

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Saluda County

Honorable J. Derham Cole, Circuit Court Judge

RECEIVED

OCT 10 2017

SG Court of Appeals

THE STATE,

RESPONDENT,

V.

RODNEY OBRYANT SAMUELS,

APPELLANT

APPELLATE CASE NO 2017-000495

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
STATE'S EXHIBIT #27 (PHOTO) AND STATE'S EXHIBIT #28 (PHOTO)**

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Rodney O'Bryant Samuels,) 2015-GS-42-1656
7 Defendant.) February 13 - 15, 2017
8) Spartanburg, South Carolina
9
10

11 B E F O R E:

12 HONORABLE J. DERHAM COLE, JUDGE; and a jury
13
14

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17 Attorney for the State

18 STEVE WAYNE SUMNER, ESQUIRE
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23 Linda D. Moffitt
24 Circuit Court Reporter
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Jury qualification

1 (Proceedings February 13, 2017)

2 THE COURT: Ms. Soderdahl, did y'all hand up any voir
3 dire requests?

4 MS. SODERDAHL: No, Your Honor. And I have reviewed
5 the state's requests. I have no objection to any of those.

6 THE COURT: Okay. Are there any matters we need to
7 address before the jury panel is brought around?

8 MR. BARNETTE: Your Honor, there are some motions and
9 stipulations. I assume you want to handle those
10 afterwards.

11 THE COURT: We'll do those after we get the jury
12 selected since it's close to lunchtime.

13 MR. BARNETTE: Yes, Your Honor.

14 THE COURT: All right. Bring the panel around,
15 please.

16 And where did this event allegedly occur?

17 MR. BARNETTE: Your Honor, Lee's Crossing near
18 Spartanburg Methodist College.

19 THE COURT: Lee's Crossing is an apartment complex?

20 MR. BARNETTE: Yes, sir.

21 THE COURT: And that was the residence of who?

22 MR. BARNETTE: Brittany Gentry, Your Honor.

23 (The following takes place in the presence of the jury
24 venire.)

25 THE COURT: Thank you for your patience, ladies and

Jury qualification

1 gentlemen.

2 We are ready to begin with jury selection in the first
3 case that's going to require some of your participation.
4 The title of the case is the State vs. Rodney O'Bryant
5 Samuels.

6 Mr. Samuels has been accused by the prosecutor by way
7 of this indictment. An indictment is a charging paper.
8 It's like an arrest warrant. But any case that comes into
9 this court has to be brought by way of an indictment. It
10 has to be submitted to the Spartanburg County Grand Jury,
11 and they act on the charge.

12 This indictment alleges that Mr. Samuels committed the
13 crime of homicide by child abuse or neglect. The state
14 alleges in this indictment that Rodney O'Bryant Samuels did
15 here in Spartanburg County on or about January the 4th of
16 2015 cause the death of Minor [REDACTED], a child
17 under the age of 11 years, while committing child abuse or
18 neglect and that the death of the child occurred under
19 circumstances manifesting an extreme indifference to human
20 life. And they specifically allege that the death resulted
21 from physical injury caused by the defendant.

22 Now, as to those allegations and as to that charge the
23 defendant has entered a plea of not guilty. A plea of not
24 guilty places upon the state the burden of proving the
25 allegations that they have made in the indictment, the

Jury qualification

1 burden of proving each of the essential elements of the
2 crime that is alleged against the defendant; and therefore
3 the burden is upon the state to establish the defendant's
4 guilt to the satisfaction of 12 jurors beyond a reasonable
5 doubt before any verdict of guilty could be returned.

6 So we're going to be selecting 12 of you that will
7 serve as primary jurors. We will also select two other
8 jurors to serve as alternate jurors.

9 By way of your participation you'll be called upon to
10 listen to the testimony, to consider the other evidence
11 received during the course of the trial. From that
12 evidence you will determine the facts as they relate to the
13 allegations made against the defendant. Upon deciding the
14 facts you'll apply the law that I will have provided you,
15 and the jury will determine whether or not the defendant's
16 guilt has been proven beyond a reasonable doubt.

17 If it has, then the verdict would be guilty; and if it
18 has not, then the verdict would be not guilty.

19 Now, before we begin with jury selection I've got a
20 number of folks to introduce to you. The purpose of these
21 introductions is to find out if you have any connection
22 with any of the individuals that are involved in the trial
23 of this case, as well as any members of their respective
24 families or offices.

25 So when these people are introduced to you or

Jury qualification

1 identified for your benefit, I need to find out if you have
2 any connection by blood or marriage, do you attend church
3 with any of these people or members of their families, do
4 you go to school with them, are you employed at the same
5 place that they work, do you socialize with them, or do you
6 just know them, have you met them somewhere in some fashion
7 or some context.

8 If as these folks are identified, if you have any
9 connection whatsoever with them or you know who they are or
10 some members of their family, I will ask that you please
11 stand so that we can identify what that connection is and
12 whether or not it would have any bearing upon your ability
13 to serve as a juror and to be fair and impartial.

14 I'll also following that have some additional
15 questions to ask you in order to determine your ability to
16 be fair and impartial if selected as a juror in this
17 particular case.

18 Now, as I told you, the defendant, the person who is
19 accused of having committed the crime of homicide by child
20 abuse or neglect, is Rodney O'Bryant Samuels.

21 Mr. Samuels, if you will, please stand and face the
22 jury panel so that they may see who you are.

23 (Whereupon, the defendant stood.)

24 THE COURT: Okay. Thank you, sir.

25 Mr. Samuels is represented in this case by two lawyers

Jury qualification

1 Steve Sumner and Erica Soderdahl. They're Mr. Samuels'
2 lawyers. They'll be assisting him in the trial of the
3 case.

4 (Whereupon, Mr. Sumner and Ms. Soderdahl stood.)

5 THE COURT: Presenting the case on behalf of the state
6 is Barry Barnette who is the circuit solicitor for the
7 Seventh Judicial Circuit.

8 (Whereupon, Mr. Barnette stood.)

9 THE COURT: As I stated from the allegations in the
10 indictment, the person who is alleged to be the victim of
11 homicide by child abuse is Minor [REDACTED]. And Mr.
12 Gentry's parents are present?

13 MR. BARNETTE: Yes, sir, they are.

14 THE COURT: All right. And their names are what?

15 MR. BARNETTE: Brittany Gentry, Your Honor; Andrew
16 Bobb, Your Honor.

17 THE COURT: All right. Let me ask Brittany Gentry to
18 please stand and face the jury panel.

19 (Whereupon, Brittany Gentry stood.)

20 THE COURT: This is Minor [REDACTED] mother.
21 And Andrew Bobb is the child's father.

22 (Whereupon, Andrew Bobb stood.)

23 THE COURT: And they will likely be testifying as
24 witnesses in the case. And I introduce them because
25 they're the parents of the child so that you may know if

Jury qualification

1 you happen to know who that child is by seeing the parents.

2 Other persons who may be called to testify during the
3 trial of the case include Tyler Smith of the sheriff's
4 department; Lorin Williams of the sheriff's department;
5 William Gary of the sheriff's department; Robert Talanges
6 of the sheriff's department; Sean Nix of the sheriff's
7 department; Robert Shaffer of the sheriff's department;
8 Robert Rosenberg of the sheriff's department; Angela Nelson
9 of the sheriff's department; John David Wren. He's a
10 pathologist, Spartanburg Regional Medical Center. John
11 Falcon, physician, Spartanburg Regional Medical Center;
12 Janna Wise. What's her position at the Medical Center?

13 MR. BARNETTE: Nurse, Your Honor.

14 THE COURT: Janna Wise is a nurse from the Spartanburg
15 Regional Medical Center.

16 Mary Collins who is a resident of Taylors, South
17 Carolina; Dewayne Corn and Rick McCraw; Nikki Cantrell with
18 the state law enforcement; and Ashley McDowell. Ashley
19 McDowell is not present but --

20 THE WITNESS: I'm here.

21 THE COURT: Oh, where is she? Oh, I'm sorry. Please
22 stand and face the jury panel.

23 (Whereupon, the witness stood.)

24 THE COURT: Are there any other potential witnesses to
25 be called by the state?

Jury qualification

1 MR. BARNETTE: No, sir.

2 THE COURT: By the defense?

3 MS. SODERDAHL: No, Your Honor.

4 THE COURT: All right. Does any member of the panel
5 know anybody who's just been introduced?

6 Also, as you're thinking about it I need to find out
7 not only do you know those who have been introduced, or
8 have some contact with them, but do you know anybody else
9 employed in the defense counsel's law office, which is
10 located in Greenville, or in the circuit solicitor's
11 office, which is located in Spartanburg and Cherokee
12 counties.

13 So even though some of those people might not have
14 been introduced, I need to know if you know anybody else
15 employed in those offices. And, as I said earlier, also do
16 you know anybody who might be related to anybody who's just
17 been introduced? If so, I'll ask that you please stand.

18 Okay. I'll start with you, ma'am, if you'll give me
19 your name and number, please.

20 JUROR NO. 77: I'm Christy Keith or Kristina Keith.
21 I'm Juror 77.

22 THE COURT: All right. And who is it that you have
23 some connection with or familiarity with?

24 JUROR NO. 77: My children attended briefly elementary
25 school with Mr. Barnett's children.

Jury qualification

1 THE COURT: All right. And would that have any
2 bearing upon your decision in this case?

3 JUROR NO. 77: No, sir.

4 THE COURT: All right. Thank you. Please be seated.
5 Yes, sir.

6 JUROR NO. 13: Juror 13.

7 THE COURT: All right.

8 JUROR NO. 13: The solicitor, the sheriff's deputies,
9 members of the coroner's team that you mentioned. I know
10 most of them.

11 THE COURT: Okay. And is there anything about that
12 connection with them that would have any bearing upon your
13 decision in the case?

14 JUROR NO. 13: No, sir.

15 THE COURT: All right. Thank you. You may be seated.
16 That's Juror 13.

17 Yes, ma'am.

18 JUROR NO. 44: Yes. Juror 44. I attended school with
19 Ms. McDowell.

20 THE COURT: You attended school with Ashley McDowell?

21 JUROR NO. 44: Uh-huh.

22 THE COURT: All right. Would that have any bearing in
23 your decision in this case?

24 JUROR NO. 44: Yes, sir.

25 THE COURT: All right. Do you think there's some

Jury qualification

1 reasonable probability that it may?

2 JUROR NO. 44: Yes, sir.

3 THE COURT: All right. We'll excuse Juror 44 from
4 service in the case.

5 So stay with me, but you won't be serving in the case.

6 All right. Next.

7 JUROR NO. 157: Your Honor, I know Rick McCraw and I
8 know of the solicitor and all of that stuff working around
9 that period, over the period of time when I used to work at
10 the courthouse years ago. But it won't have an effect on
11 anything I have. I looked at the news on it, but I just
12 wanted to let you know that.

13 THE COURT: All right. And your number?

14 JUROR NO. 157: I'm sorry. 157.

15 THE COURT: So your connection with folks around the
16 courthouse would not have any bearing in your decision?

17 JUROR NO. 157: No, sir, no, sir.

18 THE COURT: All right. Thank you. Be seated.

19 Yes, ma'am.

20 JUROR NO. 151: I'm Juror 151, Amy Thyen. And Mr.
21 Barnette through the paralegal program. He was one of the
22 former instructors.

23 THE COURT: All right. Would that have any bearing in
24 your decision in the case?

25 JUROR NO. 151: No, sir.

Jury qualification

1 THE COURT: Thank you. Be seated.

2 That's Juror 151.

3 Yes, ma'am.

4 JUROR NO. 118: Evelyn Ritchie, No. 118. And I've
5 known Mr. Barnette over the years, but it would not have
6 any bearing in my decision making.

7 THE COURT: Okay. Thank you, ma'am. You may be
8 seated.

9 Yes, sir.

10 JUROR NO. 46: Ronald Fields, No. 46. Just familiar
11 and been friends with the former solicitor and Mr. Barnette
12 and a number of other employees who work in the solicitor's
13 office.

14 THE COURT: All right. And would any of those
15 connections have any bearing in your decision in the case?

16 JUROR NO. 46: No, sir.

17 THE COURT: Thank you. Be seated.

18 Yes, sir.

19 JUROR NO. 25: Twenty-five. I work with Dr. Falcon at
20 Spartanburg Regional.

21 THE COURT: In what capacity?

22 JUROR NO. 25: In the emergency room. I work in that
23 department. I see him. I see him pretty often.

24 THE COURT: Okay. Is there anything about your
25 connection with him or your professional relationship with

Jury qualification

1 him that would have any bearing in your decision?

2 JUROR NO. 25: No, sir.

3 THE COURT: Do you have any personal knowledge about
4 this particular case?

5 JUROR NO. 25: No, sir, I don't.

6 THE COURT: Okay. All right. Thank you. You may be
7 seated.

8 That's juror 25.

9 Anyone else need to respond to the question as to some
10 connection or familiarity with any of the potential
11 witnesses or the lawyers involved in the case? If so,
12 please stand.

13 (No response.)

14 THE COURT: This is an event which the state alleges
15 occurred back on January the 4th of 2015, and it is alleged
16 to have occurred at an apartment complex referred to as
17 Lee's Crossing, which is located near the Spartanburg
18 Methodist College. And it involved the residence of
19 Brittany Gentry who's already been introduced to you.

20 Does any juror think you might have heard, seen or
21 read about anything that relates to this case? In other
22 words, have you been exposed to any type of information
23 that relates to this particular case from any source
24 whatsoever? If so, please stand.

25 (No response.)

Jury qualification

1 THE COURT: As you know, the defendant is charged with
2 the crime of homicide by child abuse or neglect through
3 physical injury. Is there anything about the nature of the
4 charge itself that would prevent any juror from being able
5 to be fair and impartial if selected as a juror to serve in
6 this particular case? If so, please stand.

7 (No response.)

8 THE COURT: I'm going to ask you about you or an
9 immediate family member. So I'm going to define an
10 immediate family member as a parent, a spouse, a child or a
11 sibling -- a parent, spouse, child or sibling.

12 Have you or any members of your immediate family, as I
13 just defined that term for you, ever been the victim of or
14 have you ever been accused of having committed any type of
15 criminal offense that might be described or characterized
16 as a violent crime?

17 Included in that category would be the crimes of
18 murder, manslaughter, homicide by child abuse, assault and
19 battery with intent to kill, armed robbery, criminal sexual
20 conduct, burglary and criminal domestic violence of a high
21 and aggravated nature or any other similar type of an
22 offense.

23 I need to know if you or any member of your immediate
24 family has ever been the victim of such an offense or you
25 or that immediate family member has ever been accused of

Jury qualification

1 having committed any similar type of an offense. If so,
2 please stand.

3 All right. I have four. I'll start with you, ma'am.
4 I'll work my way back, and then I'll jump the aisle.

5 If you will, give me your name and number, please.

6 JUROR NO. 19: Juror No. 19, April Bradley. Because
7 my exhusband is the father of two children, probably 20
8 years ago he was accused of assault and battery of a high
9 and aggravated nature here in Spartanburg County.

10 THE COURT: All right. Is there anything about that
11 fact that would affect your judgment in this case?

12 JUROR NO. 19: No, sir.

13 THE COURT: Thank you. Be seated.

14 Yes, ma'am.

15 JUROR NO. 91: No. 91, Breanne Martine. I'm not sure
16 if it counts, but my mother was a victim of a vehicular
17 manslaughter.

18 THE COURT: Who was?

19 JUROR NO. 91: My mother was a victim of vehicular
20 manslaughter.

21 THE COURT: All right. And is there anything about
22 that fact or that experience that would affect your
23 judgment in this case?

24 JUROR NO. 91: No, sir.

25 THE COURT: Thank you. Be seated.

Jury qualification

1 Yes, sir.

2 JUROR NO. 167: Sir, Scott Whitlatch, 167. My
3 sister's son was murdered by his father several years back.

4 THE COURT: And is there anything about that fact or
5 that circumstance that would affect your judgment in this
6 case?

7 JUROR NO. 167: No, sir.

8 THE COURT: Thank you. Be seated.

9 Yes, ma'am.

10 JUROR NO. 152: Karina Tripp, No. 152. I am formerly
11 the victim of abuse.

12 THE COURT: And is there anything about that
13 experience that would affect your judgment in this case?

14 JUROR NO. 152: No, sir.

15 THE COURT: Thank you. Be seated.

16 Yes, ma'am.

17 JUROR NO. 84: No. 84. My father was accused of
18 assault and battery high and aggravated nature.

19 THE COURT: And was that here in Spartanburg?

20 JUROR NO. 84: Yes.

21 THE COURT: And is there anything about that fact that
22 would affect your judgment in this case?

23 JUROR NO. 84: No, sir.

24 THE COURT: All right. Thank you. Be seated.

25 Anyone else?

Jury qualification

1 JUROR NO. 122: I'm not sure if this would count as
2 part of that, but I lost my son to a suicide, so, 15 years
3 ago.

4 THE COURT: All right. And your number, please?

5 JUROR NO. 122: Oh, I'm sorry. 122.

6 THE COURT: And is there anything about that
7 experience that would have any bearing upon your decision
8 in this case?

9 JUROR NO. 122: I don't think so, no, sir.

10 THE COURT: All right. Thank you, ma'am. You may be
11 seated.

12 Anybody else need to respond to the question?

13 (No response.)

14 THE COURT: Is any member of the jury panel related by
15 blood or marriage to any type of law enforcement officer,
16 and also have you ever been employed as a law enforcement
17 officer in any type of department -- sheriff's department,
18 city police or municipal law enforcement agency, state law
19 enforcement division, the F.B.I., any -- a county detention
20 facility, state department of corrections, any type of law
21 enforcement, probation and parole, any type of law
22 enforcement officer employed in any type of law enforcement
23 agency?

24 And that would include civilian, as well as military.
25 I need to know if you or an immediate family member as I've

Jury qualification

1 already defined that term has ever been so employed. If
2 so, please stand.

3 All right. I'll start on this side and work my way
4 back, jump the aisle from the front to the back.

5 Your name again, please, ma'am.

6 JUROR NO. 19: Juror No. 19, April Bradley. My oldest
7 son who is 24 years old served three years in the U.S.
8 Navy.

9 THE COURT: Would it have any bearing on your
10 decision?

11 JUROR NO. 19: No, sir.

12 THE COURT: Thank you. Be seated.

13 Yes, sir.

14 JUROR NO. 37: I don't know if it has anything to do
15 with it. My uncle, Lawrence Anderson, is military police
16 for the Air Force.

17 THE COURT: All right. And your number?

18 JUROR NO. 37: Thirty-seven. I also have a cousin
19 with the Spartanburg City Police Department.

20 THE COURT: All right. Would either of those
21 connections have any bearing?

22 JUROR NO. 37: No, sir.

23 THE COURT: Thank you. Be seated.

24 Yes, ma'am.

25 JUROR NO. 49: I have a nephew that works on the

Jury qualification

1 sheriff's department. I'm Juror 49.

2 THE COURT: All right. And would that have any
3 bearing in your decision?

4 JUROR NO. 49: No, sir. Also, my husband was in the
5 U.S. Army.

6 THE COURT: All right. Thank you, ma'am. Be seated.
7 Yes, sir.

8 JUROR NO. 35: Juror No. 35, Danny Crawford. 1993 to
9 1999 I was a South Carolina Department of Probation and
10 Parole and Pardon Services agent.

11 THE COURT: And would that have any bearing in your
12 decision?

13 JUROR NO. 35: No, sir.

14 THE COURT: Thank you. Be seated.

15 Yes, sir.

16 JUROR NO. 169: Juror 169. My oldest brother served
17 in the Marine Corp for eight years.

18 THE COURT: Have any bearing in your decision?

19 JUROR NO. 169: No, sir.

20 THE COURT: Thank you. Be seated.

21 Yes, ma'am.

22 JUROR NO. 162: Juror 162. My brother-in-law is a
23 Spartanburg County officer and my other brother-in-law is
24 active Army.

25 THE COURT: The first brother-in-law, you said

Jury qualification

1 worked --

2 JUROR NO. 162: He is a Spartanburg County policeman.

3 THE COURT: With the sheriff's department?

4 JUROR NO. 162: Yes, sir.

5 THE COURT: Would either of those connections have any
6 bearing in your decision?

7 JUROR NO. 162: No, sir.

8 THE COURT: Thank you. Be seated.

9 Yes, ma'am.

10 JUROR NO. 44: Juror No. 44. My grandfather served in
11 the U.S. Army, and also I have a cousin who -- I have two
12 cousins that work for probation and parole and the
13 sheriff's -- county.

14 THE COURT: That work for probation and parole and
15 who?

16 JUROR NO. 44: The sheriff.

17 THE COURT: In Spartanburg?

18 JUROR NO. 44: Uh-huh.

19 THE COURT: All right. Would either of those
20 connections have any bearing in your decision?

21 JUROR NO. 44: No, sir.

22 THE COURT: Thank you. Be seated.

23 Yes, ma'am.

24 JUROR NO. 134: 134, Thelma Smith. I have a great
25 niece that's a detention officer and another one that --

Jury qualification

1 she's a guard.

2 THE COURT: In Spartanburg?

3 JUROR NO. 134: Columbia and Raleigh.

4 THE COURT: Okay. Would either of those have any
5 bearing in your decision?

6 JUROR NO. 134: No, sir.

7 THE COURT: Thank you. Be seated.

8 Yes, sir.

9 JUROR NO. 157: Juror 157. My mom worked at the
10 magistrate office at the -- on California Avenue. And my
11 cousin, he was a probation and parole officer, and he was a
12 detention officer as well. And my brother-in-law is Navy,
13 with the Navy. And I'm just a building inspector with
14 Spartanburg County. That's -- I think that's everything.

15 THE COURT: All right. Would any of those
16 circumstances or connections have any bearing in your
17 decision?

18 JUROR NO. 157: No, sir.

19 THE COURT: Thank you. Be seated.

20 Yes, sir.

21 JUROR NO. 28: Yes, Your Honor. Juror 28. As
22 another, I served six years in the military myself.

23 THE COURT: Any bearing in your decision?

24 JUROR NO. 28: No, sir.

25 THE COURT: Thank you. Be seated.

Jury qualification

1 Yes, sir.

2 JUROR NO. 167: Yes, sir. Juror 167. I served
3 20-plus years in the military.

4 THE COURT: And would that have any bearing in your
5 decision?

6 JUROR NO. 167: No, sir.

7 THE COURT: Yes, sir.

8 JUROR NO. 128: 128. I served three years in the
9 Army.

10 THE COURT: Any bearing in your decision?

11 JUROR NO. 128: None whatsoever.

12 THE COURT: Thank you. Be seated.

13 Has any member of the jury panel already formed any
14 type of an opinion as to how you think the case ought to be
15 decided based upon what you've heard up to this point or
16 based upon any other consideration? Simply put, have you
17 already made up your mind about the ultimate decision? If
18 so, please stand.

19 (No response.)

20 THE COURT: Understanding what the case is about,
21 understanding who the lawyers are, understanding who the
22 potential witnesses are, understanding who the defendant
23 is, understanding who the alleged victim is, does any
24 member of the jury panel know of any reason whatsoever why
25 you believe you could not be fair and impartial if selected

Jury qualification

1 as a juror to serve in this particular case? If you have
2 any reason whatsoever why you think you could not be fair
3 and impartial, I would ask that you please stand.

4 (No response.)

5 THE COURT: None responding.

6 Any other questions requested by the state?

7 MR. BARNETTE: None from the state, Your Honor.

8 THE COURT: By the defendant?

9 MS. SODERDAHL: No, Your Honor. Thank you.

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

11 The way a jury is selected, the computer selects your
12 names randomly. They'll be called one at a time.

13 When your name is called you'll be asked to come
14 forward towards me. The bailiff will be standing out here
15 shortly. But you'll pass the desks where the lawyers are
16 seated and take about three steps towards me, turn and face
17 your fellow jurors.

18 Each side has an opportunity to have you seated for
19 serving in the case or to have you excused from serving in
20 the case.

21 If either side asks that you be excused from serving,
22 simply go back and have a seat where you are now. If both
23 agree to have you seated for service in the case, you'll be
24 having a seat in that jury box to your right and to my
25 left.

Jury qualification

1 So please come forward as your name is called, and
2 you'll be instructed whether you have been seated for
3 service in the case or excused from serving.

4 And when you are called to come forward, if you have
5 something with you like a pocketbook or a book or whatever
6 it might be, bring it with you just in case you get picked.

7 THE CLERK: As I call your name, please come forward
8 and stand facing the attorneys' tables.

9 No. 63, Kenneth Grubiak.

10 What says the state?

11 MR. BARNETTE: Please present the juror.

12 THE CLERK: What says the defense?

13 MS. SODERDAHL: Please seat this juror.

14 THE CLERK: No. 83, John Laurence.

15 What says the state?

16 MR. BARNETTE: Please present the juror.

17 THE CLERK: What says the defense?

18 MS. SODERDAHL: Please seat the juror.

19 THE CLERK: No. 118, Evelyn Ritchie.

20 What says the state?

21 MR. BARNETTE: Please present the juror.

22 THE CLERK: What says the defense?

23 MS. SODERDAHL: Please excuse this juror.

24 THE CLERK: No. 51, Tina Gaffney.

25 What says the state?

Jury qualification

1 MR. BARNETTE: Please present the juror.
2 THE CLERK: What says the defense?
3 MS. SODERDAHL: Please seat this juror.
4 THE CLERK: No. 134, Thelma Smith.
5 MR. BARNETTE: 134?
6 THE CLERK: Excuse me?
7 MR. BARNETTE: 134, you said?
8 THE CLERK: Yes.
9 MR. BARNETTE: Thank you.
10 THE CLERK: What says the state?
11 MR. BARNETTE: Please present the juror.
12 THE CLERK: What says the defense?
13 MS. SODERDAHL: Please seat the juror.
14 THE CLERK: No. 28, Evan Butler.
15 What says the state?
16 MR. BARNETTE: Please present the juror.
17 THE CLERK: What says the defense?
18 MS. SODERDAHL: Please seat the juror.
19 THE CLERK: No. 19, April Bradley.
20 What says the state?
21 MR. BARNETTE: Please excuse this juror from service.
22 THE CLERK: No. 37, Quilen Davis.
23 What says the state?
24 MR. BARNETTE: Please present the juror.
25 THE CLERK: What says the defense?

Jury qualification

1 MS. SODERDAHL: Please excuse the juror.
2 THE CLERK: No. 93, Scott Meguire.
3 What says the state?
4 MR. BARNETTE: Please present the juror.
5 THE CLERK: What says the defense?
6 MS. SODERDAHL: Please seat the juror.
7 THE CLERK: No. 137, David Somers.
8 What says the state?
9 MR. BARNETTE: Please excuse this juror from service.
10 THE CLERK: No. 162, Cindy Weathers.
11 What says the state?
12 MR. BARNETTE: Please present the juror.
13 THE CLERK: What says the defense?
14 MS. SODERDAHL: Please excuse the juror.
15 THE CLERK: No. 169, Nathaniel Yelton.
16 What says the state?
17 MR. BARNETTE: Please present the juror.
18 THE CLERK: What says the defense?
19 MS. SODERDAHL: Please seat the juror.
20 THE CLERK: No. 123, Philip Ryan.
21 What says the state?
22 MR. BARNETTE: Please present the juror.
23 THE CLERK: What says the defense?
24 MS. SODERDAHL: Please seat the juror.
25 THE CLERK: No. 81, Amanda Lanoir.

Jury qualification

1 what says the state?

2 MR. BARNETTE: Please seat the juror.

3 THE CLERK: What says the defense?

4 MS. SODERDAHL: Please excuse the juror.

5 THE CLERK: No. 20, Trevor Brian.

6 what says the state?

7 MR. BARNETTE: Please present the juror.

8 THE CLERK: What says the defense?

9 MS. SODERDAHL: Please seat the juror.

10 THE CLERK: No. 163, Casey Webber.

11 what says the state?

12 MR. BARNETTE: Please present the juror.

13 THE CLERK: What says the defense?

14 MS. SODERDAHL: Please seat the juror.

15 THE CLERK: No. 149, Eddy Thao.

16 what says the state?

17 MR. BARNETTE: Please excuse this juror from service.

18 THE CLERK: No. 152, Karina Tripp.

19 what says the state?

20 MR. BARNETTE: Please present the juror.

21 THE CLERK: What says the defense?

22 MS. SODERDAHL: Please excuse this juror.

23 THE CLERK: No. 49, Frances Fowler.

24 what says the state?

25 MR. BARNETTE: Please present the juror.

Jury qualification

1 THE CLERK: What says the defense?
2 MS. SODERDAHL: Please seat the juror.
3 THE CLERK: No. 52, Joseph Gantt.
4 What says the state?
5 MR. BARNETTE: Please present the juror.
6 THE CLERK: What says the defense?
7 MS. SODERDAHL: Please seat the juror.
8 THE COURT: This will be for the first alternate.
9 THE CLERK: No. 144, Dalton Tangerman.
10 What says the state?
11 MR. BARNETTE: Please excuse this juror from service.
12 THE CLERK: No. 60, Vera Graham.
13 What says the state?
14 MR. BARNETTE: Please present the juror.
15 THE CLERK: What says the defense?
16 MS. SODERDAHL: Please excuse the juror.
17 THE CLERK: No. 61, Kenneth Green.
18 What says the state?
19 MR. BARNETTE: Please present the juror.
20 THE CLERK: What says the defense?
21 MS. SODERDAHL: Please seat the juror.
22 THE COURT: This is for the second alternate.
23 THE CLERK: No. 106, Cleveland Owens.
24 What says the state?
25 MR. BARNETTE: Please present the juror.

Jury qualification

1 THE CLERK: What says the defense?

2 MS. SODERDAHL: Please seat the juror.

3 (Whereupon, a jury was impaneled.)

4 THE COURT: Those jurors who have been selected, I'll
5 ask you to please go with a bailiff to a jury room, and
6 I'll bring you back shortly, probably to excuse you for
7 lunch.

8 (The following takes place outside the presence of the
9 jury.)

10 THE COURT: Are there any matters to be addressed
11 regarding jury selection by the state?

12 MR. BARNETTE: None from the state, Your Honor.

13 THE COURT: By the defendant?

14 MS. SODERDAHL: No, Your Honor.

15 (Whereupon, the remaining members of the jury venire
16 were excused.)

17 THE COURT: I know we have some pretrial matters to
18 address. Will those take more than 35 minutes, do you
19 think?

20 MR. BARNETTE: I wouldn't think so. I don't know.
21 It's a third-party guilt and the Denno, and I just need to
22 put some stipulations on the record, Your Honor.

23 MS. SODERDAHL: I think there's a strong chance we can
24 get that done in 35 minutes.

25 MR. BARNETTE: I need to get something premarked.

1 THE COURT: Okay. All right. Well, I'm going to
2 bring the jury back and excuse them first.

3 (SLED report marked State's Exhibit No. 33 for
4 Identification.)

5 (The following takes place in the presence of the
6 jury.)

7 THE COURT: Ladies and gentlemen, I've got a few
8 matters I'll need to address before we can actually begin
9 with the trial, and it's a convenient time for us to recess
10 for lunch.

11 So we'll begin with the trial this afternoon at 2:30,
12 at 2:30 this afternoon. So you're going to be excused now
13 for lunch.

14 Keep me mind from now until the trial is over and
15 you've reached your decision you are not permitted to talk
16 about the case in any fashion whatsoever with any person
17 whatsoever. That includes your fellow jurors.

18 You're only permitted to discuss the case when you are
19 instructed to begin your deliberations, and that won't be
20 until the trial's conclusion after all of the evidence has
21 been received and I've instructed you on the law that's
22 applicable in the case. So don't discuss the case with
23 anybody, including your fellow jurors, until the time comes
24 for deliberations.

25 It's also important that you base your decision solely

1 upon what is introduced during the trial of the case.
2 You're not permitted to allow yourselves to be influenced
3 by any outside or extraneous information, and therefore you
4 are not permitted to allow yourselves to be exposed to any
5 type of media coverage that might relate to the case. No
6 television, no radio, no newspaper as it relates to the
7 case.

8 And you're also not permitted to conduct any research
9 or do your own investigation into any issue that arises
10 during the course of the trial.

11 Should some question arise that you need an answer
12 for, you have to get the answer from what's been presented
13 during the trial. You're not permitted to supplement your
14 wealth of knowledge by conducting outside research or doing
15 your own investigation into any issue. And of course that
16 all includes also that you not conduct any internet
17 research about anything that relates to the case or any
18 facet of it.

19 With those instructions in mind, do have a good lunch.
20 Please report to your jury room this afternoon at 2:30,
21 2:30 this afternoon. Have a good lunch.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: All right. What would y'all like to
25 address first?

1 MR. BARNETTE: We'll address the stipulations first,
2 Your Honor.

3 THE COURT: Okay.

4 MR. BARNETTE: Your Honor, State's Exhibit No. 3 is a
5 jail phone call that was made on January 7th of 2015. I've
6 shared that in discovery, Your Honor. It was a 30-second
7 part that's been redacted mentioning about his charges and
8 carrying 20 to life. He was actually talking to another
9 girlfriend on the jail phone call, Your Honor.

10 I believe they stipulated to the foundation of this or
11 I would call the jail officers in charge of these records
12 and produce them. They've agreed to stipulate to that.

13 I believe maybe they'll stipulate that he's the one
14 that made the phone call or is on the phone call. And they
15 may identify the lady. I've got her name if they need it.
16 But make the stipulation concerning State's Exhibit No. 3.

17 MS. SODERDAHL: Your Honor, the --

18 THE COURT: So the stipulation is the admission of the
19 exhibit without any foundation being laid for it or without
20 it being authenticated by anyone?

21 MS. SODERDAHL: That's correct, Your Honor. We would
22 stipulate that the proper foundation could be laid and has
23 been laid by the state in this case and the jail phone call
24 can be played for the jury without a witness being called
25 to lay a proper foundation.

1 THE COURT: Okay. Are you stipulating as to who is on
2 the phone call?

3 MS. SODERDAHL: We would stipulate, yes, that it's
4 Rodney Samuels, is on the phone. He's in custody at the
5 time the call was made. And the person being called -- I
6 got the name this morning. It's Sharice something --
7 Gibson [sic].

8 MR. BARNETTE: Yes, sir.

9 THE COURT: So y'all are all in agreement as to the
10 who -- who the conversation is between.

11 MS. SODERDAHL: That's correct, Your Honor.

12 THE COURT: Okay.

13 MR. BARNETTE: And, Your Honor, we'll play it at the
14 appropriate time from that standpoint.

15 State's Exhibit 4, Your Honor, is the apartment
16 complex video, Your Honor, concerning -- at Lee's Crossing.
17 It shows -- the only problem is it is an hour off because
18 of Daylight Savings Time. The time should have been 8:45.
19 That's when she leaves, at 9:15 when she went out the back
20 at the apartment complex, Your Honor.

21 I believe they've agreed to lay the foundation, that
22 we would not call the person that copied this off the
23 camera records at Lee's Crossing Apartment Complex.

24 MS. SODERDAHL: And, Your Honor, I will -- I will
25 stipulate that there is a proper foundation for this video.

1 We have been informed of the name of the person who
2 gave it. We have no problem with the foundation as an
3 accurate and true depiction of what happened.

4 But as the prosecutor said, there is an issue with the
5 timestamp on the video, and that the timestamp is exactly
6 one hour off.

7 So I would just hate to nitpick, but the state said
8 that there's something that happens at 8:45. It's actually
9 at 8:54 that she walks -- that there's something, activity
10 on the camera, as far as it looks like Brittany is walking
11 out of an apartment into the parking lot. On the video at
12 that point it shows 7:54. So there's just an hour off. We
13 would agree that it's 8:54.

14 Additionally, and, again, not to nitpick, it's 9:18
15 a.m. when you can see Brittany walking from the parking lot
16 into the apartment.

17 So we would stipulate to the foundation with that one
18 correction on the time being one hour different.

19 THE COURT: Okay.

20 MR. BARNETTE: No objection. I agree with it, Your
21 Honor.

22 Your Honor, State's Exhibit 5 is the Kangaroo filling
23 station. Your Honor, this is on East Main Street or West
24 Main Street near Jason's Deli here in the City of
25 Spartanburg.

1 It was a tape showing Brittany Gentry pulling up in
2 her vehicle. She was parked in the parking lot for a
3 period of time, went into the store and bought a cigar,
4 came back out and got in the car and went back.

5 I believe that they have stipulated that the proper
6 foundation has been laid for this also, Your Honor.

7 MS. SODERDAHL: That's correct, Your Honor.

8 We would stipulate that Kevin Cromer, a manager at the
9 Kangaroo, would testify that this is a true and accurate
10 depiction.

11 He would testify that the video started recording or
12 the snippet that we got started at 8:00 a.m. There's no
13 timestamp on this video, so that's important, but the video
14 goes from 8:00 to 9:30 a.m., is the length of the entire
15 video.

16 MR. BARNETTE: Okay. There is -- let me correct that.
17 There is a timestamp. I don't know. Some versions show.
18 It depends on what computer you look at. It shows from
19 8:59 when she pulls up to 9:12 approximately when she
20 leaves later at that time.

21 THE COURT: Y'all are both in agreement as to the
22 appropriate time.

23 MR. BARNETTE: Yes, sir.

24 MS. SODERDAHL: Right. I'm in agreement that the
25 proper time -- if there's a timestamp, I would agree that

1 it's 8:59. I think it said 9:09. Absolutely. Stipulate
2 to that.

3 MR. BARNETTE: Yes, sir.

4 Your Honor, I believe State's Exhibits 31, 32,
5 Ms. Brittany, Ms. Gentry, gave her phone to the sheriff's
6 department voluntarily. They took her text messages, as
7 well as her phone-call logs, off that. I believe they've
8 agreed that the proper foundation has been laid for State's
9 Exhibits 31 and 32.

10 MS. SODERDAHL: I would stipulate that a proper
11 foundation has been laid for Exhibits 31 and 32. However,
12 I do have objections to what's contained in Exhibit No. 32.

13 MR. BARNETTE: And we can go back, Your Honor. I
14 think I know what she's talking about.

15 I think it's certain text messages you're talking
16 about.

17 MS. SODERDAHL: I have a relevance objection, a more
18 prejudicial than appropriate objection, to what's contained
19 in 32. I just ask that it be -- some portions of it
20 excluded.

21 MR. BARNETTE: And I'll talk to her about it. We have
22 not talked about that.

23 THE COURT: Okay.

24 MR. BARNETTE: I do understand where she may be coming
25 from on that.

1 And, Your Honor, State's Exhibit 33 is a SLED
2 toxicology report that was done on Minor [REDACTED], Your
3 Honor, which showed no drugs in his system, no alcohol in
4 his system.

5 They've agreed that the proper chain and the proper
6 foundation has been laid for that and that the report will
7 speak for itself and it's a proper report.

8 MS. SODERDAHL: That's correct. We would stipulate to
9 that.

10 THE COURT: Okay.

11 MR. BARNETTE: Your Honor, we do have some pictures
12 that we needed to discuss at some point with you, I
13 believe. And I don't know when you'd like to that.

14 THE COURT: Well, I'll take them in whatever order
15 y'all wish to.

16 MS. SODERDAHL: Okay. I do have some things that I
17 wanted to just put on the record for Your Honor.

18 I had spoken with Mr. Barnette about some general
19 motions that I wanted to make pretrial, and we don't need
20 to have them heard. I just wanted to put the results of
21 our discussions on the record so that it's clear.

22 THE COURT: Okay.

23 MS. SODERDAHL: One of our motions was to exclude
24 evidence of the defendant's prior convictions.

25 He has prior convictions that would be admissible if

1 he were to testify in this trial under Rule 609. And the
2 prosecutor has agreed that he will not raise the
3 defendant's prior convictions if the defendant is to
4 testify.

5 We also had a motion to exclude the defendant's prior
6 bad acts, specifically regarding offenses that are
7 convictions that wouldn't be admissible under Rule 609 but
8 that would potentially be under Rule 404. And it goes both
9 ways on that.

10 We had been asking to raise prior bad acts of Brittany
11 Gentry, the mother of the victim in this case, and the
12 state had been asking to raise issues in response, issues
13 of the defendant's prior bad acts. But we've agreed that
14 neither party is going to raise the bad acts. So the
15 prosecutor has agreed not to raise any prior bad acts of
16 Rodney Samuels and we've agreed not to raise any issues of
17 prior bad acts of Brittany Gentry.

18 We also had a --

19 THE COURT: Well, is that true?

20 MR. BARNETTE: Yes, sir. The only thing I would --
21 the only qualification is I don't know what would be
22 testified to. For example, if the door was opened or
23 whatever, then possibly they'd come in that way.

24 THE COURT: Okay.

25 MS. SODERDAHL: I'm sorry. So -- right. If the door

1 is opened that would an issue that we would raise.

2 As far as another motion that I had filed, was for the
3 prosecution to be precluded from submitting any evidence of
4 any statements made by the defendant to law enforcement
5 that have not yet been tendered in discovery. It at this
6 point doesn't seem to be an issue. We've received all of
7 the discovery.

8 I also had a motion to preclude the state from having
9 their witnesses testify to hearsay. Specifically, I
10 understand that in order to explain a course of conduct
11 witnesses may testify that they received information from
12 other sources, but I wanted to make sure that that
13 testimony was limited to a course of conduct and not
14 hearsay, to not get in a whole bunch of statements of
15 somebody else told me this. And the prosecutor has agreed
16 that he had no intention of doing that. So we don't need
17 to litigate that motion.

18 I also had a motion to exclude or sequester witnesses
19 from the courtroom, which I believe we've both agreed on.

20 MR. BARNETTE: I don't -- well, I'll leave that up to
21 the Court's discretion, Your Honor, from that standpoint.
22 We didn't really talk about that, but I'll leave it up to
23 your discretion from that standpoint.

24 THE COURT: You want --

25 MS. SODERDAHL: I do have a motion then, Your Honor,

1 to exclude witnesses from the courtroom during the
2 testimony.

3 THE COURT: All right. And have all of the witnesses
4 that are going to testify provided written statements?

5 MR. BARNETTE: I think -- yes, sir, all that's going
6 to testify.

7 I believe after we talked about what we agreed to --
8 let's see. Brittany Gentry, Mr. Bobb. No. There's a
9 couple that have not. But what -- he is the father of the
10 child, so he'd be here anyway under victim rights.

11 THE COURT: Well, y'all might need to discuss it and
12 see who it is you prefer to have excluded.

13 There -- there are a number of people that cannot be
14 excluded. So y'all discuss the concern that you have, and
15 I'll address it based upon what your concern might be.

16 MS. SODERDAHL: Okay.

17 THE COURT: But I can say if they've already provided
18 a written statement my -- I generally find no reason to
19 exclude them because you have their statement. If they
20 change their statement you can examine them about that.

21 Of course the victims and the parents have a right to
22 be here constitutionally, and the chief investigating
23 officer has a right to be here. And I don't know who else
24 it might be that you wish to have excluded, but y'all
25 discuss it and let me know. We'll talk about it.

1 MS. SODERDAHL: Okay. And just for the record, I have
2 no objection to the chief investigating officer who is
3 Officer Williams being present throughout the trial. So
4 we'll talk about that with the state.

5 Those were my motions that we had discussed and had
6 reached an agreement on.

7 Additionally, I did want to just put on the record,
8 Your Honor, I am wanting to make sure that the record is
9 complete and if there should be any issues raised after
10 this trial. But, specifically, we had reason to believe
11 based on some information received in discovery that
12 Brittany Gentry had previously been investigated by the
13 department of social services.

14 I believe our information was that it had been back in
15 2012. We did subpoena that information, and the response
16 that we received is that there were no prior
17 investigations.

18 So I just want to put that on the record that that
19 information was received and that's the response that we
20 received. And I know that Mr. Barnette helped us in trying
21 to get that information, but there is none to be had.

22 Also, there is in discovery information that at the
23 time of this incident on January 4th of 2015, there's been
24 allegations that there was a no-trespass order in effect
25 regarding the property, the location where the incident

1 occurred, and that that no-trespass order was against
2 Rodney Samuels. And we would seek to exclude that
3 evidence. We've talked to Mr. Barnette about it, and I
4 believe he's in agreement that he's not going to raise
5 that.

6 MR. BARNETTE: Your Honor, the trespass notice never
7 was served on the defendant. So therefore I don't think it
8 would be relevant to this case since he didn't have
9 knowledge of it. It was issued but never was given to him.

10 MS. SODERDAHL: Okay. And with that that's -- those
11 are my general pretrial motions.

12 Then we had the -- the prosecutor's motion to exclude
13 third-party guilt.

14 MR. BARNETTE: Yes, sir.

15 THE COURT: All right. Mr. Barnette.

16 MR. BARNETTE: Your Honor, third-party guilt, Your
17 Honor, obviously they've got to have something that's more
18 than mere speculation in this case, Your Honor, from that
19 point. I don't know if there's anybody they would point
20 to. I'd kind of let them, I guess, issue what third-party
21 guilt they'd put in, and I'd like to respond to that, Your
22 Honor.

23 THE COURT: Okay.

24 MR. BARNETTE: And you have my memo, I believe, on
25 that, Your Honor.

1 THE COURT: I do.

2 MS. SODERDAHL: Okay. Your Honor, just for the
3 record, and I would like to ask that the potential
4 witnesses in this case be excluded because of the fact that
5 I'm going to need to proffer information to Your Honor in
6 order to properly -- properly respond to the state's motion
7 to exclude this evidence.

8 MR. BARNETTE: Your Honor, the way I understand it,
9 the victim is the one that -- you know, so, she has a right
10 to be here.

11 THE COURT: I don't think Ms. Gentry can be excluded.

12 MS. SODERDAHL: Well, and just -- if I may. Okay.

13 THE COURT: I said I do not think she can be.

14 MS. SODERDAHL: Right.

15 And, Your Honor, in response I would say that the
16 victim in this case is not Brittany Gentry, so she's not a
17 victim. She is related to the victim. She was the mother
18 of the victim. But she's a crucial testifying witness.
19 And I'm sorry. I'm not aware of a constitutional right
20 that she remain in the courtroom. I just ask that she be
21 excluded because of the risk that her testimony might
22 somehow be changed by what she hears in the proffer.

23 THE COURT: Hasn't she previously given a written
24 statement?

25 MS. SODERDAHL: She has given a previous written

1 statement, Your Honor. She's actually -- yes, she has.

2 THE COURT: All right. She will not be excluded.

3 MS. SODERDAHL: Okay. Thank you for allowing me to be
4 heard.

5 Your Honor, the state has filed a motion to preclude
6 the defense from raising the issue of third-party guilt in
7 this case. And in response we're asking you to allow us to
8 submit such evidence.

9 The main cases, you're aware, is State vs. Gregory.
10 And there's two things that the defense has to put forth in
11 order for this information or this evidence to be allowed.

12 One is that any evidence of third-party guilt must be
13 limited to the facts that are inconsistent in the
14 defendant's own guilt, and, secondly, the facts must be
15 limited to those that raise a reasonable inference or
16 presumption as to his own innocence.

17 The evidence that you're going to hear in this case
18 and what we received in discovery is that there's really no
19 doubt based on the medical information, the expert
20 testimony, documentation, is that this child, this victim's
21 death, was caused by blunt force trauma.

22 The injuries that caused the child's death were caused
23 at the hand of someone. This is not a natural death.

24 what we know from all of the information obtained is
25 is that there were two adults, only two people that could

1 have committed this crime. There were two adults that were
2 with the child in the hours before his death.

3 Now, the prosecutor has only chosen to charge one of
4 those people. And at this point I would point out that
5 there's a United States Supreme Court case that actually
6 overturned a South Carolina case of Holmes vs. South
7 Carolina, is the title of the Supreme Court case -- United
8 States.

9 In that case in determining third-party guilt the
10 court had considered the strength of the state's case and
11 said that because the state's case in Holmes was so strong,
12 the forensic evidence was so strong, that any evidence of
13 third-party guilt would not be allowed.

14 Now, in this case because there are only two adults --
15 I'm sorry. I'm going to go on to say that Holmes
16 specifically iterated the fact that the constitution gives
17 and grants a defendant a right to present a defense. And
18 it said that you can't preweigh the evidence before trial
19 and say that, well, because the forensic evidence is so
20 strong any evidence of third-party guilt couldn't possibly
21 meet the 2-prong test of Gregory.

22 But in this case there are two adults that were
23 present with the infant. In order to bring any kind of
24 facts the defendant has to allow -- has to be allowed to
25 present evidence that he's not the one that did it, that

1 he's not the one that committed this offense. And where
2 you have -- and I will talk a little bit about the
3 evidence. Here the evidence against Mr. Samuels isn't very
4 strong. There's no forensic evidence as far as D.N.A.,
5 fingerprints, anything that specifically ties him to this.
6 So that's unlike the Holmes case where they had a strong
7 forensic case. There's no eye witnesses.

8 What we have in this case is two adults that had time
9 alone with no witnesses with this child before his death.
10 Two adults that are both saying they didn't cause this
11 death. But two adults who both had the opportunity to
12 commit it.

13 Now, you're going hear as far as the circumstances
14 surrounding this that, you know, Rodney Samuels gave what
15 the state calls, I believe, a confession and that he said
16 that he did push the child and the child fell off the bed.

17 But Brittany Samuels gives the same or a similar
18 statement when she's talking to medical professionals and
19 the police in that the child when she was alone in the room
20 with the child, the child fell off the bed.

21 So there's nothing that points specifically more to
22 Rodney than it does to Brittany.

23 Now, the facts as far as what he wants to raise in
24 third-party guilt is that definitely any facts would be
25 inconsistent with his own guilt because there's no

1 allegation that they acted together.

2 The allegation is that whoever did this -- and they're
3 saying that Rodney did it -- acted completely alone.

4 So if the evidence tends to suggest that Brittany
5 Samuels did this, that would be completely inconsistent
6 with his guilt. So we don't have a situation where he's
7 charged with aiding and abetting or knowing that the abuse
8 was occurring and allowing it to occur.

9 This was a situation where he is specifically charged
10 with doing it. So third-party guilt evidence would
11 definitely completely exonerate him.

12 Now, if I may, as far as whether the facts would raise
13 an inference of the defendant's own innocence, well, the
14 state's claim is that the injuries occurred, the injuries
15 that caused this child's death occurred, when Rodney
16 Samuels was alone with that child.

17 THE COURT: Can I interrupt you for just a minute?

18 Is what you want to introduce, is evidence that
19 Ms. Gentry had the same opportunity to cause this child's
20 death as the defendant did?

21 MS. SODERDAHL: Well, in a way. We want to suggest --
22 well, we want to be able to put forth evidence that he was
23 alone with the child for a half-an-hour period and then she
24 was alone with the child for a half-an-hour period
25 immediately following that.

1 THE COURT: That's what I'm asking you. That's all
2 you're attempting to introduce?

3 MS. SODERDAHL: Well, that's not everything, Your
4 Honor.

5 THE COURT: Okay.

6 MS. SODERDAHL: Also, regarding the fact of the nature
7 of the injuries, these injuries were severe. The liver --
8 you're going to hear the liver was lacerated. There were
9 bruises on the child's body -- front, back, face, head. He
10 was severely injured.

11 But what you're also going to hear if we're allowed to
12 present this evidence is that Brittany is the last one to
13 see this child conscious, that this child who apparently
14 suffered these horrible injuries -- if they're saying it
15 happened at the hand of Rodney, well, Brittany's the one
16 who came home and interacted with the child who was fine
17 when she was alone with the child. She's the last one to
18 see him conscious.

19 It's only after Brittany's alone with the child that
20 the child suffers from these injuries, that this child has
21 a response to the injuries.

22 If I may just one moment.

23 (Pause.)

24 MS. SODERDAHL: So I would just -- I would just add,
25 Your Honor, regarding the evidence, if you're talking about

1 the strength of the evidence that there's not going to be
2 any evidence regarding exactly what time these injuries
3 occurred. It's just as likely that they occurred in this
4 half-hour time slot as it is that they occurred in that
5 half-hour time slot. There's no specific -- not going to
6 be any specific timing injuries.

7 And regarding, again, the fall off the bed, I would if
8 I could respond very briefly. The state has cited several
9 cases this morning in their memorandum that I received.
10 But, again, these cases are distinguishable.

11 In those cases it would just be a bare suspicion as,
12 you know, an opportunity alone, but in this case there are
13 different motivating factors. There's different
14 circumstances regarding Rodney's interaction with the
15 child.

16 He pushed him off the bed because he didn't want a wet
17 diaper in bed with him versus Brittany's interaction with
18 the child, which is I could proffer exactly all of the
19 things that are going in Brittany's life that would just --
20 it just -- regarding the relationship between Brittany and
21 the child versus the relationship between Rodney and the
22 child.

23 The bottom line is if Rodney can't raise any
24 third-party-guilt defense there is no defense. He's
25 completely denied an opportunity to raise reasonable -- to

1 raise a defense in this case. He'd be denied a fair trial.
2 And we're asking that you allow us to do that, to raise
3 third-party guilt.

4 MR. BARNETTE: Your Honor, we would just read the
5 facts of the case, but I understand where they're going to.
6 You know, obviously they've talked about Ms. Gentry being
7 there. Obviously, she checked on her child before she left
8 to go get the cigar.

9 I disagree with their -- of course if that's where
10 we're going to have to -- the reason why we're having a
11 trial with their characterization of what she did when she
12 came back. But I feel like, you know, obviously in
13 discussing --

14 THE COURT: Let me ask you this.

15 Not the characterization, but is there evidence in
16 the -- I mean, is there evidence in the investigation that
17 establishes or supports what Ms. Soderdahl just told me?

18 MR. BARNETTE: This is what will be presented that
19 I'll put up.

20 Basically, she wakes up that morning. The defendant
21 asked her to go get a cigar.

22 She checks on him briefly, goes to the Kangaroo. We
23 see that on the tape and coming back and everything.

24 The events that he did not tell anybody about until
25 the sheriff's department showed him the injuries or talked

1 to him about the injuries that the child had, then he told
2 them about the fall. And of course we had the phone call
3 where he told his other girlfriend about the fall from that
4 standpoint.

5 But then she comes back and, basically, there's a text
6 saying that Chris is hollering for you. There's a text
7 sent from the defendant to her, to her phone.

8 She goes in and checks on him immediately, on him, and
9 she thinks he's having a nightmare or whatever from that
10 standpoint and covers him, lays him down. She's getting
11 ready to go to church, comes back and finds him
12 unresponsive.

13 That would be the evidence in this case. And there is
14 a text message where he sends it to her saying he's
15 hollering for you. And that's at 9:15:44.

16 So to me the facts are different than what's been
17 presented to you. However, I do understand she did check
18 on the child or whatever. I don't think there's any
19 evidence that supports a third-party guilt, but I do
20 understand what they're trying to show from that
21 standpoint. But that'd be the facts as we would show them
22 in court.

23 THE COURT: Well, I don't know specifically what the
24 evidence is that you want to introduce. You alluded to
25 some other evidence. But I think it's appropriate for them

1 to -- I mean, it's just part of the -- it's part of the
2 whole scenario, actually, that the mother was there present
3 at the same time that the child was apparently suffering
4 some difficulty and subsequently died. But of course I
5 haven't heard all of the evidence, so I don't know what's
6 going to develop. But I certainly think it's appropriate
7 for the defense to be able to question witnesses about who
8 all was present and who all was there with any opportunity
9 to commit the same crime that the defendant is accused of
10 having committed.

11 It's not like a stranger. It's not like there was
12 somebody walking down the street who fit a description that
13 could have broken in the house and done something. I mean,
14 we're talking about somebody who's present in the residence
15 at or about the same time that the child suffers the injury
16 and dies. So it appears to me that that would be
17 appropriate.

18 MR. BARNETTE: And I agree with the Court with that.
19 The question I have is, obviously, there's an
20 investigation. Obviously, investigators look at every
21 possibility or whatever. I don't think they can go into
22 that, per se, with the investigation saying just from that
23 standpoint.

24 THE COURT: Well, I -- that's the reason I say. I
25 don't know what all is being offered or what the defense is

1 wanting to present.

2 MS. SODERDAHL: Regarding what the prosecutor just
3 mentioned as far as the investigation, I mean, I think
4 common sense says that whenever someone dies that there's
5 an investigation. Everybody involved in that child's life
6 becomes a suspect. I don't think that's an issue.

7 what we specifically want to ask about is like what
8 you just said regarding the timing of when things happened,
9 of when Brittany was alone, of what the child's condition
10 was when Brittany came home, of the timing of when the
11 child was brought to the hospital, things like that which,
12 you know, maybe it's even a stretch to call that
13 third-party guilt.

14 The only thing as far as the police investigation that
15 we wanted to raise is that according to the police
16 officers' reports, and I believe it's specifically the SLED
17 agent, Nikki Cantrell's report, on January 6th the meeting
18 was had with all the law enforcement officers and all the
19 agencies.

20 And all the evidence they had gathered up to that
21 point, which included the videos, interviews of the
22 defendant and Ms. Gentry, which included the pathologist's
23 report -- the pathologist was a part of that meeting -- and
24 that on January 6th when they had that meeting their
25 conclusion was that there were two suspects to the crime,

1 Rodney Samuels and Brittany Gentry.

2 After that meeting they interviewed Brittany Gentry,
3 and as soon as that interview was complete Rodney
4 Samuels -- an arrest warrant was issued for Rodney Samuels.

5 So as far as the fact that that investigation -- the
6 course of that investigation and the process -- the
7 turnaround on investigation we did want to be able to
8 raise.

9 THE COURT: Anything else you want to tell me, Mr.
10 Barnette, about that?

11 MR. BARNETTE: Well, Your Honor, I think -- I don't
12 know if that's exactly what happened from that standpoint.
13 I guess we'll have to let the evidence develop and then
14 I'll object at the appropriate time.

15 THE COURT: Okay. Well, I think that'll make more --
16 I think that makes sense, to let's see what's introduced
17 and then if it's objectionable, you can object to it and
18 I'll address it.

19 MR. BARNETTE: Yes, sir.

20 THE COURT: What else do we have?

21 MS. SODERDAHL: The prosecutor has submitted a stack
22 of photographs. There are just a few that I do have
23 objections to if we want to do that now.

24 THE COURT: Okay.

25 MR. BARNETTE: May we approach, Your Honor?

1 THE COURT: Yes.

2 MS. SODERDAHL: There are some photographs that I'm
3 not objecting to, so we'll just leave those aside.

4 This one's been marked No. 25.

5 THE COURT: Don't worry about the numbers. Just look
6 at them. We're off the record right this minute.

7 (Bench conference held off the record.)

8 MR. BARNETTE: May it please the Court, Your Honor.

9 Your Honor, I believe the pictures that's being talked
10 about are pictures --

11 THE COURT: Well, now, those haven't been marked, so
12 just --

13 MR. BARNETTE: Okay.

14 THE COURT: Well, you can discuss generally what they
15 are, what they're designed to depict, the relevance and
16 purpose in them, and then the defense can address their
17 objection.

18 MR. BARNETTE: Your Honor, the pictures in general are
19 supposed to show the injuries that the victim in this case
20 received.

21 Your Honor, obviously, it's supposed to show
22 indifference to human life from that standpoint, the stand
23 before us. These pictures would help Dr. Wren to explain
24 those. These are being used by him to explain during his
25 testimony for the jury to see.

1 I realize that -- I can show you a bunch more
2 pictures. We've got a huge number, amount, of pictures a
3 lot more offensive than the pictures I'm showing you from
4 this standpoint. I'll be glad to enter those as a court
5 exhibit, so, you know, he -- if a future court needs to see
6 it, they can see that from that standpoint.

7 But, Your Honor, the bruising that's shown in a lot of
8 these, I don't think are objectionable. Actually, they
9 actually put towels and trying to make it as objectionable
10 as they could on the body.

11 The reason why the two scalp -- are showing, Your
12 Honor, they actually were contusions that was found on his
13 scalp.

14 These are bruises that was caused. They look fairly
15 fresh. He'd done a cut on two of the injuries showing that
16 they had been just recent from there, Your Honor.

17 The last red liver, Your Honor, is showing the way it
18 was when it was taken out, as well as the two lacerations
19 in it. That obviously has to take a great deal of force to
20 cause those injuries.

21 I think that it'd be -- I understand they're
22 prejudicial. No question about that. But they're highly
23 probative to show that, Your Honor.

24 THE COURT: Let me have the photos back.

25 MR. BARNETTE: Yes, sir.

1 Your Honor, may I pass a case up to Your Honor too
2 concerning this issue?

3 THE COURT: Sure.

4 MR. BARNETTE: I know -- may I approach the bench,
5 Your Honor?

6 THE COURT: All right. I've got eight photographs
7 here. These photographs appear to be photographs of the
8 child's torso. Is that a fair statement?

9 MR. BARNETTE: Yes, sir.

10 THE COURT: All right. And there are eight of those.
11 Now, are these in any way duplicative, or do they all
12 show something different?

13 MR. BARNETTE: I believe they show something
14 different, Your Honor. What I tried to do is start one
15 part of the body and go around.

16 THE COURT: Let me let you have these. Go through
17 them and tell me why they're -- what they're designed to
18 establish and why they're not.

19 MR. BARNETTE: Your Honor, would you like me to mark
20 these at this point?

21 THE COURT: Well, I'm trying to avoid those being in
22 the record. If we need to, we can.

23 MR. BARNETTE: Could I go ahead and have them marked?
24 I've already got the numbers on them.

25 THE COURT: Just mark them as court's exhibits.

1 (Photographs marked Court's Exhibits Nos. 1-A through
2 1-F.)

3 THE COURT: Okay. Mr. Barnette.

4 MR. BARNETTE: May I approach, Your Honor?

5 THE COURT: Court's numbers are underneath.

6 MR. BARNETTE: Yes, sir, Your Honor. I'll start with
7 Court's Exhibit No. 1-A.

8 Your Honor, this is showing bruising to the right side
9 of the victim in this case. Your Honor, it shows two
10 bruises. It shows it up to the top, as well as on the
11 side.

12 THE COURT: All right. Ms. Soderdahl, what about
13 that?

14 MS. SODERDAHL: I'm just objecting to the photographs.
15 There's going to be testimony that bruises were observed.
16 I think showing the photographs of a child after an autopsy
17 has been conducted, it's clearly a dead body. I think it's
18 highly prejudicial, it's inflammatory and it's -- the risk
19 is that it's going to inflame the prejudices and sympathies
20 of the jurors.

21 THE COURT: Well, can you tell that from that photo?

22 MS. SODERDAHL: It's a -- you can tell that it's a
23 dead child's body, Your Honor, yes.

24 THE COURT: How can you tell that?

25 MS. SODERDAHL: Well, if you look at the -- the way

1 the body is situated, it's wrapped in towels. You can see
2 the bag from the autopsy. It's wrapped -- it's in a --
3 still in a white body bag.

4 THE COURT: Okay. All right. Overrule the objection
5 to that one.

6 MS. SODERDAHL, to make this simple note, are you going
7 to have the same objection to each one of these photographs
8 that show the torso?

9 MS. SODERDAHL: As far as the photographs of the
10 bruising, yes.

11 THE COURT: Court's Exhibits 1 through 8. Excuse me.
12 1-A, B, C, D, E, F, G, H.

13 MR. BARNETTE: 1-F is the last one, I think, Your
14 Honor.

15 MS. SODERDAHL: Of the torso.

16 MR. BARNETTE: They go 1-A through 1-F, is what they
17 go.

18 THE COURT: There's six? I thought there were eight.

19 MR. BARNETTE: I believe there's seven, Your Honor.

20 No. There's eight. You're correct. It is eight.

21 THE COURT: Well, I know, but 8-F is not. 8-F would
22 be 6.

23 MR. BARNETTE: One moment, Your Honor.

24 (Pause.)

25 (Photographs remarked Court's Exhibits Nos. 1-A through

1 1-H.)

2 THE COURT: So we have Court's Exhibits 1-A through H.

3 MR. BARNETTE: Yes, sir.

4 THE COURT: All right. Is your objection going to be
5 the same as to each, Ms. Soderdahl?

6 MS. SODERDAHL: As far -- yes. It is the same as to
7 each.

8 As far as the group of them, again, my concern would
9 be that they'd cumulative unless each photograph shows a
10 different thing. I would just want to make sure that
11 they're --

12 THE COURT: All right. He's going to explain what the
13 difference is.

14 MS. SODERDAHL: Okay.

15 MR. BARNETTE: Okay. Your Honor, which is marked as
16 Court's Exhibit 1-F, Your Honor. Basically, this shows a
17 bruise under his arm area right there close to where it's
18 been measured in that situation.

19 THE COURT: A different bruise than in 1-A?

20 MR. BARNETTE: Well, it's a -- there's actually -- you
21 see two. It's a lighter angle. This is actually just a
22 closer up picture of the one that's --

23 THE COURT: The same picture?

24 MR. BARNETTE: No, it's not the same picture. It's a
25 different picture.

1 THE COURT: I mean, it's depicting the same location
2 on the body?

3 MR. BARNETTE: No, sir. It's the upper part of the
4 body near where the -- showing a closer picture of the
5 bruise up there from that standpoint. What I did was --

6 THE COURT: Well, when you say a closer picture of the
7 bruise, you're talking about a closer picture of the bruise
8 shown in 1-A or --

9 MR. BARNETTE: 1-A, yes, sir. Well, there's two
10 bruises in 1-A. In this one here it will actually -- it
11 shows the one bruise higher up that's on the arm.

12 What I'm doing is trying to show a pattern, Your
13 Honor, through there. That's the relevance to it.

14 THE COURT: Well, you don't need two pictures to do
15 that. I mean, 1-A -- 1-A shows both of them? You're going
16 to have an expert testify about it.

17 MR. BARNETTE: Okay. Well.

18 THE COURT: In fact, I think 1-A is a better photo
19 than 1-F. So you can have either one of those you want.

20 MR. BARNETTE: I'd rather have the first one, Your
21 Honor.

22 THE COURT: 1-A is in. All right. 1-F is out.

23 MR. BARNETTE: Okay. Your Honor, the next one is I-E,
24 Your Honor. It shows the bruise going into the side, going
25 to the back, showing the pattern going around it.

1 If you'd like me to, Your Honor, I can just go through
2 and explain each one.

3 THE COURT: Well, we've got to take one -- each
4 separately.

5 MR. BARNETTE: Yes, sir.

6 THE COURT: All right. This is showing what, now?

7 MR. BARNETTE: It does show the original bruise
8 here -- this one here -- but also shows going towards the
9 back, that there's bruising in the back there also, Your
10 Honor. And maybe -- maybe this will help the Court. 1-G
11 is a picture of that bruise going into the back showing a
12 different bruising all the way across from there.

13 THE COURT: Okay. 1-G is admitted over objection.

14 MR. BARNETTE: Okay. Then, Your Honor, it would be
15 1-H. Your Honor, it shows the bruising in the back, which
16 is a different bruise from the one on the side, showing the
17 pattern going towards it.

18 THE COURT: All right. 1-H is admitted over
19 objection.

20 MR. BARNETTE: And then 1-D, Your Honor, is bruising
21 on the left side that was shown. It's the opposite side,
22 Your Honor.

23 THE COURT: What?

24 MR. BARNETTE: This is the opposite side. What's
25 confusing is the arm there.

1 THE COURT: I know.

2 MR. BARNETTE: It's different sides.

3 THE COURT: Okay. Do you want to look at it?

4 MS. SODERDAHL: No. Just the same objection.

5 THE COURT: Okay. 1-D is admitted over objection.

6 MR. BARNETTE: Okay. Your Honor, 1-C, Your Honor, is
7 going to be a closer picture of the one bruise that is
8 depicted in 1-D.

9 THE COURT: All right. That's excluded.

10 MR. BARNETTE: Your Honor, 1-B is actually a bruise on
11 the --

12 THE COURT: 1-C is excluded.

13 MR. BARNETTE: Then 1-B is another picture of the
14 lower bruise that's on the -- in this pictures, Your Honor,
15 the picture down in this area.

16 It's -- the reason I did the closer up is it's easier
17 to see when it's close up.

18 THE COURT: All right. 1-B is admitted over
19 objection. All right. That takes care of the torso
20 photos?

21 MR. BARNETTE: Yes, sir. And, like I say, Dr. Wren
22 will be the one testifying about those.

23 THE COURT: Do you need to renumber these for your
24 purposes?

25 MR. BARNETTE: Your Honor, what I'd like to do if you

1 don't mind is go ahead and use the state numbers on these,
2 and these would be marked for I.D. purposes. That way
3 it'll keep them more in better order, even though we know
4 these are going to be kept out, the ones you have in your
5 hands. Will that be okay with the court reporter?

6 THE COURT: I'm not sure I understand what you're
7 saying.

8 MR. BARNETTE: What I'd like to do -- I already have
9 the exhibit numbers on the back of them. I'd like to keep
10 them, just the ones for I. D. purposes that the Court
11 picked, so that it'd be easier to keep track of for the
12 record.

13 Your Honor, the ones we're going to move in, we're
14 going to move these. These are just marked for I.D.
15 purposes at this point. The ones that are admitted over
16 objection at this point is State's Exhibit 20, State's
17 Exhibit 19, State's Exhibit 16, State's Exhibit 21 and
18 State's Exhibit 23.

19 THE COURT: Give her those so she can mark them.

20 (Exhibits remarked.)

21 MR. BARNETTE: If I can have those other ones, Your
22 Honor, I'll just put those in the record too.

23 THE COURT: All right. Is that all for the torso
24 photos?

25 All right. I have -- now I have four photos. Excuse

1 me. I have three photos which appear to be photos of the
2 child's head before, perhaps, and after autopsy.

3 MR. BARNETTE: Yes, sir. Would you like for me to
4 talk about those pictures now, Your Honor?

5 And, Your Honor, just for I.D. purposes, they've been
6 marked State's Exhibit 25, State's Exhibit 26 and State's
7 Exhibit 24.

8 Your Honor, State's Exhibit 24 for I.D. purposes would
9 have been the mark on the face. Obviously, it was shown
10 through the autopsy or whatever. If we need to we could
11 crop to make it where you could see the picture.

12 THE COURT: What is it that you're trying to show the
13 jury?

14 MR. BARNETTE: The mark on his cheek. It's appears to
15 be a nail mark, or that is what would be alleged into -- or
16 at least a -- a finger.

17 THE COURT: And someone will testify that that's a
18 what?

19 MR. BARNETTE: To that's an indention, could be
20 similar to a finger going into it, or a nail.

21 MS. SODERDAHL: I've seen that, Your Honor, yes, and I
22 think that's similar to the torso photos. Again, the same
23 objection as was made to the torso photos.

24 There's going to be testimony regarding bruises on the
25 child's face. There's going to be testimony regarding what

1 the medical experts believe that bruise to look like or be
2 shaped like. And the photo would be cumulative to that
3 evidence. It would also, because of the graphic nature of
4 the deceased child's face being shown -- whereas, the
5 prejudice to the defendant is sympathy and inflammatory.

6 THE COURT: All right. It's admitted over objection.

7 MR. BARNETTE: Your Honor, the next two are State's
8 Exhibits --

9 THE COURT: Wait a minute. Let her mark it.

10 (Photograph marked State's Exhibit No. 24.)

11 MR. BARNETTE: Your Honor, State's Exhibits 25 and 26
12 for I.D. purposes at this time, Your Honor, are the two
13 contusions that was found on the scalp once the scalp was
14 taken back. And Dr. Wren would testify one of those he'd
15 actually took a fresh slide from and it was a fresh wound
16 to the scalp area, Your Honor. It shows one on the left
17 side of the head area and one on the back side of the head
18 area.

19 THE COURT: Your objection?

20 MS. SODERDAHL: My objection is that I don't believe
21 this evidence is relevant in this case. It does nothing to
22 assist the jury in determining what occurred. Jurors
23 aren't medical experts. This is a scalp that's been peeled
24 back. The skin has been peeled back from the scalp of a
25 child. They're not going to know what they're looking at.

1 They're going to require a medical expert to explain that
2 to them, which then the evidence becomes cumulative.

3 It's also highly graphic and something that most
4 people aren't used to looking at. It could sicken the
5 jurors, and, again, it's just something that's highly
6 prejudicial against the defendant because there's a lot of
7 blood there that's probably natural when you take that skin
8 off. So we're asking that that not be shown to the jury
9 because of the potential prejudice.

10 THE COURT: All right. I sustain the objection to
11 those two exhibits. I think that the expert can testify by
12 use of a drawing or otherwise to it. Is this a fact that's
13 going to be in dispute?

14 MS. SODERDAHL: I don't think so, no.

15 MR. BARNETTE: No. I think the injuries themselves
16 aren't. The dispute is who did it.

17 THE COURT: I sustain the objection as to 25 and 26 as
18 being highly inflammatory and prejudicial.

19 All right. I've got two photos. Those are the same.

20 MR. BARNETTE: They're different pictures.

21 THE COURT: I know they are different photos, but are
22 they the same subject matter?

23 MR. BARNETTE: Yes, sir, it would be.

24 Your Honor, it's been marked for State's Exhibit 27
25 and 28 for I.D. purposes only, Your Honor.

1 This is the liver that was taken from the victim in
2 this case, Your Honor. It was lacerated, clearly.

3 where I think these become relevant, Your Honor, is it
4 would a great deal of force to do this kind of injury, and
5 Dr. Wren will be testifying to that, I'm sure -- lacerated
6 liver -- especially the way it was done in this case.

7 I think it becomes relevant now. Their third-party
8 guilt is to blame the mother in this case, and it would
9 take somebody with a great deal of strength to do what
10 this -- in this situation. And that's where I think it
11 becomes very -- more probative than prejudicial.

12 Plus, Your Honor, I do have the case of State vs.
13 Martucci. I believe that's what I just handed up. And I
14 know defense counsel is very familiar with it.

15 MS. SODERDAHL: Yes, sir.

16 MR. BARNETTE: From that stand point. And, basically,
17 they said autopsy photos of the child's internal organs and
18 other injuries were admissible. And to me this becomes --
19 I know it's highly prejudicial because it's very relevant
20 in this case. And I'd say it's more probative than
21 prejudicial based off the evidence that may be presented in
22 the case.

23 THE COURT: All right.

24 MS. SODERDAHL: And I'm just going to make the exact
25 same objection I did to the scalp photographs. It's just

1 extremely graphic. Jurors are not going to know what
2 they're looking at.

3 The expert witness is going to testify regarding
4 lacerations. He's probably going to give them an English
5 definition of what that means and what's required to cause
6 those injuries. And the photos being so graphic I think
7 are highly prejudicial, very inflammatory and would
8 prejudice the jury.

9 THE COURT: All right. Well, I find these photos are
10 more probative than prejudicial. They do show the injury.
11 And of course he'll describe the mechanism of injury.

12 So they're admitted over objection.

13 MS. SODERDAHL: Thank you, Your Honor.

14 I have had an opportunity to speak with Mr. Barnette
15 regarding what my objection was to their Exhibit No. 32,
16 which I also have, and I think we've solved that problem
17 just by speaking.

18 THE COURT: I've got one of the exhibits.

19 MS. SODERDAHL: Oh, I'm sorry.

20 THE COURT: I've got 29. Do you want to offer that or
21 withdraw it?

22 MR. BARNETTE: Your Honor, based off what the rulings
23 -- and I know where the Court's going and it probably is --
24 I'll probably just mark it as an exhibit at this point,
25 State's Exhibit 29 for I.D. purposes and withdraw it at

1 this time.

2 (Photographs marked State's Exhibits Nos. 27 and 28;
3 photograph marked State's Exhibit No. 29 for
4 Identification.)

5 MR. BARNETTE: Your Honor, if I could just for a clean
6 record, I have the ones that are going to be kept out of
7 the torso -- I'm sorry.

8 (Pause.)

9 MR. BARNETTE: If I can just have the ones there, Your
10 Honor, that was marked as court's exhibit, I'll just mark
11 them I.D. and that way it'll keep a cleaner record, I
12 believe.

13 THE COURT: Is that all of the exhibits we have to
14 address?

15 MR. BARNETTE: Yes, sir.

16 State's Exhibit 32. I'm going to go ahead and make --
17 change over -- we talked about -- just take that one line
18 and put it on a white sheet of paper and use in that
19 fashion.

20 MS. SODERDAHL: Right. And that's the cell phone
21 records. We're going to stipulate to the foundation to
22 that as well.

23 THE COURT: Okay. I think we need to break for lunch.
24 Court is recess until 2:30.

25 (Whereupon, a recess was taken.)

1 THE COURT: Let me see y'all just a minute, please.

2 (Bench conference held off the record.)

3 THE COURT: Bring the jury in.

4 Ask Juror No. 123, that's Mr. Ryan, to take the
5 foreperson's seat.

6 (The following takes place in the presence of the
7 jury.)

8 THE COURT: Good afternoon, ladies and gentlemen.

9 We are ready to begin with the trial of the case for
10 which each of you have been selected.

11 Mr. Ryan, I'm going to ask you to serve as the
12 foreperson of the jury. As the foreperson you're going to
13 have three specific duties that none of the other jurors
14 will have.

15 First of all, you'll be asked to serve as the
16 spokesperson for the jury. And that just means if
17 something arises during the trial that needs to be brought
18 to my attention -- you or one of your fellow jurors has
19 some difficulty, problem or question -- you're going to be
20 the person who will provide me with that information, and
21 you'll do that directly if you're in the courtroom or
22 through the bailiff if you're outside of the courtroom.

23 Secondly, you'll be called upon to preside over jury
24 deliberations when that time comes at the trial's
25 conclusion simply to ensure that that deliberation process

1 is carried out in some orderly fashion.

2 And, thirdly, you'll actually write the decision or
3 the verdict of the jury, and you'll do that on a verdict
4 form that I'll provide you at the trial's conclusion on
5 which you will indicate the jury's unanimous decision.

6 Now, the foreperson has those specific duties that
7 I've just indicated. That does not however mean that he is
8 any more important than any of you other jurors, and that's
9 because the decision of a jury is the unanimous consensus
10 opinion of all 12 jurors. And so all of you will have an
11 equal say and an equal vote in what the ultimate decision
12 will be.

13 Someone simply has to be delegated those
14 responsibilities that I have just indicated, and I have
15 delegated those to Mr. Ryan in appointing him as the
16 foreperson. But all of you jurors are equally important so
17 far as the ultimate decision in this case is concerned,
18 because, as I've stated, the verdict has to be unanimous.
19 All 12 of you must be in agreement.

20 Now, Mr. Green, and Mr. Owens, each of you have been
21 selected as alternate jurors. And the function of an
22 alternate juror is to take the place of one of the original
23 12. If during the trial something arises that causes one
24 of these primary jurors to be unable to continue to serve,
25 then one or both of you would take that juror or those

Jury sworn

1 jurors' places. And if that occurs, then you become the
2 12th juror. And by becoming the 12th juror you would
3 participate throughout the trial including in the jury
4 deliberations at the trial's conclusion.

5 If however when the time does come for jury
6 deliberations, if the original 12 jurors are all able to
7 participate in that deliberation process, then your service
8 as alternate jurors would end and you would not be
9 participated -- you would not be permitted to participate
10 any further.

11 But it is important that you pay just as careful
12 attention as we ask of all of the jurors selected in this
13 case, because it does occur from time to time for one
14 reason or another one or two of these jurors may be unable
15 to continue. In that event one or both of you would be
16 called upon to take that person's or those persons' places,
17 and you would become the 12th.

18 So we do appreciate your participation as alternate
19 jurors, just as we appreciate the participation of each of
20 you jurors who have been selected for the purpose of
21 deciding the verdict in this particular case.

22 You may swear the panel.

23 (Whereupon, the jury was duly sworn.)

24 THE COURT: Ladies and gentlemen, as you know, you
25 have been selected to decide the verdict in the case of the

1 State vs. Rodney O'Bryant Samuels.

2 As you also know, Mr. Samuels has been accused by the
3 prosecutor by way of the indictment with having committed
4 the crime of homicide by child abuse or neglect, the state
5 alleging that that occurred back on January the 4th of
6 2015.

7 As you also know, he has entered a plea of not guilty
8 as to that charge. And a plea of not guilty places upon
9 the state the burden of proving the allegations that they
10 have made by way of this indictment, the burden of proving
11 each of the essential elements of the crime that is alleged
12 against the defendant set forth in the indictment; and
13 therefore the burden is upon the state to establish the
14 defendant's guilt to the satisfaction of you 12 jurors
15 beyond a reasonable doubt before any verdict of guilty
16 could be returned.

17 The indictment does set forth the charge, but the
18 indictment is not evidence in this case. It doesn't prove
19 anything; it doesn't establish anything. It's simply the
20 means by which any person accused of a crime where the
21 jurisdiction lies in this court is put on notice as to what
22 crime the state claims they have committed. It's the means
23 by which they're brought to this court to stand trial on
24 that charge.

25 The indictment will be in the jury room when you go

1 back to begin with your deliberations in the case. It'll
2 be there solely to serve as the verdict form. So other
3 than serving as the verdict form, the indictment serves no
4 purpose so far as you jurors are concerned.

5 Every person accused of a crime -- it doesn't matter
6 how serious the crime might be -- every person accused of a
7 crime is always presumed innocent of that charge. That
8 presumption of innocence remains with any defendant, as it
9 does with this defendant, from the time that he is placed
10 under arrest and throughout the course of the criminal
11 process and even throughout the course of the actual trial
12 in the case.

13 That presumption of innocence will be with Mr. Samuels
14 even at the trial's conclusion as you go back to begin with
15 your deliberations in the case.

16 That presumption of innocence will be with Mr. Samuels
17 in that jury room, and it'll be with him forever unless you
18 12 jurors determine that he's no longer entitled to that
19 presumption of innocence.

20 In other words, after you have considered all of the
21 evidence presented during the trial of the case, and after
22 considering all of that evidence you apply the law that I
23 will have provided you at the conclusion of the trial, if
24 you 12 jurors unanimously determine that his guilt has been
25 proven beyond a reasonable doubt, then he would no longer

1 be entitled to that presumption of innocence. But it is
2 only if, unless and until you are satisfied of his guilt
3 beyond a reasonable doubt that the presumption of innocence
4 would no longer be applicable.

5 Now, the way the trial will proceed is that in a
6 moment the lawyers are going to address you in what are
7 called opening statements.

8 There are two occasions in the trial of a case where
9 lawyers are permitted to address the jury. That is at the
10 beginning of the trial before any evidence is introduced
11 and then again at the conclusion of the trial after all of
12 the evidence has been received. But keep in mind, as I've
13 just indicated, the evidence comes in between the opening
14 and the closing statements accomplished by the lawyers.

15 So what the lawyers tell you in their statements is
16 not to be considered by you nor construed by you as being
17 any evidence upon which you will base your decision, and
18 that's because the lawyers aren't witnesses to anything.
19 They don't know anything about this case of their own
20 personal knowledge, experience or perception like witnesses
21 will be testifying to when they take the witness stand.

22 The lawyers aren't going to take the witness stand.
23 They're not going to be placed under oath and they're not
24 going to be subjected to direct and cross-examination like
25 witnesses will be.

1 So what the lawyers tell you in their statements is
2 not to be considered by you as any evidence upon which you
3 will base your decision. But you should listen to what the
4 lawyers have to say because those statements do serve a
5 purpose.

6 The opening statements serve to provide you with a
7 basic understanding as to what this case is about from both
8 the perspective of the state, as well as the defense, so
9 that you'll have some context in which to place the
10 evidence that we will be receiving shortly thereafter.

11 The closing statements occur after all of the evidence
12 has been received. And, again, while those statements are
13 not evidence it does afford the lawyers an opportunity to
14 discuss with you the evidence that you have seen and heard
15 during the course of the trial. And through that
16 discussion each will have an opportunity to try to persuade
17 you or to convince you that the evidence in the case does
18 or does not support a particular decision.

19 And, as I've stated, it's in between those opening and
20 the closing statements by the lawyers that we actually
21 receive the evidence upon which you will base your
22 decision.

23 The state has the burden of proof because the state
24 has made the accusation. The state has brought the charge
25 against the defendant. Therefore their burden is to

1 establish the charge beyond a reasonable doubt and to prove
2 him guilty beyond a reasonable doubt.

3 So the state will go forward first in its presentation
4 of evidence. Once the state has concluded with its
5 presentation any defendant has an opportunity to testify or
6 call witnesses or introduce evidence. But understand that
7 a defendant in a criminal trial is never under any
8 obligation to prove anything. A defendant has no burden of
9 proof like does the state.

10 The defendant may not testify during the trial. The
11 defendant may not call any witness. The defendant may not
12 prove any of it -- may not introduce any evidence. And
13 that's because the burden is on the state, but it's not
14 upon a defendant.

15 The reason it's on the state is because they make the
16 accusation, and the reason it's not on a defendant to prove
17 anything is because in some cases it would be impossible to
18 prove that you're innocent or prove that you're not guilty.
19 But a defendant is afforded an opportunity to testify or
20 present evidence if he or she wished to do so.

21 So after the evidence has been received and after you
22 hear the final summations of the lawyers, I will then
23 instruct you fully on the law as it relates to the criminal
24 law generally and as it relates to this specific crime
25 particularly. And then you'll be asked to go back into the

1 jury room and to begin with your deliberations. And
2 through that process you're going to be called upon through
3 the exercise of good judgment and common sense
4 conscientiously applied to the evidence in the case to
5 consider all of that evidence, to look at it carefully, to
6 determine the credibility of witness testimony, to decide
7 what you believe to be the facts, and after deciding the
8 fact applying the law that I will have provided it to
9 you -- as I would have provided it to you in order to
10 arrive at your decision in the case.

11 Now, all that we're going to ask for you to do is to
12 pay careful attention throughout the course of the trial.
13 As I say, sometimes during the course of a trial there may
14 be conflicts in testimony coming from witnesses who testify
15 during the trial. Where there is a conflict in testimony
16 and where that conflict needs to be resolved in order for
17 you to arrive at a decision, it is your prerogative to
18 determine what is the most believable and credible
19 testimony, and that's the testimony that you would accept.
20 And you are to reject any other testimony or evidence that
21 you find not to be credible or believable.

22 But in order for you to be in a proper position to be
23 able to fairly evaluate each witness' credibility it's
24 important that you give every witness the same degree of
25 attention as they testify so that when you do go back to

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1 begin deliberations you'll be in a proper position to be
2 able to fairly evaluate each witness' testimony in light of
3 not just their own testimony but in light of all of the
4 testimony and all of the evidence received during the
5 course of the trial.

6 And of course it's also important that you keep an
7 open mind throughout the course of the trial. And you are
8 not to begin making up your minds or formulating your
9 opinions as to what you think the ultimate outcome in this
10 case ought to be until you have heard and seen all of the
11 evidence in the case, until you have been instructed on the
12 law and until you've been asked to go back and to begin
13 with your deliberations in the case.

14 That is the process that has been designed over the
15 last 240 years to ensure that you can arrive at a fair and
16 just decision in any case.

17 So I do want to thank you in advance for your
18 participation, as well as for your careful attention. I
19 would ask that you please give the lawyers your attention
20 now as they give you their opening statements.

21 Mr. Barnette.

22 MR. BARNETTE: May it please the Court, Your Honor.

23 Mr. Foreman, ladies and gentlemen of the jury, I'd
24 like to take you back to January 4th of 2015.

25 Christopher Gentry lived in an apartment with his

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1 mother, Brittany Gentry, that you'll be hearing from
2 shortly, and his younger brother Juicy. He was two years
3 old. And you're going to hear what kind of playful boy he
4 was, what a great kid he was.

5 That morning his mom woke up, and her boyfriend, the
6 defendant in this case, came over and stayed the night with
7 her. That morning he basically told her, said, you need to
8 go get me a cigarette or a cigar. You'll see that she got
9 up.

10 And Lee's Crossing is near Spartanburg Methodist
11 College if you're familiar with that area right in there.

12 She drives about two miles. She comes out on 29.
13 There's a Marco's Pizza right there. You've got the Texas
14 RoadHouse, is where that road comes out to.

15 She goes right and goes to a Kangaroo filling station
16 right there. There's Jason's Deli there. You'll see.
17 There's going to be a video tape from the Kangaroo where
18 she pulls up in her car about 8:59 a.m. that morning.

19 She's there. She's actually calling her mom. You'll
20 hear from her mom, Mary Collins, today. She's in the car
21 about, probably about, approximately ten minutes, gets out
22 and goes and gets the cigar, goes back to the car and
23 drives back.

24 On the way back she gets a text from the defendant.
25 "Chris is yelling for you or hollering for you." So she

Opening statements

1 immediately gets out there.

2 And the interesting thing you'll see is this complex
3 has a camera system. It's very good except one problem
4 you're going to see. They're the farthest where she lived
5 at, 727 Hartnett Drive. She was the farthest apartment
6 building away. But you can still see when she leaves, when
7 she comes back in. And when she comes back in she
8 immediately goes to Chris. That's what they call him. And
9 she thinks he's having a nightmare, so she comforts him.
10 He lays back down in the bed.

11 She goes to take a shower because she's going to go to
12 church with her mama. Getting ready for that. Before she
13 steps in the shower she checks on Chris again, and Chris is
14 nonresponsive.

15 During this time he does fall in the floor, but they
16 put him back up on the bed. Her and the defendant talked.
17 They decided not to call 9-1-1. They go, basically go, to
18 the hospital. He's declared dead there.

19 An autopsy is performed. Of course there's an
20 investigation started. You know, the coroner's office is
21 called. Different people's called in. The sheriff's
22 department's called in. They really don't know a whole lot
23 until they get the autopsy.

24 And Dr. Wren. You'll hear from him. Numerous
25 bruises. You'll see the bruises here, here, here.

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1 Actually had bruises on the back of his head -- side. He
2 has a mark on the side of his face. He has a lacerated
3 liver. Chris literally bled to death and the judge -- and
4 Dr. Wren will tell you blunt force trauma.

5 Through investigation the sheriff's department
6 arrested the defendant. You'll hear a statement. He
7 actually gave two different statements. The first
8 statement he doesn't talk about anything that he did to
9 Chris. The second statement they confront him with what
10 evidence they've got and he said, well, he actually came to
11 the bed with me, he was wet and I pushed him and he fell
12 across the floor.

13 You'll later hear about a jail phone call when he
14 calls another woman, not Brittany Gentry. He tells her
15 what happened, what he said happened.

16 Brittany Gentry was gone for at least 20 minutes. The
17 man that did this to Chris Gentry is that gentleman sitting
18 right over there.

19 He caused the negligence [sic]. Like I say, you're
20 going to hear from Dr. Wren. You'll be hearing from the
21 defendant's own mouth when he's talking to another woman
22 about this case on a jail phone call.

23 He was the one that did this to Chris. Too many
24 numerous injuries for just a fall. There's no way a
25 lacerated liver would have just been caused by a fall. Dr.

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1 wren will tell you the force that is needed to create a
2 lacerated liver in this case.

3 what I'd like for you to do is be patient with us.
4 We've got a lot of stuff we need to show you. There's
5 going to be a lot of video stuff. Like I say, I'm going to
6 show you Lee's Crossing where you're coming in and out.

7 You are going to see the Kangaroo video, and you'll
8 hear the jail phone call. And I apologize. I'm going to
9 show you some pictures that may be disturbing, but I think
10 you need to know as a juror what's involved in this case.
11 Again, we appreciate you being here. We thank you taking
12 your time.

13 Thank you, Your Honor.

14 THE COURT: Ms. Soderdahl.

15 MS. SODERDAHL: Thank you. May it please the Court.

16 This is a tragedy. There's no doubt about that.

17 Minor [REDACTED] was two years old, and he died.

18 When you hear about such an enormous tragedy as this
19 it's natural to have a response, an emotional response.
20 You want to fix things. You want to make it right. You
21 want justice to be done. You might feel angry. You might
22 want someone to pay for this.

23 Those are all natural, normal human responses to this,
24 and it's okay if that's what you're thinking and feeling,
25 but you have a job to do here, a very important job. And

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1 you can't let those natural human emotions, that sympathy,
2 that sorrow get in the way of doing your job.

3 Your job here today is to decide not what happened but
4 whether the state has proven beyond a reasonable doubt that
5 Rodney Samuels committed this crime.

6 As the state indicated, you are going to hear evidence
7 that [Minor] died as a result of blunt force
8 trauma, that [Minor] was beaten badly, so badly
9 that his liver was severed -- severed. It was torn. He
10 bled internally. There were bruises on his front, on his
11 back, on his face.

12 You're going to hear that there were only two people
13 that could have done that to [Minor]. There were
14 two adults that were alone with [Minor] in the
15 hours before his death. Those two adults are [Minor]
16 mother, Brittany Gentry, and Rodney Samuels.

17 But the state in order to meet their burden here
18 today, they have to prove beyond a reasonable doubt that
19 Rodney Samuels, and Rodney Samuels alone, committed this
20 crime.

21 You're not going hear any direct evidence. This
22 entire case is circumstantial. You're not going to hear
23 any eye witnesses that are going to tell you that they saw
24 what happened to [Minor]. You're not going to see
25 any video surveillance videos of what happened to cause the

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1 death of [Minor]. You're not going to hear about
2 D.N.A., fingerprint comparison evidence, blood spatter
3 evidence. There's none of that.

4 The entire case is circumstantial, and it's based on
5 the fact that Rodney Samuels was alone with [Minor]
6 [] for 20 minutes a couple of hours before he died.

7 But you're also going to hear that Brittany Gentry was
8 alone with that child in the hours before he died, that
9 Brittany Gentry was alone with that child after Rodney had
10 been alone with the child and that she didn't observe
11 anything wrong with him.

12 You are going to hear that after that 20 minutes that
13 Rodney was alone with the child it was another hour before
14 they went to the hospital, an hour during which, much of
15 which, Brittany was alone with that child right before the
16 death.

17 And you know what? I'll go ahead, and I'm going to
18 call it a confession. Rodney Samuels talked to the police,
19 and he made a confession. He told them something. I
20 consider a confession to be something that you admit that
21 you don't want to admit.

22 He knows he didn't do the right thing. He --
23 [Minor] came into the room that he was in, and
24 Rodney went to lift him up into the bed. And when he put
25 his hand on his behind he saw that it was wet. The baby

Opening statements

1 had a wet diaper. And he let go, and he pushed the child
2 away. And the child fell a foot off the floor.

3 But the medical evidence, the injuries to this child,
4 weren't caused by a 1-foot fall off a bed, weren't caused
5 by a gentle shove. Don't get that wet diaper near me.

6 It wasn't the right thing to do, but it's not what
7 killed this child. I call it a confession because it's an
8 admission of something that he did that he's not proud of,
9 but it's not a confession to this crime.

10 I want to introduce you to Rodney Samuels. He's
11 sitting here before you. He's 27 years old. And back in
12 January of 2015 he lived in Moore, South Carolina, with his
13 parents.

14 As Mr. Samuels is sitting here right now before you
15 he's an innocent man. He's presumed innocent, and that
16 presumption of innocence cloaks him throughout this trial.

17 The burden of proof that's on the state, to prove him
18 guilty, and him alone of committing this crime, is a heavy
19 and high burden. It's the heaviest burden in the entire
20 court system of the United States. Beyond a reasonable
21 doubt.

22 And this presumption of innocence is so strong, ladies
23 and gentlemen, that if this trial were to end right now by
24 law you would have to find him not guilty even though you
25 have this emotional response to what he's charged with,

Mary Frances Collins
Direct examination by Mr. Barnette

1 even though he is sitting here with us. You would have to
2 find him not guilty because you haven't heard a piece of
3 evidence.

4 You know what? I'm confident that after you have
5 heard the evidence that you're going to agree that there's
6 a very reasonable doubt, a very reasonable doubt that
7 Rodney Samuels committed this crime.

8 There's no doubt that this is a tragedy, but there's a
9 very reasonable doubt that Mr. Samuels did this. And I'm
10 going to stand here before you again after you've heard all
11 of that evidence and I'm going to ask you to find
12 Mr. Samuels not guilty, because that's the only verdict
13 that the evidence that you're going to hear allows.

14 THE COURT: Mr. Barnette.

15 MR. BARNETTE: May it please the Court, Your Honor. I
16 would like to call Mary Collins to the stand please.

17 MARY FRANCES COLLINS, having
18 been first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q Ms. Collins, if you would, give your full name for the
21 record, please.

22 A Mary Frances Collins.

23 Q And if you would, raise your voice a little bit. I
24 want to make sure the lady back here can hear you. Okay?

25 A Yes, sir. Mary Frances Collins.

Mary Frances Collins
Direct examination by Mr. Barnette

- 1 Q And, Ms. Collins, where do you live at?
- 2 A Stay at [REDACTED] in Taylors.
- 3 Q Where do you work at, ma'am?
- 4 A I work at Dukes Sandwich Shop.
- 5 Q And how long -- and what do you do there, ma'am?
- 6 A I'm a manager there.
- 7 Q And how long have you worked there, ma'am?
- 8 A Thirteen and a half years. June will be 14 years.
- 9 Q Do you know Minor [REDACTED]?
- 10 A Yes, sir, I do.
- 11 Q Who is he?
- 12 A He's my grandson.
- 13 Q And tell the jury a little bit about Minor [REDACTED]
- 14 A Minor was the love of my life. I'm sorry. He was
- 15 everything to me.
- 16 He just turned two in November. He was taken away
- 17 from me in January.
- 18 He was the light of everyone that met him. Even in
- 19 the church he was very likable. Even with the pastor, he
- 20 would say amen, halleluiah. He would raise his little
- 21 hands, and they was very little, but he knew God.
- 22 Q Let me take you back, ma'am, to January 3rd, the day
- 23 before. Did you see Minor [REDACTED] that evening?
- 24 A Yes, sir, I did.
- 25 Q And where did you see him at, ma'am?

Mary Frances Collins
Direct examination by Mr. Barnette

1 A I seen him at my sister's house. She was doing my
2 hair.

3 Q And where did she live at?

4 A She stayed in Duncan in apartments -- Culpeppers.

5 Q Do you remember what time it was -- what time did you
6 get over there?

7 A Yes, sir. Usually about 5:30 because I get off at
8 4:00. And I left from there to go get my hair did.

9 Q And did Brittany meet you there?

10 A Yes, sir, she did.

11 Q And Brittany is your daughter, is that right?

12 A Yes, sir, she is.

13 Q And who did she have with her?

14 A Just the two babies -- the two babies. I had the
15 oldest one. She had -- we call him Stanker, which y'all
16 know him as Minor She had him and she had the other
17 little baby, which is Juicy. We call him Juicy.

18 Q And how old is Juicy?

19 A He just turned two in May, I believe. Yeah. In May
20 he turned two.

21 Q Did -- when Minor and them got there, what did
22 they do while you were getting your hair done and
23 everything?

24 A Being typical little kids. They was playing around
25 and jumping on the furniture, which she made them sit down

Mary Frances Collins
Direct examination by Mr. Barnette

1 a little bit. But they kept getting real rowdy but just
2 being kids playing around like they always do.

3 Q And how long did they stay there with y'all?

4 A Maybe hour or two.

5 Q Did [Minor] act normal, acting normal?

6 A No, sir. Just being Chris.

7 Q Did you notice any bruises on him?

8 A No.

9 Q Act any different or anything like that?

10 A No, sir.

11 Q And they left. Do you know what time they left to go
12 back?

13 A Probably about 6:30, about 7:00. I would say about
14 6:30 or 7:00.

15 Q Do you talk to your daughters? I believe you have
16 two -- is it two daughters?

17 A I have two -- I have two daughters, yes, sir.

18 Q And do you talk to them quite a bit?

19 A Talk to them every day as I can.

20 Q And did you talk to Brittany later that night?

21 A I talked to Brittany every night to make sure she's in
22 the house and that the kids is all right before they go to
23 bed -- before I go to bed.

24 Q And did you talk to her that night?

25 A Yes, sir, I did.

Mary Frances Collins
Direct examination by Mr. Barnette

1 Q Did everything seem to be fine?

2 A She told me everything was fine and I -- she have to
3 lock up and everything was okay.

4 Q Do you know about what time that was or --

5 A It should have been a little after 10:00, because
6 after 10:30 I don't -- I don't get on the phone or
7 anything. I rest because I have to get up for church the
8 next day.

9 Q The next morning did you talk to Brittany?

10 A Yes, sir. I talked to her at about 9:00, a little
11 after 9:00, because she always called me on Sunday mornings
12 and asked me what time am I going -- what time I'm going to
13 church so she can meet me there or come to the house,
14 either/or.

15 Q And she did talk to you that morning.

16 A Yes, sir, she did.

17 Q And you said that was around 9:00 o'clock, give or
18 take?

19 A Give or take, yes, sir, because I usually have the
20 baby and we usually get up about, like I said, 9:00, maybe
21 a little after 9:00 -- 9:00 or a little after 9:00. That
22 was the first call.

23 Q Go ahead. I'm sorry.

24 A That was the first call when she had called me and I
25 told -- asked me was I going to church. And then she

Mary Frances Collins
Direct examination by Mr. Barnette

1 called me again at 10:00, 10:45. I would never forget.
2 10:45. Me and her oldest son was fixing to get ready to go
3 to church, and it was 10:45, and she called me and said
4 that -- that Chris wasn't breathing.

5 Q Did -- when she called you at 9:00 o'clock was
6 anything wrong at that point or anything of that nature?

7 A The only thing she was saying, we was talking about
8 church. And she didn't say anything was wrong. She just
9 said, "Ma," like she always do. "Ma, what time are you
10 getting ready for church and what time are you leaving,"
11 because if she didn't get there, time enough, when I got
12 ready to leave she would meet me at the church.

13 Q So the second phone call was when you -- when you
14 heard about anything wrong with Chris, was the second call.

15 A Was the second call, yes, sir.

16 Q And what did you do after you received that call,
17 ma'am?

18 A Just dropped down on my knees, and I called my pastor
19 and I asked him to start praying, because my daughter just
20 had called and said that Chris wasn't breathing. And I got
21 on the phone and I called her stepdad and told him that
22 Brittany just got called and said Chris wasn't breathing.
23 I said, yeah, please help us. And that was the second
24 call -- that was the second call.

25 Q If you would, answer any questions the defense may

Mary Frances Collins
Cross-examination by Ms. Soderdahl

1 have for you, ma'am. Thank you for answering my questions.

2 CROSS-EXAMINATION

3 BY MS. SODERDAHL

4 Q I just have a couple of questions for you.

5 You said that on January the 4th Brittany called you.

6 And that was a little after 9:00 a.m.

7 A About 9:00 or a little after 9:00, yes, ma'am.

8 Q And again that morning, maybe ten minutes later, you
9 called Brittany, correct?

10 A She called me, and we talked about church, yes, ma'am.

11 Q So about -- so about ten minutes after the first call
12 you had another phone call where you talked with Brittany
13 on the morning of January the 4th.

14 A The second call --

15 Q Well, there --

16 A -- was at 10 -- 10:45.

17 Q Okay. So you didn't have another conversation with
18 her at about 9:15 in the morning?

19 A I said it was between 9:00 or 9:10. Somewhere in
20 there is when she called me and asked me about church.
21 That's what I just said.

22 Q Okay. But you only had one conversation with her that
23 morning.

24 A No. I had more than one conversation.

25 Q I'm sorry. I apologize. I'm sorry about that.

Brittany Gentry
Direct examination by Mr. Barnette

1 Only one conversation before 10:00 a.m. with Brittany
2 that morning.

3 A Yes. Before 9:00 o'clock is when -- before 9:00 I
4 hadn't had a conversation with her. I had a conversation
5 with her. Again, it was 9:00 or a little after 9:00 when I
6 talked to Brittany when she asked me about church, yes,
7 ma'am.

8 Q Okay. Thank you.

9 MS. SODERDAHL: Nothing further.

10 MR. BARNETTE: Nothing further from this witness, Your
11 Honor.

12 THE COURT: You may step down.

13 MR. BARNETTE: Your Honor, I'd like to call Brittany
14 Gentry to the stand, please.

15 BRITTANY GENTRY, having been
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE

18 Q Ms. Gentry, I know you are soft-spoken, so I'm going
19 to ask you to raise your voice so they can hear you in the
20 back there. Okay?

21 A Yes, sir.

22 Q If you would, give me your full name, please.

23 A Brittany Ciara Gentry.

24 Q And, Ms. Gentry, back on January 4th of 2015, where
25 did you live at, ma'am?

Brittany Gentry
Direct examination by Mr. Barnette

- 1 A Lee's Crossing.
- 2 Q Who lived with you there, ma'am?
- 3 A Me, Chris and Juicy.
- 4 Q And Chris was how old, again?
- 5 A Two.
- 6 Q And how old was Juicy?
- 7 A Four months.
- 8 Q And the night before, where did you go the night
9 before, ma'am?
- 10 A I went to my aunt Shell house.
- 11 Q And is that in Duncan or is that in --
- 12 A That's in Duncan.
- 13 Q And who was there when you got there, ma'am?
- 14 A Just my Aunt Shell and my mom.
- 15 Q Was your mom getting her hair done?
- 16 A She was.
- 17 Q And was Chris and Juicy with you?
- 18 A Yes.
- 19 Q And did Chris play or was y'all -- how long was y'all
20 there?
- 21 A We was there for about an hour.
- 22 Q And did Chris play or move around and so forth?
- 23 A Oh, yes.
- 24 Q Afterwards, after you was there, did y'all leave and
25 go somewhere else?

Brittany Gentry
Direct examination by Mr. Barnette

- 1 A We did. We went to Spinx.
- 2 Q Okay. And which Spinx did you go to, ma'am?
- 3 A The one on the west side.
- 4 Q Is that the one across from O'Charley's, right there?
- 5 A Yes, sir, it is.
- 6 Q In that area?
- 7 A Yes, sir, it is.
- 8 Q Where the mall is -- O'Charley's?
- 9 A Yes, sir.
- 10 Q There's a Spinx there. And who did you meet there,
- 11 ma'am?
- 12 A Andrew.
- 13 Q And who is Andrew?
- 14 A Andrew is Minor father.
- 15 Q Okay. Is Andrew sitting right here?
- 16 A Yes, sir.
- 17 Q And why did you meet him that evening?
- 18 A He gave me some money for Chris.
- 19 Q Okay. And did he support Chris or give you money to
- 20 help take care of him?
- 21 A Yes, sir.
- 22 Q And how long was y'all there, ma'am?
- 23 A We wasn't there that long, maybe ten minutes -- 15.
- 24 We wasn't there that long.
- 25 Q And where did y'all go from there?

Brittany Gentry,
Direct examination by Mr. Barnette

- 1 A We had -- we had left there and headed home.
- 2 Q And home is in Lee's Crossing.
- 3 A Lee's Crossing, yes, sir.
- 4 Q And about what time did you get there, ma'am?
- 5 A We got there. It was dark. It was maybe around 9:00,
- 6 after 9:00.
- 7 Q And when you got there, what happened after that?
- 8 A We settled in. We had got in the bed, ate some snacks
- 9 and Cheetos. And he wanted noodles, so we had ate noodles
- 10 later on.
- 11 Q And that's Chris?
- 12 A Yes, yes.
- 13 Q And Chris was doing fine at that time.
- 14 A Oh, yes.
- 15 Q And did your mom call and check on you?
- 16 A Yes. She always does.
- 17 Q And during this time did the defendant call you?
- 18 A Yes.
- 19 Q Did he want to come over to the apartment?
- 20 A Yes, he did.
- 21 Q And Juicy. Who's the father -- who's Juicy's father?
- 22 A Rodney is.
- 23 Q That's the defendant, is that right?
- 24 A Yes, sir.
- 25 Q So about what time did he get there that evening?

Brittany Gentry
Direct examination by Mr. Barnette

1 A It was later on after. It was after 10:00, around
2 10:00, after 10:00.

3 Q And when he got there, what happened after that?

4 A Still settled in bed. I put Chris to bed. We always
5 said a prayer before he went to sleep. I have his night
6 light on. And I put him to bed, and then that's when we
7 went to bed.

8 Q Now, where did Juicy stay at?

9 A Juicy -- he has a -- this white crib that was in the
10 room, in the bedroom.

11 Q And this apartment, is this a 2-room?

12 A It's a 2-bedroom.

13 Q Two bedrooms. And Minor slept in one bedroom?

14 A Yes, sir.

15 Q And then you and Juicy slept in the other bedroom?

16 A Yes, sir.

17 Q Where did the defendant sleep that night?

18 A In my room.

19 Q That morning, if you would, tell the jury what
20 happened on January the 4th.

21 A We woke up early that morning, and he told me to go
22 get a cigar. So I got up and went to the store and got a
23 cigar.

24 I got to the store. I was talking to my mom asking
25 her when she was going to get ready for church so we can go

Brittany Gentry
Direct examination by Mr. Barnette

1 to church.

2 After I got off the phone with my mama I went in the
3 store. I got the cigar, and I came out and I went right
4 back home to Lee's Crossing.

5 When I got to Lee's Crossing I got a text message
6 telling me that Chris is hollering for me. So I went back
7 inside. I went back inside to check on Chris. I went in
8 there.

9 He was like -- like moaning. And I said, "Chris,
10 what's wrong? Are you okay?" I made sure he was okay. He
11 like -- like cracked his eye and like did like this.

12 So I laid him down, and I went in the bedroom to get
13 my clothes together so I can get in the shower so we can go
14 to church.

15 I turned the shower -- turned the water on and went
16 back in the bedroom to finish getting my clothes. Before I
17 got back in the shower I went and checked on Chris. I
18 said, "Baby, you okay?" And he wouldn't respond to me. He
19 was just laying there. I said, "Baby, what's wrong?"

20 So I go on the side, and he still wouldn't respond to
21 me. He still wouldn't respond to me, so I said help me,
22 you have to help me. So he kinda is like what, what is it.
23 I said, "Chris is not responding to me. He's -- he's not
24 breathing."

25 So he comes over. He comes over there and looked at

Brittany Gentry
Direct examination by Mr. Barnette

1 him and tried to perform C.P.R., but he still wouldn't. He
2 still wouldn't get up.

3 I said, "I have to call 9-1-1." And he said. "No.
4 We'll get there quicker." So we hurry up to get the stuff
5 together and took off. I drove as fast as I could to get
6 to the hospital.

7 Q Let me ask you, ma'am.

8 MR. BARNETTE: May I approach the witness, Your Honor?

9 Q Before you left that morning did you check on Chris?

10 A I did.

11 Q Was he just laying in the bed?

12 A Yes.

13 Q Asleep?

14 A He was laying down asleep.

15 Q And did at some point when you had checked on him when
16 you got back and everything did he -- was in the floor at
17 some point?

18 A When I had checked on him the second time, yes, sir.
19 I heard like a -- like a thud, like somebody -- like
20 somebody fell. And when I went in there, that's when he
21 was like laying.

22 Q What did you think was wrong with him the first time
23 when you saw him?

24 A I just thought he was having like a bad dream. I just
25 thought he was just having like a bad dream because he was

Brittany Gentry
Direct examination by Mr. Barnette

- 1 just moaning so.
- 2 Q When you -- you said that the defendant tried to do
3 C.P.R. Did he just do it with one hand or just kind of pat
4 it or how did --
- 5 A Yes, yes, sir.
- 6 Q And when y'all went out to the car the first time --
7 and I think you've seen the video we're going to show where
8 you came in and came back out. When you and him came out
9 you -- was you in front?
- 10 A I was. I was running to get to the car.
- 11 Q And who did you have with you?
- 12 A Juicy.
- 13 Q And who did he have with him?
- 14 A Chris.
- 15 Q And when y'all got to the car did he say something to
16 you?
- 17 A He did.
- 18 Q What did he say?
- 19 A "You need to go lock the door and get my black."
- 20 Q What's his black?
- 21 A A cigar.
- 22 Q So did you run back to get it?
- 23 A I ran back. But when I got to him it was like a
24 puppet. I ran back to the car and got in the car and I
25 took off.

Brittany Gentry
Direct examination by Mr. Barnette

1 Q When y'all got to the hospital, what happened then,
2 ma'am?

3 A I ran in and I told them to help me because Chris
4 wasn't breathing. He wasn't doing anything. To help me,
5 to help me. And they came and they grabbed him and they
6 took him to the back.

7 Q Later on did the doctor come back and talk to you,
8 ma'am?

9 A Yes, he did. They said he was gone, told me he was
10 gone.

11 Q Later on, ma'am, did the sheriff's department come and
12 talk to you?

13 A They did.

14 Q Did you fully cooperate with them?

15 A Yes, sir.

16 Q Did you give them your cell phone?

17 A Yes, sir.

18 Q And did you talk to them freely and voluntarily?

19 A Yes, sir.

20 Q At one point the hospital -- where did the -- was the
21 defendant there the whole time?

22 A Not the whole time. He disappeared.

23 Q Did he eventually come back?

24 A Yes, sir, he did.

25 Q Whose idea was it not to call 9-1-1?

Brittany Gentry
Direct examination by Mr. Barnette

- 1 A It was his idea.
- 2 Q And what did he say, that it'd be faster to get there?
- 3 A He said we'd get there faster.
- 4 Q Ms. Gentry, I hate to ask you these questions, but did
- 5 you ever beat your son?
- 6 A No, sir.
- 7 Q Did you ever hit your son?
- 8 A No, sir.
- 9 Q Did you beat him so bad that his liver was lacerated?
- 10 A No, sir.
- 11 Q Did you learn about his injuries afterwards after --
- 12 from the sheriff's department?
- 13 A Yes, sir.
- 14 MR. BARNETTE: One moment, Your Honor, please.
- 15 (Pause.)
- 16 Q If you would, ma'am, let me do this. Let me go ahead
- 17 and play the videos. Right now might be the best time.
- 18 MS. SODERDAHL: Your Honor, may we approach briefly?
- 19 (Bench conference held off the record in the presence
- 20 of the jury but out of the hearing of the jury.)
- 21 Q Ms. Gentry, I'm going to show you some pictures first.
- 22 Let me show you State's Exhibits 6, 7, 8, 9, 10, 11,
- 23 12, 13, 14 and 15. If you would, just look at those real
- 24 carefully, ma'am, and just see if those pictures fairly
- 25 represent the way the apartment looked that day.

Brittany Gentry
Direct examination by Mr. Barnette

1 If you'll hand them to me as you go, you can.

2 (Pause.)

3 Q Ms. Gentry, do these pictures I showed you, do they
4 fairly represent the way the apartment looked that day?

5 A Yes, sir.

6 MR. BARNETTE: Your Honor, I'd like to enter these
7 into evidence at this time.

8 MS. SODERDAHL: No objection.

9 THE COURT: Can you recite those numbers again? Are
10 they 6 through 15 inclusive?

11 MR. BARNETTE: Six through 15, yes, sir.

12 (Photographs marked State's Exhibits Nos. 6 through
13 15.)

14 MR. BARNETTE: May I publish them to the jury, Your
15 Honor?

16 THE COURT: You may.

17 Q If you would, Ms. Gentry, can you tell the jury what
18 this is here, ma'am, a picture of?

19 A It's Chris' bedroom.

20 Q If you would --

21 A Chris' bedroom.

22 Q And this is Chris' bed?

23 A Yes, sir.

24 Q And is this the -- the area that he fell at one point?

25 A Yes, sir.

Brittany Gentry
Direct examination by Mr. Barnette

- 1 Q And is there carpet there, ma'am?
- 2 A Yes, sir.
- 3 Q In state's Exhibit 7, is that just a picture of the
4 rug area?
- 5 A Yes, sir.
- 6 Q State's Exhibit 8. Can you tell us, is this your --
7 is this the bottom of his bed?
- 8 A Yes, sir.
- 9 Q The slats aren't underneath. Why is that, ma'am?
- 10 A I was moving.
- 11 Q Okay. So you were in the process of moving?
- 12 A Yes, sir.
- 13 Q State's Exhibit No. 9. Can you tell us what this is?
- 14 A It's Chris' bed.
- 15 Q Was this his blanket and his pillow and so forth?
- 16 A Yes, sir.
- 17 Q State's Exhibit 10. Was these the slats from
18 underneath the bed?
- 19 A Yes, sir.
- 20 Q Had you taken them out in the process of moving?
- 21 A Yes, sir.
- 22 Q State's Exhibit 11. Is this the bed area too?
- 23 A Yes, sir.
- 24 Q As a matter of fact, is that you in the back there,
25 ma'am?

Brittany Gentry
Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q Is that what you was wearing that day?

3 A Yes, sir.

4 Q State's Exhibit 12. What is this a picture of, ma'am?

5 A That's my bedroom.

6 Q Okay. And is this the crib that you was talking about
7 earlier?

8 A Yes, sir.

9 Q And who stayed there, ma'am?

10 A Juicy.

11 Q State's Exhibit 13. Is this just another picture
12 towards -- what is this right here, ma'am?

13 A That's the closet.

14 Q State's Exhibit 14. What is that, ma'am?

15 A That's Chris -- that's his shirt and his pants.

16 Q And State's Exhibit 15.

17 A His shirt.

18 Q The front of the shirt he was wearing that day?

19 MR. BARNETTE: Your Honor, I believe State's Exhibit 5
20 has been entered into evidence through stipulation. I'd
21 like to then publish. That's the Kangaroo surveillance
22 tape.

23 THE COURT: Okay.

24 (Video from Kangaroo store marked State's Exhibit No.
25 5.)

Brittany Gentry
Direct examination by Mr. Barnette

- 1 Q And what kind of car was you driving that day, ma'am?
- 2 A Honda Accord.
- 3 Q What color was it?
- 4 A Burgundy.
- 5 Q Can you tell us what area this is right here, ma'am?
- 6 A That's the parking lot of Kangaroo.
- 7 Q Is that the car wash right there?
- 8 A Yes, sir.
- 9 Q And I guess on the other side of the Kangaroo is the
- 10 Jason's Deli.
- 11 A Yes, sir.
- 12 Q And is that West Main Street?
- 13 A Yes, sir.
- 14 MR. BARNETTE: Your Honor, I'm going to fast forward
- 15 just to the point where she shows up on the video.
- 16 (Whereupon, the video was played for the jury.)
- 17 Q What time is this, Ms. Gentry, right here?
- 18 A 8:59.
- 19 Q Whose car is this, ma'am?
- 20 A It's mine.
- 21 Q And you parked there. Do you talk to anybody on the
- 22 phone while you're there?
- 23 A My mom.
- 24 Q And who is this getting out of the car, ma'am?
- 25 A That's me.

Brittany Gentry
Direct examination by Mr. Barnette

1 Q And what time was that, ma'am?

2 A 9:10.

3 Q And who is this, ma'am?

4 A That's me.

5 Q And where did you drive back to after that?

6 A Lee's Crossing.

7 Q And what time is it there, ma'am?

8 A 9:12.

9 Q Another camera. Ma'am, who is this right here?

10 A That's me.

11 Q Okay. Ma'am, who is this right here? Is this -- who
12 is that?

13 A That's me.

14 Q And you're paying for the cigars?

15 A Yes, sir.

16 Q And what time was that, ma'am?

17 A 9:11.

18 MR. BARNETTE: Your Honor, at this time I'd like to
19 introduce State's Exhibit 4, which is the complex video.

20 (Video from Lee's Crossing marked State's Exhibit No.
21 4.)

22 Q Ms. Gentry, can you see okay where you're sitting
23 there?

24 A Yes, sir.

25 MR. BARNETTE: I'd like to publish State's Exhibit 4

Brittany Gentry
Direct examination by Mr. Barnette

1 to the jury, Your Honor, and stipulate --

2 THE COURT: You may.

3 MR. BARNETTE: Your Honor, I apologize for one second.
4 I have got to slow this down so you can actually see it.

5 (Pause.)

6 (Whereupon, State's Exhibit No. 4 was played for the
7 jury.)

8 Q Ms. Gentry, I think this is when you first left the
9 apartment. And the area you live in is up here, is that
10 right?

11 A Yes, sir.

12 Q Is that you actually coming out?

13 A Yes, sir.

14 Q And that's when you was going to the Kangaroo.

15 A Yes, sir.

16 Q And was your car packed -- I mean parked behind the
17 building where you couldn't see it on the camera?

18 A Yes, sir.

19 Q Across the parking lot.

20 Watch up here, ma'am. I think there's somebody comes
21 out before you and the defendant comes out, is that right?

22 A Yes, sir.

23 Q Watch right here. Is this y'all getting ready to come
24 out?

25 A Yes, sir.

Brittany Gentry
Direct examination by Mr. Barnette

- 1 Q Is that y'all coming out right there?
- 2 A Uh-huh.
- 3 Q Y'all went to the car. Then he told you to go back
- 4 and get his blunt.
- 5 A His cigar.
- 6 Q And you went back across there.
- 7 A Uh-huh.
- 8 Q Is that you running in there?
- 9 A Yes, sir.
- 10 Q And do you run back to the house after that?
- 11 A Yes, sir.
- 12 Q Is that you going back? Is that you and the defendant
- 13 coming out there?
- 14 A Yes, sir.
- 15 Q And are you in the front?
- 16 A Yes, sir.
- 17 Q And is he behind you?
- 18 A Yes, sir.
- 19 Q And you had Juicy with you?
- 20 A Yes, sir.
- 21 Q And he had Minor is that right?
- 22 A Yes, sir.
- 23 Q And shortly after that do you see you running back
- 24 across here to get the blunt? Is that you coming across
- 25 there?

Brittany Gentry
Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q Shortly, about ten seconds, you come back out.

3 A Yes, sir.

4 MR. BARNETTE: Apologize to the jury. Trying to slow
5 this down.

6 Q This has you coming back across there. In about ten
7 seconds you come back out. And did you drive, ma'am?

8 A I did.

9 Q Let the jury know. Did your red car -- did you drive
10 through there?

11 A Yes, sir.

12 Q Is that you driving through there, ma'am?

13 A Yes, sir.

14 Q I could show them the other tapes, but the other tapes
15 show you driving the car out of the complex onto the road,
16 is that right, ma'am?

17 A Yes, sir.

18 MR. BARNETTE: Your Honor, permission to publish
19 State's Exhibit 3 stipulated into evidence as the jail
20 phone call.

21 MS. SODERDAHL: No objection.

22 THE COURT: It's admitted.

23 (C.D. of jail phone call marked State's Exhibit No. 3.)

24 (Whereupon, the C.D. was played for the jury.)

25 Q Have you heard this phone call before, ma'am?

Brittany Gentry
Direct examination by Mr. Barnette

1 A No, sir.

2 Q Have you heard the front part of it to identify who
3 the people are on it?

4 A Yes, sir.

5 Q And who are -- is two people on this Sharice Gilliam
6 as well as the defendant?

7 A Yes, sir.

8 Q And I believe this is on January the 7th. I just want
9 you to listen to the first part. We'll play the rest of
10 it. I just want you to identify for the record.

11 (Whereupon, the C.D. was played for the jury.)

12 Q Who is the male on that recording, ma'am?

13 A Rodney.

14 Q That's the defendant?

15 A Yes, sir.

16 Q And who is the lady on it?

17 A Sharice Gilliam.

18 Q Sharice. That's not you, is it?

19 A No, that's not me.

20 MR. BARNETTE: Your Honor, I'm going to publish it
21 after the witness testifies.

22 THE COURT: Okay.

23 Q Please answer any questions, ma'am, the defense may
24 asked for you.

25 MS. SODERDAHL: Thank you. May it please the Court.

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 CROSS-EXAMINATION

2 BY MS. SODERDAHL

3 Q Brittany, back on January 4th of 2015, the date this
4 happened, you had three children at that point, right?

5 A Yes, sir, yes, ma'am.

6 Q And at that time two of them were living with you.

7 A Yes, ma'am.

8 Q The oldest one, the one that was born in 2007, was
9 living with who at the time?

10 A My mom.

11 Q Okay. Had that children -- child ever lived with you?

12 A He's back and forth. He comes and spends the night
13 with me and stays with my mom.

14 Q Okay. Now, the two children that were living with you
15 back in January of 2015 were Minor [REDACTED] who was two years
16 old and Rodney, Jr. who on [REDACTED], he was
17 seven months old, correct?

18 A I believe he was four months.

19 Q Well, his date of birth was [REDACTED]?

20 A Yes, ma'am.

21 Q Now, at the time of this incident you were also four
22 months pregnant.

23 A Yes, ma'am.

24 Q And in January of 2015 you testified that you were in
25 the process of moving.

Brittany Gentry
Cross-examination by Ms. Soderdahl

- 1 A Yes, ma'am.
- 2 Q And that's why **Minor** bed was partially
3 dismantled?
- 4 A Yes, ma'am.
- 5 Q And that's why there was nothing in the fridge except
6 a gallon of milk and a carton of eggs?
- 7 A Yes, ma'am.
- 8 Q And can you tell me, why were you moving?
- 9 A I couldn't pay my rent for that month.
- 10 Q Where were you moving?
- 11 A To my mom's.
- 12 Q Now, you testified that on January 3rd, which is the
13 night before this happened, that on your way home from your
14 relative's house you stopped at the Spinx, right?
- 15 A Yes, ma'am.
- 16 Q Now, when you first met with police that was at the
17 hospital, right, when you first met with police?
- 18 A Yes, ma'am.
- 19 Q And at that time you told the police at first that you
20 didn't meet anybody on the way home from the Spinx.
- 21 A But I -- I did. I did meet Andrew on the way home.
- 22 Q But isn't it true that you first told the police that
23 you didn't meet anybody on the way home?
- 24 A I couldn't recall. When my son passed I wasn't
25 thinking clearly of anything.

Brittany Gentry
Cross-examination by Ms. Soderdahl

- 1 Q Okay. And the reason that you met with Andrew at the
2 spinx was to get money for gas and diapers, right?
- 3 A It was to help with Chris, yes, ma'am.
- 4 Q And that meeting with Andrew was at your request for
5 that money, right?
- 6 A Yes, ma'am.
- 7 Q The diapers that you were getting or the money -- I'm
8 sorry -- that you were getting from Andrew for diapers was
9 for diapers for Minor [REDACTED], right?
- 10 A Yes, ma'am.
- 11 Q So Minor [REDACTED] wasn't potty trained yet?
- 12 A No, ma'am.
- 13 Q But you were working on that with him, right? He was
14 two.
- 15 A Yes, ma'am.
- 16 Q And you're the one who cares for Minor [REDACTED] and Rodney,
17 Jr., right?
- 18 A Yes, ma'am.
- 19 Q They live with you.
- 20 A Yes, ma'am.
- 21 Q And neither of their fathers lived with you.
- 22 A No, ma'am.
- 23 Q So you don't have daycare for the children.
- 24 A No, ma'am.
- 25 Q So you're the one that's responsible for changing

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 Minor [REDACTED] diaper?

2 A Yes, ma'am.

3 Q You're the one that's responsible for washing his
4 clothes and changing his bedding if he wets his diaper?

5 A Yes, ma'am.

6 Q Now, when you met with Andrew at the Spinx on
7 January 3rd you asked Andrew to take Minor [REDACTED] with him,
8 didn't you?

9 A I was like would you like to take Chris.

10 Q And that's not the first time that you've asked Andrew
11 to take Minor [REDACTED] from you, right?

12 A I asked him a couple of times, yes, ma'am.

13 Q On January 3rd you picked up Rodney from his parents'
14 house, right?

15 A No, ma'am.

16 Q How did Rodney get to your house, your apartment?

17 A He arrived there after he left the store -- from left
18 the store.

19 Q Okay. On -- okay. You've known Rodney for several
20 years prior to this incident, right?

21 A I went to school with him in high school.

22 Q Middle school, right?

23 A High school. I don't remember him in middle school,
24 but high school.

25 Q Okay. And in your experience with Rodney he's never

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 done anything to cause you to have any fear that he would
2 hurt your children, right?

3 A We never talked like that in middle school or high
4 school.

5 MR. BARNETTE: Your Honor, may we approach the bench
6 real quick?

7 THE COURT: Okay.

8 (Bench conference held off the record in the presence
9 of the jury but out of the hearing of the jury.)

10 THE COURT: Ms. Geter, let me ask you not to turn your
11 back. I know the jury's got to hear -- everybody does, but
12 you've got your back towards the court reporter, and she
13 can't see you speaking.

14 THE WITNESS: Oh, I'm sorry.

15 THE COURT: So don't turn your back to her. And that
16 black microphone is the one that you're going to be talking
17 into, so you can adjust that if you need to. You can move
18 it around -- the microphone. Yeah, there you go.

19 MS. SODERDAHL: May I proceed?

20 THE COURT: Yes, ma'am.

21 Q Now, after Rodney came over to your apartment on the
22 night of January 3rd you and Rodney slept in your bedroom.

23 A Yes, ma'am.

24 Q In the big in there.

25 A Yes, ma'am.

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 Q And was it your testimony that the infant, Rodney,
2 Jr., that he slept in the crib?

3 A Sometimes he sleep in the crib and sometimes he sleep
4 in the bed.

5 Q On January 3rd he slept in the bed with you and
6 Rodney?

7 A And -- well, half that night he was in the crib until
8 he started crying, and then brought him in the bed.

9 Q Okay.

10 MS. SODERDAHL: May I have just one moment, please?

11 (Pause.)

12 MR. BARNETTE: May the record reflect that I'm
13 showing -- I need to mark this.

14 (Photograph marked Defendant's Exhibit No. 1 for
15 Identification.)

16 MS. SODERDAHL: Let the record reflect that I'm
17 showing the prosecutor what's been marked as Defense
18 Exhibit for Identification purposes No. 1.

19 May I approach?

20 Q Ms. Gentry, I'm handing you what I've marked as
21 Defense Exhibit for purposes of identification Defense
22 Exhibit No. 1. Do you recognize that photograph?

23 A Yes, ma'am, I do.

24 Q What is that a picture of?

25 A That's his crib with his blanket, toys, clothes.

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 Q Okay. And when you say his, you mean that's Rodney,
2 Jr.'s crib?

3 A Yes, yes, ma'am.

4 Q So that's where partially the night of
5 January 3rd Rodney, Jr. slept.

6 A Yes, ma'am, but not with all of that stuff in there.
7 He -- I don't let the baby sleep in the crib with all of
8 that, with the toys and everything. When I take him out of
9 the crib I put stuff in there so it won't be in the way.

10 Q Okay. So are you saying that that photograph is not
11 an accurate depiction of how the crib looked on the night
12 of January 3rd, the morning of January 4th?

13 A No. This -- this is accurate -- this is accurate. It
14 wasn't like that when he was in there because when he
15 started crying I put -- took him out of the bed, I mean,
16 out of the crib and put him in the bed. So he wasn't in
17 the crib at that time. He was in the bed.

18 Q On January 3rd --

19 A Yes, ma'am.

20 Q -- and January 4th he was in the bed.

21 A Uh-huh.

22 Q Not in the crib.

23 A Right.

24 Q Okay. Now, you testified that -- and we saw videos
25 that on the morning of January 4th you left the apartment

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 to go to the gas station, right?

2 A Yes, ma'am.

3 Q Now, when you were first interviewed by police at the
4 hospital you didn't tell them about leaving to go to the
5 gas station.

6 A But that's what happened. I went to the gas station.

7 Q But isn't it true that you told the police on
8 January 4th when they interviewed you at the hospital that
9 you had gone to the car and gone back inside and didn't
10 mention going to the gas station?

11 A Yes, ma'am.

12 Q And you testified that you received a text from Rodney
13 that Chris is hollering for you in here, is that right?

14 A Yes, ma'am.

15 Q Did you receive that text -- was it at 9:15 in the
16 morning?

17 A It was in -- it was in that morning. I can't recall
18 the exact time.

19 Q Is there anything that would refresh your recollection
20 about what time you received that text?

21 A It was after I had came back from the store.

22 Q If I showed you a copy of that text message would that
23 refresh your memory as to what time you received the text?

24 A You can.

25 (Pause.)

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 MS. SODERDAHL: May I approach the witness?

2 Q Ms. Gentry, I'm showing you what's been marked as
3 State's Exhibit No. 32 for purposes of identification. Do
4 you recognize that?

5 A Yes, ma'am.

6 Q And is that a copy of the text message that was
7 received by you --

8 A Yes, ma'am.

9 Q -- on January 4th?

10 A Yes, ma'am.

11 Q What time was that text message received?

12 A 9:15.

13 Q And when you received that text message, where were
14 you?

15 A I was in the car.

16 Q At the apartment complex?

17 A Yes, ma'am.

18 Q And what did you do after you received that text?

19 A I went inside Lee's Crossing.

20 Q Okay. Now, that morning, you testified that you had
21 had conversations with your mother, that you had plans for
22 that morning, right?

23 A Yes, ma'am.

24 Q You were going to go back inside the apartment and get
25 everybody up and out of bed.

Brittany Gentry
Cross-examination by Ms. Soderdahl

- 1 A Yes, ma'am.
- 2 Q You were going to get Minor bathed and dressed.
- 3 A Yes, ma'am.
- 4 Q You were going to take a shower and get dressed.
- 5 A Yes, ma'am.
- 6 Q Your plan was to go to your mom's house.
- 7 A Yes, ma'am.
- 8 Q So when you came back to the apartment on January the
- 9 4th after going to the gas station you went into
- 10 Minor room.
- 11 A Yes, ma'am.
- 12 Q And you took the covers off to get him up.
- 13 A No, ma'am. I went to check on him. After he texted
- 14 me and said he was hollering, I went in there to check on
- 15 him.
- 16 Q Okay. So you didn't take the covers off him to get
- 17 him up, to get him ready to go?
- 18 A No. I was not getting him up and ready to go at that
- 19 time, no, ma'am.
- 20 Q When you went into Minor room, he was asleep.
- 21 A The first time, yes, ma'am, before I went to the store
- 22 and when I looked in on him, he was asleep, yes, ma'am.
- 23 Q Before you went to the store.
- 24 A Before I went to the store.
- 25 Q Okay. But then after you came back from the store

Brittany Gentry
Cross-examination by Ms. Soderdahl

- 1 when you went into Minor room he was asleep.
- 2 A He was moaning.
- 3 Q You testified that you thought he might be having a
- 4 nightmare.
- 5 A Yes, ma'am.
- 6 Q when he came back or when you came back from the gas
- 7 station and went into Minor room he was acting the
- 8 same way as he was when you left the apartment.
- 9 A No, ma'am. He wasn't moaning or anything when I left.
- 10 He was asleep. He was sound asleep when I left.
- 11 Q And when you came back he was saying your name.
- 12 A He was moaning, um-um.
- 13 Q Was he saying your name?
- 14 A I took um as mommy, well, mama.
- 15 Q Okay. Now, you had a conversation with police at the
- 16 hospital, we already established, on January 4th, the date
- 17 of this incident. Do you remember that conversation?
- 18 A Yes, ma'am.
- 19 Q And when you talked to police you told them that when
- 20 you went into Minor room after coming back from the
- 21 gas station you took the covers off him to get him up. Did
- 22 you say that?
- 23 A I went in to check on him.
- 24 Q So you didn't say that you took the covers off to get
- 25 him up.

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 A I don't recall saying that.

2 Q And when you had that conversation with police you
3 told them that when you returned from the gas station
4 Minor was asleep.

5 A Yes, ma'am.

6 Q When you came back from the gas station he was asleep.

7 A Yes, moaning.

8 Q And you thought he was having a nightmare.

9 A Yes, ma'am.

10 Q And when you came back from the gas station, you
11 testified that he was saying your name or, I'm sorry, you
12 told police that when you got back from the gas station --

13 MR. BARNETTE: Your Honor, I'm going to object. This
14 is asked and answered.

15 THE COURT: Overruled.

16 Go ahead.

17 Q That when you got back from the gas station to check
18 on him he was saying your name.

19 A He was moaning, yes, ma'am, saying um-um.

20 Q And he was saying mommy.

21 A I took it as mommy.

22 Q Okay. And you told the police that he was saying
23 mommy.

24 A Yes, ma'am.

25 Q Now, at that point when you interacted with Minor

Brittany Gentry
Cross-examination by Ms. Soderdahl

- 1 he was breathing normally.
- 2 A Yes, ma'am.
- 3 Q He wasn't coughing.
- 4 A He wasn't coughing.
- 5 Q He wasn't curled up in a fetal position.
- 6 A No, ma'am.
- 7 Q He wasn't grabbing at his belly.
- 8 A No, ma'am.
- 9 Q He wasn't crying.
- 10 A No, ma'am.
- 11 Q Now, when you went into Minor room you picked
- 12 Minor up out of the bed.
- 13 A The second time I checked on him after he fell I
- 14 picked him up.
- 15 Q Okay. And when you picked him up you tried to put
- 16 him --
- 17 A I tried to stand him up, and he didn't want to stand.
- 18 Q Okay. And I'm sorry. You said the second time you
- 19 checked on him.
- 20 A Yes, because the first time is when I came back from
- 21 the store when he said that he was hollering for me. So
- 22 that's when I went to check on him. After I went and
- 23 checked on him, that's when I went in the room to get my
- 24 stuff ready.
- 25 Q And the second time, is that after you went to your

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 room and got your stuff ready?

2 A Yes, ma'am.

3 Q That's when you tried --

4 A Before I got in the shower, yes, ma'am. That's when I
5 heard like a thud, like he fell. And that's when I went in
6 there, and that's when he was laying and I tried to pick
7 him up and tried to, like, let him stand up, but he didn't
8 want to stand.

9 Q Okay. So you tried to stand him up, but he didn't
10 want to stand.

11 A No, ma'am. He didn't.

12 Q Okay. And he was fighting against you. Like he
13 didn't want to stand, he was just fighting.

14 A He just -- just didn't want to stand. I'm not going
15 to say he was fighting with me. He just -- he just didn't
16 want to stand.

17 Q So he was conscious at that point.

18 A He was -- he was breathing.

19 Q And you were trying to stand him up.

20 A Yes.

21 Q Okay. And at that point he wasn't crying. He didn't
22 want to stand up.

23 A He didn't want to stand.

24 Q And when you had that conversation with the police at
25 the hospital on January 4th you told them that at that

Brittany Gentry
Cross-examination by Ms. Soderdahl

- 1 point that [Minor] was fighting against you.
- 2 A No. He wasn't fighting against me.
- 3 Q But that's what you told the police?
- 4 A But he -- he didn't want to stand. He just -- I
- 5 picked him up, and he didn't want to stand up. I'm not
- 6 going to take it as he was fighting me. He just didn't
- 7 want to stand.
- 8 Q Okay. And at the point where you first got back from
- 9 the gas station and went into the room with [Minor]
- 10 Rodney wasn't in the room with you, right?
- 11 A He wasn't.
- 12 Q And you said you heard a thud. Did you see [Minor]
- 13 fall out of bed?
- 14 A No, ma'am. I heard it.
- 15 Q But when you came back to the room he was -- was he on
- 16 the floor?
- 17 A Yes.
- 18 Q And that bed, would you say, maybe a foot, maybe two
- 19 at the most, off the floor that he fell?
- 20 A I wouldn't say two. It wasn't really high at all
- 21 because it wasn't on any -- it was just on the box spring.
- 22 Q Okay. Now, when you came home from the gas station
- 23 you didn't change [Minor] diaper, right?
- 24 A No, ma'am. I didn't -- I didn't check to see if he
- 25 was wet or anything, because when I came back when he was

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 moaning, I was making sure he was okay before I went in the
2 room.

3 Q Okay. And you testified -- and please correct me if
4 I'm wrong -- that at some point -- and I thought it was the
5 second time -- that you checked on [Minor] that when you
6 came in his eyes were cracked and he was unresponsive.
7 When did that happen?

8 A That's when I came. That's before I went in the
9 shower and he was laying there.

10 Q So is that not the third time that you went to check
11 on [Minor]

12 A All of this was like -- like the second, because right
13 before I got in the shower and checked on him, I mean,
14 coming to check on him, it was all happening right then.
15 It was all happening. It was no back-and-forth checking on
16 him. Went the first time, went to go get my stuff ready
17 before I'd start get -- to get in the shower. That's when
18 everything just --

19 Q Okay. And you did testify that you turned the water
20 on.

21 A Yes.

22 Q So it was your plan after checking on [Minor] to get
23 in the shower.

24 A To get in the shower, yes, ma'am.

25 Q And then to get dressed and go to mom's house.

Brittany Gentry
Cross-examination by Ms. Soderdahl

1 A Yes, ma'am.

2 Q Now, we know --

3 A No. To go to -- not mom's house. To go to church.
4 We was going to church that morning.

5 Q Oh, I'm sorry. Okay. To go to church. Okay. And
6 then when you found Minor was unresponsive you called
7 out to Rodney who I think you called O'Bryant for help,
8 right? And Rodney came and tried to give C.P.R. to
9 Minor is that true? Is that a yes?

10 A Yes, ma'am.

11 Q Okay. You didn't attempt to give C.P.R. to Minor

12 A No. I didn't.

13 Q And after Rodney started giving C.P.R., at some point
14 did somebody splash water on him?

15 A I don't remember that, no, ma'am.

16 Q You don't remember water being splashed on Rodney?

17 A No. On Rodney?

18 Q I'm sorry. On Minor

19 A No, ma'am. After the C.P.R., it was like we -- don't
20 call -- well, I told him I was going to call. He said, no,
21 we'll get there faster. That's when we jet out of there.

22 Q okay.

23 MS. SODERDAHL: May I have one moment?

24 (Pause.)

25 MS. SODERDAHL: I have nothing further. Thank you.

Brittany Gentry
Redirect examination by Mr. Barnette

1 MR. BARNETTE: Just a couple on redirect, Your Honor.
2 Your Honor, I believe State's Exhibit 32 has been
3 entered into evidence by stipulation. I'd like to publish
4 it. That's the text message.

5 REDIRECT EXAMINATION

6 BY MR. BARNETTE

7 Q Let me show you State's Exhibit 32, ma'am. Showing
8 you State's Exhibit 32. This is a text message from the
9 defendant in this case, ma'am?

10 A Yes, sir.

11 Q And you received it at 9:15 a.m.

12 A Yes, sir.

13 Q On the 4th. And it said Chris is hollering for you in
14 there.

15 A Yes, sir.

16 Q And you went in and checked on him right after that,
17 is that right, because you got there?

18 A Yes, sir.

19 Q But you weren't in the apartment at that time. You
20 were still in the car.

21 A Yes, sir.

22 Q And, obviously, you was very emotional at that time.

23 A Yes, sir.

24 Q And at the hospital you was very emotional.

25 A Yes, sir.

Brittany Gentry
Redirect examination by Mr. Barnette

1 Q Do you remember much of what you told anybody at that
2 point?

3 A No, sir.

4 Q Please answer any questions the defense may have for
5 you.

6 THE COURT: You may step down.

7 Ladies and gentlemen, we're going to take a break. So
8 I'll ask you to please go to your jury room. As I told you
9 before, don't discuss the case. I'll bring you back after
10 that break.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: We'll be at ease for 15 minutes.

14 Let me see y'all before you go.

15 (Whereupon, a recess was taken.)

16 THE COURT: Bring the jury back, please.

17 (The following takes place in the presence of the
18 jury.)

19 THE COURT: All right. The jury is present. We'll
20 continue with the state's presentation.

21 MR. BARNETTE: Your Honor, at this time I'd like to --
22 once I get the speaker to work right -- to play the jail
23 tape from January 7th involving the defendant and Sharice
24 Gilliam.

25 (Pause.)

1 MR. BARNETTE: Your Honor, I think I'm ready to play
2 it now.

3 THE COURT: And this is one of those exhibits that
4 have been stipulated to?

5 MR. BARNETTE: Yes, sir. State's Exhibit 3.

6 THE COURT: And this is a conversation between the
7 defendant and who?

8 MR. BARNETTE: Sharice Gilliam and the defendant on
9 January 7th from the jail, Spartanburg County Jail.

10 THE COURT: Okay.

11 MS. SODERDAHL: Yes, Your Honor.

12 (Whereupon, State's Exhibit No. 3 was played for the
13 jury.)

14 MR. BARNETTE: Your Honor, that'd be State's Exhibit
15 3. There's other parts, but it continues on for two
16 minutes, but it's just what we just heard right then.

17 THE COURT: Okay.

18 MR. BARNETTE: That'd be the state's showing with that
19 exhibit, Your Honor.

20 THE COURT: All right. It's a convenient time for us
21 to break for the afternoon, so we'll do so.

22 Keep in mind during the overnight recess you're not to
23 discuss the case with any person. Don't allow anyone to
24 discuss it with you; do not permit yourselves to be exposed
25 to any type of media coverage -- television, radio or

1 newspaper; and do not conduct any research or do your own
2 investigation into any issue that might arise during the
3 trial.

4 With those cautions in mind, do have a good evening.
5 Please report to your jury room at 9:30 in the morning,
6 9:30 in the morning. Have a good afternoon.

7 (The following takes place outside the presence of the
8 jury.)

9 THE COURT: All right. Court is in recess until
10 9:30 in the morning.

11 MR. BARNETTE: Your Honor, did you want to do the
12 Jackson vs. Denno?

13 THE COURT: Excuse me. Yes, I did. Thank you. All
14 right. Court is back in session.

15 MR. BARNETTE: Your Honor, I believe the defense had a
16 Jackson -- I'll let me Sumner --

17 MR. SUMNER: Oh, yeah. Thank you, Your Honor. May it
18 please the Court.

19 Very briefly, Solicitor Barnette's office had provided
20 apparently two written statements.

21 And I just want you to correct me when I'm wrong,
22 Solicitor. Two written statements from Mr. Samuels, one in
23 full length or a full page, another one that's about a
24 third to a half a page. Is that correct?

25 MR. BARNETTE: That's correct.

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

1 MR. SUMNER: And is that all the written statements
2 that you have that were taken from law enforcement?

3 MR. BARNETTE: That's correct.

4 MR. SUMNER: Well, Your Honor, at this time in order
5 to -- under Jackson vs. Denno in order to make sure that
6 the statements were voluntarily given I would ask.

7 Solicitor, is the officer here that took the
8 statements?

9 MR. BARNETTE: They are, Your Honor.

10 MR. SUMNER: I would ask him to go ahead. If you plan
11 on putting in -- putting the actual statements in in your
12 case in chief, I'd like to go ahead and ask him to be sworn
13 so that we can get that determined, the voluntariness of
14 the statements.

15 MR. BARNETTE: Your Honor, we're ready to go forward
16 if you'd like us to.

17 I'd like to call Investigator Williams to the stand.

18 LORIN WILLIAMS, having been
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. BARNETTE

21 Q If you would, sir, please give your full name for the
22 record.

23 A Lorin Williams.

24 Q And where do you work at, sir?

25 A Spartanburg County Sheriff's Office.

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

1 Q And what is your position there, sir?

2 A I'm an investigation -- I am in investigations with
3 the sheriff's office.

4 Q And how long have you been in law enforcement, sir?

5 A Since 1993.

6 Q And I know you've worked on the investigation, but
7 we're just going to take about the statement at this point
8 or whatever.

9 Did you take a statement from the defendant in this
10 case?

11 A Yes, sir, I did.

12 Q And let me show you what's been marked as State's
13 Exhibit 1. Did you give him a waiver of his rights?

14 A I did.

15 Q And is that the form you used, sir?

16 A Yes, sir, it is.

17 MR. BARNETTE: Your Honor, I'd like to enter this as
18 State's Exhibit 1 for just purposes of this for I.D., for
19 purposes of this hearing at this time.

20 MR. SUMNER: Without objection if it's -- obviously,
21 relevant to the hearing.

22 (Waiver of defendant marked State's Suppression Exhibit
23 No. 1.)

24 MR. BARNETTE: May I approach the bench, Your Honor?

25 Q Contained -- before you took his statements and

Lorin williams (In-camera)
Direct examination by Mr. Barnette

1 everything from this case, did he understand all of his
2 rights, sir?

3 A He did.

4 Q Did you read all of those rights to him?

5 A I did.

6 Q Did you go through each right with him?

7 A I did.

8 Q And which was -- what was his rights, sir?

9 A Number one is, I have the right to remain silent;
10 number two is anything I say can and will be used against
11 me in a court of law; three, I have the right to talk to a
12 lawyer and have him present with me while I'm being
13 questioned; number four, if I cannot afford to hire a
14 lawyer one will be appointed to represent me before any
15 questioning if I so wish; number five, I have read -- I
16 have the right to stop answering questions at any point in
17 the questioning. "The above rights have been read to me."
18 And then I put my name, L. Williams. "I have read the same
19 and understand my rights fully." That's part one of the
20 preinterrogation waiver. It was witnessed by myself and
21 signed by Mr. Samuels.

22 The second part. "I waive, give up, my rights as
23 explained above and agree to talk to Officer Williams in
24 reference to a baby death. And my statement that I may
25 make is of my own free will without fear, threat or promise

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

1 or favor or reward of any kind. I am able to read and
2 write the English language." And I always ask how far they
3 went in school. He finished nine years in school. Then I
4 always write which high school they attended, and he told
5 me that they -- that he had attended Byrnes High. That was
6 written in. He signed it; I witnessed it; and it was
7 notarized.

8 Q And was he promised anything at any time or any -- was
9 he threatened in any way?

10 A No, sir, not at all.

11 Q Did he ever ask for an attorney?

12 A No, sir, he did not.

13 Q Did he talk to you freely and voluntarily?

14 A Yes, sir, he did.

15 Q Was he promised anything in return for this statement?

16 A No, sir, not at all.

17 Q And he waived his rights, is that right, sir?

18 A He did.

19 Q And let me show you State's Exhibit 2, which I believe
20 is actually two -- two pages, which is two parts, a 2-part
21 statement, I guess. Is that the statements he gave to you,
22 sir?

23 A It's actually two statements. It's -- the first
24 statement is on page one and then the second statement is
25 on the second. But, yes, sir, these are his statements.

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

- 1 Q Did he write those out?
- 2 A Yes, he did.
- 3 Q Okay. So those are in his handwriting.
- 4 A They are.
- 5 Q The first one, did you witness that statement after he
- 6 made the statement?
- 7 A No, sir, I did not witness it. I notarized it.
- 8 Q And who witnessed it, sir?
- 9 A It was witnessed by -- I believe that's Jason Bryant.
- 10 Q Okay. But you were there present also.
- 11 A I was, yes, sir.
- 12 Q Okay. And did he give that statement freely and
- 13 voluntarily?
- 14 A Yes, he did.
- 15 Q Did he give it to you of his free will?
- 16 A He did.
- 17 Q Was he threatened in any way?
- 18 A No, sir, he was not.
- 19 Q After he gave the first statement did Investigator --
- 20 I mean -- did Lieutenant Gary talk to him after that?
- 21 A He did, yes, sir, he did.
- 22 Q And after he talked to Lieutenant Gary, of course, he
- 23 still hasn't waived his rights or anything like that. I
- 24 mean, he's waived his rights, but he wasn't threatened in
- 25 any way or -- he continued talking to y'all, is that right?

Lorin Williams (In-camera)
Direct examination by Mr. Barnette

1 A That's correct.

2 Q Did y'all get a second statement from him?

3 A Lieutenant Gary came out of the room and said that --
4 that Mr. Samuels would like to speak to me again. I went
5 back in the room, and that's when we obtained the second
6 statement from him.

7 Q And he was still under the waiver that you did
8 originally, is that right?

9 A Absolutely, yes, sir.

10 Q And did he freely and voluntarily give you the second
11 statement?

12 A Yes, he did.

13 Q And did he sign that statement also?

14 A Yes, sir, he did.

15 Q And who witnessed it and notarized it?

16 A On the second statement, I witnessed it and Lieutenant
17 Gary notarized it.

18 Q And that was also written in his own handwriting.

19 A It is, sir. It's in his own hand.

20 MR. BARNETTE: Your Honor, I'd like to enter State's
21 Exhibit 2, which is the two statements combined into
22 evidence for purposes of this hearing for I.D.

23 MR. SUMNER: No objection on that ground, Your Honor.

24 (Statement of defendant marked State's Suppression
25 Exhibit No. 2 for Identification.)

Lorin Williams (In-camera)
Cross-examination by Mr. Sumner

1 Q At any time did he ask for a lawyer during this
2 process?

3 A No, sir. He did not.

4 Q Was he promised anything for these statements?

5 A No, sir.

6 Q Was he threatened in any way?

7 A No, sir.

8 Q Did he give these statements freely and voluntarily?

9 A Yes, sir, he did.

10 Q Please answer any questions the Court or Mr. Sumner
11 may have.

12 MR. SUMNER: Thank you, Your Honor. May it please the
13 Court -- Solicitor.

14 CROSS-EXAMINATION

15 BY MR. SUMNER

16 Q Briefly, Detective.

17 It is your testimony regarding the two -- regarding,
18 first, the waiver, that it was executed by Mr. Samuels.
19 Some of this I'm going back over, ground covered by the
20 solicitor.

21 A Yes, sir.

22 Q Okay. And it was -- did he appear to you to
23 understand each of the elements? I know for Judge Cole we
24 have published, I think, five different elements. Did he
25 appear to understand each element?

Lorin Williams (In-camera)
Cross-examination by Mr. Sumner

1 A Absolutely.

2 Q Okay. Do you recall -- I know this has been some time
3 ago -- who all was in the room with him when you went over
4 that?

5 A No, I don't. I don't know whether it was just myself
6 and him or whether Investigator Bryant would have been in
7 there at that point.

8 Q Sure. Okay. Do you recall whether or not Mr. Samuels
9 was handcuffed?

10 A I don't believe he was. It's normally my practice
11 when they go into the interview room, I take the -- take
12 the handcuffs off of them.

13 Q All right. Was -- did he have any -- to your
14 knowledge was his will coerced in any manner?

15 A No, sir.

16 Q I believe you testified for the solicitor that there
17 were actually two separate statements.

18 A That's correct.

19 Q Is that correct?

20 A That is correct.

21 Q And as far as statement one, it is written in his
22 hand, is that correct?

23 MR. SUMNER: I'll just refer to this as statement one,
24 Judge.

25 Q Which is about a page, is that right?

Lorin Williams (In-camera)
Cross-examination by Mr. Sumner

1 A That's correct.

2 Q Okay. And that's written in Mr. Samuels' hand, is
3 that correct?

4 A That's correct.

5 Q Did you just ask him to write what he remembered about
6 this incident, or how did it come that his own hand wrote
7 those words? I guess what led into that.

8 A Well, typically, I would have asked him to tell me,
9 you know, basically what had gone on. And, you know, once
10 he -- once he tells a story if it -- if it doesn't fit with
11 the evidence that we -- we know exists, I'll have a -- I'll
12 stop at that point and ask them to provide a written
13 statement.

14 Q Okay. Did you make any statements to him to your
15 memory that it would be better if you write this statement
16 or your conscience will feel better if you write this
17 statement or you'll feel more relaxed, anything that would
18 prompt him?

19 A No, sir. The only thing that would have ever been
20 said to him would be how he would wish to have this put to
21 paper -- would he want to write it, would he want for me to
22 write it, would he prefer that it be recorded and
23 transcribed. And it was his option to write the statement.

24 Q Thank you.

25 And that is all in -- all -- a few housekeeping

Lorin Williams (In-camera)
Cross-examination by Mr. Sumner

1 matters. That's all in his hand. You did not help him
2 write it at all.

3 A No, sir, not at all.

4 Q Okay. Did you -- as we move forward, did you
5 interrupt him? Do you recall? Did you just tell him to
6 write it?

7 A No, sir. I would've -- I would have given him pen and
8 paper, explained everything, explained the top of the
9 statement, what to fill out with the exception of usually
10 the page number and the case number. I usually tell them
11 the top is self-explanatory, fill the top out and tell the
12 story just like what you and I just discussed. I'll get up
13 and walk out of the room.

14 Q And you got up and walked out of the room.

15 A Correct.

16 Q You did. Left him in there?

17 A I did.

18 Q To your recollection was there any law enforcement
19 detective in the room when he --

20 A No, sir. We would have been outside the room or right
21 there waiting on him to finish. And if I recall correctly,
22 on the second one he had actually asked to smoke a
23 cigarette.

24 Q Prior to the second statement?

25 A Prior to the second statement. And I had actually

Lorin Williams (In-camera)
Cross-examination by Mr. Sumner

1 asked Investigator Gary to go in and sit down and speak
2 with him for a few minutes based on that. And they smoked
3 a cigarette, and then that was when he --

4 Q Inside the building?

5 A Absolutely.

6 Q Okay. He was not allowed to leave the building and
7 smoke a cigarette. He smoked one in the building.

8 A No, sir. We -- in the interview room. Absolutely.

9 Q What was the time lapse, sir, Detective, between the
10 first and second statement? I'm not asking to the minute.
11 I'm just asking to the best of your knowledge.

12 A Roughly -- roughly an hour. Well, from the time the
13 first statement was finished till the time the second
14 statement was finished was actually an hour and 13 minutes.

15 Q Okay. But if you take away the time he's actually
16 writing, it's roughly an hour, would that be correct?

17 A Maybe.

18 Q Forty-five minutes?

19 A I can't -- I can't recall exactly how long the
20 conversations --

21 Q I'm not asking you a long time ago.

22 A Sure, sure. Roughly.

23 Q Forty-five minutes to an hour?

24 A Certainly.

25 Q What did you say to him to him, to Mr. Samuels,

Lorin Williams (In-camera)
Cross-examination by Mr. Sumner

1 Detective, prior to the second statement, if you would,
2 please, sir?

3 A Just basically that once the first statement was
4 completed and I had had a chance to go over it, it was
5 notarized. He was given a copy. And then I just told him
6 that, you know, based on -- on the things that he was
7 telling us in the statement and the physical evidence that
8 we had in this case that we knew that this is not what had
9 happened.

10 Q Okay. All right. Do you recall anything else as
11 we're here today that you said to him prior to the second
12 statement?

13 A Not -- not specifically, you know.

14 Q But you -- I'm sorry. I didn't mean to interrupt you.

15 A Nothing. We would have just gone over some of the
16 facts in the case that, you know, let him know that we knew
17 better.

18 Q Let him know that you did not believe that the first
19 statement, which we have referred to as statement one,
20 was -- was true.

21 A Correct.

22 Q Okay. And then he was given an opportunity under your
23 testimony, Detective, to write it, an addendum or a second
24 statement, whatever you want to call it.

25 A Correct.

Lorin Williams (In-camera)
Cross-examination by Mr. Sumner

1 Q Okay. And he did do that.

2 A He did.

3 Q In his own hand.

4 A He did.

5 Q All right. Any threat, coercion? Anything change
6 from the testimony you've given to Judge Cole and this
7 Court regarding the second statement as to the first
8 statement in terms of voluntariness?

9 A Absolutely not.

10 Q Okay. Same everything.

11 A Absolutely.

12 Q Is there anything -- I would like for you to look at
13 those two statements. Is there anything that Mr. Samuels
14 said to you that is not contained in those statements that
15 you feel like is important to the case?

16 A I'm sure there probably is. I'd have to refer back to
17 my notes as to the interview.

18 MR. BARNETTE: May I approach the witness, Your Honor?

19 MR. SUMNER: Sure. Thank you, Solicitor.

20 Q Take your time and look at that, if you would, please,
21 Detective.

22 MR. SUMNER: And that's all been turned over to us,
23 right?

24 MR. BARNETTE: Yes, sir. You can look at them.

25 A Do you want me to take a look at it?

Lorin Williams (In-camera)
Cross-examination by Mr. Sumner

1 Q Thanks. Thank you.

2 Yeah. We've got this already. I will look at it.

3 Thank you.

4 Is there anything -- I'd like for you to take your time
5 and look at that as we come to a close.

6 Is there anything that you feel like was material to
7 the prosecution of Mr. Samuels that is not contained either
8 in his written statement or your, I guess, case notes?

9 (Pause.)

10 Q And just to clarify for the record, I'm only talking
11 about what was said in the interview room that we're
12 talking about right now.

13 A Right.

14 (Pause.)

15 A If there's something specific, I mean, I'm not
16 really --

17 Q Okay.

18 A You know, it's -- the notes are, you know, basically
19 of the things that we spoke of, but, I mean, the statement,
20 it is what it is. I mean, it doesn't -- certainly the
21 truthful portion of it doesn't really go into any detail.

22 Q Detective, yes, sir.

23 I was asking about your notes. Basically, is there
24 something critical out there that you would testify to that
25 has not been reduced to writing and furnished to the

William Gary (In-camera)
Direct examination by Mr. Barnette

1 defense? Does that question make sense?

2 A Not -- not that I can think of, no, no.

3 Q And you --

4 A If you're asking -- if you're asking if there's
5 anything else that I'm going to say, no, I mean it's --

6 Q That's exactly what I'm asking.

7 A Yes, no.

8 Q That's it.

9 Thank you very much, Detective. I don't have any other
10 questions.

11 A Thank you.

12 MR. BARNETTE: No further questions of this witness,
13 Your Honor.

14 THE COURT: Step down.

15 MR. BARNETTE: I'd like for Detective Gary to be
16 called as a witness, Your Honor.

17 WILLIAM GARY, having been
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q If you would, sir, please, state your name for the
21 record.

22 A William Gary.

23 Q And what's your position, sir?

24 A I'm the lieutenant over the investigations at the
25 sheriff's office.

William Gary (In-camera)
Direct examination by Mr. Barnette

1 Q And how long have you been at the sheriff's
2 department, sir?

3 A March will be 22 years.

4 Q On -- I believe during this statement -- did you go in
5 and help assist on this statement?

6 A I did.

7 Q If you would, tell us about that, sir.

8 A Investigator Williams was in the interview room, and
9 several of us were standing outside away from the room but
10 near enough.

11 Investigator Williams came over and asked me if I'd go
12 in and talk with him. He said that he thought there was
13 more to the story. He asked if I'd go in and speak with
14 him, said that he asked for a cigarette. So I got one of
15 his cigarettes out of his pack and went in there and smoked
16 a cigarette with him and sat down and talked with him about
17 it.

18 During that he told a story about the victim coming in
19 there.

20 First, he told me -- go back through here. I asked
21 him if anybody had told him what actually caused the
22 victim's injuries, what caused him to die. He said that he
23 was told there was blood in the lungs. And that's when I
24 informed him there's actually two lacerations to the liver
25 and talked to him about children's anatomy, how the bones

William Gary (In-camera)
Direct examination by Mr. Barnette

1 aren't that hard, how it can be easier to cause injuries to
2 them because of that. Asked him if he was around children
3 a lot. He said he was, that he had children, he had two
4 kids and two on the way at that time.

5 Then he said that Chris had come in the room and he
6 pulled him up on the bed. And I asked him how he grabbed
7 him. He really didn't say how he grabbed him.

8 He said he pushed him down off the bed because he
9 realized his diaper was wet. And he told me that he
10 gets -- his word -- pissy when he first wakes up.

11 He described him. Picked him up to the bed. Then he
12 told me that that may be how the liver got damaged, when he
13 grabbed him up to the bed. He realized the dipper was wet.
14 That's when he pushed him down, and he hit the rail.

15 He asked me if I would get Investigator Williams to
16 come back in there and speak with him.

17 Q And did you notarize -- or the second statement?

18 A Yes, sir. Investigator Williams went back in the room
19 with him. Then a short time later he came out and asked me
20 if I'd step back in there. And when I did Mr. Samuels had
21 written out the second statement, and so I confirmed with
22 him that he had wrote it, that it was true. He swore to
23 it, that that was his signature. And I notarized the
24 statement.

25 Q And that was in his writing too, is that correct?

William Gary (In-camera)
Cross-examination by Mr. Sumner

1 A Yes, sir.

2 Q If you would -- and he wasn't threatened in any way by
3 you?

4 A No, not at all.

5 Q He wasn't promised anything by you?

6 A No.

7 Q He never asked for an attorney --

8 A No. He did not.

9 Q -- at that time. He freely and voluntarily gave this
10 information is what you're telling me.

11 A He did.

12 Q If you would, please answer any questions the Court or
13 Mr. Sumner may have.

14 A Sure.

15 MR. SUMNER: Thank you, Your Honor. May it please the
16 Court -- Solicitor.

17 CROSS-EXAMINATION

18 BY MR. SUMNER

19 Q It is your testimony, Detective, that this was
20 knowingly, freely and voluntarily made, this statement that
21 you've testified to, by Mr. Samuels.

22 A Yes, sir.

23 Q Can you testify as to anything that you think that
24 might have coerced him either in the environment or
25 something that you might have said prior to giving this

William Gary (In-camera)
Cross-examination by Mr. Sumner

1 statement?

2 A No.

3 Q And did you bring your supplemental --

4 A I did.

5 Q -- up there with you?

6 A Yes, sir.

7 Q I want to ask you the same questions I asked Detective
8 Williams. Take your time and look at it.

9 Is there anything substantial to this case and/or to
10 your anticipated testimony before the jury that is not
11 contained therein?

12 A No, sir. My testimony will be what's in my report.

13 Q Okay. Thank you.

14 A Yes, sir.

15 MR. BARNETTE: No further questions of this witness,
16 Your Honor.

17 Your Honor, that would be the state's showing.

18 MR. SUMNER: Your Honor, I will certainly argue if you
19 feel like you need any. I know that you're very learned in
20 the area of the standard here.

21 Is there anything I can add? You've heard the
22 testimony. Is there anything I can add to you right now
23 that you would like for me to expound upon in this area?

24 THE COURT: That I would like for you to expound upon?

25 MR. SUMNER: Maybe I misspoke. Yeah, maybe I guess

1 like.

2 Is there any state -- is there any argument that you
3 would like to hear from me regarding the admissibility of
4 the statement? Maybe that's what I meant to say.

5 THE COURT: well, you heard the same testimony I
6 heard.

7 MR. SUMNER: I did.

8 THE COURT: Was there anything you heard -- is your
9 client wanting -- does your client wish to testify?

10 MR. SUMNER: Let me find out, Your Honor.

11 THE COURT: All right.

12 (Pause.)

13 MR. SUMNER: Your Honor, he does not wish to testify
14 as to the voluntariness or for your consideration as to the
15 voluntariness and the admissibility of these statements.

16 THE COURT: Is that true, Mr. Samuels?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Mr. Sumner, is there anything
19 that you've heard through the testimony or contained in the
20 record that would indicate in any way that the statements
21 were not freely and voluntarily made by the defendant --

22 MR. SUMNER: No, sir.

23 THE COURT: -- without any coercion, promise --

24 MR. SUMNER: No, sir.

25 THE COURT: -- of reward --

1 MR. SUMNER: No, sir.

2 THE COURT: -- or that he was under the influence of
3 some intoxicating substance or drug that would prevent him
4 from understanding fully what he was doing --

5 MR. SUMNER: No, sir.

6 THE COURT: -- or that he was not intelligent enough
7 to understand the waiver of the rights that the officer
8 testified he explained and understood and signed?

9 MR. SUMNER: No, sir.

10 THE COURT: Okay.

11 MR. SUMNER: As an officer of the Court, no, sir. I
12 haven't heard anything.

13 THE COURT: I understand.

14 All right. I find the statements are freely and
15 voluntarily made, therefore they are admissible should they
16 be offered.

17 Okay. Anything else?

18 MR. BARNETTE: Nothing else from the state at this
19 point, Your Honor.

20 MS. SODERDAHL: Nor from the defense, Your Honor.

21 THE COURT: Court's in recess until 9:30 in the
22 morning.

23 END OF PROCEEDINGS FEBRUARY 13, 2017
24
25

1 (Proceedings February 14, 2017)

2 (The following takes place outside the presence of the
3 jury.)

4 (State's Exhibit No. 3 changed to Court's Exhibit No.
5 2; telephone recordings marked Court's Exhibit No. 3.)

6 THE COURT: Any matters to address before the jury is
7 brought in?

8 MR. BARNETTE: Yes, sir. We spoke before you came
9 out, Your Honor. Went back in chambers. There's two
10 things.

11 The State's Exhibit 3, Your Honor, we're actually
12 going to sub another copy of it to make sure it's a cleaner
13 version of that, Your Honor. I believe the defense has no
14 objection to that, Your Honor.

15 I did the original State's Exhibit 3 and made that
16 Court's Exhibit 2 so it will not be an issue from there.

17 State's Exhibit 3 will be the actual exhibit that will
18 be entered into evidence or kept into evidence.

19 And then Court's Exhibit 3, Your Honor, in case
20 there's any question -- all of the telephone recordings at
21 the jail is recorded. There's a sign right there notifying
22 the defendants to make sure they understood that all phone
23 calls are being recorded. That sign's been up there since
24 2008. That was supplied by Captain Mike Jones that would
25 have testified, but they stipulated to it. So I just want

Lorin Williams
Direct examination by Mr. Barnette

1 to make sure that was in the record also.

2 THE COURT: All right. Defense is in agreement?

3 MS. SODERDAHL: We are, Your Honor.

4 THE COURT: Okay. Anything else?

5 MR. BARNETTE: Nothing at this time, Your Honor.

6 THE COURT: All right. Bring the jury in, please,
7 ma'am.

8 (The following takes place in the presence of the
9 jury.)

10 THE COURT: Good morning, ladies and gentlemen.

11 As you know, when we recessed yesterday the state was
12 in the midst of their presentation of evidence. So we'll
13 continue with that presentation this morning.

14 Mr. Barnette.

15 MR. BARNETTE: May it please the Court, Your Honor.
16 I'd call Investigator Williams to the stand, please.

17 LORIN WILLIAMS, having been
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q If you would, sir, please give your full name for the
21 record.

22 A My name is Lorin Williams.

23 Q And where do you work at, sir?

24 A I am with the Spartanburg County Sheriff's Office.

25 Q And what is your position there, sir?

Lorin Williams

Direct examination by Mr. Barnette

1 A I'm a violent crime investigator with the sheriff's
2 office.

3 Q And how long have you been in law enforcement, sir?

4 A Twenty-two years.

5 Q Back on January the 4th of 2015 was you involved in an
6 investigation involving the death of Minor in this
7 case?

8 A Yes, sir, I was.

9 Q And would you tell the jury what happened once you was
10 notified about his death at the hospital?

11 A I received a phone call. The way we work is we're on
12 call from Monday at 8:00 o'clock until the following Monday
13 at 8:00 o'clock. So anything that happens during that week
14 is our responsibility.

15 I received a phone call that there had been a child
16 come into the E.R. at Spartanburg Regional that was
17 unresponsive and they had pronounced dead.

18 So at that point I notified some of our other guys
19 that we had an unattended baby death. And I responded to
20 Spartanburg Regional.

21 Q When you arrived there, what happened, sir?

22 A We went in and looked at the child, tried to determine
23 if -- you know, if anything -- you know, if anything looked
24 out of place or whatever with the child before we spoke to
25 the parents.

Lorin Williams

Direct examination by Mr. Barnette

1 Q And did you speak to Ms. Gentry at that point?

2 A I did. I spoke to the child's mother.

3 Q And did she fully cooperate and give you her cell
4 phone information and so forth?

5 A Absolutely.

6 Q And did she later -- later on did you talk to the
7 defendant in this case?

8 A I did.

9 Q And, initially, when you looked at Chris was there
10 noticeable bruising that day, or was it later on that you
11 saw the bruising?

12 A No. Actually, at the time that we looked at the child
13 in the E.R. there was no noticeable marks on the child,
14 nothing that stood out.

15 There were some -- there were some old places but
16 nothing that looked like anything that had just happened.

17 Q And later on when, obviously, the autopsy and
18 everything was done did bruising later come out?

19 A Absolutely.

20 Q And let me show you. Let me show you what's been
21 marked as State's Exhibits 24, 20, 19, 16, 21 and 23 and
22 24. If you would, take a look at those pictures and see if
23 those fairly represent the bruising that you saw on

24 Minor [REDACTED].

25 (Pause.)

Lorin Williams

Direct examination by Mr. Barnette

1 A Yes, sir, they do.

2 Q Does that fairly represent what you saw?

3 A Yes, sir.

4 MR. BARNETTE: Your Honor, I'd like to enter these
5 into evidence at this time.

6 THE COURT: The numbers are 20, 21, 23 and 24?

7 MR. BARNETTE: 23, 24, 21, 16, 19 and 20.

8 MS. SODERDAHL: Your Honor, we do object to the
9 admission of these photographs into evidence.

10 THE COURT: All right. They're admitted over
11 objection.

12 MR. BARNETTE: Thank you, Your Honor.

13 (Photographs marked State's Exhibits Nos. 16, 19, 20,
14 21, 23 and 24.)

15 MR. BARNETTE: May I publish it to the jury, Your
16 Honor?

17 THE COURT: You may.

18 Q Like I said, this was not in the hospital. This was
19 actually in the autopsy room or down in the morgue area, is
20 that right, that you saw these?

21 A Those photographs there are, yes, sir.

22 Q But you didn't see this initially at the hospital --
23 at the hospital that day.

24 A No, sir. That wasn't noticed until after they had had
25 an opportunity to develop.

Lorin Williams

Direct examination by Mr. Barnette

1 Q Let me show you State's Exhibit 16. In this area
2 here, was this where the bruising was on, I believe it'd
3 be, his right side? I think that's his arm hanging up
4 there. So is that his -- is that his right side, sir?

5 A That was some of the bruising that had -- that had
6 developed in the -- on the right side in the rib-cage area,
7 and some slightly higher in the area, and some lower.

8 Q Let me show you what's been marked State's Exhibit
9 No. 19. Is that some additional bruising that was seen, I
10 guess, on the right back-side area?

11 A Yes, sir.

12 MS. SODERDAHL: Your Honor, may we approach?

13 THE COURT: Yes.

14 Q Let me show you State's Exhibit No. 20, sir.

15 THE COURT: Just a minute, Mr. Barnette.

16 MR. BARNETTE: Yes, sir.

17 (Bench conference held off the record in the presence
18 of the jury but out of the hearing of the jury.)

19 MR. BARNETTE: May I continue, Your Honor?

20 THE COURT: You may.

21 Q Let me show you State's Exhibit No. 20. Was that
22 bruising on the back of the child?

23 A Yes, sir.

24 Q State's Exhibit 23. Was that bruising on the left
25 side --

Lorin Williams
Direct examination by Mr. Barnette

- 1 A Yes, sir.
- 2 Q -- of the victim?
- 3 A Yes, sir.
- 4 Q And State's Exhibit 24. What is that, sir, there?
- 5 A Bruising to the right side of the face.
- 6 Q Later on did you receive information from the autopsy
- 7 concerning the internal injuries that Minor had?
- 8 A Yes, sir, we did.
- 9 Q And was that part of that lacerated liver?
- 10 A It was.
- 11 Q And did you talk to the defendant about this?
- 12 A We did, yes, we did.
- 13 Q And prior to talking to him -- let me show you State's
- 14 Exhibit No. 1. Was that a waiver of rights that you gave
- 15 the defendant when you talked to him?
- 16 A Yes, sir. It is.
- 17 Q And, if you would, explain to the jury what you did
- 18 with the waiver of rights.
- 19 A Basically, any time someone is being questioned for
- 20 any type of an offense that they may or we feel like that
- 21 they may have been involved in -- I'm sure everybody has
- 22 heard your Miranda rights -- you've got the right to remain
- 23 silent -- that type of thing.
- 24 There's a standardized form that the sheriff's office
- 25 has had made up, and it just makes sure that everything is

Lorin Williams

Direct examination by Mr. Barnette

1 covered. And it gives them the opportunity to see it, read
2 it. And then we ask them to sign it.

3 But prior to that what I do is I go over it with them,
4 explain it to them. I read it to them line for line.
5 Everything is in a numbered order.

6 I ask them if they understand it. And then there's a
7 section in here that tells what the -- what we're
8 questioning them about. In this instance it was a baby
9 death.

10 Then I ask them how far they went in school, do they
11 understand the English language, can read and write. They
12 tell me that they do or they don't.

13 In this case he did. Finished nine years in school.
14 Then I always ask where they went to high school. And then
15 I document that. In this case he indicated that he had
16 gone to Byrnes High School.

17 Q Is that the form that you used with the defendant in
18 this case?

19 A It is.

20 MR. BARNETTE: Your Honor, I'd like to enter State's
21 Exhibit 1 at this time into evidence.

22 MS. SODERDAHL: No objection.

23 THE COURT: It's admitted.

24 (Waiver of defendant marked State's Exhibit No. 1.)

25 MR. BARNETTE: May I publish it to the jury, Your

Lorin Williams
Direct examination by Mr. Barnette

1 Honor?

2 THE COURT: You may.

3 Q If you would, just go through this form with the jury.
4 If you would, just explain what you did, Investigator
5 Williams.

6 A Up at the top, this is a preinterrogation waiver form.
7 I fill the top of it out, ask them their name, their
8 address, their age, the date that the interview is taking
9 place, the time and then the location. And in this case
10 the S.C.S.O., that's the Spartanburg County Sheriff's
11 Office. And then the C.I.D. stands for criminal
12 investigation division.

13 Then, as you can see, number one through five, it
14 covers your rights. And, "You have the right to remain
15 silent. Anything that I say can and will be used against
16 me in a court of law. I have the right to talk to a lawyer
17 and have him present with me while I'm being questioned.
18 If I cannot afford to hire a lawyer, one will be appointed
19 to represent me before any question if I so wish. I have
20 the right to stop answering questions at any point in the
21 questioning." Then, "The above rights have been read to
22 me," and then that's my first initial and my last name.
23 The defendant signed it. There where it says signed, I
24 witnessed it on -- that's the first portion of the waiver.
25 Q So this was the defendant's signature, is that right?

Lorin Williams

Direct examination by Mr. Barnette

1 A It is.

2 Q And he understood, "I agree to the same and understood
3 my rights fully."

4 A He did.

5 Q Yes, sir. Please continue.

6 A Okay. The second portion just simply says that, "I
7 waive or give up my rights as explained above and agree to
8 talk to Officer Williams in reference to a baby death. And
9 my statement that I may make is of my own free will without
10 fear, threat or promise or favor or reward of any kind. I
11 am able to read and write the English language and finished
12 nine years in school." And then, as I indicated, he told
13 me Byrnes High, and I wrote Byrnes High School.

14 Then, again, that's his signature to the right. I
15 witnessed it, and it was notarized by Investigator Jason
16 Bryant.

17 Q And after he was given his rights, did he understand
18 his rights?

19 A He did.

20 Q Did you threaten him in any way?

21 A No, sir, absolutely not.

22 Q Did you promise him anything?

23 A No. I did not.

24 Q Did he ever ask for a lawyer or anything like that?

25 A No. He did not.

Lorin Williams

Direct examination by Mr. Barnette

1 Q So he just voluntarily gave you the information, is
2 that right?

3 A He did.

4 Q Did he give you an initial, first, statement, sir?

5 A He did. He actually gave two statements.

6 Q Okay. And I believe both of them are contained in
7 State's Exhibit 2.

8 Let me let you see that, sir. Are those the two
9 statements he gave to the sheriff's department, sir?

10 A Yes, sir, they are.

11 MR. BARNETTE: Your Honor, I'd like to enter this,
12 State's Exhibit 2, into evidence at this time.

13 MS. SODERDAHL: No objection.

14 THE COURT: Those are two separate statements, but
15 they're from one exhibit?

16 MR. BARNETTE: Yes, sir. Would you like for me to
17 separate them or --

18 THE COURT: Well, I'll leave that up to y'all.

19 How would you like -- is there any objection to either
20 one?

21 MS. SODERDAHL: No objection.

22 THE COURT: All right. They're admitted.

23 MR. BARNETTE: Thank you, Your Honor.

24 (Statement of defendant marked State's Exhibit No. 2.)

25 MR. BARNETTE: Thank you, Your Honor.

Lorin Williams

Direct examination by Mr. Barnette

1 Q In the first statement, who wrote this statement,
2 Investigator Williams?

3 A Mr. Samuels did.

4 Q And in talking to him what did -- initially, when you
5 spoke to him after he understood his rights and everything,
6 what happened after that?

7 A Basically, we just started talking about what had
8 happened the evening before, where he had been, what led
9 for him to be at the residence with Brittany and the
10 children and then what had happened the next morning,
11 because he indicated to us that he didn't get over there
12 until late, so there wasn't a lot of interaction with the
13 kids that night, what had happened that next morning.

14 Q And he wrote this initial statement out for you?

15 A He did.

16 Q Did y'all -- was y'all in there when he wrote this
17 out?

18 A No, sir.

19 Q Where was y'all at?

20 A What I do is I'll ask them to provide a voluntary
21 statement.

22 When they agree to, then I provide them with a pen and
23 the statement form, explain it. I usually tell them the
24 top is pretty self-explanatory, what portions to fill out.

25 And then in the statement itself I tell them to take

Lorin Williams

Direct examination by Mr. Barnette

1 the time, be as detailed as they can be and just basically
2 tell me a story, tell me the same thing that we've sat and
3 talked about but put it in your own words.

4 Q And did y'all initially talk to him at the hospital on
5 the 4th, initially?

6 A Very briefly.

7 Q And this was the second time -- the second time you'd
8 actually talked to him about this.

9 A That's correct.

10 Q If you would, go ahead and read the first statement if
11 you would. Read the first page.

12 If you need to step down, you can.

13 A "Brittany picked me up that night. We talked and
14 watched movies until late that night."

15 I'm going to have to get down.

16 THE COURT: Don't you have a copy of the statement he
17 can read from?

18 MR. BARNETTE: Yes, sir, I do. May I approach the
19 witness, Your Honor?

20 Q There you go, sir.

21 A "Brittany picked me up that night. We talked and
22 watched movies until late that night. Woke up the next
23 morning. She said she was going to the store, be right
24 back. Chris entered the room, so I began to pull him into
25 the bed. He was wet, so I told him to go back into his

Lorin Williams

Direct examination by Mr. Barnette

1 bed. Brittany wasn't there, so I texted her Chris was
2 wanting her. Then she walked in. Talked to him a while.
3 Then came back into the room. I walked into the kitchen
4 and made Rodney a bottle and threw trash away. Then I told
5 her I didn't think I saw him, Chris, in bed. So went in,
6 and I came behind her. She was talking to him and putting
7 him back in bed. He rolled towards the other side because
8 the bed was leaning. We thought he was fine. She was
9 about to take a shower and went to check on him. She say
10 he's not breathing. So I run in trying C.P.R., put him in
11 the tub, splashed water on him, done C.P.R. again, changed
12 his diaper and put clothes on him and rush him to
13 Spartanburg Regional."

14 Q And once he gave that statement, did he sign his
15 statement?

16 A Yes, sir, he did.

17 Q And was it witnessed and notarized?

18 A It was witnessed by Investigator Bryant and it was
19 notarized by myself.

20 Q And after he gave this statement, what happened after
21 that?

22 A Well, once I had had a chance to review the statement
23 I went back in there with him, and I just told him.

24 I said, "There's -- there's things that are very
25 inconsistent. There's -- there's things that's been left

Lorin Williams

Direct examination by Mr. Barnette

1 out of the statement through the evidence that we can see
2 on the child from the autopsy. You know, we know more
3 happened than -- than what you're telling us happened."

4 Q And did Lieutenant Gary also talk to him at some
5 point?

6 A He did. As I -- while I was speaking with him really
7 didn't seem to be, you know, getting anywhere with -- with
8 him changing his story as far as what had actually
9 happened.

10 I stepped out. He had actually asked to smoke a
11 cigarette, and I stepped out to get him a cigarette. And
12 Lieutenant Gary was standing there. And I asked him. I
13 said, "If you don't mind," I said, "you try."

14 I stepped back in there. Let him smoke. See -- you
15 know, see if you can talk to him, see if -- if he'll give
16 you anything else.

17 And Lieutenant Gary went in with him, went in the
18 interview room with him, allowed him to smoke a cigarette
19 and did talk to him for a few minutes. I can't tell you if
20 it was five minutes or 20 minutes. But Lieutenant Gary
21 came back out and told me that during the conversation that
22 he had given some more --

23 MS. SODERDAHL: Objection to the hearsay.

24 THE COURT: Well, is Mr. Gary going to testify?

25 MR. BARNETTE: Lieutenant Gary, yes, sir.

Lorin Williams

Direct examination by Mr. Barnette

1 THE COURT: Okay. Overruled.

2 A Lieutenant Gary had come out and told me that he -- he
3 had given a little more information and that he was
4 requesting to speak to me again.

5 Q And did you go in speak to him again, sir?

6 A I did.

7 Q And did he give you a second statement?

8 A Yes, sir, he did.

9 Q Is this the second statement he gave to you?

10 A Yes, sir, it is.

11 Q And who wrote that statement?

12 A He did.

13 Q Okay. If you would, read that statement, please.

14 A Okay. "Chris came in. I pulled him up in bed, up to
15 bed. Once I saw he was wet I pushed him and he hit the
16 bed, the crib and the floor. He stumbled out and hit the
17 door and fell and went to bed. I am no monster. I am a
18 man of God, and I am sorry from this day. I am sorry, and
19 I have to deal with being sorry because I truly loved
20 Chris. Sorry."

21 Q And on the bottom of that did he sign that statement,
22 sir?

23 A Yes, he did.

24 Q And was that also witnessed and notarized?

25 A Yes, it was.

Lorin Williams

Direct examination by Mr. Barnette

1 Q He had never told anybody that part of it until he
2 wrote that second statement, is that right?

3 A That's correct.

4 Q He had never told anybody at the hospital as far as
5 you know?

6 A No, sir. Not that I was ever aware of, no.

7 Q He initially didn't tell y'all that story originally.

8 A No, sir.

9 Q And, obviously, the injuries didn't match up with his
10 first statement.

11 A That's correct. They were not. They were very
12 inconsistent.

13 Q And, obviously, he admitted to causing the fall or
14 doing this to him.

15 A That's correct. He did.

16 MR. BARNETTE: One moment, Your Honor, please.

17 (Pause.)

18 Q And just for the record, Lee's Crossing is in
19 Spartanburg County, isn't it --

20 A Yes, sir, it is.

21 Q -- where this occurred at? If you would, please,
22 answer any questions the defense may have for you, sir.
23 Thank you.

24 MS. SODERDAHL: May it please the Court.

25 THE COURT: Yes, ma'am.

Lorin Williams
Cross-examination by Ms. Soderdahl

1 CROSS-EXAMINATION

2 BY MS. SODERDAHL

3 Q You testified that you received information that there
4 had been an unattended baby death and you responded to
5 Spartanburg Regional Hospital.

6 A That's correct.

7 Q That was on January 4th of 2015.

8 A That's correct.

9 Q And when you got to the hospital you interviewed
10 Brittany Gentry.

11 A I did not directly interview Ms. Gentry.

12 In cases like this where at the beginning we're not a
13 hundred percent sure whether the death is something that is
14 an accident or something that happened at the hand of
15 another, we work hand in hand with the coroner's office.

16 And their responsibility is notifying the family of
17 death, kind of advising the family what will happen from
18 this point forward as far as the investigation, as far as
19 if there's going to be an autopsy, things such as that.

20 And in this case where we're dealing with an infant
21 there certainly would be an autopsy to find out what caused
22 the death. So Investigator Corn with the coroner's office
23 actually spoke to Brittany that morning. And I believe he
24 took a recorded statement from her.

25 Q And you were present when Investigator Corn spoke with

Lorin Williams
Cross-examination by Ms. Soderdahl

1 Brittany Gentry on January 4th at Spartanburg Regional?

2 A Yes, I was.

3 Q Okay. And Investigator Corn asked Brittany questions
4 about the circumstances surrounding this child's death.

5 A He asked her to tell him what had happened that
6 morning.

7 Q And, specifically, he asked her to discuss with him
8 the events that occurred on the night before the death on
9 January 3rd of 2015.

10 A I don't have his writeup in front of me, but I'm sure
11 he did.

12 Q Well, Investigator, after your investigation you did
13 write notes. You took reports.

14 A I did.

15 Q And you in your reports, you wrote those closer in
16 time to the date of January the 4th of 2015, right?

17 A Yes.

18 Q When everything was fresh in your memory.

19 A Correct.

20 Q And you included in your notes things that you had
21 learned from Brittany Gentry during that interview at the
22 hospital on January 4th. Is that fair to say?

23 A Sure.

24 Q Okay. And if you need to refer to those reports to
25 refresh your recollection, would that help you remember

Lorin Williams
Cross-examination by Ms. Soderdahl

1 what occurred or what was discussed in that interview?

2 A I'm looking over them now.

3 Q Okay. And, now, once your memory is refreshed, if you
4 could, just look and let know.

5 A Do what, now?

6 Q Once your memory is refreshed about the question I
7 asked regarding whether this -- there were events of
8 January 3rd of 2015, were discussed in that interview, if
9 you could, look up.

10 (Pause.)

11 A She pretty much starts with the next morning.

12 Q Okay. Now, you said that this interview was recorded,
13 is that true?

14 A Typically, the coroner's office will do an audio
15 recording.

16 Q And have you had an opportunity to listen to this
17 recording --

18 A No.

19 Q -- since the date of January 4th?

20 A I have not.

21 Q Now, let me ask you this. When you were present with
22 Investigator Corn on January 4th interviewing Brittany at
23 the hospital, the question was asked apparently by
24 Investigator Corn whether Brittany had met anybody on the
25 way home after being with her relatives. Do you remember

Lorin Williams

Cross-examination by Ms. Soderdahl

1 that question being asked of her?

2 A I don't have it documented here.

3 Q Okay. And when that question was asked Brittany told
4 you and Investigator Corn that on the way home from her
5 relative's house she and the children didn't meet up with
6 anybody, that she had just gotten gas at the Spinx gas
7 station.

8 A Okay. Like I said, I don't have any of that
9 documented here. I have it documented where I spoke to
10 Brittany on the 6th where she said that she did meet -- I
11 think it was one of her children's father.

12 MS. SODERDAHL: May we approach briefly, Your Honor?

13 THE COURT: You may.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 THE COURT: Ladies and gentlemen, I've got one matter
17 I'll need to address outside of your presence, so I'll ask
18 you to please go to your jury room. Don't discuss the
19 case. I'll bring you back after a short break.

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: Let me see y'all just a minute.

23 (Bench conference held off the record.)

24 MR. BARNETTE: Do you want us to play it in here, Your
25 Honor, or do you want us to step off and listen to it?

Lorin Williams

1 THE COURT: He's got to listen to it.

2 (Bench conference held off the record.)

3 THE COURT: Mr. Williams, the lawyers have agreed.
4 They have an audio of an interview that took place at the
5 hospital. You and Investigator Corn were present --

6 THE WITNESS: Yes, sir.

7 THE COURT: -- when Ms. Gentry was being interviewed
8 at the hospital.

9 THE WITNESS: Yes, sir.

10 THE COURT: And Ms. Soderdahl wants you to listen to
11 that interview because she's going to ask you questions
12 about statements made by Ms. Gentry during the course of
13 that interview to see if you have a recollection of it.

14 THE WITNESS: Okay.

15 THE COURT: And of course the purpose of listening to
16 the -- to the audio is to find out if you do recall the
17 statements and questions that were asked during that
18 interview.

19 THE WITNESS: Yes, sir.

20 MR. BARNETTE: Your Honor, can I send him across the
21 hall and ask? I'm not going to talk to him about anything.

22 THE COURT: You can step down. The sole purpose of
23 you stepping down now is to listen to that audio. You're
24 not to discuss your testimony with anybody.

25 THE WITNESS: Yes, sir.

Dr. John David Wren
Direct examination by Mr. Barnette

1 THE COURT: Okay.

2 (Whereupon, a recess was taken.)

3 MR. BARNETTE: Your Honor, I think at the bench we
4 talked about -- Investigator Williams is listening to the
5 audio right now of the interview.

6 We both agreed, I think, for Dr. Wren to go ahead and
7 testify. We can go ahead and do that and not hold the jury
8 up.

9 THE COURT: All right. Bring the jury pack, please.

10 (The following takes place in the presence of the
11 jury.)

12 THE COURT: Ladies and gentlemen, we're going to
13 interrupt right now the testimony of Mr. Williams in order
14 to accommodate the schedule of the next witness. So we're
15 going to call another witness to accommodate that schedule.
16 Once that is concluded, then we'll return with
17 Mr. Williams' testimony.

18 Okay. All right. Mr. Barnette.

19 MR. BARNETTE: May it please the Court the Court. I'd
20 like to call Dr. Wren to the stand, please.

21 DR. JOHN DAVID WREN, having
22 been first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. BARNETT

24 Q If you would, sir, please state your full name for the
25 record.

Dr. John David Wren
Direct examination by Mr. Barnette

1 A John David Wren.

2 Q And where do you work at, sir?

3 A I'm -- I work for Carolinas Pathology Group, which is
4 a group of pathologists in North and South Carolina. I am
5 -- I work at Regional Medical Center all of the time now.
6 I am the laboratory medical director, a pathologist, and I
7 have several other medical directorships associated with
8 Spartanburg Regional Medical Center.

9 Q And how many autopsies have you performed, Doctor,
10 over your career?

11 A Well, I stopped counting in 19 -- in 2004. And I'd
12 done almost 5,000. And I do about 280 a year. So probably
13 6,000 by now.

14 Q And could you give the jury a little bit about your
15 educational background, sir?

16 A I have a bachelor's degree, a master's degree and a
17 doctor of philosophy degree in chemical engineering from
18 Clemson University.

19 I worked in industry for about five years as a
20 research and development scientist and a -- did
21 applications and was a group leader in computer process
22 control and applications.

23 I went to medical school at the Medical University of
24 South Carolina. I finished my degree requirements in three
25 years and three months.

Dr. John David Wren
Direct examination by Mr. Barnette

1 I went directly into residency at the Medical
2 University because I didn't want to move. I finished seven
3 years of requirements in -- from February the 1st of -- I
4 mean, February the 1st, 1979.

5 I left there and came to Regional Medical Center with
6 a pathology group that was there at that time, or basically
7 I'm the only one that's still left from that original
8 group. I came on October the 18th of two thousand --
9 sorry -- excuse me -- 1983 -- '82.

10 While I was at the Medical University I was chief
11 resident in anatomic pathology and then later in clinical
12 pathology. I did research while I was in medical school on
13 kidney dialysis procedures and I got credit for that. I
14 also did research in biological systems in kinetics when I
15 was at Clemson. I got credit for that as part of my
16 requirements for my residency requirements.

17 While I was at the Medical University I was Assistant
18 Medical Examiner for Charleston County from July of 1980
19 until I left there. Actually, I moved from there after a
20 couple of months after I had come to the -- to Spartanburg
21 to compensate for my daughter being in school.

22 And I did my last rotation there at the Medical
23 University in January of 1983. I had already started my
24 job here as a pathologist in Spartanburg at that time.

25 I also did forensic pathology autopsies for the State

Dr. John David Wren
Direct examination by Mr. Barnette

1 of South Carolina, but at that time a lot of cases were
2 sent to the Medical University from -- I did -- I did some
3 while I was a residency, but then I was -- I did them one
4 weekend a month for about three years while I was at the
5 Medical University.

6 I fulfilled my requirements for and took my anatomic
7 pathology boards in 1983. I passed them on the first
8 attempt.

9 I took my clinical boards in 1987 and passed those on
10 the first attempt.

11 I was qualified for -- to take my forensic boards, but
12 I did not take those, but I have been qualified as an
13 expert witness in at least 10 to 15 of the counties in
14 South Carolina. The ones in the upstate are Anderson,
15 Greenville, Laurens, York, Fairfield, Cherokee, Union. And
16 then down to Newberry, Lexington, and then six or eight in
17 the lower part of the state.

18 Q How many times have you been qualified as a forensic
19 pathologist, Dr. Wren?

20 A Probably about 200.

21 MR. BARNETTE: Your Honor, I'd move him as an expert
22 in forensic pathology at this time.

23 MS. SODERDAHL: No objection.

24 THE COURT: He is so qualified.

25 Q Dr. Wren, back on January 4th of 2015 did you perform

Dr. John David Wren
Direct examination by Mr. Barnette

1 an autopsy on Minor [REDACTED] ?

2 A Yes. I did an autopsy on Christopher -- I'm sorry --
3 Minor [REDACTED] in the S.M.C. Autopsy Room. I began
4 that autopsy at 1:30 p.m. on January the 4th of 2015.

5 Q How much did he weigh at the time, sir?

6 A Twenty-five pounds.

7 Q And in -- if you would, tell what your findings to the
8 jury was.

9 A Well, at that time -- when I do an autopsy I write
10 down what's told to me initially. I usually don't go back
11 and modify it because I base what I -- a lot of forensic
12 autopsies are based on what you know when you start and
13 then what you find out as you -- as you continue.

14 At that time I was told that he -- that this child was
15 brought into the emergency room by the mother who had found
16 him unresponsive. And according to the E.R. physician, I
17 was told that he had rigor mortis at the time of the
18 initial examination and his body temperature was less than
19 90 degrees. That indicates that the person had been dead a
20 little while.

21 Depending on the environmental circumstances and
22 what's done, once rigor mortis starts to form it can --
23 it's dependent on not only the person's temperature but the
24 environmental temperature, as well as the amount of
25 activity that's going on at that time.

Dr. John David Wren
Direct examination by Mr. Barnette

1 For instance, if a person's running -- and a lot of
2 people probably are familiar with if a deer were running
3 and hit by a car, he's building up lactic acid in his
4 system, so he'll -- rigor mortis will start quicker in that
5 case than it will if someone died while they were asleep.

6 So, but at any rate, rigor mortis can start within 30
7 minutes, and it usually becomes fixed at about 12 hours and
8 starts disappearing at 24 hours. Those are general rules
9 of thumb.

10 Temperature is also dependent on the temperature at
11 the time of death, as well as the environmental conditions
12 that are around it.

13 If you took a person and immersed them in cold water
14 after they died, their temperature is going to go down
15 quicker than it would if they were at room temperature with
16 no air blowing on them and not close to any heat source or
17 heat sink. So I started the autopsy with those conditions.

18 At that time I didn't find a lot of external findings.
19 I did find some scars. There was a history that he had had
20 some scars and some burns of the buttocks areas. There
21 were scars there in that area, as well as a scar on the
22 forehead, I believe, left interior forehead near the
23 hairline.

24 He had a slight abrasion of the lower right eyelid.

25 I didn't see anything else except a scar at the point

Dr. John David Wren
Direct examination by Mr. Barnette

1 of the chin which was well healed.

2 He had a protuberant abdomen. His abdomen was
3 distended somewhat, but that's not unusual if someone is
4 being resuscitated, because air can get down into the
5 stomach and then into the intestines and cause the stomach
6 to distend also. So I didn't think that much about it at
7 that time. He had --

8 Q Doctor, if I could just show you real quickly here.

9 A He had scarring in the right lower leg near the knee.

10 Q Let me show you what's been entered into evidence as
11 State's Exhibit 16, State's Exhibit 19, State's Exhibit 24,
12 State's Exhibit 21, State's Exhibit 23 and 20. Those have
13 been entered into evidence. And then I'd like for you to
14 look at 28 and 27 when you get a chance.

15 A Okay. Well, he has an area of discoloration on his
16 right cheek. It's -- it looks to me like there is a small
17 dented area within that abrasion which didn't show up that
18 well.

19 These are not my hands, so I don't know when that
20 picture was taken. I would have had gloves on if I were
21 examining.

22 The most noticeable wound is in the right back --
23 right back laterally.

24 Q Dr. Wren, if you don't mind, we'll put them on the
25 screen up there. If want to step down with me, that way

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1 you can describe it at the same time.

2 (Whereupon, the witness left the stand.)

3 Q Let me show you State's Exhibit 24, the one I think
4 you were talking about.

5 A Do you want them?

6 Q Yes, sir, I do right here. That should be able to
7 work on that.

8 A This is the little area of discoloration. It's not
9 unusual to see discolorations in the cheek when people are
10 being resuscitated, particularly in the E.R., because they
11 hold their hands on their face to position endotracheal
12 tubes. Oral tracheal tubes are other things of that
13 nature, and the area that I was talking about that looks
14 like a little indentation was right there, although I did
15 not mention those.

16 Q Let's do State's Exhibit 19. If you would, tell us
17 about that, sir.

18 A This was done the next day as I recall. To preface
19 what I see here, is that to be thorough and complete an
20 autopsy after the person had been autopsied, the body is
21 allowed to lie there for a short time and is usually
22 examined the next day, which I think this is what was done.

23 In that case there are four contusions and a somewhat
24 of a pattern nature in the right back. And I may as well
25 just go ahead and say there was a laceration of the liver

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1 beneath that that I'll talk about in a little bit. But
2 this showed up after the blood is removed.

3 when an autopsy is done the blood is -- of course
4 comes out of the normal areas of the body and when -- when
5 a -- if a contusion is subtle once it settles you can see
6 it much better. So this was done afterwards. And the
7 reason I know that is because of all of these -- this would
8 not have been taken at the autopsy like that.

9 Q Dr. Wren, let me show you State's Exhibit, I
10 believe -- this will be State's Exhibit No. 20. I believe
11 that's --

12 A I believe -- this is probably the back, although it's
13 not -- it's unusual to without -- without -- I see ribs
14 here, and this is a contusion here I believe. And this
15 could be areas of settling. But those are darker areas
16 too. And if this is down near the buttocks it could have
17 been some of the scarring, but I can't. I can't tell
18 exactly where that is.

19 Q If you would, sir, let's look at the next picture.
20 This will be State's Exhibit -- State's Exhibit 21. If you
21 would, tell us about that, sir.

22 A This is the left side, I think. No. I believe -- I
23 think.

24 Q I think that's --

25 A I think this is the left side. This is where the rib

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1 cage comes around. These are the ribs here and this is
2 possibly a bruise or settling. It's hard to tell. This is
3 a -- I did talk about discoloration of the buttocks from
4 the waistline all the way to the thighs. And you can see
5 that discoloration there.

6 Now, usually an autopsy is -- unless it is extremely
7 important, we don't cut into the face. We don't cut into
8 the external body except through the incision. And we
9 reflect the skin back as far as we can to see what happens
10 to be there. This was not cut into to see if there was
11 hemorrhage there or exactly what that was. And, like I
12 said, this was taken after the autopsy and after the
13 decedent had been lying overnight.

14 Q Let me show you State's Exhibit 23. If you would, can
15 you tell us what that is, sir? I believe this is a
16 continuation of the left side.

17 A Well, this is the left hand, I believe.

18 Q Yes, sir.

19 A And I believe that's the same area that's in that
20 previous picture.

21 Q Lower?

22 A A little bit lower. This is -- right here is up in
23 here, and this is that same area that's shown in here, and
24 this is a little area that could be a contusion, but I
25 can't tell. Then this is so dark I can't tell exactly what

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1 that is, although it could be this dark area here if the
2 body is moved a little bit.

3 Q Dr. Wren, let me show you State's Exhibits 27 and 28.
4 Do those pictures fairly represent what you saw of the
5 liver of Minor

6 A Yes. This -- he had two deep lacerations in his
7 liver, or several lacerations. They extended -- he had an
8 abdomen full of blood.

9 Q Let me do this. Let me go ahead and enter these into
10 evidence so the jury can see them.

11 MR. BARNETTE: Your Honor, I'd like to move State's
12 Exhibits 27 and 28 into evidence at this time.

13 MS. SODERDAHL: With the objection noted.

14 THE COURT: They are admitted over objection.

15 (Photograph marked State's Exhibit No. 27; photograph
16 marked State's Exhibit No. 28.)

17 Q Dr. Wren, I'm sorry. I wanted to go ahead and put
18 that. And this is State's Exhibit 28. I'm sorry.

19 A The liver has four lobes. The right lobe is by far
20 the largest. It extends from near the midline all the way
21 to the lateral abdominal wall.

22 The left side is smaller, and then there's two
23 posterior lobes. One is called the caudate, which means
24 posterior, and one is called the quadrate, which is
25 rectangular in shape. You can't see them very well. But

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1 here's a deep laceration in that area with some hemorrhage
2 around the laceration, and in this area. And I can't tell
3 whether there's any others. I'll have to look at my notes.
4 But once we found that --

5 Q This is State's Exhibit 27. I'm sorry. Go ahead.

6 A We took that and put it on -- to what -- beside -- we
7 weighed all of the organs. This is -- in younger people we
8 weigh them on different type scales than we do for older
9 people. But one can see the laceration and hemorrhage
10 that's in the -- around the laceration in one area, which
11 is actually more anterior. I think this is the back part
12 here. This is the front part.

13 Q So how many lacerations did he have, Dr. Wren?

14 A I'll have to look at my notes.

15 Q Yes, sir.

16 (Whereupon, the witness returned to the stand.)

17 A When I attempted to enter the abdomen -- I usually
18 enter right at the navel. And when I -- when I got down to
19 the cavity -- the peritoneal cavity, it's called, the
20 abdominal cavity -- blood was just gushing out of the small
21 incision I make. And then I use scissors to cut up to
22 the -- to the chest plate and then down to the area, the
23 pubic bone, which is at the bottom part of the abdomen.
24 And then I reflect it back and see what I see in there.

25 There was blood gushing out of there, and we recovered

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1 425 ccs of blood, which is about 10 to 12 ounces of blood,
2 which doesn't sound like much but a -- but a child this
3 age, that's well over ten percent of the body blood.

4 A little bit was clotted in the pelvis, starting to
5 clot. And there were lacerations, anteriorly and
6 posteriorly, to the right -- lateral right lobe of the
7 liver. And as I oriented it, you could see they were
8 on the -- majority on the posterior surface but some on the
9 anterior surface. And there was hemorrhage in the portal
10 tract, which is where the main blood vessels from the
11 intestines that bring unoxygenated but nutrient rich blood
12 into the liver and the celiac artery which brings
13 oxygenated blood into the liver. They come in at the same
14 place in what's called the portal tract. And bile from the
15 liver and gallbladder exit there to go into the small
16 intestine, into the duodenum.

17 There was retroperitoneal hemorrhage, meaning that the
18 posterior lining of the liver -- of the abdominal cavity
19 had blood extravasated into the soft tissues in the back
20 between the posterior abdominal wall and the skin and the
21 other tissues that are in between there. And it went
22 across the midline and went in the area of the left adrenal
23 gland and kidney.

24 I said in my dictation of the liver and gallbladder, I
25 said it had lacerations of the extreme right lobe

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1 anteriorly and posteriorly. "Sectioning reveals areas of
2 softness and mild hemorrhage with necrosis which is almost
3 contiguous from front to back." And what I meant by that
4 was the laceration extended almost all the way through the
5 substance of the liver.

6 There was no evidence of hemorrhage in the left lobe.
7 And I did take some sections to look at that, and I did not
8 dictate exactly how many there were because it was hard to
9 tell. I think there were probably three, but since one of
10 them didn't completely communicate it's hard to tell
11 whether it was one or two there. So I think there was at
12 least two.

13 Q What kind of force would it take to lacerate a liver
14 like this, Dr. Wren?

15 A Well, I can't give you an exact amount, but usually
16 when a person is in a severe automobile accident and
17 they're slammed up against something --

18 THE COURT: Excuse me just a minute. I'm sorry.

19 What's going on back here? Y'all are going to have to
20 leave. We have a witness testifying in this case and the
21 jury is trying to hear it.

22 (Whereupon, two unidentified people were removed from
23 the courtroom.)

24 THE COURT: Okay. Excuse me.

25 A The liver itself is rather resistant to lacerations,

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1 although you can have them in extreme pressure or in
2 extreme sudden blows.

3 The liver does not rupture or lacerate as easily as
4 the spleen does because it has more substance to it,
5 whereas the spleen is what in lots of accidents, or even
6 people can fall suddenly. You can get lacerations to the
7 spleen if you happen to fall on that area. But the liver
8 usually doesn't fracture or lacerate without some extreme
9 pressure to it. It can be slow pressure or sudden
10 pressure.

11 I have a case that I did a long time ago where a
12 gentleman was an exercise rider for thoroughbred horses.
13 And he fell off a horse onto the ground, and two weeks
14 later the liver had had a small laceration. And two weeks
15 later it completely ruptured from the hemorrhage. So it
16 can go for a while, or it can actually happen suddenly.

17 In this case there was not that much hemorrhage around
18 that laceration, so it probably happened perimortem.

19 Now, I also found a contusion in the head, posterior
20 head. It was a little over almost an inch in diameter. I
21 took sections of that, looked at them. And that injury
22 also occurred right about the time of death because there
23 was no vital reaction, we call it. You can look at it
24 under the microscope. And if you look at it under the
25 microscope and you don't see inflammatory cells, which

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1 always migrate to injuries to try to clean it up and remove
2 the extravasated blood, if you don't see very many
3 inflammatory cells other than what's normally in the blood
4 anyway, then you know that it happened within 30 minutes.

5 In this case there was none there. So I felt like it
6 happened about the time that the liver injury occurred.

7 Q Was there actually two contusions to the head? Was
8 there one on the back and on the left side?

9 A Yes.

10 Q And was that when you removed the scalp, that you
11 could see those contusions?

12 A Yes. I couldn't feel them, couldn't see them.

13 If someone bleeds for a while of course you get a
14 little swelling there. And there was some hemorrhage
15 there.

16 He had some petechial hemorrhages, which is a
17 different type of hemorrhage that you can see. When
18 somebody has respiratory problems you can get petechial
19 hemorrhages from actually the ischemia and decreased
20 oxygenation of the blood. There were some of those there,
21 but he did have 1.2 and 1.7 centimeter areas in the --
22 well, let me go back.

23 I said that he had a small amount of hemorrhage in the
24 occiput region, which is the back of the head, about one
25 and a half centimeters in diameter. The calvarium was

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1 intact. There were no fractures of the bone.

2 And then he had two areas near the vertex of the head,
3 which is the top of the head, which we did x-rays,
4 whole-body x-ray. Had a loosen appearance, meaning that
5 the bone was not formed real well. And it didn't have a
6 lot of bone in that area.

7 I can't tell exactly why that happened, but it had
8 nothing to do with his death. And those -- those two areas
9 were 1.2 and 1.7 centimeters in diameter.

10 But the other -- the contusion that I saw in the
11 occiput region was the one -- it had no vital reaction.

12 Q If you could, show me where the two contusions were on
13 the head on me, if you would, Dr. Wren, for the jury.

14 A I didn't measure them but --

15 Q You can show the location they're at.

16 A They were in the back of the head in the occiput. The
17 occiput is the back of the head. Then the parietal is on
18 the sides. Vertex is at the top frontal anterior. Those
19 are the general locations. Now, when you -- when you --
20 when you --

21 THE COURT: Excuse me. Be careful of the microphone
22 there.

23 A When you -- when one measures these distances it gets
24 a little bit confusing, but they were in the occiput region
25 indicating they were in the back of the head.

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1 Q Was there one on the side of the head, Dr. Wren?

2 A I didn't -- I didn't mention one on the side. I did
3 see these two areas where there was decreased bone, but
4 there was no hemorrhage there.

5 Q Let me -- if I can have the -- refresh memory.

6 THE COURT: Let me see y'all just a minute.

7 MR. BARNETTE: Yes, sir.

8 (Bench conference held off the record in the presence
9 of the jury but out of the hearing of the jury.)

10 (Pause to obtain pictures previously marked court's
11 exhibits.)

12 Q Dr. Wren, I can show you these two pictures to
13 possibly refresh your memory.

14 A There -- there is some hemorrhage on the -- on the
15 left side too.

16 Q And where -- where would that be if you could show the
17 jury that on my head, sir?

18 (Whereupon, the witness demonstrated.)

19 A Right in this area. The one in the back is right
20 there.

21 Turn around.

22 Q Yes, sir.

23 A Right there. And it is much more prominent than the
24 other one, although the area is diffused, more diffused.

25 Q Thank you.

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1 Dr. Wren, would a mere fall cause this kind of damage
2 to the liver?

3 A No, no, not unless you fell from a first-story window,
4 I mean, a second-story window probably. I've never done an
5 autopsy nor heard of an autopsy where a child fell even out
6 of a crib, a large, higher crib, where they lacerated a
7 liver.

8 Q And you said that usually you see these in high --
9 automobile accidents when you see lacerated livers the
10 most.

11 A Yeah. If -- one can see it if you hit something very
12 hard and in the -- the liver lies up under the ribcage. So
13 if you have lacerations, I mean, fractures of the ribs
14 they -- those can cause lacerations to the diaphragm which
15 overlies the liver, separates the ribs from the liver. You
16 can have lacerations there that go on into the liver. And
17 this one is so far laterally and from front to back rather
18 than from side to side it was more of a squeezing or
19 pressure type from front to back that caused that.

20 Q And I believe you talked about earlier, about I
21 believe it's State's Exhibit No. 19. I believe you were
22 talking about the four contusions on the right side. Would
23 that be consistent with the liver area?

24 A Yeah. That's right over that -- those lacerations I
25 showed you, or they were on the other photograph. That's

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1 right in that area. And it is posterior where the majority
2 of the laceration was. There was lesser anteriorly.

3 Q And that blow, a blow to that area, could cause these
4 lacerations.

5 A Or pressure, yes.

6 Q Or pressure there, yes, sir. And, like I said, this
7 is not just mere pressure. This would have to be high
8 pressure.

9 A Yeah. Generally speaking, children -- their ribs
10 don't calcify very easily. None of the bones have
11 calcified a lot. They do calcify as you get older. So you
12 can bend the ribs on children up to five or six years old,
13 and you can bend them considerably and they not -- not
14 break, just like even their arm bones. They don't break as
15 easily as -- as an old person like me would.

16 Q And the amount of blood in the lacerations, did
17 **Minor** bleed out pretty quick in this situation?

18 A Well, it depends on what -- what you hit. And it's
19 hard to tell whether you hit an artery or a vein when a
20 person is not actively bleeding. And it takes a lot of
21 dissection to do it, but there are.

22 As deep as this was and almost front to back, there
23 were definitely arteries that were lacerated along with
24 veins. And so if it had been very superficial it would
25 have taken longer to bleed out but as -- and a lot of blood

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1 goes through the liver simply because it's -- it's where a
2 lot of our organic materials are processed and made and
3 stored. And so a lot of blood goes through there.

4 And it actually comes up from the lower extremities
5 and goes through the posterior border of the liver too.

6 Now, I didn't see a laceration of what's called the
7 inferior vena cava that runs through there, but it was very
8 close. So there were large veins that were in that area
9 too. So this person could have bled pretty -- pretty
10 quickly.

11 Q And you said the other end -- I think you took slides
12 that are consistent in less than 30 minutes.

13 A Oh, yes, yes.

14 Q So all of these injuries, all of the bruising in the
15 head and the liver and everything, occurred at the same
16 time.

17 A Yeah. They would have had to have been near each
18 other, right.

19 Q And what's your official ruling on the autopsy that
20 was the cause of death, Dr. Wren?

21 A I assigned the cause of death as internal hemorrhage
22 secondary to blunt force trauma to the abdomen.

23 Q So blunt force trauma is what caused this.

24 A That's -- yes.

25 MR. BARNETTE: One moment, Your Honor, please.

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1 A That's a general term, but it wasn't sharp force. It
2 was -- and it wasn't a stab wound or a gunshot wound or
3 anything like that. It was actually trauma to the abdomen.

4 Q A simple fall would just not cause this.

5 A I don't think so, no. Like I said, I've never even
6 heard of one. In fact, people get -- children -- there's
7 something like 929 reported cases where they fell out of
8 cribs that were waist high and nobody ever had even a
9 fracture of the head or the skull.

10 There's one reported instance of a fracture of the
11 clavicle, but that's the only fracture that of these 929
12 documented cases -- I think it was 929. I might be off a
13 few. But it was a significant number that were witnessed
14 in hospitals, mainly, that nobody -- that didn't have any
15 fractures even to the head.

16 Q And C.P.R. wouldn't cause this injury either, would
17 it?

18 A Not unless somebody didn't know where the heart was.
19 C.P.R. is -- usually overlies the heart. And there's no
20 way unless somebody were extremely -- I can't imagine
21 anybody doing C.P.R. in that area.

22 Q And C.P.R. wouldn't have caused the bruises on the
23 head and on the back and areas like that, would it?

24 A No. You -- if some -- if you sort of dropped somebody
25 down, you can get a little contusion. But the one in the

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1 back -- in the occiput area was a lot more hemorrhage there
2 than was in the -- in the left side.

3 And I just -- I guess I just neglected to -- to
4 mention it because sometimes you can see things like that
5 when -- when they've been resuscitated. So, but there is
6 scattered hemorrhage there which is -- looks like it might
7 be a little bit -- well, it is less, and it's a little bit
8 more defused. So it could have -- could have happened
9 slightly before or during the same time.

10 Q So all of these injuries are consistent with occurring
11 at the same time.

12 A Yes.

13 Q Thank you, sir. If you would please answer any
14 questions the defense may have for you.

15 MS. SODERDAHL: May I just have one brief moment, Your
16 Honor?

17 (Pause.)

18 MS. SODERDAHL: We have no questions.

19 THE COURT: You may step down.

20 MR. BARNETTE: We ask this witness be excused, Your
21 Honor.

22 THE COURT: You may be excused. Thank you.

23 (Whereupon, the witness was excused.)

24 THE COURT: Let's take a short break before we go
25 further.

1 Please go to your jury room. Don't talk about the
2 case. I'll bring you back after that break.

3 (The following takes place outside the presence of the
4 jury.)

5 THE COURT: We'll be at ease for 15 minutes.

6 (Whereupon, a recess was taken.)

7 THE COURT: Any matters we need to address before the
8 jury is brought in?

9 MS. SODERDAHL: Not from the defense, Your Honor.

10 MR. BARNETTE: None from the state, Your Honor.

11 Investigator Williams has reviewed the audio.

12 THE COURT: Okay. Good. Bring the jury in, please.

13 MR. BARNETTE: Do you want him to go ahead and set up
14 everything there?

15 THE COURT: You can.

16 (The following takes place in the presence of the
17 jury.)

18 THE COURT: All right. Ladies and gentlemen, we're
19 going to continue with the cross-examination of Lieutenant
20 Williams by defense counsel.

21 Ms. Soderdahl.

22 MS. SODERDAHL: Thank you, Your Honor. May it please
23 the Court.

24

25

Lorin Williams
Continued cross-examination by Ms. Soderdahl

1 CONTINUED CROSS-EXAMINATION

2 BY MS. SODERDAHL

3 Q Detective, my question is on January 4th of 2015 at
4 Spartanburg Regional Hospital when you were present while
5 Investigator Corn interviewed Brittany, Brittany stated to
6 Investigator Corn when he first asked that she had not met
7 anybody on her way home from her relative's house to her
8 home.

9 THE COURT: Put that in the form of a question.

10 Q Is that true? It's on the third page about half way
11 down.

12 A She said that she didn't meet anybody, that she did
13 stop, and then she told him again that she had stopped at
14 the store for gas.

15 Q Okay. And later on during that interview of Brittany
16 at the hospital on January 4th, she didn't say anything to
17 you or Investigator Corn about her leaving the apartment to
18 go to the gas station that morning.

19 A That's not what -- that's not what he asked her in his
20 interview.

21 Q Well, you stated earlier that Investigator Corn
22 basically asked her what happened, right?

23 A Right.

24 Q And during her telling of the events of
25 January 3rd and January 4th she never told you or

Lorin Williams
Continued cross-examination by Ms. Soderdahl

1 Investigator Corn at that interview on January 4th that you
2 had that that morning she had left the children alone with
3 Rodney while she went to the gas station. She never
4 mentioned that.

5 A Sure. She did.

6 Q Okay. Can you show me where she did that?

7 A Are you referring to on the 3rd when she talked to
8 myself and Investigator Corn, or when she talked to me?

9 Q I'm talking about the interview that you had at
10 Spartanburg Regional with Brittany Gentry -- excuse me --

11 A Yes.

12 Q -- where she was explaining what had occurred.

13 A Yes.

14 Q And my question is during that interview on that day
15 she never mentioned that on the morning of January 4th she
16 had left Rodney and the children alone while she went to
17 the gas station.

18 THE COURT: Question mark?

19 Q Did she?

20 MR. BARNETTE: Your Honor, I'm going -- I'd like to
21 give her some latitude, but she's not asking questions, I
22 mean.

23 THE COURT: Well, this is cross-examination, but it's
24 got to be a question.

25 MS. SODERDAHL: Okay.

Lorin Williams

Continued cross-examination by Ms. Soderdahl

1 Q Did she? Did she ever mention...

2 MS. SODERDAHL: I'm sorry. Sorry to interrupt, Your
3 Honor.

4 Q Did she ever mention that she had left the house that
5 morning to go to the gas station?

6 THE COURT: And when you answer, let me ask you to
7 adjust that microphone and pull that towards you so you can
8 use it.

9 THE WITNESS: Is that better, Your Honor?

10 THE COURT: Well, it might be.

11 THE WITNESS: Okay.

12 THE COURT: I'll wait until you answer it.

13 THE WITNESS: I'll turn into it.

14 (Pause.)

15 A If you've got something specific, if you point me to a
16 page, it'd expedite it.

17 Q I'll tell you it's not in there. There's not a page I
18 can.

19 A Okay. Well, I don't see where he's asked her a
20 question about that at all.

21 Q Okay. But he did ask her what happened that morning,
22 right?

23 A I don't see that. I see what happened the night
24 before.

25 Q Okay. And he asked her to explain what had happened

Lorin Williams

Continued cross-examination by Ms. Soderdahl

1 prior to their arrival at the hospital, is that true?

2 A He says what time did you go to those houses last
3 night, and she tells him about going to her aunt's and
4 about going to get -- her mother getting her hair done, and
5 then all the way up until the time that they went home.

6 Q Okay. And the purpose of this interview of Brittany
7 was to find out what happened. I'm sorry. Strike that,
8 please. I can -- one, two, three, four, six, seven, page
9 eight. That's a huge paragraph at the bottom.

10 So I'll ask the question. Did Investigator Corn ever
11 ask Brittany to tell him what happened that morning?

12 A He said, "So what happened this morning? Tell me.
13 How did you find him? What condition was he in?"

14 Q Okay. And --

15 MR. BARNETTE: Your Honor, I think he can testify to
16 his recollection and things like that, but I think just
17 reading --

18 THE COURT: Yeah. Investigator Corn might be a
19 witness too. I don't know. But he can only use that as
20 far as refreshing his memory.

21 MS. SODERDAHL: I agree and -- I agree, Your Honor.

22 Q Okay. Now, during that interview Brittany told you
23 about what was happening that morning, right?

24 A Correct.

25 Q And she told you about her plans for that morning,

Lorin Williams

Continued cross-examination by Ms. Soderdahl

1 correct?

2 A Without reading everything in here, I'm assuming she
3 did. She told me the next day in my interview with her.

4 Q Okay. On January 6th? You mean on the interview that
5 you had with her on January 6th?

6 A Correct. No.

7 Q Okay. The interview that I'm referring to is the one
8 that happened on January 4th when she -- when the child
9 died, right?

10 A Correct. This is the one that Investigator Corn
11 recorded.

12 Q Okay. And during that conversation Brittany told you
13 that her plans for that day is that she was -- after she
14 went -- I'm sorry. That her plans for the day was that she
15 was going to get everybody up and dressed and so that they
16 could go to the mother's house -- her mother's house,
17 correct?

18 A I'm -- I remember that and going to church.

19 Q Okay. And during that conversation that you had with
20 her on January 4th she told you that she had gone outside
21 to make a phone call to her mother, right?

22 MR. BARNETTE: Your Honor, I'm going to object to the
23 form of the question here. I mean, she's just reading a
24 transcript and not asking questions.

25 THE COURT: Yeah. Ask him a question and see if he

Lorin Williams
Continued cross-examination by Ms. Soderdahl

1 recalls what occurred.

2 MS. SODERDAHL: Thank you, Your Honor.

3 Q I'm -- when you talked to Brittany on January 4th at
4 the hospital did she tell you that she left the apartment
5 to go into her car to make a phone call to her mother that
6 morning?

7 A There again, without reading this verbatim, I can't
8 recall. The point of those interviews is for the medical
9 side of it, for the coroner's office, what kind of things
10 they're looking for, things such as that.

11 My interview takes place once we get to the sheriff's
12 office, we have had time to go through everything, go
13 through the autopsy and develop more information.

14 I'm more or less there at the point that he interviews
15 her, really, as just a second set of ears for some of that
16 stuff. But the medical side of it and all of the things
17 that he asked, really, we don't -- we don't have any
18 interest in.

19 I don't know. I don't recall exactly what you're
20 asking without going through and looking at it word for
21 word.

22 Q And, Detective, have you had an opportunity to go
23 over, listen to the recording of the interview on
24 January 4th?

25 A I did listen to the recording, and I've got this.

Lorin Williams

Continued cross-examination by Ms. Soderdahl

1 But, here again, I can't tell you word for word about a
2 30-minute interview without going back through it.

3 Q Okay. Well, I can reassure you that I'll give you an
4 adequate opportunity to refresh your memory about what you
5 heard during that interview. But isn't it fair to say that
6 during that interview Brittany told you that when she went
7 into [Minor] room he fell out of bed?

8 A She did tell us that.

9 Q And she told you that he was saying mommy when she
10 went into his room.

11 A I don't recall her saying mommy. I know she told me
12 that he was moaning.

13 Q In that paragraph that we were just looking at, that
14 might refresh your recollection as to whether she told you
15 that [Minor] was saying mommy.

16 A Yes. She said it. She said he said he was saying
17 mommy.

18 Q Okay. So that refreshes your recollection about that.
19 Now, and also when she was talking about [Minor]
20 saying mommy, she said that was when it looked like he might
21 be having a nightmare, is that true?

22 A Not in this.

23 Q Okay. She told you it was like he was having a
24 nightmare but he was saying my name, he was saying mommy.

25 A You're correct.

Lorin Williams
Continued cross-examination by Ms. Soderdahl

1 Q Is that correct?

2 A Yes.

3 Q Okay. And then also she told you that when she found
4 him in that condition she took the covers off him so that
5 she could get him up, is that right?

6 A Yes.

7 Q And she told you that her plan was that she was going
8 to get everybody up, give them a bath so that they could
9 go. Is that what she told you during that interview? It's
10 the fourth line.

11 A Yes.

12 Q Yes. And she then told you that she picked him up to
13 stand him up, right? She was going to put him on the
14 floor.

15 A Yes.

16 Q But he didn't want to get on the floor. Isn't that
17 what she told you?

18 A She said he folded his legs so he wouldn't stand up.
19 She said he was crying, didn't want to get on the floor.
20 "He was holding his legs up so he couldn't -- so he
21 wouldn't stand up. So I put him back in the bed."

22 Q And that she told you that that -- she thought that he
23 wasn't ready to get up, so she put him back in the bed.

24 A Yes.

25 Q And she put him back in the bed and he went right back

Lorin Williams

Continued cross-examination by Ms. Soderdahl

1 to sleep. Is that what she told you?

2 A That's what she's saying, uh-huh.

3 Q So then after she put Minor in the bed she went to
4 go take a shower. That's what she told you, right?

5 A Correct.

6 Q And later on in that same conversation did Brittany
7 tell you that she returned to Minor room a second
8 time after she had left to take the shower and that's when
9 she found him unresponsive?

10 A Before she got in the shower she went back in to check
11 on him.

12 Q And that's when she found him unresponsive.

13 A Correct.

14 Q And Brittany told you also at some point during that
15 interview that after she found Minor to be unresponsive
16 that she put water on him to try to get them to wake up. I
17 mean, Investigator, if your memory needs to be refreshed on
18 that, I can give you a copy of your report.

19 A Well, I mean, which one are we talking about, the
20 interview the following day or two days later or mine?

21 MR. BARNETTE: I am going to object at this point.

22 The questioning now is differentiated between two different
23 days.

24 MS. SODERDAHL: Actually, I'm asking --

25 THE COURT: I think he might not be clear, but I don't

Lorin Williams

Continued cross-examination by Ms. Soderdahl

1 think she's asking about two different days.

2 MS. SODERDAHL: No.

3 Q I'm asking about the interview on January 4th at
4 Spartanburg Regional Hospital where Investigator Corn and
5 you were present talking to Brittany Gentry. And I can
6 refresh your recollection if you don't recall whether she
7 told you that she put water on [Minor] after she found
8 him unresponsive. It's page 12 of your report, third
9 paragraph. I'm sorry. Yeah. Third paragraph.

10 MS. SODERDAHL: May I approach the witness just to
11 point out?

12 A Okay. She stated she put water on him to try to get
13 him to wake up.

14 Q Okay. Now, I am going to change days now.

15 You spoke again to Brittany on January 6, has been your
16 testimony, right?

17 A Correct.

18 Q And on January 6th she didn't mention during that
19 interview that she had tried to get [Minor] up and out of
20 bed but that he refused to stand up for her.

21 A No. She didn't say it.

22 Q And during that interview she didn't mention that
23 [Minor] had fallen out of bed during his nightmare.

24 A Not during that one, she didn't.

25 Q And during the interview with Brittany on

Lorin Williams

Continued cross-examination by Ms. Soderdahl

1 January 6th she told you that she had on January 3rd, the
2 night before this happened, picked up Rodney from his
3 grandmother's house and brought him to her house.

4 A I believe that is correct.

5 Q That's what she told you, right? If you need to
6 refresh your recollection, I would direct you to page 13.

7 A Our pages are not numbered the same.

8 Q Oh, I'm sorry. On the January 6th notes, it's your
9 fifth paragraph, three lines from the bottom.

10 (Pause.)

11 A Yes. He'd been texting her to come and pick him up.

12 Q And that she went and picked up Rodney, right?

13 A Correct.

14 Q And during any of the times that you spoke with
15 Brittany between January 4th or present while others
16 spoke -- speaking with her, January 4th, January 6th, you
17 never -- or Brittany never told you that it was Rodney's
18 idea not to call 9-1-1, did she?

19 A I don't remember if that was ever talked about.

20 Q And then you refreshed your recollection today. Do
21 you see that in any of your reports, that she ever told you
22 that?

23 A No.

24 Q And Brittany never told you that after her and Rodney
25 had gone out to the car to bring the child to the emergency

Lorin Williams
Redirect examination by Mr. Barnette

1 room that Rodney told her to go back into the apartment.

2 She never told you that.

3 A No. I don't think so.

4 MS. SODERDAHL: I have no further questions.

5 MR. BARNETTE: Just a few on redirect, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. BARNETTE

8 Q Well, you knew to go get the video from the Kangaroo
9 based off what she told you.

10 A Yes, sir.

11 Q And you went and got the video from the Kangaroo, is
12 that right --

13 A I did.

14 Q -- showing that she bought the cigarettes? You knew
15 about Lee's Crossing. The sheriff's department got the
16 Lee's Crossing video, is that right?

17 A Correct.

18 Q Shows her -- the incident you was just questioned
19 about shows her and Rodney leaving the apartment together,
20 and then she rushes back and then rushes back to the car.

21 A Correct.

22 Q The Spinx. She told you about that, and you also got
23 videos from the Spinx too. That too.

24 A We did, yes, sir.

25 Q So everything that she told you was verified.

Lorin Williams
Redirect examination by Mr. Barnette

1 A It was.

2 Q From the videos, from the information that y'all
3 received.

4 A Sure.

5 Q From there. And that's part of the investigation
6 that, obviously, you went through trying to make sure you
7 verified her story.

8 A Correct.

9 Q And her story checked out with all of those items.

10 MS. SODERDAHL: I'm going to object to leading.

11 THE COURT: Sustained.

12 MR. BARNETTE: I'll rephrase the question.

13 Q Based off her information did you go and get evidence
14 based off that?

15 A We did. We were able to corroborate everything that
16 she had told us.

17 Q And on January 4th, what was the emotional state of
18 her and her family at that -- at the hospital?

19 A She was pretty emotional.

20 MR. BARNETTE: One moment, Your Honor, please.

21 (Pause.)

22 Q Thank you, sir. Please answer any questions the
23 defense may have for you.

24 MS. SODERDAHL: I have no questions.

25 THE COURT: You may step down.

William Gary
Direct examination by Mr. Barnette

1 MR. BARNETTE: Your Honor, I would like to call
2 Lieutenant Gary to the stand.

3 WILLIAM GARY, having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. BARNETTE

6 Q If you would, sir, please state your name for the
7 record.

8 A William Gary.

9 Q And where do you work at, sir?

10 A The Spartanburg County Sheriff's Office.

11 Q And what is your position there, sir?

12 A I'm the lieutenant over the criminal investigation
13 division.

14 Q And how long have you been in law enforcement, sir?

15 A Just about 22 years at the sheriff's office.

16 Q Back, I believe, on January the 6th -- I think it was
17 January 6th -- January 6th of 2015, was you working that
18 day, sir?

19 A I was.

20 Q Did you come in contact with the defendant in this
21 case?

22 A I did. I was upstairs with other investigators while
23 the interview with Mr. Samuels was going on.

24 Q And who was handling the initial part of that
25 interview?

William Gary
Direct examination by Mr. Barnette

1 A Investigator Williams.

2 Q If you would, tell the jury from that point on how you
3 become involved in it, sir.

4 A Investigator Williams had been in the room for some
5 time. I'm not sure exactly how long it was. And our rooms
6 are in a line and over -- he was in the -- if I remember
7 right, he was in the far right room as you're looking at
8 them. Over towards the left side, there's an area there
9 that we can -- a lot of times we'll hang out and gather
10 while an interview is going on so that anything we're
11 saying can't be overheard by the room. So there were a few
12 of us upstairs over in that area.

13 Investigator Williams came out and asked me if I would
14 go in and speak with him. He said he felt like there was
15 more that he had to say. He wasn't able to get more from
16 him, and he told me that he would -- mentioned that he
17 wanted to make a cigarette. And he had some Newport
18 cigarettes he had brought with him. They were upstairs
19 with us. So I took one of those in there with him or with
20 me to go talk with him and gave him a cigarette. And we
21 sat down and talked.

22 During that time I asked him if he had more that he
23 needed to tell us about what happened. He said he didn't
24 know. So I asked him if he knew what caused Chris' death,
25 and he mentioned to me blood in his lungs. And so I told

William Gary
Direct examination by Mr. Barnette

1 him that that may have been true but that there actually
2 were two lacerations to his liver.

3 And I asked him, you know, how many children he had.
4 He told me he had two, and two more on the way. So I was
5 asking him if he was familiar with children's anatomy, how
6 their bodies formed, the muscles aren't there as much, the
7 bones are softer, that they can be more flexible, and that
8 he told me he was familiar with that.

9 So I asked him what happened that morning. He had
10 mentioned that he had -- Chris had come in the room and he
11 had pulled him up to the bed. So I asked him how he
12 grabbed him. His response to me was -- make sure I look at
13 this right -- that he told me that he gets pissy when he
14 first wakes up in the morning. He said -- he described him
15 and picked him up to the bed.

16 So I just mentioned to him that maybe the liver was
17 damaged that way when he picked him up and compressed as he
18 picked him up. I asked him about that.

19 He said that he pushed him down off the bed.
20 Actually, what he told me was that he fell off the bed,
21 that Chris had fallen off the bed, and hit the rail there.
22 And that's when he asked me if Investigator Williams would
23 come back in the room and talk with him some more, he had
24 more to tell him.

25 Q So that was after your discussion with him and so

William Gary
Direct examination by Mr. Barnette

- 1 forth.
- 2 A Correct.
- 3 Q And how many kids did he say he had and how many on
- 4 the way?
- 5 A He said he had two children and two on the way at that
- 6 time.
- 7 Q And you just talked to him about kids in general and
- 8 about the injuries that Minor had.
- 9 A Correct.
- 10 Q Okay. From there. And then he gave the second
- 11 statement after that?
- 12 A Yes. After I stepped out I told Investigator Williams
- 13 he had more he wanted to talk to him about. So he stepped
- 14 back into the room with him. And a short while later
- 15 Investigator Williams came back out and asked me to come in
- 16 the room with him.
- 17 Q And he said -- who got pissy in the morning when they
- 18 woke up?
- 19 A Mr. Samuels said that he got pissy in the morning when
- 20 he first woke up.
- 21 Q And that's when Minor came in his room.
- 22 A Correct.
- 23 Q And we've already read over the second statement. On
- 24 the bottom here did you notarize Mr. Samuels' second
- 25 statement?

William Gary

Direct examination by Mr. Barnette

1 A I did. When Investigator Williams asked me to come
2 back in it was due to the statement that was written out
3 here.

4 So I confirmed with Mr. Samuels that he had written
5 this out. I asked him if it was the truth, that he swore
6 to it based on what the bottom line says and that that was
7 his signature. It was already signed when I went in there.
8 He confirmed. He said that was his signature and he swore
9 to it, and that's when I notarized the statement.

10 Q Thank you, sir. If you would, answer any questions
11 the defense may have for you.

12 MS. SODERDAHL: We have no questions for the witness.

13 THE COURT: You may step down.

14 MR. BARNETTE: We'd ask for this witness to be
15 excused, Your Honor.

16 THE COURT: He may be.

17 (Whereupon, the witness was excused.)

18 MR. BARNETTE: Your Honor, at this point the state
19 rests.

20 THE COURT: All right. That's all of the testimony or
21 other evidence to be offered by the state, at least in
22 their case in chief.

23 Before we further I've got some matters I'll need to
24 address with the lawyers. So again I'll ask you to please
25 go to your jury room. Don't discuss the case. I'll bring

1 you back in just a few minutes.

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Motions or other matters to
5 address?

6 MS. SODERDAHL: Just one thing, Your Honor. Actually,
7 we had talked -- I had talked to Mr. Barnette about a
8 stipulation that we wanted to enter into evidence that -- I
9 guess we can do that in our case if that's agreeable, but
10 there's going to be a stipulation regarding the timing of
11 the arrival of Brittany with the infant to the hospital --
12 Minor [REDACTED] to the hospital.

13 MR. BARNETTE: And I agree, Your Honor. I think we
14 agreed on 10:24 a.m. would be the time he arrived or was,
15 you know, started treatment at Spartanburg Regional. I'm
16 not saying that's when he arrived but when they started,
17 actually started, treatment. And then 10:59 was the --
18 when they called.

19 MS. SODERDAHL: That's right. We would stipulate to
20 both things. So I don't know.

21 I guess as far as -- I'm going to make a motion right
22 now for my directed verdict. And as far as that's
23 concerned, I did want that stipulation to be in evidence.

24 THE COURT: That can be included as evidence in the
25 record.

1 MS. SODERDAHL: Okay. Thank you.

2 And at this time, Your Honor, I would like to tender
3 to the Court and to the state a case before I make my
4 motion -- well, as I make my motion for a directed verdict.
5 In the case of State vs. Hepburn, which is a South Carolina
6 Supreme Court case from 2014.

7 The case is involving -- a case that's very similar
8 factually to the case that we have here today, and that's
9 why I tendered it to you. So I will be mentioning the
10 case.

11 But, Your Honor, at this time, even if all the
12 evidence that's been submitted to the Court is considered
13 in the light most favorable to the state, it falls short of
14 the standards of evidence that would be sufficient to
15 withstand a motion for a directed verdict.

16 This -- the only inference that's allowable from the
17 entirely circumstantial case the state has set forth is
18 that somebody caused injuries to the child.

19 There's been -- I have no argument there's been
20 adequate proof that this child died as a result of blunt
21 force trauma or injuries that were put on the child by
22 another person. There's no doubt about that. But there
23 has been insufficient evidence to point out who could have
24 done this, and the entire case is circumstantial.

25 Basically, their case raises us to a level of

1 suspicion that Mr. Samuels could be guilty, but that
2 suspicion could also apply to Brittany Gentry, the other
3 adult that was with the child.

4 The evidence that they put forth show -- forth shows
5 that both Brittany Gentry and Rodney Samuels had moments in
6 the hours before the child's death when they were alone
7 with the child.

8 The evidence has shown that this child's injuries were
9 severe. So the state is saying that based on, basically,
10 two things they believe that they have sufficient proof
11 that Rodney Samuels committed this crime, one of which is
12 that he was alone with the child. But that holds true for
13 Brittany as well.

14 There's been no time-of-death testimony, so there's
15 been no scientific evidence regarding what time these
16 injuries were, occurred. I'm sorry. Were inflicted upon a
17 child. We know that the child was pronounced based on that
18 stipulation at 10:59, but no timing of these injuries. So
19 just the fact that he was alone with him is not sufficient
20 proof.

21 Then they also are saying that this confession that he
22 gave, that he gave a statement that basically implicates
23 him in this crime, but for several reasons the statement
24 doesn't suffice.

25 First of all, the doctor himself, the state's witness,

1 the expert witness, testified that the injuries that the
2 child sustained could not have been imposed by this fall
3 off a bed. He testified about a study he read, 929
4 children fell out of beds and only one of them broke a
5 bone. None of them had severed livers.

6 So Rodney's statement that he pushed the child and the
7 child fell out a bed doesn't suffice as a confession in
8 this case. It -- it merely puts him as one of the adults
9 that was alone with the child and had some physical
10 interaction.

11 Brittany's testimony does the same exact thing. It
12 puts them on an equal level. Brittany's testimony is that
13 she's alone with the child, she picks the child up. The
14 child falls out of the bed when she's there according to
15 her testimony and/or her being impeached by her prior
16 testimony. So, again, as between Rodney and Brittany the
17 evidence is -- is equal.

18 Also, the evidence actually leans a little bit toward
19 Brittany and the fact that, you know, she's the last one
20 testifying that she saw this person alive. You've heard
21 about the child in a conscious state. You've heard him
22 saying her name. He refused to stand up. He was lifting
23 up his legs and didn't want to stand. And then she left
24 him and now he's deceased.

25 And I would add that, you know, the bruises that we

1 heard the testimony about on the back, on the sides, on the
2 face of this child are not consistent with Rodney's story.
3 So the confession that Rodney allegedly gave isn't to this
4 crime but to another act that had really nothing to do with
5 this.

6 So as far as what the evidence is, is that there's a
7 suspicion that Rodney might have committed the crime, but a
8 similar suspension also is on Brittany Gentry.

9 And, finally, you know, obviously, credibility is
10 rarely, if ever, considered in a motion for a directed
11 verdict, but where there's been evidence that Brittany
12 Gentry has changed her story, whether the facts that she
13 changed the story about are significant or not, you know,
14 she's -- she changed her testimony -- her testimony while
15 she was on the stand in front of the jury yesterday. She's
16 not a credible witness.

17 So even in the light most favorable to the state it's
18 not clear exactly what to believe. But she did testify
19 that the child wasn't acting in any kind of distress, he
20 wasn't grabbing at his abdomen, he wasn't, you know, in a
21 fetal position, he wasn't crying.

22 She said -- I think she admitted, but she was
23 impeached, that he would not stand up. So she thought
24 he -- she just put him back in the bed and went about her
25 day. She didn't have any reason to believe that he was in

1 distress.

2 And the case that I gave you is very factually
3 similar. It actually discussed two separate cases, one of
4 which is the Hepburn case, but it also contains a
5 discussion. And I actually might have given you, Your
6 Honor, the highlighted one that I highlighted for myself.
7 I apologize for that but --

8 THE COURT: Do you want it back?

9 MS. SODERDAHL: I believe --

10 MR. BARNETTE: I think she gave it to me.

11 MS. SODERDAHL: Okay. I think it's on page nine.

12 MR. BARNETTE: I'll let you have it back.

13 MS. SODERDAHL: Page 12 is really where the
14 discussions are.

15 The first case that they talk about is this Hepburn
16 case, and in that case the Court had actually overturned
17 the conviction of the defendant finding that a directed
18 verdict should have been granted in a similar factual
19 situation.

20 In that case they had proven that the defendant in
21 that case had been present at the scene, but the only
22 inference that can be drawn from the state's case is that
23 one of the two codefendants inflicted the victim's injuries
24 but not that the appellant, not that the defendant in that
25 case, had harmed the victim.

1 The case also talks about State vs. Smith which was --
2 which went the other way in the appellate court, and the
3 conviction in that case was upheld. But in that case a
4 defendant was appealing his conviction saying that he
5 had -- the testimony had been that he and someone else were
6 always present with the victim, which just is factually
7 distinguishable from ours.

8 So in this case, like the one in Hepburn and discussed
9 in that court, there has been evidence that there are only
10 two people. There's been evidence that this child died as
11 a result of blunt force trauma and there's evidence that
12 two -- only two people could have done it. But there
13 hasn't been sufficient circumstantial evidence to withstand
14 a motion for a directed verdict where there hasn't been
15 evidence regarding which one of these people committed this
16 offense. So we're asking that you grant our motion for a
17 directed verdict at this time.

18 THE COURT: Mr. Barnette.

19 MR. BARNETTE: Thank you, Your Honor.

20 I believe looking at this case law, basically, it's a
21 situation that two people was alone with the child and they
22 were charged. I've heard about this case and everything.
23 I believe it was out of Greenwood, I believe, from that
24 standpoint.

25 But we have an act in this case and the -- what it is,

1 when the child abuse is called by act or omission under the
2 statute there's no question that -- what was interesting
3 was I know they kept trying to attack the credibility of
4 Brittany Gentry, but the situation was her story can be
5 corroborated.

6 You had her actually out of the house. We have her at
7 the kangaroo. She's gone for at least 20 minutes. We have
8 her leaving and coming back in -- him and her leaving --
9 and actually her going back in, rushing very quickly back
10 into the apartment, and to back her story up.

11 We have a situation where he never mentioned about
12 shoving her in -- the child and hit on a board or rail or
13 anything like that.

14 He did an act in this case. There's no question about
15 it. She wasn't present. He even says on the jail phone
16 calls that he's [sic] not present.

17 So in this situation I believe there's enough to
18 submit it to the jury from there. He admits he gets pissy
19 in the morning. He admits on pushing the child in that
20 situation, hit him off the railing.

21 And, basically, if you read the statement in the
22 sheriff's department, him walking down, falling down again
23 from there. Never said anything to the mother. Just says
24 Chris is hollering for you. Well, obviously, he's
25 hollering for her if he's, you know, pushed him down and

1 hit him, at least, and doing what -- the damage that we saw
2 in the pictures and through the testimony of Dr. Wren in
3 this case.

4 Plus, we had the jail phone call. In the jail phone
5 call he basically -- the lady that's talking to him on that
6 case basically says what made you so mad to do this to

7 Minor [REDACTED] He never denied being mad.

8 He basically said that he pushed him, and he did that
9 in this case. So I think you definitely have an act here.
10 And it was probably more than the act that he's admitted
11 to. But I think there's plenty of evidence to be sent to
12 the jury on this case.

13 Credibility is for the jury to weigh from that
14 standpoint. And I think there's -- in the light most
15 favorable to the state I'd ask you to deny this motion at
16 this point.

17 MS. SODERDAHL: In brief response, Your Honor. And I
18 hate to say that I'll be brief, because that's always the
19 wrong thing to say.

20 But, Your Honor, there's a case on State vs. Martucci
21 -- I also have copies of that case -- that says that this
22 manifest indifference to -- that's included in a homicide
23 by child abuse statute is akin to intent.

24 And what you actually heard on the jail call is that
25 he -- Sharice did ask Rodney, "Your mama says she wants to

1 know why you would do something like that, why -- what
2 would make you so angry to push him." And Rodney's
3 response is, "I wasn't intending to. I just woke up and I
4 just pushed him because he got up there on the bed. And
5 that's the only evidence that you have that -- that you
6 heard in the courtroom regarding whatever intent or
7 manifest difference he had.

8 If the state's claim is that he's confessing to this
9 crime by confessing that he pushed him out of the bed, then
10 there is no evidence of a crucial element or one of the
11 elements of the offense of homicide by child abuse, which
12 is manifesting an extreme indifference. There's just no
13 proof of it whatsoever.

14 If, on the other case, their -- their claim, their
15 theory, of the case is that Rodney's lying and pushing him
16 off the bed isn't what happened, because, obviously,
17 that -- I think that has to be their theory because pushing
18 him off the bed isn't going to create the injuries that you
19 saw with the fingerprints or the dots and the wounds that
20 you saw based on the expert's testimony.

21 So if they're saying that something else happened that
22 is just supposition completely. That is just them on
23 deciding that because he changed his story that he must
24 have done something wrong -- and he didn't change his
25 story. He added to his version of what had occurred,

1 whereas Brittany actually changed her story.

2 But if we're going on theory that he beat this child
3 up, that he caused this traumatic injury in some way other
4 than pushing him off the bed, then it is just completely
5 opportunity alone. He was alone with the child. And that
6 is not enough to raise the required, you know, proof as far
7 as circumstantial evidence is concerned to withstand a
8 motion for a directed verdict.

9 THE COURT: Well, extreme indifference does not
10 require a specific intent to accomplish a particular result
11 that does occur. Extreme -- extreme indifference means
12 that you act with a reckless disregard or an intentional
13 disregard for the consequences of your act. So the
14 intentional act -- you don't have to intend the
15 consequence. You just have to intend the act. In this
16 case I think the act is admitted so far as an assault and a
17 battery is concerned.

18 But considering the evidence in the light most
19 favorable to the state, as I must do in a motion for a
20 directed verdict, I do find that there is sufficient direct
21 evidence, as well as substantial circumstantial evidence to
22 establish each of the elements that constitute the crime of
23 homicide by child abuse; and therefore your motion for a
24 directed verdict is denied.

25 MS. SODERDAHL: Thank you, Your Honor.

1 THE COURT: All right. Have you talked to Mr. Samuels
2 about his right to testify, as well as not?

3 MR. SUMNER: We have, Your Honor.

4 THE COURT: And does he indicate to you a preference?

5 MR. SUMNER: He has.

6 THE COURT: And what is his desire?

7 MR. SUMNER: To testify. That was communicated to me
8 last evening, but I certainly would tender him to the Court
9 to make sure that he's -- that I've covered everything with
10 him adequately.

11 THE COURT: All right. Mr. Samuels, you heard me ask
12 your lawyers whether or not they have talked to you about
13 your right to testify, as well as not testify.

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you understand that when you're charged
16 with a crime you have an absolute right to remain silent?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: In other words, nobody can make you take
19 the witness stand and answer any questions. You've got a
20 right to remain silent and to rest upon the state's burden
21 to prove your guilt beyond a reasonable doubt, and you've
22 got a right to insist upon that without you offering
23 yourself for examination. Do you understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: So you have an absolute right to remain

1 silent.

2 At the same time, if you want to testify you have that
3 right. If you want to testify and provide the jury with
4 any additional information, then you have a right to take
5 the witness stand and provide that information.

6 If you do take the witness stand you have to answer
7 not only your lawyer's questions, but you have to answer
8 the state or the prosecutor's questions to the extent that
9 they're relevant even if the responses to those questions
10 might tend to prove you guilty of the crime they claim you
11 committed. Do you understand your right to remain silent
12 and not to testify in the trial of this case?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand your right to take the
15 witness stand and testify if you wish to?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you understand that the decision to
18 testify or not is your decision?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And you're the only person that can make
21 that decision.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Have you discussed with your lawyers the
24 advantages and disadvantages of testifying, as well as not
25 testifying?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And do you appreciate what those
3 advantages and disadvantages are?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And have you had time to reflect upon your
6 decision about whether or not you will testify?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you understand that if you choose
9 not to testify I'm going to tell the jury they can't hold
10 that against you, as I already have? But I'll confirm that
11 and explain that to them again.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. And you said you have had time
14 to reflect upon your decision?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And have you made one?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And what is that decision?

19 THE DEFENDANT: I ask to testify.

20 THE COURT: And is that a decision that you've made of
21 your own free will and accord?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Has anybody forced you into it?

24 THE DEFENDANT: No, sir.

25 THE COURT: Has anybody pressured you into it?

1 THE DEFENDANT: No, sir.

2 THE COURT: Has anyone even suggested that that's the
3 decision you ought to make?

4 THE DEFENDANT: No, sir.

5 THE COURT: Did you make that decision on your own?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And you're satisfied with it?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. Thank you.

10 All right. Any other matters we need to address
11 before the jury is brought back?

12 MR. BARNETTE: None from the state, Your Honor.

13 MR. SUMNER: None from the defense either.

14 THE COURT: Bring them in.

15 (The following takes place in the presence of the
16 jury.)

17 THE COURT: Ladies and gentlemen, as you know, the
18 state has rested in their presentation. So we'll now
19 continue with any to be offered by the defense.

20 MR. SUMNER: Your Honor, may it please the Court.

21 THE COURT: Mr. Sumner.

22 MR. SUMNER: The defense would call Rodney Samuels to
23 the stand.

24

25

25 Q Okay. And you had an infant son with her, is that

Rodney O'Bryant Samuels
Direct examination by Mr. Sumner

- 1 right?
- 2 A Yes, sir.
- 3 Q Okay. You went to Brittany's home at Lee's Crossing
- 4 on January 3rd of 2015, is that correct?
- 5 A Yes, sir.
- 6 Q Did you have any interaction with **Minor** during
- 7 that time, that evening?
- 8 A No, sir.
- 9 Q It was just you and Brittany.
- 10 A Yes, sir.
- 11 Q Did Brittany leave the home the next morning?
- 12 A Yes, sir.
- 13 Q Were you there?
- 14 A Yes, sir.
- 15 Q Now, who -- who was in bed with you when she left,
- 16 Rodney?
- 17 A Our son.
- 18 Q Now, who is -- when you say our son, who would that
- 19 be?
- 20 A Rodney Samuels.
- 21 Q And how old roughly was Rodney at that time?
- 22 A He was seven months.
- 23 Q Was he asleep at this point or --
- 24 A Yes, sir.
- 25 Q So at this point, not to belabor and go back over it,

Rodney O'Bryant Samuels
Direct examination by Mr. Sumner

1 you are in a bed with your son when Brittany left the home.

2 A Yes, sir.

3 Q Did you go into the room, into another room, in the
4 apartment where Minor was?

5 A No, sir.

6 Q Did you come into contact with Minor that morning?

7 A Yes, sir.

8 Q Okay. Why don't you tell the jury and the Court about
9 that?

10 A Okay. He came into the room and I heard him calling.
11 I heard him saying, "Mama, mama." So I told him to come
12 here. I seen him at the door. I told him to come here.
13 And when I got ready to grab him, I grabbed him from his
14 bottom.

15 From his bottom and his shirt, it was soaking wet. So
16 I let go. As I let go he was coming onto the bed, because
17 there's a ledge on the bed. And from that ledge on the bed
18 I stuck my hand out, and he fell backwards. As he fell
19 backwards he walked to the door. As he walked to the door
20 I was laying in bed. I couldn't really see the bottom of
21 the floor where the door was, but I saw him fall. When I
22 saw him fall, you know, I figured, you know, he was okay,
23 you know, he just fell and got back up as a normal child
24 does.

25 He -- he went on into the bed. And when he -- once he

Rodney O'Bryant Samuels
Direct examination by Mr. Sumner

1 got to the room I rolled over. I called Brittany. Well, I
2 sent her a text message, and I told her he was hollering
3 for her, just as if he was hollering when he came into the
4 room.

5 So when she came in -- as she came in I heard the door
6 shut. She walked in. When she walked in she went into the
7 room. I know she went into the room because his room's
8 before you get to my -- to our room, where we were.

9 As she came in, she came in and just came in and
10 didn't even say anything or do anything. She just turned
11 the light on in the bathroom, went back into the room. She
12 went back into the room, and actually normally when she --
13 when I do go over, it's mainly for my son.

14 So as I began to get up, I get up, and I started
15 getting dressed. I got dressed, and I went ahead and began
16 to change his diaper, playing with him.

17 So as I'm playing with him I'm wondering why is she
18 taking so long, because normally she doesn't take that
19 long. Normally, when he get up, we get dressed and we
20 leave.

21 Okay. As -- as things progressed, I just got up. I
22 got up with our son, walked into the room where she was.
23 She was covering him back up. As she covered him back up,
24 you know, I just turned around and started back walking
25 into the room. As I walked into the room I'm just playing

Rodney O'Bryant Samuels
Direct examination by Mr. Sumner

1 with him, just, you know, because that's what I was there
2 for, for my son.

3 when I grabbed the bottle and the trash, which was his
4 diaper, and took it into the kitchen, filled the bottle
5 with water, as I walked back she was actually in the room
6 with [Minor] then. As I walked back I seen [Minor] not
7 in the bed. So I -- I walked to her and I talked to her.
8 I said, "[Minor] not in his bed."

9 when I noticed [Minor] wasn't in his bed and she
10 walked in there, I was still with our son. As we sat with
11 our son -- as I sat with my son I heard her holler he's
12 unresponsive. She says he's not breathing.

13 when she said he's not breathing I walked in there,
14 and I continued to give him C.P.R. I gave him C.P.R. over
15 and over and over. And I didn't know what to do. So I
16 just continued giving him C.P.R. And my thought was take
17 him to -- maybe he passed out, you know.

18 So I just took him in the bathroom, put water on him.
19 I put water him, and we get -- I pulled him out. It wasn't
20 working. I seen that he was unresponsive to the water.
21 And I know that if you pass out, you know, you get hit with
22 cold water, it'll make you move or something. That never
23 happened.

24 So we pulled him out of the tub. I gave him C.P.R.
25 again. I asked her for clean clothes and a diaper. She

Rodney O'Bryant Samuels
Direct examination by Mr. Sumner

1 gave me the clean clothes and the diaper, and then she
2 asked me what should we do. I say go to the hospital, take
3 him to the hospital.

4 We got him up. We took him to -- on our way to the
5 hospital I gave him C.P.R. I sat in the front seat. I
6 gave him C.P.R. there, all the way there -- all the way
7 there.

8 And when we get to the hospital she gets out with our
9 son and I had Minor She runs in, and she's talking to
10 them, but I'm right behind her because I'm holding -- I'm
11 holding Minor with delicacy because I don't know
12 what -- what -- what's actually wrong with him.

13 We go in and we speak to them and we hand them --
14 she -- they actually took my son. They walked with my son,
15 and they had Minor

16 She called her family; I called my family. And I
17 began to pray. I began to pray. And, you know, throughout
18 that small session of time I walked back out, you know,
19 just for some fresh air, just to, you know, suck in what
20 was actually going on.

21 As I walked outside Minor father pulled up. As
22 Minor father pulled up he asked me what happened,
23 what went on. And I said he became unresponsive and I
24 talked and she's telling me this and I did all that I
25 could. And he said -- he stated these exact words to me.

Rodney O'Bryant Samuels
Direct examination by Mr. Sumner

- 1 He said --
- 2 MR. BARNETTE: Objection, Your Honor. Hearsay.
- 3 THE COURT: Sustained.
- 4 Q Let's stay away from your conversation with --
- 5 A Yes, sir.
- 6 Q Okay. That's fine -- that's fine.
- 7 Did you stay at the hospital for any length of time,
- 8 Rodney?
- 9 A Yes, sir.
- 10 Q Okay. All right. And would you estimate how long you
- 11 stayed at the hospital just to the best of your
- 12 recollection?
- 13 A I stayed maybe 20 or 30 minutes, and I went outside to
- 14 pray. It was a rainy day. I prayed.
- 15 Q Now, we've heard testimony offered from the state that
- 16 you, I guess -- a few days later did you sit down with the
- 17 police?
- 18 A Yes, sir.
- 19 Q Had they asked you to come over and speak with them?
- 20 A Yes, sir.
- 21 Q And that would this gentleman to my -- to my left
- 22 seated with Mr. Barnette.
- 23 A Yes, sir.
- 24 Q And did you go over to the sheriff's office and talk
- 25 with him?

Rodney O'Bryant Samuels
Direct examination by Mr. Sumner

- 1 A Yes, sir.
- 2 Q And the written statement that I believe that the
3 Court has already received as evidence...
- 4 MR. SUMNER: And I don't know or recall exactly what
5 exhibit number it is, Solicitor.
- 6 MR. BARNETTE: Two.
- 7 MR. SUMNER: Okay. Thank you.
- 8 Q These are the original. I want you to take -- take a
9 few moments and make sure that these, that both the front
10 and the second page, are the statements that you gave at
11 that time.
- 12 A Yes, sir. They are.
- 13 Q Okay. All right. And you -- they were written in
14 your hand, is that correct?
- 15 A Yes, sir.
- 16 Q Now, a -- first of all, they -- they -- they told you
17 extensively that you did not have to give any type of
18 statement, is that correct?
- 19 A Yes, sir.
- 20 Q And you understood that you could not -- you did not
21 have to give a statement?
- 22 A Yes, sir. I understood.
- 23 Q But you went ahead and wrote a statement or wrote two
24 statements, is that correct?
- 25 A Yes, sir.

Rodney O'Bryant Samuels
Direct examination by Mr. Sumner

1 Q Okay. At this point were you upset that the child had
2 died, passed away?

3 A Yes, sir.

4 Q In your first statement -- and take your time to look
5 at it if you need to -- you did not mention the incident to
6 the investigator about the child, Minor trying to get
7 up into the bed and you feeling the wet diaper and then --
8 and kinda pushing him back, is that correct?

9 A No, sir. I did not.

10 Q You cleared that up in the second statement, is that
11 correct?

12 A Yes, sir.

13 Q Okay. And why don't you tell the ladies and gentlemen
14 of the jury why that you did not mention that the first
15 time.

16 A I didn't mention it because, mainly, I didn't think
17 that that was the cause of his death. And when they
18 proceeded into asking me questions I felt as if I needed to
19 tell everything.

20 When I -- the other detective that was here -- Gary --
21 I spoke with him. That was when they came, when the other
22 guy came into the room.

23 I began to talk to them about me being a God-fearing
24 man. And he said these exact words. "The truth shall set
25 you free." And I gave them the second statement.

Rodney O'Bryant Samuels
Direct examination by Mr. Sumner

1 Q Were you proud of what happened? I know you told the
2 jury about -- about pushing Minor off of the bed. Is
3 that something that you were proud of?

4 A No, sir.

5 Q But to -- to go back over that just one second, is it
6 your testimony that you felt the wet diaper -- and I
7 believe you said the wet shirt. Is that what -- as well?

8 A Yes, sir.

9 Q Okay. And how far? We've seen photographs of it,
10 Rodney. But how far off of the floor was the bed that
11 y'all were on?

12 A It was maybe a foot. Just it wasn't too high off the
13 floor.

14 Q And there is no question in your testimony to the jury
15 that he fell out of the bed with your help, with a push
16 from you.

17 A Yes, sir.

18 Q As we come to a close, I want to talk about your --
19 about anything to do with you and Minor on this
20 incident, related to this incident.

21 Okay. Did you hit him in the abdomen?

22 A No, sir.

23 Q Did you hit Minor in the chest?

24 A No, sir.

25 Q Did you hit him in the back?

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 A No, sir.

2 Q Did you hit him in the sides?

3 A No, sir.

4 Q Did you in any way try to choke him or in any way try
5 to block his air flow?

6 A No, sir.

7 Q Did you push him off of the bed with an open hand from
8 you like I'm kind of demonstrating right now, something
9 like that?

10 A Yes, sir, I did.

11 Q Rodney, did you kill this child?

12 A No, sir.

13 MR. SUMNER: One second, please, Your Honor.

14 (Pause.)

15 Q Please answer any questions that the solicitor has.

16 MR. SUMNER: Thank you, Your Honor.

17 MR. BARNETTE: May it please the Court, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. BARNETTE

20 Q Sir, you was there for your son.

21 A Yes, sir.

22 Q You weren't there for [Minor] were you?

23 A No, sir.

24 Q You never did anything with [Minor] did you? You
25 never changed his diaper; you never took care of him or

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 anything, did you? You always took care of your son.

2 A I have before.

3 Q wouldn't you think it's important to let medical
4 people know at Spartanburg Regional when Minor gets
5 there that he may have fallen, may have hit something like
6 you said, a rail?

7 A They didn't want to know anything from me because I
8 wasn't his father.

9 Q But don't you think -- well, you carried him in.
10 Don't you think, hey, you might want to take a look at
11 this, he fell down when I pushed him?

12 A They didn't want to speak with me at all.

13 Q So you didn't volunteer?

14 A Everything was going so fast. From the beginning me
15 and Brittany was in the same room.

16 Q Coroner's office talked to you that day. You never
17 told them, did you?

18 A They didn't ask me any questions.

19 Q Well, they didn't -- didn't they go back to the
20 apartment with you and you went through what happened that
21 day?

22 A Yes, sir. I thought you was referring to being at the
23 hospital.

24 Q Okay. Well, you did it that day. You went through
25 and talked to them for several minutes, didn't you?

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

- 1 A Yes, sir.
- 2 Q You never mentioned it ever, did you?
- 3 A No, sir. I didn't.
- 4 Q You went into the bedroom and acted like everything
- 5 was fine, talking about your son being in the room. You
- 6 never talked about Minor did you?
- 7 A No, sir. I didn't.
- 8 Q The only thing you said was at 9:15 you texted
- 9 Brittany saying, "Chris is hollering for you in there." In
- 10 there, in his bedroom, right?
- 11 A That was after he left. He never hollered before.
- 12 Q Well, why didn't you stay with him? If he's having
- 13 that kind of issues, why don't you stay in with him?
- 14 A He wasn't having those issues.
- 15 Q Well, what's he hollering about then, sir?
- 16 A He was hollering before he came into the room
- 17 hollering her name.
- 18 Q When did you send this text? Did you send it when he
- 19 came in the room or did you send it when he got back to his
- 20 room?
- 21 A I sent it right after he walked outta the room.
- 22 Q Well, why would you send a text saying that?
- 23 A Because that's what was going on when I dealt with
- 24 Minor Before he even came into the room I heard him
- 25 saying, "Mama, mama."

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

- 1 Q You weren't there for Minor You was there for
2 your son, weren't you?
- 3 A Actually with the part of him not having diapers, the
4 diapers wasn't even in the house with me. The diapers were
5 in the car because I bought the diapers.
- 6 Q So you bought the diapers.
- 7 A Yes, sir.
- 8 Q Well, who bought the cigarettes -- cigar for you?
- 9 A Brittany did.
- 10 Q Yeah. And you told her to go buy it, didn't you, that
11 morning?
- 12 A Yes, sir.
- 13 Q Why didn't you get up and go get it?
- 14 A She woke up that morning and said I was going to the
15 store. And when she said she was going to the store, I
16 said, "Bring me back a cigar, please."
- 17 Q Well, what -- well, you saw the video as well as I
18 did. What did she buy at the store, at the Kangaroo?
- 19 A Actually, when she got home I never seen it.
- 20 Q Well, you saw she bought the cigar for you. She
21 didn't buy anything else.
- 22 A I don't know exactly what she bought home because I
23 never seen it.
- 24 Q Because she did exactly what you told her to do.
25 Wouldn't she? You told her to go get a cigar, and she went

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 and got a cigar, didn't she?

2 A No, sir. I asked her because she said she was already
3 going to the store.

4 Q Okay. Well, why didn't she buy anything else then if
5 she was going to go to the store?

6 A Maybe she wanted to make --

7 MR. SUMNER: Your Honor, I'm going to object. That's
8 asking this witness to speculate, I think. He doesn't know
9 why she bought something else or didn't buy something else.

10 THE COURT: Okay. Overruled.

11 Q Well, you saw the video the same as us. She didn't
12 buy anything else, did she?

13 A Well, she does a lot of things that she doesn't say.

14 Q Okay. So you sent a text to her. And your testimony
15 is to this jury she didn't pay any attention to it when she
16 came home. That's your testimony, right?

17 A No, sir.

18 Q Well, I think that's what you just testified to this
19 jury. The jury will remember what you just heard. But you
20 said she came in and didn't pay any attention to her son,
21 basically.

22 A When she went into the room, I don't know exactly what
23 she done.

24 Q And you were in the bed with your son, is that right?

25 A Yes, sir.

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

- 1 Q And that's who you was there for.
- 2 A Yes, sir.
- 3 Q And when you talk about C.P.R., you just -- one hand,
- 4 right?
- 5 A Yes, sir. And I blew into his mouth.
- 6 Q Okay. And you suggested going to Regional, is that
- 7 right?
- 8 A Yes, sir. When she -- when after we pulled him outta
- 9 the water from the tub she stood up and asked what should
- 10 we do, and I said we need to take time to the hospital.
- 11 Q Why didn't you call 9-1-1?
- 12 A Off the spur of the moment I just said, "Let's go to
- 13 the hospital." That's the first thing I thought of --
- 14 thought of. When somebody gets hurt, you go to the
- 15 hospital.
- 16 Q You don't call 9-1-1 and get an ambulance or anything?
- 17 A Well, I didn't think about the ambulance. I thought
- 18 about getting him care.
- 19 Q Okay. Well, if you thought that much, why did you
- 20 when you get in the car, you tell her to go back and get
- 21 your cigar?
- 22 A I don't recall that.
- 23 Q You don't recall that?
- 24 A No, sir.
- 25 Q But there's no question she ran back to the apartment

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 after y'all got to the car.

2 A Well, I was in the car. When I first got into the car
3 I was still doing C.P.R.

4 Q Well, where was your son at?

5 A He was in the back seat.

6 Q Who put him there?

7 A Brittany did.

8 Q And then she went back to the apartment to get your
9 cigar, didn't she?

10 A I never asked her to, so I don't recall why she went
11 back to the apartment.

12 Q So you don't recall now.

13 A I don't recall -- I don't recall why she went back.

14 Q Okay. But she did go back.

15 A From the video and from my knowledge, she did go back,
16 but I didn't see her bring anything back.

17 Q Okay. And when the sheriff's department initially
18 talked to you, you don't tell them about a fall, do you?

19 A No, sir. I didn't.

20 Q Don't you think that's important? Wouldn't that be
21 important for medical people, for the coroner's office, for
22 the sheriff's department to know that ahead of time?

23 A From the situation I thought it was irrelevant, but as
24 the situation got tougher, I believe that it was more
25 sufficient for me to come out and tell everything, because

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 you have to do us right. And when you haven't done
2 something wrong you need to express everything that went on
3 so there will be no loopholes and there will be nothing
4 else that can be said. That's why I gave my voluntary
5 statement.

6 Q You said when things got tougher. When they faced you
7 with the evidence, well, the injuries that we've seen --

8 A From the beginning I never thought that I had anything
9 to do with it.

10 Q Okay.

11 A That's why I stated that I did deal with Minor

12 Q Okay. And didn't you tell Lieutenant Gary that you
13 get pissy in the mornings?

14 A Is that Lieutenant Gary?

15 Q No. The gentleman. He's not here right now. He was
16 the gentleman that was here earlier. He had to leave.

17 A When I spoke with Lieutenant Gary he asked me how was
18 I. I told him when I wake up I'm really not paying
19 attention, I'm really not -- ain't right, just doing
20 anything.

21 So when he came in I was -- I was caring for
22 Minor. I was willing to pick him up and pull him into
23 bed until his mother got back.

24 Q Well, you did a jail phone call to Sharice Gilliam.
25 Who is Sharice Gilliam?

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

- 1 A That's my girlfriend.
- 2 Q That's your girlfriend too?
- 3 A I only have one girlfriend.
- 4 Q Okay. Who is the girlfriend then?
- 5 A Sharice Gilliam.
- 6 Q Brittany wasn't your girlfriend?
- 7 A We had on-and-off relationship.
- 8 Q Didn't you tell the coroner's office that you all was
- 9 going to get married?
- 10 A Actually, she bought [sic] the papers up. And once
- 11 she realized that I bought it to my family and we talked
- 12 about it, and they thought that it was absurd, really I
- 13 thought it was absurd, but I was doing it for -- to be able
- 14 to be around my child.
- 15 Q You told the coroner's office that you all was getting
- 16 married or really was getting ready to get married that
- 17 day.
- 18 A That day? I did not tell them that.
- 19 Q Well, didn't you tell them y'all was getting married?
- 20 A I told them previously before that that we were going
- 21 to. But it wasn't in the actually act because I did care
- 22 for her from the beginning. But she's a compulsive liar.
- 23 So I fell back from the situation, talking to my family
- 24 about it. And it was not a right decision. So I tore the
- 25 paper up and we never followed through with it.

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 Q Your testimony is you never told the coroner's office
2 that y'all was getting married.

3 A No. I did tell them that because from the beginning
4 that was where the situation was going when I first met
5 Brittany.

6 Q Well, how long have you known Brittany? How long --
7 well, obviously, you had a child four month -- or
8 7-month-year-old child. How long have you been involved
9 with Brittany?

10 A Well, I knew her from middle school. I've -- I've
11 seen her at high school. And after the fact of me being
12 around her, I actually met her again through facebook. I
13 never knew her as an individual. I got to know her as I
14 dealt with her on the daily acts of things.

15 Q Okay. On the jail phone calls to Sharice Gilliam --
16 do you have any kids with her?

17 A Yes, sir. I have two kids. I have a son, which is
18 one year right now, and I have a daughter, which is three
19 years old.

20 Q Okay. Was the son -- was she pregnant with your son
21 during this time too when this happened?

22 A Yes, sir, she was.

23 Q So you actually had two -- two different girlfriends
24 or two ladies you were involved with that were both
25 pregnant.

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 A Yes, sir.

2 Q Okay. And on the jail phone call she keeps asking you
3 what made you so mad at Minor . Didn't she ask you
4 that?

5 A Yes, sir.

6 Q You never denied you was mad at Minor , did you, on
7 those jail phone calls?

8 A Because to my knowledge that wasn't really the act of
9 why I didn't let him come into the bed.

10 Q And at one point she keeps talking to you about it,
11 and, basically, you say I didn't think I pushed him that
12 hard. Didn't you say that, sir?

13 A Yes, sir.

14 Q And the amazing thing on that tape, at the end of it
15 she's crying uncontrollably. You never shed one tear, did
16 you?

17 A She doesn't know exactly what I was going through, so
18 I was basically trying to get her to understand that
19 throughout me being investigated they were basically trying
20 to tell me that I done something that I didn't do.

21 Q But you never told. You didn't even tell the people
22 at the hospital about the push, is that right?

23 A They never asked me any questions. They did not want
24 to speak with me because I wasn't his father.

25 MR. BARNETTE: One moment, Your Honor, please.

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 (Pause.)

2 Q After you pushed him, you said he fell down.

3 A Yes, sir.

4 Q What did he hit?

5 A Actually, I don't know exactly what he hit, but I gave
6 three different things that he could have hit. But I do
7 not know if he only hit the floor or did he hit the crib or
8 did he hit the side of the bed, which was only one foot.

9 Q Okay. So he either hit the floor, which is carpeted.

10 A Yes, sir.

11 Q She's got carpet on it. He hit the rail potentially.
12 And the rail is straight, I'm assuming, like a straight
13 edge, like this, a straight edge, is that right?

14 A The bed is -- actually has a lip just like that which
15 his knee was on.

16 Q Okay. So his knee was on that. And what was the
17 other thing with the crib?

18 A The crib was behind him. When I gave those three
19 things I actually let them know what was around.

20 Q I understand. But you never said about him falling or
21 being pushed or anything like that to anybody, did you,
22 until the sheriff's department confronted you with it?

23 MR. SUMNER: Your Honor, I'm going to have to object.
24 He's asked that question numerous times. That's asked and
25 answered.

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 THE COURT: I think that's been answered.

2 Q Okay. So what part of his body hit?

3 A I would not know. I know that he fell. He got back
4 up. When he got to the door, he fell. There was a lot of
5 things on the floor as she told you that she was moving.
6 Normally, the place is always that way.

7 Q Okay. So you push him. He hit, fell or hit,
8 something. Did he fall again at the doorway, you say?

9 A Yes, sir.

10 Q Okay. He falls again. Did you go check on him?

11 A He got back up and he just walked back out, continued
12 to walk. So I felt like he was okay.

13 Q So he -- you assumed he went back to his bedroom, I'm
14 assuming.

15 A Yes, sir. He had to have went back to his bedroom
16 because she when came in she stated that he was in the bed.

17 Q Okay. So you never went. You stayed in your bed with
18 your child. You never went and checked on him after that
19 until she --

20 A When I sent the text message, she arrived very shortly
21 after.

22 Q Okay. But you never left your bed with your son. He
23 just went to his bedroom. That's where his mom found him.

24 A Found him? That's where she went and dealt with him,
25 yes, sir.

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

- 1 Q She dealt with him.
- 2 A Yes, sir.
- 3 Q But you didn't deal with him, did you?
- 4 A No, sir. I let her. That's why I called her. I sent
- 5 her a text message so that therefore she can come in and
- 6 deal with him. I was still waking up.
- 7 Q In your statement --
- 8 A I have one right here.
- 9 Q Okay. I'll let you look at it.
- 10 In your second statement you said he hit the bed, the
- 11 crib and the floor and stumbled out. So he stumbled out, is
- 12 that correct?
- 13 A There was a lot of things on the floor that he could
- 14 have tripped over -- my shoes, my clothes, her shoes, her
- 15 everything that she keeps lying around, toys on the floor.
- 16 Q Let me show you State's Exhibit 2, the second
- 17 statement. And you have a copy with you, sir, so. But if
- 18 you would, basically -- and you wrote this statement, is
- 19 that right?
- 20 A Yes, sir.
- 21 Q This is your handwriting.
- 22 A Yes, sir.
- 23 Q And, basically, didn't you say he stumbled out and hit
- 24 the door?
- 25 A When he went out, getting ready to go out the door, he

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 fell. He got up and he walked on. I turned over and I
2 texted her.

3 Q So you texted after he went out, I guess, stumbled
4 out, hit the door, fell and then went to bed. And then you
5 texted her, is that right?

6 A Yes, sir.

7 Q That's not what you testified to earlier. You
8 testified you texted her when he started hollering for her
9 and walked in the bedroom. Which one is it?

10 A Could you please repeat that?

11 Q You testified earlier that when he walked into the
12 bedroom, that's when you texted her, when he was hollering
13 for his mama. Now you're saying you texted him when he
14 went out the door and --

15 A No. I didn't. What I said was --

16 MR. SUMNER: Your Honor, I'm objecting. That's
17 something that's outside. That's not a question. That's
18 pitting the witness. And the jury can hear the answers for
19 themselves.

20 THE COURT: Okay. Well, put it in a question form.

21 MR. BARNETTE: Yes, sir.

22 Q Didn't you earlier testify you texted her when he came
23 in hollering for her when he came to your bed?

24 A No. What I -- I remember exactly. What are you
25 talking about? What I said was I didn't text -- I texted

Rodney O'Bryant Samuels
Cross-examination by Mr. Barnette

1 her for the reason for him coming into the room and
2 hollering her name.

3 Q well, the jury --

4 A That's what I stated.

5 Q The jury has to remember what you said now. But your
6 testimony is now when he stumbled out, hit the door and was
7 going to bed you rolled over to your son and texted her the
8 message at that point.

9 A Correct.

10 Q And then she shortly came in there and was checking on
11 him after that.

12 A Correct.

13 Q Just like she said.

14 MR. SUMNER: I would object. That's pitting one
15 witness against the other, Your Honor. That's improper.

16 MR. BARNETTE: I'll withdraw the question.

17 MR. SUMNER: That's improper.

18 MR. BARNETTE: I'll withdraw the question. That'd be
19 all the questions I have, Your Honor. Thank you.

20 MR. SUMNER: You can step down.

21 THE WITNESS: Thank you.

22 MS. SODERDAHL: Your Honor, at this time we just
23 wanted to inform the jury of the stipulation that we've
24 reached with the prosecuting attorney and the state.

25 THE COURT: All right.

1 MS. SODERDAHL: At this time the stipulation is that
2 if a doctor or medical personnel from the Spartanburg
3 Regional Hospital were to testify they would say that the
4 time that Brittany and Minor arrived at the
5 hospital on January 4th of 2015 was 10:34 in the morning
6 and the child was pronounced dead at 10:59 in the morning
7 on January 4th.

8 So stipulated?

9 MR. BARNETTE: That's correct, Your Honor.

10 THE COURT: All right. Ladies and gentlemen, a
11 stipulation is an agreement of fact. In other words, it's
12 something that does not need to be proven. Both sides
13 agree that that is a fact. So you may simply accept it as
14 a fact in the case without any additional proof of such.

15 MS. SODERDAHL: With that, Your Honor, if I may
16 approach briefly or if we may approach.

17 (Bench conference held off the record in the presence
18 of the jury but out of the hearing of the jury.)

19 (Whereupon, Mr. Barnette and Ms. Soderdahl went into
20 the back hall to confer temporarily after the bench
21 conference.)

22 MR. BARNETTE: Okay.

23 MS. SODERDAHL: Your Honor, at this time we do have
24 one more stipulation I will make for the jury as evidence
25 in this case.

1 That if Investigator Dewayne Corn were called to
2 testify he would testify that on January 4th of 2015 he
3 went to the apartment of Brittany Gentry and spoke with her
4 regarding the incidents surrounding the child being brought
5 to the emergency room and that he asked this question of
6 Brittany. He asked this question. "Was Christian acting
7 the way you found him before you went outside, or after?"
8 And Brittany answered, "He was acting the same because he
9 was asleep." And that's what the stipulated testimony
10 would be.

11 So stipulated?

12 MR. BARNETTE: No objection, Your Honor.

13 THE COURT: Okay.

14 MS. SODERDAHL: With that the defense rests.

15 THE COURT: Any reply?

16 MR. BARNETTE: No, sir.

17 THE COURT: All right. That's all of the testimony or
18 evidence to be offered in the trial of the case. What
19 remains to be done are the lawyers' final summations, after
20 which I'll instruct you on the law, and then you can begin
21 with your deliberations.

22 We can't get that done before lunch, so we're going to
23 recess for lunch. We'll resume this afternoon at
24 2:00 o'clock, at 2:00 o'clock. Please be prompt in
25 reporting at 2:00 o'clock.

1 Have a good lunch. Don't discuss the case in any
2 fashion in the meantime.

3 (The following takes place outside the presence of the
4 jury.)

5 THE COURT: Would you like to renew your motions?

6 MS. SODERDAHL: Just one motion, Your Honor, a motion
7 to renew our motion for a directed verdict. Rest on the
8 prior argument.

9 THE COURT: All right. That motion is denied.

10 MR. BARNETTE: Your Honor, may we approach the bench
11 for a second?

12 (Bench conference held off the record.)

13 THE COURT: All right. Court in is recess until 2:00
14 o'clock.

15 (Whereupon, a recess was taken.)

16 THE COURT: There is to be no coming and going, no
17 coming and going during the arguments and the charge. So
18 if anybody needs to leave, leave now. If you're not in,
19 you're not coming in. 2:00 o'clock is what time we
20 adjourned to, so I don't know why people are still
21 strolling in.

22 All right. Are we ready for the jury?

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

24 MR. BARNETTE: Yes, sir, Your Honor.

25 THE COURT: All right. Bring them in.

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1 (The following takes place in the presence of the
2 jury.)

3 THE COURT: Good afternoon, ladies and gentlemen.

4 As you know, when we recessed for lunch all of the
5 evidence had been received. And so now what remains to be
6 done are the lawyers' final summations, after which I'll
7 instruct you on the law. And then you can begin with your
8 deliberations.

9 So please give the lawyers your attention now as they
10 give you their final summations.

11 Mr. Barnette.

12 MR. BARNETTE: May it please the Court, Your Honor.

13 Mr. Foreman and ladies and gentlemen of the jury,
14 you've heard all of the evidence in the case. What I'm
15 going to do is go over several points I'd like to make to
16 you.

17 The thing I want you to remember is you remember the
18 evidence the way you remember it. Like I said, we're going
19 to characterize it and talk about it. Of course you're
20 going to have all of these items back there with you from
21 that standpoint.

22 What I'd like to start with is the defendant's own
23 testimony. To me it was very inconsistent. He couldn't
24 figure out when the text was sent out. He kept talking
25 about his child, that's what he was there for. He wasn't

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1 there for [Minor] [Minor] was somebody else's child.

2 And you remember he talked about the diapers. I
3 started thinking about that afterwards. Supposedly,
4 Brittany went over and picked him up.

5 You've got a 7-month-old there; you've got a
6 2-year-old in diapers. And he says diapers in my car.

7 And then he talks about, you know, he never told
8 anybody about the fall, never told Brittany about the fall,
9 never told Spartanburg Regional, the people there, about
10 the fall. Never told the coroner's office about it, didn't
11 tell the sheriff's department about it until they
12 confronted him with it and, hey, these injuries. And then
13 he came up with his story about [Minor] falling.

14 And you'll have that statement back there with you.
15 But in his statement he says that he fell down, he got up
16 and stumbled, fell again in the door.

17 well, ladies and gentlemen, any human being that sees
18 a small child like that -- [Minor] weighed 25 pounds.
19 You don't go check on him or nothing? You just roll over
20 and text his mama and says [Minor] is hollering for you?

21 I submit to you, ladies and gentlemen, with these
22 injuries he would have been hollering.

23 You heard Dr. Wren's testimony was that all of these
24 injuries was in a 30-minute period of time from that
25 standpoint. But they're all consistent. He took cuts of

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1 them and said had to be less than 30 minutes from that
2 standpoint.

3 He talked about how much blood was in Minor
4 body. Ten percent of his blood was in his body cavity,
5 that he had bled out fast. You can imagine the way his
6 liver was lacerated and the way that happened.

7 The defense said to you basically this is a horrible
8 case, what happened was. There's no question it's a
9 homicide. Basically, they're trying to pit two people
10 against each other. They said it had to be one of two
11 people.

12 Well, Brittany Gentry if you look -- I know they keep
13 attacking her story, and you're going to hear about that,
14 I'm sure, when they get up and talk to you about their
15 case. But look. She goes to the authorities. The
16 sheriff's department goes there. And once they verify
17 where she went, gets her video. Shows her buying -- buying
18 a cigarette or a cigar.

19 You saw it. You can go back and see the video again
20 if you need to where she had the money and she had the
21 cigar box right there. She didn't buy anything else. He
22 said, well, she was going to the store anyway. Well, if
23 she was going to the store anyway, anybody knows a lady's
24 going to go buy other things if they're going to the store.
25 But she went strictly there for one thing because he told

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1 her to do it.

2 She comes back. And he said the second time -- you
3 know, the first story -- like I said, you remember the
4 evidence as you remember it. Like I said, you heard it as
5 well as I did. But my recollection early in his testimony
6 on cross was he said he first texted her when **Minor**
7 came in the door and was yelling for mama. Then he changed
8 it. Then when he was falling, stumbling down towards his
9 room he rolled over to the only child that mattered to him,
10 his son, and texted her. And when she shortly arrived
11 there, went in the room, just like she said.

12 You've got the Lee's Crossing video. It's hard to
13 see. I'll be the first one to tell you that. But if you
14 watch you'll see they both initially come out and go to the
15 car. And the car is across. And you've got to remember
16 her car is the only one we see. It's the red car, the one
17 she's driving. We never see his car where the diapers
18 supposedly was.

19 Then she runs back into the apartment and comes
20 running back out again after he told her to go get it. She
21 did exactly what he wanted her to do. Here's a man that
22 was working two women at the same time.

23 He tells you she's a compulsive liar and all of this,
24 but the crazy thing is -- and you'll have this back with
25 you -- look how many times he called her the night before

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1 and at the same -- and that's State's Exhibit -- this is
2 the call log. And there's the text message at 9:58 to the
3 same number. And the other number was her mom's number
4 where her mom talked to her.

5 This is the exhibits you'll have back in the back, but
6 you'll see the time and dates here, like at 10:20 that
7 evening she talked to her mom. Then he called right after
8 that. He called several times the night before, or the six
9 times. That's his number, (864)357-8393. And how do we
10 know that's his number? The same one.

11 If you look at the text number that he texted her
12 Chris is hollering for you in there. And what bothers me
13 in there he says in there, in his room. He doesn't even go
14 check on him, why he's yelling for her. You know why he's
15 yelling? Because of what he just did to him. He didn't
16 say hollering for you here or with me. He said there.

17 He gives a statement, like I said, eventually when the
18 sheriff's department confronts him. And you'll have these
19 statements with you, ladies and gentlemen.

20 What's interesting. "I said I'm sorry for this day.
21 I'm sorry, and I have to deal with this being sorry because
22 I truly loved Chris. Sorry." He didn't truly love Chris.
23 He was there for his son. Why is he sorry about anything?
24 He knows what he did. The evidence that has been provided
25 through the pictures and through the documented testimony

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1 shows you what he did.

2 You've seen Brittany Gentry, a very small lady.
3 You've seen the defendant. Here's a man that has the
4 strength to do. And, like Dr. Wren, a lacerated liver is
5 usually seen in high-impact, you know, wrecks. He said,
6 yeah, you could fall, you could fall two stories and do
7 this. And he told you as many times as he's seen -- you
8 know, he's seen studies where babies could fall out of
9 cribs and not have the injuries that Chris had.

10 Here's a man who was alone with him for at least, we
11 know, at least 20 minutes. Here's a man -- and these kind
12 of injuries would make a child fall. By the time she got
13 there, she didn't know. He didn't tell her. Why didn't he
14 say Chris has had a fall? Why didn't he say that? He
15 could have told somebody right then but he didn't want to
16 tell anybody because he's the man at fault.

17 You'll have it. There's four bruises right there.
18 That wasn't made by a straight edge; that wasn't made by a
19 crib. It was either made by squeezing or a fist, is what I
20 submit to you, ladies and gentlemen. And Dr. Wren
21 basically said that's what caused this.

22 And of course he had other bruises. And all of these
23 bruises are consistent with the same time period. Back of
24 the head, side of the head, bruising on the sides, on the
25 back, everywhere from there. And you'll have the other

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1 pictures with you showing the bruising on both sides of the
2 body.

3 Another piece of evidence that's been submitted and
4 stipulated to was there was also blood work that was on
5 Minor There wasn't any drugs or any alcohol or
6 anything in his system. You'll have that back with you
7 where the coroner's office checked that, checked across the
8 board for anything that was in his system. Across the
9 board. You'll have that with you.

10 The thing you've got to remember is Brittany Gentry,
11 if she would have caused these injuries, I mean, these are
12 painful injuries. These are not ones that don't cause by a
13 mere fall. That kid would holler.

14 He never testified about hearing anything, him
15 hollering, the whole time other than the text message he
16 sent with her there. The only time he said Chris hollered
17 was when he was with him by himself, texting her to get
18 there.

19 Ladies and gentlemen of the jury, the judge will give
20 you a charge here in a little while about reasonable doubt.
21 And if you're firmly convinced in this case that he did
22 this you must find him guilty. And the judge will tell you
23 that.

24 And, ladies and gentlemen, every piece of evidence
25 points to one conclusion. There's one person that had the

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1 strength to do this, the one person that was beside him.
2 They're going to argue that she was beside -- well, she got
3 up that morning and he was there. He was there the whole
4 time that she was there that morning. Think about this.
5 He was there. He never testified about her doing anything,
6 never testified about Minor hollering when she was
7 there, anything like that.

8 The sheriff's department went through and checked
9 every place she was and verified where she was. You heard
10 Ms. Collins testify about Minor how he was that
11 morning -- you know, the day before. He was fine. Nothing
12 was wrong.

13 He was asleep in his bed that morning when Brittany
14 got up to go get his cigar. She left to do that and she
15 got back and he had sent her the text. She went
16 immediately to check on him thinking he was having a
17 nightmare.

18 Then you can go back to semantics and what was said to
19 the coroner's office and what wasn't. But the bottom line
20 she checked on her child and thought he was having a
21 nightmare. Put him down.

22 She was going to church, and you'll see where she
23 called her mama that morning when she was at the Kangaroo
24 at 9:06.

25 She goes back and finds him unresponsive. The funny

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1 thing was -- there's nothing funny about this -- but leaves
2 the car. She runs back. And he claims I don't remember
3 anything, I don't recall.

4 well, ladies and gentlemen, when something that
5 serious happens you're going to recall something like that.
6 She was sent back for a reason, there he wanted those
7 cigarettes. And it was interesting. We were asking the
8 question where was he. He was outside of the emergency
9 room with his cigarettes.

10 Ladies and gentlemen, Brittany Gentry did not do this.
11 She didn't have the strength, the means or the time and
12 reason to do anything this. This is her son.

13 Here's a man. You'll have the jail phone calls. The
14 next day after he gets arrested he's calling his other, his
15 girlfriend. You remember, Brittany's not his girlfriend,
16 even though he told the coroner's office that we're going
17 to get married. He finally admitted that, that he told
18 them that the day this happened.

19 He calls her a pathological liar. But he calls her,
20 comes over to her apartment and stays with her. She had
21 one son with him and was four months pregnant with another
22 son.

23 But the thing that this lady asked -- the lady,
24 Sharice -- asked him, said what made you so mad to do this
25 to Minor He never denied being mad. He even told

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1 William Gary that he was pissy when he wakes up in the
2 morning. But he never denied it to her. She asked him, I
3 think, three times. And, like I said, you're welcome to
4 listen to that jail phone call again. He never shows any
5 emotion. She is balling her eyes out at that time.
6 Eventually says to her, well, I must have pushed him hard
7 enough to fall. That's one push, ladies and gentlemen,
8 what he did to that child. And I'm going to ask this jury
9 to find him guilty of homicide by child abuse. This
10 evidence should leave you firmly convinced.

11 And, like I said, you weigh the credibility of the
12 witnesses. But I submit to you the evidence that the
13 sheriff's department got supports her, everything. Nothing
14 supports him. Thank you very much.

15 Thank you, Your Honor.

16 MS. SODERDAHL: May it please the Court.

17 THE COURT: Mr. Soderdahl.

18 MS. SODERDAHL: Yesterday when I spoke to you like
19 this I told you that this is a tragedy. None of us
20 disagree with that. And I told you that it was really
21 important that you be able to do your job and set aside the
22 emotional response you may have to hearing about and
23 looking at the photographs about this tragedy, these
24 serious injuries that this child went through before he
25 died. And I know that you're going to do your best to do

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1 that, and it's going to be difficult.

2 But it's important that we focus on the evidence and
3 what we heard from the witness stand and the things that
4 you heard from the expert witness, from Brittany Gentry and
5 from the investigating officers in this case when we
6 consider the only thing that you have to consider today and
7 decide, which is whether the state has met their burden of
8 proving that Rodney Samuels, and Rodney Samuels alone, did
9 these things, committed this crime and caused this death.

10 Now, even though this trial is very short -- it's just
11 been about a day and a half maybe -- it doesn't make -- it
12 doesn't mean it's not important. This is a very important
13 trial. These are very important issues. And so I
14 apologize. I am going to have notes with me because there
15 are some important things that I want to say. And, you
16 know, I don't want to not remember all of those things I
17 should have said to you. So, if you will, bear with me
18 while I have my notes.

19 The one thing that the state did prove is that the
20 child was beaten to death, that he suffered this blunt
21 force trauma. But they've only proven -- the only thing
22 they've proven beyond a reasonable doubt as far as who
23 committed this crime is that there were two adults that
24 could have done it -- Brittany Gentry and Rodney Samuels --
25 because those were the adults that had alone time with this

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1 child in the hours before the child became unresponsive and
2 died.

3 Now, the state is presenting to you two basic
4 theories, two reasons why they believe that Rodney Samuels
5 committed this crime.

6 One is that he was alone with the child. There's no
7 dispute about that. There was a 20-minute window between
8 when she left the apartment and went to the gas station and
9 when she returned home, which was returning home at 9:15 in
10 the morning.

11 There's a 20-minute window when Rodney is not -- or
12 when Rodney is alone with the child and Brittany is not
13 around. But there is no evidence. You have not heard a
14 single witness testify with any certainty that that is the
15 time period when these injuries occurred.

16 The prosecutor put an expert witness on the stand, a
17 guy that's been doing this pathology thing for his whole
18 life. He was a genius. He had talked about how he
19 completed medical school in three and a half years.

20 He didn't put a single time on this. He didn't say
21 when these injuries occurred. There's no testimony
22 regarding when these injuries occurred.

23 So when the state is taking on this burden of proving
24 that Rodney Samuels committed these acts in that 20-minute
25 period, that's a crucial lack of evidence to not even be

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1 able to tell you that that 20-minute period is when those
2 injuries actually took place.

3 And if you think about it those 20-24 minutes that
4 Rodney was alone with the child, what happened after that
5 24 minutes? That's crucial. Because after those 20
6 minutes Brittany came home and interacted with the child.

7 And the state has not presented evidence that Rodney
8 was with her at all times. In fact, the evidence that you
9 heard is that there were plenty of times, in fact, right
10 when she got home. Rodney wasn't in the room with them.
11 Rodney was still in bed -- Rodney, Sr. was still in bed
12 with Rodney, Jr. when Brittany got home and went into
13 Minor [REDACTED] bedroom.

14 Right away we have a situation where really we're
15 talking about minutes when Rodney was alone with the child
16 and then Brittany was alone with the child. And when she
17 came home and had that time alone with the child she picked
18 the child up. She interacted with the child. And then she
19 went about her day because nothing was wrong with the child
20 according to her testimony, according to what she told the
21 police.

22 When she interacted with that child in that period
23 right after the child, the state alleges, had been injured
24 so severely that he's bleeding internally -- the expert
25 told you immediately bleeding internally very badly -- that

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1 she's interacting with the child and doesn't see anything
2 wrong -- mom. Mom doesn't see anything wrong with her
3 2-year-old. Goes about her day.

4 The second theory that the state says their reason why
5 they're giving you that they believe that Rodney Samuels
6 committed this crime is they're saying that he confessed to
7 this crime.

8 And I guess I'm a little confused because I feel like
9 they're taking that two different ways. One is they're
10 saying that he confessed to committing this crime because
11 he admitted that when the child -- that he was putting the
12 child in the bed with him he pushed him and said, you know,
13 don't get in the bed with me. So they're saying that
14 that's what caused the injuries.

15 But the expert told you that wouldn't have caused the
16 injuries. The expert told you about a study he read where
17 929 infants were dropped from cribs in a hospital and only
18 one of them suffered a broken bone. None of them suffered
19 head wounds and none of them suffered lacerated livers.

20 So their own evidence says that this incident with
21 this bed, with this pushing out of a 1-foot bed, didn't
22 cause the injuries. They're saying look at these dots that
23 you see on the picture he just put up. That's not caused
24 by a flat surface. They're saying that was caused by a
25 hand or a fist or a grabbing or a squeezing.

Closing arguments

1 well, then Rodney didn't confess to this crime.
2 Rodney confessed as far as he admitted what he had done.
3 And no. He didn't tell the police right away because --
4 and he told you why. Because he didn't think it had
5 anything to do with this child suddenly dying.

6 Children -- I've heard the saying. Children are made
7 for bouncing. Brittany's mother testified that the night
8 before they were jumping up and down on the couch. That's
9 what kids do. They're resilient. They can fall off a
10 1-foot bed and be just fine. And that's not what killed
11 Minor This action of what Rodney told the police
12 happened isn't what killed him.

13 But then the state also tells you that they think that
14 he did something else when he was alone with the child in
15 that 20-minute period. But they don't even know what it
16 was. They don't have any evidence of that. And, again,
17 when Brittany came home she didn't see it either.

18 I'll point out that the state has mentioned several
19 times throughout the trial that Rodney when he talked to
20 the -- when he was at the hospital with the child, when the
21 child was being treated right after he was brought to the
22 emergency room, he didn't tell them that the child had
23 fallen out of the bed.

24 You heard Brittany Gentry tell you that the child fell
25 out of bed. She didn't tell the doctors that either. So

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1 what's good for the goose is good for the gander. Neither
2 one told the hospital that Minor fell out of bed.

3 Now, when -- when Rodney spoke to police, and what you
4 hear on the jail call, is not him saying that I pushed the
5 child so hard that I caused these injuries. And you'll --
6 you'll have the jail call. It's in evidence. You'll have
7 it with you if you need to listen to it again. It's very
8 hard to hear what's being said. But he never says I caused
9 those injuries when I pushed him out of the bed because I
10 pushed him so hard. He never says that.

11 He's asked why were you so angry that you pushed him,
12 and he says I didn't intend to, I just woke up, I pushed
13 him because he got up on the bed. He came in there and I
14 was like go back in there, you done peed on yourself, and I
15 pushed him, but I didn't push him hard. I pushed him and
16 he fell. That's what he says on that jail tape that
17 they're making a big deal about.

18 The one thing that he does say that I need to talk
19 about is that he says I didn't realize I pushed him that
20 hard until they told me that today. And that goes back to
21 what the investigator, Lorin Williams, told you and what
22 Investigator Gary told you, because when they were talking
23 to Rodney they told him that they knew that he killed this
24 child. They told him that he wasn't being honest with
25 them. They told him that he did it and he needed to

Closing arguments

1 cleanse his soul and admit that he had beaten this child,
2 that he had pushed this child so hard.

3 And Investigator Gary who has no medical training
4 explained to the defendant how a push could cause this kind
5 of injury, even a push off a bed. They told the defendant,
6 they told Rodney Samuels, that he had done this. But he
7 never himself thought that he had because all he did was
8 push the child off the bed.

9 He never said, as the prosecutor just said to you in
10 his closing argument, was that Rodney on the jail tape says
11 I pushed him harder than I thought. It's hard to hear
12 what's on that jail tape. And I listened to it. I didn't
13 hear that. I didn't hear him say that on that recording.

14 Now, the fact is that the medical testimony that you
15 hear supports a finding that Brittany is actually the one
16 that caused these injuries because of the timeframe,
17 because when she came home at 9:15 she didn't take the
18 child to the hospital for another hour. She was home with
19 that child for an hour before they brought them to the
20 emergency room.

21 You heard that they arrived at the emergency room at
22 10:24, and her testimony was that it took them
23 approximately ten minutes to get there. An hour she's at
24 home with this child who -- if the child was bleeding
25 internally the child's in an extreme amount of pain. The

Closing arguments

1 child is reacting. The child is exhibiting symptoms of
2 this horrible abuse. But she's saying nothing's wrong with
3 the kid, nothing's wrong with my son who's two. She didn't
4 take him to the hospital for an hour.

5 This distress that would have been caused by this
6 liver being lacerated and torn -- you saw the pictures --
7 it would have been evident to anybody, to a stranger, but
8 especially to mom who knows this child better than anybody
9 else.

10 Brittany also tells you that she's the last one that
11 saw the child conscious. But after she interacted, after
12 she had alone time with the child, that's when the child
13 then became unresponsive.

14 She said he wasn't crying. She wasn't -- he wasn't
15 curled up in pain. She wasn't concerned that anything was
16 wrong with him at that point. She just went about her
17 plans for the day. Take a shower. Go to mom's house.
18 Let's move along. Next thing.

19 Now, the prosecutor said that we're trying to pit two
20 people against each other. We're not trying to do that at
21 all. That's what this case is about. This case is about
22 two adults that could have done this offense, two adults
23 that had alone time with this child.

24 But we should talk a little bit about the
25 circumstances that we know them to be on January 4th, what

Closing arguments

1 they were.

2 We know from Rodney's testimony and from the
3 statements that he gave that he was laying in bed with his
4 infant child when Brittany left, that when -- after she
5 left the child walked in, Minor two years old, walked
6 into the room like he wanted to get up in bed. So Rodney
7 reached down to bring him up in bed. He felt a wet diaper,
8 let go, put out his hand, gave him a little push, don't get
9 up here, your diaper's wet.

10 That's not something that makes -- I mean, this is
11 common sense. Rodney's not angry about that. There's no
12 reason for him to be angry about it. This is just
13 something that he doesn't want in his bed. It's more of a
14 eww response. I just woke up. Eew. Don't get in my bed.

15 It's not you scream, that kind of thing. He's not
16 angry about it. He doesn't really have to deal with it.
17 He doesn't have to change the diaper; he doesn't have to
18 clean the clothes; he doesn't have to wash the bedding. He
19 just has to call mom.

20 There's no reason for him to be angry at the child,
21 and he told you that he wasn't. He just didn't want that
22 kid in his bed. He didn't want the wet diaper in his bed.

23 Of course it's not pretty, what he did. We would all
24 hope that when a 2-year-old walks in with a wet diaper that
25 we would change their diapers. That's the ideal situation.

Closing arguments

1 That's a 2-year-old. He's helpless. But it's not evidence
2 that he committed this crime.

3 You know, I admit it. He didn't do the best thing
4 there. But it's not evidence that he committed this crime.
5 He is presumed to be innocent of this crime, and that is
6 not proof beyond a reasonable doubt.

7 On the other hand, if you talk about the circumstances
8 on January 4th, think about Brittany's circumstances. She
9 has plenty of reason to be frustrated and angry with this
10 2-year-old. These are the circumstances that we should
11 consider.

12 She's told you that Minor two. She's trying to
13 get him potty trained. She's frustrated. She's the one
14 who has to change his diaper. She's the one who has to
15 wash the sheets and the clothes when they get wet. She's
16 the one who had to call up the child's father the day
17 before to ask for money for diapers. She's the one that
18 has to deal with this. She's the one that's frustrated and
19 angry.

20 All Rodney has to do is say, hey, Chris is hollering
21 for you in here. That's no reason for him to be mad.

22 She also testified that there's other things going on,
23 other circumstances that would add to her maybe losing her
24 temper, losing control when all of this is happening on
25 January 4th.

Closing arguments

1 She can't even leave for 20 minutes without her kid
2 needing her. She's overwhelmed. She's a single mother.
3 She has no support from **Minor** father except when she
4 calls him and asks for money for diapers. You didn't hear
5 anything about child support. You didn't hear anything
6 about visitation. She told you she asked him to take the
7 kid the night before. She's had it up to here. She's got
8 her hands full. It's just her and these two kids and one
9 on the way. She's got a lot to make her frustrated, a lot
10 to make her lose control.

11 And she's moving because she can't afford the rent.
12 Moving in the best of circumstances is stressful. But when
13 you're moving when you don't want to, when you're moving
14 you and two kids, when you've got a 2-year-old sleeping on
15 a bed that's been partially dismantled, you've got a lot
16 going on. You're frustrated. You're stressed out. And
17 she's maybe upset about having to move. She's got to move
18 back in with mom because she can't afford the rent.

19 Her oldest child -- you heard about these parental
20 responsibilities -- her oldest child already lived
21 somewhere else. So she's just got the two. When she
22 testified about her youngest, she didn't know the child's
23 age. She said it was four months old. It was seven months
24 old. It's a little thing, but it's, you know, mom not
25 knowing how old her child is.

closing arguments

1 The 2-year-old, he's in his terrible twos. And I'll
2 take a side note and mention that the prosecutor has just
3 told you that Brittany doesn't have the strength, the
4 physical strength, to have done these injuries. She's
5 carrying around a 2-year-old and an infant. She's lugging
6 around a car seat; she's lugging around a 2-year-old.

7 There's been no testimony about how much she weighs or
8 how much she can bench press. There's been no testimony
9 that she doesn't have the strength to do this.

10 She's a mother. She lifts up her kids. She has the
11 strength to do this, to have this force. If she loses
12 control, she has it in her.

13 We've also heard testimony that perhaps she's
14 frustrated with other things that are going in her life.
15 We've heard a lot of testimony that maybe she's kind of --
16 hasn't made decisions for herself. She's, you know,
17 that -- that when she wakes up in the morning someone else
18 tells her to go get a cigar, and she just goes.

19 I don't know why we're talking about that. Is it to
20 make Rodney sound like a bad guy? She didn't have to go.
21 Maybe she's doing him a favor. Maybe she gets bossed
22 around. It has nothing to do with the case, but it's
23 another fact.

24 When -- when the child is in distress, when the
25 child's not responsive, when C.P.R. isn't working, when

Closing arguments

1 we're spraying water on him, Rodney tells her not to call
2 9-1-1? She's the one that decided not to call 9-1-1. It's
3 not about Rodney. It's about her. But, again, it goes to
4 her state of mind.

5 When they're in the car going to the emergency room
6 with the child that's nonresponsive Rodney tells her to go
7 back inside. She's the one that went back inside. She's
8 the mom. She's an adult. She's a grown woman with three
9 children and one on the way. She's making her own
10 decisions here. Don't make that be about Rodney being a
11 bad guy. That's a woman who maybe has other things that
12 are frustrating her in her life.

13 And this morning, January 4th, she has plans. She
14 wants to go somewhere. When she comes back from the gas
15 station she's going to get the kids bathed. She's going to
16 get them up and out of bed. She's going to get them
17 dressed, get them showered. She's going to take a shower.
18 They're going to mom's house.

19 And you know what? This terrible 2-year-old who is
20 not a bad kid -- I don't mean terrible like he's a bad kid.
21 I mean, that's what they call terrible twos. He won't
22 stand up. She picks him to get him dressed, and he won't
23 put his feet down. He's acting up. He's frustrating her
24 plans. Just another circumstance, another reason, why
25 she's losing control.

Closing arguments

1 And, finally, I wanted to mention about Brittany, is
2 that she stood up here and she put her hand on the Bible.
3 She swore to tell the truth, the whole truth and nothing
4 but the truth, so help her God, and then she lied to you.
5 And some of those lies might not seem important, and maybe
6 they're not to what happened in this case. But what's
7 important about them is that she lies. Because once
8 someone lies, you can't believe what they say on the
9 important things.

10 She testified that when she -- that the night before
11 January 3rd she didn't pick up Rodney, she didn't drive him
12 to her house. But the officer said that earlier she said
13 that she had picked up Rodney and driven -- driven her --
14 him to her house.

15 It's a small fact. It's not relevant to what happened
16 to this kid. But it's -- maybe that's why it wasn't
17 rehearsed. Maybe that's why she didn't know what to say
18 when I asked her that question. Maybe that's why she lied.
19 She wasn't trained.

20 The other thing that I asked her about, she testified
21 on direct examination that the infant slept in the crib
22 that night. I brought her something, and I asked her some
23 questions about it, and she changed her story right here
24 before you from, no, he only partially slept in the crib
25 and partially slept in the bed.

Closing arguments

1 I kept asking her questions, and then she changed her
2 story again. Well, he slept in the bed. Small fact, not
3 relevant to the case, not rehearsed, a lie that you saw
4 evolve right before your eyes.

5 She testified on direct that she had checked on
6 Minor twice that morning, once when she got home from
7 the gas station and the second time after she got --
8 started the shower and was getting undressed and ready to
9 go.

10 But when I asked her questions about timelines and
11 other things that had happened, she got a little flummoxed
12 and changed her story. Now she checked on him three times.
13 Because she can't keep her stories straight. It's easy
14 when you tell it the same way over and over again. But
15 when you ask questions things get confused.

16 She told the police that she put water on Minor
17 when he was nonresponsive. But when I asked her about it
18 she said she didn't. And she didn't want to admit on the
19 stand that when she got home from the gas station she took
20 the covers off of Minor to get him up, that she got him
21 up.

22 She wanted to get him up to get him ready after she
23 got home from the gas station, and that when she got home
24 he was acting the same way when she left as when she
25 returned and that he was saying mommy. She didn't want to

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1 admit that on the stand, but the police officer told you
2 that that's what he told -- she told him when she was
3 interviewed in the hospital. She's changing her story
4 because she's got a guilty mind. She's the one that has
5 something to hide. She's the one.

6 So after I asked her a bunch of questions on
7 cross-examination she got a little confused. And on
8 redirect the prosecutor asked her a soft-ball question. He
9 said was the reason you're having a hard time remembering
10 what you told people because there was no much going in the
11 hospital, you were so emotional? But, as the saying goes,
12 you don't have to remember what you told people if you just
13 tell them the truth -- you don't have to remember what you
14 told people if you told them the truth.

15 And the prosecutor today in his closing argument said
16 when something that serious happens you're going to
17 remember what happened. That's the real truth. When
18 something that serious happens you're going to remember the
19 circumstances when your child died.

20 But now, again, she's just -- I'm sorry. The reason
21 that her story is changing is because she wants to make
22 sure that Rodney is the one that everybody is looking at.
23 She doesn't want the suspicion to fall on her, because if
24 you dig too deep in her story and her version of what
25 happened it doesn't look good for her.

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1 Now, again, in closing, at the beginning of this case
2 I told you what a tragedy this is, and it is. It's a
3 tragedy because a 2-year-old is dead. But what I'm trying
4 to avoid by talking to you and pointing out these
5 inconsistencies in Brittany's stories and the lack of
6 evidence on behalf of the state is I'm trying to avoid
7 another tragedy occurring, that the wrong guy gets
8 convicted of this offense. That would a second tragedy.

9 Now, if there were two chairs over here, if there was
10 another chair next to Rodney, if Brittany was sitting in
11 it, if it was your job to decide which person committed
12 this crime, Brittany or our client, Rodney, if you're
13 hesitating, if you can't decide, if you have doubts, then
14 Rodney is not guilty. Because she is not charged here
15 today. Rodney is charged here today, and he doesn't have
16 to prove to you that he didn't do it. The prosecutor has
17 to prove that he did it, and he alone, in that 20-minute
18 period beyond a reasonable doubt.

19 And as I told you before, the only verdict that the
20 evidence that you heard allows, the only fair and just
21 verdict in this case, is not guilty.

22 I'm going to leave you with a final thought. If
23 Rodney did this, these bruises that you saw, if Rodney beat
24 this child and bruised him on his front and on his back and
25 on his face, if Rodney did that to that child and caused

Closing arguments

1 that liver to be torn from front to back and bleed
2 internally, if Rodney did that there would have been no
3 one-hour between Brittany coming home and seeing that child
4 and then leaving for the hospital.

5 THE COURT: Mr. Barnette.

6 MR. BARNETTE: May it please the Court, Your Honor.

7 Here is the question I'm going to ask. Here's a
8 child, and you heard Dr. Wren. Like I said, you remember
9 the testimony the way you heard it, not the way it's been
10 characterized by me or the other party from here. But,
11 basically, Dr. Wren said 30 minutes in that situation that
12 these wounds occurred in. The bleeding would have
13 occurred, and everything from there.

14 Here's a situation where a lady checks on her child.
15 She goes to be take a shower. She finds him unresponsive
16 from that standpoint. She was the one gone. He was there
17 the whole time.

18 It happened that morning, ladies and gentlemen. To
19 say it happened the night before, day before, there's no
20 way, not with the amount of blood, the lacerations he had
21 and everything else from that standpoint.

22 You talk about credibility. Here's a man that would
23 not tell anybody about what he did. He had three different
24 chances at least that we know of -- E.R., coroner's office,
25 as well as the sheriff's department until they finally

Jury charge

1 confronted him.

2 But listen to the jail call. There's a man that
3 really -- he don't care. It wasn't his kid. He was a
4 nuisance that morning when he walked in to him, and he took
5 care of that nuisance. He may not know how hard he hit him
6 that day, but he hit him pretty hard, and the evidence
7 shows that. And to say that Brittany did this with him in
8 the apartment, with all the evidence that we've got here.
9 And the evidence in this confirms what she said. It
10 doesn't confirm what he said.

11 And, ladies and gentlemen, this is the evidence that
12 will leave you firmly convinced the gentleman that did that
13 is the man sitting right over there. Thank you very much.

14 THE COURT: You can turn off that machine, please.

15 MR. BARNETTE: Yes, sir.

16 THE COURT: Does any juror need a break before I
17 provide you with the instruction?

18 (No response.)

19 THE COURT: Mr. Foreman and ladies and gentlemen of
20 the jury, you of course have heard and seen all of the
21 evidence in the case. You've now heard the final
22 summations of the lawyers.

23 So I'm going to instruct you now on the law that's
24 applicable in the case, and then you'll be asked to go back
25 and to begin with your deliberations. And through that

Jury charge

1 process you'll examine the evidence, decide the facts as
2 they relate to these allegations, apply the law and arrive
3 at a fair and impartial decision, whatever that decision
4 may be.

5 It is your exclusive prerogative to determine what the
6 facts are, and you do that based upon your own common sense
7 examination and evaluation of all of the testimony and
8 other evidence received during the course of the trial.

9 You 12 jurors alone will decide what weight, value and
10 effect to give to any particular witness' testimony or
11 other evidence in the case. Your sole objective and
12 obligation is to render a fair and impartial decision after
13 your consideration of the evidence in the case and then
14 your application of the law as I will have provided it to
15 you.

16 The same law that provides that you are the judges of
17 the facts also provides that I am the judge of the law.
18 And that simply means that nobody's going to tell you how
19 to arrive at your determination of fact in this case. As I
20 told you, you do through the exercise of good judgment and
21 common sense conscientiously applied to the testimony and
22 evidence received during the course of the trial.

23 Under your oath as a juror you must however accept the
24 law as I provide it to you as being the law that you are to
25 apply in the case. In other words, you're not to concern

Jury charge

1 yourself with what you thought the law was before you came
2 to serve as a juror this week or what you think the law
3 ought to be.

4 Under your oath you must accept the law as I provide,
5 it to you as being the law that you are to apply in the
6 case. And then you simply take that law and you apply it
7 to the facts as you 12 jurors determine those facts to be
8 based upon your common sense examination and evaluation of
9 the evidence in the case.

10 Now, in this case, as you know, the defendant has been
11 accused by the prosecutor with having committed the crime
12 of homicide by child abuse or neglect.

13 The allegations setting forth that charge are
14 contained in the document called the indictment which I
15 referred to prior to and after your selection in the case.
16 As I told you, the indictment will be in the jury room, but
17 it is there only to serve as the verdict form. And it
18 serves no other purpose so far as you jurors are concerned.
19 It's not evidence of anything and it's not proof of
20 anything. But it will serve as the verdict form.

21 Now, as to the allegations set forth in the indictment
22 and the charge contained therein the defendant has entered
23 a plea of not guilty. And that plea of not guilty has
24 therefore placed upon the state the burden of proving the
25 allegations that they have made by way of the indictment,

Jury charge

1 the burden of proving each of the essential elements of the
2 crime they allege this defendant has committed; and
3 therefore the burden is upon the state to establish the
4 defendant's guilt to the satisfaction of you 12 jurors
5 beyond a reasonable doubt before any verdict of guilty
6 could be returned.

7 The burden is never upon a defendant or a person
8 accused of a crime to prove that they are not guilty or to
9 prove that they are innocent because in some cases that
10 might not be possible.

11 You are instructed that it is a vital, important and
12 cardinal rule of law that every defendant in a criminal
13 trial, no matter how serious the offense might be for which
14 that person stands charged, that person shall always be
15 presumed innocent of that charge. And that presumption of
16 innocence remains with any defendant, as it does with this
17 defendant, from the time that he is placed under arrest and
18 throughout the course of the criminal process and even
19 throughout the course of the actual trial.

20 And as I've told you, that presumption of innocence
21 will be with Mr. Samuels even as go back into your jury
22 room to begin with your deliberations at this trial's
23 conclusion. And that presumption of innocence will be with
24 him in that jury room, and it'll be with him forever unless
25 you 12 jurors determine that he's no longer entitled to

Jury charge

1 that presumption of innocence.

2 In other words, after you have carefully considered
3 all of the evidence in the case, and from that evidence you
4 determine what you believe to be the facts as they relate
5 to the allegations, and after deciding those facts you
6 apply the law that I will have provided you, if you 12
7 jurors unanimously determine that his guilt has been proven
8 beyond a reasonable doubt, then he would no longer be
9 entitled to that presumption of innocence. But it is only
10 if, unless and until you are satisfied of his guilt beyond
11 a reasonable doubt that the presumption of innocence would
12 no longer be applicable.

13 Now, as I told you, you are the sole judges of the
14 facts in this case. You are therefore necessarily the sole
15 judges of the credibility, that is the believability, of
16 each witness that has testified during the course of this
17 trial.

18 You 12 jurors alone will decide what weight, value and
19 effect to give to any particular witness' testimony, or
20 even portions of that testimony. But there are a number of
21 factors which you should consider in arriving at your
22 assessment as to a particular witness' credibility, and I'm
23 going to list those factors for you.

24 You should consider the demeanor of the witness, that
25 is how the witness appeared to you when the witness was

Jury charge

1 testifying from that witness stand. Was the witness
2 straightforward in responding to questions or was the
3 witness hesitant or evasive in responding to questions that
4 were asked of the witness. Simply put, did the witness
5 appear to you to be telling the truth and to have knowledge
6 of the facts to which that witness has testified.

7 You should also consider whether or not the testimony
8 of a witness is consistent, or is it inconsistent, with
9 that witness' own testimony provided in court and also
10 considering any testimony or statement that that same
11 witness made outside of court and whether or not the
12 testimony of a witness is consistent or is it inconsistent
13 with other witnesses' testimony or other evidence received
14 during the course of the trial.

15 You should also consider how the witness came to know
16 the facts to which that witness has testified. In other
17 words, what was that witness' opportunity and ability to
18 perceive the existence of those facts to which that witness
19 has testified by having previously used his or her senses,
20 and then what is the ability of that witness to be able to
21 accurately recollect to you as to what they have previously
22 perceived by coming into court and providing that testimony
23 as to something they have previously experienced or
24 witnessed.

25 You should also consider any bias or prejudice or

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1 interest that you find a witness might have with respect to
2 a case. In other words, do you find some reason that a
3 particular witness would come into court and would testify
4 one way or another to help or hurt one side or the other.
5 And you may consider any interest that a witness might have
6 in the outcome of the case if you determine that that
7 witness does have such an interest and you find that that
8 interest would bear upon that particular witness'
9 credibility.

10 And you may also consider whether or not the testimony
11 of a witness is strengthened, or is it weakened by other
12 testimony or other evidence received during the course of
13 the trial.

14 Now, you as the finders of the fact and you as the
15 judges of the credibility of each witness that have
16 testified during this trial are permitted to believe as
17 much or as little of what a witness has testified to as you
18 deem is appropriate. And therefore you may believe
19 everything that a witness testified to. You may choose to
20 believe none of it. You may believe some portion of a
21 witness' testimony and reject some other portion of that
22 same witness' testimony.

23 You may believe one witness as opposed to several, or
24 several as opposed to one. But whatever your good judgment
25 and common sense tells you is the most believable and

Jury charge

1 credible testimony is the testimony you should accept, and
2 you should reject any testimony or other evidence that you
3 find not to be credible or believable.

4 Again, your sole objective and obligation in this case
5 is to render a fair and impartial decision based upon the
6 evidence presented and the law that's applicable as I will
7 have provided it to you.

8 Now, the state does have the burden of proving the
9 defendant's guilt to your satisfaction beyond a reasonable
10 doubt. That doesn't mean that the state has to prove his
11 guilt beyond all doubt or beyond any possible doubt, but it
12 does require the state to prove his guilt to your
13 satisfaction beyond a reasonable doubt.

14 The term reasonable doubt should be given its plain
15 and ordinary meaning. A reasonable doubt is the kind of
16 doubt that would cause a reasonable person to hesitate to
17 act upon the information provided.

18 The defendant is entitled to any reasonable doubt that
19 arises from the evidence or lack of evidence in a case, and
20 if, upon any factual issue essential to a finding of a
21 verdict of guilty, you have some reasonable doubt as to how
22 that issue should be resolved, it would be your duty to
23 resolve that reasonable doubt in favor of the defendant.

24 Now, while there are various forms of evidence such as
25 testimony, photographs, documents, charts, videos, audios

Jury charge

1 and other types of physical exhibits, there are really only
2 two types of evidence, either or both of which in
3 combination may be used to prove any fact in issue. But
4 the two types of evidence are direct evidence and
5 circumstantial evidence.

6 Direct evidence is the testimony of a person who
7 testifies from actual knowledge of that fact. It is
8 testimony by a person who has perceived the existence of a
9 fact by means of his or her senses and then they come into
10 court and they testify as to what they have previously
11 perceived.

12 Circumstantial evidence, on the other hand, is the
13 proof of some other fact or set of facts which taken either
14 singly or collectively may prove the existence of a fact in
15 question as a necessary consequence, that is through an
16 inference.

17 And inference is simply a deduction of fact which may
18 logically and reasonably be drawn from the proof of some
19 other fact or set of facts. It is a fact not proven by the
20 direct testimony of a witness based upon their personal
21 perception, but it is a conclusion which might reasonably
22 be drawn from the proof of other facts.

23 In other words, you may infer that a particular event
24 occurred or that a particular fact exists based upon the
25 proof of sufficient factual circumstances which would

Jury charge

1 reasonably warrant your arriving at a particular
2 conclusion.

3 The commission of a crime and any particular element
4 necessary to prove the commission of that crime may be
5 proven by direct evidence or circumstantial evidence or by
6 a combination of both direct and circumstantial evidence.

7 Please understand that the law makes no distinct
8 the weight or value to be given to direct evidence or
9 circumstantial evidence. However, to the extent that the
10 state relies upon circumstantial evidence to establish the
11 commission of a crime all of the circumstances proven must
12 be consistent with each other and when taken together point
13 conclusively to the guilt of the accused beyond a
14 reasonable doubt.

15 If these circumstances merely portray the defendant's
16 behavior as suspicious, then proof is insufficient and it
17 fails. The burden rests with the state to prove the
18 defendant's commission of a crime beyond a reasonable doubt
19 regardless of whether the state relies upon direct evidence
20 or circumstantial evidence or some combination of both
21 types of evidence in order to prove the defendant guilty
22 beyond a reasonable doubt.

23 Proof beyond a reasonable doubt is proof that leaves
24 you firmly convinced of the defendant's guilt. There are
25 very few things in this world that we know with absolute

Jury charge

1 certainty, and in criminal cases the law does not require
2 proof that overcomes every possible doubt.

3 If, based upon your consideration of the evidence, you
4 are firmly convinced that the defendant is guilty of the
5 crime with which he has been charged, then you must find
6 him guilty of that crime. And if, on the other hand, you
7 think there's a real possibility that the defendant is not
8 guilty of the crime with which he is charged, then you must
9 give him the benefit of that reasonable doubt and find him
10 not guilty.

11 Now, in this case, as you know, the defendant is
12 charged with homicide by child abuse. Homicide by child
13 abuse is a statutory offense. That just means it's
14 contained in one of these blue volumes.

15 Every year from January to June the legislature meets
16 in session. They're meeting right now. And they pass
17 various laws and rules and regulations that govern our
18 conduct in a variety of ways. Some of those laws are
19 criminal-penalty statutes, and that just means that the
20 legislature defines a crime.

21 where a person is found to have engaged in that
22 prohibited behavior in violation of the statute, then it
23 subjects that person to some form of punishment or penalty
24 for having engaged in that prohibited conduct.

25 Please understand, however, that you are never to be

Jury charge

1 concerned with any consequence or punishment that might
2 result from any decision that you make. Your sole
3 obligation and duty in this case is to determine whether or
4 not the evidence in the case establishes the defendant's
5 guilt to your satisfaction beyond a reasonable doubt. And
6 you are to do that without any consideration being given to
7 any consequence of that decision.

8 The statute which defines the crime of homicide by
9 child abuse is set forth in 16-3-85 of the Code of Laws of
10 South Carolina. And that particular code section in its
11 relevant and pertinent parts provides that a person is
12 guilty of homicide by child abuse if the person causes the
13 death of a child who is under the age of 11 years while
14 committing child abuse or neglect and the death occurs
15 under circumstances manifesting an extreme indifference to
16 human life.

17 I am going to read that again for you.

18 A person is guilty of homicide by child abuse if the
19 person causes the death of a child who is under the age of
20 11 years while that person is committing child abuse or
21 neglect and the death occurs under circumstances
22 manifesting an extreme indifference to human life.

23 There's an additional section that provides for
24 certain definitions of those terms, and I'm going to read
25 those for you.

Jury charge

1 The term child abuse or neglect means an act or an
2 omission by any person which causes harm to a child's
3 physical health or welfare.

4 And the term harm to a child's physical health or
5 welfare means the infliction of physical injury upon a
6 child, and it also has to include and be accompanied by
7 circumstances indicating an extreme disregard for human
8 life or extreme indifference to human life.

9 The term extreme indifference to human life refers to
10 the deliberate commission of an act or failure to act with
11 a conscious indifference to the probable consequences of
12 the act or omission which culminates in the death of
13 another human being. It may be further described as the
14 intentional commission of an act or a failure to act with a
15 conscious indifference to any risk created thereby which
16 culminates in the death of another person.

17 You are further instructed that proof of mere presence
18 of the defendant at or near a location where a crime is
19 committed is not sufficient by itself to prove the
20 defendant guilty of that crime, nor does the mere
21 association with another person who commits a crime make a
22 person guilty of the crime committed by that other person.

23 In order for a person to be convicted of a crime it
24 must be proven that the person committed the crime or
25 participated in its commission.

Jury charge

1 If, after your review of the evidence presented in
2 this case, you determine that the state has only proven
3 that the defendant was merely present at or near a place
4 where a crime was committed by someone but the state has
5 failed to prove that the defendant actually completed the
6 crime, then you must find the defendant not guilty; and
7 therefore before you may find the defendant to be guilty of
8 the crime of homicide by child abuse in the context of this
9 case it would be necessary that the evidence in this case
10 establishes to your satisfaction beyond a reasonable doubt
11 the following three essential elements:

12 First of all, it must be established that the
13 defendant did deliberately or intentionally commit some act
14 under circumstances revealing an extreme indifference to
15 human life; and, secondly, that the act or omission caused
16 physical injury to a child under the age of 11 years; and,
17 thirdly, that the physical injury culminated in the death
18 of the child.

19 I'll review those three essential elements again for
20 you.

21 Firstly, that the defendant deliberately or
22 intentionally committed an act under circumstances
23 revealing an extreme indifference to human life; secondly,
24 that the act caused physical injury to a child under the
25 age of 11 years; and, thirdly, the physical injury

Jury charge

1 culminated in the death of that child.

2 Now, Mr. Foreman and ladies and gentlemen, I am not in
3 any way concerned with what your verdict is, but I do
4 instruct that the verdict must be unanimous. All 12 of you
5 must be in agreement. And your verdict must be one which
6 is rendered fairly and impartially and based upon the
7 evidence received during the trial and the law that's
8 applicable as I will have given it to you. And you must
9 not allow your decision to be swayed by mere sentiment,
10 conjecture, sympathy, passion, prejudice or caprice.

11 Now, ladies and gentlemen, during your deliberations
12 there may come a time where you have a question about the
13 evidence in the case. You may even wonder if there's
14 something else out there that you could have in order to
15 help you arrive at your decision.

16 Please understand that all of the evidence to be
17 introduced in the trial of this case has been introduced.
18 No other evidence can be received now that you are going
19 back to begin with your deliberations. So if you don't --
20 if something was not introduced but you think it's out
21 there and might be helpful, don't ask about it, because I
22 couldn't provide it to you even if it did exist.

23 The evidence is closed now, and so no additional
24 evidence can be received. The lawyers will review all of
25 the exhibits which have been introduced, and so hopefully

Jury charge

1 all of those -- all of the exhibits which have been
2 introduced will be sent back to the jury room for your
3 consideration.

4 If you think there was something that was introduced
5 but you don't believe you have it back in the jury room,
6 you can let me know of that fact. And if it was
7 introduced, we'll be certain to locate it to provide it for
8 your benefit. But all the exhibits should be there.

9 If you have a question about testimony of a witness, I
10 don't have transcripts of the witnesses' testimony. But if
11 you would like to have a witness' testimony replayed in
12 whole or in part, that can be permitted. We'll have to
13 bring you back into the courtroom to have that testimony
14 replayed. So if there comes a time where you'd like to
15 have a witness' testimony reheard, simply let me know of
16 that fact, and we'll bring you back to have that witness'
17 testimony replayed.

18 If at any time you need a reinstruction or a
19 clarification or an additional explanation as it relates to
20 the law that I've provided you, I am permitted to answer
21 those questions. So if you need an additional instruction,
22 reinstruction, clarification or explanation of the law,
23 please let me know of that fact, and I'll be happy to bring
24 you back to provide you with that additional information.

25 I don't know if we have any smokers on the jury. But

Jury charge

1 if we do, you can't smoke in the courthouse, but you can
2 smoke outside the courthouse. So during deliberations if
3 you decide you want to smoke, let the bailiff know, and he
4 or she will take you outside. But you are instructed that
5 if any juror is absent for any authorized purpose the
6 deliberations must stop while that juror is absent for some
7 authorized reason. And those deliberations may only be
8 resumed when all 12 jurors are present in the jury room so
9 that all may participate in those deliberations.

10 Mr. Foreman, if at any time you need to direct some
11 question, comment or you have some issue that you need to
12 address with me, if you'll write it on a piece of paper,
13 give it to the bailiff, he or she will provide it to me,
14 and I'll respond accordingly as might be needed.

15 I think that covers everything, but if it doesn't I'm
16 sure one of these lawyers will remind me that I neglected
17 to provide you with some information. And if I agree and I
18 think I need to, I'll bring you back in order to provide
19 you with that information. If I don't need to bring you
20 back, I'll send word by way of the bailiff that you may
21 begin with your deliberations. In that event he or she
22 will bring to the jury room all of the exhibits which have
23 been admitted.

24 And to you, Mr. Foreman, he'll also bring the
25 indictment which will serve as the verdict form.

Jury charge

1 There are two potential verdict forms in this case.
2 Those two verdict forms are guilty and not guilty. So
3 whatever that decision is, Mr. Foreman, you'll see when you
4 get this in the lower left-hand corner of the back of the
5 indictment, you'll see the word verdict. And it's beneath
6 that word that you'll indicate the jury's unanimous
7 decision, whatever it is.

8 And there's also a place for you to sign your name as
9 the foreperson. You're the only juror that needs to sign
10 the verdict form. And also place the appropriate date,
11 which today is the 14th in case y'all weren't reminded
12 about that at some point during the course of the day.

13 There are some audio C.D.s, whatever you call them.
14 Those will be coming back too, and they'll be accompanied
15 by a computer so that you can play them and the videos too.

16 I think you should be able to figure that out. But if
17 you can't, you let me know, and I'll get one of my
18 grandchildren to come down here and look at it because I
19 can't help you with it. But we'll get somebody who can if
20 you can't work it.

21 All right. I'm going to ask the two alternate jurors
22 to remain in the courtroom with me. The 12 primary jurors
23 please go with a bailiff to a jury room but await my
24 instructions as to when to begin.

25 (Whereupon, the jury retired to deliberate at

Jury charge

1 3:14 p.m.)

2 THE COURT: Mr. Green and Mr. Owens, you are not
3 permitted to participate now in those deliberations, but I
4 don't know what might happen during the course of
5 deliberations or how long they might take. And if one of
6 these jurors were to become ill or some emergency would
7 arise that would prevent them from continuing to
8 deliberate, one or both of you could be called upon to
9 become the 12th juror. So while you're not going into the
10 jury room with those 12 jurors, you will be going into a
11 separate room together to wait while this jury is
12 deliberating.

13 You cannot talk about the case. You're not permitted
14 to discuss the case while you're there, but you can talk
15 about anything else you want to. And they might even take
16 you down to the jury assembly room where you can watch
17 television if there's anything on daytime T.V. that you
18 care to look at.

19 Anyway, they'll provide a separate room for you two.
20 But just don't discuss the case. And when this jury is
21 brought back for any purpose, you'll be brought back also.

22 Okay. Thank you again for your participation.

23 (Whereupon, the alternate jurors were excused from the
24 courtroom.)

25 THE COURT: Are there any exceptions taken to the

Jury charge

1 instruction or requests for additions to the instruction by
2 the state?

3 MR. BARNETTE: May we approach the bench for a second,
4 Your Honor?

5 (Bench conference held off the record.)

6 THE COURT: Let me ask y'all to verify the exhibits.
7 You have got a computer?

8 MR. BARNETTE: There may be an issue. The audio-video
9 won't be an issue, but the other two could be kind of
10 challenging, so I don't know.

11 MS. SODERDAHL: Videos about the Lee's Crossing.

12 MR. BARNETTE: They could be challenging.

13 THE COURT: We will send them back. I told them if
14 they have some issue -- and I'll have the bailiff remind
15 them -- but if they have some issue with it let us know.

16 MR. BARNETTE: Yes, sir.

17 (Pause.)

18 THE COURT: All of the exhibits are accounted for?

19 MS. SODERDAHL: Yes.

20 MR. BARNETTE: Yes, sir.

21 Just for the record, there's Exhibit 32, which is cell
22 phone calls. We had stipulated that was in. I thought
23 that was on the record. Just to double check to make sure.

24 (List of text messages marked State's Exhibit No. 32.)

25 THE COURT: All right. Send all the exhibits back and

1 tell the jury to begin deliberations and notify us when
2 they have concluded.

3 Oh, and also tell them if they have any issue or
4 problem with the video or audios and the computer to let us
5 know, let you know, and we'll help them with it.

6 we'll be at ease while the jury is deliberating.

7 (Whereupon, a recess was taken.)

8 (Question from the jury -- answered and returned to the
9 jury marked Court's Exhibit No. 4.)

10 THE COURT: The jury has requested to come back in the
11 morning to resume their deliberations, so I'm going to
12 permit that.

13 Bring them in, please.

14 (Question from the jury marked Court's Exhibit No. 5.)

15 (Whereupon, the jury and the two alternate jurors
16 returned to the courtroom at 5:23 p.m.)

17 THE COURT: Mr. Foreman, I have your note wherein you
18 and your fellow jurors have requested to recess for today
19 and resume deliberations in the morning. Is that correct?

20 THE FOREMAN: Yes, Your Honor.

21 THE COURT: Okay. We'll do that.

22 I'll ask you to please report to your jury room at
23 9:00 o'clock in the morning. Is there any reason anyone
24 cannot be here by 9:00 o'clock in the morning?

25 (No response.)

1 THE COURT: All right. Apparently all can.

2 So you are excused for the afternoon. Keep in mind
3 you still cannot discuss the case among yourselves or with
4 anyone else.

5 You can't allow yourselves to be exposed to any type
6 of media coverage that might relate to the case. And
7 you're not to conduct any research or do your own
8 investigation into any issue that has arisen during the
9 trial.

10 You may resume your deliberations in the morning when
11 all 12 jurors are present. The bailiff will inform me once
12 all 12 jurors are present, that he or she will let me know
13 that you are present. They'll take you to the jury room,
14 and then you can begin with your deliberations.

15 Do you have notes or other papers that you have been
16 using in the jury room?

17 THE FOREMAN: No, sir. The exhibits are there.

18 THE COURT: Okay. But you don't have any writing that
19 you've written yourself or any other juror while you've
20 been deliberating.

21 THE FOREMAN: Other than what we have sent to you.

22 THE COURT: Just the notes.

23 THE FOREMAN: That is correct.

24 THE JUROR: What about the slips in there?

25 THE FOREMAN: We took a confidential vote.

1 THE COURT: All right. Well, I don't want to know
2 about that but -- but if that -- if those papers are in
3 there I want you to -- we'll need to put those in an
4 envelope, and I'll seal that up so nobody will be looking
5 at that other than you.

6 THE FOREMAN: Yes, sir.

7 THE COURT: Okay. All right. Let me ask the jurors,
8 the 12 primary jurors, to go back to the jury room with the
9 bailiff.

10 The clerk will bring an envelope. Don't put the
11 evidence in the envelope, but anything that you or your
12 fellow jurors have generated during deliberations on
13 pads -- notes, counts, votes, whatever it is -- put those
14 in that envelope and seal it up. And then you'll be given
15 it -- it will be given back to you in the morning.

16 Okay. So you can go back to your jury room right now
17 to do that, and then I'll bring you back shortly.

18 (The following takes place outside the presence of the
19 jury.)

20 THE COURT: You can take those two back somewhere too,
21 and then we will bring them back shortly.

22 (Pause.)

23 (Whereupon, the jury and the two alternate jurors
24 returned to the courtroom at 5:35 p.m.)

25 THE COURT: All right. Mr. Foreman, you've put all of

1 the items generated during deliberations into the envelope.

2 THE FOREMAN: Yes, sir.

3 THE COURT: And you sealed it.

4 THE FOREMAN: Yes, sir.

5 THE COURT: Okay. Keeping in mind the cautions that
6 I've previously given you, have a good evening.

7 Please report to your jury room at 9:00 o'clock in the
8 morning, 9:00 o'clock in the morning. Have a good evening.

9 well, you'll all be reporting to the jury assembly
10 room, and from there they'll bring the 12 primary jurors to
11 the jury room and the two alternates to a separate room.

12 So when you return, as I've already stated when you
13 return, to the jury assembly room there's to be no
14 discussions about the case or about your deliberations.
15 Okay. You can only do that once you've reached the
16 deliberation room.

17 Okay. Have a good evening. See you in the morning at
18 9:00 o'clock.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: Court in recess until 9:00 o'clock in the
22 morning.

23 END OF PROCEEDINGS FEBRUARY 14, 2017
24
25

Verdict

1 (Proceedings February 15, 2017)

2 (Whereupon, all jurors returned to the jury room and
3 the exhibits were submitted to the jury at 9:08 a.m.)

4 (The following takes place outside the presence of the
5 jury.)

6 (Whereupon, a recess was taken.)

7 MR. BARNETTE: Your Honor, if I can have one second.

8 (Pause.)

9 THE COURT: All right. I am told the jury has reached
10 a decision.

11 Are we ready to receive it?

12 MR. BARNETTE: The state's ready, Your Honor.

13 MS. SODERDAHL: We are, Your Honor.

14 THE COURT: Bring the jury in, please.

15 (Whereupon, the jury returned to the courtroom at
16 10:00 a.m. to report its verdict.)

17 THE COURT: Good morning, ladies and gentlemen.

18 Mr. Foreman, have you and your fellow jurors reached a
19 unanimous decision?

20 THE FOREMAN: Yes, Your Honor, we have.

21 THE COURT: And have you reflected that decision on
22 the back of the indictment as requested?

23 THE FOREMAN: Yes, Your Honor.

24 THE COURT: Did you sign your name as the foreperson
25 and date it?

Verdict

1 THE FOREMAN: Yes, Your Honor.

2 THE COURT: All right. If you will, please hand that
3 verdict form up by way of the bailiff.

4 You may publish the verdict.

5 THE CLERK: In the Court of General Sessions, Case
6 No. 2015-GS-42-1656, the State vs. Rodney O'Bryant Samuels,
7 indictment for homicide by child abuse or neglect, the
8 verdict is guilty. This has been signed and dated by the
9 foreperson.

10 Ladies and gentlemen of the jury, if this is your
11 verdict and still your verdict, please raise your right
12 hand.

13 (Whereupon, all responded in the affirmative.)

14 THE CLERK: So say you all.

15 THE COURT: Does the defendant wish to have the jury
16 polled?

17 MR. SUMNER: Yes, sir.

18 THE COURT: All right. Poll the jury, please, ma'am.

19 THE CLERK: Ladies and gentlemen of the jury, I will
20 pose a question to you, after which I will call your name
21 individually and ask you to stand and answer my question,
22 the question being is this your verdict and still your
23 verdict.

24 No. 63.

25 THE JUROR: It's still my verdict.

Verdict

1 THE CLERK: Thank you.
2 No. 83.
3 THE JUROR: Still my verdict.
4 THE CLERK: No. 51.
5 THE JUROR: Still my verdict.
6 THE CLERK: No. 134.
7 THE JUROR: Still my verdict.
8 THE CLERK: No. 28.
9 THE JUROR: Still my verdict.
10 THE CLERK: No. 93.
11 THE JUROR: Still my verdict.
12 THE CLERK: No. 169.
13 THE JUROR: That's still my verdict.
14 THE CLERK: No. 123.
15 THE JUROR: Still my verdict.
16 THE CLERK: No. 20.
17 THE JUROR: Still my verdict.
18 THE CLERK: No. 163.
19 THE JUROR: Still my verdict.
20 THE CLERK: No. 49.
21 THE JUROR: Still my verdict.
22 THE CLERK: No. 52.
23 THE JUROR: Still my verdict.
24 THE CLERK: Your Honor, the jury has been polled.
25 THE COURT: Are there any other matters that need to

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1 be addressed with the jury present?

2 MR. BARNETTE: None from the state, Your Honor.

3 MS. SODERDAHL: None from the defense, Your Honor.

4 (Whereupon, the trial jury was excused.)

5 MS. SODERDAHL: Your Honor, may it please the Court.

6 At this time I just want to make sure that the
7 issue -- I'm sorry -- make sure that the issue is preserved
8 for appeal. I do want to renew my motion for a directed
9 verdict at this time, and I would rest on the argument that
10 I made at the time of the directed verdict.

11 THE COURT: All right. As I recall, you made that
12 motion yesterday and I denied it.

13 MS. SODERDAHL: Thank you.

14 THE COURT: All right. Any other matters to be
15 addressed prior to the imposition of sentence?

16 MR. SUMNER: None from the defense.

17 (Defendant's rap sheet marked Court's Exhibit No. 6;
18 magistrate printout marked Court's Exhibit No. 7.)

19 MR. BARNETTE: Your Honor, I do have two exhibits I've
20 shared with the defense. They received this in discovery,
21 Your Honor. State's Exhibit 6 is actually the rap sheet of
22 the defendant, Your Honor. I'd like to read his prior
23 record at the appropriate time.

24 THE COURT: Okay.

25 MR. BARNETTE: And Court's Exhibit 7 is also a

Sentence

1 conviction from magistrate court for domestic violence that
2 I'll be handing up. That was both provided to the defense,
3 so.

4 MR. SUMNER: We received them and have that,
5 Solicitor. Thank you.

6 MR. BARNETTE: I'd like to just read the record at the
7 appropriate time, Your Honor.

8 THE COURT: Okay. Now is the time.

9 MR. BARNETTE: Okay. Thank you, Your Honor.

10 His prior record: 2006, he had a possession of
11 marijuana offense, Your Honor; 2010, Your Honor, he had a
12 D.U.I., D.U.S. and failure to stop; 2010, he had another
13 D.U.S.; 2011, D.U.S. third conviction at that time; 2011,
14 another D.U.I., Your Honor; 2012, another failure to stop;
15 2013, driving under suspension and loitering to engage in
16 drug activity conviction; in 2014, Your Honor, he pled
17 guilty to domestic violence, Your Honor. I marked that as
18 Court's Exhibit 7, Your Honor. This is -- the violation
19 date was on February the 23rd of 2014. He pled guilty to
20 it on October 7th of 2014 in front Judge Wall, Your Honor.
21 It's a domestic violence on the victim -- the victim's
22 mother in this case, Brittany Gentry, Your Honor. He had
23 pled guilty and had been sentenced on that too, Your Honor.
24 I'd like to pass that up with the rap sheet, Your Honor, at
25 this time. May I approach the bench?

Sentence

1 THE COURT: Uh-huh.

2 Does the -- does the defendant dispute any of the
3 convictions the solicitor just recited?

4 MR. SUMNER: No, sir.

5 THE COURT: Okay. Anything further on behalf of the
6 state?

7 MR. BARNETTE: Your Honor, I spoke to the victim's
8 family in this case. They do not want to address the
9 Court. They feel like the Court has heard all the evidence
10 in the case and understands it and just ask the Court for
11 justice in this case.

12 THE COURT: Okay. Mr. Sumner.

13 MR. SUMNER: Your Honor, may it please the Court --
14 Solicitor Barnette -- Mr. -- Your Honor, Mr. Samuels is 27
15 years of age. He's a Spartanburg County resident.

16 As I'm sure you noticed throughout the trial, he has a
17 wonderful family. They're extremely supportive. They have
18 been fine to work with. They are a very, very good quality
19 group of people -- his family. They've been here, and
20 certainly I know the family that Mr. Barnette has
21 represented has been here throughout the course of the
22 trial as well.

23 It's -- I want to make sure that I put on the record
24 what a pleasure it's been to work with them and how much
25 support they have shown Rodney throughout this whole

Sentence

1 process as he's been in jail and throughout the course of
2 the trial.

3 Judge, Rodney has been in jail since January 6th of
4 2015. while in jail he did complete the Work to Keys
5 certificate which is a qualification mechanism, I believe,
6 for work, technical work, and that type of thing -- trade
7 oriented things.

8 He -- both of his parents work at Michelin. He has
9 attended Evangel Cathedral in Spartanburg for many years
10 prior to his incarceration. And we would just ask for you
11 to be as merciful as you feel like you can be. This was
12 clearly a tragic situation.

13 I agree with Solicitor Barnette that there really
14 isn't anything Ms. Soderdahl and I can add. I think
15 everything came out during the course of the trial in terms
16 of the facts of this case. So there's really nothing I can
17 add on that point.

18 I wanted to give you -- Ms. Soderdahl and I wanted to
19 give you the background of his family. They're wonderful
20 people, hardworking people. And as much background as we
21 could on Mr. Samuels.

22 Is there anything you feel like I haven't covered?

23 THE COURT: There's a -- I need an address on that
24 sheet. There's some blanks on that sentencing sheet.

25 (Pause.)

Sentence

1 MR. SUMNER: All right. I filled that in, Judge.
2 That was his address prior to his arrest on this charge,
3 and he is not -- of course, as you know, he has not been
4 out on bail or anything.

5 THE COURT: All right. Ms. Soderdahl, do you have
6 anything you want to add?

7 MS. SODERDAHL: I would just add, Your Honor, that I
8 also met with Mr. Samuels and his family numerous times
9 during the course of this case and its investigation, and
10 they've been nothing but pleasant to work with. I never
11 had any problems dealing with any of the family members.
12 The Samuels have always been respectful to me. I ask that
13 you be lenient in your sentencing.

14 THE COURT: All right. Mr. Samuels, do you have
15 anything you'd like to add to what your lawyers have told
16 me?

17 THE DEFENDANT: Throughout my two years being here it
18 has been rough. But I strengthened myself through God's
19 word, and he kept me strong. Until my day of me being
20 deceased I will stay strong and uphold God. And I want to
21 tell you thank you for representing and being the judge.
22 And I just want to let everyone know here no matter what
23 happens I love them because that's what God intended us to
24 do. And I thank you for hearing me out, sir.

25 THE COURT: Okay. On Indictment 2015-1656, an

Sentence

1 indictment for homicide by child abuse, wherein you have
2 been found guilty by the jury of that offense, the sentence
3 of the Court is that you, Rodney O'Bryant Samuels, be
4 confined to the South Carolina Department of Corrections
5 for the balance of your natural life.

6 Mr. Samuels, you have a right to appeal the decision
7 of the jury and the sentence of the Court. You must file
8 any notice of your intention to appeal those decisions
9 within ten days of today's date. You may discuss that with
10 your lawyers before you leave.

11 END OF REQUESTED TRANSCRIPT OF RECORD

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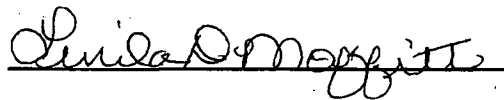
25

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 13th, 14th and 15th days of February 2017.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

April 18, 2017

A handwritten signature in cursive script, reading "Linda D. Moffitt", written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCED

2. REPORT

3. CLERK

4. JURY

5. JURY

6. JURY

7. JURY

ARREST WARRANT NUMBER

2015A4210200056

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

VERDICT

GUILTY

Foreperson of Petit Jury
Date: 2-15-2017

DOCKET NO.

15-GS-42-1656

The State of South Carolina

County of Spartanburg

Barry J. Barnette Solicitor

COURT OF GENERAL SESSIONS

MAY 04 2015

TERM

THE STATE
v.

RODNEY O'BRYANT SAMUELS

Indictment for

HOMICIDE BY CHILD ABUSE
OR NEGLECT

SC Code: 16-3-85 (A) (1)
CDR Code: 2356
Class FEL/EXM

2015 MAY 11 AM 10:46
M. HOPE BLACKWELL

17A

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

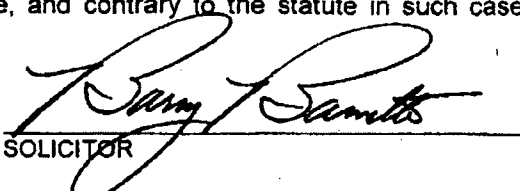
INDICTMENT

At a Court of General Sessions, convened on APR 30 2015 the
Grand Jurors of Spartanburg County present upon their oath:

HOMICIDE BY CHILD ABUSE OR NEGLECT

That the Defendant, Rodney O'Bryant Samuels did in Spartanburg County on or about January 4, 2015, cause the death of Christian Blake Gentry, a child under the age of eleven, while committing child abuse or neglect, and the death occurred under circumstances manifesting an extreme indifference to human life, in that he shook the child, and/or struck the child, and/or caused the child to strike some object, all in violation of §16-3-85 (A) (1) of the *SOUTH CAROLINA CODE OF LAWS*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

Suman B. Hackett for
John H. Strom

Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 10th day of October, 2017.

RECEIVED

OCT 10 2017

SC Court of Appeals