) Okay. I do apologize. It states right
15 here in Josh's statement: So about 4 or 4:30, Penny's aunt
16 wake me up and ask does Penny still need a ride.

17 Q So this is not a phone call that you're having to
18 rely on to determine what the time was that somebody
19 called?

20 A Right.

21 Q This is a live person who went into the bedroom?

22 A Correct.

23 Q Correct?

24 A Correct. That was my mistake, yes, sir.

25 Q And -- and actually observed that child at 4:30 in

Joshua Bice - Cross-Examination by Mr. Williams

1 the morning?

2 A That's correct.

3 Q And it's your testimony that you did not go talk to
4 that individual to ask the condition of the child on that
5 morning at 4:30?

6 A No, we did do an interview with Priscilla. I can't
7 recall if it was going to be on that exact date on 4/27 --
8 or on 11/27, or if it was going to be the following day.

9 Q Really?

10 A I'd have to look at her statement to see what the
11 actual interview date was.

12 Q Well, wouldn't that -- that would be one of the
13 more important witnesses in this scenario wouldn't it?
14 Because that would be somebody who actually saw the child
15 at 4:30 that morning, wouldn't it?

16 A Correct. But this is a fluid investigation. You
17 have to understand that there's a lot of moving parts here.
18 You have -- you have a holiday weekend. You have resources
19 out. We've got multiple people at the scene at Oakland.
20 We've got other investigators at Lexington Medical Center.
21 There's a whole lot going on at that moment without looking
22 at Priscilla's actual statement to give you the date and
23 time, I can't recall if we actually took a written
24 statement from her. We may have spoken with her that
25 night. I can almost guarantee you we spoke with her, but I

Joshua Bice - Cross-Examination by Mr. Williams

1 couldn't tell you if we actually obtained a written
2 statement from her without seeing her --

3 Q Well, where does Priscilla work?

4 A I couldn't tell you that, sir.

5 Q Well, if Priscilla -- but Priscilla has to go to
6 work earlier during the day at 4:30?

7 A That's correct, yes, sir.

8 Q And the relationship between Priscilla and Sabrina
9 is that Priscilla is Sabrina's aunt?

10 A That's correct.

11 Q So Sabrina had to be at work at 5:30 in the
12 morning, Priscilla had to be at work at 4:30 in the morning
13 so based on the statement from Josh, she comes in the room
14 and sees the two of them and the child in the bed, but
15 Sabrina doesn't want to go that early?

16 A Correct. She wants to go at 5:30 instead of that
17 time in the morning.

18 Q Get another hours, worth of sleep?

19 A Yes, sir.

20 Q Okay. Did you verify employment times and
21 histories in regards to Sabrina, Priscilla, and Josh?

22 A We did, yes.

23 Q And when you say verified, what did you do to
24 verify their employment and when they reported to work?

25 A We conducted a search warrant for the McDonalds'

Joshua Bice - Cross-Examination by Mr. Williams

1 records. We obtained those records. I know Priscilla was
2 working at a restaurant, I believe at that point in time.
3 I just don't know the restaurant name off the top of my
4 head.

5 Q Well, if you did a search warrant, obviously, you
6 can come with the records in regards to what time that
7 Priscilla reported to work, right?

8 A Yes, sir.

9 Q So that would give you a time span, approximately
10 of when she left the house, wouldn't it?

11 A Yes, sir.

12 Q And obviously, you subpoenaed the records from
13 McDonalds on both Joshua and on Sabrina so you could tell
14 exactly what time Joshua got off from work the day before
15 because of the discussion about the 26th, 27th?

16 A Yes, sir.

17 Q And then you'd also know exactly what time that
18 Sabrina went to work; is that correct?

19 A That is correct.

20 Q So then you could tell exactly -- close
21 proximity -- did you get all the time clocks and all the
22 records dealing with Sabrina?

23 A I believe we did, yes, sir.

24 Q Do you know if she worked any on the date of 11/26
25 of 2013 or was it just 11/27 when she went to work that

Joshua Bice - Cross-Examination by Mr. Williams

1 morning?

2 A If you could bear with me just a minute.

3 Per the record I'm looking at, she worked on
4 November 20th, the 21st, the 24th, and the 27th.

5 Q Okay. So you know that she was not at work the day
6 before or at least not reported at work those two days?

7 A She was hired on the 14th is what it's showing
8 here.

9 Q Okay. So she would have -- okay. So you can
10 establish some things in your scenario of those persons
11 that were around this child for a period of time prior to
12 the child's death, right?

13 A Yes.

14 Q And of course, you knew the child was being babysat
15 during that week also, didn't you?

16 A Sir?

17 Q You knew the child had a babysitter, didn't you?

18 A Yes.

19 Q And did you talk to that babysitter?

20 A Yes.

21 Q And what is the babysitter's name?

22 A (Looking.) I don't have that in front of me, sir.

23 Q But you talked to the babysitter?

24 A Yes.

25 Q Do you know the last time that the child was

Joshua Bice - Cross-Examination by Mr. Williams

1 baby -- when the babysitting -- the last babysitting
2 occurrence was prior to the death of the child?

3 A On Sunday.

4 Q All right. So this is a Wednesday?

5 A Yes.

6 Q So you recall the babysitter being with the child
7 on Sunday?

8 A That's correct.

9 Q So the babysitter arguably would be able to testify
10 as to the condition of the child on that particular day,
11 which would have been Sunday -- what date?

12 A 23rd, I believe.

13 Q All right. Now, is it -- obviously this child had
14 what, diapers on? Was there a diaper that you found in
15 this house?

16 A There was.

17 Q So this child -- was this child -- you don't -- was
18 there a box of diapers there? Was there an indication that
19 they had used a diaper on more than one occasion?

20 A Yes, there were three diapers at the scene from
21 what I understand.

22 Q So, this babysitter who would have taken care of
23 this child on Sunday, the week before would have some
24 ability to testify as to the condition of this child on the
25 Sunday before and -- because I assume that when you put a

Joshua Bice - Cross-Examination by Mr. Williams

1 diaper on a child it covers the buttocks, doesn't it?

2 A Yes, it does.

3 Q So, did you talk to the babysitter about the
4 condition of the child's buttocks.

5 A We did not have a specific conversation about the
6 buttocks. We asked if she had seen any injuries. There
7 were a few injuries on to the child that she had mentioned,
8 but they did not see the buttocks on the child.

9 Q Well, you've looked at the video -- you've looked
10 at the pictures of this child, haven't you?

11 A Yes, sir.

12 Q Wouldn't you say that the most severe apparent
13 reason, not from the doctoral view, if you will, because
14 neither you or I are doctors; but the most obvious thing on
15 this child is a bruising on the child's buttocks?

16 A Yes, sir.

17 Q Why wouldn't y'all ask the babysitter about the
18 condition of the child's buttocks?

19 A Well, we did. She just had never -- she didn't
20 observe anything on the buttocks.

21 Q Okay. So you're telling me this child which wears
22 diapers, which required -- I assume diapers are required to
23 be changed, I don't think you can wear them forever -- that
24 to change those diapers, someone would have to look at the
25 buttocks, correct?

Joshua Bice - Cross-Examination by Mr. Williams

1 A That's correct. Now, there may have been an issue
2 where he's wearing Pampers at night while on the bed and
3 he's wearing underwear on his normal daily function. So he
4 may not have been wearing pull ups or Pampers when he was
5 out during the day.

6 Q Who was -- what was the relationship of the
7 babysitter to Sabrina Haynes?

8 A I want to say it was her sister, sister or aunt.

9 Q Her sister or aunt?

10 A I believe it was her sister.

11 Q And where did this sister live?

12 A I don't have that in front of me, sir.

13 Q All right.

14 A She lives in West Columbia, but I don't have the
15 exact address in front of me.

16 Q All right. So obviously, you went to the -- you
17 weren't upstairs when they were doing the video taping --
18 there was a video taping which was done. And who secured
19 custody of this video tape?

20 A I would assume SLED Crime Scene did.

21 Q All right. And when was the next time that you had
22 an interview with my client, Joshua Hopkins?

23 A After the inter -- after the video?

24 Q After the video tape on November 27th, of 2013?

25 A It was going to be the next year. I believe it was

Joshua Bice - Cross-Examination by Mr. Williams

1 4/17 of '14, which is the date of his arrest was the
2 next --

3 Q So the next interview would have been when now?

4 A I believe it was 4/17 of '14.

5 Q April 17th of 2014?

6 A That's correct.

7 Q And the type of interview which was conducted then
8 was an oral recording or taping?

9 A That's correct on the 17th.

10 Q All right. And who was present?

11 A Myself and Agent Baird.

12 Q And did you also take another written statement?

13 A We did, yes, sir.

14 Q So the only statements that my client has given you
15 in this scenario would be the written -- the oral statement
16 that he did on April 17th of 2014, the video tape
17 reenactment which would have been done on November 27th,
18 2013, and the written statement that he gave you on
19 November 27th of 2013; is that correct?

20 A Yes.

21 Q Okay. And there were no other oral statements that
22 were taken from my client?

23 A Not to my knowledge.

24 Q Okay. Now, when you took the oral statement from
25 any client on April 17th of 2014, you said you arrested him

Joshua Bice - Cross-Examination by Mr. Williams

1 on that date?

2 A That's correct. Yes, we did.

3 Q And did you already have the warrant in your
4 possession when you arrested him?

5 A We did, yes, sir.

6 Q So his oral statement had nothing to do with the
7 arrest of him. You had the warrant in your hand to have
8 him arrested?

9 A Correct.

10 Q Okay. Did you tell him before he gave the oral
11 statement that he was being arrested on that date?

12 A No, sir, we did not.

13 Q Okay. And exactly what did you charge him with?

14 A We charged him with unlawful conduct toward a child
15 at that point.

16 Q Unlawful conduct towards a child. Okay.

17 Now, that was April of 2014. Between the dates of
18 November 27th of 2013 and April 14th -- no April 17th of
19 2014 --

20 A Yes, sir.

21 Q -- you interviewed the babysitter, correct?

22 A Yes.

23 Q You interviewed the other defendant?

24 A That's correct.

25 Q You interviewed Priscilla, who was the aunt of the

Joshua Bice - Cross-Examination by Mr. Williams

1 other defendant. Never interviewed the elderly lady who
2 stayed in the house?

3 A I did not personally interview her.

4 Q Did anyone interview her?

5 A I couldn't tell you that, sir.

6 Q Well, did you know that one of the bedroom doors
7 had a lock on it in that particular residence? Did you
8 know that?

9 A Upstairs?

10 Q Right.

11 A Yes, sir.

12 Q And whose bedroom was that?

13 A That was Priscilla's.

14 Q Priscilla's bedroom?

15 A That's correct.

16 Q Who was the owner of the house?

17 A That's correct.

18 Q Okay. So aside from those individuals, did you
19 interview on the night of -- or the day of November 27th
20 2013, the father of the deceased child?

21 A Yes, I believe we did.

22 Q Where did you interview the father at?

23 A I want the say at the police department.

24 Q All right. Now, it's my understanding that you
25 were at the residence of Priscilla when there was being a

Joshua Bice - Cross-Examination by Mr. Williams

1 video reenactment done on November -- strike that.

2 Oh, yeah, that's correct. November 27th, 2013, and
3 you interviewed the father at the police location on
4 November 27th of 2013?

5 A Let me see if I've got my notes up here.

6 I do not have any notes up here, but I believe we
7 did interview the father on that date.

8 Q So is it your testimony that you went to the house
9 and did the interview and then you came back to the police
10 station to interview the father of the child?

11 A I can't recall, sir.

12 Q Well --

13 A To be honest with you.

14 Q Where did the father live?

15 A I do not have -- I do not know, sir.

16 Q Well, how did he happen to arrive at the police
17 station for you to conduct an interview of him?

18 A I don't know how he was transported there.

19 Q Transported?

20 A I don't know how he got to the police department.
21 I don't know if somebody drove him there or if he drove
22 there himself.

23 Q Well, was there another child of Sabrina Haynes?

24 A Yes.

25 Q And what was that child's name?

Joshua Bice - Cross-Examination by Mr. Williams

- 1 A [REDACTED] .
- 2 Q And how old was [REDACTED] ?
- 3 A I want to say he was six.
- 4 Q He was six years old at the time?
- 5 A I -- I cant say for sure how old exactly he was,
- 6 no, sir.
- 7 Q Well, now, [REDACTED] who was the -- he would be
- 8 the brother of the deceased would he not?
- 9 A Yes, sir.
- 10 Q Or would you call him a stepbrother? I don't
- 11 understand. Did they have different fathers?
- 12 A Yes.
- 13 Q Okay.
- 14 A I believe so.
- 15 Q Because of his last name being Bovain; is that
- 16 right?
- 17 A Yes, sir.
- 18 Q Did he reside in the same household as Sabrina
- 19 Haynes?
- 20 A (Witness shook head.)
- 21 Q He did not?
- 22 A No, he did not.
- 23 Q Okay. Did you interview [REDACTED] ., the
- 24 child?
- 25 A We did.

Joshua Bice - Cross-Examination by Mr. Williams

1 Q Did you interview Curtis Bovain, Sr., the father of
2 the child?

3 A No, sir. I don't believe so.

4 Q Okay. Did you interview Curtis B.
5 grandmother?

6 A We did.

7 Q And what was her name?

8 A Ms. Bovain. I usually just call her Ms. Bovain.

9 Q And did you interview --

10 A I believe -- excuse me, Martha.

11 Q Martha, that's right.

12 And did you interview Martha's other child, the
13 sister of Curtis B.?

14 A I believe we did.

15 Q So you've interviewed the Bovain family?

16 A Yes, sir.

17 Q To include the child?

18 A Correct. Yes, sir.

19 Q All right. And you've interviewed the individuals
20 there except for the older lady. I believe -- did you say
21 that the older lady was not ambulatory?

22 A She was living downstairs in the residence. I
23 never made contact with her. They had somebody come pick
24 her up during the investigation and she was removed from
25 the household.

Joshua Bice - Cross-Examination by Mr. Williams

1 Q How old was she?

2 A I couldn't tell you, sir off the top of my head.

3 Q Well, she definitely would be a potential witness
4 in this case, wouldn't she?

5 A Well, from my understanding is she didn't leave her
6 bedroom very often in the sense that Josh was coming
7 downstairs and checking on her; and Priscilla, you know,
8 taking care of her.

9 Q Did you just assume that was correct?

10 A Sir?

11 Q Somebody told you that was correct?

12 A No, sir.

13 Q Well, how do you know that she was not ambulatory
14 or that she never left the bedroom? How did you know that?

15 A Well, she had caretakers. She had people that were
16 taking care of her in her bedroom.

17 Q People who lived in her bedroom -- who stayed in
18 her bedroom?

19 A No, that stayed within the residence.

20 Q Who would those caretakers have been?

21 A Well, Priscilla was her -- was the primary
22 caretaker.

23 Q And Joshua?

24 A Well, if he went down and checked on her.

25 Q He would be a caretaker of her also?

Joshua Bice - Cross-Examination by Mr. Williams

1 A He would be.

2 Q But to your knowledge no one ever spoke to her
3 about what transpired?

4 A Not to my knowledge, sir.

5 Q Even though she has lived there -- do you know how
6 long she lived there in that residence?

7 A I do not.

8 Q Okay. So you go to the hospital and you're there
9 when the pictures are taken on the -- on the -- I don't
10 know what you call it, the hard -- the hard --

11 A Back board.

12 Q Back board, you were there when those pictures were
13 taken?

14 A Yes, I was.

15 Q And were you there when the child was transported
16 to the coroner?

17 A Sir?

18 Q Was the child transported to the coroner?

19 A He was transported to the morgue within Lexington
20 Medical Center.

21 Q Okay. So the morgue's actually located in
22 Lexington Medical Center?

23 A Yes.

24 Q And that's where the coroner would do their
25 examination?

Joshua Bice - Cross-Examination by Mr. Williams

1 A That's correct.

2 Q And who was the coroner in this particular case?

3 A It was Laura Grimes.

4 Q All right. So obviously, you followed up with
5 Laura Grimes; is that correct?

6 A Yes.

7 Q And was there another coroner who actually was
8 involved in this particular case?

9 A I cant recall, sir.

10 Q Was there a doctor from Greenville who actually
11 performed some sort of expert examination on the body?

12 A Yes, Dr. Fulcher.

13 Q And when was this done?

14 A I don't have that date in front of me, sir.

15 Q Approximately, when was this done?

16 A I'm not sure, sir.

17 Q How many months after the coroner's report was this
18 done?

19 A I can't tell you that, sir. I'm not sure off the
20 top of my head.

21 Q Let's talk about the medical records of the
22 Lexington Medical Center. How many sets of medical records
23 involving this child did you subpoena from the Lexington
24 Medical Center?

25 A Just one. We did a search warrant for the medical

Joshua Bice - Cross-Examination by Mr. Williams

1 records.

2 Q And did you secure medical records for November the
3 11th of 2013?

4 A Yes.

5 Q And did you send the medical records for November
6 11 of 2013, along with the medical records of 11/27/2013 to
7 the expert in Greenville?

8 A I'm sure we did.

9 Q Did you do that?

10 A I did not, sir.

11 Q Then who did that?

12 A I couldn't tell you that, sir.

13 Q What other witnesses who would have knowledge about
14 that particular night that you interviewed?

15 A Primarily it was Sabrina and Josh.

16 Q Did you secure the medical records of the child's
17 primary physician?

18 A Yes, we did.

19 Q And who was that?

20 A I'd have to refer to my notes, sir.

21 Q Refer --

22 A I don't have that right in front of me, I don't
23 believe.

24 Q Where would those notes be?

25 A I don't have that in front of me, sir.

Joshua Bice - Cross-Examination by Mr. Williams

1 Q Do you recall if the name was like Rockbridge or
2 something like that?

3 A I couldn't tell you, sir.

4 Q You secured -- you got some other medical reports
5 from another doctor's office, didn't you?

6 A Yes, we did.

7 Q Do you recall if those medical reports were
8 approximately two weeks before the date of November 11th of
9 2013?

10 A I can't recall, sir.

11 Q Okay. So you've got at least three different
12 medical reports, three different dates, whatever those
13 dates are. Did you ever go talk to the -- to the child's
14 primary physician?

15 A Yes.

16 Q You talked to her?

17 A I did not, Agent Baird did.

18 Q Now, there was a DNA sample that was taken at that
19 location, wasn't there?

20 A Which location, sir?

21 Q Where the child was found deceased. Did you --
22 were you involved in that or was that something that SLED
23 did, DNA samples?

24 A SLED did that, sir.

25 Q So you wouldn't have any knowledge as to that,

Joshua Bice - Redirect Examination by Ms. Mayes

1 where it went or what the results were?

2 A No, sir.

3 MR. WILLIAMS: That's all the questions I have,
4 Your Honor.

5 THE WITNESS: Thank you, sir.

6 THE COURT: Thank you, Mr. Williams.

7 Redirect, Solicitor?

8 MS. MAYES: Yes, sir, Your Honor, very briefly.

9 **REDIRECT EXAMINATION**

10 BY MS. MAYES:

11 Q In addition to your involvement, you mentioned that
12 the State Law Enforcement Division was also involved?

13 A That's correct.

14 Q Did they also have agents conducting interviews?

15 A They did.

16 Q He was asking you about an interview of the aunt,
17 who is the homeowner. I'm going to show you a document for
18 purposes of refreshing your memory.

19 A Thank you. (Reading.)

20 All right. And the date on here is 4/07 -- 27,
21 2013. And that Priscilla Haynes.

22 Q All right. So was Priscilla Haynes interviewed
23 that date?

24 A Yes, she was.

25 Q All right. On November 27th?

Joshua Bice - Redirect Examination by Ms. Mayes

1 A That's correct.

2 Q And if these were interviews you weren't able to do
3 yourself because you were interviewing the defendant or the
4 codefendant, Sabrina Haynes, were other officers available
5 to conduct those interviews?

6 A They were, yes, ma'am.

7 Q And specifically, he was asking about the coroner's
8 involvement, is the coroner the person that determines
9 cause of death?

10 A Yes.

11 Q Let me clarify that, is a coroner an actual medical
12 doctor?

13 A No, they're not.

14 Q All right. The coroner relies on what type of
15 resources to obtain a cause of death?

16 A They use a pathologist to the conduct the autopsy
17 and -- which, they're the ones that come up with the cause.

18 Q And regarding the various medical professionals in
19 this case, whether a pathologist or a pediatrician that
20 Mr. Williams was asking you about such as pediatrician who
21 may have seen the child during the course of his life, were
22 you necessarily involved in speaking with all of those
23 individuals yourself, personally?

24 A No, I was not. There were multiple different
25 facets going on there.

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q Other investigators as well?

2 A That's correct.

3 MS. MAYES: Nothing further.

4 MR. WILLIAMS: No questions on recross, Your Honor.

5 THE COURT: Thank you, thank you very much Captain.
6 You may step down.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: All right. You may call your next
9 witness.

10 MR. CASKEY: Thank you, Your Honor. The State
11 would call agent Jamie Johnson.

12 JAMIE JOHNSON,

13 having been duly sworn, testified as follows:

14 THE CLERK: If you'll have a seat over here. State
15 your name, please and spell your last for the record.

16 DIRECT EXAMINATION

17 BY MR. CASKEY:

18 Q Agent Johnson, could you please spell your name for
19 the record.

20 A Jamie Johnson, J-A-M-I-E JOHNSON.

21 Q Thank you, Agent Johnson. If you would, please.
22 Tell the jury where you work and what you do there.

23 A Sure. I'm a special agent in the crime scene unit
24 at SLED which is the South Carolina Law Enforcement
25 Division.

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q Okay. And what do you do in that capacity.

2 A We respond at the request of our regional agents
3 and local agencies around the state for crime scene
4 responses.

5 Q Okay. And in a crime scene response, what do you
6 typically do?

7 A We do the same things at the majority of all the
8 scenes that we go to. We meet with either our regional
9 agents or local investigators. We always do a walk through
10 with them just to get a sense of the scene that we're at.
11 We also document the scene with photos, notes, a sketch,
12 sometimes a video if that's warranted.

13 We'll collect any evidence that's there, process
14 the scene depending, on the type of scene that we're at and
15 then we'll do a final walk through with those same
16 individuals and transport evidence back to the lab?

17 Q So it's your job to document and collect evidence?

18 A Correct.

19 Q Let me just jump to November of 2013. Where were
20 you working then?

21 A The crime scene unit at SLED.

22 Q Okay. And on the 27th of November, did you respond
23 to [REDACTED]?

24 A Yes, I did.

25 Q Okay. Do you recall arriving to that location?

Jamie Johnson - Direct Examination by Mr. Caskey

1 A I do.

2 Q What time did you get there?

3 A I believe it was approximately 1:04 p.m.

4 Q Okay. And who was with you?

5 A Lieutenant Jeff Crooks, who was also in the crime
6 scene unit at the time and Agent Todd Schenk in the crime
7 scene as well.

8 Q When you arrived at that location, who else was
9 present?

10 A That would be Chief Cornett with Springdale Police
11 Department, Captain Bice with Springdale Police Department,
12 as well as a number of our agents within the Child Fatality
13 Unit at SLED.

14 Q Okay. Do you know specifically what agents those
15 were?

16 A I do. It would be Captain Patsy Lydell, Agent
17 Trista Baird and Christine Cauthen.

18 Q All right. When you arrived on scene, what was the
19 state of the house? Was it a crime scene?

20 A It was, yes. It had been taped off with the yellow
21 crime scene barrier tape, as well as law enforcement
22 personnel and vehicles.

23 Q And once you arrived there, what was your first --
24 what did you do at first?

25 A The first thing I did was essentially kind of

Jamie Johnson - Direct Examination by Mr. Caskey

1 gather with Lieutenant Crooks and Agent Schenk and then we
2 spoke with Chief Cornett, doing that initial walk through
3 that I spoke of just to try to get an idea of what had
4 happened and who was involved.

5 Q And during that initial walk through, what are you
6 doing?

7 A I'm taking notes. The people that I'm working with
8 are just listening kind of getting an idea of the kind of
9 scene that we have. As I said I'm taking notes and just
10 trying to gauge the equipment that we're going to need and
11 kind of figure out what facts we're dealing with.

12 Q Now Lieutenant Crooks and Agent Schenk, they
13 were -- you guys were kind of a team; is that correct?

14 A Yes.

15 Q Did you all work together or did you split up or --
16 how did you begin to process the scene?

17 A Initially I believe they had started taking
18 photographs upstairs while I was sketching and then we
19 flipped. I was on opposite of where they were, but the
20 majority of the time, we worked together.

21 Q When you say sketching, what do you mean by that?

22 A Per our policy, we do a number of rough sketches,
23 one, it can be as many as three or four, depending on how
24 big the scene is and it's essentially a rough sketch on
25 graph paper. In this case, it would be of the first and

Jamie Johnson - Direct Examination by Mr. Caskey

1 second floor of the residence.

2 Q So you're sketch is an outline of the home?

3 A Yes, very rough outline, correct.

4 Q Agent, I'm going to show you what is marked as
5 State's Exhibit Number 1, State's number 2. If you would
6 please take a look at these. Tell me if you recognize
7 that.

8 A (Looking.) I do.

9 Q What does that appear to be?

10 A That is going to be the -- my final prepared sketch
11 of the second floor of the residence.

12 Q Okay. And this is the home as it appeared to you
13 on the 27th of November?

14 A Yes.

15 Q All right.

16 MR. CASKEY: Your Honor, at this time, the State
17 would offer States Number 1 into evidence.

18 MR. WILLIAMS: Without objection, Your Honor.

19 THE COURT: State's 1's in evidence out objection.

20 (State's Exhibit Number 1 was entered into
21 evidence.)

22 BY MR. CASKEY:

23 Q All right. And take a look at State's Number 2,
24 please. Do you recognize that?

25 A I do.

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q What does that appear to be?

2 A That is going to be the final prepared sketch of
3 the first floor of the residence.

4 Q All right. Does that fairly and accurately depict
5 the residence from your notes as composed on November 27th,
6 2013?

7 A Yes.

8 MR. CASKEY: Your Honor, we would move State's
9 Number 2 into evidence.

10 MR. WILLIAMS: Without objection.

11 THE COURT: State's 2 is in evidence without
12 objection.

13 (State's Exhibit Number 2 was entered into
14 evidence.)

15 BY MR. CASKEY:

16 Q So we'll start with State's Number 2. What was it
17 you said this was?

18 A It's going to be, essentially, my final sketch is
19 what I refer to it as. This is the finished product.

20 MR. CASKEY: Your Honor, I would ask permission to
21 have her step down so she can explain this diagram to the
22 jurors.

23 THE COURT: Yes, ma'am, you may step down.

24 (The Court steps down to observe.)

25 ///

Jamie Johnson - Direct Examination by Mr. Caskey

1 BY MR. CASKEY:

2 Q Now, Agent, let me have you stand on this side.

3 If you would, please, Agent, take this and explain
4 what we're looking at here?

5 A This is going to be the first floor of the
6 residence. We had entered through these doors, I believe
7 into a kitchen area. We have a living room back here,
8 television. We also have an additional bedroom which was
9 where I believe the grandmother was and also her bathroom
10 as well.

11 Q At the front door, if you could just point that out
12 to the jury?

13 A The front door off of the road is going to be right
14 there. That, I believe was locked, so we actually made
15 entry through these other doors back here.

16 Q All right. I'm going to place State's number 1 up.
17 If you would, please, explain to the jury what this is?

18 A Sure. This is going to be the second floor of the
19 residence. The stairs from the first floor to right down
20 here, this is going to be the hallway. Off of the hallway
21 at the top of the stairs is going to be a bathroom and
22 across from that is going to be what we consider is the
23 master bedroom. There's a closet and a homeowner's room
24 which we just photographed as well as the room with a room
25 with miscellaneous items at the end of the hallway.

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q All right. Agent Johnson, you denoted on this
2 diagram that it's the master bedroom. Was there a bathroom
3 attached to that bedroom?

4 A There was. I believe it was back and kind of
5 across the hallway from it.

6 Q So it was across the hallway. It wasn't attached
7 in the sense of some folks when their master bedrooms go
8 into a bathroom?

9 A Yes, sir.

10 Q Okay. All right. If you would please, take a
11 stand again. Thank you, ma'am.

12 (The Court returned to the bench.)

13 BY MR. CASKEY:

14 Q Now, Agent Johnson, you mentioned that your team
15 had kind of split efforts in the home. They were taking
16 photographs and you were preparing the sketch; is that
17 correct?

18 A Yes.

19 Q Did you have an opportunity though to observe all
20 the items in the home?

21 A That's correct. All three of us would have at that
22 time.

23 Q Is a part of your investigative process to survey
24 the home and try to identify items of interest?

25 A Correct. Yes.

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q Okay. Agent, I am handing you what has been marked
2 as State's 55, State's 56, 57, 58, 59, 65, 68, and 69. If
3 you would, please. Take a look at these and tell me if you
4 recognize those photographs?

5 A (Looking.) Yes, I do.

6 Q And how do you recognize those?

7 A All these are photographs that were taken that day,
8 November 27th, while we were inside of the residence.

9 Q Do those photographs accurately and fairly
10 represent the home as it appeared on November 27th, 2013?

11 A Yes, they do.

12 MR. CASKEY: Your Honor, at this time we would move
13 these exhibits into evidence.

14 (The attorneys are looking through the
15 photographs.)

16 MR. WILLIAMS: Without objection, Your Honor.

17 THE COURT: State's 55, 56, 57, 58, 59, 65, 68, 69
18 are in evidence without objection.

19 (There was a discussion with the court reporter.)

20 MR. CASKEY: Your Honor. As an administrative
21 note, it appears that we've double marked 65 and the
22 photograph which I have shown to Agent Johnson, I think we
23 need the renumber as 70, 7-0.

24 THE COURT: We have another 65?

25 THE COURT REPORTER: We do, the box from yesterday.

Jamie Johnson - Direct Examination by Mr. Caskey

1 THE COURT: What is it?

2 THE COURT REPORTER: The box from yesterday, the
3 pajamas.

4 MR. CASKEY: It's a box for ID.

5 THE COURT: It was marked under Tucker?

6 MR. CASKEY: That's right.

7 THE COURT: I'm not questioning you, Madam Court
8 Reporter, of course. I wouldn't do that whatsoever.

9 MR. CASKEY: Your Honor, 65 is -- the original 65
10 is the box containing the onesie that Sergeant Tucker
11 identified.

12 THE COURT: Sergeant Tucker. It's in evidence?

13 MR. CASKEY: Yes, Your Honor.

14 THE COURT: Without objection?

15 THE COURT REPORTER: Yes, sir.

16 THE COURT: Got you. So now the new 65 will now
17 become 70?

18 MR. CASKEY: Yes, sir.

19 THE COURT: All right. So State's 70 is in
20 evidence which is a photograph of the inside of [REDACTED]
21 [REDACTED] and 65 is -- State's 65 has already been entered
22 into evidence as the pajamas.

23 THE COURT REPORTER: Yes, sir.

24 THE COURT: Thank you, Madam Court Reporter.

25 Thank you, Solicitor, you may continue.

Jamie Johnson - Direct Examination by Mr. Caskey

1 (State's Exhibit Number 55, Number 56, Number 57,
2 Number 58, Number 59, Number 68, Number 69, Number 70 was
3 entered into evidence.)

4 MR. CASKEY: Your Honor, I would ask permission to
5 publish these to the jury.

6 THE COURT: Yes, sir, please.

7 BY MR. CASKEY:

8 Q All right. Agent Johnson, I've put on the screen
9 State's 55. What does that appear to be?

10 A That's going to be on overall photo that was taken
11 of the living room area.

12 Q All right. And 56?

13 A An overall photo of the kitchen.

14 Q And 57?

15 A And again an overall photo of the kitchen.

16 Q 68, what does that appear to be?

17 A That's the interior of the refrigerator and the
18 contents contained within.

19 Q All right. 70?

20 A More contents inside the fridge and it looks like
21 we've got some Gatorade, eggs and a food bag.

22 Q All right. And that food bag, in particular -- do
23 you have the laser pointer? Well, I'll just point with my
24 pen here.

25 A Okay.

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q Right here, what does that appear to be?

2 A I believe that's a McDonalds food bag.

3 Q Okay. And all these photographs were taken in what
4 part of the home?

5 A The ones just viewed were taken of the first floor
6 of the house.

7 Q Okay. And State's 69, what is that?

8 A This's an overall photo of the bedroom or a bedroom
9 that was on the first floor, which I was told belonged to
10 the grandmother.

11 Q All right. All right. Let me show you some more
12 photographs.

13 Agent, I'm handing you what's been marked as
14 State's 12, 13, 14, 15, and 16. I'd ask you to take a look
15 at those and tell me if you can recognize those photos?

16 A Yes, these are all photos from the bedroom on the
17 second floor.

18 Q How do you recognize those photos?

19 A These were photographs taken by Lieutenant Crooks
20 and Agent Schenk that day.

21 Q Those photographs fairly and accurately represent
22 the area as you recall it November 17th, 2013?

23 A Yes.

24 MR. CASKEY: Your Honor, we'd offer those into
25 evidence.

Jamie Johnson - Direct Examination by Mr. Caskey

1 MR. WILLIAMS: Without objection.

2 THE COURT: State's 12, 13, 14, 15, and 16, in
3 evidence without objection.

4 MR. CASKEY: Okay.

5 (State's Exhibit Number 12, Number 13, Number 14,
6 Number 15, and Number 16 was entered into evidence.)

7 BY MR. CASKEY:

8 Q And State's 12, what does that appear to show?

9 A That is -- that's going to be the bathtub in the
10 master bedroom.

11 Q 13?

12 A Same bathroom.

13 Q 14?

14 A Same bathroom.

15 Q And this is the upstairs bathroom?

16 A Upstairs bathroom, right at the top of the stairs.

17 Q All right. And State's 15.

18 A That specifically is a photograph of the bathtub in
19 that same bathroom.

20 Q What do you notice about the center of that
21 bathtub, Agent?

22 A It appears to be wet.

23 Q All right. And why would you take a picture of
24 that?

25 A When we arrived on scene, we did our initial walk

Jamie Johnson - Direct Examination by Mr. Caskey

1 through as we always do. The information that we were
2 given at that time was that the child had been placed in
3 the bathtub and at some point became in distress and that
4 was the initial information we had been given at that time.

5 Q All right. And State's 16, what does that appear
6 to be?

7 A That is a close up photo of a brown stain that was
8 on the bathmat just outside of the bathtub.

9 Q And what is the significance of this item?

10 A We were unsure what that was, so that was swabbed
11 and swabs were retained and collected as evidence.

12 Q Okay. Thank you, ma'am.

13 Agent Johnson, I'm going to hand you what's been
14 marked as State's 19, 18, and 17, 20, 21, 22, 23, 24, 25,
15 and 26 and ask you to do the same thing. Take a look at
16 those and tell me if you recognize them.

17 A (Looking.) I do.

18 Q Okay. What do those appear to be?

19 A These are all photos taken of the master bedroom on
20 the second floor.

21 Q All right. Were those photographs taken on the
22 27th of November?

23 A Yes, they were.

24 Q Do they fairly and accurately depict the area as
25 you recall?

Jamie Johnson - Direct Examination by Mr. Caskey

1 A Yes.

2 MR. CASKEY: Your Honor, we'd offer these into
3 evidence.

4 MR. WILLIAMS: Without objection, Your Honor.

5 THE COURT: Give me those numbers again, Agent
6 Johnson or Solicitor.

7 THE WITNESS: 23, 24, 25, 26, 21, 22, 20, 17, 18,
8 and 19.

9 THE COURT: So State's 17 through 26?

10 MR. CASKEY: Yes, Your Honor, 17 through 26, I
11 believe.

12 THE COURT: Thank you very much.

13 (State's Exhibit Number 17, Number 18, Number 19,
14 Number 20, Number 21, Number 22, Number 23, Number 24,
15 Number 25, Number 26 was entered into evidence.)

16 BY MR. CASKEY:

17 Q Now, Agent Johnson, I'm placing on the screen
18 what's been marked as State's 17. What does that appear to
19 be?

20 A That's an overall photograph taken of the master
21 bedroom on the second floor.

22 Q And these photographs correspond to the master
23 bedroom that is marked on the outlines?

24 A Yes.

25 Q State's 20?

Jamie Johnson - Direct Examination by Mr. Caskey

1 A Same type of photograph overall of that bedroom
2 just from a difference angle.

3 Q All right. 21?

4 A That is a view of the bed within that master
5 bedroom.

6 Q Okay. 26 -- maybe I should show it to you. What
7 do you see in 26?

8 A I see a cell phone on a comforter.

9 Q And 25, what is that?

10 A That is the same bedroom. It's just a photograph
11 taken from, I believe a corner opposite the door.

12 Q Now, State's 19, what do we see here?

13 A That's going to be the door that leads into this
14 bedroom. Opposite that door is going to be the bathroom or
15 the master bedroom that we've seen photographs of already.

16 Q Where I've placed my pen, the tip of that pen is
17 pointing to what?

18 A The master bathroom.

19 Q The bathroom.

20 Agent, I'm holding State's Number 1 and the view
21 that we're talking about is from the master bedroom to the
22 bathroom; is that correct?

23 A That's correct.

24 Q So the view in State's 19 is across the hall to
25 that bathroom -- bedroom, excuse me?

Jamie Johnson - Direct Examination by Mr. Caskey

1 A Yes, sir.

2 Q Now, Agent, I noticed that we have to this --
3 pretty much to this point talked about general photos. Did
4 you take more detailed photos?

5 A Yes.

6 Q All right. And when do you take more detailed
7 photos?

8 A It really varies, but we know that we have items of
9 evidence, those are photos that we absolutely take of items
10 that we will end up collecting.

11 Q I'm handing you what's been marked as State's 27,
12 28, and 29. If you would, please, take a look at those.

13 A (Looking.) Those three are photographs of the
14 washing machine and it's contents.

15 Q Do those photos accurately and fairly represent the
16 areas you recall on the 27th of November?

17 A Yes.

18 MR. CASKEY: Your Honor, we'd offer these into
19 evidence.

20 MR. WILLIAMS: Without objection, Your Honor.

21 THE COURT: State's 27, 28, and 29 are in evidence
22 without objection.

23 (State's Exhibit Number 27, Number 28, and Number
24 29 was entered into evidence.)

25 ///

Jamie Johnson - Direct Examination by Mr. Caskey

1 BY MR. CASKEY:

2 Q And where were those in the house taken from?

3 A Those were taken of the washer and drier which were
4 on the first floor of the residence.

5 Q Okay. Now, in the course of your investigation as
6 the crime scene unit, would it be accurate to say that you
7 were taking pictures of anything that might be of interest?

8 A Yes. At the outset when we first arrive on scene,
9 photographs are taken of absolutely everything.

10 Q Okay. So it's better to say that you just take
11 photos because you might be interested later as the
12 investigation unfolds?

13 A Yes, and it's to document the scene as we see it
14 when we arrive.

15 Q And sometimes you take photographs of things that
16 turn out to not be of interest; is that correct?

17 A Correct.

18 Q All right. State's 23, what does that appear to
19 be?

20 A That was a multicolored blanket with some red
21 stains that we observed in a clothes pile in the master
22 bedroom.

23 Q Did you process this in any way?

24 A We did. We swabbed the red stain with a chemical
25 called phenylethylene. What that does is it's a

Jamie Johnson - Direct Examination by Mr. Caskey

1 presumptive test for blood and it indicates that that stain
2 may or may not be blood. And with this particular stain,
3 we got a presumptive negative result, which indicates that
4 that was not blood.

5 Q Okay. So you had a blanket with red stuff that
6 wasn't blood?

7 A Correct.

8 Q This photo, State's 59, what is that?

9 A That is a trash can inside of a cupboard, within
10 the kitchen.

11 Q State's 58, what is that?

12 A Those are a pair of jumper cables. And I believe
13 they were in the -- I guess you would call it a dining
14 room. The room adjacent to the kitchen.

15 Q All right. And State's 27; what is that?

16 A A photograph of the contents of the washing
17 machine.

18 Q Did you process any of the items in the washing
19 machine?

20 A No.

21 Q And State's 29, what does that appear to be?

22 A A close-up photograph, again of the contents within
23 the watching machine.

24 Q And 28?

25 A A close up of the contents within the washing

Jamie Johnson - Direct Examination by Mr. Caskey

1 machine.

2 Q Okay. So you arrived there. You drew a sketch and
3 your team also compiled all these pictures, starting to
4 collect those things?

5 A Yes.

6 Q All right. Now, special Agent Johnson, we talked a
7 little bit about the photography, the sketches, and you
8 mentioned a minute ago that some evidence was collected.
9 Could you tell the jury, please, what evidence was
10 collected from the scene that day?

11 A Sure.

12 Q That you collected.

13 A You mean the evidence in totality, all the evidence
14 that was collected from that scene.

15 Q By SLED, CSI.

16 A Yes. One pair of black pants from a clothes pile
17 in the master bedroom, a multicolor blanket with suspected
18 blood from the master bedroom, one bottle of red Triactin
19 cough syrup from the master bedroom, one diaper from the
20 kitchen trash can, one swab from a stain on the second
21 floor bathroom bathtub faucet, two swabs from a stain on
22 mat from the second floor bathroom, one pink plastic
23 eyebrow sheer from the master bedroom dresser, and one
24 black and blue Conair trimmer from the master bedroom
25 dresser.

Jamie Johnson - Direct Examination by Mr. Caskey

1 In addition to that, we also took a CD of or took
2 photographs that were on a DVD as well as a video
3 reenactment.

4 Q Okay. We'll get to that in a second.

5 Let me ask you, Special Agent Johnson, the
6 determination -- who makes the determination what evidence
7 to collect?

8 A That's usually left up to the case agent on the
9 scene.

10 Q Is SLED CSI the lead investigator? Are you in
11 charge of the investigation?

12 A We're an assisting agency, so we're merely acting
13 in request of either our own people or an agency that
14 requests our assistance.

15 Q So on scene at the point in which you're collecting
16 evidence, you had Chief Cornett, Captain Bice, Captain
17 Lydell from SLED, Special Agent Baird from SLED, and
18 Special Agent Cauthen from SLED; is that correct?

19 A Yes.

20 Q And each of those individuals from SLED are
21 assigned to the Child Fatality Unit?

22 A Correct.

23 Q And in addition on the SLED Crime Scene team, you
24 had yourself, Lieutenant Crooks, and Special Agent Schenk?

25 A Correct.

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q And the decisions to collect evidence were made by
2 whom?

3 A By the lead investigator on that case.

4 Q Okay. And your involvement is to collect that
5 evidence, make suggestions, what?

6 A Both. We make suggestions as to evidence that we
7 think should be collected or not collected. And collect
8 the evidence as that's determined.

9 Q And after all the evidence is collected, to your
10 knowledge, as a SLED agent, is all the evidence eventually
11 processed, always?

12 A No, it's not always processed.

13 Q Now, why did you collect the eyebrow trimmer and
14 the Conair hair trimmer? I think you said --

15 A When we arrived on scene, we were told that Laura
16 Grimes with the Lexington County Coroner's Office had
17 already taken photos of the child and she provided us three
18 in crime scene with those photos to view and the child had
19 what appeared to be a linear mark on him that looked like
20 it had teeth -- not human teeth but like teeth of a comb.
21 And during our search of the residence, both the eyebrow
22 sheer and the trimmer both had teeth and we were requested
23 to collect both of those.

24 Q Agent, I'm going to hand you --

25 (State's Exhibit Number 71 was marked for

Jamie Johnson - Direct Examination by Mr. Caskey

1 identification.)

2 BY MR. CASKEY:

3 Q -- what's been marked as State's 71 and I'm just
4 going to ask you to identify it.

5 A This is Item 4 that was collected from the scene
6 that day.

7 Q How do you recognize it?

8 A It has my handwriting in the upper left-hand corner
9 of the box, as well as on the biohazard sticker. I
10 recognize the lab number and the item number. And in
11 addition my initials and the date are on the yellow
12 evidence tape around the box.

13 Q What is the lab number?

14 A The lab number is what is generated at the lab
15 after the items of evidence collected from the scene are
16 logged in. They're logged into a system and that system
17 then generates a unique lab number for each case that's
18 logged in.

19 Q Okay. And does the lab number and -- on that
20 sticker correspond to this case?

21 A Yes, it does.

22 Q And you recognize that?

23 A I do.

24 Q All right. What is Item Number 4 there, State's
25 71? What is this item?

Jamie Johnson - Direct Examination by Mr. Caskey

1 A That's going to be Item 4, which corresponds to one
2 diaper from the kitchen trash can.

3 Q Is that the diaper that you collected on the scene?

4 A Yes, it is.

5 Q Okay. What did you do with that diaper?

6 A That diaper after being collected from the scene
7 was transported back to the SLED forensic services
8 laboratory, to our secured temporary storage location and
9 then it was later logged in and an item number was created
10 for it.

11 Q So, let me slow you down. I want to make sure we
12 go through this. That item, State's 71, you collected it
13 on what day?

14 A November 27th, 2013.

15 Q Okay. What did you do with it next?

16 A I transported it back to the SLED forensics
17 services laboratory.

18 Q That same day?

19 A Yes.

20 Q All right. Is that a secure facility?

21 A It is.

22 Q What did you do with it there?

23 A It remained in the lab in our temporary evidence
24 storage location, which is also secured.

25 Q Did you leave it there for a while or what did you

Jamie Johnson - Direct Examination by Mr. Caskey

1 do with it?

2 A I believe it was housed there until the next
3 working day, which would have been the following Monday.

4 Q The day after the 27th, is that -- was -- of 2013,
5 was that an ordinary working day for you?

6 A I believe we were off both that Thursday and Friday
7 for Thanksgiving holidays.

8 Q So December 2nd was the first working day after
9 that?

10 A Yes.

11 Q And what did you do with it at that point?

12 A That item that was collected, as well as the other
13 collected items would have been logged in in our I-Lab
14 System.

15 Q Is that the system that you use in the regular and
16 ordinary course of your business to keep track of evidence?

17 A Yes.

18 Q Did you access that item again or touch that item
19 again?

20 A I did, I reaccessed that, I believe, on December
21 10th.

22 Q And for what purpose?

23 A That was to repackage the bag that it was collected
24 in on scene into a cardboard box, the one that's here per
25 the SLED policy of our evidence processing unit.

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q Okay. So at that point it was entered into the
2 SLED evidence custodian room?

3 A Yes.

4 Q Okay. Just want to make sure that we're clear
5 about that.

6 I also want to talk to you about what will be
7 marked as State's Number 72.

8 (State's Exhibit Number 72 was marked for
9 evidence.)

10 BY MR. CASKEY:

11 Q I'd ask you to take a look at that and see if you
12 can identify it.

13 A (Looking.) These are two swabs from the stain on
14 the mat from the second floor bathroom that I collected on
15 November 27th, 2013.

16 Q All right. How do you go about collecting that?

17 A It depends on whether or not the stain in question
18 is either wet or dry. With this one being on the bathmat,
19 which was wet, two dry swabs would have been taken and just
20 wiped through the stain until the swabs appeared to be
21 covered with the stain.

22 Q Okay. I'm going to put up on the overhead here,
23 State's 16, the picture of the mat that we referred to
24 earlier. Is this where -- is this where these swabs were
25 taken from?

Jamie Johnson - Direct Examination by Mr. Caskey

1 A That's correct.

2 Q Okay. And how do you recognize those swabs on
3 there?

4 A I recognize my handwriting and it has been packaged
5 into a heat sealed pouch that contains my last name, my
6 initials, the date it was packaged and my initials on the
7 seal at the top, the heat seal.

8 Q Okay. What did you do with those items after you
9 collected the swabs?

10 A Those would -- like the diaper would have been --

11 Q Go ahead.

12 A Okay. --- would have been transported to the
13 forensic services laboratory.

14 Q All right. Did you enter those into your evidence
15 receipt, evidence custodian record?

16 A Yes.

17 Q Okay. Were both of those items, both State's 71
18 and this is 72, I believe --

19 A Yes.

20 Q Were both of those in your care, custody, control
21 up until the point at which you submitted it to the SLED
22 evidence room?

23 A Yes, they are.

24 (State's Exhibit Number 73 and Number 74 were
25 marked for identification.)

Jamie Johnson - Direct Examination by Mr. Caskey

1 BY MR. CASKEY:

2 Q Agent, I want to take a step back and ask you to
3 take a look at State's 73 and 74. What do those appear to
4 be?

5 A These are both photographs of the trash can in the
6 kitchen.

7 Q Do those photographs fairly and accurately depict
8 the trash can on November 27th, 2013?

9 A Yes, they do.

10 Q Thank you.

11 MR. CASKEY: Your Honor, we'd offer these into
12 evidence.

13 MR. WILLIAMS: Without objection, Your Honor.

14 THE COURT: State's 73 and 74 is in evidence.

15 (State's Exhibit Number 73 and Number 74 was
16 entered into evidence.)

17 BY MR. CASKEY:

18 Q Special Agent Johnson, let me ask you why is this
19 interesting to you, if it is? Maybe you can have a better
20 view here. Is this the trash can from where?

21 A The kitchen on the first floor.

22 Q Okay. State's 71; what was this?

23 A That was a diaper collected from the kitchen trash
24 can.

25 Q Is it the kitchen trash can that's shown here?

Jamie Johnson - Direct Examination by Mr. Caskey

1 A Yes, sir.

2 Q Okay. Special Agent Johnson, you did not collect
3 the clothes that were in the washing machine that we looked
4 at?

5 A No, I did not.

6 Q Or any of the items that were in that washing
7 machine?

8 A No.

9 Q Did you collect the sheets from the bed in either
10 of the rooms of the house?

11 A No.

12 Q Any towels from the bed, the bedroom at all?

13 A No.

14 Q Did you collect any soiled pajamas?

15 A No.

16 Q If you had seen those would you have taken them?

17 A Yes. And photographs of those would absolutely
18 have been taken as well.

19 Q I wanted to ask you about the stairwell or the
20 stairs in the hall, did you process that area?

21 A No, we did not.

22 Q Why not?

23 A Based on the stairs when we viewed them, upon our
24 arrival, there was nothing that indicated that they needed
25 to be processed.

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q Did you look?

2 A Yes, we did.

3 Q What were you looking for?

4 A Just anything that stuck out of the ordinary, any
5 blood that would have been noticeable, that would have
6 warranted additional photographs of the scene to be
7 processed.

8 Q Did you find any evidence in the home of food
9 preparations?

10 A No.

11 Q Did you find any food in the grandmother's bedroom.

12 A I believe not, no.

13 Q Okay. All right. Agent, were you present for a
14 reenactment at the home on November 27th?

15 A Yes, I was.

16 Q Okay. What was the reenactment?

17 A During the course of what we do in the crime scene
18 unit, sometimes we're asked to provide recordings for
19 different things. And in this case, it was reenacting the
20 course of events with Mr. Hopkins.

21 Q Okay. Who was the videographer for that?

22 A Myself.

23 Q Okay. Let me hand you what's been marked as
24 State's 64. Can you identify that?

25 A Yes, I can.

1 Q What does that appear to be?

2 A This is the reenactment DVD from that day and bears
3 my initials and today's date.

4 Q Have you had an opportunity to review that video?

5 A Yes, I have.

6 Q How do you know that? How do you know that you
7 reviewed it?

8 A Because I reviewed it.

9 Q Okay. Is there anything on that that indicates
10 that you've had an opportunity to look at it?

11 A Yes, my initials and today's date.

12 Q You recognize that?

13 A I do.

14 Q All right. Thank you.

15 MR. CASKEY: Your Honor, we'd offer State's 64 into
16 evidence.

17 MR. WILLIAMS: Without objection.

18 THE COURT: State's 64 is in evidence.

19 (State's Exhibit Number 64 was entered into
20 evidence.)

21 MR. CASKEY: Your Honor, I'd ask permission to
22 publish this video to the jury.

23 THE COURT: How long is it?

24 MR. CASKEY: It's about 20 minutes.

25 THE COURT: Do you have further questions for Agent

1 Johnson?

2 MR. CASKEY: Only very few, Your Honor. I want to
3 ask her about some photographs that are relevant to the
4 material contained in the video.

5 THE COURT: And you need to show the video to ask
6 those questions?

7 MR. CASKEY: Yes, Your Honor.

8 THE COURT: How long is your cross-examining going
9 to be, Mr. Williams?

10 MR. WILLIAMS: It's going to be a minute.

11 THE COURT: Step out, ladies and gentlemen. Do not
12 discuss the case during this brief recess.

13 (The jury left the courtroom at 5:03 p.m.)

14 THE COURT: Agent Johnson, you may certainly step
15 down during this brief recess and refresh yourself. You
16 may not discuss your testimony with anyone.

17 Let me see the lawyers back here for a minute.

18 (A brief recess was observed.)

19 THE COURT: After contact with the governor of
20 South Carolina, Lexington County courthouse will be
21 operating at full capacity tomorrow for the purposes of
22 these two trials. Both myself and Judge Griffith will
23 probably work from 9 to 2. We do have a -- we have a
24 commitment. I'm going to release the jury for the day and
25 kind of tell them where we're at because I know some of the

1 school districts are closed and I don't know -- I don't
2 have no childcare issues. I care about my children, but I
3 don't have any childcare issues, I'm happy to report.

4 Will you bring me my jury, please.

5 (The jury entered the courtroom at 5:35 p.m.)

6 THE COURT: Madam Solicitor, Mr. Williams, step up
7 here for just a moment, please.

8 (There was a bench conference out of the hearing of
9 the jury and the Court Reporter.)

10 THE COURT: All right. Welcome back, ladies and
11 gentlemen of the jury panel. I apologize for kind of that
12 abrupt break. I had been receiving some e-mails from both
13 the County government and the State government concerning
14 the status of Hurricane Matthew and the governor's response
15 to it; and there have been some closings that as a result
16 of that event -- along the coast up to and including,
17 Lexington County -- because of the evacuations of so many
18 people out of the Coastal Counties of South Carolina.

19 Right now in the courtrooms this week there are two
20 -- of course, two jury trials that have, as you've noticed,
21 have a lot of moving parts. There's one upstairs before
22 Judge Griffith and this one. You know they're important
23 cases, important, as I've told you throughout the trial
24 both to Mr. Hopkins, the State, and Mr. Davis; is that
25 correct, upstairs; and the State upstairs.

1 They are significant. The governor has kind of
2 carved out an exception. The county government is going to
3 close, but this courthouse is going to continue to operate
4 tomorrow and hopefully into Thursday and Friday if it takes
5 Thursday and Friday. So we will hold court tomorrow from 9
6 o'clock to 2 o'clock. That 2 o'clock cut off time has
7 nothing to do with the weather, but it has to do with
8 another commitment Judge Griffith and I have separate and
9 distinct from the courthouse.

10 I realize the school districts are closing. You
11 know, I don't -- that doesn't come up on my radar anymore,
12 but I realize it's a very important priority in life, so if
13 you -- you know, as you go into the evening hours, you
14 know, I don't want your childcare issues are or anything of
15 that nature, but as of right now, we're going to press on
16 at 9 o'clock in the morning.

17 Please do not discuss this case with anyone and I'm
18 going to stop for the day for several reasons. And, of
19 course, we'll come back and finish with the direct of this
20 witness and the cross-examination. Please do not discuss
21 the case with anyone, including your fellow jurors, family,
22 friends, anyone else.

23 Do not watch, read, or listen to any use accounts
24 about the case. Do not do any independent investigations
25 or any investigations on the internet or otherwise.

1 Remember to keep an open mind. You do not begin your
2 deliberations until you've heard all the evidence and
3 testimony, closing arguments by the attorneys, instruction
4 on the law by the Court, and then directed by the Court to
5 begin your deliberations with your fellow jurors in your
6 jury room.

7 If you would leave your notes, I will have them
8 secured over the evening recess by the clerk and I hope you
9 all have a pleasant evening. Thank you, thank you very
10 much for your service and your continuing service.

11 (The jury left the courtroom at 5:39 p.m.)

12 THE COURT: Anything further from the State?

13 MS. MAYES: Nothing from the State, Your Honor.

14 THE COURT: Defense?

15 MR. WILLIAMS: Nothing from the defendant, Your
16 Honor.

17 THE COURT: Again, Agent Johnson, you may certainly
18 step down. Be back at nine. You may not discuss the case
19 with anyone. You may not discuss your testimony with
20 anyone. You're subject to continuing direct and thereafter
21 cross-examination.

22 THE WITNESS: Right.

23 THE COURT: All right. Thank you. Thank you very
24 much for being with us.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: All right. 9 o'clock.

2 MR. CASKEY: Your Honor, before we leave, I did
3 want to clarify that photograph, State's Exhibit 60, and I
4 wasn't sure that that was in evidence and wanted to clarify
5 that.

6 THE COURT: So y'all didn't ask to see my notes.

7 MR. CASKEY: Did not, Your Honor.

8 MR. WILLIAMS: No objection on behalf of the
9 defendant, Your Honor.

10 THE COURT: Well, I want to see what my notes say.

11 So 60 is in evidence, you say, Solicitor?

12 MR. CASKEY: Yes, sir, we want to clarify that it
13 is in evidence. The State is moving it into evidence and I
14 believe Mr. Williams did not have an objection.

15 THE COURT: Oh, it was right there at the end?

16 MR. CASKEY: It was in the litany of photographs I
17 was handing off, Your Honor, and I wanted to make sure it
18 wasn't an administrative oversight.

19 THE COURT: Is it in evidence, Brenda?

20 THE COURT REPORTER: I did not get that number when
21 you repeated the numbers.

22 THE COURT: 61 was the 9-1-1 tape and I don't
23 think -- I don't think 60, 62 or 63 are in evidence.

24 THE COURT REPORTER: Correct.

25 THE COURT: 64, 65, 66, 67's in evidence, but I

1 don't see 60 on my notes.

2 MR. CASKEY: Your Honor -- I can address it
3 tomorrow, Your Honor.

4 THE COURT: But I don't have my numbers in
5 alphabetical order.

6 THE COURT REPORTER: The jury has seen the photo.

7 THE COURT: All right. We'll get it straight.
8 You don't have any objection, do you Mr. Williams?

9 MR. WILLIAMS: As to 60, no I don't.

10 THE COURT: All right. We got it straight.

11 (State's Exhibit Number 60 was entered into
12 evidence.)

13 MR. WILLIAMS: Thank you.

14 MR. CASKEY: Thank you, Your Honor.

15 (Court was in recess for the day.)

16 WEDNESDAY, OCTOBER 5, 2017

17 THE COURT: Anything from the State before we bring
18 in our jury?

19 MS. MAYES: Nothing from the State, Your Honor.

20 THE COURT: Mr. Williams?

21 MR. WILLIAMS: Nothing from the defense.

22 (The jury entered the courtroom at 9:08 a.m.)

23 THE BAILIFF: All present, Your Honor.

24 THE COURT: Thank you.

25 Good morning, ladies and gentlemen. Agent Johnson,

Jamie Johnson - Direct Examination by Mr. Caskey

1 would you come back around, please. And of course, you're
2 still under oath.

3 Ladies and gentlemen, we're continuing the trial of
4 the case by completing direct examination of Agent Johnson
5 by the solicitor.

6 You may proceed, Solicitor.

7 MR. CASKEY: Thank you, Your Honor, may it please
8 the Court.

9 **DIRECT EXAMINATION CONTINUED**

10 BY MR. CASKEY:

11 Q Agent Johnson, good morning.

12 A Good morning.

13 Q I believe we ended yesterday with the video. You
14 recall that discussion?

15 A Yes.

16 Q And that was video?

17 A That was a reenactment recorded by myself and
18 carried out by Agent Cauthen with the Child Fatality Unit.

19 Q And when was it recorded?

20 A When was it recorded?

21 Q Yes, ma'am.

22 A November 27, 2013.

23 Q And where was it recorded?

24 A Inside the residence.

25 MR. CASKEY: Your Honor, at this time, I'd like to

Jamie Johnson - Direct Examination by Mr. Caskey

1 publish to the jury what has already been entered as
2 State's 54.

3 THE COURT: All right. You may publish it, sir.

4 (The video reenactment was played for the jury.)

5 (The video was stopped.)

6 BY MR. CASKEY:

7 Q Let me just pause this very briefly, Agent Johnson
8 and see if I can brighten this. It won't do it. Whose
9 voice do we hear, Agent Johnson? The female voice.

10 A That's Agent Cauthen.

11 Q Okay.

12 (The video was playing again.)

13 BY MR. CASKEY:

14 Q Special Agent Johnson, I'm going to pause it right
15 there. The defendant had indicated that a bag of food was
16 placed on the counter. When you arrived on scene, did you
17 find a bag of food in that position?

18 A No, I did not.

19 Q The bag that we saw in the video, where was that
20 bag when you arrived?

21 A Located inside the refrigerator.

22 Q As we saw yesterday in one of the photographs?

23 A That's correct.

24 Q Okay. Thank you.

25 (The video was playing again.)

Jamie Johnson - Direct Examination by Mr. Caskey

1 BY MR. CASKEY:

2 Q Special Agent Johnson, I'm going to pause the video
3 again. During the course of your investigation, did you
4 have occasion to go into that bathroom?

5 A Yes.

6 Q Did you -- did you investigate that area?

7 A Yes, we did.

8 Q What do you recall about that?

9 A From the photos that we've seen yesterday, the
10 bathtub itself was drained, but still damp and this bathmat
11 that was on the floor just outside the bathtub was also wet
12 and was the one that had the brown stain on it.

13 Q Was that the bathmat -- I realize the quality of
14 the video isn't -- the lighting isn't great --

15 A Right.

16 Q -- was the bathmat that was just indicated?

17 A It would be the bathmat closest to bathtub, I think
18 that's the one that's in front of the sink in the bathroom.

19 Q I'm going to show you what's been marked as State's
20 13 and been entered as State's 13. What is that?

21 A This is a picture of the bathroom.

22 Q All right. And you described a mat being wet. If
23 you would hold that photo up and point to the jury where
24 the mat is?

25 A This mat right here.

Jamie Johnson - Direct Examination by Mr. Caskey

1 THE COURT: Show me, please.

2 THE WITNESS: (Showing the Court the photograph.)

3 BY MR. CASKEY:

4 Q What was the condition of the bathtub?

5 A That bathmat was wet.

6 (The video was playing again.)

7 BY MR. CASKEY:

8 Q Special Agent Johnson, I'm going to show you what's
9 been marked as State's Number 10 and ask you if you
10 recognize that.

11 A I do.

12 Q What does that appear to be?

13 A That appears to be a diaper.

14 Q All right. Does that photograph fairly and
15 accurately depict that item as you saw it on November 27th,
16 2013?

17 A Yes, it does.

18 MR. CASKEY: Your Honor, we would offer State's 10
19 for evidence.

20 MR. WILLIAMS: Without objection.

21 THE COURT: State's 10 is in evidence without
22 objection.

23 (State's Exhibit Number 10 was entered into
24 evidence.)

25 BY MR. CASKEY:

Jamie Johnson - Direct Examination by Mr. Caskey

1 Q Special Agent Johnson, is this the same diaper you
2 collected on scene and submitted into evidence?

3 A Yes, it is.

4 Q The diaper that's inside of State's 71?

5 A Yes.

6 Q What stood out to you about that diaper?

7 A It has a red stain on it, which we would consider
8 to be suspected blood.

9 Q Okay. Did you do any sort of testing on scene,
10 though, with this?

11 A Yes, we did.

12 Q Okay. What kind of testing was that?

13 A We used that same chemical, it's called
14 phenylethylene which we test a stain with and it will
15 indicate yes or no whether there's a possibility that's
16 blood. And that chemical was used by swabbing that stain
17 and the result that we got was presumptive positive for
18 blood.

19 Q As opposed to State's 23, what was the testing that
20 was done with this?

21 A Phenylethylene again, except that result was
22 presumptive negative for blood.

23 Q Negative for blood?

24 A Negative for blood.

25 Q Okay. But this was positive for blood?

Jamie Johnson - Cross-Examination by Mr. Williams

1 A Presumptive positive for blood, correct.

2 Q Just so we're clear because I stood so far away
3 from the jury. Item 10, the photograph of the diaper was
4 presumptive positive?

5 A Correct.

6 Q And 23, the blanket was negative for blood?

7 A Correct.

8 Q Thank you, Special Agent.

9 I don't have any other questions for you. Please
10 answer whatever the defense counsel may have?

11 THE COURT: Thank you, Solicitor.

12 Mr. Williams?

13 MR. WILLIAMS: May it please the Court?

14 **CROSS-EXAMINATION**

15 BY MR. WILLIAMS:

16 Q Agent Johnson.

17 A Yes.

18 Q You are a -- are you a forensic scientist or are
19 you a special agent or what is your --

20 A All of the above.

21 Q All of the above. Okay. So when you say you're a
22 forensic scientist, what does that mean?

23 A That means that, forensic meaning as it relates to
24 court and I'm a scientist in that regard.

25 Q And when you say you're a scientist, what type of

Jamie Johnson - Cross-Examination by Mr. Williams

1 background do you have in science?

2 A I have a Bachelor's Degree in Forensic Science and
3 a Master's Degree in Forensic Science as well.

4 Q And where did you get those at?

5 A My bachelors is from Baylor University in Texas and
6 my masters degree is from Marshal University in West
7 Virginia.

8 Q All right. And in that regard, that's what you do
9 at SLED is you go to crime scenes and you document evidence
10 that potentially could lead to answers; is that correct?

11 A That's correct.

12 Q Now, when was your first time that you arrived at
13 this location where this child died?

14 A The first time I arrived?

15 Q Right.

16 A November 27th, 2013.

17 Q And what time of day was it that you got there?

18 A I believe it was 1:04 p.m. that day.

19 Q So you weren't there the morning when the ambulance
20 was there, the EMT was there, when the police were there --

21 A No.

22 Q -- all the activity was going on; is that correct?

23 A That's correct.

24 Q So you weren't involved in the securing of evidence
25 immediately after this event occurred?

Jamie Johnson - Cross-Examination by Mr. Williams

- 1 A No, I was not.
- 2 Q So at some later time in the afternoon you come
3 there. Who do you come there with?
- 4 A Lieutenant Jeff Crooks and Agent Todd Schenk, both
5 of who were in the crime scene unit.
- 6 Q All right. So when you got there, who was there at
7 the house when you got there?
- 8 A As I recall, I don't think anybody was at the
9 house. I think Mr. Hopkins arrived later.
- 10 Q All right. So how did you get inside the house?
- 11 A We made entry through the back door. I don't
12 recall who provided us with keys to the residence.
- 13 Q Well, you indicated you were the first person on
14 the scene at one o'clock in the afternoon?
- 15 A I was first crime scene person on the scene.
- 16 Q So who was there before you were there?
- 17 A That would be Chief Cornett.
- 18 Q Okay.
- 19 A From the Springdale Police Department and I believe
20 Captain Bice was there.
- 21 Q So two of Springdale police officers were there.
22 Were that they outside?
- 23 A I know at the time we arrived, they would have been
24 outside to meet with us to do our initial walk through.
- 25 Q Okay. So you have two Springdale police officers

Jamie Johnson - Cross-Examination by Mr. Williams

1 that are outside, how did you gain entry into the crime
2 scene?

3 A I believe the back door was open at that time.

4 Q So the crime scene -- and you're a forensic
5 scientist, you know something about preserving crime
6 scenes, don't you?

7 A Yes, I do.

8 Q Which means that nobody is allowed any kind of
9 access into a crime scene, correct? Except those police
10 officers and people documented as gathering the evidence,
11 right?

12 A Correct.

13 Q So did you find that wrong, the fact that you had a
14 crime scene which was not, I guess, projected.

15 A It had been secured with yellow crime scene tape at
16 the exterior of the scene, but I didn't find it weird that
17 the back door was open, no.

18 Q Okay. Do you know what time everybody left that
19 scene?

20 A I know the time I left that scene.

21 Q I'm talking about the early morning hours when the
22 child was transported to Lexington County Hospital. You
23 know what time everybody left from the scene there?

24 A No, I do not.

25 Q All right. So you don't know what the status was

Jamie Johnson - Cross-Examination by Mr. Williams

1 of that house that morning up until the time that you got
2 there. You don't know who had been in and out. You don't
3 know who locked or didn't unlock the door; is that right?

4 A That's correct.

5 Q Okay. So now, when you get there, you'll note that
6 there is -- in the video -- did you take the video first
7 thing or did you go take pictures of the area first?

8 A The video would have been recorded last.

9 Q Okay. So you arrived there and you have some other
10 agents from SLED to get there and y'all come together or
11 y'all come separate?

12 A I drove separate and I believe Lieutenant Crooks
13 and Agent Schenk rode together.

14 Q Okay. So did y'all get there before Mr. Hopkins
15 gets there?

16 A I believe we did, yes.

17 Q Okay. So y'all were there first. Somebody -- was
18 the door unlocked or did somebody unlock it?

19 A That, I don't know.

20 Q Okay. All right. So y'all go inside. Do you take
21 pictures before Mr. Hopkins gets there or do you take
22 pictures after he's there?

23 A Before he's there.

24 Q All right. So let's go through a list of those
25 pictures that you took. Did you sketch it out first or did

Jamie Johnson - Cross-Examination by Mr. Williams

1 you take pictures first?

2 A I believe that was done at the same time. I didn't
3 take the photos myself, but I was sketching while photos
4 were being taken.

5 Q So you didn't take these pictures that we're
6 talking about?

7 A No, I did not. Lieutenant Crooks and Agent Schenk.

8 Q Okay. Now, you've done the two diagrams and I
9 think you you've blown these up and so you're the one that
10 did the measurements and then labeled them. Did you
11 actually measure the house and the areas of the room and
12 stuff like that?

13 A No, I did not.

14 Q Well you're attempting to draw it to scale, aren't
15 you?

16 A No, it's not to scale.

17 Q So the representations of the size of the rooms are
18 not accurate; is that right?

19 A The proportions are accurate.

20 Q Well, if you didn't measure it to scale, meaning --
21 you said proportions. If you didn't measure it, how do you
22 know that the proportions are accurate?

23 A The sketch and the photos are reflective of the
24 scene from that day.

25 Q Okay. Well, do you know how wide the bedrooms are?

Jamie Johnson - Cross-Examination by Mr. Williams

1 A Measurement wise, no.

2 Q Okay. Well, how do you know that they're
3 proportioned right?

4 A Because the sketch reflects the photos that were
5 taken that day.

6 Q Okay. And of course, you weren't taking the
7 photos, right?

8 A No, I was not.

9 Q And you were sketching the area?

10 A That's correct.

11 Q So, when it comes to labeling stuff, you put down
12 homeowner's room, junk room, closet, master bedroom, who is
13 in charge of the designations of the rooms, the baseballs
14 that you gave to both rooms?

15 A That would be me.

16 Q So when you call it a master bedroom, that was
17 based on what?

18 A The information I was given at that time that
19 Mr. Hopkins, the child, and the child's mother all slept in
20 that room.

21 Q So based on the fact that three people slept in the
22 room, you called it the master bedroom?

23 A That's correct.

24 Q Do you know whether or not it was actually bigger
25 or smaller than the homeowner's room?

Jamie Johnson - Cross-Examination by Mr. Williams

1 A No, I do not.

2 Q So by calling it the master bedroom, are you
3 saying -- are you saying that it's bigger than the other
4 rooms or are you just saying that you had to give it a
5 name?

6 A I'm saying I had to give it a name and it was
7 labeled the master bedroom.

8 Q Okay. All right. So you have taken those --
9 you've done the sketches, somebody else is running around
10 taking pictures. But you're in charge, actually, of
11 picking up the items -- securing the items that you're
12 going to actually have tested, right?

13 A That's correct.

14 Q So did you make sure when you were securing the
15 items, did you make sure that somebody was photographing
16 the area where you were securing the items?

17 A They would have been previously photographed prior
18 to them being secured.

19 Q Okay. So somebody else went through the house,
20 took pictures, told you what you thought -- what they
21 thought was important. Then you went and looked at those
22 pictures and took those items that the pictures were taken
23 of?

24 A That's not correct.

25 Q Okay. Tell me how it worked.

Jamie Johnson - Cross-Examination by Mr. Williams

1 A While I'm sketching, Lieutenant Crooks and Agent
2 Schenk are taking photos. I believe they took photos
3 upstairs first and I sketched the first floor. We then
4 switched and I sketched the second floor while they were
5 taking photos. At that time any evidence that they see or
6 I see is noted and then prior to us leaving, that evidence
7 is collected.

8 Q You say it's noted. How is it noted? Do you have
9 like a pad you jot down, be sure to pick up so and so on
10 this floor in this room? How do you note that?

11 A I'm taking rough notes through the duration of our
12 investigation.

13 Q Do you have your rough notes with you?

14 A I do not, no.

15 Q Okay. Do you know that the other individuals were
16 making rough notes of what they're securing?

17 A They are not making rough notes. I'm the only one
18 making rough notes.

19 Q All right. So how do you know what items they have
20 found that they want you to secure? Do they come back
21 downstairs and tell you that since they don't have any
22 notes and then you go up -- then you make notes and then
23 you go secure it?

24 A It's a communicative process throughout the entire
25 investigation and whether the individuals that I'm working

Jamie Johnson - Cross-Examination by Mr. Williams

1 with in the crime scene unit or our child fatality agents
2 or Captain Bice, if any of those individuals happen to see
3 something that they think may be relevant, it is looked at
4 by those of us in the crime scene unit.

5 Q Okay. Well, let's talk about the photographs. The
6 last time that you actually referenced was a picture of a
7 diaper. And it said it appeared to be blood because it was
8 red. And that you secured that item and obviously, you
9 would have turned it over to someone to analyze; number
10 one, whether or not it's blood; number two, whether or not
11 it matched the blood at the scene, correct.

12 A That's correct.

13 Q Now, where was that diaper found?

14 A In the trash can in the kitchen.

15 Q All right. And you took a picture -- or a picture
16 was taken of the trash can in the kitchen, right?

17 A Yes, it was.

18 Q Was there a diaper upstairs that was found?

19 A I believe diapers were also found upstairs as well.

20 Q Were there used diapers that were found upstairs?

21 A I believe so, yes.

22 Q In the trash can upstairs?

23 A Yes.

24 Q Did you secure those diapers?

25 A They were photographs, but they were not secured.

Jamie Johnson - Cross-Examination by Mr. Williams

1 Q Why wouldn't you have taken those diapers that were
2 upstairs?

3 A Those did not appear to have any stains on them
4 consistent with the stain found on the diaper from the
5 kitchen.

6 Q Well, we've already learned that sometimes you can
7 see a red stain on what, a blanket or something that's not
8 really blood?

9 A Correct.

10 Q Did you actually go through the trash upstairs and
11 see if there was blood on it?

12 A I believe that would have been done.

13 Q Okay. That really wasn't my question. I said did
14 you do that?

15 A I, myself, did not, no.

16 Q So you don't know that that was done or not, do
17 you?

18 A I was told that that was done.

19 Q Who told you that it was done?

20 A The other agents that I was working with.

21 Q Which agent told you that?

22 A I don't recall specifically which agent told me
23 that.

24 Q So you don't know which agent went through that
25 trash to see if those diapers had blood on it or not,

Jamie Johnson - Cross-Examination by Mr. Williams

1 correct?

2 A That's correct.

3 Q Okay. Now, did you -- was there a picture taken of
4 the trash can upstairs?

5 A I believe there was, yes. I would have to look at
6 the photos again to tell you for sure.

7 Q Well, all the photos are right here. They've
8 already been placed into evidence. I'll be glad to hand
9 you -- I believe these -- and tell me if you think there's
10 something that I'm missing -- all the ones of the house.

11 Okay?

12 A (Looking.)

13 Q Okay. Is that it?

14 A This is it, yes.

15 Q May I see that a second. Now, for the jury's
16 edification, as well as the judge's edification, which
17 exhibit is that picture of -- what's the exhibit number?

18 A 18.

19 Q So in State's Exhibit Number 18, how many diapers
20 are found in that trash can?

21 A I can see at least two.

22 Q Only two?

23 A At least two.

24 Q Do you know if that trash can was emptied out?

25 A I believe it was, yes.

Jamie Johnson - Cross-Examination by Mr. Williams

1 Q All right. Well, the picture clearly shows that
2 the diapers are wrapped up tight, don't they?

3 A Yes.

4 Q Do you have children?

5 A No, I do not.

6 Q Well, a used diaper is something that you don't
7 normally leave open because obviously -- because of what
8 happens with a used diaper. The pictures that you're
9 looking at would be reflective of a diaper which has been
10 wrapped up tight, right?

11 A Yes, they are.

12 Q So how would you actually know whether or not there
13 was blood on a diaper or not?

14 A We would have opened the diaper to look at its
15 contents.

16 Q How about do you have any pictures of any open
17 diapers in those photos?

18 A Open diapers from upstairs?

19 Q That were in that trash can?

20 A I know we have pictures of open diapers.

21 Q Do you have pictures of open diapers that were in
22 the trash can?

23 A Yes, we do.

24 Q All right. And where are those?

25 A They are part of the crime scene photos that were

Jamie Johnson - Cross-Examination by Mr. Williams

1 taken.

2 Q And you planned to introduce those?

3 MR. CASKEY: Objection.

4 THE COURT: She doesn't introduce evidence. She
5 can answer your questions.

6 BY MR. WILLIAMS:

7 Q So who secured those diapers?

8 A The diapers in the trash can upstairs?

9 Q Yes.

10 A Those diapers were not secured. By secured, do you
11 mean collected?

12 Q Yes.

13 A They were not collected, no.

14 Q Okay. Now, after you -- I believe you read a
15 report; you filled out a list of things that you thought
16 were important or what you were going to test, correct?

17 A I made a list of the evidence that was collected
18 that day.

19 Q And what did you collect that day?

20 A You want me to read the entire list?

21 Q Sure.

22 A One pair of black pants from clothes pile in master
23 bedroom; one multicolored blanket with suspected blood from
24 master bedroom; one bottle of red Triactin cough syrup from
25 master bedroom; one diaper from kitchen trash can; one swab

Jamie Johnson - Cross-Examination by Mr. Williams

1 from stain on second floor bath tub faucet; two swabs from
2 stain on mat from second floor bathroom; one pink plastic
3 eyebrow sheer from master bedroom dresser; one black and
4 blue Conair trimmer from master bedroom dresser.

5 Q All right. And is that the extent of items that
6 you secured?

7 A Yes, sir.

8 Q Now, I think you've already said that the
9 multicolored blanket with suspected blood was not blood; is
10 that correct?

11 A That's correct.

12 Q And the -- the stain -- the swab of stain on the
13 second floor bathroom faucet, that was not blood either,
14 was it?

15 A No, that was not.

16 Q So basically anything that looked like it was red
17 could have blood, y'all secured it, that you saw?

18 A No.

19 Q Okay. Well, let me ask you this: Did you check --
20 you testified that the tub had water in it -- I'm sorry it
21 was wet, but was empty; is that correct?

22 A That's correct.

23 Q And the time that you were actually out there was
24 at least five hours, four hours after the -- when did the
25 ambulance get there?

Jamie Johnson - Cross-Examination by Mr. Williams

1 A I don't know what time the ambulance got there.

2 Q It'd been a while. It had been several hours by
3 the time you got out there?

4 MR. CASKEY: Objection.

5 THE COURT: What's the basis of your objection.

6 MR. CASKEY: Your Honor, the witness has testified
7 she doesn't have knowledge as to the time the ambulance had
8 arrived or not.

9 THE COURT: Rephrase your question. My
10 recollection is that the ambulance got there at 0949.

11 MR. WILLIAMS: Thank you.

12 BY MR. WILLIAMS:

13 Q Did you have a report of when the ambulance got
14 there?

15 A No, I did not.

16 Q You didn't have any information with regards to
17 what time law enforcement and the ambulance had gotten
18 there for this child?

19 A Not that I wrote down in my notes, no.

20 Q When did you learn that there'd actually been a
21 death at the location?

22 A When we arrived on scene that day.

23 Q You didn't know before you got to the scene that a
24 child had died at that scene?

25 A We'd been notified that there was a child fatality

Jamie Johnson - Cross-Examination by Mr. Williams

1 at that location.

2 Q And when were you notified of that?

3 A That would have been that morning on the 27th.

4 Q And approximately what time were you notified?

5 A Approximately 12:14 hours.

6 Q 12:24 hours?

7 A 12:24, yes.

8 Q So it had been at least an hour since you got that
9 notification that you were on the scene; is that correct?

10 A Slightly less than an hour, yes.

11 Q The point of all this is, obviously, did you expect
12 to find a bunch of water in the tub?

13 A When we arrived on scene?

14 Q Right.

15 A We didn't know the bathtub was involved until we
16 had arrived on scene.

17 Q All right. Did you do any type of forensic testing
18 of the bathtub?

19 A Yes.

20 Q And did you determine by forensic testing -- tell
21 the jury what you do when you check the bathtub?

22 A We sprayed a chemical called Lugia Crystal Violet
23 inside the bathtub and on the faucet and like the
24 phenylethylene chemical, it's a presumptive test for blood
25 and it also enhances any latent or hidden blood that may be

Jamie Johnson - Cross-Examination by Mr. Williams

1 may be there.

2 Q And did you find any evidence of hidden blood or
3 blood in the bathtub?

4 A No, we did not.

5 Q Okay. Did you use that particular chemical to test
6 any other areas for blood in the bathroom?

7 A No.

8 Q Now, there was a picture taken in the kitchen, I
9 want to say that maybe a banana?

10 A Excuse me?

11 Q A banana. You remember seeing a picture of a
12 banana that was in the trash can?

13 A No, I don't recall that picture.

14 Q Okay. And what about, was there a picture that was
15 taken by you or that was taken at the scene that showed the
16 McDonalds bag in the refrigerator?

17 A Yes, there was.

18 Q Now, have you ever been to McDonalds?

19 A Yes, I have.

20 Q Did you check the bag to see if there were receipts
21 in the bag?

22 A Not to my knowledge, no.

23 Q What do you normally get when you purchase
24 something with a receipt on it? You get maybe the name of
25 the cashier, maybe; or maybe the date it was purchased?

Jamie Johnson - Cross-Examination by Mr. Williams

1 A Correct.

2 Q There would be some indication as to how old the
3 bag is that's in the refrigerator, wouldn't it?

4 A Probably so, yes.

5 Q Even if there was a pie in there, it would have
6 whether it was good until date?

7 MR. CASKEY: Objection.

8 THE COURT: I couldn't quite hear the question,
9 restate your question.

10 MR. WILLIAMS: I was asking about if there was
11 possible evidence in the bag such as dates on a pie.

12 BY MR. WILLIAMS:

13 Q Did you know what was in the bag? Maybe I can say
14 it that way. Do you know what was in the bag?

15 A No, I do not.

16 Q Did you secure the bag from McDonalds?

17 A No.

18 Q So some of the things that you did like pictures
19 you took didn't have anything to do with evidence that you
20 were securing?

21 A That's correct. The photos serve to document the
22 scene as it was when we arrived.

23 Q What about the Gatorade bottle which was in the
24 refrigerator? Did you secure that?

25 A No, we did not.

Jamie Johnson - Cross-Examination by Mr. Williams

1 Q Well, it's a crime scene, right?

2 A Correct.

3 Q Were you already aware that the child had had some
4 Gatorade?

5 A We were not told about Gatorade.

6 Q The defendant didn't tell in your -- didn't the
7 defendant tell someone when you were there that the child
8 had had some Gatorade?

9 A Not to my recollection, no.

10 Q Okay. So you didn't secure the Gatorade bottle,
11 you didn't secure the McDonalds bag that involved food,
12 correct?

13 A That's correct.

14 Q Did you secure the banana which was in the trash
15 can?

16 A No, we did not.

17 Q Okay. So let's go to those two items that you did
18 secure, which is a one pink plastic eyebrow sheerer?

19 A Sheerer.

20 Q What is that?

21 A I don't rightly know. I had to ask somebody on
22 scene what exactly that was.

23 Q Is it something for a woman or something?

24 A I believe so, yes.

25 Q Okay.

Jamie Johnson - Cross-Examination by Mr. Williams

1 A And then one black and blue Conair trimmer from
2 master bedroom dresser.

3 Q Why did you secure those two items?

4 A We were requested to collect both of those.

5 Q Why?

6 A The teeth on the eyebrow sheer and the teeth on the
7 trimmer appeared to be possibly consistent with teeth that
8 were in a photo that we were shown of the child.

9 Q Okay. Well, since that's the reason why you took
10 those two items, did you measure the marks on the -- this
11 is -- you're talking about the child's arm, aren't you?

12 A I don't recall what body part that mark was on.

13 Q Did you -- to your knowledge, did anyone measure
14 the length of that mark or measure the width or the length
15 of the sheerer or the Conair trimmer to see if the
16 dimensions were similar to the mark which you were trying
17 to match it up to?

18 A No, no measurements were taken.

19 Q Well, it was kind of a waste of time to pick that
20 up then, wasn't it?

21 A As an assisting agency, we can collect evidence at
22 the request of others.

23 Q Well, let me ask you this: If your idea was that
24 somehow it was involved in making a mark on the infant, did
25 you test the little metal ends of the Conair trimmer to see

Jamie Johnson - Cross-Examination by Mr. Williams

1 if there was any DNA on that?

2 A No, we did not.

3 Q Well, now, if you had tested it for DNA, it would
4 have given you an indication that it had actually touched a
5 particular person or had been used to inflict some sort of
6 injury with it?

7 A It with possible to obtain DNA profiles from that
8 surface.

9 Q But that wasn't done?

10 A No, it was not.

11 Q So you took pictures of some items that you never
12 secured and you took some items that you never tested; is
13 that accurate?

14 A That's correct.

15 Q Now, we've looked at the video. Who was in charge
16 of setting that video up? Who was the agent in charge of
17 that?

18 A Recording the video or of actually carrying out the
19 reenactment?

20 Q Of the movie that we saw?

21 A I recorded the video.

22 Q Who was in charge of setting the props?

23 A If by the baby doll, that would be Agent Cauthen.

24 Q So where did the baby doll come from?

25 A To my knowledge that's a standard tool used by our

Jamie Johnson - Cross-Examination by Mr. Williams

1 child fatality unit.

2 Q So it's standard procedure if you have the death of
3 a child to have some SLED agent come to the scene and have
4 a baby doll and have the person who was there go through
5 the steps with the baby doll and record that information
6 for posterity?

7 A I really can't speak as to what the practices of
8 the child fatality unit are. I'm not really in that unit.

9 Q In the video, it showed a black lady sitting
10 downstairs in the kitchen?

11 A That's correct, it did.

12 Q Who was that?

13 A I don't recall who that is.

14 Q Well, you've already testified that the SLED agents
15 were there, the police was there, that the defendant was
16 there and you're recording. There's information there's a
17 black lady clearly sitting in the kitchen and you don't
18 know who she is?

19 A When we came downstairs, she was present in the
20 kitchen during the reenactment.

21 Q That's your crime scene, isn't it?

22 A Yes, it was.

23 MR. WILLIAMS: That's all the questions I have,
24 Your Honor.

25 THE COURT: Thank you, Mr. Williams.

Jamie Johnson - Redirect Examination by Mr. Caskey

1 Redirect, Solicitor?

2 MR. CASKEY: Yes, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. CASKEY:

5 Q Agent, did you find a bloody diaper at [REDACTED]
6 [REDACTED]?

7 A Yes, we did.

8 Q You gathered it into evidence and you submitted it
9 for testing; is that correct?

10 A That's correct.

11 Q For what purpose?

12 A That was sent to our evidence processing unit.

13 MR. CASKEY: I don't have any further questions,
14 Your Honor.

15 THE COURT: Recross-examination, Mr. Williams.

16 MR. WILLIAMS: Nothing on recross.

17 THE COURT: Thank you. Thank you very much, Agent
18 Johnson for being with us yesterday and today.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: You may step down.

21 Any objections to the officer being excused?

22 MS. MAYES: None from the State, Your Honor.

23 MR. WILLIAMS: None from the defendant, Your Honor.

24 THE COURT: Agent, you are excused.

25 All right. Solicitor?

Verona Gibson Herrera - Direct Examination by Ms. Mayes

1 MS. MAYES: The State calls Verona Gibson Herrera.

2 VERONA GIBSON HERRERA,

3 having been duly sworn, testified as follows:

4 THE CLERK: If you'll have a seat over here. State
5 your name, please, and spell your last for the record.

6 THE WITNESS: Verona Herrera, H-E-R-R-E-R-A.

7 **DIRECT EXAMINATION**

8 BY MS. MAYES:

9 Q Good morning. Could you give us information about
10 yourself concerning where you are currently employed and in
11 what capacity?

12 A I'm employed with the South Carolina Law
13 Enforcement Division which we refer to as SLED as a
14 forensic serologist in the DNA department.

15 Q All right. And how long have you been affiliated
16 with the State Law Enforcement Division Crime Lab?

17 A Approximately eight and a half years.

18 Q And during that time, what experience have you had
19 in actually testing evidence?

20 A The entire time I've been there, I've either been
21 in training or processing evidence for the lab. We go
22 through a training process in-house where we are supervised
23 and watching other people process evidence; then we were
24 allowed to process evidence with someone supervising us.
25 We go through a testing process to determine whether we can

Verona Gibson Herrera - Direct Examination by Ms. Mayes

1 actually do that processing unsupervised. When we pass
2 that we are allowed to work independently on evidence.

3 Q All right. And you mentioned that you're currently
4 in the serology division. How long -- tell us about your
5 educational background and training that led you to become
6 a serologist.

7 A Have an associates degree in Science from
8 Tri-County Technical College; an associates degree in
9 Public Service, with a minor in Criminology from
10 Tri-County -- pardon me, Greenville Technical College. And
11 I have a bachelor's of Science degree in Public Service
12 with Liberty University.

13 Q All right. And have you previously been qualified
14 before as an expert in the field of evidence processing?

15 A Yes, ma'am.

16 Q And you say that you're currently in the field of
17 serology at the State Law Enforcement Division?

18 A Correct.

19 MS. MAYES: Your Honor, at this time the State
20 would offer Agent Gibson Herrera in the field of evidence
21 processing and serology.

22 THE COURT: Mr. Williams?

23 MR. WILLIAMS: May I ask her a couple of questions,
24 Your Honor?

25 THE COURT: Of course.

Verona Gibson Herrera - Voir Dire Examination by Mr. Williams

VOIR DIRE EXAMINATION

1
2 BY MR. WILLIAMS:

3 Q Ma'am, have you ever been qualified as an expert in
4 serology?

5 A No, sir, I have not.

6 Q Have you ever been qualified as an expert in
7 forensic -- what was the --

8 A Forensic evidence processing?

9 Q Forensic evidence processing?

10 A Yes, sir, I have.

11 MR. WILLIAMS: Your Honor, we would have no
12 objection to the forensic evidence processing. We would
13 object as to the serology.

14 THE COURT: All right. Solicitor? You're offering
15 Ms. Gibson Herrera as an expert in what field?

16 MS. MAYES: Evidence processing, Your Honor. And
17 as to serology, I believe her testimony in this case is
18 primarily that of an evidence processing forensic
19 scientist, so we will limit it in that regard.

20 THE COURT: All right. Thank you. Thank you,
21 Solicitor.

22 Any additional questions, Mr. Williams?

23 MR. WILLIAMS: No, Your Honor.

24 THE COURT: Thank you.

25 Again, ladies and gentlemen, normally a person

Verona Gibson Herrera - Direct Examination Continued by Ms. Mayes

1 cannot testify or give opinion testimony. Normally when a
2 person testifies, they must testify as to either what they
3 saw, heard, sensed by smell, or something of that nature.
4 However, there is that exception for witnesses who have
5 education, training, experience in a particular field, art,
6 science, or craft. They are permitted to give their
7 opinions in certain areas if the Court qualifies them that
8 way.

9 This witness, Dr. Verona Gibson Herrera will be
10 qualified in the area of forensic evidence processing to
11 give opinion testimony in that area. That does not mean
12 that you must accept the opinion or opinions, but it is
13 evidence for you to jury to use in any way you deem fit.

14 Thank you, Solicitor. You may continue.

DIRECT EXAMINATION CONTINUED

15
16 BY MS. MAYES:

17 Q Now, Agent Herrera, I want to take you to this
18 specific case involving a child homicide investigation and
19 a victim by the name of **Minor**. Can you tell
20 us whether or not you received certain items from
21 processing in this case?

22 A I did, yes, ma'am.

23 Q And specifically in this case, I want to ask you
24 about a diaper and whether or not you've seen a diaper?

25 A I did, yes, ma'am.

Verona Gibson Herrera - Direct Examination Continued by Ms. Mayes

1 Q I'm going to show you that item and ask you whether
2 or not you recognize it and if so, how.

3 A I do, yes, ma'am. My initials are on the seal here
4 and the date that I sealed the box. Also our laboratory
5 gives individual lab numbers to cases that come in and each
6 item of evidence is given an individual number. So this is
7 Item Number 4 of our lab number and that's the diaper that
8 was tested.

9 Q All right. And what is the step you take in terms
10 of evidence processing to begin testing of that particular
11 item, which in this case was a diaper?

12 A We begin with a visual examination to look for the
13 body fluid that we're interested in.

14 Q All right. And what happens if you detect a body
15 fluid that, for example, you suspect to be blood?

16 A We do a quick chemical -- two-part chemical test.
17 If there's a bright pink color change, we know there's an
18 indication that it could possibly be blood. We would cut
19 that area and forward it for further testing.

20 Q All right. And did you do the preliminary testing
21 in this particular case to determine if the suspected blood
22 was at least presumptively positive for blood?

23 A Yes, ma'am, I did.

24 Q And what was the results of that test?

25 A There were areas that were positive.

Verona Gibson Herrera - Direct Examination Continued by Ms. Mayes

1 Q All right. And as a result, what action did you
2 take?

3 A Two areas were cut from the diaper, individually
4 sealed in coin envelopes and then forwarded to the DNA
5 department or DNA section, excuse me.

6 Q I'm going to show you this item and ask you whether
7 or not you recognize it.

8 A Yes, ma'am. My initials and the date I sealed it
9 are up here. My name and the date are here; as well, this
10 is my writing where I create or package these items and
11 they become sub-items off the diaper.

12 Q All right. And these are, in fact, what? What is
13 contained in this envelope?

14 A Those two envelopes -- the two coin envelopes
15 contain cuttings from the diaper.

16 MS. MAYES: Your Honor, at this time, this would be
17 State's exhibit for evidence, I believe this is going the
18 be 75.

19 (State's Exhibit Number 75 was marked for
20 identification.)

21 THE COURT: Mr. Williams?

22 MR. WILLIAMS: Without objection, Your Honor.

23 THE COURT: State's 75 in evidence without
24 objection.

25 (State's Exhibit Number 75 was entered into

Verona Gibson Herrera - Cross-Examination by Mr. Williams

1 evidence.)

2 THE COURT: And that's cuttings from which other
3 State's Exhibit?

4 MS. MAYES: 71, Your Honor, the diaper.

5 BY MS. MAYES:

6 Q Now Agent Gibson Herrera, once you actually have
7 made a cutting, how do you go about securing that evidence
8 and then submitting it to the crime lab's DNA division for
9 analysis.

10 A It's placed in this heat-sealed pouch which has
11 been sealed at the top and initialled and dated. It would
12 be routed through our evidence control department to the
13 DNA analyst.

14 Q So, you seal it?

15 A Yes, ma'am.

16 Q And does it remain sealed until it arrives at the
17 DNA department?

18 A Yes, ma'am.

19 MS. MAYES: Nothing further, Your Honor.

20 THE COURT: Thank you, Solicitor.

21 Mr. Williams?

22 MR. WILLIAMS: May it please the Court.

23 CROSS-EXAMINATION

24 BY MR. WILLIAMS:

25 Q Herrera, correct?

Verona Gibson Herrera - Cross-Examination by Mr. Williams

1 A Correct.

2 Q And you work at SLED?

3 A Yes, sir.

4 Q And how long have you worked for SLED?

5 A Approximately eight and a half years.

6 Q You recall when you received -- you received the
7 diaper; is that correct?

8 A Yes, sir.

9 Q Did you receive any other items besides the diaper?

10 A There was a blanket, but if I'm not mistaken, it
11 did not come into my custody. I'm sorry -- well --

12 MS. MAYES: Your Honor, may we approach?

13 THE COURT: Yes, ma'am.

14 (There was a bench conference out of the hearing of
15 the jury and the Court Reporter.)

16 THE COURT: Thank you very much, Solicitor.

17 Thank you, Mr. Williams.

18 BY MR. WILLIAMS:

19 Q Ma'am, let me ask you -- let me ask you about the
20 diaper. The -- you received the diaper and you cut out the
21 two items; is that correct?

22 A Yes, sir.

23 Q And then you tested those two items?

24 A I tested prior to cutting them, but yes, sir.

25 Q And it came back positive for blood?

Verona Gibson Herrera - Cross-Examination by Mr. Williams

1 A Presumptive test for blood.

2 Q Presumptive to blood. And then you sent those onto
3 somebody who does DNA stuff, right?

4 A That is correct.

5 Q Because you're not qualified to do the DNA stuff?

6 A That is correct.

7 Q Now, could you tell how old the diaper was?

8 A No, sir, I could not.

9 Q Is there somebody at SLED that can testify as to
10 age of the blood and/or the age of the diaper?

11 A Not that I'm aware of and I would have no idea with
12 the diaper.

13 Q All right. So assuming that there was blood found,
14 there would be no way to tell how old either the diaper or
15 the blood was?

16 A I'm not aware if there's a way to tell how old the
17 diaper is. I do not know of a way to age the blood, no,
18 sir.

19 Q All right. But that's because you're basically a
20 forensic -- you do the scene and then you just test to see
21 if there is blood?

22 A No, sir, I do not leave the laboratory. I do not
23 leave the scene. All evidence is brought to the laboratory
24 that we test. We're kind of an area that narrows the areas
25 of interest for DNA analysis.

Verona Gibson Herrera - Cross-Examination by Mr. Williams

1 Q Okay. When you send the blood to the DNA persons
2 to have it analyzed for DNA, is that blood processed in any
3 other way to determine anything other than who it might
4 belong to?

5 A I'm sorry, sir, I can't answer that. I'm not a DNA
6 analyst.

7 Q And in your work in serology --

8 A Yes, ma'am.

9 Q -- there's no processing of the blood for anything
10 other than to pull the blood out. There's no determine --
11 if I go to the doctor, they're going to check me -- they're
12 going to check me for my blood type, they're going to check
13 me for whether I've got high cholesterol and stuff like
14 that. You don't process the blood itself for any of that
15 kind of thing?

16 A No, sir, we only determine whether it could
17 possibly be blood and then we can determine if it actually
18 is blood.

19 Q Or whether or not I've got fat in my blood?

20 A No, sir, we cannot do that.

21 MR. WILLIAMS: That's all the questions I have,
22 Your Honor.

23 THE COURT: Thank you, Mr. Williams.

24 Solicitor, any redirect?

25 MS. MAYES: No, sir, Your Honor.

Jessica Heron Stowe - Direct Examination by Ms. Mayes

1 THE COURT: Thank you. Thank you very much Agent
2 Herrera for being with us today.

3 Any objections to the agent being excused?

4 MS. MAYES: None from the State, Your Honor.

5 MR. WILLIAMS: None from the defendant, Your Honor.

6 THE COURT: You may be excused.

7 MS. MAYES: The State calls Jessica Heron Stowe.

8 JESSICA HERON STOWE,

9 having been duly sworn, testified as follows:

10 THE CLERK: If you'll have a seat over here. State
11 your name, please and spell your last for the record.

12 THE WITNESS: My name is Jessica Stowe, S-T-O-W-E.

13 **DIRECT EXAMINATION**

14 BY MS. MAYES:

15 Q All right. And where are you currently employed
16 and in what capacity?

17 A I am a forensic serologist with the South Carolina
18 Law Enforcement Division also referred to as SLED.

19 Q Tell us a little bit about your educational
20 background and training that led you to become a forensic
21 scientist in the field of serology?

22 A Okay. My education, I have a bachelor's of Science
23 in Biology with the minor in Chemistry from the University
24 of South Carolina. While I've also worked at SLED, I've
25 taken numerous course work, classes through places such as

Jessica Heron Stowe - Direct Examination by Ms. Mayes

1 West Virginia University; DNA.gov. The National Institute
2 of Justice, in courses such as Peer Analysis, Ethics
3 Laboratory Safety, as well as a graduate level course from
4 the University of Florida in Biological Evidence and
5 Serology. The training at SLED is very lengthy.

6 I participated in their in-house training program
7 through a court qualified DNA evidence processing
8 technician and a DNA analyst.

9 In the beginning there's a lot of observation.
10 It's during this point that you're getting comfortable in
11 the lab. You're also taking the time to really understand
12 and learn the policies and procedures that goes behind
13 everything you're doing. Your training may allow you to
14 test this for blood, this for semen. You focus on other
15 types of testings as well until you're really comfortable
16 and you enter a phase of your training called -- you're
17 training samples. They are mock samples, they're cuttings
18 of cloth, swabs, and it's our job to use our resources that
19 we have to determine what body fluids are present. Which
20 ones aren't.

21 Once we do that we enter our phase of training
22 called case work, where we are taking these cases from
23 beginning to end by ourselves; however, they are under the
24 complete supervision of our trainers. We then enter a
25 phase called competency testing, where we take a test that

Jessica Heron Stowe - Direct Examination by Ms. Mayes

1 encompasses all five aspects of being a forensic
2 serologist.

3 Once we do that, we are then deemed competent and
4 able to work independent case work. So that's the extent
5 of our training.

6 Q All right. And as a forensic scientist at the
7 state crime lab, have you had the opportunity to testify
8 previously as an expert in the field of serology?

9 A Yes, I have.

10 Q Does that include the State Courts of South
11 Carolina?

12 A Yes, it does.

13 MS. MAYES: Your Honor, at this time, the State
14 would offer Jessica Stowe as an expert in the field of
15 forensic serology.

16 MR. WILLIAMS: Without objection, Your Honor.

17 THE COURT: All right. And again, ladies and
18 gentlemen, you've heard my charge twice previously on
19 experts. This witness, Agent Stowe will be qualified as an
20 expert in the field of forensic serology to give opinion
21 testimony in that area. You do not have to accept the
22 opinion. You may use it in any way you deem appropriate.

23 Thank you very much, Solicitor. You may continue.

24 MS. MAYES: Yes, sir, Your Honor.

25 BY MS. MAYES:

Jessica Heron Stowe - Direct Examination by Ms. Mayes

1 Q Now, Agent Stowe, can you tell us whether or not
2 you received an item in this case that pertains to a
3 homicide by child abuse investigation with a victim by the
4 name of Minor [REDACTED]?

5 A Yes, I did.

6 Q When there is an autopsy in a child fatality, can
7 you tell us whether or not it is routine to collect certain
8 evidence from the victim?

9 A Well --

10 Q Such as DNA?

11 A Yes.

12 Q Okay. And that would -- can you tell us in what
13 form DNA samples are submitted to the State Law Enforcement
14 Division for analysis? Is it blood, is it on a swab? Tell
15 us about that.

16 A It varies. The evidence collection kits are
17 standardized kits. They contain swabs and other materials
18 that the medical personnel can use to collect from all
19 parts of the body. So yes, blood, semen, hair, touch, it
20 completely varies to each case its on.

21 Q All right. And in this particular case, can you
22 tell us whether or not you received a DNA sample from the
23 victim's autopsy?

24 A I did, yes. Within the evidence collection kit was
25 the victim buccal swabs.

Jessica Heron Stowe - Direct Examination by Ms. Mayes

1 Q I'm going to show you an item and ask you whether
2 or not you recognize it.

3 A (Looking.) Yes, I do recognize this.

4 Q Okay.

5 A I recognize it by the SLED lab number, the item
6 number, and as well as my initials that are present on the
7 seals.

8 Q And I want to use the term buccal swab. If a
9 buccal swab is collected from a person at autopsy, what is
10 the procedure in which someone would collect a DNA sample?

11 A The swabs are just placed on the inside of the
12 mouth. The cheek cells contain DNA that we use to get the
13 DNA profile that is specific to that person. So these are
14 sterile swabs. The inside of the mouth is swabbed and then
15 they are forwarded to us.

16 Q Okay. And upon your receipt of a DNA swab, a
17 buccal swab from the child victim, what, if any, processing
18 did you do on that?

19 A We don't do any processing on the known standards.
20 That's something that we refer to as the known DNA, known
21 standards. As a serologist. We also prep our samples for
22 the DNA analyst. So in regards to the buccal swabs that
23 were submitted, I just took small cuttings, placed them
24 into a sterile tube, labeled them appropriately and
25 forwarded them for DNA analysis.

Jessica Heron Stowe - Direct Examination by Ms. Mayes

1 Q All right. And you said, you termed that prepping
2 and from that point, do you reseal the item?

3 A Yes, I reseal it, make sure everything is
4 contained, properly labeled properly, and then it moves on
5 for DNA.

6 Q All right. And in this particular case, what DNA
7 analysis did the victim's buccal swabs go to?

8 A Catherine Leisey.

9 MS. MAYES: Your Honor, at this time, the State
10 would offer this item, the victim's buccal swab as
11 evidence. I believe it would be 76.

12 (State's Exhibit Number 76 was marked for
13 identification.)

14 MR. WILLIAMS: Without objection, Your Honor.

15 THE COURT: State's 76 is in evidence without
16 objection.

17 (State's Exhibit Number 76 was entered into
18 evidence.)

19 MS. MAYES: Beg the Court's indulgence.

20 (There was a pause in the proceedings.)

21 MS. MAYES: Nothing further, Your Honor.

22 THE COURT: Thank you.

23 Mr. Williams?

24 MR. WILLIAMS: Thank you, Your Honor. Could I have
25 two seconds with the solicitor?

Jessica Heron Stowe - Cross-Examination by Mr. Williams

1 THE COURT: Yes, sir.

2 (There was a pause in the proceedings.)

3 MR. WILLIAMS: Thank you, Your Honor.

4 THE COURT: All right. You may continue.

5 MR. WILLIAMS: Nobody's hurt, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. WILLIAMS:

8 Q Let's see it's Jessica Heron Stowe; is that
9 correct.

10 A That is correct.

11 Q Ms. Stowe -- is it -- should I say Ms. Stowe or
12 Mrs. Stowe or it doesn't matter?

13 A Whatever you prefer.

14 Q Okay. Ms. Stowe, on the swabs which you received
15 from the inside of the mouth; is that correct?

16 A The buccal swabs.

17 Q Yes.

18 A That's where they're taken.

19 Q Did you secure those items from the deceased or
20 were these items secured by something else and sent to you?

21 A Right. Someone else would have collected those and
22 then the evidence would have made its way to SLED, which is
23 where I would have gotten it.

24 Q Okay. And did you do anything with this other than
25 just packaging it and send it on down the line to be worked

Jessica Heron Stowe - Cross-Examination by Mr. Williams

1 on?

2 A With the --

3 Q Buccal swabs?

4 A No. I just took cuttings and reported them to DNA.

5 Q Okay.

6 MR. WILLIAMS: That's all the questions I have,
7 Your Honor.

8 THE COURT: Redirect, Solicitor?

9 MS. MAYES: Nothing from the State, Your Honor.

10 THE COURT: Thank you, Agent Stowe, for being with
11 us. You may step down.

12 Any objections to the agent being excused?

13 MS. MAYES: None from the State, Your Honor.

14 MR. WILLIAMS: No objection, Your Honor.

15 THE COURT: And you may be excused.

16 THE WITNESS: Thank you.

17 THE COURT: How long is your next witness,
18 Solicitor?

19 MS. MAYES: 15, 20 minutes.

20 THE COURT: All right. You may call your next
21 witness.

22 MR. CASKEY: Thank you, Your Honor. State would
23 call Catherine Leisey.

24 CATHERINE LEISEY,

25 having been duly sworn, testified as follows:

Catherine Leisey - Direct Examination by Mr. Caskey

1 THE CLERK: If you'll have a seat over here. State
2 your name, please and spell your last for the record.

3 THE WITNESS: Catherine Leisey, L-E-I-S-Y.

4 **DIRECT EXAMINATION**

5 BY MR. CASKEY:

6 Q Good morning Ms. Leisey?

7 A Good morning.

8 Q If you would please, tell the jury where you work
9 and what do you do there?

10 A I work for the South Carolina Law Enforcement
11 Division, more commonly known as SLED. I am a forensic
12 scientist assigned to the DNA and serology unit.

13 Q If you would, please, tell the jury a bit about
14 your educational background and training that led you to
15 your current occupation?

16 A I have a bachelor of Science degree in Genetic
17 Engineering from Cedar Crest College in Allentown,
18 Pennsylvania. I've been with SLED now for a little over
19 ten years. I received in-house training by other court
20 qualified analysts in all the different types of testing
21 analysis I perform.

22 I also have approximately four years of experience
23 as a forensic DNA analyst at the private testing facility
24 known as Orchid Cellmark that was located in Germantown,
25 Maryland where I did the same types of testing an analysis

Catherine Leisey - Direct Examination by Mr. Caskey

1 as I do now.

2 Q How long did you say you've been at SLED in your
3 current capacity?

4 A It's a little over ten years.

5 Q All right. And during that time, have you had
6 occasion to testify as an expert in DNA analysis?

7 A I have.

8 Q Is that in State Circuit Court?

9 A It's in State Circuit Court throughout South
10 Carolina, as well as federal court in Florence.

11 MR. CASKEY: Your Honor, the State would offer the
12 witness as an expert in DNA analysis.

13 MR. WILLIAMS: Without objection, Your Honor.

14 THE COURT: All right. Again, ladies and
15 gentlemen, this witness is qualified in the field of
16 forensic DNA analysis and will be authorized to give
17 opinion testimony in that field of expertise. You may use
18 that testimony any way you, the jury, deem fit and
19 appropriate.

20 Thank you, Solicitor. You may continue.

21 MR. CASKEY: Thank you, Your Honor.

22 BY MR. CASKEY:

23 Q Ms. Leisey, did you receive evidence in a case, a
24 homicide by child abuse case for which the victim was

25 Minor [REDACTED] ?

Catherine Leisey - Direct Examination by Mr. Caskey

1 A Yes, I did.

2 Q What is the procedure, generally, by which you
3 receive evidence?

4 A When I'm ready to begin processing a case that I've
5 been assigned, I will send an e-mail to our evidence
6 control department, letting them know what case I'll be
7 working, what items I'll need. They will then collect
8 those items from our locked evidence storage room. I'll go
9 down and they'll transfer those items to my custody. I
10 I'll then take those items into the lab and begin my
11 testing.

12 Q Up until the point which it comes into your
13 custody, it remains where? The evidence?

14 A It remains in a closed and locked evidence control
15 center that is accessed only by the evidence control
16 technicians that have authority to retrieve evidence for
17 us.

18 Q I'm going to hand you first, what's been marked so
19 far for ID as State's 72. If you would, please, take a
20 look at that and let me know if you recognize it.

21 A Yes, I do.

22 Q How do you recognize that?

23 A I recognize the SLED case numbers as well as the
24 item number and my initials are present on the sealed pouch
25 containing the evidence.

Catherine Leisey - Direct Examination by Mr. Caskey

1 Q All right. And is that evidence related to this
2 case?

3 MR. CASKEY: Your Honor, at this time, I think we
4 need to enter this into evidence as State's 72.

5 MR. WILLIAMS: Without objection, Your Honor.

6 THE COURT: All right. Tell me what it is again,
7 please.

8 MR. CASKEY: This is swabs from the bathmat, Your
9 Honor.

10 THE COURT: Thank you. May I see it?

11 MR. CASKEY: Yes, sir.

12 THE COURT: (Looking.) State's 72 is in evidence
13 without objection.

14 (State's Exhibit Number 72 was entered into
15 evidence.)

16 BY MR. CASKEY:

17 Q I'll hand you what's been entered as State's 76 and
18 ask you if you recognize that.

19 A I do.

20 Q What does that appear to be?

21 A This is an evidence collection kit. Again I
22 recognize the case number, the item number and my initials
23 on the pouch.

24 Q And what analysis, if any, did you conduct with
25 regard to that piece of evidence?

Catherine Leisey - Direct Examination by Mr. Caskey

1 A In this case, I tested what was identified as SLED
2 Item Number 2.4, which was identified as buccal swabs from
3 Minor [REDACTED].

4 Q All right. And what is that analysis of the buccal
5 swab? What did you do?

6 A A buccal swab is just how we refer to a sterile
7 cotton swab that is rubbed on the inside of the cheek to
8 collect cells. We use those cells to develop a DNA profile
9 that can be used as a known standard for that individual.
10 So once we have a known standard, we can compare it to
11 unidentified biological materials that may have been left
12 at the potential crime scene or on an item of evidence.

13 So I developed a DNA profile from that item that I
14 used as a known standard for Minor [REDACTED].

15 Q Okay. Is a DNA standard -- do people have -- can
16 say a person -- can different people have different DNA
17 samples or different DNA profiles? How does that work?

18 A Exactly. With the exclusion of identical twins,
19 everyone would have a unique DNA profile. So by
20 identifying this profile, we can use it for identification
21 purposes for unknown biological materials.

22 Q All right. And I'm going to hand you what's been
23 entered as State's 75 and ask if you recognize that.

24 A Yes, I do. Again, based on the SLED lab number,
25 the pouch container, identification and my initials.

Catherine Leisey - Direct Examination by Mr. Caskey

1 Q And did you perform an analysis of that piece of
2 evidence?

3 A I did.

4 Q What did you do with it?

5 A Contained within that pouch were SLED Items 4.1 and
6 4.2. They were identified as cuttings taken from the
7 diaper that was found in the kitchen trash can. I
8 developed DNA profiles from those items and compared them
9 to the profile I developed on Minor [REDACTED].

10 Q The profile from the buccal swabs?

11 A Correct.

12 Q All right. And what conclusions did you reach
13 based on that analysis?

14 A I determined that the DNA profile developed from
15 the cuttings from the diaper matches the DNA profile
16 developed from the buccal swabs of Minor [REDACTED] and
17 that the probability of randomly selecting an unrelated
18 individual having a profile matching these items is
19 approximately one in 820 quadrillion.

20 Q What's a quadrillion?

21 A One quadrillion would be a 1 with 15 zeros behind
22 it. It is significantly larger than the population of the
23 earth.

24 Q Okay. So would it be accurate to say that the
25 cuttings and the piece of evidence in your hand contain

Catherine Leisey - Direct Examination by Mr. Caskey

1 blood that matches the DNA profile of [Minor] ?

2 A Yes, sir.

3 Q And as to the first item we talked about the swab
4 on the bathmat, did you conduct an analysis of that?

5 A I did test the -- what was identified as swab, Item
6 6, SLED Item 6, the swab from the bathmat and no DNA
7 profile was developed from that item.

8 Q What does that mean?

9 A It just means that there was not a DNA present for
10 our testing procedures to develop a profile or if there
11 were DNA present, it had been degraded or broken down in
12 some way preventing me from developing any profile.

13 Q Was it tested for the presence of blood?

14 A It was. I did an initial preliminary screening for
15 the possible presence of blood. That test was negative. I
16 carried on and tried to develop a DNA profile anyway.

17 Q Okay. So you weren't able to tell anything from
18 the swabs that were taken from the bathmat; is that
19 correct?

20 A That's correct. I have no information with which
21 to compare to a known standard for that.

22 Q And the sample of the evidence -- the cuttings from
23 the diaper were positive -- was a DNA profile that matched
24 [Minor] ?

25 A That's correct.

Catherine Leisey - Cross-Examination by Mr. Williams

1 Q Thank you, Agent Leisey, I don't have any other
2 questions for you.

3 A Yes, sir.

4 THE COURT: Mr. Williams?

5 MR. WILLIAMS: May it please the Court?

6 THE COURT: Yes, sir.

7 **CROSS-EXAMINATION**

8 BY MR. WILLIAMS:

9 Q Agent Leisey -- is it Leisey?

10 A Yes, sir.

11 Q Referring to your testing of the buccal swabs and
12 the two diapers, you said that, obviously, that they were a
13 match. And when you do that, obviously, you go through a
14 series to see where certain -- if the chromosomes or
15 something like that is on the testing that you're doing.

16 How many chromosomes are you -- tell the jury a
17 little bit how that process works?

18 A Okay. When we perform this type of testing, we do
19 what we refer to a PCR, STR testing. PCR stands for
20 preliminary chain reaction, which is a technique which
21 allows us to make copies of specific locations in our DNA
22 that we want to test. And those locations are called STR's
23 or short tandem repeats. And those are just locations in
24 our DNA where a short coordinate of DNA repeats a certain
25 number of times. So we make copies of the DNA that we're

Catherine Leisey - Cross-Examination by Mr. Williams

1 testing and then we count the numbers of repeats at those
2 locations. And we test a total of 15 locations and that
3 gives us an overall DNA profile and once we have a profile
4 from evidence, we can compare it to the profile from the
5 standard.

6 Q Is that the general standard for SLED or is there a
7 different standard with regards to how many locations you
8 would test? Or is there a different standard that exists
9 as far as how many locations you can test?

10 A There are different commercially available kits
11 that can be used. Right now, SLED, along with quite a few
12 other labs in the country are still using a kit that tests
13 for 15 locations and that's what was used at the time this
14 testing was done. There are sites now available that
15 contain more locations, but 15 is accepted, really
16 throughout the country and throughout the world.

17 Q So when you say more, are there as many as 18
18 locations that you could test?

19 A I believe there are kits that have more than 18.

20 Q More than 20 maybe?

21 A The kit that we will be switching to, I believe
22 does have more than 20. I don't remember the exact number
23 at this time.

24 Q Would you say that the testing that you use is
25 anymore sophisticated than the one that we send off to find

Catherine Leisey - Cross-Examination by Mr. Williams

1 out if we're related to someone from Ireland?

2 A It would be the same techniques. We're looking for
3 slightly different markers, but it's -- it's really no more
4 sophisticated than the lab techniques, I would say no.

5 Q All right. So -- but there is a process -- SLED
6 does intend on updating their procedures so they can get
7 more accurate with regard to where -- I guess where the
8 chromosomes are located?

9 A I wouldn't say more accurate. Again, it's just
10 doing the test in a larger number of STR locations and all
11 labs will be required to change to those larger kits in the
12 coming future.

13 Q What is CSFIP0? What does that stand for?

14 A That is the name of one of the STR locations that
15 we test in this kit.

16 Q And again, that's a chromosome that you would
17 check?

18 A That is an STR location on one of the chromosomes
19 that we check, yes, sir.

20 Q Now, did you test your sample of your diaper to any
21 sample other than the buccal swab which you tested?

22 A No, the only standard that I received was the
23 buccal swab from **Minor**, so that was the only
24 comparison I could make.

25 Q Now, in terms of the bathroom mat --

Catherine Leisey - Redirect Examination by Mr. Caskey

1 A Yes, sir.

2 Q -- you said that there was no DNA on that. As a
3 matter of fact, there was no blood on that, is that
4 correct?

5 A That's correct. The preliminary screen for blood
6 was negative.

7 Q All right. Is there a division at SLED that you
8 can actually test the age of the items that are seized,
9 such as a diaper to see how old a diaper is? A way to test
10 how old the blood is?

11 A No, sir, there isn't.

12 MR. WILLIAMS: That's all the questions I have,
13 Your Honor?

14 THE COURT: Redirect, Solicitor?

15 MR. CASKEY: Yes, Your Honor, very briefly.

16 **REDIRECT EXAMINATION**

17 BY MR. CASKEY:

18 Q Agent Leisey, you mentioned that the odds of this
19 DNA profile matching someone else were what, a random
20 selected person?

21 A The probability of randomly selecting an individual
22 having the profile matching this is approximately one in
23 800 quadrillion.

24 Q How many zeros?

25 A It would be -- one quadrillion would be 1 with 15

Catherine Leisey - Recross-Examination by Mr. Williams

1 zeros, so it would be 820 with 15 additional behind it.

2 THE COURT: Tell me that answer again. How many
3 zeros.

4 THE WITNESS: 15.

5 THE COURT: 15?

6 THE WITNESS: Yes, sir.

7 THE COURT: That's for one so you'd have to take
8 820 and multiply it by 15?

9 THE WITNESS: No, sir it would be 820 and then 15
10 additional zeros behind it.

11 THE COURT: I see. All right. Thank you.

12 BY MR. CASKEY:

13 Q And 820, you said?

14 A Yes, sir.

15 Q So thousands, millions, billions, trillions,
16 quadrillions?

17 A Yes, sir.

18 Q Okay. Thank you.

19 MS. MAYES: No further questions, Your Honor.

20 MR. WILLIAMS: Just one question.

21 **RECROSS EXAMINATION**

22 BY MR. WILLIAMS:

23 Q And what if that individual had a brother?

24 A We would still expect a paternal brother to have a
25 different profile. Again an identical twin would have the

Catherine Leisey - Recross-Examination by Mr. Williams

1 same statistic, but the statistic is based on the
2 evidentiary profile. Without us making an assumption as to
3 who it belongs to we would generate the stat.

4 Q And again, you used 15 -- is it 15?

5 A Yes, sir.

6 Q That's all I have.

7 A Yes, sir.

8 THE COURT: Thank you, thank you very much, Agent
9 Leisey. You may step down.

10 Any objection to the agent being excused.

11 MS. MAYES: None from the State, Your Honor.

12 MR. WILLIAMS: None from the defendant, Your Honor.

13 THE COURT: Thank you, ma'am.

14 THE WITNESS: Thank you, sir.

15 THE COURT: Thank you for being with us.

16 All right. Perhaps now would be a good time to
17 take about a 15 minute recess, ladies and gentlemen.
18 Please do not discuss the case during this brief recess.
19 If you'll leave your notes on your chair they will be
20 secured during the break.

21 (The jury left the courtroom at 10:42 a.m.)

22 THE COURT: Anything from the State?

23 MS. MAYES: Nothing from the State, Your Honor.

24 THE COURT: Defense?

25 MR. WILLIAMS: Nothing from the defense, Your

Patricia Lee - Direct Examination by Ms. Mayes

1 Honor.

2 (The jury entered the courtroom at 11:05 a.m.)

3 THE COURT: Welcome back, ladies and gentlemen. My
4 plan, just to give you an update is to continue on until
5 about 12:30'ish, take about a five minute recess and work
6 until about two o'clock and not take a luncheon recess and
7 we'll be finished for the rest of the day.

8 Thank you, Thank you very much for your focus and
9 attention.

10 Solicitor, you may call your next witness.

11 MS. MAYES: The State calls Patricia Lee.

12 THE COURT: All right. If you'd come around and be
13 sworn for us, please.

14 PATRICIA LEE,

15 after being duly sworn, testified as follows:

16 THE CLERK: Have a seat up here. State your name
17 and spell your last for the record, please.

18 THE WITNESS: Patricia Lee.

19 DIRECT EXAMINATION

20 BY MS. MAYES:

21 Q And tell us a little bit about yourself, Ms. Lee.
22 Where are you employed?

23 A I am a supervisor for McDonalds. We own nine
24 restaurants. I work for Sandra Webb in the Atlanta Region
25 is what we call it.

Patricia Lee - Direct Examination by Ms. Mayes

1 Q All right. And specifically as to McDonalds how
2 long have you been affiliated with that corporation?

3 A My total career with McDonalds is 33 years, but for
4 Sandra Webb, I'm going on 10.

5 Q All right. And can you tell us whether or not
6 McDonalds maintains records in the ordinary course of
7 business such as employee time cards, things of this
8 nature.

9 A It's mandatory that we keep all files on -- in
10 storage for seven years at a minimum. So anywhere between
11 seven and ten years we can go back.

12 Q All right. And can you tell us in the course of
13 regularly conducted business at McDonalds, specifically the
14 Oak Grove area McDonalds which is located on Augusta Road
15 here in Lexington County; what affiliation do you have with
16 them?

17 A I am supervisor or was the supervisor of that store
18 at the time and I am kind of like a DO above it.

19 Q What is the actual street address of that location?

20 A Without my phone, I don't know.

21 Q It's known as the Oak Grove McDonalds?

22 A Oak Grove or also Highway 1 or you could also call
23 it the Barnyard Flea Market store.

24 Q Okay. And you've been to that location yourself?

25 A Yes. I actually had it for about five years as a

Patricia Lee - Direct Examination by Ms. Mayes

1 original supervisor until I got another supervisor
2 underneath me.

3 Q All right. And for the benefit of us near
4 Lexington County, how close is that McDonalds to that
5 Barnyard Flea Market?

6 A It's -- you can walk it in like three minutes.

7 Q Now, as to the business records that are maintained
8 there, can you tell us whether or not as a supervisor for
9 that location you have access to business records,
10 including employee work schedules for the year 2013?

11 A Yes, I am currently the records keeper of it all.
12 I have to keep track of all of it.

13 Q Can you tell us with whether or not a subpoena was
14 received for certain work records in this case for a Joshua
15 Hopkins and a Sabrina Haynes?

16 A Yes, it was.

17 Q And can you tell us whether or not they were both
18 employees of that Oak Grove McDonalds back in the time
19 period of November 27th, 2013?

20 A Yes, they both were.

21 Q Do you have with you a copy of their work records?

22 A Yes.

23 Q I'm going to ask you again, I know I posed a
24 question earlier about whether or not those records are
25 maintained in the ordinary course of business, but you

Patricia Lee - Direct Examination by Ms. Mayes

1 indicated you are the keeper of those records?

2 A Yeah.

3 Q All right.

4 MS. MAYES: And, Your Honor, at this time, the
5 State would offer as evidence the employee work record for
6 Joshua Hopkins and Sabrina Haynes for the week of November
7 27th, 2013.

8 MR. WILLIAMS: Without objection, Your Honor.

9 THE COURT: And that would be -- you offering them
10 separately or --

11 MS. MAYES: Separately, Your Honor.

12 THE COURT: That would be 77 and 78? Is that
13 correct?

14 THE WITNESS: Yes, sir, Your Honor.

15 THE COURT: Which one will be which.

16 MS. MAYES: I apologize, Your Honor, we actually
17 have a premarked exhibits which are 6 and 7; 6 being Joshua
18 Hopkins --

19 THE COURT: So State's 6 is Mr. Hopkins.

20 MS. MAYES: And State's Exhibit 7 would be that of
21 Sabrina Haynes.

22 THE COURT: State's 6 and 7 are in evidence without
23 objection, Mr. Williams.

24 MR. WILLIAMS: That's correct, Your Honor.

25 THE COURT: Thank you.

Patricia Lee - Direct Examination by Ms. Mayes

1 (State's Exhibit Number 6 and Number 7 was entered
2 into evidence.)

3 BY MS. MAYES:

4 Q And looking here at State's 6 and State's 7, I'm
5 going to ask you specifically whether or not they contain
6 information as to time punch such as when you're punching
7 in and when you're punching out?

8 A Yes, they have their own time card number. They
9 punch in, out, in and out for break.

10 Q All right. And are State's Exhibits 6 and State's
11 Exhibit 7 identical to the records you have in terms of the
12 actual punch in and punch out time?

13 A Yes, that is the time summary punch.

14 Q As to the defendant in this case, Joshua Hopkins,
15 I'm going to ask you when he worked closest in time to the
16 date of November 27th, 2013?

17 A Okay. So he worked on the 26th. He punched in at
18 1704, which is 5:04 p.m. he went on break at 2045, came
19 back.

20 Q Wait -- little too fast.

21 A Sorry.

22 Q I've got this calendar here, State's Exhibit 3.
23 And of interest in this case would be that Thanksgiving Day
24 was November 28th?

25 A Correct.

Patricia Lee - Direct Examination by Ms. Mayes

1 Q The preceding day was a Wednesday, November 27th,
2 and you've indicated that Mr. Hopkins last worked on
3 Tuesday, the 26th, correct?

4 A Yes, as a closer.

5 THE COURT: Is 3 in evidence?

6 MS. MAYES: It is not, Your Honor.

7 THE COURT: Any objection?

8 MR. WILLIAMS: No, Your Honor, no objection.

9 THE COURT: State's 3 is in evidence without
10 objection.

11 (State's Exhibit Number 3 was entered into
12 evidence.)

13 BY MS. MAYES:

14 Q And on that Tuesday, what time did he go in?

15 A 5:04 p.m.

16 Q And on those particular records, is it military
17 time or civilian time?

18 A Military time, 1704.

19 Q Okay. So 1704 converts to 5:04 p.m. That's the
20 time he goes in?

21 A Correct.

22 Q And his clock-out time?

23 A For the evening, he clocked out at 0047, which is
24 midnight at 47 hundred, I don't know how to --

25 THE COURT: 0047 hours.

Patricia Lee - Direct Examination by Ms. Mayes

1 THE WITNESS: Yeah. So it's --

2 BY MS. MAYES:

3 Q So early morning hours, he would clock out at the
4 early morning hours of November 27th?

5 A Yes.

6 Q All right. Now, as for Sabrina Haynes, I'm going
7 to ask you whether or not she worked on the 26th?

8 A She did not work on the 26th.

9 Q All right. I'll take you on now to Tuesday, the
10 27th. I'm sorry Wednesday the 27th. What time did she
11 clock in?

12 A At 6:01 in the morning.

13 Q 6:01 a.m. is the clock in time?

14 A Yes, ma'am.

15 Q All right. And what time was she actually
16 scheduled to work to that day?

17 A To -- let me look at the schedule. I believe it
18 was one o'clock which would take her through lunch. And
19 she punched out at 8:21.

20 Q Okay. So just to clarify, she was scheduled to
21 work until 1 p.m.?

22 A Yes, until 1300 hours.

23 Q But she actually clocked out ahead of that?

24 A Yes, 8:21.

25 Q Clock out time was 8:21 a.m. Now, if an individual

Patricia Lee - Cross-Examination by Mr. Williams

1 is at work and they receive a call or if there is a family
2 emergency, are they allowed to leave early?

3 A Yes. Usually if we get the calls from schools or a
4 spouse or something like that, we allow them to leave.
5 Especially if we have the coverage.

6 Q Okay. And who was the manager of that Oak Grove
7 McDonalds on November 27th of 2013?

8 A That would be Jonathan Nobles.

9 Q And just to clarify, the day before, the defendant,
10 Joshua Hopkins would have been clear and free to leave
11 McDonalds by 12:47 a.m., which would be the early morning
12 hours of that Wednesday, correct?

13 A Correct. They would have punched out and went
14 straight out the door.

15 MS. MAYES: Nothing further.

16 THE COURT: Thank you, Solicitor.

17 Mr. Williams.

18 MR. WILLIAMS: Thank you, Your Honor.

19 **CROSS-EXAMINATION**

20 **BY MR. WILLIAMS:**

21 Q Ms. Lee, I'm Theo Williams, how are you?

22 A I'm good. And you?

23 Q I'm fine.

24 Just a couple of questions. What is the phone
25 number for McDonalds?

Patricia Lee - Cross-Examination by Mr. Williams

1 THE COURT: Which McDonalds?

2 MR. WILLIAMS: The McDonalds on Oak Road -- Oak
3 Grove.

4 THE WITNESS: Again, without my phone -- I have
5 nine restaurants, I don't know the numbers off the top of
6 my head.

7 Q Do you have anything that would list it there?

8 A No. It has my office phone number on it.

9 Q I'm sorry?

10 A I have my office phone number on it.

11 Q Is that different from the phone number at the
12 office -- at the office at Oak Grove?

13 A Yes. So we have the restaurant phone number and
14 then we also have an office for the nine stores.

15 Q Got you. Who would know the phone number for the
16 McDonalds besides yourself?

17 A Most of the crew so they can call into the store.

18 Q Okay. You don't have any knowledge in regards to
19 the events of November the 27th of 2013, in regards to this
20 particular case?

21 A Yeah, it was my store at the time and I always look
22 at the schedules.

23 Q Okay.

24 A So I would have like -- that morning of Wednesday,
25 Thursday, whatever day it is I come in, why aren't they

Patricia Lee - Cross-Examination by Mr. Williams

1 here? Why aren't they in the schedule, why did they go
2 home early?

3 Q Okay.

4 A So I knew that Sabrina went home early because her
5 sit -- her kid was sick.

6 Q Okay. So you did have some knowledge about that?

7 A Uh-huh.

8 Q You would not have been working, though, that
9 morning?

10 A I might have been --

11 Q Because you're a supervisor, right?

12 A Right. And without going way back in my calendar,
13 I couldn't tell you if I was in the store at that
14 particular time, but I'm in the stores every day, even on
15 Thanksgiving.

16 Q Do you have any independent recall of seeing her at
17 that -- those early morning hours?

18 A No.

19 Q Okay. Do you have any independent recall of seeing
20 Joshua that -- the night before, which would have been
21 November 26th into the 27th?

22 A No, Joshua was mostly a closer, so if I caught him,
23 it would be that tail end when he comes in around five just
24 to say hi. I mean I recognize him right off the bat
25 because we see them all, but I couldn't tell you on that

Patricia Lee - Cross-Examination by Mr. Williams

1 day, no.

2 Q Do you know how long Joshua had worked at
3 McDonalds?

4 A Almost a year. He was a full-time closer.

5 Q And do you know how long Sabrina --

6 A Sabrina had been back for a couple of weeks. She'd
7 been gone for a while. She'd been back two or three weeks
8 prior to Thanksgiving.

9 Q Okay. You've got her time sheets there for --

10 A I have the time sheet for like the week prior.

11 Q Okay. So you don't have the entire 2013 --

12 A No, I don't have it right in front of me.

13 Q Do you have it here?

14 A No.

15 Q So essentially, your recollection is that she had
16 been working at McDonalds for two or three weeks?

17 A Yes, she had just gotten hired back and she'd been
18 back about two or three weeks.

19 Q Okay. And -- I think you've already testified that
20 if somebody's calling McDonalds about an emergency or
21 something like that, then y'all normally let people go.

22 A Correct. And that's if we can even get to the
23 phone, if we're not busy, but if we can get to the phone --
24 usually it's a school nurse calling, it can be a parent or
25 somebody saying I need to speak to Sabrina, I'm watching

Patricia Lee - Cross-Examination by Mr. Williams

1 her kid, if a kid is sick. And it's usually always for a
2 kid, if they try to call, you know, I've got to go home.
3 It's usually got be for a kid.

4 Q And you say if you could get to the phone, the
5 phone rings a good little bit.

6 A It sure does sometimes when we're waiting on
7 customers, especially right before Thanksgiving, that's our
8 busiest week of the whole year.

9 Q So you won't necessarily run to the phone if y'all
10 are busy waiting on customers?

11 A Yeah.

12 MR. WILLIAMS: That's all the questions I have,
13 Your Honor.

14 THE COURT: Redirect, Solicitor?

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

16 THE COURT: Did you just say, Ms. Lee, the week of
17 Thanksgiving is McDonalds busiest week of the year?

18 THE WITNESS: Yes, sir, it is. It's because of all
19 the travelers, so really, Wednesday is peek from open to
20 close. We close the doors on customers. And then Thursday
21 morning we're open and we do some good breakfast.

22 THE COURT: And is that all the McDonalds?

23 THE WITNESS: Yes, it is.

24 THE COURT: That's fascinating.

25 THE WITNESS: We're even open -- we've got one or

Jonathan Nobles - Direct Examination by Ms. Mayes

1 two stores open for Christmas this year and we do some good
2 money.

3 THE COURT: All right. Well, thank you. Thank you
4 for being with us this morning.

5 THE WITNESS: All right. Thank you.

6 MS. MAYES: State calls Jonathan Nobles.

7 THE COURT: And you may be excused.

8 THE WITNESS: All right. Thank you.

9 THE COURT: This is Mr. Nobles you say, Solicitor?

10 MS. MAYES: Yes, sir, Your Honor.

11 JONATHAN NOBLES,

12 having been duly sworn, testified as follows:

13 THE CLERK: If you'll have a seat over here. State
14 your name, please and spell your last for the record.

15 THE WITNESS: My name the Jonathan Nobles.

16 N-O-B-L-E-S.

17 **DIRECT EXAMINATION**

18 BY MS. MAYES:

19 Q All right. And Mr. Nobles, tell us a little bit
20 about yourself. What type of work are you involved in.

21 A I work in the restaurant business. I am a
22 restaurant manager for Cracker Barrel.

23 Q All right. And that's the Cracker Barrel at
24 Sandhill?

25 A Yes, ma'am.

Jonathan Nobles - Direct Examination by Ms. Mayes

1 Q And prior to your employment at Cracker Barrel, can
2 you tell us what other type of food industry corporations
3 you were involved with?

4 A I was working for -- I was restaurant manager or
5 general manager for McDonalds.

6 Q All right. I want to ask you specifically about
7 the McDonalds, that's located at 4364 Augusta Highway.

8 A Okay.

9 Q You're familiar with that McDonalds?

10 A Yes, ma'am.

11 Q Located in the Oak Grove area?

12 A Yes, ma'am.

13 Q What was your job title or job description there at
14 that McDonalds?

15 A General manager.

16 Q Can you tell us whether or not you were working in
17 that capacity back in November of 2013?

18 A Yes, ma'am, I was.

19 Q I want to take you specifically to the date of
20 November 27th of 2013, which was the day before
21 Thanksgiving.

22 A Uh-huh.

23 Q And you also were the manager when the defendant,
24 Joshua Hopkins was employed?

25 A Yes, ma'am.

Jonathan Nobles - Direct Examination by Ms. Mayes

1 Q At McDonalds, correct?

2 A Uh-huh.

3 Q And then you're also familiar with his girlfriend,
4 another McDonalds' employee, Sabrina Haynes?

5 A Yes, ma'am.

6 Q Can you tell us whether or not you were working in
7 the early morning hours of Wednesday, November 27th of
8 2013?

9 A Yes, I was.

10 Q On that particular day, have you reviewed the
11 records of Ms. Haynes?

12 A Yes, ma'am.

13 Q All right. And she clocked in at 6:01 a.m. that
14 morning?

15 A Yes, ma'am.

16 Q What time was she scheduled to actually come in
17 that morning?

18 A It was 6.

19 Q So she's scheduled to come in at six and she clocks
20 in, actually you punches the card at 6:01 a.m.

21 A Yes, ma'am.

22 Q And by that time she's already dressed out in her
23 McDonalds uniform?

24 A Yes, ma'am.

25 Q And she's on the floor and ready to serve

Jonathan Nobles - Direct Examination by Ms. Mayes

1 customers, correct?

2 A Yes, ma'am.

3 Q Now, what time did she clock out that morning?

4 A At 8:21.

5 Q What time was she actually scheduled to clock out
6 for her shift to end for the day?

7 A (Looking.) One o'clock.

8 Q Okay. So she's scheduled to work until one. And
9 what time did she actually clock out?

10 A She left at 8:21.

11 Q All right. And if someone has to clock out early,
12 you're manager, does that -- tell us a little bit about
13 that. Does that require your permission?

14 A Yes, ma'am.

15 Q And can you tell us whether or not a family
16 emergency qualifies as a condition to leave early?

17 A Yes, ma'am.

18 Q What, if anything, do you recall that morning about
19 Sabrina Haynes clocking out at 8:21 a.m.?

20 A I just remember she came to me and said she
21 needed -- she got a call and she said she needed to see
22 about her child. And that she needed to leave and I just
23 said okay.

24 Q All right. So she got a call, said she needed to
25 see about her child --

Jonathan Nobles - Direct Examination by Ms. Mayes

- 1 A Uh-huh.
- 2 Q -- and you gave her permission to leave?
- 3 A Yes, ma'am.
- 4 Q Now, once you gave her permission to leave, was she
- 5 able to leave right away?
- 6 A No, she was in the parking lot, calling -- she was
- 7 calling somebody. I assume she was calling a ride and I
- 8 just saw her pace back and forth a whole lot.
- 9 Q Okay. So after you gave her permission to leave,
- 10 you actually saw her in the parking lot?
- 11 A Yes, ma'am.
- 12 Q And you saw her with a phone?
- 13 A Yes, ma'am.
- 14 Q Okay. And you saw her making calls --
- 15 A Uh-huh.
- 16 Q -- with that phone?
- 17 A Yes, ma'am.
- 18 Q And pacing back and forth?
- 19 A Uh-huh.
- 20 Q And you understood her to be waiting on a ride?
- 21 A Yes, ma'am.
- 22 Q Do you know whether or not she had her own
- 23 transportation to and from work?
- 24 A I don't remember. I don't think she did.
- 25 Q Okay. And on that particular day did she have

Jonathan Nobles - Cross-Examination by Mr. Williams

1 transportation or a ride home?

2 A No, I don't think she had a ride there.

3 MS. MAYES: Nothing further.

4 CROSS-EXAMINATION

5 BY MR. WILLIAMS:

6 Q Did you see who took her home or took her to her
7 house?

8 A No, sir. When I looked out there again at around
9 ten or eleven, I think she was already gone.

10 Q And was that her regular scheduled day to work or
11 did she transfer with somebody else?

12 A No she -- that was her regular scheduled day.

13 Q And what is the phone number for McDonalds at Oak
14 Grove?

15 A I don't remember.

16 MR. WILLIAMS: That's all the questions I have,
17 Your Honor.

18 THE COURT: Redirect, Solicitor?

19 MS. MAYES: Nothing, further, Your Honor.

20 THE COURT: Thank you, Mr. Nobles for being with us
21 this morning. You may step down, you may be excused.

22 Yes, ma'am?

23 MS. MAYES: The State calls Priscilla Haynes.

24 THE COURT: All right. Ms. Haynes, if you would
25 come around and join us, please.

Priscilla Haynes - Direct Examination by Mr. Caskey

1 PRISCILLA HAYNES,
2 having been duly sworn, testified as follows:
3 THE CLERK: If you'll have a seat over here. State
4 your name, please and spell your last for the record.
5 THE WITNESS: Priscilla Haynes.

6 DIRECT EXAMINATION

7 BY MR. CASKEY:

8 Q Ms. Haynes, if you would pull that microphone up
9 close to you. And just make sure you speak directly into
10 that so we can all hear you, okay?

11 A Okay.

12 Q And, if you would, please, spell out your last name
13 for the court reporter.

14 A H-A-Y-N-E-S.

15 Q Ms. Haynes, what's your first name?

16 A Priscilla.

17 Q And Ms. Haynes, where do you live?

18 A [REDACTED] in West Columbia.

19 Q Do you own that property?

20 A Yes.

21 Q How long have you lived there and/or owned the
22 house?

23 A About 15, 10, 15 years now.

24 Q Were you living there in November of 2013?

25 A Yes.

Priscilla Haynes - Direct Examination by Mr. Caskey

1 Q Okay. Who was living there with you at [REDACTED]
2 [REDACTED]?
3 A Sabrina, Minor myself, and Joshua.
4 Q Anybody else?
5 A My mother.
6 Q All right. And what was her name?
7 A Wilhelmina Haynes.
8 Q Okay. Were there any children other than Minor who
9 lived in the home?
10 A No.
11 Q Would any other children ever come over to the
12 house?
13 A Curt come over sometime, her -- Sabrina other son.
14 Q Okay. And what's his last name?
15 A Curt -- I don't know his last name. Curt.
16 Q What did they call -- or what did you call Curt?
17 Is that little Curt?
18 A Little Curt.
19 Q Little Curt. Do you remember how old little Curt
20 was back then?
21 A Probably about seven or eight, somewhere in there.
22 Q Seven or eight?
23 A I think somewhere in there.
24 Q Ms. Haynes, I have to ask you to speak up, I
25 can't --

Priscilla Haynes - Direct Examination by Mr. Caskey

1 A Probably about seven or eight. Somewhere up in
2 that age.

3 MR. CASKEY: Your Honor, if I could just ask the
4 bailiff to help her with a microphone.

5 (The bailiff was fixing the microphone for the
6 witness.)

7 BY MR. CASKEY:

8 Q Okay. So how old again was little Curt?

9 A Around seven or eight, somewhere up in there. I'm
10 really not sure.

11 Q Okay. Was he past the age to wear diapers?

12 A Yes, sir. He wasn't wearing diapers.

13 Q Did you ever have babysitters over at your house?

14 A No.

15 Q You have a telephone in your house?

16 A Yes.

17 Q Cable television?

18 A Yes.

19 Q Internet?

20 A Yes.

21 Q Like the wireless wifi?

22 A Yes.

23 Q Okay. Now, how long had Sabrina been living with
24 you in November of 2013?

25 A November?

Priscilla Haynes - Direct Examination by Mr. Caskey

1 Q Yes, ma'am, 2013.

2 A Sabrina came back to stay with me about I'd say
3 about three weeks -- three or four weeks -- she was
4 living -- came back about two weeks, about three weeks,
5 three or four weeks when she came back.

6 Q Okay. Three or four weeks before **Minor** died,
7 correct?

8 A Yes.

9 Q How long was Josh living there?

10 A I think Josh came in about a week after Sabrina
11 moved in. After Sabrina moved in.

12 Q Okay. So if she moved in three or four weeks, he'd
13 been there about how long? Two to three weeks?

14 A About two to three weeks.

15 Q Two to three weeks prior to **Minor** death; is that
16 correct?

17 A (Witness nodded head.)

18 Q All right. I want to ask you a couple of questions
19 about your mother, Wilhelmina. Is that correct? Her name
20 is Wilhelmina?

21 A Yes.

22 Q Okay. Where is she today?

23 A She passed away.

24 Q She's passed away?

25 A Uh-huh.

Priscilla Haynes - Direct Examination by Mr. Caskey

1 Q And I'm sorry to ask, but how long ago did your
2 mother pass away?

3 A A couple of years ago.

4 Q A couple of years ago. Now, in November of 2013,
5 what was her physical condition?

6 A She stay in the bed a lot until I get home.
7 Sometimes she, you know, she's unable to get up out of the
8 bed by herself.

9 Q She couldn't move around freely on her own?

10 A No.

11 Q She required assistance or help?

12 MR. WILLIAMS: Objection to leading.

13 THE COURT: Rephrase your question, please,
14 Solicitor.

15 BY MR. CASKEY:

16 Q Who would help with your mother?

17 A Well, I had someone come in every now and then.
18 And then sometime Sabrina, when she moved in, they would
19 help me. Her, she would help me out.

20 Q The person you said would come in and help, was
21 that during the time that Sabrina and Josh were living
22 there?

23 A Well, no, at that time, the person that came in to
24 help was no longer with me at the time. Sometime my
25 girlfriend would come in and help me out when I needed

Priscilla Haynes - Direct Examination by Mr. Caskey

1 help. A lot of time Penny and Joshua would be there.

2 Q All right. Now, when Sabrina or Josh even would
3 help, what were their responsibilities with regard to your
4 mother?

5 A Well, they mostly just be there and a lot of time I
6 just come on back home, when I'm working, and feed her and
7 stuff except for the weekend they would take care of her
8 until I come back.

9 Q And in November of 2013, where did you work?

10 A Southside.

11 Q What is Southside?

12 A It's a restaurant.

13 Q All right. And what sort of shift would you work?

14 A From four or five to two in the afternoon.
15 Sometime I get off like one, twelve, come back and forth a
16 lot. But it's about five minutes from the house. A lot of
17 time I would go and come back.

18 Q When you say four or five, was that in the morning
19 or afternoon?

20 A Morning.

21 Q I'm sorry?

22 A Morning.

23 Q Morning. So you would start work early in the
24 morning and get off in the early afternoon?

25 A Yes.

Priscilla Haynes - Direct Examination by Mr. Caskey

1 Q But you said you would come back and forth; is that
2 correct?

3 A Yes.

4 Q What did you do at Southside?

5 A Cook.

6 Q And you said you would come back and forth, you
7 were five minutes away. Why would you go back and forth?

8 A To make sure my mom ate and she's all right. Turn
9 her, make sure she's fine.

10 Q Okay. So you would come back home to check on your
11 mother?

12 A Uh-huh.

13 Q To feed your mother?

14 A Uh-huh.

15 Q If you would, please, Ms. Haynes, tell the jury
16 about **Minor** What kind of child was **Minor**

17 A **Minor** was a very sweet little boy. He was a very
18 loving little boy.

19 Q Was he active?

20 A Yeah.

21 Q Was he a boy that liked to play?

22 A Well, he loved -- he loved to play. I didn't see
23 him play too much because when he be around me -- he loved
24 to play. He was very active little boy.

25 Q When you would see **Minor** around the house, would he

Priscilla Haynes - Direct Examination by Mr. Caskey

1 be dressed or not?

2 A Dressed.

3 Q Did you see him undressed?

4 A No.

5 Q Did you ever see him undressed?

6 A No.

7 Q When was the last time that you saw **Minor** alive?

8 A The afternoon that I came from work, he was sitting
9 down watching TV, he and Sabrina and --

10 Q Take your time.

11 A He was sitting down watching TV when I got there
12 and he came up and came to me and I picked him up in my
13 arms and hold him at my chest. And I told Sabrina, I said
14 why -- you know, I asked him if he's okay. He don't seem
15 like he's okay. It seem like he's sick or something,
16 Sabrina. And she said well he's okay. And I said well,
17 okay. I felt him and he felt like he was warm or anything.
18 I said, well, you need to take him and put him to bed or
19 something.

20 You know, she said she had some medicine for him.
21 I said, well you need the take him upstairs and put him in
22 the bed because he don't seem like he's okay. And so he
23 just hold me and I just hold him and she came and got him
24 out of my arm and she said -- she take him upstairs and
25 give him some medicine and that was the last time I seen

Priscilla Haynes - Direct Examination by Mr. Caskey

1 him.

2 Q How far was that before he was dead? That the day
3 before?

4 A Excuse me?

5 Q When was that day that you're describing?

6 A The day before he died.

7 Q When you held him that last time, did you -- did he
8 make any noises, complaints?

9 A He didn't make no noises, he just laid on my
10 shoulder. I didn't know -- he just laid on my shoulder
11 like he wasn't feeling good. That's all. I just thought
12 he just wasn't feeling good. That's what I thought.

13 Q Did you hold -- have occasion to hold his bottom
14 when you were holding him there?

15 A He just came up to me and I pick him up on his arm
16 and I just hold him and he just laid his head down and then
17 he just didn't move right and I said, well -- that's why I
18 said, Penny, usually he was like kind of jolly with me when
19 I come in and he just laid there, you know, this boy don't
20 feel too good. Something wrong with him, you know.

21 Q Did he appear to be sore?

22 MR. WILLIAMS: Objection to leading.

23 THE WITNESS: No, he didn't seem -- he didn't
24 seem --

25 THE COURT: Excuse me, I'm sorry, Ms. Haynes, I

Priscilla Haynes - Direct Examination by Mr. Caskey

1 didn't mean to interrupt you.

2 I overrule that objection.

3 You may continue your examination.

4 BY MR. CASKEY:

5 Q I'm sorry I'd asked if he was -- if he appeared
6 sore?

7 A No, it didn't seem like he was hurting when I pick
8 him up. It seem like he was -- he was hurting, it didn't
9 seem that way. To me, it just seemed like he wasn't
10 feeling good. That's all I thought was that he just wasn't
11 feeling good.

12 Q Priscilla, did you ever change his diaper?

13 A No.

14 Q That night before he died, did you sleep in the
15 house?

16 A Yes.

17 Q Did you go to work the morning that **Minor** died?

18 A Yes.

19 Q And while you were home that night before going to
20 work, did you hear anything unusual?

21 A No.

22 Q If there had been crying would you have been able
23 to hear it?

24 A Yes, I was down -- I think I slept downstairs with
25 my mama so I could stay a little bit alert because when --

Priscilla Haynes - Direct Examination by Mr. Caskey

1 at night sometimes. Sometime I go upstairs, but I think I
2 slept downstairs that particular night. I'm not sure.

3 Q Had you ever heard **Minor** being spanked?

4 A Yes. Once. Well, no, I never heard him being
5 spanked, no.

6 Q If he had -- if it had occurred would you have been
7 able to hear it in the house?

8 A Yes.

9 Q So on the morning of November 27th, the day that
10 **Minor** died, if you would, please, tell the jury what you
11 remembered doing, beginning at the very first part of that
12 day.

13 A Very first -- the morning he died?

14 Q Yes, ma'am.

15 A Well, got up and went to work.

16 Q Do you recall -- I'm sorry go ahead, please?

17 A I got up and got ready to go to work like I usually
18 do and check on my mama to make sure everything was okay.
19 She was all right and I left her and went to work. Then I
20 came back home after I got set up, I came back home.

21 Q You got set up at work?

22 A Uh-huh. Got everybody straightened out.

23 Q And you mentioned that you came home. Why did you
24 come home that morning?

25 A To feed my mama, take care of her, make sure she

Priscilla Haynes - Direct Examination by Mr. Caskey

1 was okay.

2 Q Had you told anybody else to feed your mom that
3 morning?

4 A No.

5 Q Do you recall what time it was when you came home?

6 A If I remember -- I don't quite know, it was around
7 8, 8:30, somewhere up in there. Because she usually sleep
8 until about 7:30, 8 o'clock.

9 Q When you got home that morning, tell the jury what
10 happened.

11 A When I got home that morning, I went over with my
12 mom and she was still asleep and I was waking her up to
13 feed her and Joshua was on the telephone and he was on it,
14 I don't know -- well, I know he was talking to Penny
15 because when he got off the phone, he asked me to go pick
16 her up and I told him I didn't have time to go pick Penny
17 up because I came to feed my mama, you know, feed my mom
18 and I'll go back to work.

19 And he said, well, Penny need a ride home. She
20 need to get home. I said, she just went to work. He said
21 well, they let her off early, she need a ride home. So I
22 said, well, Joshua if I go and get Penny then you're going
23 to have to feed mama until I get back because I don't have
24 time do both, go pick her up and -- you know, I got go back
25 and check on the job. And he said okay.

Priscilla Haynes - Direct Examination by Mr. Caskey

1 Q Now, when you said Josh, you need to feed her, what
2 food were you referring to that he was supposed to feed
3 her?

4 A To feed her the food I brought back from the
5 restaurant.

6 Q Food you brought home from the restaurant?

7 A Uh-huh.

8 Q Okay. When you had come into the house that
9 morning and seen Josh on the telephone, at any point did
10 you go upstairs?

11 A No.

12 Q You stayed on the first floor?

13 A Yes. Went straight to her room.

14 Q And at that point, Josh sent you away, correct?

15 A Josh what?

16 Q Sent you to go get Penny?

17 A Yeah, he did ask me to go get her.

18 Q Did he mention to you anything about **Minor**?

19 A No, he didn't. I was surprised when I got to Penny
20 she told me that -- I told her -- when I got to Penny, she
21 was outside waiting and then -- then I see his mom came --
22 was up there too, coming up about the same time that I was
23 coming up and I said, well, why did he -- if he call her to
24 come pick you up why he told me to come pick you up. And
25 she side --

Priscilla Haynes - Direct Examination by Mr. Caskey

1 Q Well -- let me stop --

2 MR. WILLIAMS: Objection to hearsay, Your Honor.

3 MR. CASKEY: You're not going be able to --

4 THE COURT: I would sustain your objection to
5 hearsay.

6 And you may ask your next question, Solicitor.

7 THE WITNESS: I'm sorry.

8 THE COURT: No, no, you didn't do anything wrong.

9 BY MR. CASKEY:

10 Q Let me just -- before we get to McDonalds, let me
11 ask you, did the defendant mention 9-1-1?

12 A No.

13 Q Did he mention an ambulance?

14 A No.

15 Q Did he mention the child being unresponsive?

16 A He didn't tell me anything about **Minor**

17 Q At that point did he mention that Penny needed a
18 ride, did you go straight to McDonalds?

19 A Yes.

20 Q Did you go anywhere else?

21 A No.

22 Q Did you stop at the gas station?

23 A No.

24 Q When you got to McDonalds, where was Penny?

25 A On the outside.

Priscilla Haynes - Direct Examination by Mr. Caskey

1 Q Okay. Did she get in your car?

2 A Yes.

3 Q And when you drove back to your house, did you stop
4 anywhere else?

5 A No.

6 Q You're going to have to speak where we can hear
7 you.

8 A No. I'm sorry.

9 Q Okay. When you got back to your house with Penny,
10 what did you see?

11 A I see all the paramedics and stuff out in front,
12 the police and everything, everybody out in front.

13 Q Where did you go at that point?

14 A I went -- went into the house and I seen **Minor** laying
15 on the floor.

16 Q What did you do while they were, the EMS -- the
17 paramedics were working on **Minor** What did you do?

18 A I was just looking at them working on him on the
19 floor.

20 Q What, if anything, did you say to the defendant?

21 A I asked him why he didn't tell me something was
22 wrong with the boy instead of telling me to go pick Penny
23 up. And I don't remember what he say.

24 Q At some point **Minor** left. What did you do?

25 A Excuse me?

Priscilla Haynes - Direct Examination by Mr. Caskey

1 Q What did you do once Minor had left in the ambulance?

2 A I don't -- you mean when he went into the ambulance
3 and they took him to the hospital? Is that what you're
4 talking about?

5 Q Yes, ma'am.

6 A I had to -- I had came home from work to feed my
7 mama so I had to go back and let them know why I wasn't
8 there because of what happened. And I was trying to locate
9 her sister, to let her know what was going on with the
10 baby.

11 Q Did you -- where was your mother at this point?

12 A She just -- she was still laying down in the room.

13 Q Who, if anyone -- when did you return to your
14 house?

15 A What you mean? After everything happened?

16 Q Yes, ma'am. When did you come back to your house?

17 A To be honest with you, I can't really remember.
18 And I keep trying to think of all that happen in that time
19 frame, but I -- I don't really remember all that because
20 everything was just going so much. I was trying to think
21 of who was there with mama. I didn't know if my daughter
22 done came over or not. I really don't remember to say.

23 Q Okay. I guess, one last thing I just want to
24 clarify. I'd asked you earlier about spankings. Do you
25 remember Minor getting spankings? Or any spankings?

Priscilla Haynes - Direct Examination by Mr. Caskey

1 A I remember -- I remember coming home one day to
2 that because I -- to tell you the truth, I remember coming
3 home one day and I heard them yes, screaming upstairs,
4 crying upstairs. And I asked my niece when I got home --
5 because I came home to feed my mom some lunch and she and
6 the baby was upstairs in the bathroom and I asked her -- he
7 was crying and I said, well, what's wrong with **Minor** and she
8 said --

9 MR. WILLIAMS: Objection to hearsay, Your Honor.

10 THE COURT: I will sustain that objection.

11 BY MS. CASKEY:

12 Q Ms. Haynes, let me just back up just a second. A
13 second ago you said you heard them yelling upstairs. When
14 you said them, who were you referring to.

15 A Not, yelling, you know, not them, I just heard the
16 baby crying.

17 Q Who are the people that are present at the time?

18 A Just Sabrina and the baby.

19 Q Okay. Was Josh there at that time?

20 A No.

21 Q You were able to hear the crying?

22 A Yes.

23 Q From downstairs?

24 A Yes.

25 Q Okay. Now, that afternoon of the incident was

Priscilla Haynes - Direct Examination by Mr. Caskey

1 **Minor** did **Minor** appear to be normal to you?

2 A Yes.

3 Q Did he appear to be able to walk a bit?

4 A Yes.

5 Q Did he complain to you of any injuries?

6 A No.

7 Q Now, just so I know that I'm clear, the night
8 before **Minor** died, did you hear any crying?

9 A No.

10 Q Did you hear any yelling?

11 A (Witness shook head.)

12 Q Did you hear any sounds of the baby being harmed?

13 A No.

14 Q And let me just ask you, was the defendant ever the
15 caretaker for your mom?

16 A He had -- he watch over my mom sometimes when I'm
17 not there and make sure she's okay. Him and Penny.

18 Q And would those times occur under your direction?

19 A If I'm not there and there in the house with her,
20 there watch her.

21 Q When you told them to do something?

22 A Yeah.

23 Q All right. On the morning that **Minor** died, did you
24 see any signs or evidence that the defendant had actually
25 fed your mom the food that you had brought home from

Priscilla Haynes - Cross-Examination by Mr. Williams

1 Southside? You remember that?

2 A I can't remember that. When I came back from
3 picking her up, the police and everything was working on
4 him and, matter of fact, my mind was just a vague. I
5 really don't know from now if she was fed or not. There
6 was just so much going on.

7 Q Thank you.

8 MR. CASKEY: I don't have any further questions,
9 Your Honor.

10 THE COURT: Thank you, Solicitor.

11 Mr. Williams.

12 MR. WILLIAMS: May it please the Court.

13 **CROSS-EXAMINATION**

14 BY MR. WILLIAMS:

15 Q Ms. Haynes, first name is Priscilla, correct?

16 A Yes, sir.

17 Q I'm Theo Williams.

18 A Nice to meet you.

19 Q Nice to meet you.

20 You are the owner of the residence where **Minor** lived;
21 is that correct?

22 A Yes.

23 Q Okay. And how long had you known **Minor**

24 A How long have I known **Minor**

25 Q Yeah, the child, before he died?

Priscilla Haynes - Cross-Examination by Mr. Williams

1 A Since he was born, I guess.

2 Q Because your relationship to him is what?

3 A His aunt.

4 Q His aunt. So would that mean Sabrina was your --

5 A Niece.

6 Q Niece. So her mother would have been your sister?

7 A Yes.

8 Q Is that right?

9 A Yes.

10 Q Okay. All right. What is her mother's name?

11 A Helen.

12 Q Helen.

13 A Uh-huh.

14 Q Her mother is Helen Haynes. Where does Helen
15 Haynes live? But she wouldn't be Haynes, though, would
16 she? What is Helen's last name?

17 A Haynes is all I know.

18 Q Okay. Where does Helen Haynes live?

19 A The last time I know she was in Miami. I haven't
20 spoke to her mother in a long time.

21 Q Okay. Well, now, Sabrina is the daughter and her
22 mama's living in Florida. How long has Sabrina lived in
23 Lexington County?

24 A I'm going to tell you, I really don't keep up with
25 stuff like that. I'm sorry. I'm just not good with date,

Priscilla Haynes - Cross-Examination by Mr. Williams

1 times and years and all of that. I just --

2 Q Let me tell you where I'm coming from. You said
3 that she had moved in with you and your mama about what,
4 two to three weeks before Minor died? How long did -- had
5 she actually been staying with you? She and Minor

6 A Because she moved -- she was there before --

7 Q I'm talking about the most recent time.

8 A That's what I'm talking about. She was there
9 before.

10 Q Okay.

11 A She moved out --

12 Q Okay.

13 A -- for about, I guess, two or three months or
14 something like that.

15 Q Okay.

16 A And wherever she and Minor she and Joshua was
17 living, they put them out.

18 Q Okay. So where did she move -- where did she move
19 to?

20 A I don't know.

21 Q You have no idea where she moved to?

22 A No, I don't.

23 Q Okay. All right. So let me get -- so how long --
24 when she moved back in how long had they moved back in
25 before in child ended up dying?

Priscilla Haynes - Cross-Examination by Mr. Williams

1 A I'm saying that she was back in the second time
2 maybe three weeks, four weeks, I'm not sure.

3 Q Okay.

4 A I never keep up with time. I just -- I'm really
5 not sure.

6 Q Okay. So they've been back three or four weeks.
7 She had been -- and before that she'd stayed some other
8 place for two or three months. And then, before she stayed
9 at this other place for two or three months, she'd been
10 staying with you; is that right?

11 A Uh-huh.

12 Q And how long had she been staying with you for this
13 period of time?

14 A She haven't been staying with me that long.
15 Probably, maybe four or five months because she was staying
16 with her sister. And they got into a little argument
17 and...

18 Q Okay. So before she stayed with you, you said she
19 got in an argument with her sister --

20 A Yeah.

21 Q -- is that why she moved out?

22 A Uh-huh.

23 Q That's why she moved out to move in with you the
24 first time; is that right?

25 A Right. Right.

Priscilla Haynes - Cross-Examination by Mr. Williams

1 Q What's her sister's name?

2 A Sergina White.

3 Q Sergina White?

4 A Uh-huh.

5 Q And where does she live?

6 A At Meadow Lakes -- in Meadow Lakes somewhere.

7 Q Okay. And how long had she been staying with her
8 sister?

9 A I don't keep up with them, sir. I'm not trying to
10 be funny, but I don't know.

11 Q Okay.

12 A I really don't.

13 Q Okay. Well, she had **Minor** which was two, almost
14 three years of age. She had another child too, didn't she?

15 A Yes, Curt.

16 Q Well, where did Curt live?

17 A He was staying most of the time with his
18 grandmother.

19 Q Not with his daddy?

20 A I think they was together. I don't know.

21 Q All right. When did Curt cease living with his
22 mom? Did you know -- did you know -- did you know her when
23 she had Curt staying with her?

24 A Yes. I think she was staying with Sergina with
25 Curt. Like I said, I don't keep up with these kids. I

Priscilla Haynes - Cross-Examination by Mr. Williams

1 really don't know.

2 Q So she might have been staying with Curt's
3 grandmother and -- they might have all been staying
4 together; is that what you're saying?

5 A They might have, I don't know.

6 Q Okay. And then when she moved out of Curt's
7 grandma's house she left Curt there; is that what happened?

8 A I don't know, I think so. I really don't get into
9 their business. I don't know.

10 Q Okay. Now, I think you described -- and I'll tell
11 you why it's important. I keep forgetting that. You
12 described on the day before the child died --

13 A Uh-huh.

14 Q -- that you noticed that the child was -- appeared
15 to be sick, or didn't feel good?

16 A Yeah.

17 Q Felt like he had a fever?

18 A No, it didn't feel like he have a fever, but he
19 just wasn't his self like I usually come home and he
20 just -- he came to me and I pick him up and me laid on my
21 shoulder like -- and I said what's wrong **Minor** and I said,
22 well, Penny, it don't seem like this baby feel good, what's
23 wrong with him.

24 Q Didn't say anything either?

25 A No.

Priscilla Haynes - Cross-Examination by Mr. Williams

1 Q Didn't say a word, he just laid there?

2 A Yes.

3 Q All right. Now, they had been staying with you
4 for, I think you indicated three or four weeks before he
5 died. So if this was November 26th when you -- when this
6 child was laying -- you know, put his shoulders and was
7 sick --

8 A Uh-huh.

9 Q If you go back three weeks, if that's the 26th. I
10 figure that's 21 days, I guess. And you subtract that from
11 26, you end up with November 5th. And there's a reason,
12 I'm not trying to be tricky with the dates or anything.

13 A Uh-huh.

14 Q Do you remember an occasion when the child had to
15 go to the Lexington Medical Center before this event?

16 A He did go to the hospital, yes. He did.

17 Q Okay.

18 A He did.

19 Q Okay.

20 A Yes, he did.

21 Q Okay. And do you remember how the child was acting
22 when he went to the hospital on that -- do you remember if
23 he was sick or -- he had to have some reason to go, right?

24 A I don't -- I remember that he -- they went to the
25 hospital, but I don't remember -- I think when they went to

Priscilla Haynes - Cross-Examination by Mr. Williams

1 the hospital I wasn't there. I mean, they went to the
2 hospital and then they came back to tell me that they went
3 to the hospital because Minor wasn't feeling good --

4 Q Okay.

5 A -- or something like that.

6 Q And did he have the same kind of symptoms on or
7 about that time that he had the day -- on November 26th?

8 A I couldn't say that because I didn't -- he probably
9 was upstairs, I didn't -- I didn't see him -- I don't
10 remember that. But I remember they said he went to the
11 hospital.

12 Q Do you know how long Minor had been sick before
13 November 26th?

14 A No.

15 Q All right. Well, you work at Sunshine, don't you?

16 That --

17 A Southside.

18 Q Southside Restaurant down there in Triangle City?

19 A Yes.

20 Q Right there on 378?

21 A Yes.

22 Q Well known breakfast place?

23 A Yes.

24 Q Now, how long have you worked there?

25 A About 25 years.

Priscilla Haynes - Cross-Examination by Mr. Williams

1 Q Okay. The date that, on November 26th, that would
2 have been Tuesday. You work always in the mornings?

3 A Yes.

4 Q And you set up for breakfast?

5 A Yes.

6 Q When I say set up for breakfast, are you in charge
7 of making sure all the food's ready before you leave?

8 A Well, when I go in and I usually get the breakfast
9 and everything started because someone has come in. When
10 they come in, I can go back and forth.

11 Q So you have a regular shift at the Sunset?

12 A Uh-huh. Actually, I --

13 Q Southside?

14 A Southside.

15 Q I'm sorry. It is on Sunset Boulevard?

16 THE COURT: Sunset Boulevard, Southside --

17 BY MR. WILLIAMS:

18 Q Southside Restaurant?

19 A It's on Charleston Highway.

20 Q I know where it's at, it's a place to eat.

21 A Okay.

22 Q I'm sorry if I keep mispronouncing the name.

23 A That's right.

24 Q So you would have gone in to work, that Tuesday,
25 you would have gone into work at what time? Early in the

Priscilla Haynes - Cross-Examination by Mr. Williams

1 morning?

2 A Yes.

3 Q What time?

4 A At 4:30.

5 Q Four o'clock in the morning. And you came home on
6 that date about what time? That's the Tuesday before the
7 child --

8 A That's when I came back with my mom?

9 Q Uh-huh.

10 A Probably about eight, somewhere in there.

11 Q All right. Is that when you saw Minor and he put his
12 arms around your neck and everything?

13 A Oh, that's -- you're talking about the -- no, I
14 thought you were talking about the day he passed.

15 Q No, no, I'm talking about the day before. The day
16 before he passed. You went into work that morning also,
17 didn't you? That Tuesday morning?

18 A Yes. But I always come back and check on mama,
19 sometimes two times, three times, I just come back and
20 check --

21 Q Okay.

22 A -- whenever I get a chance. I just come on back
23 and check on her a lot of times. Uh-huh.

24 Q That day --

25 A I make sure she's eating good.

Priscilla Haynes - Cross-Examination by Mr. Williams

1 That particular day when he didn't feel well, that
2 was in the afternoon when I got home.

3 Q Okay. So that would have been what time? What
4 time of the day on that Tuesday?

5 A That was about, probably about two o'clock.

6 Q Two o'clock in the afternoon?

7 A Uh-huh.

8 Q And he didn't feel good?

9 A Huh-huh.

10 Q Of course, nobody took him to the doctor that day,
11 did they?

12 A No, she said she had some medicine for him. She
13 took him upstairs and lay him down.

14 Q Who said that?

15 A Penny.

16 Q Okay. All right. Did you see him again after you
17 saw him that afternoon?

18 A No, sir.

19 Q Okay. So I assume you went ahead -- do you go to
20 bed early because you get up so early in the morning?

21 A Uh-huh.

22 Q Okay.

23 A I get up out of bed early.

24 Q Okay. So you would have gone to bed what time that
25 night do you think?

Priscilla Haynes - Cross-Examination by Mr. Williams

1 A Oh, I really couldn't tell you because it all
2 depends on my mom.

3 Q Okay. Well, do you recall specifically sleeping in
4 her room that night or do you know that for a fact? Or
5 could you have gone to bed -- your bedrooms upstairs; isn't
6 it?

7 A It's upstairs and sometime I have laid on the couch
8 with her.

9 Q All right. Does she sleep -- does she sleep on the
10 couch?

11 A Who?

12 Q Your mama?

13 A No, she have her own bedroom.

14 Q Oh, she's got a couch in her room?

15 A No, I have a couch that I stay to sleep on the
16 couch because I had a room for her --

17 Q Uh-huh.

18 A -- downstairs, I put in a room for her downstairs.

19 Q Right.

20 A And I sleep on the couch sometimes.

21 Q So what you're saying is that if you were
22 downstairs sleeping on the couch, you would be across from
23 her bedroom; is that right? Am I describing that
24 correctly?

25 A It would be in the living room.

Priscilla Haynes - Cross-Examination by Mr. Williams

1 Q It'd be in the living room. You fell asleep on the
2 couch --

3 A Uh-huh.

4 Q -- and she would be in that downstairs bedroom
5 sleeping.

6 A Uh-huh. Uh-huh.

7 Q So if you're staying down in -- the door's open,
8 right? To her room?

9 A Yes.

10 Q Well, it's not a door, it's like a little sheet or
11 something?

12 A Uh-huh.

13 Q Do you recall that particular night if you slept on
14 the couch that night?

15 A I probably did.

16 Q Okay. Do you recall when you gave a statement to
17 law enforcement about these things? About the events of
18 that day? Do you remember giving a written statement to
19 law enforcement? To the police?

20 A I remember giving a written statement. I don't
21 remember exactly what I said on a lot of it.

22 Q All right. Well, if you said you went to bed, then
23 it wouldn't necessarily mean that you went to your bedroom
24 and went to bed, it might mean that you went to couch, or
25 you went to sleep, right?

Priscilla Haynes - Cross-Examination by Mr. Williams

1 A Uh-huh.

2 Q So it's just in the use of your verbiage, right?

3 You might have said bed when you meant to say couch, right?

4 A Probably.

5 Q Okay.

6 A But I really can't remember if I went to bed or I

7 laid on the couch. I don't know.

8 Q Okay. Okay. Do you recall the Wednesday -- the
9 Wednesday morning, which is November 27th. Do you remember
10 getting up to go to work?

11 A Yes.

12 Q All right. Do you remember what time you left to
13 go to work?

14 A Probably around four, 4:30, something like that.

15 Q Okay. So from four or 4:30 on Wednesday the 27th,
16 that would be the day that you left to go work. And
17 obviously, you would have gotten up earlier, taken a
18 shower, get ready, get your clothes on. So what time would
19 you have actually waked up that morning?

20 A Usually I don't take a shower early in the morning
21 time. I usually take a bath at night.

22 Q Okay.

23 A And, well, except maybe one time when it's really
24 hot or something like that and then I get up and take a
25 shower, do my hair and stuff, but...

Priscilla Haynes - Cross-Examination by Mr. Williams

1 Q It's pretty hair.

2 So you would have gotten up maybe around 3:30,
3 something like that?

4 A Yeah, I usually get up around 3:30 every morning.

5 Q Okay. So nothing was going on at 3:30 in the
6 morning --

7 A No.

8 Q -- while you got dressed, fixed your hair and then
9 you would have left around four or 4:30.

10 A Yeah, I open up at five.

11 Q And you heard nothing that night from the time in
12 which you went to bed, up until the time that you got up?

13 A Huh-huh.

14 Q Okay. Now, how many -- how many landline phones do
15 you have in your house?

16 A Well, actually I have one to every room, but I only
17 have one downstairs that's working.

18 Q Okay. So you've got a phone -- you have a landline
19 phone downstairs, but you don't have a landline phone
20 upstairs, right?

21 A I have one, but I don't have the phone.

22 Q I got you. You've got the connections, but you
23 have to plug a phone in?

24 A Yes.

25 Q I got you.

Priscilla Haynes - Cross-Examination by Mr. Williams

1 A Uh-huh.

2 Q So you have one landline phone and it's downstairs?

3 A Uh-huh.

4 Q Do you remember whether or not you had any
5 conversation about -- that morning, about taking Sabrina to
6 work?

7 A I cannot exactly remember that.

8 Q I'm sorry, I couldn't hear it?

9 A I can't remember.

10 Q You don't know whether you did or didn't?

11 A I can't.

12 Q Okay.

13 A I really don't. I was trying to think of it, but I
14 just can't remember whether I drop her off or not.

15 Q So you might have had a conversation --

16 A I did that --

17 Q -- you just don't remember?

18 A I just -- I really don't remember.

19 Q Okay. If you were to have that conversation, you
20 would have had it upstairs in the bedroom where they stay;
21 is that right?

22 A Not necessary.

23 Q Just don't remember?

24 A I just don't remember that.

25 Q Okay. And you have done that before, haven't you?

Priscilla Haynes - Cross-Examination by Mr. Williams

1 A Yes.

2 Q Taken her to work when she worked at McDonalds
3 early in the morning?

4 A Yes, sir.

5 Q So it's not an unusual thing for you to do?

6 A I did it once or twice.

7 Q Where is Minor father?

8 A I have no idea.

9 Q Have you ever met him?

10 A Yes, I have --

11 MR. CASKEY: Objection, relevance.

12 THE COURT: Overruled.

13 BY MR. WILLIAMS:

14 Q You ever met him?

15 A Yes, I have.

16 Q Has he ever been to your house?

17 A Yes. He been to my house.

18 Q You remember the last time that he came to your
19 house?

20 A He never been to my house like that. He been to my
21 house. I think I met -- he been to my house probably
22 twice. I'm not sure, but he never would just come around
23 and see him like that.

24 Q Right. But at some point in time, you've seen him
25 at your house?

Priscilla Haynes - Cross-Examination by Mr. Williams

1 A Yes, when he first came to Columbia.

2 Q Okay. And --

3 A When he's been to Columbia.

4 Q So was this the first time that they were staying
5 with you or the second time they were staying with you?

6 A First time.

7 Q Did you see him while they were staying with you if
8 second time? Coming to your house?

9 A No.

10 Q Okay.

11 A Not that I can remember.

12 Q Not that you remember?

13 A I'll put it that way.

14 Q Excuse this question, but I'm going ask it any way?

15 A Yes, sir.

16 Q I know your mom is deceased.

17 A Yes.

18 Q I lost my mom too. It's hard to talk about that.

19 A Uh-huh.

20 Q Can you tell me the approximate month when your
21 mother died?

22 A I can't exactly.

23 Q Do you know what period of time after **Minor** death
24 that she died?

25 A I know it was about a year after **Minor** died.

Priscilla Haynes - Redirect Examination by Mr. Caskey

1 Q So. So it was approximately one year after **Minor**
2 death that she actually passed away.

3 A It's about a year after **Minor** died, actually.

4 Q Thank you so much.

5 MR. CASKEY: Your Honor, may we approach very
6 briefly?

7 THE COURT: Yes, sir.

8 (There was a bench conference out of the hearing of
9 the jury and the Court Reporter.)

10 THE COURT: Thank you, Solicitor.

11 Thank you, Mr. Williams.

12 MR. WILLIAMS: Thank you, Your Honor.

13 THE COURT: And my question of you, Solicitor is
14 redirect?

15 MR. CASKEY: Yes, Your Honor, very briefly.

16 THE COURT: Thank you.

17 **REDIRECT EXAMINATION**

18 BY MR. CASKEY:

19 Q Ms. Haynes, why were Sabrina and the defendant and
20 **Minor** living with you?

21 A Well --

22 MR. WILLIAMS: Objection. Improper question on
23 redirect, Your Honor.

24 THE COURT: I'm pretty liberal on rule 611,
25 Solicitor, I -- excuse me, Mr. Williams, because I think

Priscilla Haynes - Redirect Examination by Mr. Caskey

1 they could always recall a witness, so I generally allow it
2 beyond the scope.

3 You may answer that question, if you know the
4 answer, Ms. Haynes.

5 THE WITNESS: Yes, sir.

6 Well, his mother brought them -- Sabrina to the
7 house because she --

8 MR. WILLIAMS: Objection to hearsay.

9 THE WITNESS: She got put out.

10 MR. WILLIAMS: Okay.

11 THE COURT: You object?

12 MR. WILLIAMS: As far as it's gone, I don't object,
13 Your Honor.

14 THE COURT: Thank you.

15 THE WITNESS: And I told her that I didn't want
16 Sabrina to stay with me, but she had a little baby and I
17 told her the only reason why I let her come back in the
18 house because I'm not going to let the little baby stay out
19 there and don't have a place to stay.

20 BY MR. CASKEY:

21 Q Thank you, and I just want to make sure we're clear
22 about the morning -- (writing on chart.)

23 Ms. Haynes, on the morning of November 27th, 2013,
24 the day that **Minor** died, you said you woke up about what
25 time?

Priscilla Haynes - Redirect Examination by Mr. Caskey

1 A I always get up at 3:30.

2 Q And what time, if you can recall, did you leave for
3 work?

4 A Probably around 4:30, around 4, 4:30. I open up at
5 5.

6 Q And then you returned back to the house at about
7 what time?

8 A Around -- well this -- this particular time, I came
9 back around 8 or something; 8, 8:30 or something like that.

10 Q I'm sorry, you need to speak into the microphone.

11 A I said this particular day, I returned around about
12 8, 8:30, something like that.

13 Q Okay. And from your house, about how long a drive
14 is it to the McDonalds where Sabrina, or Penny as you call
15 her, worked?

16 A Probably about 15, 10 minutes, 15, I'm not sure.

17 Q 10 to 15 minutes; is that what you said?

18 A Probably, I'm not sure.

19 Q Okay.

20 MR. CASKEY: Beg the Court's indulgence.

21 THE COURT: Yes, sir.

22 BY MR. CASKEY:

23 Q On the morning of the 27th when I went to pick up
24 Sabrina, do you recall anything different about that drive
25 to McDonalds?

Priscilla Haynes - Redirect Examination by Mr. Caskey

1 A No, not really, just I got stopped by a train.

2 Q You got stopped by a train?

3 A Yes.

4 Q Do you recall where that was at?

5 A Going across the track like you're going up to the
6 flea market. I don't know. The way I took, there's a
7 train track.

8 Q Do you have any idea about how long you were
9 stopped there?

10 A Not that long. Probably about five or ten minutes,
11 if that long.

12 Q And you said about ten or fifteen minutes to
13 McDonalds, is it about that same length of time back from
14 McDonalds?

15 A Yes.

16 Q All right. That's the driving time --

17 A Yes.

18 Q -- the ten or fifteen minutes?

19 A Yes.

20 Q And just so I'm clear, when you left the home to go
21 get Sabrina from McDonalds, was the ambulance there?

22 A No.

23 Q But when you came back was the ambulance there?

24 A Yes.

25 Q All right. Ms. Haynes, I'm showing you what's been

Priscilla Haynes - Redirect Examination by Mr. Caskey

1 put into evidence as State's 42. I'm going ask you to take
2 a look at that and ask you, have you ever seen Minor with his
3 arm looking like that?

4 MR. WILLIAMS: Objection, Your Honor, again, that's
5 not proper redirect.

6 THE COURT: I will sustain that objection.

7 MR. CASKEY: Okay.

8 BY MR. CASKEY:

9 Q Let me ask it this way: Earlier Mr. Williams was
10 asking you about how Minor felt the night before he died.
11 Did you see any injuries?

12 A No. No, I didn't see any injury on him.

13 Q Did you see any bruising?

14 A Most of the time when I seen Minor he would have on
15 clothes, so I really didn't see any kind of sign that he
16 was hurt any kind of way. If I did, I would ask them about
17 it. I didn't see it.

18 Q And did you see hands that night when he hugged
19 you?

20 A Like I said, I didn't see anything on him. I did
21 not see it. I did not see his hand was messed up like
22 that, no. I didn't see it. I didn't see it.

23 Q When his hand was around your neck the last time
24 you saw him --

25 A Uh-huh.

Priscilla Haynes - Redirect Examination by Mr. Caskey

1 Q -- did they look like that?

2 THE COURT: I thought I ruled on that.

3 MR. WILLIAMS: You did, Your Honor:

4 THE COURT: And I thought my rulings had meaning.

5 MR. CASKEY: Certainly, Your Honor.

6 THE COURT: I have ruled on that. I sustained the
7 objection.

8 MR. CASKEY: I don't have any further questions.

9 THE COURT: Recross-examination Mr. Williams?

10 MR. WILLIAMS: No recross, Your Honor.

11 THE COURT: Thank you, Ms. Haynes. You may step
12 down.

13 MS. MAYES: May we approach, Your Honor?

14 THE COURT: No, ma'am. I said no, ma'am.

15 Mr. Foreman, ladies and gentlemen of the jury,
16 let's take about fifteen minutes. Do not discuss the case
17 during this brief recess. Please leave your notes.

18 (The jury left the courtroom at 12:26 p.m.)

19 THE COURT: Solicitor, I wasn't trying to be rude
20 or unmannerly, or unfriendly. I just thought I'd let the
21 jury go. That's all.

22 Yes, ma'am? You need to approach the bench or is
23 it something we can do in open court?

24 MS. MAYES: Yes, sir, Your Honor. It's about
25 scheduling. Our next witness will take us until the two

1 o'clock time that you mentioned. There's an audio tape
2 that is actually is going the exceed that amount of time,
3 so just for purposes of presentation of that piece, we
4 could start it and then stop it and continue on in the
5 morning. I just wanted to bring that to the Court's
6 attention.

7 THE COURT: All right. And who is your next
8 witness?

9 MS. MAYES: It's Agent Baird with the State Law
10 Enforcement Division.

11 THE COURT: All right. And then -- there is an
12 audio tape that's to be introduced through Agent Baird that
13 was conversation with Mr. Hopkins?

14 MS. MAYES: Yes, sir, Your Honor. That tape, we
15 believe is about two and a half hours in length.

16 THE COURT: All right.

17 MS. MAYES: Now, she will have some preliminary
18 testimony before we get into the tape, but the tape itself
19 will probably take us past two.

20 THE COURT: All right. Well, we'll press on until
21 the two o'clock hour and then we'll just have to come back
22 tomorrow and then finish the tape and the officer's
23 testimony. So I take it we wouldn't get any
24 cross-examination at all this afternoon.

25 MS. MAYES: Correct.

1 THE COURT: All right. Thank you. Thank you very
2 much, Solicitor.

3 Anything Mr. Williams?

4 MR. WILLIAMS: Nothing from the defendant, Your
5 Honor.

6 THE COURT: We'll take about fifteen minutes.

7 (A brief recess was observed.)

8 THE COURT: Anything, Solicitor?

9 MS. MAYES: Nothing from the State, Your Honor.

10 THE COURT: Mr. Williams?

11 MR. WILLIAMS: Yes, Your Honor, we're ready.

12 THE COURT: Is there going to be any objection to
13 the video?

14 MR. WILLIAMS: No, Your Honor.

15 (The jury entered the courtroom at 12:48 a.m.)

16 THE BAILIFF: All present, Your Honor.

17 THE COURT: Thank you.

18 Ladies and gentlemen, our next witness will be our
19 last witness of the day. I understand through this witness
20 the State intends to introduce a video-taped statement of
21 the defendant. The statement is about, I understand, two
22 and a half hours in length, so once it's introduced, it
23 will be published. We won't get through the whole
24 statement, obviously, by two o'clock. We'll stop at that
25 hour.

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1 Thank you. Thank you very much.

2 All right. Solicitor, you may call your next
3 witness.

4 MS. MAYES: The State calls Agent Trista Baird.

5 THE COURT: All right. Agent Baird come you would
6 come around and be sworn for us, please.

7 TRISTA BAIRD,
8 having been duly sworn, testified as follows:

9 THE CLERK: If you'll have a seat over here. State
10 your name, please and spell your last for the record.

11 THE WITNESS: Trista Baird, B-A-I-R-D.

12 **DIRECT EXAMINATION**

13 **BY MS. MAYES:**

14 Q Good morning, Agent.

15 A Good morning.

16 Q Could you give us some information regarding your
17 educational background and training that led you to become
18 a SLED agent.

19 A I've been in law enforcement for the past nine and
20 a half years. Prior to that I have a bachelor's degree,
21 which is in Psychology and Sociology with a concentration
22 of Criminology, a minor in Biology and a master's degree in
23 Criminal Justice and I was at Rock Hill Police Department
24 prior to SLED.

25 And there, in 2010, I started investigating child

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1 abuse and vulnerable adult abuse and then for the past
2 three and a half years, I've been employed with the State
3 Law Enforcement Division, commonly known as SLED in the
4 special victim's unit and the department of child
5 fatalities.

6 Q All right. I need you to pull that microphone up a
7 little bit closer to you.

8 You mentioned over nine years experience in law
9 enforcement?

10 A That's right.

11 Q And previously with the Rock Hill Police Department
12 prior to joining the State Law Enforcement Division?

13 A That's right.

14 Q And you mentioned that you were assigned to the
15 department of child fatalities. Tell us a little bit about
16 that division of the State Law Enforcement Division and
17 what your job entails.

18 A The department of child fatalities is in the
19 special victim's unit and we are an assisting agency and we
20 assist local law enforcement with any child deaths that
21 occur in the State of South Carolina that are not natural
22 and -- or traffic fatalities. Highway patrol does handle
23 the traffic fatalities. So we help to investigate anything
24 that's not natural and we're called by local law
25 enforcement. The coroners in the state are required to

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1 report to us within 24 hours and so either the coroner or
2 local law enforcement could request us to come to a scene
3 and assist them with the investigation.

4 Q Now, specifically, in the field of child abuse,
5 what type of training and experience do you have in the
6 investigation of child abuse cases, whether it's physical
7 abuse, sexual abuse, or homicide by child abuse?

8 A I've investigated all: Physical abuse, sexual
9 abuse, and homicide by child abuse; and that's including
10 neglect. And I've been to multiple trainings on child
11 abuse, on neglect, on abuse of head trauma. I've been to
12 extensive training since 2010.

13 Q All right. And ongoing training even as we speak?

14 A Correct, yes, ma'am.

15 Q Now, what is the general procedure in a child
16 fatality investigation where it's suspected that the cause
17 of death is homicide?

18 A As I said, we're an assisting agency and so when we
19 are called to the scene, then we'll help in any way that
20 we're requested. A lot of times if it is suspected that it
21 is homicide, then, of course, we're going to have the crime
22 scene unit, whether it be SLED's crime scene unit or local
23 law enforcement's crime scene unit, they will come out. We
24 will, a lot of times be there with them. We also assist
25 with interviews with the caregivers or whoever was there

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1 with the child at the time of the death. We speak with the
2 coroner's office and if the child is at the hospital, then
3 we may also go to the hospital or get information from
4 someone at the hospital that's there with the child.

5 Another thing that we do is a video reenactment.
6 And the video reenactment is to help us -- oftentimes it's
7 after the initial interview with the caregiver -- and the
8 point of that is to help us to better understand exactly
9 what happened that morning or that -- before the incident
10 that caused the child to die. A lot of times the
11 caregivers are really upset and so they're not able to
12 accurately tell us exactly what happened, but often if we
13 give them a doll and ask them to walk through it, they're
14 better able to show us what happened. And so we do gain a
15 lot of information from those reenactments.

16 Q All right. And is there also at least an attempt
17 initially to make contact with the child's caregivers,
18 persons in the family to determine a timeline of events for
19 the child?

20 A Absolutely. We try to do that as soon as we get to
21 the scene. We separate whoever was there, the caregivers
22 and interview them separately. We try to get a history of
23 developmental -- developmentally what that child could do
24 or couldn't do, medical history, basically we just try to
25 find out anything about the child and then, of course, we

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1 do talk about the timeline. We try to go back at least 24
2 hours about what's been going on the past 24 hours with
3 that child.

4 Q All right. Agent Baird, how did you become
5 involved in the investigation of a child fatality at [REDACTED]
6 [REDACTED] on November 27th of 2013?

7 A Springdale Police Department requested that our
8 unit respond and I was notified by my captain at the time,
9 which is Patsy Lydell and she asked me to respond to the
10 incident location.

11 Q And where did you go to first?

12 A I went to the house at [REDACTED].

13 Q And for what purpose?

14 A I wanted to go and actually talk to someone from
15 Springdale Police Department. I spoke with Chief Cornett
16 and we decided to meet at the house. And once we got to
17 the house, he just told me everything that -- all the
18 information that he'd been given and then I also spoke with
19 Agent Johnson and we just -- we began walking through the
20 house.

21 Q Okay. And that's Agent Johnson who testified
22 earlier this morning from the SLED Crime Scene Division?

23 A That's right.

24 Q So in all, Agent Baird, how many SLED agents were
25 at the residence there at [REDACTED] on the date of

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1 **Minor** death?

2 A There were six of us.

3 Q You had six SLED agents at the scene at some point
4 in time during that day?

5 A Yes, ma'am.

6 Q All right. How many were from the SLED Crime Scene
7 Unit?

8 A Three.

9 Q And then you are a case agent. The other two
10 individuals that you mentioned from the State Law
11 Enforcement Division were assigned to what department
12 within SLED?

13 A They're also with my unit in the Department of
14 Child Fatalities; or they were at that time.

15 Q All right. So three from crime scene and three
16 SLED agents specifically within the division of the Child
17 Fatality Investigative Unit?

18 A That's right.

19 Q And do those other two agents, can you tell us
20 whether or not that also included your captain?

21 A That's right. My captain at the time was Patsy
22 Lydell and she was also with me.

23 Q All right. And who was the other agent at the
24 scene?

25 A Agent Christine Cauthen.

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1 Q All right. And all three of you, do you have
2 training specifically in this field?

3 A Yes, we do.

4 Q Now, there's -- there was questioning earlier in
5 this trial about all the different members of the family
6 and whether or not they were spoken to that day. Would
7 that have all been the responsibility of Springdale Police
8 Department?

9 A No, it wouldn't have. We were there to assist
10 them.

11 Q All right. And so considering the various agents
12 involved, how did y'all go about splitting up the
13 responsibilities and who would talk to the various
14 witnesses and relatives and persons who may have had
15 contact with **Minor**

16 A Captain Bice with the Springdale Police Department
17 and Agent Cauthen with my unit, they interviewed the
18 defendant and myself and Captain Lydell, we interviewed the
19 codefendant, Sabrina Haynes, and we also interviewed
20 Priscilla Haynes.

21 Q All right.

22 A And then Captain Bice and I also interviewed the
23 victim's father, Timothy Swearington. And all that
24 happened on November 27th.

25 Q All right. So on the actual interview date, the

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1 defendant, Joshua Hopkins, was interviewed, correct?

2 A Yes, ma'am.

3 Q The codefendant, in this case, Sabrina Haynes, she
4 was also interviewed?

5 A Yes, ma'am.

6 Q Priscilla Haynes who we heard from earlier this
7 morning, the homeowner, the aunt of Sabrina Haynes, she was
8 interviewed on that date?

9 A That's right.

10 Q And then you mentioned the biological father of Minor
11 Swearington was also interviewed on that date?

12 A Yes, ma'am.

13 Q Now was he actively involved in Minor life during
14 this time frame of November 2013?

15 A No, ma'am.

16 Q Okay. And based on your investigation, when was
17 the last actual contact he had with Minor

18 A That would have been in May of 2013.

19 Q So months beforehand?

20 A Yes, ma'am.

21 Q Now, what about Wilhelmina Haynes? There's been
22 some discussion about her. She's the great grandmother of
23 Minor who was also a resident of . Can you
24 tell us whether or not there were attempts to determine if
25 she would provide a statement?

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1 A Through our investigation, we were told that she
2 was not --

3 MR. WILLIAMS: Objection to hearsay, Your Honor.

4 BY MS. MAYES:

5 Q And you can't quote what anyone else said to you.

6 Were attempts made to determine if she was
7 competent?

8 A Yes, they were.

9 Q Were you or any other agencies ever able to follow
10 through with getting a statement from her?

11 A No, ma'am.

12 Q You mentioned your involvement on the actual
13 incident date which is November 27th, and that you
14 responded to the crime scene, that you met with Agent
15 Johnson there. What do you recall taking place at the
16 scene while you were there?

17 A While I was there the photographs were being taken.
18 Agent Johnson was working on a sketch and we had also
19 received information from Laura Grimes, who is the deputy
20 coroner on the scene that when she viewed the body at the
21 hospital that there was a mark on his arm; and so myself,
22 Agent Cauthen, and Captain Lydell were also looking through
23 the residence to see if we could figure out what that mark
24 was caused from, what instrument was used to cause it.

25 Q I'm going to show you a photograph, which is

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1 State's Exhibit 41 and ask you whether or not you have
2 viewed that photograph in the past?

3 A I have.

4 Q All right. And also, Agent Baird, following your
5 response to the scene, were you also present at the
6 autopsy?

7 A I was.

8 Q The autopsy on Thanksgiving Day?

9 A That's right, I was there.

10 Q This particular photograph, could you tell us
11 whether or not these are -- this was something you were
12 made aware of and followed up on at autopsy as well?

13 A I did.

14 Q As to this marking on **Minor** the pattern injury?

15 A That's right.

16 Q While at the scene why was the -- there was an
17 eyebrow -- something that's been termed an eyebrow shearer
18 and also a hair trimmer. Why were those items taken?

19 A At the time, we were described the injury and I
20 believed that the coroner showed us a photograph just from
21 her camera and so it was actually smaller, only looking at
22 it from the camera, we can't put it on a computer or
23 anything there. And so we knew that it looked like an
24 instrument that had some sort of details in it that would
25 have made the linear lines that you saw in the photograph.