

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

SEP 28 2017

SC Court of Appeals

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CURTIS TYRONE WILLIAMS,

APPELLANT

APPELLATE CASE NO. 2016-001994

RECORD ON APPEAL

DAVID ALEXANDER
Appellate Defender

ALAN WILSON
Attorney General

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

V. HENRY GUNTER, JR.
Assistant Attorney General

ATTORNEY FOR APPELLANT

SCARLETT A. WILSON
Solicitor, Ninth Judicial Circuit

101 Meeting Street, Suite 400
Charleston, SC 29401
(843) 958, 1900

PAGES 1 - 500

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED SEPTEMBER 12 – 16, 2016.....	1
<u>JACKSON V. DENNO HEARING</u>	9
SIDNEY LEWIS	
Direct Examination by Ms. Herring-Lash	16
Cross Examination by Ms. Ford	22
Redirect Examination by Ms. Herring-Lash	25
MOTION TO SUPPRESS DEFENDANT’S STATEMENT	25
OPENING STATEMENT BY MS. HERRING-LASH	72
OPENING STATEMENT BY MS. FORD	82
TESTIMONY	
RACHEL MILLER	
Direct Examination by Ms. Herring-Lash	88
JEAN SMITH	
Direct Examination by Ms. Herring-Lash	93
Cross Examination by Ms. Ford	100
LUCAS CUMMINS	
Direct Examination by Ms. Herring-Lash	101
Cross Examination by Ms. Ford	114
KAREN MACDONALD	
Direct Examination by Ms. Herring-Lash	117
Cross Examination by Ms. Ford	123
SAMANTHA FLICK	
Direct Examination by Ms. Elliott	128
Cross Examination by Ms. Ford	135
Redirect Examination by Ms. Elliott	141
SHAQUILLE PRIOLEAU	
Direct Examination by Ms. Herring-Lash	142
Cross Examination by Ms. Ford	158
Redirect Examination by Ms. Herring-Lash	166

D.S.	
Direct Examination by Ms. Herring-Lash	170
Cross Examination by Ms. Ford	179
Redirect Examination by Ms. Herring-Lash	187
TIFFANY ADAMS	
Direct Examination by Ms. Herring-Lash	190
Cross Examination by Ms. Ford	205
JOAN SANGSTER	
Direct Examination by Ms. Herring-Lash	207
Proffer Examination by Ms. Herring-Lash (in camera)	210
Proffer Examination by Ms. Ford (in camera)	212
Proffer Examination by Ms. Herring-Lash (in camera)	216
Cross Examination by Ms. Ford	226
EMILE LACROIX (in camera)	
Proffer Examination by Ms. Herring-Lash	227
Proffer Examination by Ms. Ford	230
JOSEPH HARRIS (in camera)	
Proffer Examination by Ms. Herring-Lash	241
Proffer Examination by Ms. Ford	244
Proffer Examination by Ms. Herring-Lash	247
OBJECTION TO TESTIMONY OF JOSEPH HARRIS	249
TESTIMONY	
SIDNEY LEWIS	
Direct Examination by Ms. Herring-Lash	253
COURT'S RULING ON TESTIMONY OF JOSEPH HARRIS	278
COURT'S RULING ON MOTION TO SUPPRESS DEFENDANT'S STATEMENT	281
TESTIMONY	
JOSEPH HARRIS	
Direct Examination by Ms. Herring-Lash	295
Cross Examination by Ms. Ford	300
Redirect Examination by Ms. Herring-Lash	304

HESTER HANES	
Direct Examination by Ms. Elliott	306
Cross Examination by Ms. Ford	314
Redirect Examination by Ms. Elliott	315
TIFFANY FRIERSON	
Direct Examination by Ms. Herring-Lash	316
Cross Examination by Ms. Ford	326
RICKY FERNANDO WILLIAMS	
Direct Examination by Ms. Herring-Lash	327
SIDNEY LEWIS	
Direct Examination by Ms. Herring Lash (continued)	333
Cross-Examination by Ms. Ford	346
Redirect Examination by Ms. Herring-Lash	352
REBECCA BAILEY	
Direct Examination by Ms. Herring-Lash	353
Cross Examination by Ms. Ford	357
KRYSTAL WILLIAMS	
Direct Examination by Ms. Herring-Lash	358
Cross Examination by Ms. Ford	395
Redirect Examination by Ms. Herring-Lash	407
SUSAN ERIN PRESNELL, M.D.	
Direct Examination by Ms. Herring-Lash	412
Cross Examination by Ms. Ford	434
Redirect Examination by Ms. Herring-Lash	440
CAREY BUSCH, M.D.	
Direct Examination by Ms. Herring-Lash	442
Cross Examination by Ms. Ford	473
Redirect Examination by Ms. Herring-Lash	479
MOTION FOR A DIRECTED VERDICT	481
COURT'S RULING ON MOTION FOR A DIRECTED VERDICT	483
TESTIMONY	
CURTIS WILLIAMS (in camera)	
Examination by the Court	486

A.J.	
Direct Examination by Ms. Ford	497
Cross Examination by Ms. Herring-Lash	500
YOLANDA TYLER	
Direct Examination by Ms. Ford	507
Cross Examination by Ms. Herring-Lash	512
JOSEPH MATTHEWS	
Direct Examination by Ms. Ford	516
Cross Examination by Ms. Herring-Lash	520
CURTIS WILLIAMS	
Direct Examination by Ms. Ford	524
Cross Examination by Ms. Herring-Lash	549
Redirect Examination by Ms. Ford	573
CHARGE CONFERENCE	575
CLOSING ARGUMENT BY MS. HERRING-LASH	587
CLOSING ARGUMENT BY MS. FORD	589
CLOSING ARGUMENT BY MS. HERRING-LASH	615
CHARGE ON THE LAW	632
VERDICT	648
MOTION FOR A NEW TRIAL	650
COURT'S RULING ON MOTION FOR A NEW TRIAL	651
SENTENCING	665
INDICTMENT	667
SENTENCE SHEET	669
CERTIFICATE OF COUNSEL	670

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

State's Exhibit No. 72 (video); State's Exhibit No. 74 (video)

1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
2 COUNTY OF CHARLESTON) CASE NO. 2015-GS-10-2641
3
4 STATE OF SOUTH)
CAROLINA,)
5 Plaintiff,) Transcript of Record
6 vs.)
7 CURTIS TYRONE WILLIAMS,) Date: September 12-16, 2016
8 Defendant.)

9
10 * * * * *

11
12 B E F O R E:
13 THE HONORABLE DEADRA JEFFERSON

14
15
16
17
18 * * * * *

19
20 Denise J. Lauder, RPR
21 Ninth Judicial Circuit
22 Circuit Court
23
24
25

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

A P P E A R A N C E S

REPRESENTING THE STATE OF SOUTH CAROLINA:

DEBBIE HERRING-LASH, ASSISTANT SOLICITOR

SHANNON ELLIOTT, ASSISTANT SOLICITOR

101 Meeting Street

Charleston, SC 29401

REPRESENTING THE DEFENDANT:

MARY FORD, PUBLIC DEFENDER'S OFFICE

MEGAN EHRLICH, PUBLIC DEFENDER'S OFFICE

101 Meeting Street

Charleston, SC 29401

I N D E X

	Page No.
1	
2	
3	VOIR DIRE 8
4	JURY SELECTION 30
5	<u>THE JURY - SWORN</u> 40
6	<u>SIDNEY LEWIS</u> 54
7	DIRECT EXAMINATION BY MS. HERRING-LASH 54
8	CROSS-EXAMINATION BY MS. FORD 60
9	REDIRECT EXAMINATION BY MS. HERRING-LASH 62
10	COURT'S OPENING 100
11	STATE'S OPENING 110
12	DEFENDANT'S OPENING 120
13	<u>RACHEL MILLER</u> 125
14	DIRECT EXAMINATION BY MS. HERRING-LASH 126
15	<u>JEAN SMITH</u> 131
16	DIRECT EXAMINATION BY MS. HERRING-LASH 131
17	CROSS-EXAMINATION BY MS. FORD 137
18	<u>LUCAS CUMMINS</u> 139
19	DIRECT EXAMINATION BY MS. HERRING-LASH 139
20	CROSS-EXAMINATION BY MS. FORD 151
21	<u>KAREN MACDONALD</u> 155
22	DIRECT EXAMINATION BY MS. HERRING-LASH 155
23	CROSS-EXAMINATION BY MS. FORD 160
24	<u>SAMANTHA FLICK</u> 166
25	DIRECT EXAMINATION BY MS. ELLIOTT 166

1	CROSS-EXAMINATION BY MS. FORD	173
2	REDIRECT EXAMINATION BY MS. ELLIOTT	179
3	<u>SHAQUILLE PRIOLEAU</u>	180
4	DIRECT EXAMINATION BY MS. HERRING-LASH	180
5	CROSS-EXAMINATIONB Y MS. FORD	196
6	REDIRECT EXAMINATION BY MS. HERRING-LASH	204
7	D.S.	207
8	DIRECT EXAMINATION BY MS. HERRING-LASH	208
9	CROSS-EXAMINATION BY MS. FORD	217
10	REDIRECT EXAMINATION BY MS. HERRING-LASH	224
11	<u>TIFFANY ADAMS</u>	228
12	DIRECT EXAMINATION BY MS. HERRING-LASH	228
13	CROSS-EXAMINATION BY MS. FORD	242
14	<u>JOAN SANGSTER</u>	245
15	DIRECT EXAMINATION BY MS. HERRING-LASH	245
16	CROSS-EXAMINATION BY MS. FORD	263
17	<u>EMILE LACROIX</u>	265
18	EXAMINATION BY MS. HERRING-LASH	265
19	EXAMINATION BY MS. FORD	268
20	<u>JOSEPH HARRIS</u>	279
21	EXAMINATION BY MS. HERRING-LASH	279
22	EXAMINATION BY MS. FORD	282
23	EXAMINATION BY MS. HERRING-LASH	285
24	<u>SIDNEY LEWIS</u>	291
25	DIRECT EXAMINATION BY MS. HERRING-LASH	291

1	<u>JOSEPH HARRIS</u>	333
2	DIRECT EXAMINATION BY MS. HERRING-LASH	333
3	CROSS-EXAMINATION	337
4	BY MS. FORD	
5	REDIRECT EXAMINATION BY MS. HERRING-LASH	342
6	<u>HESTER HANES</u>	344
7	DIRECT EXAMINATION BY MS. ELLIOTT	344
8	CROSS-EXAMINATION BY MS. FORD	351
9	REDIRECT EXAMINATION BY MS. ELLIOTT	353
10	<u>TIFFANY FRIERSON</u>	354
11	DIRECT EXAMINATION BY MS. HERRING-LASH	354
12	CROSS-EXAMINATION BY MS. FORD	364
13	<u>RICKY FERNANDO WILLIAMS</u>	365
14	DIRECT EXAMINATION BY MS. HERRING-LASH	365
15	<u>SIDNEY LEWIS</u>	371
16	CONTINUED DIRECT EXAM BY MS. HERRING-LASH	371
17	CROSS-EXAMINATION BY MS. FORD	384
18	REDIRECT EXAMINATION BY MS. HERRING-LASH	390
19	<u>REBECCA BAILEY</u>	390
20	DIRECT EXAMINATION BY MS. HERRING-LASH	391
21	CROSS-EXAMINATION BY MS. FORD	394
22	<u>KRYSTAL WILLIAMS</u>	396
23	DIRECT EXAMINATION BY MS. HERRING-LASH	396
24	CROSS-EXAMINATION BY MS. FORD	433
25	REDIRECT EXAMINATION BY MS. HERRING-LASH	445

1	<u>SUSAN ERIN PRESNELL</u>	450
2	DIRECT EXAMINATION BY MS. HERRING-LASH	450
3	CROSS-EXAMINATION BY MS. FORD	472
4	REDIRECT EXAMINATION BY MS. HERRING-LASH	478
5	<u>CAREY BUSCH, M.D.</u>	479
6	DIRECT EXAMINATION BY MS. HERRING-LASH	480
7	CROSS-EXAMINATION BY MS. FORD	511
8	REDIRECT EXAMINATION BY MS. HERRING-LASH	517
9	<u>CURTIS WILLIAMS</u>	524
10	A.J.	535
11	DIRECT EXAMINATION BY MS. FORD	535
12	CROSS-EXAMINATION BY MS. HERRING-LASH	538
13	<u>YOLANDA TYLER</u>	545
14	DIRECT EXAMINATION BY MS. FORD	545
15	CROSS-EXAMINATION BY MS. HERRING-LASH	550
16	<u>JOSEPH MATTHEWS</u>	554
17	DIRECT EXAMINATION BY MS. FORD	554
18	CROSS-EXAMINATION BY MS. HERRING-LASH	558
19	<u>CURTIS WILLIAMS</u>	562
20	DIRECT EXAMINATION BY MS. FORD	562
21	CROSS-EXAMINATION BY MS. HERRING-LASH	587
22	REDIRECT EXAMINATION BY MS. FORD	610
23	STATE'S CLOSING ARGUMENT	625
24	DEFENDANT'S CLOSING ARGUMENT	627
25	STATE'S CLOSING ARGUMENT	653

1	JURY CHARGE	670
2	VERDICT	686
3	SENTENCE	707
4	CERTIFICATE OF REPORTER	709

5
6
7
8

9 EXHIBITS

10		Page/Line
11	STATE EXH. 1 - 45, Photographs, marked	68 5
12	for ID	
13	STATE EXH. 70, Photo	165 20
14	STATE EXH. 74, Envelope with 2 CDs	384 16
15	STATE EXH. 76, Photo	458 9
16	COURT EXH. 1, Advisement of Rights	59
17	COURT EXH. 2, Color photograph	88 19
18	COURT EXH. 5, Jury Note	684 25
19	STATE EXH. 1 - 45, in evidence	69 6
20	STATE EXH. 71 in evidence	296 3
21	STATE EXH. 72 in evidence	375 20
22	STATE EXH. 54 in evidence	380 17
23	STATE EXH. 55 in evidence	380 18
24	STATE EXH. 56 in evidence	380 19
25	STATE EXH. 75 in evidence	427 1

1	STATE EXH. 55 - 66 in evidence	458	8
2	STATE EXH. 69 in evidence	466	23
3	STATE EXH. 70 in evidence	469	9
4	*STATE EXH. 46, knife, withdrawn, returned		
5	*STATE EXH. 47-49, not introduced, returned		
6	*STATE EXH. 51-53, ID only, returned		
7	*STATE EXH. 50, CD, in Exhibit 74		
8	*STATE EXH. 63, 67, withdrawn per Judge		
9	*COURT EXH. 3, State's Colored Exhibit 69		
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

1 time. As soon as everyone has arrived, we will
2 resume with proceedings. Hope you all have a good
3 lunch. Thank you for your patience. We will see
4 you at 2:15.

5 (Jury out, 12:38 p.m.)

6 THE COURT: State ready to call their
7 witness on the Jackson v. Denno?

8 MS. HERRING-LASH: Yes.

9 THE COURT: Let me ask another brief
10 question. Is there going -- have you all agreed to
11 sequester the witnesses?

12 MS. HERRING-LASH: I will agree to
13 sequester.

14 THE COURT: I'm asking because I don't
15 want it to come up later.

16 MS. FORD: Yes, Your Honor, I would ask
17 for that with the exception of my investigator,
18 Mr. Long.

19 THE COURT: Well, he's going to be a
20 witness.

21 MS. FORD: I think, generally, usually
22 the Solicitor has their investigator here --

23 THE COURT: Their investigator is not
24 a witness.

25 MS. FORD: Traditionally, we've always

1 allowed that, Your Honor.

2 THE COURT: I need to hear what your
3 position is.

4 MS. HERRING-LASH: I don't have any
5 objection to it if they would like their case agent
6 present. I think that the Victim's Bill of Rights,
7 the mother and the father -- the mother may not
8 want to sit in.

9 THE COURT: I would imagine not. And
10 I would -- also, while we're on that topic, I would
11 imagine some of this will be incredibly
12 descriptive.

13 MS. HERRING-LASH: Right.

14 THE COURT: And if anybody feels that
15 they are going to have a show of emotion, maybe
16 they should excuse themselves or you need to
17 prepare them in advance.

18 MS. HERRING-LASH: I have prepared them
19 to leave while the pathologist is testifying.

20 THE COURT: I would not want -- you
21 know, it's very distracting to the jury. They tend
22 to pay attention to what is going on in the gallery
23 and what is being said in front of the witnesses.

24 Other than the Jackson v. Denno, are we
25 going to have any other pretrial matters that we

1 need to dispose of regarding anything of that
2 nature? We have said no Biggers, you agreed to
3 sequester the witnesses, with the exception of
4 those that you agreed will remain.

5 Is there anything other than the
6 Jackson v. Denno?

7 MS. HERRING-LASH: Not from the State.

8 MS. FORD: Your Honor, I don't have
9 anything that is pretrial. The State -- one of the
10 neighbors heard some -- and saw some activity the
11 day this happened, but he has died. And so the
12 State was going to try to get in his statement
13 through three or four other people. And so I
14 didn't know if we needed to have a hearing in
15 camera to establish --

16 THE COURT: You'll have to make a
17 contemporaneous objection and because I don't know
18 what they're going to elicit from the witness and I
19 can't rule in advance. I can't imagine what --
20 well, it was an excited utterance. I don't know.

21 MS. HERRING-LASH: Our position will be
22 that it was excited utterance. I will not mention
23 that during my opening.

24 THE COURT: And I will caution you, you
25 might need to -- it's better to do it in camera.

1 MS. HERRING-LASH: Before we start?

2 THE COURT: Since you already know what
3 the nature of her objection is going to be, I think
4 you need to let me know -- you may want to save it
5 until the end of that witness's testimony and then
6 let the jury be excused while we hear it.

7 MS. HERRING-LASH: And they won't be
8 today. Those witness will not be today.

9 THE COURT: Okay. Is there anything
10 else?

11 MS. HERRING-LASH: Your Honor, only one
12 thing, and this is just, kind of, housekeeping, in
13 the status conference we did, we did explain to
14 Judge Harrington that I have one witness that can't
15 be here until probably around 4:00 on Wednesday. I
16 think she will be the last witness, but I don't
17 know that that would be an issue.

18 THE COURT: I don't know. How long is
19 she?

20 MS. HERRING-LASH: She will be the
21 pathologist. And the reason is she is subpoenaed
22 on Wednesday morning in Jasper county, and I think
23 that we --

24 THE COURT: Why would it take her
25 until 4:00 to get here from Jasper?

1 MS. HERRING-LASH: Well, they're going
2 to release her by 2:00.

3 THE COURT: Who is the judge in that
4 case?

5 MS. HERRING-LASH: I don't know. They
6 agreed to call her out of order to get her done
7 before lunch. We didn't think it would be an issue
8 because we may not be to the last witness.

9 THE COURT: Well, I'll talk to the
10 judge and see what's going on because there's no
11 reason she should be sitting there waiting to
12 testify when they know we need her here.

13 MS. HERRING-LASH: It's a Jasper
14 County, I'm assuming, a murder case.

15 THE COURT: So it has to be a GS case
16 to have priority. I'll try to look into it and see
17 what's going on. See if the judge can accommodate
18 us by having her called first thing in the morning
19 and letting her -- how far is Jasper?

20 MS. HERRING-LASH: About an hour to two
21 hours I think. What she would prefer is Thursday
22 morning, if she couldn't go until 4:00, but if she
23 can be out of there --

24 THE COURT: Have you talked to the
25 Solicitor about you being able to call her first

1 and then they can have her the rest of the day.

2 I think they're sure they will be
3 ending that morning. I don't know that we will
4 be --

5 THE COURT: I find it doubtful that a
6 murder case would be ending that quickly when
7 Monday is only half of the day. I mean, unless
8 they only have, like, five witnesses. Which is
9 possible. Why don't you run it by the Solicitor
10 there and find out really, logistically, now the
11 week has gotten rolling if they think that's going
12 to be the case.

13 MS. HERRING-LASH: Okay.

14 THE COURT: And then we'll go from
15 there. And then if I need to, I'll call the judge
16 and see how we can work it out. I don't know how
17 long the pathologist's testimony is going to be.
18 Do you anticipate it's going to be lengthy?

19 MS. HERRING-LASH: I think so.

20 THE COURT: Then it would seem to be
21 that --

22 MS. HERRING-LASH: At least 20 minutes.

23 THE COURT: That's not lengthy. When I
24 say lengthy, I'm talking an hour or two hours.

25 MS. HERRING-LASH: I wouldn't think so,

1 but I don't know about the cross-examination.

2 MS. FORD: I can't say at this point,
3 Your Honor.

4 THE COURT: Well, you have some idea of
5 how long you think it's going to be. I need to
6 know logistically if it's going to be lengthy or
7 not.

8 MS. FORD: I would imagine the whole
9 testimony together would at least take an hour,
10 between the Solicitor and myself.

11 THE COURT: I would just hate for her
12 to -- lately, having been on the road a lot, I
13 would hate for her to get caught in some traffic
14 issue coming back this way. There's a lot of
15 construction going on, a lot of issues.

16 Just touch base with your colleague and
17 see if actually -- because it may be a nonissue.
18 The person might plead guilty in which case we
19 don't have an issue. And things can change like
20 that on Monday morning very quickly, so why don't
21 you double check with them.

22 Is there anything else that we need to
23 take up other than the testimony of the witness?

24 MS. HERRING-LASH: Not from the State.

25 THE COURT: From the defense?

JACKSON V. DENNO

1 MS.. FORD: No, Your Honor.

2 THE COURT: Very quickly, does he have
3 any record that the State would be seeking to
4 introduce to impeach his credibility?

5 MS. HERRING-LASH: No. I don't think
6 any of his record goes to credibility or --

7 THE COURT: Okay. So we can deal with
8 the record at a later time. I wanted to know if
9 there was anything you would be seeking to
10 introduce to impeach his credibility.

11 Call your witness.

12 MS. HERRING-LASH: The State would call
13 Sergeant Sid Lewis.

14 SIDNEY LEWIS,
15 being first duly sworn, testified as follows:

16 THE CLERK: Be seated. If you will,
17 state your full name and spell your last name.

18 THE WITNESS: Yes, sir, Sidney Lewis,
19 L-E-W-I-S.

20 THE COURT: Would you spell your first
21 name for me as well, sir.

22 THE WITNESS: S-I-D-N-E-Y.

23 DIRECT EXAMINATION

24 BY MS. HERRING-LASH:

25 Q. Sergeant Lewis, where are you employed?

JACKSON V. DENNO

1 A. Charleston Police Department.

2 Q. And how long have you been there?

3 A. Thirteen years.

4 Q. And what capacity were you working in
5 October 26, 2014?

6 A. I was the sergeant over the special
7 victims unit.

8 Q. Did you get assigned to work on this
9 case?

10 A. Yes, I did.

11 Q. And I'm just going to skip to the part
12 regarding this interview. Did you interview the
13 defendant in this case, Mr. Curtis Williams?

14 A. Yes.

15 Q. And when did you interview him?

16 A. It was October 27, around 6:00 that
17 night, p.m.

18 THE COURT: October 27th of what year?

19 THE WITNESS: 2014.

20 THE COURT: Thank you.

21 THE WITNESS: Sorry.

22 THE COURT: What was the time again?

23 THE WITNESS: 1800, 6:00 p.m.

24 THE COURT: You may continue.

25 BY MS. HERRING-LASH:

JACKSON V. DENNO

1 Q. And was there another officer with you?

2 A. Yes.

3 Q. And who was that?

4 A. Detective Charlie Benton.

5 Q. And did you all interview Mr. Williams

6 in a room that was where the interview was audio

7 and video recorded?

8 A. Yes, sir.

9 Q. How did you begin that interview?

10 A. We began by explaining an advisement of
11 rights -- Advisement of Constitutional Rights form.

12 Q. And can explain to Judge Jefferson how
13 you went about using that form?

14 A. Yes, ma'am. I used a form to aid me.
15 I fill out the top half and explain -- I read
16 line-by-line, make sure he understands the
17 sentence. He initials after each sentence, and
18 then after I explained every sentence, I asked him
19 to sign if he fully understands these rights as
20 I've explained them to him.

21 Q. And did he in fact give you his date of
22 birth?

23 A. Yes, ma'am.

24 Q. What was that?

25 A.

JACKSON V. DENNO

1 Q. And was he able to give you his age?

2 A. Yes.

3 Q. And what was that?

4 A. 25.

5 Q. And did he give you his educational
6 background?

7 A. Yes. Said he had a GED.

8 Q. And did he sign that he was being
9 advised of his rights?

10 A. Yes, he did.

11 Q. Did he have any questions during the
12 time that you were reading the rights to him?

13 A. He did. He asked me -- he asked me
14 about one of the sentences, about having his rights
15 and I wish to waive these rights. He asked about
16 that and I further explained.

17 Q. During this time, did he appear to be
18 under the influence of any drugs or alcohol?

19 A. No.

20 Q. Did he appear to understand what you
21 were saying to him?

22 A. Yes.

23 Q. Okay. During the time that you were
24 going over this, after the rights, did you also
25 then read the part about him waiving his rights?

JACKSON V. DENNO

1 A. Yes.

2 Q. And before that part, did he sign that
3 he fully understood these rights?

4 A. He did.

5 Q. And did he agree to waive his rights?

6 A. Yes, he did.

7 Q. At any point during this, did he ask
8 for an attorney?

9 A. No, ma'am, he did not.

10 Q. Did he ask to stop the interview at any
11 time?

12 A. No, ma'am.

13 Q. Did you offer or promise him anything
14 to give you your statement?

15 A. No.

16 Q. Did he, in fact, have questions of you
17 during the interview?

18 A. Yes, he did.

19 Q. And did he appear to understand what he
20 was talking about when you were going over this?

21 A. Yes.

22 Q. And did he ask for anything during the
23 interview? A visit with anyone?

24 A. Other than his mother, no.

25 Q. And did he ask you if he could visit

JACKSON V. DENNO

1 with his mother?

2 A. He did.

3 Q. Did you allow him to visit with his
4 mother?

5 A. Yes.

6 Q. And did you allow his mother and his
7 girlfriend to come into the room and visit with
8 him?

9 A. I did.

10 Q. Was that at the end of the interview?

11 A. Yes, it was.

12 Q. And he signed the advisement?

13 A. Yes, he did.

14 MS. HERRING-LASH: Beg the Court's
15 indulgence for one minute?

16 THE COURT: Yes, ma'am.

17 MS. HERRING-LASH: Your Honor, at this
18 time I would offer the Advisement as a Court's
19 Exhibit.

20 THE COURT: Any exception?

21 MS. FORD: No, Your Honor.

22 THE COURT: Marked and admitted as
23 Court's Exhibit Number 1.

24 (COURT'S EXH. 1, Advisement of Rights,
25 was marked for identification.)

JACKSON V. DENNO

1 THE COURT: You may proceed.

2 CROSS-EXAMINATION

3 BY MS. FORD:

4 Q. Sergeant Lewis, the Solicitor asked you
5 about him asking for his family, correct?

6 A. Yes.

7 Q. And you testified that you let him see
8 his family?

9 A. I did.

10 Q. That was actually not until after any
11 statements were made, correct? After your
12 interview was complete?

13 A. He was -- he had seen his family after
14 the interview, yes.

15 Q. So during that interview he asked to
16 see his family several times, correct?

17 A. He asked to see his family before --
18 before he left. He said before I leave, can I see
19 -- I let his mother in.

20 Q. And you told him you would let him see
21 his family after the interview?

22 A. I told him before we were finished I
23 would allow him to see his family, yes, ma'am.

24 Q. You didn't stop the interview to let
25 him go talk to his family, correct?

JACKSON V. DENNO

1 A. No, I did not.

2 Q. And Curtis was very -- is it fair to
3 say that he was emotional during the interview?

4 A. During the interview?

5 Q. Yes.

6 A. He got somewhat emotional, but not at
7 the beginning, no, ma'am.

8 Q. He cried multiple times, correct?

9 A. During the interview, yes.

10 Q. Okay. And he stated to you that -- an
11 this was just the day after the death, correct?

12 A. Yes.

13 Q. And he had also talked to you the
14 evening before at the house, correct?

15 A. Yes, and at the hospital.

16 Q. And you acknowledged the interview had
17 been a really long evening for him, correct? The
18 evening before?

19 A. Correct.

20 Q. And he told you that he was in shock?

21 A. Yes.

22 MS. FORD: Beg the Court's indulgence?

23 THE COURT: Yes, ma'am.

24 BY MS. FORD:

25 Q. Just the evening before when you talked

JACKSON V. DENNO

1 to Curtis, had you ever given him Miranda then?

2 A. No, ma'am.

3 Q. Did anyone, to your knowledge -- did
4 anyone, to your knowledge, give him Miranda before
5 you give him Miranda in the video that we will,
6 later see?

7 A. No.

8 Q. But he was a suspect at that point,
9 correct?

10 A. No. All we had was a deceased
11 juvenile. We didn't have any facts.

12 Q. So you're saying the night before he
13 was not a suspect?

14 A. No, ma'am.

15 Q. You didn't have a suspect at all the
16 night before?

17 A. We did not. All we had was a deceased
18 juvenile at the hospital. That's all we knew at
19 that time.

20 MS. FORD: Beg the Court's indulgence?

21 THE COURT: Yes, ma'am.

22 MS. FORD: No further questions, Your
23 Honor.

24 THE COURT: Any redirect?

25 REDIRECT EXAMINATION

JACKSON V. DENNO

1 BY MS. HERRING-LASH:

2 Q. Just to clarify, when did you get the
3 results of the autopsy giving you the cause of
4 death?

5 A. It was on the 27th, the day after the
6 child was brought to the hospital.

7 Q. So it was the day that you did the
8 interview, but not the night -- you didn't know the
9 night before?

10 A. Yes, ma'am.

11 MS. HERRING-LASH: That's all I have.

12 THE COURT: Sir, you may step down.

13 Any further witnesses?

14 MS. HERRING-LASH: No, Your Honor.

15 THE COURT: Be glad to hear any
16 argument.

17 MS. FORD: Your Honor, I don't know if
18 you need to see the video --

19 THE COURT: I think I'm astute enough
20 to be able to recall your argument when I'm
21 watching the video.

22 MS. FORD: Yes, Your Honor. Sergeant
23 Lewis testified that my client was emotional, that
24 he'd had a really long night, that he stated he was
25 in shock, Your Honor. So we would just argue that

JACKSON V. DENNO

1 he was clearly not in a good state of mind, which I
2 think will be more evident in watching the video.
3 And that's what we would argue, Your Honor, for why
4 the statement should be suppressed.

5 THE COURT: Anything from the State?

6 MS. HERRING-LASH: Your Honor, the --
7 Mr. Williams came to the department and, actually,
8 when the Advisement of Rights was being read to
9 him, as Sergeant Lewis testified, he had a question
10 about one of them and that was explained to him.
11 He clearly understood the rights and he waived them
12 with no promises, no coercion.

13 Actually, there is some back and forth
14 during this interview, and it is clearly voluntary
15 and clearly waived his rights and agreed to this
16 interview. The evening before there was no
17 custodial interrogation.

18 THE COURT: You said -- what was your
19 last sentence?

20 MS. HERRING-LASH: Because Ms. Ford
21 referred to as speaking to him the night before,
22 that was not a custodial interrogation, and at that
23 point in time they did not know the cause of death.

24 THE COURT: That's not part of the
25 statement, is it?

JACKSON V. DENNO

1 MS. HERRING-LASH: No, Your Honor.

2 THE COURT: I didn't understand her to
3 make a reference to that. She said while at the
4 time he was in shock and he was upset and he wasn't
5 in a good state of mind. I'm -- are you making
6 some reference to a statement or an interaction the
7 night before in your argument?

8 MS. FORD: No, Your Honor, not for the
9 purpose of this hearing. In addition, Your Honor,
10 just -- he had asked multiple times to see his
11 family. And the officer didn't just say, no, you
12 can't see them. He had basically said, well, you
13 can see them later, suggesting some sort of
14 bargaining, Your Honor.

15 THE COURT: Did he actually say that?

16 MS. FORD: He said he could see the
17 family later. He never said, no, I'll make a deal
18 with you.

19 THE COURT: -- some kind of a bargain?

20 MS. FORD: No, Your Honor.

21 THE COURT: Did he have any duty to
22 let him see his family?

23 MS. FORD: No, Your Honor. If he had
24 just said, no, you can't see them at this point,
25 but he did indicate that he could see them later.

JACKSON V. DENNO

1 MS. HERRING-LASH: And, Your Honor, if
2 I may, he agreed to let him see his family. There
3 is an interchange, if you're worried that you won't
4 be able -- you'll have to leave here and not see
5 your family, you can see your family before you
6 leave here.

7 And I think actually the officer went
8 beyond what he maybe should have done and did allow
9 the family to come into the room and say good-bye
10 to him.

11 THE COURT: I will watch the video
12 after which I will render a decision regarding its
13 admissibility. Now, in the meantime, I need for
14 you all to be in agreement as to -- in the event it
15 comes in, what needs to be redacted and the method
16 by which it will be redacted.

17 And, frankly, you are going to have to
18 create, if it comes in, a video that's redacted
19 because the whole video goes to the jury. They
20 can't be stopping and starting the video. So
21 you're going to have to figure out a way with your
22 video people -- because they should be able to
23 watch it in the jury room. They shouldn't have to
24 come in here and watch a video have you stop and
25 start it.

1 MS. HERRING-LASH: We will try. The
2 program that it is captured on -- I will try to see
3 if our IT people can do that. The main part that
4 we have agreed to redact is the whole beginning
5 part --

6 THE COURT: That shouldn't be a
7 problem.

8 MS. HERRING-LASH: -- when the
9 Advisement of Rights is read, then we will try to
10 figure out how to take that off.

11 THE COURT: You may want to talk to
12 your IT people about that. They shouldn't have to
13 come in here to watch a video. They should be able
14 to watch that in the sanctity of their jury room,
15 if it comes in. But I'm just giving you a heads-up
16 so you can work on it.

17 Anything else that we need to deal with
18 before we break for lunch?

19 MS. HERRING-LASH: No, Your Honor.

20 MS. FORD: No, Your Honor.

21 THE COURT: What time do you want to
22 come back to deal with the exhibits?

23 THE COURT REPORTER: 2:00 is fine.

24 THE COURT: You all meet the Court
25 Reporter back at 2:00 to deal with the exhibits.

1 It's 1:00 now, so that gives you an hour for lunch.
2 You can leave your things here, the courtroom will
3 be locked.

4 (A luncheon recess transpired.)

5 (STATE EXH. 1 - 45, Photographs, were
6 marked for identification.)

7 THE COURT: We can't locate our juror.
8 She did not return to the jury room as instructed,
9 and she was -- as I understood it, she was down
10 there and they asked her a couple of questions, and
11 she gave the impression that she was coming up
12 here, and now we can't find her.

13 So what I've instructed Mike to do is
14 go upstairs and make sure she didn't go upstairs
15 and that she's not up there before we figure out --
16 and we tried to call her cell phone several times
17 and it's going to voice mail. We're going to have
18 to cross that bridge as we figure it out.

19 Now, have you all premarked any
20 exhibits?

21 MS. HERRING-LASH: Yes, Your Honor,
22 we've premarked some that are in agreement and
23 others that are just for ID.

24 THE COURT: Madame Court Reporter, what
25 exhibits were marked that were agreed to?

1 THE COURT REPORTER: Exhibits 1 through
2 45.

3 THE COURT: State's Exhibits 1 through
4 45 will be marked and admitted without
5 objection.

6 (STATE EXH. 1 - 45, in evidence.)

7 Anything else we need take up while we
8 wait on finding the juror?

9 MS. HERRING-LASH: I did talk, well by
10 e-mail, with the Solicitor in Jasper, and she said
11 that she didn't see any reason at this point why
12 the witness couldn't be here by 3:00. I told her I
13 didn't know if that would be sufficient -- and it's
14 Judge Goldsmith -- but that's all she could tell
15 me. She was on a break and wasn't with her judge.

16 THE COURT: Let's play it by ear and
17 see how their case goes. They may be farther
18 behind or ahead of schedule than we anticipate and
19 then we will figure it out from there.

20 MS. HERRING-LASH: Okay.

21 (A recess transpired.)

22 THE COURT: She's left the courthouse.
23 I'm assuming that everything I've been told to be
24 accurate. I'm assuming that it was her, in fact,
25 that was questioned and I'm assuming that she left.

1 Why she would have gone downstairs to the assembly
2 room is a little beyond me, but it's Monday.

3 It's up to you all how you want to
4 handle it. We can try to -- we can recess the
5 proceedings and try to track her down or we can
6 substitute her with one of the alternates.

7 I don't know why in the world she would
8 have gone to the assembly room and why she would
9 have left. The bailiffs go through a great amount
10 of instruction with them before they leave about
11 how to come in and out.

12 She was in the panel when you all gave
13 her instructions on how to come in and out?

14 THE BAILIFF: Yes, we did.

15 THE COURT: Did you sense she was
16 confused in any way?

17 THE BAILIFF: No.

18 THE COURT: It's number 373 that we're
19 missing. What's the State's preference?

20 MS. HERRING-LASH: Your Honor, I guess
21 I'm confused. Did we actually see her and know
22 that it was her --

23 THE COURT: I can only go by their
24 word and what was reported to me is as follows:
25 The jury returned to the assembly room at 2:00 --

1 which is a little confusing as to why she would
2 have been there because she was instructed to be
3 back here at 2:15.

4 The panel appeared at 2:00 in the
5 assembly room. A panel was selected for Judge
6 Nicholson's jury. After that panel was selected,
7 there were only two people remaining; one of whom I
8 protected for Wednesday and one of whom they never
9 asked her number or her name.

10 THE CLERK: They asked her name.

11 THE COURT: What did she say her name
12 was?

13 THE CLERK: Annette West.

14 THE COURT: And they asked then if
15 either of them had been selected for a jury and
16 they both said no, after which the docketing clerks
17 downstairs said they could go home, which is sort
18 of befuddling because she knew she was selected for
19 a trial.

20 I imagine she knew she was selected as
21 a juror. Our only other option is to send the
22 Sheriff to her house to look for her.

23 MS. HERRING-LASH: The only concern
24 that I have, and I think Ms. Ford has the same
25 concern, is starting a four-day trial with one

1 alternate.

2 THE COURT: I told you all, I will do
3 -- I don't really have a dog in the fight. And I
4 have the same concern, that's kind of why I asked
5 the question the way I did. Normally, I would plow
6 ahead and do the alternate by lot, but I'm -- I'm
7 concerned on several levels. I'm concerned why she
8 didn't show up and I need some explanation and I'm
9 concerned about us having two alternates. So it's
10 up to you all.

11 How many of the State's witnesses --
12 are there any witnesses on this list you do not
13 intend to call, or do you plan to call all 36 of
14 these witnesses?

15 MS. HERRING-LASH: Your Honor, I have
16 narrowed down the witnesses I plan on calling to
17 27, and -- excuse me, 26, and some of those are
18 very short.

19 THE COURT: How many have you narrowed
20 yours down to, Ms. Ford?

21 MS. FORD: Likely three, Your Honor,
22 but it possibly could be more. And then my client
23 may testify.

24 MS. HERRING-LASH: Several of the
25 witnesses -- I think there will be some in camera

1 hearings about some of the testimony and the
2 pathology photographs.

3 THE COURT: About what now?

4 MS. HERRING-LASH: Pathology
5 photographs, and some of the testimony. So some of
6 them will be more lengthy just by --

7 THE COURT: Why would we need to have
8 in camera hearings about pathology photographs?
9 Are those not photographs you have agreed to?

10 MS. HERRING-LASH: They are not.

11 THE COURT: Are they in color or black
12 and white?

13 MS. HERRING-LASH: They are in color.

14 THE COURT: They need to be black and
15 white. That could be --

16 MS. HERRING-LASH: Well, there's -- I
17 have one that -- I have them, there are only two.
18 Now, there are pictures before the autopsy, but
19 after the actual autopsy, there is just one.

20 THE COURT: Which one is being
21 objected to?

22 MS. FORD: Well, Your Honor, I didn't
23 want to consent -- I've already consented to over
24 40 pictures. I did not want to consent to any of
25 the photos of the bruises on the child --

1 THE COURT: How many photos of those?

2 MS. HERRING-LASH: We had narrowed them
3 down from hundreds to --

4 THE COURT: I'm sure some of them show
5 the same thing, different angles, different
6 distance.

7 MS. HERRING-LASH: Of the body of just
8 the bruises, nine. Showing, you know, just
9 different -- because there are bruises on all
10 planes of the body.

11 THE COURT: And one autopsy photo?

12 MS. HERRING-LASH: And one autopsy
13 photo. And then I had planned also to enter a
14 picture of the spleen that shows the laceration.
15 It's just the actual spleen after it had been
16 removed that clearly shows the laceration.

17 THE COURT: And what else do you think
18 -- you said you would be lengthy in camera. I'm
19 trying to figure out what that would be about.

20 MS. HERRING-LASH: I don't know how
21 lengthy. There are the witnesses -- I think there
22 are three lay witnesses that we would be trying to
23 get in a statement made to them by a gentleman that
24 is deceased. And it would be the State's position
25 that they were excited utterances.

1 THE COURT: But that's only a couple
2 of questions. My concern is we would need to
3 finish by -- we would have to be closing and
4 charging on Friday morning, so I need to know
5 logistically what we're doing.

6 MS. HERRING-LASH: I guess what I --
7 those witnesses would otherwise be just a few
8 minutes so that may extend them some, and there's
9 one witness that is just a chain witness. There
10 are several witnesses that I think will be rather
11 lengthy, the mother, and the crime scene person.

12 And, I'm sorry, Your Honor, I see
13 another witness I do not plan on calling, so that
14 would go to 25.

15 THE COURT: Do you all have any
16 witnesses that have records? Is any of that going
17 to need to be dealt with?

18 MS. HERRING-LASH: There is one record
19 of one witness that would be admissible and that is
20 a forgery.

21 THE COURT: Which witness is that?

22 MS. HERRING-LASH: That would be Ricky
23 Williams.

24 THE COURT: And I assume that you all
25 agreed that would be admissible to impeach his

1 credibility? Or do you not agree?

2 MS. HERRING-LASH: He's my witness. I
3 think that is --

4 THE COURT: You're going to ask him
5 about that?

6 MS. HERRING-LASH: I am.

7 THE COURT: So then there are no other
8 witnesses that have records that we need to deal
9 with?

10 MS. FORD: No, Your Honor. And so far
11 the witnesses that I plan to call, we ran their RAP
12 sheets and one has a fraudulent check which I --

13 MS. HERRING-LASH: I don't have RAP
14 sheets on her witnesses.

15 THE COURT: I'm just trying to figure
16 out how we could fill the time and what we could
17 dispose of.

18 I sent Mike to call her one more time
19 -- well, however many times it takes to reach her
20 and see what happened.

21 Can I see the photos that were in
22 contention?

23 MS. HERRING-LASH: We did not premark
24 those, Your Honor.

25 THE COURT: Now, I need to know from

1 the defense is there any exception subject to
2 foundation and relevance, any objection to 57, 58,
3 59, 60, 61, 62, 65, 66, I took 64 out of order
4 inadvertently, which are all pictures of bruises?

5 MS. FORD: Yes, Your Honor. I would
6 object partially, Your Honor. In this case, my
7 client in his statement, he does admit at some
8 point that he hit him in his back side, which is
9 where the spleen is located. So I think probably
10 that photo would be relevant; otherwise, there is
11 no indication from any parties that he's the one
12 who inflicted the other wounds.

13 In particular the one on his head, the
14 mom in her statement said that he came home from
15 daycare either -- this is on a Sunday. She said he
16 came home from daycare on Thursday or Friday with
17 the knot on his head and she didn't think anything
18 much of it because he was clumsy and it wasn't
19 uncommon.

20 THE COURT: I assume that the forensic
21 pathologist is going to be able to tell us the age
22 of these bruises?

23 MS. HERRING-LASH: She can't give an
24 exact date, but she can say they were very fresh.

25 THE COURT: From what time frame?

1 MS. HERRING-LASH: The time frame we're
2 talking about is probably four to six hours.

3 THE COURT: Of his death?

4 MS. HERRING-LASH: Yes, Your Honor.
5 What they will say is that would be around the time
6 it would take for the death to occur after the
7 injuries.

8 THE COURT: And what time was his
9 death?

10 MS. HERRING-LASH: 5:47.

11 THE COURT: A.m. or p.m.?

12 MS. HERRING-LASH: P.m.

13 THE COURT: What time does the mother
14 get off of work?

15 MS. HERRING-LASH: She was not off of
16 work.. She was notified at work of the death.

17 THE COURT: So she's going to
18 contradict the medical examiner's testimony these
19 wounds were fresh.

20 MS. HERRING-LASH: She will say she
21 didn't see those bruises when she left for work.

22 THE COURT: She said, she said he came
23 home from daycare --

24 MS. FORD: Just the knot on his head.

25 THE COURT: I assume what

1 Ms. Herring-Lash is telling me is that all of these
2 were fresh and they were inflicted within four to
3 six hours of his death.

4 MS. HERRING-LASH: And also the mother
5 kind of equivocates in that whether that was there
6 or not. I do have the daycare person to say that
7 when they have a bruise on a child they write up a
8 report, and no report was written up about him
9 having any bruises. And on the last day he was at
10 daycare, which was the Friday, the death was
11 Sunday, he actually wet his pants and they changed
12 his clothes.

13 THE COURT: So, again, my question is,
14 the medical examiner is going to say that all of
15 these bruises were inflicted four to six hours
16 before his death?

17 MS. HERRING-LASH: She will say --

18 THE COURT: That window?

19 MS. HERRING-LASH: Yeah. She will say,
20 I cannot tell you exactly. She also will talk
21 about the three stages of -- and I apologize, I
22 don't know -- I don't remember the medical terms,
23 but when things begin to break down, he was in the
24 very first stage of that breaking down process.

25 THE COURT: That's how they can date --

1 MS. HERRING-LASH: That's the best
2 thing --

3 THE COURT: -- a window because at
4 some point when your heart stops pumping, your
5 blood -- there's a certain way it pools and they
6 can tell.

7 MS. HERRING-LASH: And there are
8 enzymes that come and start disposing of the blood.
9 He was not at that point. She will have to explain
10 that. And I just -- I cannot get her to commit
11 this was four hours, or whatever, she -- she just
12 will not commit an exact time frame, but the mother
13 will say --

14 THE COURT: Well, she wouldn't as a
15 medical professional. She will give us a window,
16 but the window was within four to six hours of his
17 death?

18 MS. HERRING-LASH: She says fresh.
19 When I say, what is fresh? She says, it's very
20 consistent with that time frame.

21 THE COURT: She's not going to say
22 definitively.

23 MS. HERRING-LASH: No, she won't.
24 The mother does say they were not
25 there.

1 THE COURT: The mother says they
2 weren't there. So where do you get the impression
3 that the mother is going tell you he came home with
4 a bump on his head from daycare.

5 MS. FORD: It's in her recorded
6 statement, Your Honor. She mentions it --

7 THE COURT: So she apparently
8 contradicts herself though?

9 MS. FORD: She must be.

10 MS. HERRING-LASH: It's kind of -- the
11 statement is hard to discern exactly what she's
12 saying.

13 THE COURT: Why is that?

14 MS. HERRING-LASH: You can't hear some
15 of it and she equivocates too.

16 THE COURT: Well, her statement
17 wouldn't be played. It could only be used to
18 impeach her. It's a prior inconsistent statement,
19 so...

20 MS. HERRING-LASH: She equivocates --

21 THE COURT: I'm just trying to figure
22 out what the nature of the objection is. You're
23 not saying they're inflammatory.

24 MS. FORD: Well, no; I do believe they
25 are inflammatory.

1 THE COURT: Inflammatory how? Talking
2 about the nature of the picture itself?

3 MS. FORD: Yes, Your Honor.

4 THE COURT: Some pictures are so
5 graphic, that they can be inflammatory.

6 MS. FORD: Yes, Your Honor. The
7 autopsy --

8 THE COURT: Well, I'm not on those
9 numbers yet. I'm on 57 through 66, and I can say
10 these are mild. Probably from 1 to 10, they are 1.
11 I have seen worse.

12 MS. FORD: Yes, Your Honor.

13 THE COURT: And I don't mean to sound
14 un-empathetic, but I have to be objective at what
15 I'm looking at. And I have seen worse pictures in
16 family court in child abuse and neglect cases.

17 MS. FORD: Yes, Your Honor.

18 THE COURT: So they're mild on a scale
19 of 1 to 10. I don't think they need to be in black
20 and white. I'm not certain you could see the
21 bruises if they were in black and white. I will
22 deal with the others separately.

23 What I'm hearing you say as it regards
24 57 through 66, that it's your contention that your
25 client didn't put the bruises there and, therefore,

1 the pictures wouldn't be admissible; and that's not
2 really a basis of an objection. That's a basis --
3 that's a weight issue, not an admissibility issue.

4 MS. FORD: No one will be able to
5 testify he's the one who inflicted these bruises.

6 THE COURT: But you have a medical
7 professional who can say what time frame they were
8 inflicted based on the decomp of the body and the
9 breakdown of the body and the objective sort of
10 process that the body goes through when the heart
11 stops beating.

12 And I assume they're also going to have
13 witnesses that are going to say your client was the
14 only person that had access to the child during
15 that window. And the other folks who did have
16 access were not or could not have inflicted these
17 injuries. So, circumstantially, they want to argue
18 that he's the one who inflicted the injuries to
19 satisfy an element of the offense.

20 MS. FORD: Yes, Your Honor, that is my
21 understanding.

22 THE COURT: Is that -- I assume that's
23 what the State is going to try to do?

24 MS. HERRING-LASH: Yes, Your Honor. We
25 have -- we have two witnesses that show late in the

1 afternoon. All three of them were together, and
2 there's no evidence at all --

3 THE COURT: All three of them meaning
4 who?

5 MS. HERRING-LASH: He -- around
6 4:00 that afternoon --

7 THE COURT: When you say all three of
8 them, who are you referring to?

9 MS. HERRING-LASH: The defendant had
10 two friends come over at 4:00 that afternoon. At
11 no time were those friends left alone with this
12 child.

13 THE COURT: It's going to be the
14 State's contention the only people around this
15 child was the defendant and his two friends?

16 MS. HERRING-LASH: Yes, Your Honor.

17 THE COURT: Are the two friends
18 testifying?

19 MS. HERRING-LASH: Yes, Your Honor.

20 THE COURT: And the daycare people are
21 going to testify as well as the mother, correct?

22 MS. HERRING-LASH: Yes, Your Honor.

23 The daycare operator will testify that he had no
24 bruises, they mark them -- if he falls at school,
25 they send a note home. If they see something

1 suspicious, they make a report.

2 THE COURT: So, again, the gravamen of
3 your argument is that he didn't inflict these
4 bruises?

5 MS. FORD: Yes, Your Honor. Just that
6 -- I mean, I would argue it's not proof. I do
7 understand circum --

8 THE COURT: Everything is subject to
9 establishing foundation.

10 MS. FORD: Yes, Your Honor.

11 THE COURT: But I wanted to deal with
12 the pictures in advance because usually the
13 objection is to the graphic nature of the
14 photographs. And I need to get that out of the way
15 and deal with that preliminarily, but really the
16 crux of your argument is that your client didn't
17 inflict the bruises.

18 That's really -- I suspect that the
19 State is going to be able to establish,
20 circumstantially, that they would be appropriate to
21 enter through the medical examiner. Of course, I'd
22 have to hear the testimony to see if it's going to
23 bear out what Ms. Herring-Lash is representing. I
24 have no reason to doubt her, but people get in
25 court and say things differently. It's just the

1 human factor, things play out differently than we
2 anticipate sometimes.

3 Everything is subject to the State
4 being able to establish the appropriate foundation
5 for the admissibility of the photos, but if the
6 main objection is that he didn't inflict the
7 bruises, I don't -- I wouldn't see that as a basis
8 not to admit the photographs.

9 Of course it would be subject, however,
10 to the State being able to establish, as they've
11 represented to the Court, that the defendant and
12 only his two friends had access to the child, and
13 that the daycare workers are going to, in fact,
14 testify that he didn't have any other bruises on
15 him, and the medical examiner's testimony regarding
16 the window of time in which -- based on the stage
17 of the bruises when they would have theoretically,
18 to a medical degree of certainty, have been
19 inflicted.

20 Any arguments as to him not doing it
21 would be a weight question and that's subject to
22 cross-examination as to how much the weight the
23 jury should give that testimony. It comes down to
24 credibility, as to whether the jury is going to
25 believe that only the defendant and his two friends

1 had access to the child, whether they believe the
2 daycare workers, and whether they believe the
3 expert, that being the pathologist. But that's a
4 question of fact for you to argue, but not an
5 admissibility issue.

6 So at this point they will be marked
7 subject to any contemporaneous objections being
8 raised, and that's 57 through 66. And I'll take up
9 any contemporaneous objections. Of course, it will
10 be your responsibility to raise those.

11 Now as it regards 67 and 68, for what
12 purpose would the State be seeking to introduce
13 pictures of the spleen? And I need to know
14 specifically what 67 purports to show. I can tell
15 what 68 purports to show.

16 MS. HERRING-LASH: Your Honor, the
17 copies I have that aren't marked is 68 --

18 THE COURT: The one with the ruler.
19 Well, both of them have a ruler, I'm sorry. I know
20 what that one shows. I need to know what the other
21 one purports to show.

22 MS. HERRING-LASH: The other one is the
23 other side of the spleen.

24 THE COURT: What is it showing?

25 MS. HERRING-LASH: This is the one.

1 that --

2 THE COURT: I got that part. I can
3 tell that it's injured.

4 MS. HERRING-LASH: She would just
5 explain this is the -- before the spleen was
6 attached and how it became injured.

7 THE COURT: Yeah, but she doesn't need
8 -- does she need that picture to show how it was
9 injured?

10 MS. HERRING-LASH: This is the one that
11 I planned to --

12 THE COURT: I don't have a problem
13 with that one in black and white and that goes to a
14 direct element of the offense. You can have that
15 one back. And you can have this one --

16 The color becomes a Court exhibit,
17 Denise. And the black and white becomes a State's
18 Exhibit.

19 (COURT EXH. 2, Color photograph, was
20 marked for identification.)

21 Now, I need a black and white of Number
22 69.

23 Why would the State be seeking to
24 introduce this photo?

25 MS. HERRING-LASH: These injuries right

1 here is where the spleen was located and this
2 injury right here is the bruise on the buttocks.
3 And one of the -- the reason that I would seek to
4 introduce it, if you look at the picture of the
5 buttocks, it's really impossible to appreciate what
6 that bruise entailed and how severe it was.

7 And one of the things that the State
8 has to prove is that this was extreme indifference.
9 And I think that the argument from the -- from the
10 defendant is that he inflicted one blow, and that
11 one blow just happened to be the blow that caused
12 this child's death. And, in fact, all of these
13 bruises -- and there are many others --

14 THE COURT: The bruise to the
15 buttocks, would it have ruptured his spleen?

16 MS. HERRING-LASH: It was not a fatal
17 injury.

18 THE COURT: So what is it going to
19 show?

20 MS. HERRING-LASH: I think it goes into
21 the extreme indifference.

22 THE COURT: Are you going to seek to
23 show evidence that he didn't just hit him one time?

24 MS. HERRING-LASH: Yes. I think that
25 the evidence that he did not hit him one time would

1 come from the pathologist. And the bruises on his
2 body were on different planes, different parts of
3 the body, and that it could not have been one
4 injury to have inflicted all of these -- one blow
5 could not have inflicted all of these injuries.

6 THE COURT: Let me see the color one
7 again, please.

8 MS. HERRING-LASH: It's a bruise that
9 went through down to the muscle.

10 THE COURT: What is the objection?

11 MS. FORD: Just that it's so graphic in
12 nature, Your Honor. Certainly, the laceration and
13 -- the bruise can be seen clearly on the body --

14 THE COURT: It's not the same as when
15 you peel it back.

16 MS. FORD: Well, it's graphic-looking
17 inside.

18 THE COURT: It is what it is. It's
19 not graphic-looking. It's the -- I mean, it's the
20 objective proof of actually what the bruise -- what
21 it entails. My concern however is that there are
22 parts of this that aren't relevant, that tend to
23 cause me some concern. Like, the top half of the
24 photo as to why it would be necessary.

25 MS. HERRING-LASH: We could crop that.

1 THE COURT: I think you need to, and I
2 still need to think about whether you can see just
3 as much in black and white as you can see in color.
4 I think you can see the severity of the bruises in
5 black and white on both planes, that means the
6 right lower quadrant of the photo and the left
7 midquadrant of the photo. I think you can see that
8 just as clearly on the black and white photo as you
9 would be able to see it in the color.

10 And I think it's difficult for jurors.
11 As lay people, we do this every day so it does not
12 affect us on the same level. Whether that's sad or
13 not, it is what it is, but I don't think the
14 average person -- when I say sad, I mean, sad that
15 it doesn't affect us because it's what we do every
16 day. I think it would be very difficult for the
17 average person to look at a photo like this and not
18 have a visceral reaction to it.

19 In terms of balancing the interest, the
20 State has an element to prove and they should not
21 be hindered in proving it if this gives -- and
22 actually it's several layers of this that needs to
23 be looked at. One is the medical examiner, and the
24 State is entitled to show the mode and manner of
25 death in its totality; and if they need pictures to

1 describe, and a diagram will not assist in that, or
2 not be as descriptive as it needs to be to convey
3 the information as clearly as it needs to be
4 conveyed, they are entitled to do that.

5 Line of cases are very clear that
6 photos should be admissible to show an element of
7 the offense. Of course, all of these things that
8 I'm saying are always subject to the State being
9 able to establish appropriate foundation for the
10 questions for the admissibility -- line of
11 questioning for the admissibility of the document.

12 But I think under these circumstances,
13 the black and white photo would suffice and I think
14 it would be appropriate to crop out right above
15 where the point of the reference to show, you know,
16 how they measure. I forget what they call that.
17 Looks like a ruler, but that's not what it is.
18 It's how they do things to scale for the
19 pathologist's report.

20 I think it would be appropriate to crop
21 it from about here up, and to do it in black and
22 white. Of course that is subject to you being able
23 to establish it for -- the foundation for the line
24 of questions and for the pathologist's testimony.

25 MS. HERRING-LASH: We can just mark on

1 that.

2 THE COURT: And then give the colored
3 photograph to the Court Reporter. That will be
4 marked as a Court Exhibit and then you all can
5 redact that other one and then I can see it before
6 it's marked.

7 MS. FORD: If it's being redacted -- I
8 don't know if the hand sticking out can be
9 redacted --

10 THE COURT: They need to be oriented
11 as to what they're looking at and what the medical
12 examiner is describing. And, to me -- in fact, it
13 humanizes it more. I think it makes it less --
14 what's the word I'm looking for -- less clinical.
15 I don't have a problem with the hands, I thought
16 about that, but I think she needs, probably, to
17 know that to orient us as to what she's looking at
18 and what she's dealing with.

19 I think cropping it -- the way it is at
20 this point, what I'm concerned about, I think if we
21 crop it down to what is germane and what the
22 medical examiner is going to testify, I think
23 eliminates -- and eliminating the color, I think it
24 eliminates a lot of what I was -- I would have
25 concern about.

1 Is there anything else we can take up
2 while we're trying to find our juror?

3 MS. FORD: I don't believe so, Your
4 Honor.

5 MS. HERRING-LASH: I can't think of
6 anything.

7 THE COURT: Were the photos the only
8 thing you all had contentions about with the
9 evidence or was there anything else that you all
10 can work through while we're waiting.

11 MS. HERRING-LASH: Some of the
12 statements, but without the witnesses here --

13 THE COURT: Those are witness
14 statements? Well, they wouldn't come in any way
15 except for impeachment.

16 MS. FORD: As far as the evidence,
17 there's clothing, but we have pictures of those.
18 I've already agreed to those. I just think the
19 clothing --

20 THE COURT: You need to be specific.

21 MS. FORD: From when the child was
22 taken to the hospital, he threw up on his -- he
23 threw up and so they have his shirt and there's
24 some throw-up on it.

25 THE COURT: Well, it's probably dried

1 up by now.

2 MS. FORD: It is.

3 THE COURT: Can you really tell what
4 it is?

5 MS. FORD: Well, it looks like
6 throw-up, something of that nature.

7 THE COURT: Uh-huh.

8 MS. FORD: There's also some jeans that
9 I think still has a little diarrhea on it, and they
10 have a picture. I just don't think it's -- they
11 could be explained easily. Just that it's more
12 prejudicial than probative.

13 THE COURT: Why would you be seeking
14 to introduce the clothing? Can they attest that he
15 aspirated or that he had diarrhea?

16 MS. HERRING-LASH: I don't think that
17 they do. I mean, he did not --

18 THE COURT: If it's not in contention
19 then -- I mean, usually you present evidence to
20 prove something that's in contention.

21 MS. HERRING-LASH: I think the main
22 object that they contest is the knife.

23 THE COURT: What knife are you
24 referring to?

25 MS. HERRING-LASH: When the defendant

1 cut -- he cut the child's underwear off with a
2 butcher knife.

3 THE COURT: Okay. That's uncontested?

4 MS. HERRING-LASH: It's uncontested
5 that he cut them off. What is contested is that
6 the knife coming into evidence.

7 THE COURT: That's not my question.
8 My question is, is there some contention that he
9 cut off the underwear with the butcher knife?

10 MS. FORD: He admitted to that, Your
11 Honor, in the bathroom. Your Honor, the knife is
12 found next to the pan. There's a picture of that
13 again, which we understand they want to explain
14 that. I don't think that having the actual knife
15 in evidence is necessary. It's not the tool --
16 it's not the weapon. He just used it --

17 THE COURT: I guess I'm just trying to
18 figure out why -- if you all agree on it, why can't
19 you just -- I guess I'm just trying to figure out
20 what element of the crime is it being offered to
21 prove.

22 MS. HERRING-LASH: When you see the
23 knife, it's very intimidating.

24 THE COURT: But your contention would
25 be that the child was out of it and if the child

1 had seen the knife --

2 MS. HERRING-LASH: Well, at that point
3 in time the child wasn't. At that point in time --

4 THE COURT: You're not saying he used
5 this knife to hurt the child, are you?

6 MS. HERRING-LASH: I think he used it
7 to intimidate him.

8 THE COURT: Do you have proof of that?

9 MS. HERRING-LASH: Just what other
10 reason would you use a butcher knife to --

11 THE COURT: I don't know. I stopped
12 trying to apply logic a long time ago. I never ask
13 people why because they rarely, if ever, have a
14 rational answer or they wouldn't be here. You just
15 can't apply what you would do.

16 MS. HERRING-LASH: When you look at the
17 knife, it looks very different than it does in the
18 picture.

19 THE COURT: I'm still trying to figure
20 out what element would you be seeking to introduce
21 that to prove?

22 MS. HERRING-LASH: His complete and
23 total disregard for this child, and I think it all
24 goes to the extreme indifference to which he
25 treated this child and his life and health and

1 safety.

2 THE COURT: I'll have to hear it in its
3 totality to make a decision about that.

4 MS. FORD: And just -- the two friends
5 were there at this point. They were outside in the
6 living room. They both said the bathroom was open,
7 they never heard the child scream out. It was a
8 very short amount of time in the bathroom, changing
9 the pants and giving him a bath.

10 And those two witnesses, neither one of
11 them indicated that they heard Curtis threaten him
12 or do anything with the knife, and the door was
13 open the whole time as well.

14 THE COURT: You know, people don't
15 always threaten folk with words. I don't know.

16 MS. FORD: Yes, Your Honor.

17 THE COURT: I'll have to hear it. And,
18 I mean, you need to make a contemporaneous
19 objection and then I'll have to decide in the
20 totality of it whether -- depending on what
21 objection you make, we'll hear it. And let's do it
22 in camera so the jury is not privy to it before --

23 MS. HERRING-LASH: Okay.

24 THE COURT: -- you seek to admit it.

25 Okay. We have found our juror. She is

1 here.

2 MS. HERRING-LASH: We got an e-mail, we
3 have someone at the North Charleston Police
4 Department working on the video and redacting it,
5 and they say it would not be done until tomorrow.

6 THE COURT: You don't have a
7 witness --

8 MS. HERRING-LASH: I don't have a
9 witness. I just wanted to give you an update they
10 are trying to redact it.

11 THE COURT: Okay. Are we ready for
12 opening instruction and opening statements? From
13 the State?

14 MS. HERRING-LASH: Yes, Your Honor.

15 THE COURT: From the defense?

16 MS. FORD: Yes, Your Honor.

17 THE COURT: I have appointed
18 Mr. McLeod Bryant as the foreperson, Number 223.

19 The clerk and I are of the opinion that
20 the juror just got confused. So absent anything
21 contrary to that, I don't know that any further
22 inquiry is necessary? From the State?

23 MS. HERRING-LASH: No.

24 THE COURT: From the defense?

25 MS. FORD: No, Your Honor.

COURT'S OPENING

1 THE COURT: The jury is going to take
2 notes. Any exception from the State?

3 MS. HERRING-LASH: No, Your Honor.

4 THE COURT: From the defense?

5 MS. FORD: No, Your Honor.

6 (Jury in, 3:35 p.m.)

7 THE COURT: Okay. Please pass out the
8 notebooks for me.

9 Ladies and gentlemen, during the course
10 of this trial, you will be given the opportunity to
11 take notes. Each notebook has a white sticker on
12 the front. You need to write your juror number on
13 that sticker so that you will be able to identify
14 which notebook belongs to you. And I will give you
15 some further instruction regarding note-taking near
16 the conclusion of this preliminary instruction.
17 Everybody has pens and everyone has notebooks?

18 Ladies and gentlemen, we appreciate
19 your patience. One of your members got a little
20 confused and so we had to wait for her to arrive
21 safely at the courthouse. So we appreciate your
22 patience as we waited for her, and we are glad that
23 she was able to arrive safely.

24 I am going to give you some preliminary
25 instructions regarding this case so that you will

COURT'S OPENING

1 better understand how we will be proceeding in this
2 matter. These remarks are not a charge on the law.
3 I will give you instructions regarding this case at
4 the end of the case before you retire to consider
5 your verdict.

6 And so that you know, when we use the
7 term, charge, that's a legal term of art that means
8 instruction. When I say charge and instruction,
9 those are interchangeable terms for that purpose.

10 The defendant is charged by an
11 indictment filed in this court with the crime of
12 homicide by child abuse. The elements of which I
13 will explain to you at the conclusion of the case
14 before you retire to deliberate. The indictment,
15 ladies and gentlemen, is simply the charge by which
16 the case is brought into court and it is not in any
17 sense evidence of any of the allegations it may
18 contain.

19 The defendant has pled not guilty to
20 the indictment and that -- sorry, the defendant has
21 pled not guilty to the indictment. The State,
22 therefore, has the burden of proving each and every
23 element of the offense in the indictment as alleged
24 beyond a reasonable doubt. And it would be your
25 duty, ladies and gentlemen, to decide whether the

COURT'S OPENING

1 State has met that burden or not.

2 Your purpose as jurors is to find and
3 determine the facts in this case. You are the sole
4 judges of the facts in this case. If at any time I
5 make a comment regarding the facts, you must
6 disregard it. You are to determine the facts from
7 the testimony you hear and the other evidence
8 introduced in court. It is then for you to
9 determine the inferences which you feel may be
10 properly drawn from that evidence.

11 It is especially important that you
12 perform your duty of determining the facts
13 diligently and conscientiously because ordinarily
14 there is no way to correct an erroneous
15 determination of facts made by a trial jury.

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

25 Your responsibility, ladies and

COURT'S OPENING

1 gentlemen, is to take the law as I instruct it and
2 apply it to the facts as you find them from the
3 testimony of the sworn witnesses and other evidence
4 that would be introduced during the trial. After
5 doing that, you will render your verdict, a true
6 and just verdict, under the solemn oath that you
7 have taken as jurors in this case.

8 Until I advise you to begin your
9 deliberations, you must not discuss this case with
10 anyone. That includes your fellow jurors, your
11 friends, family members, or anyone involved in the
12 case. After the case is submitted to you, you must
13 discuss it only in the jury room with your fellow
14 jurors.

15 The attorneys and the parties have been
16 advised they are not to speak with you at all, so
17 if you should run into them accidentally in the
18 hallway, the lobby, elevator, or otherwise, or even
19 on the way to the parking garage in the evening, or
20 in a restaurant during lunch, and they don't speak,
21 please don't think they're being unfriendly or
22 untoward. They are simply following the court's
23 instruction. Again, we would not want an innocent
24 conversation to be misinterpreted.

25 During the trial, do not read, watch,

COURT'S OPENING

1 or listen to any news reports about this case.
2 That includes anything that may be in the
3 newspaper, radio, television, or Internet, and you
4 are not to do any independent research of any kind
5 on the Internet regarding any matter or issue
6 involved in this case.

7 You must not consider anything that you
8 may have read or heard about this case outside of
9 the courtroom whether before or during the trial.
10 It is essential that you maintain an open mind and
11 not decide any issue in this case until all of the
12 evidence has been presented, the parties have made
13 their closing arguments, and I have instructed you
14 on the law applicable to this case.

15 It is your solemn responsibility to
16 determine whether the State has met their burden of
17 proof, and your verdict must be based solely on the
18 evidence as it is presented to you in this trial
19 and on the law as I will instruct you during and at
20 the close of the trial.

21 In just a moment, the Solicitor will
22 make what is called an opening statement in which
23 she will outline or explain to you what she
24 believes the issues to be in this case. The
25 attorney for the defendant may also make an opening

COURT'S OPENING

1 statement although she is not required to do so.

2 Keep in mind that what the attorneys
3 tell you during their opening statements is not
4 evidence. It is only their contention as to what
5 they believe the evidence will show in this case
6 and what they believe the issues to be.

7 The evidence in this case will be
8 presented to you by the testimony of sworn
9 witnesses from the witness stand and/or by exhibits
10 that may be introduced into evidence.

11 From time to time during the trial, you
12 will hear the attorneys say, Your Honor, I object.
13 Just as in sports, business, or any other
14 structured activities there are certain rules we
15 must obey in the presentation of evidence. These
16 rules have a definite purpose. They ensure that
17 you receive the most trustworthy and reliable
18 evidence available.

19 An objection is the procedure that the
20 attorney uses to call a possible violation of these
21 rules to my attention as the judge of this court,
22 and for this reason you should never hold an
23 objection against them, nor should you conclude
24 from the court overruling or sustaining an
25 objection that I favor one side or the other. In

COURT'S OPENING

1 fact, you should expect objections. Do not hold
2 them against counsel.

3 Also, from time to time, you may hear
4 the attorneys say, Your Honor, we have a matter of
5 law to discuss, or they may ask to approach, or I
6 may ask them to approach, or it may be necessary
7 for us to exclude you from the courtroom for a
8 short while, while we discuss matters of law. The
9 reason we do this is because you are the finders of
10 the facts, and sometimes when I'm discussing
11 matters of law with the attorneys it might be
12 necessary for me to take a comment about the facts
13 in connection with making a ruling. And for this
14 reason we exclude you from the courtroom so that in
15 no way will you be influenced by anything that the
16 court may say or do in connection with the facts of
17 the case.

18 In determining what the true facts are
19 in this case, ladies and gentlemen, you must decide
20 whether or not the testimony of a witness or
21 witnesses is believable. It is my responsibility
22 to rule as a matter of law whether certain
23 testimony is admissible at all or not, but once it
24 is admitted, whether or not you believe it is
25 solely a matter for you to determine.

COURT'S OPENING

1 In deciding whether to believe a
2 witness, you have the right to consider the
3 interest of any witness, the bias of any witness,
4 the prejudice of any witness, the opportunity for
5 the witness to have seen the matters and things
6 about which the witness may testify, and the way
7 the witness acts on the witness stand, what we
8 commonly refer to as their demeanor.

9 You have a right to consider anything
10 that is in the record that will help you evaluate
11 the testimony of the witness. That means, ladies
12 and gentlemen, that it is your duty to pay close
13 attention to the witness, to observe them, to
14 listen to the witnesses and to pay close attention
15 to the attorneys and the court.

16 Although I know it can be very
17 difficult, please do not allow your thoughts to
18 wander, but give strict attention to the testimony
19 so that at the end of the testimony, after the
20 attorneys have made their closing arguments, and
21 I've instructed you on the law, you will then be in
22 a position to determine what the true facts are,
23 apply the law to those facts, and thus render a
24 true and just verdict.

25 During the course of this trial, you

COURT'S OPENING

1 will be allowed to take notes. Note-taking is a
2 privilege that you may choose to exercise or choose
3 not to exercise. Please do not feel that you are
4 required to take notes. Not everyone finds
5 note-taking helpful to them.

6 If you should decide to take notes,
7 please do not try to record everything that is
8 said; it's physically impossible. You may want to
9 keep an outline of the main points that are being
10 made, the main arguments that are being made in
11 outline form. Because, again, it is physically
12 impossible to take down verbatim what is being
13 said.

14 The average person speaks at over 200
15 words a minute, and that's a moderate, not a fast
16 speaker. And as the finders of the facts, it is
17 absolutely essential that you rely on your powers
18 of observation, so please do not allow note-taking
19 to become a distraction to you.

20 You may want to use your notes to serve
21 as a method of refreshing your memory of the
22 general arguments that have been made as well as
23 any concepts or the evidence, but please be
24 reminded that your notes are for your specific and
25 your individual purposes. They are only to be used

COURT'S OPENING

1 to refresh your own memory. They are not to be
2 shared with anyone else.

3 And please be reminded that your notes
4 should not be considered any more reliable than a
5 fellow juror's memory. Their memory should be
6 considered just as reliable as notes that may have
7 been taken by a fellow juror.

8 During breaks and recesses we will
9 leave your notes in your chair. During the evening
10 recess, they will be secured. So please know that
11 your privacy will be protected and no one will
12 invade the privacy of your note-taking.

13 Mr. Foreman, it is your duty to fill
14 out the verdict form and to write out any questions
15 the jury may have during deliberations, but I will
16 give you further instructions regarding that at the
17 conclusion of the case. Ladies and gentlemen, the
18 foreperson is purely an administrative function.
19 We select that person completely randomly to make
20 sure that a cross section of the community is
21 represented in that capacity.

22 Again, that person's responsibility is
23 simply to fill out the verdict form and write out
24 any questions that you may have. And I emphasize
25 that that person does not have any greater voice or

STATE'S OPENING

1 vote than you do. It's purely administrative.

2 In order to preserve everyone's rights,
3 I will give the parties an opportunity to take
4 exception to anything that the court has said by
5 way of opening instruction.

6 Any exception from the State?

7 MS. HERRING-LASH: No, Your Honor.

8 THE COURT: From the defense?

9 MS. FORD: No, Your Honor.

10 THE COURT: I would ask that you give
11 the attorneys your undivided attention in opening
12 instruction.

13 Ms. Herring-Lash, you may proceed.

14 MS. HERRING-LASH: May it please the
15 Court.

16 Ladies and gentlemen, in this trial you
17 will hear about a little boy named **Child**. He was
18 born , and he was killed
19 October 26, 2014, days after turning three.
20 **Child** 's mom is Krystal Williams and his dad is
21 Terry McKithen. Krystal was in Florence when she
22 and Mr. McKithen were together and that's where
23 **Child** was born. Krystal and Terry did not stay
24 together long, they separated before **Child** was a
25 year old and Krystal moved back to Charleston to

STATE'S OPENING

1 live with her mother, and off and on other family
2 members lived in the home also.

3 During that time she began a
4 relationship with one boyfriend, the family all
5 liked him, really appreciated the way that he
6 treated **Child** That relationship did not last
7 that long. And in March of 2014, she met Curtis
8 Williams. Mr. Williams, the defendant in this
9 case.

10 They began shortly thereafter to live
11 together with various relatives, at first, of
12 Mr. Curtis Williams. With Lu-Lu, a friend -- I
13 mean, cousin, and then a sister. So they lived
14 with various family members and **Child**

15 Family members of Krystal did not
16 appreciate and like the way that Mr. Curtis
17 Williams treated **Child** He would raise his voice
18 at him. He would call him names. He called him,
19 momma's boy, and thought he was soft. So they
20 didn't like what they saw as the interaction.

21 Now, Curtis had been in a relationship
22 with another woman prior and she had a child. And
23 they observed his treatment of this child, which
24 was wonderful. It was a little girl. And his
25 treatment of this little girl they will tell you

STATE'S OPENING

1 was very different. He seemed to prefer her, but
2 thought **Child** was too soft. Perhaps not seeing a
3 big difference in how little girls should be
4 treated and how little boys should be treated.

5 During this time, Krystal and -- that
6 they were living together. Eventually they got
7 their own apartment on in North
8 Charleston. They moved there. And during this
9 time they were together, and after they moved on to
10 , Krystal was working two jobs. She
11 would -- she worked at Goodwill and she worked at
12 Save-A-Lot.

13 And she would work -- if she worked one
14 day from 9 to 12, or 8 to 12, or 9 to 1, she would
15 work the other job from say 2 to 7, or 3 to 8, many
16 days working both jobs. Curtis had no job, so he
17 would be the one that would be left at home to take
18 care of **Child**

19 Now, you may ask yourself, why, if the
20 family members didn't like the way he treated
21 **Child** , was he left to be the babysitter? And
22 that's a good question. But it does play out often
23 the person that doesn't have the job that is
24 unattached to the child, the boyfriend, stays at
25 home with no real childcare knowledge or child

STATE'S OPENING

1 development knowledge. It happens a lot, and
2 that's what happened in this case.

3 Now, Krystal and Terry together found
4 daycare eventually for **Child** . So he began going
5 to daycare. And he would go around 8:30, the bus
6 would pick him up, and he would come back home
7 around 5 or 5:30 in the afternoon.

8 But Curtis would still be his daycare
9 provider or his childcare provider in the afternoon
10 because Krystal was working until 8:00 at night
11 most nights, and on weekends, so he would still be
12 the primary caretaker for **Child** .

13 Calling your attention now to the
14 weekend of March 25/26, that the 26th is the day
15 **Child** died, that was a Sunday. Curtis was
16 babysitting that day. Krystal got up early that
17 morning and went to work. She says that when she
18 got up that morning, **Child** got up with her. She
19 washed his face because he'd had a nose bleed over
20 the night, which he often did because he would pick
21 at his nose a lot. And she brushed his teeth and
22 then she had to go to work. He was fine and happy,
23 and she told him to go back and lay down.

24 He didn't have a bed at this apartment.
25 He just laid on the couch because they only had one

STATE'S OPENING

1 bedroom. So -- and she does not remember that
2 morning whether Curtis got up before she left or
3 whether he was still asleep. At the time that's
4 not something that she would have paid attention
5 to, and she doesn't remember at this point how that
6 went.

7 Curtis says that they got up, they
8 watched -- they got up early and they watched
9 football. This was a Sunday. It was the Sunday
10 that the game was on in London, so the football
11 started at 9:30 that morning. They got up, they
12 watched football, they went to the park, and at the
13 park **Child** began to lay on the park bench. They
14 came back and he didn't really want to eat, not
15 even a Tootsie Roll, didn't want to drink much. He
16 tried to give him a Capri Sun.

17 Later that afternoon, around --
18 probably a little before 4:00, he had two friends
19 come over, Shaquille Prioleau and **D.S.**
20 Shaquille Prioleau had been a friend of Curtis's
21 since middle school, and **D.S.** was Shaquille's
22 little brother. They came over to watch football.
23 Specifically, they were going to watch the 4:30
24 game, the Pittsburgh Steelers.

25 They said **Child** was laying on the

STATE'S OPENING

1 couch when they got there. And when they tried to
2 sit him up, he would just fall back over and lay
3 back over. It was a bit unusual in that **Child**
4 loved Shaquille. They had a really good
5 relationship. Shaquille would play games with him,
6 play basketball -- now Shaquille will tell you by
7 playing basketball, he would throw the basketball
8 and **Child** would run and get it. And it was a
9 little unusual that he didn't get up and go to
10 Shaquille.

11 That afternoon they all also had to
12 leave. Crystal was at work and needed some
13 paperwork in order to buy some food before she came
14 home. So Shaquille had a car and they were going
15 to ride with Shaquille to deliver this paperwork.
16 And on the way to get into the car, or else right
17 when they got in the car, no one is absolutely
18 positive, you know, when exactly this happened, but
19 **Child** lost control of his bowels and had diarrhea.

20 It smelled very bad so Curtis takes him
21 back, puts him in the apartment, and leaves him
22 there alone while they go to the store. So they go
23 to the store, and you will see a little video of
24 them entering the store. It won't be much, as far
25 as showing you anything much about the case, but

1 what it does show you is the time.

10 The important part about that is that
11 we know from their testimony that just prior to
12 leaving that apartment, **Child** had lost control of
13 his bowels. And what the doctor will tell you is
14 that, that is one of the first symptoms that the
15 body is shutting down, that one of the first organs
16 to be shut down is a nonvital organ, which is the
17 bowel. So that's why that timing is important.

18 They got back, Curtis, D.S. , and
19 Shaquille get back to the apartment, and Curtis
20 takes **Child** into the bathroom and takes a butcher
21 knife and cuts his pants off, his little panties or
22 his little underwear off. He gives him a bath,
23 brings him back out, and at that point he's just
24 kind of laying on the couch.

25 It's not real long after that, that he

STATE'S OPENING

1 shows real distress, he's having a hard time
2 breathing. And Curtis says, we've got to go to the
3 hospital, we've got to go. So they all three get
4 in the car and they rush -- Shaquille's really not
5 even knowing exactly how to get there. They end up
6 going the wrong way down Rutledge Avenue trying to
7 rush to the hospital.

8 They get to the hospital, they are met
9 by hospital personnel, they began to work on
10 **Child** , but, unfortunately, they are not able to
11 save him and at 5:47 he's pronounced dead. Now,
12 there's an autopsy done the next day and they find
13 out that the cause of death is a lacerated spleen,
14 which means a cut spleen, due to blunt trauma, due
15 to a beating. And the manner of death the autopsy
16 says is homicide. What that means is **Child** bled
17 to death internally.

18 Now, the pathologist doing the autopsy
19 also found various bruises on **Child** 's body on
20 different areas and planes of **Child** 's body.
21 During this trial you will hear from family
22 members, from the daycare operator where he had
23 been that Friday, from friends, neighbors, law
24 enforcement and medical personnel.

25 And you will hear from Krystal

STATE'S OPENING

1 Williams, his mom. You will hear that even after
2 this she continued talking to and hanging around
3 with Curtis. You may question that. She did not
4 want to believe what happened and, unfortunately,
5 this plays out a lot. A person turns a blind eye
6 to the person who hurt their child and stays with
7 them. But at this point in time, she will tell you
8 what she knows about what happened.

9 Now, Curtis is charged with homicide by
10 child abuse. I will just now briefly go over the
11 elements of that charge. The elements of the
12 charge are the facts that the State must prove to
13 you to meet the burden of proof. A person -- first
14 of all, a person causes the death of a child, and
15 that the child is under the age of 11, and that
16 that death occurred while the person is committing
17 child abuse or neglect, and that the situation is
18 under circumstances of extreme indifference to
19 human life.

20 It's a little different from the
21 elements of murder that you often hear about where
22 there has to be an intentional taking of the life,
23 premeditated taking of a life. With child abuse,
24 the burden is circumstances of extreme
25 indifference.

STATE'S OPENING

1 There does not have to be an intent to
2 kill the child. That you commit child abuse and
3 it's under extreme -- situations under extreme
4 indifference. Not that you committed the child
5 abuse with the intention of taking the child's
6 life. If that's the case, it would be murder and
7 not homicide by child abuse.

8 Some of the words in that statute have
9 specific definitions. Child abuse is defined in
10 the statute as an act, or omission, by any person
11 which causes harm to the child's physical health or
12 welfare. Harm is defined in that statute as
13 inflicts, or allows to be inflicted, upon the
14 child, physical injury including injury sustained
15 as a result of excessive corporal punishment. That
16 means your intent is corporal punishment, like,
17 you're disciplining the child. If it goes so far
18 as to harm the child so that death is caused, it's
19 still a crime, even though your intent was corporal
20 punishment. Those are the elements that the State
21 must prove to you.

22 Unfortunately, you will have to hear
23 some information and some areas that aren't
24 pleasant for us to have to talk about or for you to
25 have to deal with, but it's information that is

DEFENDANT'S OPENING

1 important for you when you make your decision.

2 This is a very important case to
3 Mr. Williams, it's a very important case to the
4 State, and it's a very important case to **Child** and
5 his family.

6 We ask that you listen to all the
7 evidence and in the end find a verdict that speaks
8 the truth about what Mr. Williams did to **Child**
9 Thank you.

10 THE COURT: Ms. Ford.

11 MS. FORD: Yes, Your Honor.

12 Curtis Williams, C. J. as a lot of
13 people call him, he never ever wanted **Child** to
14 die. He never intended to do anything to make
15 **Child** die. This is not going to be an easy case
16 to be a part of. At the beginning, when the judge
17 read the charge that you were going to possibly be
18 a part of, a lot of people have a visible reaction.
19 No one wants to think of a three-year-old dying.
20 And we ask questions making sure that you could be
21 fair and impartial.

22 And you may see some pictures that are
23 going to be upsetting and you may hear from some
24 witnesses who will be understandably emotional and
25 you may get emotional yourself. It's going to be a

DEFENDANT'S OPENING

1 tough case. We are not here to determine if a
2 little boy died. The reason you are here is to
3 determine the circumstances of his death.

4 The State has to prove to you beyond a
5 reasonable doubt numerous elements. They have to
6 prove that Curtis Williams committed child abuse on
7 **Child**, that this abuse that led to his death, and
8 that it was done under circumstances demonstrating
9 extreme indifference to human life.

10 The judge mentioned that to you, the
11 Solicitor mentioned that to you, and that is
12 something that we would ask you to consider
13 throughout the trial, throughout hearing the
14 witnesses. At the end of the trial, the State will
15 not be able to do that because those things did not
16 exist.

17 C. J. was just 25 years old back in
18 2014. He met a woman named Krystal and they got
19 involved, and they moved in with each other pretty
20 soon. So they had only been dating a few months at
21 the time this happened. So before that, as you
22 heard, his dad, he was married to someone else,
23 they lived in another city. So **Child** wasn't used
24 to living with a male, but a lot of times since
25 Krystal would work, C. J. was the one taking care

DEFENDANT'S OPENING

1 of him.

2 One day back in October of 2014,
3 Krystal was working and so C. J. stayed home with
4 him. This was a Sunday. They watched TV, as the
5 Solicitor mentioned. Since it was Sunday, it was
6 football. And at one point **Child** actually --
7 Curtis took him to the park because **Child** loved
8 going to the park.

9 Later that day, the two boys come over
10 Shaquille and his brother. So when they get
11 there -- they talked to police at first, they
12 talked to numerous people since this incident two
13 years ago. So when they got there, they thought
14 **Child** was quiet, but they didn't think anything
15 too much of it. Certainly, they didn't go there
16 and say, hey, why isn't this kid at the doctor?

17 So later though, things did change, and
18 when they changed is after Curtis -- after C. J.
19 took the boy into the bathroom and took off his
20 clothes, changed his clothes, and gave him a bath.
21 This only took a few minutes. When he was done, he
22 went out to the living room.

23 And Shaquille and **D.S.** will tell you
24 how that Curtis was basically trying to comfort
25 **Child**. That he held him; that he asked he --

DEFENDANT'S OPENING

1 tried to give him water, but **Child** didn't want
2 any; that he laid him down; that he put the covers
3 over him trying to comfort him. And they were
4 actually going to leave. They were going to leave.
5 They're like, we gotta go. And C. J. was like, no,
6 you can't leave, we have to go to the hospital.

7 So they go to the hospital, and you
8 will hear that C. J. did what he could to try to
9 help **Child** . He actually attempted to do CPR on
10 **Child** . He's not trained, but as we've all seen
11 people on TV doing it, he did his best.

12 So he was in the back of the car doing
13 CPR. Everything was chaotic. They went down the
14 wrong way, down a one-way street. They actually
15 get to the hospital, they abandoned the car, and
16 run inside. So public safety had to come and had
17 someone sit with the car because it was just right
18 there in front of the entrance, not a parking area,
19 but everybody in the car rushed inside.
20 Unfortunately, it was too late.

21 The family was notified and many people
22 came to the hospital. Everyone was in shock,
23 everyone was in grief, including C. J.

24 Now, C. J. cooperated with the police.
25 He talked to the police and to the coroner that

DEFENDANT'S OPENING

1 evening. He took them to his home. He let them in
2 and he showed them -- you know, told them about how
3 **Child** was acting after the fact. He even
4 demonstrated it, and you may see some pictures of
5 when he was showing them how he was acting.

6 So the next day everybody is still
7 grieving and in shock and Curtis, on his own, goes
8 to the police -- they asked him to come -- he gets
9 his mom to take him and he's with Krystal and he
10 talks to the police and he cooperates with them.

11 Now, at some point, at this point they
12 tell him the results of the autopsy and they show
13 him some pictures. And C. J. ends up talking to
14 them and he tells them as much as he can about what
15 he remembers from that day and, ultimately, he was
16 arrested.

17 Now, the police didn't just talk to
18 C. J., they talked to other people too. They
19 talked to Krystal because of course they wanted to
20 talk to the mom of the child, the caregiver of the
21 child. And she was in shock and she indicated she
22 had not seen Curtis ever abuse **Child**, that there
23 had been no issues, nothing of that sort, to her
24 that -- she was in complete shock, didn't believe
25 that this could have happened and she was the one

DEFENDANT'S OPENING

1 that was around Child .

2 C. J. was one of the people that spent
3 the most time with Child the last few months of
4 his life, back in 2014. He loved Child . He did
5 not have extreme indifference to Child 's life. He
6 never would have wanted him to die. He never would
7 have done anything knowing or thinking that
8 something could have happened.

9 So at the end of this trial, after
10 listening to all of the evidence, we would ask you
11 to consider that element of extreme indifference to
12 human life and we would ask you to look at all of
13 the unanswered questions and we would ask you to
14 find Curtis Williams not guilty.

15 Thank you.

16 THE COURT: The State may proceed.

17 MS. HERRING-LASH: The State would call
18 Rachel Miller.

19 RACHEL MILLER,
20 being first duly sworn, testified as follows:

21 THE CLERK: Please speak into the mic
22 and state your full name and spell your last name.

23 THE WITNESS: It's Corporal Esther
24 Rachel Miller, M-I-L-L-E-R.

25 THE COURT: You may proceed.

RACHEL MILLER - DIRECT EXAM BY MS. HERRING-LASH

1 DIRECT EXAMINATION

2 BY MS. HERRING-LASH:

3 Q. Corporal Miller, where do you work?

4 A. MUSC Public Safety.

5 Q. And how long have you been there?

6 A. I've been with MUSC Public Safety for
7 about seven years now.

8 Q. How long have you been in law
9 enforcement all together?

10 A. I've been a certified police officer
11 for 16 years.

12 Q. And what is your position at public
13 safety at this point?

14 A. Currently, I'm a corporal which is a
15 road supervisor.

16 Q. And back in October, October 26th,
17 exactly, in 2014 were you working public safety
18 then?

19 A. Yes, ma'am, I was.

20 Q. And what was your position then?

21 A. My position then was a patrol officer
22 at the time.

23 Q. And can you tell us about when you came
24 in contact with the individuals in this case in the
25 beginning?

RACHEL MILLER - DIRECT EXAM BY MS. HERRING-LASH

1 A. Yes, ma'am. On October 26th of 2014,
2 at approximately 5:15 in the afternoon, myself and
3 another officer were at the corner of Calhoun and
4 Rutledge, a gas station, when we observed a white
5 SUV come off of Calhoun Street going the wrong way
6 on Rutledge.

7 Back then I was on my bike, bike
8 patrol. So I got on my bike. I was able to see
9 that the SUV pulled into the horseshoe area of the
10 Rutledge Tower building. By the time I got my bike
11 over there to see what was going on, the vehicle
12 was unoccupied with the two front windows down.

13 So myself and another officer were
14 trying to investigate what was going on with the
15 vehicle when a call came out on the radio that an
16 unresponsive child was brought into the north
17 tower, which is the main entrance of the main
18 hospital. It's about a block and a half away from
19 where we were. Feeling that the vehicle might be
20 involved, I had the other officer, Officer Mets,
21 stay trying to figure out the situation.

22 When I got to the north tower, the
23 child was no longer there. I was told it had been
24 taken to the Peds ER. I made contact with two MUSC
25 employees. It was Nurse Kelly Lynch and

RACHEL MILLER - DIRECT EXAM BY MS. HERRING-LASH

1 Respiratory Therapist Jean Smith, I believe.

2 They were the two that advised they had
3 tried to render aid to the child when it had been
4 brought into the hospital. So I collected their
5 information for my report and then I proceeded down
6 to the Peds ER.

7 Q. Did you talk to or see any other people
8 that had accompanied the child at that point?

9 A. No.

10 Q. What did you do after going to the Peds
11 ER?

12 A. When I got into the Peds ER, they had
13 the child in one of the rooms and actively trying
14 to render aid, the staff was. I noticed two
15 parties standing outside of the room and there was
16 another party inside the room. I made contact with
17 one of the parties and that was a Shaquille
18 Prioleau, I believe.

19 I sort of asked him the situation, who
20 the parties were, and he advised that the party in
21 the room was Curtis Williams and he was the
22 boyfriend of the mother of the child. And there
23 was another party outside and that was D.S.

24 , I believe that was his younger brother.

25 And so when I found out that the

RACHEL MILLER - DIRECT EXAM BY MS. HERRING-LASH

1 juvenile -- D.S. 's age, I decided it would be
2 best to remove him from the scenario. I took him
3 to another place behind those closed doors so that
4 he would be out of sight and sound of everything
5 going on.

6 I had one of my officers stand by with
7 Mr. D.S. while I spoke with Mr. Prioleau. I
8 asked Mr. Prioleau what had happened with the
9 juvenile. He stated they had gone over to the
10 apartment --

11 MS. FORD: Objection.

12 THE COURT: Sustained; hearsay.

13 BY MS. HERRING-LASH:

14 Q. You won't be able to say what he said.

15 A. Oh, okay.

16 Q. Did you get any information from him
17 regarding location?

18 A. Yeah. I asked him where the location
19 had occurred and he had given me an address in
20 North Charleston.

21 Q. And as a result of finding out this was
22 in North Charleston, what did you do?

23 A. I gave out that information to my
24 sergeant who in turn contacted North Charleston and
25 had North Charleston Police respond.

RACHEL MILLER - DIRECT EXAM BY MS. HERRING-LASH

1 Q. Did you stay there until the North
2 Charleston Police Department responded?

3 A. Yes.

4 Q. And after that, did you have any
5 further involvement in the case?

6 A. No, ma'am. After North Charleston
7 arrives, I released all the parties to the North
8 Charleston officer.

9 Q. And did you also release the vehicle?

10 A. Yes, ma'am. As the other officer
11 stayed with the vehicle, then when North Charleston
12 arrived they did go over and took over control of
13 that vehicle.

14 MS. HERRING-LASH: Okay. Beg the
15 Court's indulgence?

16 THE COURT: Yes, ma'am.

17 MS. HERRING-LASH: Those are all the
18 questions that I have.

19 THE COURT: Ms. Ford?

20 MS. FORD: Beg the Court's indulgence?
21 I have no questions for this witness,
22 Your Honor.

23 THE COURT: Any objection to the
24 witness being excused?

25 MS. HERRING-LASH: Not from the State,

JEAN SMITH - DIRECT EXAM BY MS. HERRING-LASH

1 Your Honor.

2 THE COURT: From the defense?

3 MS. FORD: No, Your Honor.

4 THE COURT: Ma'am, you're excused.

5 Call your next witness.

6 MS. HERRING-LASH: The State would call

7 Jean Smith.

8 JEAN SMITH,

9 being first duly sworn, testified as follows:

10 THE CLERK: Speak into the mic and
11 state your full name, spelling your last.

12 THE WITNESS: Hillary Jean Smith,
13 S-M-I-T-H.

14 THE COURT: You may proceed.

15 DIRECT EXAMINATION

16 BY MS. HERRING-LASH:

17 Q. Ms. Smith, where do you work?

18 A. Medical University, South Carolina.

19 Q. How long have you been there?

20 A. A little over 27 years.

21 Q. And what are your duties there?

22 A. I'm a pediatric respiratory therapist.

23 Q. How long have you been a respiratory
24 therapist?

25 A. 33 years.

JEAN SMITH - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And can you tell us briefly what a
2 respiratory therapist is?

3 A. Bluntly, we manage airways, especially
4 advanced airways, mechanical ventilation, asthma
5 education. Pretty close to an anesthesiologist, we
6 just can't administer any major medications.

7 Q. And were you working in October of
8 2014?

9 A. Yes.

10 Q. And on October 26th of 2014, that would
11 have been a Sunday. Were you working?

12 A. Yes, ma'am.

13 Q. And what were your -- what were you
14 doing that afternoon?

15 A. That afternoon it initially started in
16 our step-down unit, which is called 7C, where we
17 train people who are -- families who are taking
18 home a bed-dependent child. We train them how to
19 load up the child and transport in and out of the
20 bed, in and out of vehicles and such so that they
21 are taking all of their equipment with them and
22 knowing what to look for as far as what is hooked
23 up and what isn't as far as the tubes and such.

24 We had a young family and this was
25 their first trip outside. A nurse and myself, or a

JEAN SMITH - DIRECT EXAM BY MS. HERRING-LASH

1 therapist and a nurse always accompany the family
2 outside. Any time the ventilator leaves the unit,
3 a therapist has to be with them. And we were
4 downstairs in the lobby headed outside when
5 everything occurred.

6 Q. And what is the first thing that you
7 remember occurring?

8 A. Just as we had gotten next to the
9 security desk I heard a loud commotion and I was,
10 like -- (Indicating) because it was such a quiet
11 day. There is a revolving door at the entrance,
12 and when I looked at the door I saw this gentleman
13 basically plastered up against the door holding a
14 limp child.

15 Q. And then what happened?

16 A. As the door rotated through I heard him
17 yelling, help me. And Kelly and I looked at each
18 other --

19 Q. Was Kelly the nurse?

20 A. Yes, ma'am. Kelly and I looked at each
21 other and she looked back at me and she said -- or
22 looked at the gentleman and said, give me the
23 child. So she grabbed the child, and there's a
24 counter to our left, and we laid the child on the
25 counter.

JEAN SMITH - DIRECT EXAM BY MS. HERRING-LASH

1 The family that we were with, I had
2 them go stand off to the left, back out of the way,
3 and I said stay, over there, don't move. And she
4 and I proceeded to perform CPR.

5 Q. What did the child look like?

6 A. He was -- looked to be about three
7 years old, he was unresponsive, very limp. I
8 checked for respirations, Kelly checked for a
9 pulse, and we confirmed there was no respirations,
10 no heart beat, and we proceeded to perform CPR.

11 I did notice because Kelly is probably
12 about five-six, so she was a lot taller than I was,
13 and she was -- we were both sideways to the child.
14 I did notice that his stomach looked a little
15 distended.

16 Q. What does that mean?

17 A. Bigger than it should have been for a
18 three-year-old child.

19 Q. What about his coloring?

20 A. Coloring was purple, blue, depending on
21 which term you want to use. The lips were blue,
22 gums were blue.

23 Q. What does that indicate?

24 A. Generally, lack of oxygen to the
25 tissue.

JEAN SMITH - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And so he -- at that point his lips
2 were already blue?

3 A. Yes, ma'am.

4 Q. And what did you do?

5 A. I started with two breaths of over the
6 mouth and the nose and Kelly started chest
7 compressions. And as CPR goes, you trade off; and
8 she would do 15 compressions and I would do two
9 breaths. And I did hear Kelly turn around, because
10 security desk was there, and if I remember
11 correctly she said, call a Mayday.

12 Q. What does that mean?

13 A. That means that you call the operator,
14 and each hospital -- adult hospital and pediatric
15 hospital has a team, and when they put it out then
16 a doctor shows up, ICU nurses. And there was
17 another -- I finally remembered, there was a
18 gentleman running around, an employee. God love
19 him, because I don't remember who it was.

20 He -- somebody said something about a
21 stretcher. And he said, I will go to the ER, which
22 is a good distance from where we were. So he took
23 off to go get a stretcher I think. And he, also, I
24 think called my supervisor for me because I wanted
25 my supervisor to come and take care of my other

JEAN SMITH - DIRECT EXAM BY MS. HERRING-LASH

1 concern that I had going on.

2 Q. What happened when you began to do the
3 mouth --

4 A. I don't remember if it was when we did
5 the respirations or during the chest compressions,
6 which is very common, but the child did vomit.

7 Q. And about how long were you with the
8 child?

9 A. I don't think it was more than five
10 minutes. I don't really know. If I remember
11 correctly, it was around 5:00, and so I don't
12 remember what time exactly the ER logged him in
13 because I didn't go to the ER.

14 Q. Afterwards, what do you call the team
15 that came to get him?

16 A. I'm sorry?

17 Q. Did somebody come to get him?

18 A. They did. And I honestly can't tell
19 you if the team that showed up -- when I looked
20 around, I mean -- I can't tell you -- one of the
21 physicians that I saw I know was one of our
22 pediatric intensivists that would possibly show up
23 for a Mayday, but the ER was so close down the
24 hallway, and the stretcher and these people showed
25 up at the same time.

JEAN SMITH - DIRECT EXAM BY MS. HERRING-LASH

1 I don't know, as far as the rest of the
2 crowd that showed up, because as soon as somebody
3 showed up at the same time, I remember somebody
4 said, get out of the way. I stepped back, they put
5 the child on the stretcher and took off, and I
6 turned to my other --

7 Q. Did you have any other involvement with
8 this child after that evening?

9 A. No, not with the child. No.

10 Q. Did you have to discuss what happened
11 later with individuals?

12 A. Later in the evening, because -- I was
13 going to say it was probably somewhere along the
14 line someone said, they need you down in the ER, so
15 they called me back, but that was to speak to Rae
16 Wooten and I think it was North Charleston Police
17 Department.

18 MS. HERRING-LASH: I think those are
19 all the questions I have. Answer any that the
20 defendant may have.

21 THE COURT: You may proceed.

22 MS. FORD: Beg the Court's indulgence?

23 THE COURT: Yes, ma'am.

24 CROSS-EXAMINATION

25 BY MS. FORD:

JEAN SMITH - CROSS EXAM BY MS. FORD

1 Q. I have a few questions. You told us
2 that you saw a gentleman carrying the child in his
3 arms?

4 A. Yes, ma'am.

5 Q. And he was plastered against the door?

6 A. He had the child lengthwise. He was,
7 if I remember correctly like this, (Indicating) and
8 he was up against the glass I think trying to push
9 the door open.

10 Q. Okay. Is it fair to say that things
11 were really frantic?

12 A. Yes.

13 Q. And the gentleman was asking for help?

14 A. Right.

15 MS. FORD: No further questions.

16 THE COURT: Any redirect?

17 MS. HERRING-LASH: No, Your Honor.

18 THE COURT: Any objection to the
19 witness being excused? From the State?

20 MS. HERRING-LASH: No, Your Honor.

21 THE COURT: From the defense?

22 MS. FORD: No, Your Honor.

23 THE COURT: Ma'am, you're excused.

24 You may call your next witness.

25 MS. HERRING-LASH: The State would call

LUCAS CUMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 Lucas Cummins.

2 LUCAS CUMMINS,

3 being first duly sworn, testified as follows:

4 THE CLERK: Please state your full
5 name and spell your last for the record.

6 THE WITNESS: Lucas Cummins,
7 C-U-M-M-I-N-S.

8 DIRECT EXAMINATION

9 BY MS. HERRING-LASH:

10 Q. Mr. Cummins, where do you work?

11 A. City of North Charleston.

12 Q. And what are your duties there?

13 A. I'm currently assigned to patrol
14 supervisor.

15 Q. And were you -- were your duties the
16 same back in October of 2014?

17 A. They were not. I was master patrol
18 officer and the senior officer on the team, other
19 than the sergeant.

20 Q. What does that mean?

21 A. Master patrol officer? That's just
22 another rank. I help the supervisor with his job,
23 monitor the other patrol officers, make sure
24 they're doing the right thing and I give advice for
25 them.

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 Q. Do you respond to calls?

2 A. Yes.

3 Q. And were you working on the evening or
4 the afternoon of the 26th of October?

5 A. I was.

6 Q. And did you respond to a call regarding
7 this case?

8 A. I did.

9 Q. What was the incident type that this
10 case came out as?

11 A. They advised me to go to MUSC
12 Children's ER, unresponsive child that may have
13 been abused.

14 Q. And so you went to MUSC?

15 A. Correct.

16 Q. What part of MUSC did you go to?

17 A. The children's ER.

18 Q. And when you got there, who did you
19 meet?

20 A. I met with Officer Rachel Miller of
21 MUSC Public Safety.

22 Q. Were you briefed on the situation?

23 A. I was.

24 Q. And who else did you meet with at that
25 point in time?

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 A. At that point in time, I believe I
2 spoke with Jean, she's a respiratory therapist
3 there. She just told me a little involvement of
4 what she did initially, and then she had to go
5 after that.

6 Q. And did you eventually end up speaking
7 with Curtis Williams?

8 A. Yes.

9 Q. And did you question Mr. Williams?

10 A. I did.

11 Q. And what did he tell you that happened?

12 MS. FORD: Objection; hearsay.

13 THE COURT: Approach.

14 (Bench conference.)

15 THE COURT: I need to take up a matter
16 of law outside your presence. During the break,
17 please do not discuss the case and leave your
18 notepads in your seats. We should be about five
19 minutes.

20 (Jury out, 4:31 p.m.)

21 THE COURT: You may proceed.

22 BY MS. HERRING-LASH:

23 Q. Would you tell us what you -- or what
24 Mr. Williams told you at that point in time?

25 THE COURT: Actually, I need you to

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 restate the question.

2 BY MS. HERRING-LASH:

3 Q. Did you talk about Curtis Williams?

4 A. I did.

5 Q. Was he the person that transported the
6 child to the hospital?

7 A. Yes, he was one of them in the vehicle.

8 Q. And what did he tell you had occurred?

9 THE COURT: I need to know exactly
10 what question he asked.

11 BY MS. HERRING-LASH:

12 Q. What did you ask?

13 A. I just asked him what happened that led
14 up to the situation, and he went on and told me his
15 story what happened.

16 Q. And what was that?

17 A. He said the child's -- he's the child's
18 mother's boyfriend. He stated that the child's
19 mother went to work around 9:00 in the morning, and
20 then him and the child took a nap. They woke up,
21 watched football around 10 or 11, between 12:30 and
22 1:00 they went to the park on Success behind the
23 community center and played about 30 minutes.

24 He said while on the playground he lost
25 site of him about five minutes and then saw him

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 sitting on a bench with his head down. So they
2 went home, he gave him a Tootsie Roll, Capri Sun,
3 and sat around and watched some more football.

4 Around 3:30, he said the child
5 defecated in his pants, he wiped him up in the
6 bathtub dressed him. When he put him on the couch
7 he said he started acting weird, and he picked him
8 up and asked him what was wrong, and the child went
9 limp. And he told his friend, Shaquille Prioleau,
10 that they needed to go to the hospital.

11 Mr. Prioleau drove and, I believe,
12 Mr. Prioleau and his younger brother was in the
13 front passenger seat and Williams rode in the back
14 with the child. He said while they were headed to
15 the hospital, he said the child stopped breathing
16 near Huger Street.

17 THE COURT: What's the basis -- is
18 that everything that you would seek to elicit from
19 him?

20 By MS. HERRING-LASH:

21 Q. Is that all he told you?

22 A. Yes.

23 MS. HERRING-LASH: Yes.

24 THE COURT: What's the basis of the
25 objection?

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 MS. FORD: Judge, that it's hearsay,
2 that --

3 THE COURT: It's not hearsay -- it kind
4 of falls into several categories. It's either an
5 excited utterance, it's an admission against
6 interest, and I can sort of anticipate that the
7 State's going to tell me it's an inconsistent
8 version of what happened; so, thereby, it's in the
9 nature of a spontaneously uttered statement that's
10 against his interest and apparently is reliable,
11 but I will let her respond. Just trying to save
12 some time.

13 But what -- other than hearsay, what is
14 your objection?

15 MS. FORD: Your Honor, I don't think
16 it's a statement against interest, just because I
17 think that at the end of the day they would say he
18 left out the part where they went to the store. He
19 doesn't mention hitting him at any point, but he
20 didn't change his story. He added to it later.

21 THE COURT: I need to know what is the
22 basis of the objection.

23 MS. FORD: I just object based on
24 hearsay.

25 THE COURT: What's your response?

LUCAS CMMINS -- DIRECT EXAM BY MS. HERRING-LASH

1 MS. HERRING-LASH: I think for the
2 definition that it is something that is not
3 hearsay. It's a statement offered against a party
4 and is the party's own statement in either the
5 individual or represented capacity, this is a
6 statement offered against the party. And --
7 because there are several statements that vary and
8 change, it is eventually against his interest and
9 it's offered against him.

10 THE COURT: Well, you're going to seek
11 to -- because you're going to say that he gave
12 different stories?

13 MS. HERRING-LASH: He did.

14 THE COURT: So that in and of itself
15 would make it a statement against interest. I
16 think the police -- well, I don't think. The case
17 law supports that the police are entitled to ask
18 you what happened without it being incriminating
19 and without them necessarily expecting it to be
20 inculpatory. Because he could theoretically have
21 said that he fell or he was hit by some playground
22 equipment or, you know, all of the varied things
23 that could happen to a child during the course of
24 the day.

25 He fell off of his bicycle -- trying to

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 think of the myriad scenarios. But, instead, what
2 he basically offered is a statement that eventually
3 can be interpreted against his interest. It was
4 self-serving in nature, that was not fully
5 forthcoming, and was what the State will, I'm
6 certain, argue is untruthful.

7 You say left out some things. They're
8 going to say it was misleading and untruthful.
9 Based on what Ms. Herring-Lash has represented, I
10 think it's clearly a statement against interest.
11 He could have simply have said nothing, but I'm
12 sure you all are going to argue that the statement
13 was forthcoming and true.

14 Your client doesn't have any burden of
15 proof. The State has the burden of proving that
16 he's guilty beyond a reasonable doubt. So you
17 really don't have to say anything, but I'm certain
18 that you will seek to test the veracity of this
19 witness's statement. So I think, clearly, it would
20 not be hearsay. It will come within the nature of
21 a statement made against his own interest.

22 In light of the fact that -- that's
23 subject to connection, though, and you proving that
24 he has made several different statements that are
25 -- that could be consistent or inconsistent. I

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 guess, really you almost could argue that it was to
2 his benefit. You could argue that it was a
3 consistent statement and that is, in fact, what
4 happened and it corroborates what happened.

5 The objection is overruled. You may
6 bring in the jury.

7 Is there anything else we need to take
8 up with this witness in camera?

9 MS. HERRING-LASH: I don't think so,
10 Your Honor. I will be asking him, did other family
11 members arrive and did he go -- he actually went
12 back to the scene and observed what happened at the
13 scene. And what really he did there was just
14 observe detectives and the reenactment.

15 THE COURT: Is there anything else that
16 you would anticipate you will seek to object to
17 regarding his testimony? I know you're not
18 clairvoyant. I would -- to take advantage of this
19 time, if there is something else that you think
20 might come up.

21 MS. FORD: I don't foresee that.

22 THE COURT: Get the jury.

23 (Jury in, 4:39 p.m.)

24 THE COURT: Ladies and gentlemen, we
25 appreciate your patience. We will resume the

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 witness's testimony.

2 You may proceed, Ms. Herring-Lash.

3 BY MS. HERRING-LASH:

4 Q. Officer Cummins, you spoke with Curtis
5 Williams?

6 A. Correct.

7 Q. And did you -- were you able to find
8 that he was one of the individuals that had been
9 with **Child** ?

10 A. Yes.

11 Q. And did he explain to you what had
12 happened?

13 A. He did.

14 Q. What did he say?

15 A. He said on the day -- he said the
16 child's mother went to work in the morning around
17 9:00. After that, him and **Child** laid down and
18 took a nap. They woke up and watched some football
19 until around 10 or 11. Around 12:30 or 1:00, they
20 went to the park on Success, which is behind the
21 community center.

22 They played for about 30 minutes, and
23 while on the playground Mr. Williams lost sight of
24 **Child** for about five minutes and then saw him
25 siting on a bench with his head down. They went

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 home, he gave him a Tootsie Roll and Capri Sun. He
2 said he didn't want the Tootsie Roll, so they
3 watched more football.

4 Around 3:30, **Child** defecated in his
5 pants, he wiped him up in the bathroom, the
6 bathtub, and dressed him. After that he put him on
7 the couch and he started -- **Child** stated acting
8 weird. He asked him what was wrong and the child
9 went limp and he had some shallow breathing.

10 He told his friend, Shaquille Prioleau,
11 they needed to go to the hospital. Mr. Prioleau
12 drove, his brother rode in the front passenger
13 seat, and Williams and **Child** rode in the back.
14 While they were headed to the hospital, the child
15 stopped breathing around Huger Street.

16 Q. That's what he told you that evening?

17 A. Yes.

18 Q. Were you at the Medical University when
19 the mother arrived?

20 A. She was there when I got there.

21 Q. And did you observe other family
22 members begin to arrive?

23 A. I believe there was. I can't remember
24 for certain, but I believe there were a couple of
25 other family members in the room.

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 Q. Did the hospital personnel take care of
2 those people or did you?

3 A. Public safety and the hospital staff
4 kept some -- some of the family members stayed in
5 the room. A couple of other people they kept --
6 kept them in separate areas.

7 Q. Did you stay involved with the case
8 after you left the Medical University?

9 A. I did.

10 Q. Where did you go?

11 A. He went up to the incident location
12 which was

13 Q. Who all went there?

14 A. When we got there, it was -- it was
15 Sergeant Lewis was my supervisor at the time,
16 Detective McDonald was already present, Officer
17 Monroe was also on my team, he was present.
18 Sergeant Lewis showed up at the crime scene and
19 Coroner Rae Wooten was there.

20 Q. What about family members?

21 A. It was just Mr. Williams and Krystal
22 Williams.

23 Q. And did you go into the apartment or
24 did you wait outside?

25 A. I went into the apartment.

LUCAS CMMINS - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And what happened? What did you
2 observe happening in the apartment?

3 A. I stood back and watched. The
4 detectives were talking to Mr. Williams and Coroner
5 Rae Wooten was speaking with Mr. Williams, and they
6 were reenacting what had happened at that time.

7 Q. And do you know about what time you
8 cleared that scene?

9 A. No, ma'am, I do not.

10 Q. Did you stay there pretty much until
11 everyone left?

12 A. I did.

13 Q. Was that the end of your involvement
14 with the case?

15 A. Yes.

16 Q. And is located in
17 Charleston County?

18 A. It is.

19 MS. HERRING-LASH: Those are all the
20 questions I have.

21 THE COURT: Any questions for the
22 witness?

23 MS. FORD: Yes, Your Honor.

24 THE COURT: You may proceed.

25 CROSS-EXAMINATION

LUCAS CMMINS - CROSS EXAM BY MS. FORD

1 BY MS. FORD:

2 Q. Officer Cummins, you went to MUSC and
3 that's where you talked to Mr. Williams?

4 A. Yes, ma'am.

5 Q. When you talked to him you were in the
6 hospital?

7 A. Yes.

8 Q. And someone had just died, correct?

9 A. Correct.

10 Q. You didn't attempt to get a written
11 statement from Mr. Williams?

12 A. No, I did not.

13 Q. Is there a reason for that?

14 A. It was the initial investigation, I was
15 just trying to figure out what was going on. I
16 didn't suspect anything at the time until we
17 started to pursue Mr. Williams.

18 Q. Fair to say things were pretty chaotic?

19 A. Yes.

20 Q. And you didn't try to record the
21 statement, correct?

22 A. No, we didn't have any recording
23 devices available to us.

24 MS. FORD: Beg the Court's indulgence?

25 THE COURT: Yes, ma'am.

LUCAS CMMINS - CROSS EXAM BY MS. FORD

1 BY MS. FORD:

2 Q. One more thing, you told us what Curtis
3 told you. He also told you on the way to the
4 hospital he did attempt to give Child CPR,
5 correct?

6 A. I do not recall that.

7 Q. You don't recall that?

8 A. No.

9 Q. So you told us you spoke to the
10 coroner, correct?

11 A. Correct.

12 Q. And you, also, spoke to the coroner as
13 part of an official inquest; is that correct?

14 A. After all this incident?

15 Q. Yes.

16 A. Yes.

17 Q. And you gave a statement that was
18 recorded essentially?

19 A. Yes.

20 Q. There was a Court Reporter?

21 A. Yes.

22 Q. You don't recall telling the coroner
23 that he told you he gave CPR?

24 A. I don't recall now.

25 Q. Would seeing a transcript refresh your

LUCAS CMMINS - CROSS EXAM BY MS. FORD

1 memory?

2 A. It would, yes.

3 MS. FORD: May I approach the witness,
4 Your Honor?

5 THE COURT: Yes.

6 MS. FORD: Which number, which line?

7 BY MS. FORD:

8 Q. Just the -- it does mention in there
9 you had just told them at that point that Curtis
10 told you that he tried to give him CPR? Do you see
11 that in there?

12 A. Where you highlighted my name?

13 Q. (Indicating) Oh, never mind. That's
14 his part, sorry.

15 A. In here it does say that he tried to
16 give him CPR while he was in the car.

17 MS. FORD: Okay. Thank you. No
18 further questions.

19 THE COURT: Any redirect?

20 MS. HERRING-LASH: No, Your Honor.

21 THE COURT: Any objection to the
22 witness being excused? From the State?

23 MS. HERRING-LASH: No, Your Honor.

24 THE COURT: From the defense?

25 MS. FORD: No, Your Honor.

KAREN MCDONALD - DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: Sir, you're excused.

2 Who would be the State's next witness?

3 MS. HERRING-LASH: Your Honor, the

4 State's next witness would be Detective Karen

5 McDonald.

6 THE COURT: How long -- would that

7 take us -- I have 4:48. Would that take us beyond

8 5:00?

9 MS. HERRING-LASH: I think it would

10 take us a little beyond 5:00.

11 THE COURT: You can approach.

12 (Bench conference)

13 THE COURT: You may proceed.

14 MS. HERRING-LASH: The State would call

15 Detective Karen MacDonald.

16 KAREN MACDONALD,

17 being first duly sworn, testified as follows:

18 THE CLERK: Please state your full

19 name and spell your last name for the record.

20 THE WITNESS: Karen MacDonald,

21 M-A-C-D-O-N-A-L-D.

22 THE COURT: You may proceed.

23 DIRECT EXAMINATION

24 BY MS. HERRING-LASH:

25 Q. And Detective MacDonald, right?

KAREN MCDONALD - DIRECT EXAM BY MS. HERRING-LASH

1 A. That's correct.

2 Q. And, Detective MacDonald, where do you
3 work?

4 A. North Charleston Police Department.

5 Q. And how long have you been there?

6 A. About 11 years.

7 Q. And what are your duties now?

8 A. I work as a detective in the detective
9 bureau, primarily in the frauds, but we work on
10 call-out teams where we work all types of crimes.

11 Q. And back in October of 2014, were you a
12 detective at that point?

13 A. Yes.

14 Q. And on the night of the 26th of
15 October, were you on the call-out team as you said?

16 A. Yes.

17 Q. And did you get called out that
18 evening?

19 A. Yes, I did.

20 Q. And was it regarding this case?

21 A. Yes.

22 Q. And what -- do you remember what day of
23 the week that was?

24 A. I believe it was a Sunday.

25 Q. And do you remember about what time you

KAREN MCDONALD - DIRECT EXAM BY MS. HERRING-LASH

1 got called out?

2 A. Around 7:00 p.m.

3 Q. And where did you go?

4 A.

5 Q. I'm going to show you what has been
6 marked in evidence as State's Exhibit Number 43.

7 If you would look at that. What is that?

8 A. That's the apartment building.

9 Q. Okay. And that's where you went?

10 A. Yes.

11 Q. And when you got there, what were you
12 -- did you know what the call was?

13 A. It was a suspicious death of a child.

14 Q. Suspicious death. And what was your
15 duties or job that night?

16 A. To go to the scene to try to locate
17 witnesses to secure the area.

18 Q. To what?

19 A. To secure the apartment.

20 Q. Do you go and make sure that no one
21 goes in and out; is that what you're talking about,
22 securing the apartment?

23 A. Yes.

24 Q. And did you talk with individuals in
25 the neighborhood?

KAREN MCDONALD - DIRECT EXAM BY MS. HERRING-LASH

1 A. Yes, I did.

2 Q. And did you get a statement from any
3 individual in the neighborhood?

4 A. Yes, I did.

5 Q. Do you know the name of the person?

6 A. Mr. Jerry Stevens.

7 Q. And do you know which apartment he
8 lived in?

9 A. Number .

10 Q. And do you know which one was number
11 ?

12 A. Yes.

13 Q. Can you point to it?

14 A. (Indicating)

15 Q. You can touch it and make a mark. And
16 do you know which apartment was the one that was
17 the scene?

18 A. Number .

19 Q. And can you make a little mark for
20 number ?

21 A. (Marking)

22 Q. Now, do you know where Mr. Stevens is
23 at this point?

24 A. He's since passed away.

25 Q. And did you find any other people

KAREN MCDONALD - DIRECT EXAM BY MS. HERRING-LASH

1 around that would talk to you about what had
2 occurred or anything that they knew?

3 A. No, I did not locate anyone else.

4 Q. Who all eventually showed up at that
5 scene?

6 A. Crime scene, my sergeant, the coroner,
7 and then there were other officers in the area.

8 Q. Did you wait around until the end or
9 did you leave before the scene was cleared?

10 A. I don't recall exactly, but I believe I
11 waited until the end.

12 Q. And all of those people arrived?

13 A. Yes.

14 Q. And did you go into the apartment where
15 the -- the scene at all during that evening?

16 A. I don't recall if I went in. I seem to
17 remember being in the doorway and looking in. I
18 don't think I went inside.

19 Q. And I know that you said you took a
20 statement from Mr. Stevens. Did you have anybody
21 witness that statement?

22 A. Yes.

23 Q. And do you know who that was?

24 A. Officer Monroe, I believe his first
25 name is Chris, and then there was the neighbor in.

KAREN MCDONALD - DIRECT EXAM BY MS. HERRING-LASH

1 apartment .

2 Q. And why did -- go ahead.

3 A. I believe his last name was Lacroix.

4 Q. Do you know which one is one?

5 A. (Marking)

6 Q. And why did you have them witness that,
7 Mr. Lacroix witness that?

8 A. Because Mr. Stevens told me he could
9 not read or write. He had me write the statement
10 for him. After I wrote it and then I read it back
11 to him and verified everything that I wrote down
12 was correct to what he had told me. And I like to
13 have other people that are witnesses to attest to
14 the fact that he said it was correct.

15 Q. And Mr. Stevens has passed away at this
16 point?

17 A. Yes.

18 MS. HERRING-LASH: Those are all the
19 questions that I have. Answer any questions that
20 Ms. Ford may have.

21 THE COURT: Any questions for the
22 witness?

23 MS. FORD: Yes, Your Honor.

24 THE COURT: You may proceed.

25 CROSS-EXAMINATION

KAREN MCDONALD - CROSS EXAM BY MS. FORD

1 BY MS. FORD:

2 Q. So you ended up talking to Mr. Stevens,
3 correct?

4 A. Yes.

5 Q. He's the only person that gave a
6 statement at the apartment location, correct?

7 A. Yes. He was the only one I could
8 locate that said he saw or heard anything.

9 Q. Okay. And -- but he had not called 911
10 himself, correct?

11 A. I don't know if he's the one that
12 called 911.

13 Q. Do you know if 911 was called?

14 A. I don't know. As far as I know, the
15 child was brought to the hospital, so at some point
16 somebody from the hospital probably notified us.

17 Q. Okay. But, to your knowledge,
18 Mr. Stevens is not the -- he never called 911 on
19 his own?

20 A. Not to my knowledge.

21 MS. FORD: Beg the Court's indulgence?

22 THE COURT: Yes, ma'am.

23 MS. FORD: No further questions.

24 THE COURT: Any redirect?

25 MS. HERRING-LASH: No, Your Honor.

1 THE COURT: Any objection to the
2 witness being excused? From the State?

3 MS. HERRING-LASH: No, Your Honor.

4 THE COURT: From the defense?

5 MS. FORD: No, Your Honor.

6 THE COURT: Ma'am, you're excused.
7 Mr. Foreman, ladies and gentlemen, we're going to
8 take advantage of this break in testimony to take
9 your evening recess. During the break, please do
10 not discuss the case among yourselves with anyone
11 else. Do not do any independent research on the
12 Internet. Do not read, watch, or listen to any
13 media accounts about this case, if there are any.
14 In the morning you will return directly
15 to your jury room. Again, please don't have any
16 contact with anyone in or about the courthouse. We
17 would not want your conversations to be
18 misinterpreted.

19 As you leave the courtroom, please
20 stack your notebooks up on the end of the bannister
21 so that we can secure them during the recess. We
22 will resume at 9:30 in the morning. Come directly
23 to your jury room.

24 (Jury out, 4:58 p.m.)

25 THE COURT: All right. Anything

1 before we adjourn for the evening? From the State?

2 MS. HERRING-LASH: No, Your Honor.

3 THE COURT: From the defense.

4 MS. FORD: No, Your Honor.

5 THE COURT: Have a good evening.

6 (These proceedings were recessed at
7 5:03 p.m., to be resumed September 13, 2016, at
8 9:30 p.m.)

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 (The following proceedings were had
2 September 13, 2016 at 10:03 a.m., in re: State v.
3 Curtis Williams, Charleston County Circuit Court,
4 Charleston, South Carolina.)

5 THE COURT: Okay. Is the State ready
6 to proceed on Mr. Williams case?

7 MS. HERRING-LASH: Yes, Your Honor.

8 THE COURT: Is the defense ready to
9 proceed?

10 MS. FORD: Yes, Your Honor.

11 THE COURT: Who is the State's next
12 witness?

13 MS. HERRING-LASH: Samantha Flick, Your
14 Honor.

15 THE COURT: I assume there's nothing we
16 need to take up before we begin, from the State?

17 MS. HERRING-LASH: Your Honor, I think
18 we do have the video redacted.

19 THE COURT: Did you give a copy to
20 Ms. Ford?

21 MS. HERRING-LASH: She got a copy when
22 we finished -- as soon as it was done.

23 THE COURT: Do you have a copy for me
24 so I can look at it? Or I can use the original.

25 MS. HERRING-LASH: It is -- it would

1 not play in my computer, but it plays on the one in
2 here and --

3 THE COURT: You have to sort of find
4 your way through Microsoft Media Player and click
5 the right things to make it work.

6 Do you have all the exhibits?

7 THE COURT REPORTER: Yes, ma'am.

8 THE COURT: Is there anything else
9 from the defense before we resume testimony?

10 MS. FORD: No, Your Honor.

11 THE COURT: They're bringing the jury
12 in now.

13 Who is your next witness after
14 Ms. Flick?

15 MS. HERRING-LASH: I think it would be
16 Tiffany Adams, Your Honor.

17 THE COURT: Do you have the redacted
18 photo?

19 MS. HERRING-LASH: Yes.

20 (STATE EXH. 70, Photo, was marked for
21 identification.)

22 (Jury in, 10:02 a.m.)

23 THE COURT: If you could get your
24 notebook as you come in.

25 THE BAILIFF: All jurors are present.

SAMANTHA FLICK - DIRECT EXAM BY MS. ELLIOTT

1 THE COURT: Wonderful. Good morning,
2 ladies and gentlemen. I hope that you all had a
3 pleasant and restful evening. I appreciate your
4 patience. As I told you yesterday, we had another
5 matter I needed to deal with prior to beginning
6 this morning, and I appreciate you allowing me that
7 flexibility in disposing of that matter.

8 We will now resume testimony. I would
9 ask that you give the attorneys your attention.

10 You may proceed.

11 MS. ELLIOTT: The State calls Samantha
12 Flick.

13 THE COURT: Ma'am, come forward to be
14 sworn.

15 SAMANTHA FLICK,
16 being first duly sworn, testified as follows:

17 THE CLERK: If you would, please speak
18 into the microphone. State your full name and
19 spell your last name.

20 THE WITNESS: My name is Samantha
21 Flick, F-L-I-C-K.

22 THE COURT: You may proceed.

23 DIRECT EXAMINATION

24 BY MS. ELLIOTT:

25 Q. Good morning, Ms. Flick.

SAMANTHA FLICK - DIRECT EXAM BY MS. ELLIOTT

1 A. Morning.

2 Q. Would you tell us a little bit about
3 your educational background?

4 A. I have a bachelor's degree in
5 psychology and a master's degree in child
6 development and family relations.

7 Q. Where are you currently employed?

8 A. I am currently employed at the
9 Children's Hospital of Philadelphia.

10 Q. What do you do there?

11 A. I am a child life specialist. So my
12 role is to provide support for patients and
13 families during their hospital stay, coping
14 support, preparation for procedures, surgeries, and
15 then of course bereavement for at end of life for
16 families and siblings and things like that.

17 Q. Is that where you were employed in
18 October of 2014?

19 A. In October of 2014 I was employed at
20 MUSC Children's Hospital, in their pediatric
21 emergency department.

22 Q. And what was your job title?

23 A. So my job title is child life
24 specialist in the emergency department and that
25 included preparing children for IVs, surgery,

SAMANTHA FLICK - DIRECT EXAM BY MS. ELLIOTT

1 stitches, things like that. And then, of course,
2 we provided support during bereavement or traumas
3 for families and siblings as well.

4 Q. What do you mean by bereavement?

5 A. If a child came in and passed away in
6 the emergency department, that's what we consider
7 -- any time a child dies, it's considered
8 bereavement support. So supporting the families we
9 offer things like hand molds, locks of hair, work
10 with our chaplain.

11 If there were siblings involved, we
12 would work with them to help them understand what
13 does it mean, depending on their developmental age,
14 when someone dies. Younger children might have an
15 issue so we talk a little bit more about the body
16 stopped working, things like that; whereas, with
17 older teenagers you might be able to do a little
18 bit more literal about whatever the injury or
19 illness was.

20 Q. And were you working on the evening of
21 October 26, 2014?

22 A. Yes, ma'am.

23 Q. So how did you become involved in this
24 case?

25 A. So in this case, as part of the

SAMANTHA FLICK - DIRECT EXAM BY MS. ELLIOTT

1 hospital we had -- you can call what is known as a
2 code. And when a code gets called, it means that
3 somewhere -- you have to give a location -- that
4 somebody is unconscious and needing help, not
5 breathing.

6 So our charge nurse had gotten a call
7 that there was a pediatric code in the main lobby.
8 As a result of that, our staff grabbed a crash
9 cart, some medical equipment, and started running
10 towards where it had -- the main lobby. And my job
11 -- I walked out there to see -- knowing that the
12 medical team was going to focus strictly on the
13 patient, to get him back to a room as quickly as
14 possible, which that is their job.

15 So that tends to leave families and
16 siblings standing there; what do I do now? Where
17 do I go? So that's my role; and I walked out and
18 met Curtis in the main lobby and introduced myself
19 and walked him back into the room where they were
20 working on **Child** .

21 Q. While you were walking him back to --
22 and where were you walking him to?

23 A. So from the main lobby to the pediatric
24 emergency room into our trauma bay where they
25 brought **Child** .

SAMANTHA FLICK - DIRECT EXAM BY MS. ELLIOTT

1 Q. While walking him back to the pediatric
2 emergency room, did you all talk about anything?

3 A. I introduced myself and tried to
4 prepare him a little bit for what he would see. I
5 knew the team -- the medical team would have some
6 questions, so I tried to -- you know, what's the
7 child's name? How old is he? What did you guys do
8 today?

9 And, Curtis, you know, he told me
10 **Child** was three, they had gone to the park, he had
11 then come home, given him a bath and he was trying
12 to get him to sort of take a nap, but **Child** seemed
13 like he was uncomfortable, couldn't really settle
14 down.

15 And I just -- from that point on, I was
16 like, okay. When we get back there, there's going
17 to be a lot of people in the room all trying to
18 help **Child** , and they are probably going to have
19 some further questions just to help them assess
20 what might be wrong.

21 Q. And did you hear him give a history to
22 the medical staff?

23 A. I did. When we got back into the room,
24 the medical staff asked again, you know, what did
25 they do that day; and he mentioned again that they

SAMANTHA FLICK - DIRECT EXAM BY MS. ELLIOTT

1 had gone to the park. The doctors had asked, did
2 he fall? Did he hit his head? Did anything hit
3 his head? And he had said, no.

4 And then he talked about how he had
5 given him a bath when they came home, and the
6 medical team again asked, did he fall? Did he hit
7 his head? Did anything unusual happen? And again
8 he said, no.

9 And from there they just sort of took
10 over trying CPR and things like that.

11 Q. What did you do after that?

12 A. So after that -- after the team had
13 ended their attempt to revive **Child**, I worked with
14 our chaplain to -- do we had to -- the mother was
15 not at the hospital so she had to be contacted.
16 And when she got there, the head doctor that had
17 been running the pediatric code gave her the news
18 that he had passed away.

19 And I worked with Curtis, the mother,
20 and our chaplain. Per the family's request, **Child**
21 was baptized so we worked with them during that.

22 We -- our nurse and myself facilitated
23 some hand molds and things like that, that the
24 family could take and keep with them and provide
25 some different bereavement, coping with grief

SAMANTHA FLICK - DIRECT EXAM BY MS. ELLIOTT

1 resources.

2 Q. Did you have any other interaction with
3 any of the people that came with Curtis to the
4 hospital?

5 A. I did. The two gentlemen that came to
6 the hospital, one was a child; and, initially, just
7 kind of in the commotion, I thought that was
8 **Child** 's sibling. So I had provided some
9 developmentally appropriate activities to keep him
10 occupied.

11 After they had stopped working on
12 **Child** , our security officers had requested that
13 everyone sort of be separated. So I took the child
14 up to our playroom just to give him sort of like a
15 normalizing outlet. We could do whatever he
16 wanted, and we just sort of played up there until
17 the child's mother got there and security came
18 back. And then I went back to the unit.

19 Q. Now, when talking about -- you said
20 that you interacted with **Child** 's mother. Did she
21 arrive at the hospital with Curtis Williams?

22 A. No, she did not.

23 MS. ELLIOTT: Beg the Court's
24 indulgence?

25 THE COURT: Yes, ma'am.

SAMANTHA FLICK - CROSS EXAM BY MS. FORD.

1 By MS. ELLIOTT:

2 Q. Did you have any other involvement in
3 this case?

4 A. After that I did not.

5 MS. ELLIOTT: I have no further
6 questions. Please answer any Ms. Ford may have.

7 THE COURT: Ms. Ford.

8 MS. FORD: Thank you, Your Honor. May
9 it please the Court?

10 THE COURT: Yes, ma'am. You may
11 proceed.

12 CROSS-EXAMINATION

13 BY MS. FORD:

14 Q. Hello.

15 A. Good morning.

16 Q. You deal with a lot of families dealing
17 with death, correct?

18 A. Correct.

19 Q. That's a big part of your job?

20 A. Yes, correct.

21 Q. So you see a lot of death or you're
22 surrounded by a lot of death in your work?

23 A. It depends. For instance, in the
24 emergency room, that certainly was not everyday
25 life, and it was more those in between times where

SAMANTHA FLICK - CROSS EXAM BY MS. FORD

1 it would be about a car accident or gunshot or
2 something different, child abuse, and things like
3 that.

4 Q. And it is part of your job, you do
5 write down -- you do -- hospitals like to keep
6 records, correct?

7 A. Correct.

8 Q. So part of your job is that you may
9 turn notes into documentation at the hospital,
10 correct?

11 A. Yes.

12 Q. And this could be part of the doctor's
13 report?

14 A. Correct. It's for the whole team to
15 access.

16 Q. Okay. You did enter notes in this
17 case, correct?

18 A. Correct.

19 Q. And you didn't -- when you entered
20 these notes, you didn't include anything about
21 things that Curtis stated?

22 A. Correct. Charting is sort of a
23 snapshot of what you do, just information that you
24 think the medical team should know to help the
25 child, the family throughout their hospital stay.

SAMANTHA FLICK - CROSS EXAM BY MS. FORD

1 Q. Okay. So there is no documentation in
2 your notes about what he said on that day. So this
3 is just from your memory, correct?

4 A. Correct.

5 Q. So just to be clear, initially,
6 Mr. Williams was the only one in the lobby or he
7 was with his friends, correct?

8 A. Correct. He was with the two other
9 gentlemen that were there.

10 Q. And it was clear he was the one that
11 needed your help at that point?

12 A. Yes.

13 Q. Is it fair to say that things were
14 emotional at that time?

15 A. It's fair to say that things were
16 chaotic and traumatic. There was not a lot of
17 emotion as far as what you might think, crying or
18 screaming or anything like that. It was pretty
19 flat. So there was no tears or anything like that,
20 but it was a definite chaotic experience that can
21 bring out various emotions.

22 Q. And you went to him to help him with
23 bereavement?

24 A. Correct.

25 Q. The other two gentlemen with him, you

SAMANTHA FLICK - CROSS EXAM BY MS. FORD

1 did not deal with at that point?

2 A. Not initially, no.

3 Q. So just later you helped the younger
4 gentleman because of his age, correct?

5 A. Correct.

6 Q. And you took him away to a safer place?

7 A. That was further requested of our
8 security, yes.

9 Q. At that point how long were you with
10 him; do you know?

11 A. Probably, like 30 to 45 minutes up away
12 from the unit. It wasn't very long.

13 Q. So 30 to 45 minutes?

14 A. Yes.

15 Q. So during that time period, you don't
16 know what was going on, correct?

17 A. Correct.

18 Q. When you were done with him, was the
19 mom there at that point?

20 A. No. I was -- the mother was there
21 before I took the child upstairs. The mother was
22 called after they had stopped CPR. The chaplain
23 and the medical team worked together and called the
24 mother. I believe she was at work, but that I'm
25 not 100 percent, but I was there when she was told

SAMANTHA FLICK - CROSS EXAM BY MS. FORD

1 and that was before taking the child and separating
2 him from the unit.

3 Q. She didn't actually need your help,
4 correct?

5 A. I was there if they did need it. She
6 -- she had wheelchair assistance from our staff
7 because she was very emotional and distraught. And
8 we brought her into the room; she was afraid to
9 hold **Child** , because we had offered that, but we
10 did prepare her that he was going to be heavier
11 than normal. We helped facilitate that, but that
12 was myself, the chaplain, and the nurses.

13 Q. Was her family there at any point or
14 did anyone come to assist her?

15 A. Not during the baptism or, like,
16 holding the child right after she had found out
17 that I'm aware of. Later on, there was a large
18 amount of family that did come.

19 Q. You noted in your report there was a
20 psychosocial distress risk of 4. What does that
21 mean?

22 A. So part of our department, we have
23 levels, 1, 2, 3 and 4. And that's really for the
24 other child life staff to look at and see -- like,
25 1 would be really the child is coping well and the

SAMANTHA FLICK - CROSS EXAM BY MS. FORD

1 family is coping well, they're not having a lot of
2 invasive things done; 2, 3 and 4 -- 4 is extreme,
3 which we only utilize for a death. And that would
4 -- or impending death.

5 So that would let my colleagues in the
6 ICU, or on different units, know where the child,
7 family, siblings might be at in sort of their
8 coping with the whole experience.

9 Q. So 4 is the greatest number?

10 A. Yes.

11 Q. That means that they were the most
12 distressed?

13 A. That means that the family -- it would
14 be classified in the most distressed based on the
15 situation that occurred; it was a death. So that
16 in itself is a very traumatic thing, but I would
17 never rank that lower than, like, extreme. There's
18 an extreme potential for psychosocial, like,
19 distress.

20 MS. FORD: Beg the Court's indulgence?

21 THE COURT: Yes, ma'am.

22 MS. FORD: No further questions.

23 THE COURT: Any redirect?

24 MS. ELLIOTT: Briefly.

25 THE COURT: You may proceed.

SAMANTHA FLICK - REDIRECT EXAM BY MS. ELLIOTT

1 REDIRECT EXAMINATION

2 BY MS. ELLIOTT:

3 Q. Ms. Flick, when you were talking about
4 the psychosocial distress risk, that is not
5 identifying any particular person, but just the
6 potential within the whole family unit?

7 A. Correct.

8 Q. And was there anything about this
9 particular incident that made it stand out in your
10 mind?

11 A. This was my first bereavement case and,
12 also, it was very different in that most of our, I
13 would say -- I'm not going to say all, but like
14 98 percent of our children that come through would
15 either come through our hospital emergency room
16 check-in triage or through an ambulance. And this
17 walked through our front door, which is not -- it's
18 down the hall from our emergency room and it was
19 kind of a scramble.

20 So we're used to patients coming either
21 directly on the unit via EMS or through our triage.

22 MS. ELLIOTT: Thank you, Ms. Flick.

23 I have no further questions, Your
24 Honor.

25 THE COURT: Any objection to the

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 witness being excused? From the State?

2 MS. ELLIOTT: None.

3 THE COURT: From the defense?

4 MS. FORD: No, Your Honor.

5 THE COURT: Ma'am, you're excused.

6 Call your next witness.

7 MS. HERRING-LASH: Your Honor, I am
8 going to call Shaquille Prioleau next instead of --

9 THE COURT: That's fine.

10 SHAQUILLE PRIOLEAU,

11 being first duly sworn, testified as follows:

12 THE CLERK: I need you to get close to
13 this microphone and speak into it. State your full
14 name and spell your last name.

15 THE WITNESS: Shaquille Prioleau,
16 P-R-I-O-L-E-A-U.

17 THE COURT: You may proceed.

18 DIRECT EXAMINATION

19 BY MS. HERRING-LASH:

20 Q. Shaquille, where do you live?

21 A. James Island.

22 Q. And did you grow up there?

23 A. Yeah.

24 Q. And who do you live with now?

25 A. My grand mom.

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And you have brothers?

2 A. Yeah.

3 Q. Who are all your brothers?

4 A. Dwayne, D.S. , Gregory, and --

5 THE COURT: Please repeat.

6 THE WITNESS: Dwayne, D.S. , Gregory

7 and Amari.

8 BY MS. HERRING-LASH:

9 Q. And how old is D.S. ?

10 A. 14.

11 Q. And how old are you?

12 A. 22.

13 Q. And where do you work?

14 A. Wal-Mart.

15 Q. Do you know Curtis Williams?

16 A. Yes.

17 Q. How long have you known Curtis?

18 A. All my life.

19 Q. Did you grow up together on James

20 Island?

21 A. Uh-huh.

22 THE COURT: Sir, please say yes or no

23 for me.

24 THE WITNESS: Yes.

25 THE COURT: Thank you.

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 BY MS. HERRING-LASH:

2 Q. This lady has to write down what you're
3 saying.

4 So you've known him quite awhile?

5 A. Yes.

6 Q. And do you know Krystal Williams?

7 A. Yes.

8 Q. And how did you meet Krystal?

9 A. Through C. J.

10 Q. Do you know about when you met her?

11 A. Not really.

12 Q. Would it be fair to say that you met
13 her when she began to date or be in a relationship
14 with Curtis?

15 A. Yes.

16 Q. And did you visit with them in their
17 different homes that they lived in?

18 A. Yes.

19 Q. Do you remember which home that they
20 lived in together that you first visited in?

21 A. It was on Jackson.

22 Q. Do you know whose home that was?

23 A. Yeah, C. J.'s cousin, Sharelle.

24 Q. Sharelle. So they were living with
25 her?

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

- 1 A. Uh-huh.
- 2 Q. Now, Shaquille, did you also know
- 3 **Child** ?
- 4 A. Yes, ma'am.
- 5 Q. And how old was **Child** when you met
- 6 him?
- 7 A. Two.
- 8 Q. And what kind of -- did you get along
- 9 well with **Child** ?
- 10 A. Yes.
- 11 Q. What kind of things would you and
- 12 **Child** do?
- 13 A. Just play and talk.
- 14 Q. What would you play?
- 15 A. We would go in the park and shoot the
- 16 ball.
- 17 Q. Would he shoot the ball?
- 18 A. Tried to.
- 19 Q. And how did that work out?
- 20 A. He wasn't strong enough.
- 21 Q. What would he do with it?
- 22 A. Just run after the ball.
- 23 Q. And did you play sometimes in the house
- 24 with him?
- 25 A. Yeah.

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

- 1 Q. What did you -- what kind of little boy
2 was **Child** ?
- 3 A. Just an average two-year-old.
- 4 Q. And what -- did you have a name for
5 **Child** ?
- 6 A. Yeah, I called G. B.
- 7 Q. And what was G. B.
- 8 A. Granddaddy Belly.
- 9 Q. What did that mean?
- 10 A. He just had an old granddaddy belly?
- 11 Q. Like a fat belly?
- 12 A. Yeah, like an old man.
- 13 Q. And how did he like it when you called
14 him that?
- 15 A. I really don't know.
- 16 Q. How did he act?
- 17 A. Normal.
- 18 Q. Did you enjoy being around him?
- 19 A. Yes. I love kids.
- 20 Q. Did you see **Child** on his third
21 birthday?
- 22 A. Yeah, we went to Frankie's.
- 23 Q. Frankie's?
- 24 A. Fun Park.
- 25 Q. And did you visit **Child** and C. J. and

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 Krystal on their last home that they lived in on

2 ?

3 A. Yes.

4 Q. I want to show you a picture. Is that
5 the home they lived in?

6 THE COURT: You need to refer to the
7 number.

8 THE WITNESS: Yes.

9 BY MS. HERRING-LASH:

10 Q. I'm sorry, that is State's Exhibit 28.
11 Is that the home that they lived in?

12 A. Yes, ma'am.

13 Q. And I'll show you another picture of
14 this in a second, but in October of 2014, is that
15 where they lived?

16 A. Uh-huh, yes.

17 Q. And how many times did you visit their
18 home on ?

19 A. Not that much, a couple.

20 Q. Did you actually help them move in?

21 A. Yes.

22 Q. And after helping them move in, do you
23 know if you visited them one more time or more?

24 A. Like, once.

25 Q. And do you know what day that was?

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 A. The same day I took him to the
2 hospital.

3 Q. And what were you going over there for
4 that day?

5 A. Because C. J. called me to come over
6 and chill before I went to work.

7 Q. To do what?

8 A. Before I went to work.

9 Q. What were you going to do?

10 A. Watch the game.

11 Q. Do you remember which game you were
12 going to watch?

13 A. The Steelers.

14 Q. When you went into the apartment -- I'm
15 going to show you a picture, State's Number 29.

16 And can you see that?

17 A. Yes.

18 Q. And what is that?

19 A. That's the chair me and my brother was
20 sitting on.

21 Q. Okay. And where were you sitting?

22 A. Where the clothes is.

23 Q. You can touch it and it will make a
24 mark.

25 A. (Indicating)

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And where was your brother?

2 A. Like, right here. (Indicating)

3 Q. Which brother was it that was with you?

4 A. D.S. .

5 Q. Now, I'm going to show you another
6 picture, State's Number 30. And what is this?

7 A. That's the chair **Child** was sitting on.

8 Q. And where is that in relation to where
9 you were sitting?

10 A. Across.

11 Q. Like, right -- were you -- were you
12 behind the door?

13 A. I was, like, behind the door, yes.

14 Q. And how was **Child** sitting on that?

15 A. Like, when we came in, he was laying on
16 the pillow.

17 Q. Let me show you what was previously
18 marked as State's Exhibit Number 32. Can you see
19 on there where **Child** was laying?

20 A. Yes, right here. (Indicating) Like,
21 his head was here and the blanket was over him.

22 Q. And when you came in, did he get up and
23 greet you?

24 A. He just put his hand up and said,
25 what's up.

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And what did you do?

2 A. Shook his hands.

3 Q. And then did you go and sit down?

4 A. Uh-huh.

5 Q. And so as you stayed there, what did

6 **Child** do?

7 A. He just sat there waiting for the game
8 to come on and that's it.

9 Q. Did he sit up?

10 A. A little bit.

11 Q. What would happen when he would sit up?

12 A. He'd just fall back to the side like he
13 was sick, just laying there.

14 Q. So when you say, fall back to the
15 side --

16 A. Like, he'd just lay down like he was
17 tired.

18 Q. And do you have -- I know it's hard to
19 go back and judge time, but do you have any idea
20 about how long that went on?

21 A. No, not really.

22 Q. Okay. Now, during the time that **Child**
23 was kind of laying there, what was -- let me go
24 back. What do you call Curtis Williams?

25 A. Huh?

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

- 1 Q. What do you call Curtis Williams?
- 2 A. C. J.
- 3 Q. What was C. J. doing during the time
- 4 that **Child** was laying there?
- 5 A. Just sitting next to him.
- 6 Q. And did you have to go somewhere that
- 7 day?
- 8 A. Yeah, we went to Save-A-Lot.
- 9 Q. Why did you go to Save-A-Lot?
- 10 A. Because he had to see Krystal.
- 11 Q. And by he, do you mean C. J.?
- 12 A. C. J.
- 13 Q. And so tell me about when you all were
- 14 going to -- let me show State's Number 45. Is that
- 15 the outside of that home?
- 16 A. Yes, ma'am.
- 17 Q. And about where was your car parked?
- 18 A. Right -- like, right here.
- 19 Q. When you were going to Save-A-Lot, what
- 20 happened?
- 21 A. We were walking to the car and **Child**
- 22 pooped.
- 23 Q. And how did you know that?
- 24 A. I smelled it.
- 25 Q. And did you say anything about that?

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 A. Yeah. I thought C. J. or my brother
2 farted.

3 Q. And what happened as a result of Child
4 pooping?

5 A. He just took him back in the house.

6 Q. Who took him?

7 A. C. J.

8 Q. Did he leave him there?

9 A. Yes.

10 Q. And when he got back to the car, what
11 did you do?

12 A. Went to Save-A-Lot.

13 Q. And when you went to Save-A-Lot, who
14 all got out of the car?

15 A. Me and C. J.

16 Q. And what about D.S. ?

17 A. He sat in the car.

18 Q. Do you have any estimate how long you
19 were at Save-A-Lot?

20 A. Five or ten minutes.

21 Q. And about how far away is Save-A-Lot
22 from where C. J. lived?

23 A. It's, like, three minutes away.

24 Q. You all were probably gone at the most
25 ten, or something?

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

- 1 A. Yes, ma'am.
- 2 Q. When you got back, what happened?
- 3 A. C. J. washed **Child** off.
- 4 Q. Did he wash him in the living room?
- 5 A. No, in the tub.
- 6 Q. And did you go into the bathroom?
- 7 A. No.
- 8 Q. And did you hear anything in the
- 9 bathroom?
- 10 A. No, ma'am.
- 11 Q. Now, when they came out, did **Child**
- 12 have the same clothes on or different clothes?
- 13 A. He had on different clothes.
- 14 Q. What happened then?
- 15 A. He just came back and sat down, then we
- 16 watched the game a little bit.
- 17 Q. How was he sitting then?
- 18 A. Like, just sitting, like he was
- 19 watching the TV, like, leaning back.
- 20 Q. He was what?
- 21 A. Just leaning back like this.
- 22 (Indicating)
- 23 Q. Was he -- did C. J. ever try to sit him
- 24 up?
- 25 A. Yeah, on his lap.

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 Q. Now, before he sat him on his lap, was
2 **Child** laying or sitting?

3 A. Sitting.

4 Q. And how was he sitting?

5 A. Just leaning back.

6 Q. And what happened to make C. J. put him
7 on his lap?

8 A. Because **Child** was looking like he was
9 about to throw up. So he put him on his lap and he
10 was like, **Child** , are you all right?

11 Q. And then what happened?

12 A. I was, like, well, we're about to go
13 because I got to go to work. He was, like, I think
14 we need to go to the hospital.

15 Q. And did you go to the hospital?

16 A. Yes, ma'am.

17 Q. And did you really know where you were
18 going?

19 A. Not really.

20 Q. And so what happened when you got
21 downtown?

22 A. I was just in a rush trying to hurry
23 up.

24 Q. Did you eventually -- go ahead.

25 A. Yeah. I pulled at the wrong side of

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 the hospital, so we had to run all the way across
2 to the other side.

3 Q. And you ran to the hospital?

4 A. Yes.

5 Q. What happened when you got to the
6 hospital?

7 A. The nurse took **Child** and sat him on
8 the table thing.

9 Q. And is that the last time you saw
10 **Child** ?

11 A. Well, we went upstairs.

12 Q. When you went -- who all went upstairs?

13 A. Just me and C. J.

14 Q. And when you got upstairs, were you
15 allowed to go in the room?

16 A. No.

17 Q. Where did you wait?

18 A. I sat out in front of the door.

19 Q. And did other family members show up?

20 A. Yeah, they were around, but Krystal was
21 the first one there.

22 Q. She was?

23 A. Uh-huh.

24 Q. How was Krystal when she showed up?

25 A. In a wheelchair.

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

1 Q. In a wheelchair?

2 A. Yeah.

3 Q. Did you talk with her?

4 A. Not really.

5 Q. What other family members arrived; do
6 you know?

7 A. I remember her brother and mom and them
8 came.

9 Q. And now did you all congregate in a
10 room or did you go in the family room?

11 A. In the family room.

12 Q. What happened in there?

13 A. Nothing. We just sat there.

14 Q. Did anybody start questioning people?

15 A. Not really.

16 Q. Now, do you have any idea about how
17 long you were there?

18 A. Long enough to miss work.

19 Q. What do you mean by miss work?

20 A. I was supposed to be at work at 10:00.

21 Q. Oh, at nighttime?

22 A. Yes, ma'am.

23 Q. Where did you go when you left there?

24 A. Home.

25 Q. And did you go to Child 's funeral?

SHAQUILLE PRIOLEAU - DIRECT EXAM BY MS. HERRING-LASH

- 1 A. No.
- 2 Q. Why not?
- 3 A. It was in Florence.
- 4 Q. What was?
- 5 A. It was in Florence.
- 6 Q. His funeral?
- 7 A. Yes, ma'am.
- 8 Q. Now, have you continued to see and be
- 9 friends with Krystal?
- 10 A. Yes.
- 11 Q. And have you seen C. J. since that
- 12 evening?
- 13 A. Yes, ma'am.
- 14 Q. And do you all continue to hang out?
- 15 A. Yes, ma'am.
- 16 Q. Have you discussed Child 's death with
- 17 C. J.?
- 18 A. No, ma'am.
- 19 Q. And why not?
- 20 A. Just never came up.
- 21 Q. How do you feel about talking about it?
- 22 A. Sad.
- 23 Q. Did you not want to talk?
- 24 A. No.
- 25 MS. HERRING-LASH: Beg the Court's

SHAQUILLE PRIOLEAU - CROSS EXAM BY MS. FORD

1 indulgence?

2 THE COURT: Yes, ma'am.

3 MS. HERRING-LASH: Those are all the
4 questions I have. Shaquille, if you will, answer
5 any questions from Ms. Ford.

6 THE COURT: Ms. Ford.

7 MS. FORD: Thank you, Your Honor. May
8 it please the Court?

9 THE COURT: Yes, ma'am.

10 CROSS-EXAMINATION

11 BY MS. FORD:

12 Q. Shaquille, you're not quite sure the
13 exact time you got to the apartment, correct?

14 A. No.

15 Q. And you told us after helping them move
16 in, this was the first time you had been there to
17 hang out?

18 A. Yes.

19 Q. They hadn't been there long, correct?

20 A. No.

21 Q. When you first got there, Child seemed
22 pretty normal, correct?

23 A. Yes.

24 Q. So when you got there, you didn't --
25 you didn't seem -- it didn't occur to you, oh, this

SHAQUILLE PRIOLEAU - CROSS EXAM BY MS. FORD

- 1 boy needs to go to the doctor, correct?
- 2 A. Yes.
- 3 Q. So when he started acting woozy and
- 4 sick was after C. J. took him to the bathroom and
- 5 cleaned him up, correct?
- 6 A. Uh-huh, yes.
- 7 Q. So after the store C. J. changed
- 8 **Child** 's pants, correct?
- 9 A. Yes.
- 10 Q. And during this time, was your brother,
- 11 **D.S.** , was he in the bathroom with him as well?
- 12 A. No, both of us was still sitting on the
- 13 chair.
- 14 Q. So you were outside in the living room?
- 15 A. Yes.
- 16 Q. And the door to the bathroom -- it's a
- 17 small apartment, correct?
- 18 A. Yes.
- 19 Q. So the door to the bathroom was open?
- 20 A. I think so, yeah.
- 21 Q. Okay. You never -- while C. J. was in
- 22 there with **Child** , you never heard anything come
- 23 from the bathroom?
- 24 A. Not really.
- 25 Q. You never heard C. J. yell at **Child**

SHAQUILLE PRIOLEAU - CROSS EXAM BY MS. FORD

1 while they were in the bathroom?

2 A. No. Only thing I really heard was,
3 like, the water. I never heard the water cut off.

4 Q. And you never heard **Child** crying in
5 the bathroom?

6 A. No.

7 Q. And you never heard **Child** screaming in
8 the bathroom?

9 A. No.

10 Q. Did **Child** cry at all when you were
11 with him that day?

12 A. No. Only thing he said was, what's up,
13 and that was it.

14 Q. Okay. Was **Child** typically pretty
15 quiet?

16 A. Sometimes. It depends.

17 Q. So after C. J. brought him out of the
18 bathroom, he laid -- C. J. laid **Child** down on the
19 couch, correct?

20 A. Uh-huh.

21 Q. Okay. And C. J. also gave **Child** some
22 water to drink?

23 A. I think so. I don't know.

24 Q. Okay. You don't remember him giving
25 him water to drink and then **Child** wouldn't drink

SHAQUILLE PRIOLEAU - CROSS EXAM BY MS. FORD

1 it so he put it on the floor?

2 A. I don't remember that.

3 Q. Do you remember talking to my
4 investigator, Mr. Long, not long after **Child** died
5 in November of 2014?

6 A. I think so, yeah.

7 Q. Mr. Long, does that sound familiar?

8 A. Yes.

9 Q. Would it help your memory if I gave you
10 a copy of the statement or have you look at the
11 statement to see --

12 A. Sure.

13 MS. FORD: May I approach the witness,
14 Your Honor?

15 BY MS. FORD:

16 Q. Does this look like your statement?
17 Does that look familiar that you signed?

18 A. Yes.

19 Q. And you indicated that C. J. had tried
20 to give **Child** water as well?

21 A. Yes.

22 Q. And at that point **Child** was acting
23 like he was -- he seemed exhausted?

24 A. Yes.

25 Q. And C. J. indicated he thought that

SHAQUILLE PRIOLEAU - CROSS EXAM BY MS. FORD

1 maybe he had a virus?

2 A. Yes. He just looked like he was ready
3 to throw up.

4 Q. Okay. And you told us that C. J. put
5 him on his lap and held him?

6 A. Yes.

7 Q. And C. J. was asking, are you okay?
8 Are you okay?

9 A. Yes.

10 Q. But at that point you were actually
11 going to leave to go to work, correct?

12 A. Yes.

13 Q. So you didn't suggest, hey, man, maybe
14 we should take him to the hospital, correct?

15 A. Right.

16 Q. It was C. J. who said, no, don't leave,
17 we need to go to the hospital, right?

18 A. Yes.

19 Q. So whose idea was it to go downtown to
20 MUSC?

21 A. That's the closest hospital I know.

22 Q. Okay. And when you got there, you went
23 down a one-way street the wrong way, correct?

24 A. Yes.

25 Q. And you told us that you went to the

SHAQUILLE PRIOLEAU - CROSS EXAM BY MS. FORD

- 1 wrong place at first?
- 2 A. Yes.
- 3 Q. That door was locked, correct?
- 4 A. Yeah.
- 5 Q. And so you all just ran --
- 6 A. To the other side.
- 7 Q. -- to the other side?
- 8 A. To the children's part at MUSC.
- 9 Q. And **Child** was in C. J.'s arms at that
- 10 point?
- 11 A. Yes.
- 12 Q. On the way to the hospital you were the
- 13 driver, correct?
- 14 A. Yes.
- 15 Q. And **D.S.** was in the front seat on the
- 16 passenger side?
- 17 A. Yes.
- 18 Q. And C. J. was in the back with **Child** ,
- 19 right?
- 20 A. Yes, ma'am.
- 21 Q. And I know you were driving so it may
- 22 have been hard to see, but C. J. was attempting to
- 23 do CPR on **Child** , correct?
- 24 A. Yes.
- 25 Q. And so you got into the hospital after

SHAQUILLE PRIOLEAU - CROSS EXAM BY MS. FORD

1 -- what did you do with your car?

2 A. We just left it there.

3 Q. This wasn't a parking spot, correct?

4 A. No.

5 Q. And C. J. seemed really concerned about

6 **Child** , right?

7 A. Yes.

8 Q. And this seemed like a genuine concern,
9 in your opinion, correct?

10 A. Right.

11 Q. , So on that date -- you told us that you
12 had been with C. J. and **Child** together on multiple
13 occasions, correct?

14 A. Uh-huh.

15 Q. You had not -- that day you didn't see
16 C. J. hit or strike **Child** in any way, correct?

17 A. No.

18 Q. You had not seen C. J. on any prior day
19 physically assault **Child** , correct?

20 A. No..

21 Q. You had not known him to get mad at
22 **Child** easily, correct?

23 A. No.

24 Q. You have also seen C. J. with his
25 daughter, J. , correct?

SHAQUILLE PRIOLEAU - CROSS EXAM BY MS. FORD

1 A. Yes.

2 Q. That's not his biological daughter, to
3 your knowledge, correct?

4 A. Right.

5 Q. But he treated her like his daughter --

6 A. Yes.

7 Q. -- in your impression? And you believe
8 that C. J. also treated **Child** like he treated

9 **J.** ?

10 A. Yes.

11 Q. So like his child?

12 A. Sometimes.

13 MS. FORD: Okay. Beg the Court's
14 indulgence?

15 THE COURT: Yes, ma'am.

16 BY MS. FORD:

17 Q. Shaquille, just a few more questions.
18 You told us how you went to the store.

19 A. Yeah.

20 Q. And you were only gone maybe ten
21 minutes?

22 A. Uh-huh, yes.

23 Q. You actually -- the police did speak to
24 you the night you went to the hospital, correct?

25 A. Yes.

SHAQUILLE PRIOLEAU - REDIRECT EXAM BY MS. HERRING-LASH

1 Q. You never mentioned going to the store
2 or leaving **Child** at the house, correct?

3 A. Right.

4 Q. And you actually -- when you spoke to
5 Mr. Long, my investigator, you never mentioned that
6 you left **Child** at the house either, correct?

7 A. Yes.

8 Q. After speaking to the Solicitor's
9 office, that's -- you're now saying that you left
10 **Child** at the house for that short amount of time,
11 correct?

12 A. Yes.

13 MS. FORD: Okay. No further questions.

14 THE COURT: Any redirect?

15 MS. HERRING-LASH: Yes, Your Honor.

16 REDIRECT EXAMINATION

17 BY MS. HERRING-LASH:

18 Q. Shaquille, just to start off with, did
19 **Child** stay at the house when you went to the
20 store?

21 A. Yes.

22 Q. And are you sure about that?

23 A. Yes.

24 Q. And now you had talked a little bit
25 about your relationship with **Child** . When you went

SHAQUILLE PRIOLEAU - REDIRECT EXAM BY MS. HERRING-LASH

1 there, would he normally play with you?

2 A. He'd be excited.

3 Q. And you said you all would do things
4 like play -- or play with the basketball?

5 A. Yes.

6 Q. On this particular day, you didn't play
7 at all, did you?

8 A. No.

9 Q. And when -- before you went to the
10 store, was **Child** -- you said kind of leaning.
11 What do you mean by that?

12 A. He was just laying down on the pillow.

13 Q. And I think you used the word, slumped
14 over, in your statement with Mr. Long?

15 A. That's when we came back from the
16 store.

17 Q. So before you went to the store he was
18 just kind of laying, and when you got back he was
19 slumped over?

20 A. Like, he'd sit up and just slide back
21 down.

22 Q. Did you ever see him laying on his
23 stomach with his legs up under him?

24 A. No, I don't remember that.

25 Q. You didn't remember that. Now, when

SHAQUILLE PRIOLEAU - REDIRECT EXAM BY MS. HERRING-LASH

1 you were asked if he treated **Child** like his own
2 child, you said sometimes. What do you mean by
3 that?

4 A. Like, because J. is a girl and
5 **Child** is a boy so he'd, like, toughen him up a
6 little bit.

7 Q. What do you mean --

8 A. You can't cry about this or you can't
9 cry about that.

10 Q. What do you mean by toughen him up?

11 A. You can't do that, you can't cry,
12 you're a boy.

13 Q. But when J. cried, it would be
14 okay?

15 A. No, he'd tell her the same thing, but,
16 like, it's just a little more leeway with her.

17 Q. Because **Child** was a boy?

18 A. Yeah.

19 Q. Now, you did say that he tried to give
20 **Child** water, but **Child** wouldn't drink it?

21 A. Yes.

22 Q. So he wouldn't drink the water?

23 A. No.

24 Q. Did **Child** seem to get worse and worse
25 the more you stayed?

SHAQUILLE PRIOLEAU - REDIRECT EXAM BY MS. HERRING-LASH

1 A. Yeah. He just started looking more
2 sick.

3 MS. HERRING-LASH: Those are all the
4 questions I have.

5 THE COURT: Any objection to the
6 witness being excused? From the State?

7 MS. HERRING-LASH: No, Your Honor.

8 THE COURT: From the defense?

9 MS. FORD: No, Your Honor.

10 THE COURT: Any exception to the
11 witness being excused?

12 MS. FORD: No, Your Honor.

13 THE COURT: Sir, you're excused. You
14 may step down.

15 Call your next witness.

16 MS. HERRING-LASH: The State would call

17 D.S.

18 D.S.

19 being first duly sworn, testified as follows:

20 THE CLERK: Please be seated. I need
21 you to speak into the microphone and you need to
22 get kind of close to it. State your full name and
23 spell your last name. Okay?

24 THE WITNESS: D.S.

25 D.S.

D.S.

- DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: You may proceed.

2 DIRECT EXAMINATION

3 BY MS. HERRING-LASH:

4 Q. D.S. , would you also spell your first
5 name?

6 A. D.S. .

7 Q. And what is your date of birth?

8 A. .

9 Q. So you're 14?

10 A. Yes, ma'am.

11 Q. And where do you live now?

12 A. .

13 Q. And where is that?

14 A. North Charleston.

15 Q. And so where are you going to school
16 now?

17 A. North Charleston High.

18 Q. What grade are you in?

19 A. Ninth.

20 Q. This is your first year of high school?

21 A. Yes.

22 Q. How do you like it?

23 A. It's alright.

24 Q. And is Shaquille Prioleau your brother?

25 A. Yes, ma'am.

D.S.

- DIRECT EXAM BY MS. HERRING-LASH

- 1 Q. Your older brother?
- 2 A. Yes, ma'am.
- 3 Q. And do you know Curtis Williams?
- 4 A. Yes, ma'am.
- 5 Q. And what do you know him by?
- 6 A. C. J.
- 7 Q. And how long have you known C. J.?
- 8 A. For -- since I was in fourth grade.
- 9 Q. So a long time?
- 10 A. Yes.
- 11 Q. And how did you meet him?
- 12 A. It was a long time ago. I was with
- 13 Quille. I don't know how to explain it, but --
- 14 yes.
- 15 Q. Did you grow up in the same
- 16 neighborhood?
- 17 A. Yes, ma'am.
- 18 Q. Was he friends with your older brother?
- 19 A. Yes, ma'am.
- 20 Q. And do you also know Krystal Williams?
- 21 A. Yes, ma'am.
- 22 Q. And how did you meet her?
- 23 A. I was with Quille and C. J. one day and
- 24 we went over to their house.
- 25 Q. And just for the information, you call

D.S.

- DIRECT EXAM BY MS. HERRING-LASH

1 Shaquille, Quille; is that what you're saying?

2 A. Yes, ma'am.

3 Q. Okay. And did you visit with C. J. and
4 Krystal at their various homes?

5 A. Most of them.

6 Q. Most of them?

7 A. (Nodding)

8 Q. And did you know **Child** ?

9 A. Yes.

10 Q. And about how old was **Child** when you
11 met him?

12 A. Two.

13 Q. Did you play with **Child** also?

14 A. Yes.

15 Q. What would you play?

16 A. Well, he did have, like, some toys, I
17 don't know what they're called, but, yeah.

18 Q. Why don't you know what they're called?
19 Were they baby toys?

20 A. Yes, ma'am.

21 Q. And what kind of kid was **Child** ?

22 A. He was a -- he was like a -- he was a
23 nice little quiet kid.

24 Q. And did you have fun with him?

25 A. Yes, ma'am.

D.S.

- DIRECT EXAM BY MS. HERRING-LASH

1 Q. And do you remember the last time you
2 saw **Child** ; what house they were living in?

3 A. I don't know the address, but, yes.

4 Q. If you will look, you will see -- is
5 that the house?

6 A. Yes, ma'am.

7 Q. And that day, did you go there to see
8 **Child** and C. J.?

9 A. Yes, ma'am.

10 Q. And do you remember who you went with?

11 A. Shaquille.

12 Q. Do you remember what day of the week
13 that was?

14 A. Sunday.

15 Q. And what were you going over there to
16 do?

17 A. Watch a football game.

18 Q. And when you got there, who all was
19 there?

20 A. C. J. and **Child** .

21 Q. And let me show you what has been
22 previously marked as State's Exhibit Number 29. Is
23 that when you entered the door?

24 A. Yes, ma'am.

25 Q. And what is that?

D.S.

- DIRECT EXAM BY MS. HERRING-LASH

- 1 A. Couch.
- 2 Q. And who sat there?
- 3 A. Me and Shaquille.
- 4 Q. And let me show you what has been
- 5 marked as State's Exhibit Number 30. And what is
- 6 that?
- 7 A. Another couch and TV.
- 8 Q. Where is that couch in relation to
- 9 where you were sitting?
- 10 A. Across from Child .
- 11 Q. And who was on that couch?
- 12 A. C. J. and Child .
- 13 Q. Let me show you what has been marked as
- 14 States Exhibit 31 and maybe you can show better.
- 15 Where was Child on that couch?
- 16 A. Like, right here. (Indicating)
- 17 Q. And what was he doing?
- 18 A. Just sitting down.
- 19 Q. How was he sitting?
- 20 A. Like, he had his legs on the couch,
- 21 just laying down, just regular.
- 22 Q. And did he sit up or lay down?
- 23 A. He sat up at first.
- 24 Q. And then what?
- 25 A. Then he started to lay down.

D.S.

- DIRECT EXAM BY MS. HERRING-LASH

1 Q. How would he lay down?

2 A. Just like this for awhile.

3 (Indicating)

4 Q. Did you try to sit him back up? Did C.
5 J. try to sit him back up?

6 A. Yes.

7 Q. What happened when he tried to sit him
8 back up?

9 A. Nothing.

10 Q. Would he stay sitting up or would he
11 just lay back down?

12 A. Yeah, for a little while.

13 Q. And then what happened after a little
14 while?

15 A. He just started laying back down like
16 this. (Indicating)

17 Q. Now, when you were there, did you all
18 end up leaving to go somewhere?

19 A. Yes, ma'am.

20 Q. And where were you going to go?

21 A. Save-A-Lot.

22 Q. And let me show you State's Exhibit 45.
23 What is that?

24 A. The place you park.

25 Q. And where did you park? Can you point

D.S.

- DIRECT EXAM BY MS. HERRING-LASH

1 out where you parked?

2 A. Right here. (Indicating)

3 Q. And so when you all were going to go to
4 Save-A-Lot, what happened?

5 A. We went to see Krystal.

6 Q. On the way -- or when you were getting
7 in the car, did everybody go to Save-A-Lot?

8 A. No, ma'am.

9 Q. What happened?

10 A. **Child** pooped.

11 Q. And how did you know that?

12 A. Because we were smelling something.

13 Q. What happened when he pooped?

14 A. C. J. took him out of the car and he
15 put him down to walk and he fell. And C. J. picked
16 him back up.

17 Q. How did he carry him?

18 A. Like this. (Indicating)

19 Q. Why was he carrying him like that?

20 A. Because he pooped and he smelled bad.

21 Q. And so **Child** fell?

22 A. Yes, ma'am.

23 Q. And did C. J. leave him in the house?

24 A. Yes, ma'am.

25 Q. And when you got to Save-A-Lot, did you

D.S.

- DIRECT EXAM BY MS. HERRING-LASH

- 1 get out?
- 2 A. No.
- 3 Q. When you got back what happened?
- 4 A. C. J. washed **Child** off.
- 5 Q. Where did he wash him off?
- 6 A. In the bathtub.
- 7 Q. And did you go in there?
- 8 A. No, ma'am.
- 9 Q. And did you see what happened in there?
- 10 A. No, ma'am.
- 11 Q. Was the door opened or closed.
- 12 A. I honestly don't know, but I think it
- 13 was closed.
- 14 Q. And after -- did you hear anything in
- 15 the bathroom?
- 16 A. No, ma'am.
- 17 Q. And after they came out of the
- 18 bathroom, did **Child** have on different clothes?
- 19 A. Yes, ma'am.
- 20 Q. And what happened then?
- 21 A. He laid back down.
- 22 Q. And where did he lay then?
- 23 A. Kind of in the same spot, but closer to
- 24 the corner of the chair.
- 25 Q. I will go back and show you State's

D.S.

- DIRECT EXAM BY MS. HERRING-LASH

1 Exhibit Number 32. Can you show on there where he
2 was laying?

3 A. Right here. (Indicating)

4 Q. How was he laying then?

5 A. Like, slouched over a lot.

6 Q. And what happened after that?

7 A. He went to lay down, but -- I think the
8 covers was over him, not the whole way, but he was
9 laying flat, and then C. J. turned him over. And
10 he was looking like he wasn't breathing right.

11 And C. J. was like, Shaq, we gotta go.

12 Q. So what did you do?

13 A. We left for the hospital.

14 Q. And where did you sit in the car?

15 A. I sat in the front seat.

16 Q. And did you run into the hospital with
17 them?

18 A. Yes.

19 Q. And what happened to you at the
20 hospital?

21 A. The lady took me aside and she prayed
22 with me..

23 Q. How old were you then?

24 A. Twelve.

25 Q. So you said she took you aside and

D.S.

- CROSS EXAM BY MS. FORD

1 what?

2 A. She prayed with me.

3 Q. A lady prayed with you?

4 A. (Nodding)

5 MS. HERRING-LASH: D.S. , I think

6 those are all the questions I have. If you would

7 answer any that Ms. Ford has. Okay?

8 THE COURT: Ms. Ford, you may proceed.

9 MS. FORD: Thank you, Your Honor. May
10 it please the Court?

11 CROSS-EXAMINATION

12 BY MS. FORD:

13 Q. Hey, D.S.

14 A. Hey.

15 Q. When you went to the house at first

16 that day, C. J. and Child were watching TV,

17 correct?

18 A. Yes.

19 Q. Football was on?

20 A. Right.

21 Q. That's the whole reason you went there,

22 to watch some Sunday football?

23 A. Yes.

24 Q. And you told us that you went to the

25 store, to Save-A-Lot?

D.S.

- CROSS EXAM BY MS. FORD

1 A. Yes.

2 Q. At first, **Child** was -- left to go with
3 you, correct?

4 A. Uh-huh.

5 Q. You told us that C. J. ended up taking
6 him inside?

7 A. Yes, ma'am.

8 Q. But you actually never -- before when
9 you talked to people, you always said that **Child**
10 went with you to the store?

11 A. Yes, ma'am.

12 Q. So just more recently you told the
13 Solicitor that, yeah, **Child** was left in the house,
14 right?

15 A. Yes.

16 Q. Okay. So in the car, you could tell he
17 had used the bathroom in his pants?

18 A. Yes.

19 Q. That was because of the smell?

20 A. Yes.

21 Q. At that point, I'm guessing you
22 couldn't see anything, though?

23 A. Huh-uh.

24 Q. And **Child** wasn't crying in the car,
25 though?

D.S.

- CROSS EXAM BY MS. FORD

1 A. No, ma'am.

2 Q. And **Child** wasn't screaming or anything
3 like that?

4 A. No, ma'am.

5 Q. So C. J. took him in the house by
6 himself. Did you stay in the car?

7 A. Yes, I stayed in the car.

8 Q. C. J. went by himself?

9 A. Yes, that I know of.

10 Q. There wasn't a lot of going in and out
11 of the house, was there?

12 A. Not really.

13 Q. Okay. Just you went to the car and
14 then C. J. took him inside and came back to the
15 car, correct?

16 A. Yes, ma'am.

17 Q. So when you got back to the house, C.
18 J. immediately went to go clean **Child** up, correct?

19 A. Yes, ma'am.

20 Q. He took him to the restroom?

21 A. Uh-huh.

22 Q. Correct?

23 A. Yeah.

24 THE COURT: Sir, you need to say yes
25 or no.

D.S.

- CROSS EXAM BY MS. FORD

1 THE WITNESS: Yes, ma'am.

2 BY MS. FORD:

3 Q. And this is a small apartment; is that
4 fair to say?

5 A. Yes, ma'am.

6 Q. And so the bathroom is right close to
7 the living room?

8 A. Yes.

9 Q. And the Solicitor asked you if the door
10 was opened or closed. You said you weren't sure,
11 but you think closed?

12 A. Yes.

13 Q. Okay. But do you remember talking to
14 my investigator, Mr. Long, back in November,
15 November 24th of 2014?

16 A. No.

17 Q. You don't remember talking to a man,
18 your mom was there, and you told him that the door
19 was opened? Does that sound like something you
20 would have said back -- this would have been a
21 month after this happened?

22 A. No.

23 Q. You don't remember that?

24 A. (Shaking head)

25 Q. You don't remember talking to Mr. Long

D.S.

- CROSS EXAM BY MS. FORD

1 at all?

2 A. (Shaking head)

3 Q. When **Child** was in the bathroom with
4 C. J. you never heard **Child** screaming from the
5 bathroom, correct?

6 A. No.

7 Q. You never heard **Child** crying from the
8 bathroom, correct?

9 A. No.

10 Q. So after C. J. bathed **Child** , he
11 brought him outside to the living room?

12 A. Yes, ma'am.

13 Q. C. J. then put **Child** on the couch?

14 A. Uh-huh.

15 Q. And C. J. at some point covered him
16 with the blanket?

17 A. Yes, ma'am.

18 Q. So C. J. was trying to comfort **Child** ?

19 A. Uh-huh.

20 Q. Ultimately, it was C. J.'s idea to take
21 him to the hospital?

22 A. Yes, ma'am.

23 Q. Okay. So you didn't suggest that,
24 right?

25 A. No.

D.S.

- CROSS EXAM BY MS. FORD

1 Q. Okay. And your brother, Shaquille, did
2 not suggest that, correct?

3 A. No, ma'am.

4 Q. While in the car you told us you were
5 in the front seat?

6 A. Uh-huh.

7 Q. And C. J. and **Child** were in the back
8 seat, right?

9 A. Yes.

10 Q. And is it fair to say that things were
11 pretty chaotic in the car?

12 A. Yes.

13 Q. And all of you were scared?

14 A. Yes.

15 Q. C. J. had **Child** in his arms in the
16 back seat, right?

17 A. Yes.

18 Q. And C. J. was doing CPR, or trying to,
19 correct?

20 A. Yes.

21 Q. So he was using his mouth on **Child** as
22 part of the CPR?

23 A. Yes.

24 Q. And he was applying force to **Child** 's
25 chest?

D.S.

- CROSS EXAM BY MS. FORD

1 A. Yes.

2 Q. So things were just emotional in the
3 car?

4 A. Yes.

5 Q. You told us you had known C. J.
6 probably a good bit of your life?

7 A. Yes, ma'am.

8 Q. He's a good friend of your brother?

9 A. Yes, ma'am.

10 Q. And you're much younger but you pretty
11 much hang out with C. J. when you're with your
12 brother, correct?

13 A. Yes, ma'am.

14 Q. You had hung out with C. J. and **Child**
15 before?

16 A. Yes, ma'am.

17 Q. This is not the first time that you met
18 **Child** ?

19 A. No.

20 Q. On this day you never saw C. J. hit
21 **Child** in any way, correct?

22 A. No, ma'am.

23 Q. And you had never seen C. J. hit **Child**
24 in the past either, correct?

25 A. No, ma'am.

D.S.

- CROSS EXAM BY MS. FORD

1 MS. FORD: Beg the Court's indulgence?

2 THE COURT: Yes, ma'am.

3 BY MS. FORD:

4 Q. Just wanted to clarify, when C. J. was
5 walking **Child** back to the house from the car, you
6 told us he was holding him away from his body so he
7 wouldn't get any poop on him; is that fair to say
8 or that's how it looked to you?

9 A. That's how it looked to me.

10 Q. Okay. So it looked like he was holding
11 him up?

12 A. Yes.

13 Q. So he was carrying him away from his
14 body?

15 A. (Nodding)

16 Q. That's what you saw that day?

17 A. Yes.

18 Q. Okay. And was he holding him by his
19 sides, like holding him up? (Indicating)

20 A. Yeah. Like, by his waist, by the neck.

21 Q. Like under his armpits?

22 A. Uh-huh.

23 MS. FORD: No further questions.

24 THE COURT: Any redirect?

25 REDIRECT EXAMINATION

D.S.

- REDIRECT EXAM BY MS. HERRING-LASH

1 BY MS. HERRING-LASH:

2 Q. And, D.S. , when you -- when C. J. was
3 carrying **Child** , were you in the truck kind of over
4 to the side and behind where he was?

5 A. Behind -- what do you mean?

6 Q. Let me show you the picture again.

7 Where were you parked?

8 THE COURT: Please make reference to
9 the exhibit number.

10 MS. HERRING-LASH: Oh, I'm sorry, Your
11 Honor. I think it's 45, State's Exhibit 45.

12 BY MS. HERRING-LASH:

13 Q. Where were you parked?

14 A. Right here. (Indicating)

15 Q. And where did **Child** fall?

16 A. Right there, walking back to the house.
17 (Indicating)

18 Q. Do you remember where they were when he
19 fell?

20 A. Not really, but pretty close to the
21 gate.

22 Q. And then they walked -- which way did
23 they walk after that?

24 A. Straight.

25 Q. Straight? Do you want to draw a little

D.S.

- REDIRECT EXAM BY MS. HERRING-LASH

1 line?

2 A. (Indicating)

3 Q. You said you never heard **Child** cry
4 that day?

5 A. No.

6 Q. And was he crying when he was laying on
7 the couch slumped over?

8 A. No, ma'am.

9 Q. And even in the car, was he crying?

10 A. No, ma'am.

11 Q. So he didn't cry at all that day?

12 A. No, ma'am.

13 Q. And you said you never saw C. J. hit
14 him that day?

15 A. No, ma'am.

16 Q. Did you ever hear anything?

17 A. No, ma'am.

18 Q. Are you sure?

19 A. Yes, ma'am.

20 MS. HERRING-LASH: That's all the
21 questions I have, Your Honor.

22 THE COURT: Any objection to the
23 witness being excused? From the State?

24 MS. HERRING-LASH: No, Your Honor.

25 THE COURT: From the defense?

1 MS. FORD: No, Your Honor.

2 THE COURT: Sir, you're excused.

3 Mr. Foreman, ladies and gentlemen, we
4 are going to take advantage of this break in
5 testimony to take a brief break. During the break,
6 please do not discuss the case and please leave
7 your notepads in your seats. If you will go with
8 the bailiffs, please.

9 (Jury out, 11:09 a.m.)

10 THE COURT: Anything before we take a
11 restroom break, from the State?

12 MS. HERRING-LASH: No, Judge.

13 THE COURT: From the defense?

14 MS. FORD: No, Your Honor.

15 THE COURT: We will be out about ten
16 minutes.

17 (A recess transpired.)

18 THE COURT: State ready to proceed?

19 MS. HERRING-LASH: Yes, Your Honor.

20 THE COURT: Defense ready to proceed?

21 MS. FORD: Yes, Your Honor.

22 THE COURT: Is the State's next
23 witness present?

24 MS. HERRING-LASH: Yes. I will get her
25 in the courtroom.

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 (Jury in, 11:28 a.m.)

2 THE BAILIFF: All jurors are present.

3 THE COURT: You may proceed.

4 MS. HERRING-LASH: The State would call
5 Tiffany Adams.

6 TIFFANY ADAMS,

7 being first duly sworn, testified as follows:

8 THE CLERK: Please have a seat, state
9 your full name and spell your last name.

10 THE WITNESS: Tiffany Adams,
11 T-I-F-F-A-N-Y, A-D-A-M-S.

12 THE COURT: You may proceed.

13 DIRECT EXAMINATION

14 BY MS. HERRING-LASH:

15 Q. Ms. Adams, where do you work?

16 A. North Charleston Police Department as a
17 crime scene technician.

18 Q. How long have you been there?

19 A. Three years.

20 Q. What is your training to be a crime
21 scene technician?

22 A. We have on-the-job training and then we
23 have courses that we go offsite and attend
24 training.

25 Q. What is that called?

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. It's just, like -- I've been to FLETC,
2 Federal Law Enforcement Training Center for basic
3 crime scene classes and advanced crime scene
4 classes.

5 Q. What are your duties as a crime scene
6 officer?

7 A. As a crime scene technician we go out
8 on the crime scenes and we photograph, do evidence
9 collection, process the scene for DNA, also
10 fingerprints, blood.

11 Q. And were these your same duties back in
12 October of 2014?

13 A. It was.

14 Q. And did you get called out on this
15 case?

16 A. Yes, it was my call-out weekend.

17 Q. Where did you go?

18 A. I was advised to meet the responding
19 officers, detectives, and the coroner at the
20 children's hospital.

21 Q. And what did you do when you got there?

22 A. When I arrived, I met the Coroner, Rae
23 Wooten, and I photographed **Child** and the findings
24 such as the bruises that were pointed out by
25 Coroner Wooten.

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 Q. Now, when you got to the hospital, had
2 **Child** already passed?

3 A. Yes.

4 Q. And where was he when you got there?

5 A. When I got there he was in room 7, he
6 was already in bed. There were tube placements and
7 covers were pulled up to his neck.

8 Q. Did you collect anything while at the
9 hospital?

10 A. At the hospital, clothes that were
11 removed was a previously cut striped T-shirt that
12 was cut by the medical staff and a pair of shorts,
13 jean shorts.

14 Q. And did you take anything else from the
15 hospital?

16 A. He was on top of a sheet and the
17 Coroner requested that that be removed because he
18 had defecated and there was observation of blood
19 stains.

20 Q. Would it be common for you to take
21 photographs as the coroner instructed?

22 A. Yes.

23 Q. And on that day did the coroner take
24 pictures also?

25 A. No. She didn't have her camera, she

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 was parked away from the hospital. I photographed
2 what was pointed out by the coroner.

3 Q. After leaving the hospital, where did
4 you go?

5 A. After we cleared the children's
6 hospital, we started in route to the apartment that
7 was on . There was a consent to
8 search, to do a search warrant.

9 Q. Who signed that consent; do you know?

10 A. The mom and Curtis Williams.

11 Q. And had they been at the hospital?

12 A. Yes.

13 Q. Did they also come back to the
14 apartment?

15 A. Yes. Everyone, along with the
16 detectives and Curtis Williams and Child 's mother
17 met back at the apartment.

18 Q. And did you all have any trouble
19 getting in at the beginning?

20 A. There was some confusion about having a
21 key or not having a key, and there was -- the key
22 was there or something like that.

23 Q. Now, I'm going to show you -- as part
24 of -- I think you said earlier as part of your
25 duties as a crime scene officer is to take

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 pictures. How do you go about that? How do you
2 start?

3 A. Well, as an example, this is the
4 apartment on , so this would be --

5 Q. This is State's 28.

6 A. Okay. So this would be the overall
7 picture of the outside of the apartment before
8 making entry on the inside.

9 Q. And when you're doing this, is anyone
10 else allowed in the apartment?

11 A. No.

12 Q. So you go in first by yourself?

13 A. I go in and I do my overall photos from
14 room to room.

15 Q. And this is the first one that you
16 took?

17 A. On the outside of the apartment.

18 Q. And we will go to State's Exhibit
19 Number 30. And where is this?

20 A. So this is standing on the outside at
21 the front door to take a picture of the living room
22 area.

23 Q. So you're actually standing outside?

24 A. At the door, at this point.

25 Q. And we will go to State's Exhibit

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 Number 29. And where is that?

2 A. This is still the living room area on
3 the left-hand side.

4 Q. And is that the door there in the
5 corner?

6 A. Yes. And there is a dresser behind the
7 entrance door.

8 Q. Can you --

9 A. Right here. (Indicating)

10 Q. And when you're doing this, as in this
11 case and in most cases, you don't know any of the
12 facts. You're just taking a picture of everything
13 that you see; is that correct?

14 A. Yes. You go from wall to wall in each
15 room.

16 Q. And now I will move on to State's
17 Exhibit 37. And what is that?

18 A. So now I'm on the inside and this is
19 the couch that's on the right-hand side of the
20 living room area.

21 Q. And what is that other room?

22 A. Straight ahead would be the kitchen.

23 Q. Now we will go to State's 34. And what
24 is this?

25 A. This is still the floor area of the

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 living room area.

2 Q. And why did you take this particular
3 picture?

4 A. There was mention that there was
5 observation of a blood stain that was on the floor.

6 Q. And that's where that was?

7 A. Yes.

8 Q. And who would have mentioned that to
9 you?

10 A. It would be Mr. Curtis Williams, who
11 would advise the detectives and the coroner, and
12 she wanted it photographed.

13 Q. Okay. And he would have spoken to them
14 beforehand?

15 A. Yes; not directly to me.

16 Q. State's 32. And what is this?

17 A. That would still be the couch area, and
18 through this door here is a bedroom.

19 Q. And in that picture, what is on the
20 couch?

21 A. There was a backpack, Capri Sun,
22 blanket, and pillow.

23 Q. A Capri Sun?

24 A. Packet like a fruit drink.

25 Q. I'm showing you what is State's 35.

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 What is that?

2 A. The same couch with the Capri Sun,
3 Tootsie Roll, and towel.

4 Q. That little thing is a Tootsie Roll?

5 A. Yes.

6 Q. I show you State's 33. And what is
7 this?

8 A. That's the bedroom that's off of the
9 living room area.

10 Q. Was that the only bedroom in the home?

11 A. Yes.

12 Q. We will go to -- now, after the
13 pictures -- this is State's 37 -- did you go
14 through and correct items of interest?

15 A. Yes.

16 Q. How do you determine which items that
17 you were going to collect?

18 A. I was advised that this is a recycle
19 bin that was on the outside of the apartment and on
20 the inside of the recycling bin was a red T-shirt
21 and soiled underpants that belonged to **Child** . The
22 red T-shirt was used by Curtis Williams to clean
23 **Child** 's bottom after he pooped on himself.

24 So the red T-shirt and the underpants
25 -- so this is the red T-shirt and the underpants

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 right there.

2 Q. Did you collect these items?

3 A. Yes.

4 Q. But they were stained and soiled?

5 A. Yes.

6 Q. Okay. I show you what has been marked
7 as State's Exhibit -- excuse me, State's ID only
8 Number 38. What is this?

9 A. This is a picture of the soiled
10 underpants that was collected and packaged and it
11 was photographed. I didn't photograph, but I was
12 there when it was photographed to show how the
13 underpants were cut.

14 Q. And if we had the actual underwear, it
15 would be unpleasant?

16 A. Very. We're talking now two years
17 later.

18 Q. Okay. And how were you -- were you
19 informed they had been cut?

20 A. Yes. In the restroom, we were advised
21 by Curtis Williams that he used a knife to cut the
22 underpants off of Child .

23 Q. And after you've gone through and taken
24 pictures, is there some point you go through where
25 you're told different things --

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. Yes.

2 Q. So kind of two different steps?

3 A. Yes. So we do overall -- we photograph
4 overall and then we go room to room, and then we're
5 advised of findings that's in there. The
6 detectives would ask, what is this? Why is this
7 there? And we would go in and we now photograph
8 with scale, and that's by placing markers next to
9 the evidence that needs to be collected.

10 Q. And we have showed you this morning
11 just a few pictures of the home. Did you take a
12 lot more picture?

13 A. Oh, yes. Yes.

14 Q. I will show you State's Exhibit 36.
15 What is this?

16 A. This is in the kitchen area. This bag
17 right here is a pair of blue jeans and boxers.

18 **Child** had an accident in daycare and they placed
19 it in a grocery bag and tied it.

20 Q. Do you know when he had -- when he had
21 wet himself at daycare?

22 A. I don't know the exact date, but we
23 were advised that that was the clothing from the
24 daycare where he had an accident.

25 Q. I show you State's 39. Now, what is

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 that?

2 A. The bag that you saw under the table is
3 now placed on the table. The items are removed
4 from the bag and it's the blue jeans and a pair of
5 boxers and the grocery bag is right there.

6 Q. So it would appear to you, I guess,
7 that the bag had not been opened from the daycare?

8 A. No.

9 Q. Moving on to State's Exhibit Number 40.
10 What is this?

11 A. So now we're in the restroom area.
12 There are a pair of socks and a pair of jeans and
13 then the knife that's on the floor.

14 Q. And were those -- let me go on to the
15 next picture, it's a little clearer, State's
16 Exhibit 41. Were those blue jeans also soiled?

17 A. Yes.

18 Q. And is that the knife?

19 A. Yes. He advised that he used this
20 knife to cut off the soiled underpants off of
21 Child .

22 Q. And did you take the knife and the
23 soiled underwear -- excuse me, the soiled pants
24 into evidence?

25 A. Yes, I did.

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 MS. HERRING-LASH: Your Honor, at this
2 point we would offer the knife under --

3 THE COURT: No. We'll deal with it
4 outside of the jury's presence.

5 BY MS. HERRING-LASH:

6 Q. Okay. You did take custody of all
7 these items?

8 A. Yes.

9 Q. Let's move on to 42. And what is this?

10 A. This was a washcloth that was in the
11 bathtub. I was advised to collect it.

12 Q. And after you have taken these pictures
13 of the home, what else did you do while you were
14 there?

15 A. So after photographing with scale and
16 without scale, collecting the evidence and securing
17 the items, Corner Wooten wanted a reenactment to be
18 done. And a reenactment is just --

19 Q. Can I interrupt you one second. Before
20 doing that, and I don't know which you did first,
21 did you do swabs or reenactment?

22 A. The swabs.

23 Q. Can you explain about that?

24 A. Okay. So earlier in the pictures of
25 the floor, Curtis Williams advised that Child had

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 a nosebleed. So I swabbed that spot that was on
2 the living room floor, and then also in the kitchen
3 there was some spots on the wall. I wasn't sure if
4 that was blood or what it was.

5 So I performed a presumptive test to
6 test and see if it tested positive for blood. And
7 the only swab that tested positive for blood was
8 the one that was on the living room floor, that he
9 had advised **Child** had a nosebleed.

10 Q. Did you send any of these swabs to any
11 lab to be tested?

12 A. No, I didn't.

13 Q. Why not?

14 A. It wasn't probative to the case. He
15 had already stated that that blood was from the
16 nosebleed.

17 Q. After the swabbing that you did -- and
18 these swabs were done in the home where **Child** and
19 Curtis Williams lived?

20 A. Yes.

21 Q. After swabbing, then what did you do?

22 A. Then the reenactment was done. And
23 that reenactment was just explaining the events
24 that took place of the incident. And I
25 photographed step by step. Coroner Rae Wooten

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 handed Curtis Williams a doll for him to reenact
2 the positioning of how **Child** was on the couch.

3 Q. Before we get to the photographs, is
4 this reenactment of what happened immediately prior
5 to going to the hospital?

6 A. Yes.

7 Q. And is that something that is common
8 and done in any case --

9 A. Yes, it is.

10 Q. -- where a child is involved?

11 A. Yes, it is.

12 MS. HERRING-LASH: And may I approach
13 the witness, Your Honor?

14 THE COURT: Yes, ma'am.

15 BY MS. HERRING-LASH:

16 Q. If you would just glance at what was
17 previously marked and entered as State's 1 through
18 27.

19 Are you done?

20 A. Uh-huh.

21 MS. HERRING-LASH: May I approach?

22 THE COURT: You may.

23 BY MS. HERRING-LASH:

24 Q. And are those the pictures that you
25 took of the reenactment?

TIFFANY ADAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. Yes.

2 Q. We will present those with another
3 witness, but these are the ones that you took?

4 A. Yes.

5 Q. Now, after being at that crime scene,
6 was that the end of your involvement in this case?

7 A. After photographing of the reenactment,
8 if Coroner Rae Wooten -- she did a walk-through --
9 didn't see anything else she wanted to be
10 photographed, then I cleared the scene.

11 Q. And when you were talking about the
12 clothing from the daycare, were those wet with
13 urine?

14 A. Yes.

15 Q. Was there any diarrhea or stool in
16 those --

17 A. No, it was just wet.

18 MS. HERRING-LASH: Those are all the
19 questions I have.

20 THE COURT: Any questions of the
21 witness?

22 MS. FORD: Yes, Your Honor. May it
23 please the Court?

24 THE COURT: You may proceed.

25 CROSS-EXAMINATION

TIFFANY ADAMS - CROSS EXAM BY MS. FORD

1 BY MS. FORD:

2 Q. I have a few questions.

3 A. Okay.

4 Q. You went into the apartment. There was
5 no search warrant, correct?

6 A. There was a consent to search.

7 Q. Right. They didn't have to consent,
8 correct?

9 A. No, they don't have to.

10 Q. So Mr. Williams signed a consent for
11 you to go into the apartment.

12 A. No, that would be with the detectives
13 that's done. He had have a conversation with the
14 detectives. We only, as crime scene technicians,
15 enter the apartment after the detective said that
16 the consent to search was signed.

17 Q. It was your understanding that you were
18 there with the cooperation of Mr. Williams?

19 A. Yes.

20 Q. Okay. And you took some pictures of a
21 reenactment, but you did not take a video recording
22 of the reenactment, correct?

23 A. That's up to the coroner to advise if
24 she wants it recorded or just photographed. And
25 Coroner Rae Wooten advised she wanted it to be

TIFFANY ADAMS - CROSS EXAM BY MS. FORD

1 photographed.

2 Q. So there is no video recording of what
3 was said by Mr. Williams?

4 A. No, just photographs.

5 MS. FORD: Beg the Court's indulgence?

6 THE COURT: Yes, ma'am.

7 BY MS. FORD:

8 Q. Just one more question. You testified
9 earlier that there was some confusion about the
10 key. Do you recall Mr. Williams had to crawl into
11 the window to let you all in the house?

12 A. Yes. There was some confusion about
13 the key, and then he had to crawl through the
14 window to open the door.

15 MS. FORD: Okay. Thank you.

16 THE COURT: Any redirect?

17 MS. HERRING-LASH: No, Your Honor.

18 THE COURT: Any objection to the
19 witness being excused? From the State?

20 MS. HERRING-LASH: No, Your Honor.

21 THE COURT: From the defense?

22 MS. FORD: No, Your Honor.

23 THE COURT: Ma'am, you're excused.

24 You may call your next witness.

25 MS. HERRING-LASH: The State would call

JOAN SANGSTER - DIRECT EXAM BY MS. HERRING-LASH

1 Joan Sangster.

2 JOAN SANGSTER,

3 being first duly sworn, testified as follows:

4 THE WITNESS: Yes, I do.

5 THE CLERK: Please have a seat. Please
6 speak into the microphone and state your full name
7 and then spell your first and last name.

8 THE WITNESS: Joan Aleshia Sangster,
9 J-O-A-N, S-A-N-G-S-T-E-R.

10 DIRECT EXAMINATION

11 BY MS. HERRING-LASH:

12 Q. Ms. Sangster, where do you live?

13 A. I live -- now I live at
14 North Charleston, South Carolina.

15 Q. And where did you live back in 2014?

16 A. , North
17 Charleston, South Carolina.

18 Q. I will show you what has been marked as
19 State's Exhibit Number 43. What is this?

20 A. The apartment building I lived in.

21 Q. Okay. Can you point out to the jury
22 who lived in each of these apartments?

23 A. Yes, ma'am.

24 Q. And you can make a mark and it will
25 show up if you touch the screen.

JOAN SANGSTER - DIRECT EXAM BY MS. HERRING-LASH

1 A. Okay. Emile Lacroix lived in this one,
2 I lived in this one, Krystal lived in this one and
3 Mr. Stevens, or Junior, lived in that one.

4 Q. And taking you back to October 26th of
5 2014, what were you doing that day?

6 A. It was my birthday week and I was home
7 actually watching football on the TV.

8 Q. Were you resting?

9 A. Yes, ma'am.

10 Q. When was your birthday?

11 A. The .

12 Q. And now who lived with you?

13 A. Joseph Harris.

14 Q. And you said that --

15 THE COURT: I'm sorry, could you please
16 repeat that?

17 THE WITNESS: Joseph Harris.

18 THE COURT: Please spell his last name
19 for the court reporter.

20 THE WITNESS: H-A-R-R-I-S.

21 THE COURT: Thank you. You may
22 continue.

23 BY MS. HERRING-LASH:

24 Q. And you said that Krystal lived in the
25 apartment there that you put --

JOAN SANGSTER - DIRECT EXAM BY MS. HERRING-LASH

- 1 A. Yes, ma'am, right here. (Indicating)
- 2 Q. Who all lived with Krystal?
- 3 A. C. J. and **Child** .
- 4 Q. And did you know **Child** ?
- 5 A. A little bit. You would see him, cute
- 6 little guy.
- 7 Q. Would he play around in the yard
- 8 sometimes?
- 9 A. Sometimes.
- 10 Q. And did you know Krystal?
- 11 A. Yes, ma'am; I worked with her.
- 12 Q. Did you, in fact, help her get the
- 13 apartment?
- 14 A. Yes, ma'am.
- 15 Q. And you said that Mr. Stevens lived
- 16 next to Krystal?
- 17 A. Yes.
- 18 Q. And does he still live there?
- 19 A. No; I'm afraid he passed away.
- 20 Q. And your apartment was kind of next to
- 21 Krystal's as far as --
- 22 A. Yes, ma'am.
- 23 Q. Did you share a wall between the two
- 24 apartments?
- 25 A. Yes.

JOAN SANGSTER - PROFFER

1 MS. HERRING-LASH: Okay. And, Your
2 Honor, at this point in time --

3 THE COURT: Mr. Foreman, ladies and
4 gentlemen, I have a matter of law to take up.
5 During this break, do not discuss the case and
6 please leave your notepads in your seats. We
7 appreciate your patience.

8 (Jury out, 11:53 a.m.)

9 THE COURT: You may proceed?

10 BY MS. HERRING-LASH:

11 Q. Okay. Now, that afternoon or evening,
12 you said you were watching football?

13 A. Yes, ma'am.

14 Q. And at any point did you get up and go
15 out of the house?

16 A. Just when I seen Mr. Stevens, Junior,
17 come over to Emile's house and he was really upset.

18 Q. He went from his home over to Emile's?

19 A. Yes, ma'am.

20 Q. And I guess from this picture, your
21 porch and door and Emile's --

22 A. We shared the same thing.

23 Q. What do you mean by really upset?

24 A. I mean, he was crying because --
25 distraught.

JOAN SANGSTER - PROFFER

1 Q. And was he -- what was he saying?

2 A. That the man in the picture had taken
3 -- he saw -- I don't know everything, but what I do
4 know is that he had taken the little boy out, and
5 he was holding him by his neck and had him away
6 from him like he would get something on him. And
7 he thought the little boy was already...

8 THE COURT: I'm sorry, I couldn't hear
9 the last part of what you said.

10 THE WITNESS: He already thought the
11 little boy was gone.

12 BY MS. HERRING-LASH:

13 Q. And after that conversation, what did
14 you do?

15 A. I just went back in the house.

16 Q. Now, was that conversation -- well, let
17 me ask you this: Did the police arrive at that
18 location?

19 A. Yes, they did.

20 Q. And was this conversation before or
21 after?

22 A. Before.

23 Q. And later that evening, did the police
24 arrive?

25 A. Yes, ma'am.

JOAN SANGSTER - PROFFER

1 Q. And did you go out and talk to the
2 police?

3 A. No, ma'am, because -- no, ma'am.

4 Q. Why not? If you have a reason?

5 A. I really didn't have a lot to say in
6 particular to what he had to say. He was there and
7 he could tell them.

8 Q. Do you know if he spoke to the police?

9 A. Yes, ma'am, I did see that.

10 Q. Could you see that?

11 A. Yes, ma'am.

12 MS. HERRING-LASH: And that would be
13 her testimony.

14 THE COURT: Any questions for the
15 witness?

16 MS. FORD: Beg the Court's indulgence?

17 BY MS. FORD:

18 Q. Ms. Sangster, do you have any idea how
19 long -- when you heard those statements -- how long
20 were you around Mr. Stevens when he made those --
21 you said you kind of walked away, you heard it and
22 walked way. Do you know how long you were with
23 him?

24 A. A couple of minutes.

25 Q. A couple of minutes?

JOAN SANGSTER - PROFFER

1 A. (Nodding)

2 Q. And do you know how long it was from
3 the time from when you were talking to him -- or
4 when you heard him say that, how long was it
5 between that and when he saw what he saw?

6 A. Actually, I don't think it was too
7 long. Just, like, five minutes maybe. I mean, it
8 wasn't very long at all. I mean, he seen it and
9 pretty much after they left he come down and was
10 talking.

11 Q. Did you see them leave?

12 A. No, ma'am, I did not.

13 Q. Okay. So you're not sure what time
14 they actually left?

15 A. No, ma'am.

16 Q. And Mr. Stevens, did he ever say
17 anything -- I know you're assuming it was not long,
18 but did he ever say anything to suggest this just
19 happened or I've been thinking about this all day
20 or thinking about it for awhile? Did he say
21 anything to actually indicate the time frame?

22 A. No, ma'am. I mean, let's see, he
23 didn't say anything, but this is what happened.
24 Actually, basically, it was just right then and
25 there, you know, he saw what he saw and he come

JOAN SANGSTER - PROFFER

1 down.

2 Q. Do you know how long --

3 A. No, ma'am.

4 Q. -- by the time you got outside?

5 A. No, ma'am, I can't say.

6 Q. Okay. And do you and -- just -- you
7 said you were watching football all day. Were you
8 intoxicated in any way?

9 A. Well, I was recovering from the night
10 before. It was my birthday weekend.

11 Q. And did Mr. Stevens seem intoxicated in
12 any way, did he make any statements?

13 A. No, ma'am. I had -- I had not been
14 drinking that day. That I can tell you.

15 Q. And so did he indicate if he called
16 911?

17 A. I believe so, yes, ma'am.

18 Q. And he said he thought he had passed,
19 the little boy?

20 A. (Nodding head)

21 Q. Had he heard any -- was there anything
22 in the apartment -- going around in the apartment
23 at that point that **Child** was taken to the
24 hospital? Did anybody know of any of that?

25 A. No, ma'am. No, ma'am.

JOAN SANGSTER - PROFFER

1 Q. Okay. And you were not -- you worked
2 with Krystal. I know you weren't working that day,
3 but you had not talked to Krystal?

4 A. No, ma'am.

5 Q. And do you know -- I know he indicated
6 to others, but did he indicate that he saw people
7 going back and forth, the two other boys?

8 A. There was -- yeah, I believe there was
9 a couple of other people there.

10 Q. Talking about Mr. Stevens' statement,
11 did he talk about that --

12 A. No, ma'am.

13 Q. -- around you?

14 A. No. My door was open and you could see
15 people pass, and there was people passing.

16 Q. Okay. So your door was open that day
17 too?

18 A. Yes, ma'am.

19 MS. FORD: Beg the Court's indulgence?

20 THE COURT: Yes, ma'am.

21 MS. FORD: No further questions, Your
22 Honor.

23 THE COURT: Any redirect?

24 MS. HERRING-LASH: Yes.

25 THE COURT: You may proceed.

JOAN SANGSTER - PROFFER

1 MS. HERRING-LASH: Put the picture back
2 up.

3 BY MS. HERRING-LASH:

4 Q. Looking -- I know that you just now
5 made several references to come down. What are you
6 talking about when you say come down?

7 A. Talking -- that he would come from his
8 apartment to ours.

9 Q. So he lived there. And when you say
10 down, he would come up?

11 A. Yes, ma'am.

12 Q. And so your porch and Mr. Emile's porch
13 are just right there?

14 A. Yes, ma'am.

15 Q. And when -- you could observe he was
16 upset?

17 A. Yes, ma'am.

18 Q. And why did you just go back in your
19 apartment?

20 A. I don't know.

21 Q. Were you upset?

22 A. Yes, I was. I mean, I couldn't believe
23 it at the moment. I just kind of, like, no, and
24 then -- you know.

25 Q. Did you have any idea how much later it

JOAN SANGSTER - PROFFER

1 was that law enforcement came?

2 A. It was still daylight outside. I do
3 remember that. So I really don't think it was that
4 long. Time frame I can't give you. I know it was
5 still daylight outside.

6 Q. Was it daylight when you had the
7 conversation with --

8 A. Yes, ma'am.

9 MS. HERRING-LASH: Your Honor, those
10 would be all the questions that I have.

11 THE COURT: Any objection to the
12 testimony?

13 MS. FORD: Yes, Your Honor.

14 THE COURT: What is the basis of the
15 objection?

16 MS. FORD: Hearsay, Your Honor. She
17 doesn't seem -- she was only there briefly. First
18 of all, I believe they are planning on putting
19 another witness in who was actually with
20 Mr. Stevens for a much longer amount of time. He
21 witnessed him giving the statement as well.

22 So to that extent, I think there would
23 be -- able to argue that everything -- that being
24 cumulative, but she doesn't seem to be quite sure
25 of the timing of when things happened and when she

JOAN SANGSTER - PROFFER

1 was talking to them of how long it had been.

2 THE COURT: Any further objection to
3 the admission of the testimony?

4 MS. FORD: Just on that basis, Your
5 Honor.

6 THE COURT: Uh-huh. Would you like to
7 respond?

8 MS. HERRING-LASH: Yes, Your Honor.
9 The State would be offering this hearsay under the
10 excited utterance exception that the statement
11 related to a startling event, the startling event
12 being what Mr. Stevens had seen. And when he made
13 this statement to her, it was very stressful to
14 her, and he was still under the stress of that
15 startling event when he made it, and the stress was
16 caused by that event.

17 And I think that you could also look,
18 Your Honor, when you're assessing it to the
19 trustworthiness and -- the pictures of the child's
20 neck would indicate it looks as if there are marks
21 around his neck that would further substantiate
22 that. And, in fact, as far as the timing of what
23 we've heard from the two witness that were with
24 them when they went to the store, they were gone no
25 more than ten minutes.

JOAN SANGSTER - PROFFER

1 I don't know that the excited utterance
2 exception has an exact time, but they wouldn't have
3 been gone longer than ten minutes.

4 We also have --

5 THE COURT: Who wouldn't have been
6 gone longer than ten minutes?

7 MS. HERRING-LASH: When he carried the
8 child back into the apartment and left --

9 THE COURT: I understand that part,
10 but he -- there is testimony that other things
11 happened after that.

12 MS. HERRING-LASH: Right. But I think
13 that what the -- the carrying that Mr. Stevens saw
14 was him bringing him back from the car before they
15 went to the store. I know we can't get into that
16 part of the statement because it's -- it's much
17 more than the excited utterance.

18 THE COURT: I think you have to in
19 order to establish the appropriate time frame;
20 otherwise, it will confuse the jury as to when this
21 happened because it certainly just confused me.

22 MS. HERRING-LASH: He gave that
23 information, but that part would not be part of the
24 excited utterance and he's deceased.

25 THE COURT: I think you have to

JOAN SANGSTER - PROFFER

1 establish that. I'm concerned, however, how it's
2 relevant and what element of this offence it would
3 make more probative.

4 MS. HERRING-LASH: I think it's
5 relevant to his treatment of this child and to the
6 extreme indifference he paid to this child's life.
7 The child was at that point in time by all the
8 testimony regressing and becoming sicker and
9 sicker.

10 THE COURT: But the indifference is
11 about what caused the death, not indifference in
12 general. That's not what the statute says. It's
13 about extreme indifference -- it's in the nature
14 really of voluntary manslaughter when you have a
15 disregard for human life which causes someone's
16 death. Not just a generalized indifference.

17 If that's the case, we would be
18 charging a whole lot of people with a lot of crimes
19 because they're indifferent how they treat someone
20 which doesn't necessarily result in death.

21 The indifference that you're talking
22 about would not have resulted in this child's
23 death, and that's really the lynchpin in terms of
24 gravamen in making gravamen.

25 What concerns me about this witness's

JOAN SANGSTER - PROFFER

1 testimony is, while there is no time frame, the
2 supreme court has been very clear though about what
3 sort of a window we're looking at in terms to
4 establish an excited utterance. And you really
5 can't establish that. You really can't establish a
6 time frame in terms of proximity to this event.

7 And while I have no doubt that this
8 gentleman spoke to her and he was upset, you really
9 can't establish when this happened, whether it was
10 before or after this event with the vehicle, and to
11 that extent it has a tendency to confuse the jury
12 and I would have to be constrained to exclude her
13 testimony.

14 MS. HERRING-LASH: Well, let me ask her
15 and see if she has any information if she saw --

16 THE COURT: How would she know what
17 happened --

18 MS. HERRING-LASH: As far as people
19 coming and going. She mentioned --

20 THE COURT: I will give you the
21 opportunity to try to rehabilitate your witness,
22 but I'm really not inclined to let it in.

23 BY MS. HERRING-LASH:

24 Q. You have testified that it was before
25 the police got there?

JOAN SANGSTER - PROFFER

1 A. Yes, ma'am.

2 Q. And did you see people coming and going
3 out of the apartment that day yourself?

4 A. Yes, ma'am.

5 Q. And what did you see?

6 A. Just people coming back and forth. I
7 mean, honestly, I was watching football and I seen
8 people go by.

9 Q. When you say, people, can you describe
10 what those people looked like?

11 A. African-American, male.

12 Q. Did you see **Child** going back and forth
13 at all?

14 A. No, ma'am.

15 Q. Did you see him walking to the car at
16 all?

17 A. No.

18 Q. Did you hear the car leave?

19 A. I can't say for sure. It's possible.

20 Q. But you're not sure?

21 A. No, ma'am.

22 MS. HERRING-LASH: Your Honor, I think
23 it is evident as far as the time frame though
24 that --

25 THE COURT: She can't establish it.

JOAN SANGSTER - PROFFER

1 MS. HERRING-LASH: No, she can't.

2 THE COURT: You tried to rehabilitate
3 her, but she can't. She wasn't really paying
4 attention to what was going on, and you can't
5 establish that whether this happened when it was
6 going from -- on the way to Save-A-Lot or whether
7 it happened after.

8 A lot of things transpired between the
9 police getting there and -- and I just don't think
10 it is reliable or probative, so the objection is
11 sustained. And the proffer has been created for
12 appellate purposes.

13 Anything else?

14 MS. HERRING-LASH: Not with this
15 witness, Your Honor.

16 THE COURT: Do you -- then we will
17 excuse the witness without objection, correct?

18 MS. HERRING-LASH: Yes, Your Honor.

19 THE COURT: Ma'am, you're excused.
20 Thank you so much for your time today.

21 Who is your next witness?

22 MS. FORD: Your Honor, I didn't get a
23 chance to cross-examine her --

24 THE COURT: On that last question?

25 MS. FORD: Well, no. Just on --

JOAN SANGSTER - PROFFER

1 from --

2 THE COURT: You cross-examined her.
3 There's one additional question she asked about
4 people going back and forth and she was watching
5 TV. Now, if you want to do that, you can. I'm
6 really trying to figure out for what purpose it
7 would establish -- since your motion has been
8 sustained.

9 MS. FORD: Yes, Your Honor. I was only
10 going to ask her a couple of questions about her
11 testimony --

12 THE COURT: It would only be limited
13 to the questions that Ms. Herring-Lash asked trying
14 to rehabilitate her witness. I'm not going to
15 allow you go through your whole cross-examination.
16 I gave you ample opportunity to do that.

17 MS. FORD: No, ma'am, I was talking
18 about -- not for this issue.

19 THE COURT: Oh, you're talking about
20 in general? Oh, I misunderstood you.

21 Ma'am, if you could retake the stand.

22 You're absolutely correct. No -- yes,
23 you had me confused. I thought you were talking
24 about the proffer. Absolutely, you can
25 cross-examine her.

JOAN SANGSTER - PROFFER

1 All right. Bring in the jury please.

2 MS. HERRING-LASH: Your Honor, the next
3 witness that may or -- this is also the excited
4 utterance. He may or may not be able to give more
5 time frame. Could we do his in camera so that if
6 he's not able, I just don't call him?

7 THE COURT: Sure. But I think you
8 should be able to make that assessment.

9 MS. HERRING-LASH: It's -- when you see
10 his testimony, you may understand why I may not be
11 able to give more of a time frame.

12 THE COURT: Which witness? Who is
13 that?

14 MS. HERRING-LASH: Emile Lacroix.

15 (Jury in, 12:16 p.m.)

16 THE BAILIFF: Jurors are present.

17 THE COURT: Ladies and gentlemen, we
18 appreciate your patience.

19 Any further questions on direct
20 examination?

21 MS. HERRING-LASH: No, Your Honor.

22 THE COURT: Ms. Ford, you may proceed
23 with cross-examination of the witness.

24 MS. FORD: Yes, just a few questions.

25 CROSS-EXAMINATION

JOAN SANGSTER - CROSS EXAM BY MS. FORD

1 BY MS. FORD:

2 Q. Ms. Sangster, you lived next door to
3 Krystal and her family?

4 A. Yes.

5 Q. And you -- actually, you told us that
6 you shared a wall with them?

7 A. Yes, ma'am.

8 Q. And is that your living room wall?

9 A. Living and bedroom.

10 Q. Okay. And your door was open that day
11 as well?

12 A. Uh-huh. Yes.

13 MS. FORD: Beg the Court's indulgence?

14 THE COURT: Yes.

15 No further questions, Your Honor.

16 THE COURT: Any redirect?

17 MS. HERRING-LASH: No, Your Honor.

18 THE COURT: Any objection to the
19 witness being excused? From the State?

20 MS. HERRING-LASH: No, Your Honor.

21 THE COURT: From the defense?

22 MS. FORD: No, Your Honor.

23 THE COURT: Ma'am, you're excused.

24 Thank you. You may call your next witness.

25 MS. HERRING-LASH: Your Honor, the next

EMILE LACROIX - PROFFER

1 witness is the witness we discussed.

2 THE COURT: Mr. Foreman, ladies and
3 gentlemen, I have another brief matter of law to
4 take up with the attorneys. During this break,
5 please do not discuss the case and please leave
6 your notepads in your seats. We appreciate your
7 patience.

8 (Jury out, 12:18 p.m.)

9 EMILE LACROIX,

10 being first duly sworn, testified as follows:

11 THE CLERK: Be seated. I need you to
12 speak into the microphone and state your full name
13 and spell your first and last name.

14 THE WITNESS: Emile LaCroix, E-M-I-L-E,
15 L-A-C-R-O-I-X.

16 THE COURT: You may proceed.

17 EXAMINATION

18 BY MS. HERRING-LASH:

19 Q. Mr. LaCroix, I'm just going to ask you
20 about the evening, late afternoon of October 26th
21 of 2014. Okay?

22 A. Yes, ma'am.

23 Q. And where do you live?

24 A.

25 Q. And is that where you lived --

EMILE LACROIX - PROFFER

1 A. Yes, ma'am.

2 THE COURT: Make reference --

3 MS. HERRING-LASH: And that is State's
4 Exhibit --

5 THE WITNESS: The first apartment where
6 you see the bicycle.

7 MS. HERRING-LASH: -- State's
8 Exhibit 43.

9 BY MS. HERRING-LASH:

10 Q. And where that bike is, is where you
11 live?

12 A. Yes, ma'am.

13 Q. And who lived on the very other end of
14 that apartment complex?

15 A. Junior.

16 Q. Does he have -- what was his last name?

17 A. I didn't even know his name. We called
18 him Junior is all I know.

19 Q. And is Junior still alive?

20 A. No; Junior died of cancer.

21 Q. And who lived in the apartment next to
22 Junior?

23 A. Krystal.

24 Q. And on the afternoon of June --

25 October 26th, can you tell me what happened as far

EMILE LACROIX - PROFFER

1 as --

2 A. Well, Junior came to my house. I
3 collect the rent and all that around there and do a
4 little maintenance and stuff. And Junior came to
5 me and he was all upset. And he told me, he said,
6 man, tell me I didn't see what I think I saw. And
7 he told me he saw the little boy just dangling.

8 Q. What do you mean just dangling?

9 A. He had him in his arms and he was just
10 like limp.

11 Q. Now, was that the same day that the
12 police came?

13 A. Yes, ma'am.

14 Q. Was this before or after the police
15 came?

16 A. Well, he told me before. Then he came
17 back and he told me again.

18 Q. And when he told you the first time, do
19 you know if the little boy was at the house or he
20 was gone?

21 A. I guess he was at the house. Junior
22 said he saw him go into the house.

23 Q. What did he see going into the house?

24 A. I didn't know the guy, but Junior said
25 he saw the man holding him and he was just

EMILE LACROIX - PROFFER

1 dangling, lifeless, you know.

2 Q. And he carried him where?

3 A. In the house.

4 Q. And did Junior -- how was he acting
5 when he was telling you this?

6 A. He was all upset, you know. I didn't
7 really know what to say to him.

8 Q. Was he crying?

9 A. Yes, he was crying. He was all upset,
10 shaking.

11 Q. And did you tell him to call the
12 police?

13 A. I didn't -- right then I didn't know
14 nothing. I didn't know nothing until later on that
15 afternoon when the investigator was sitting on my
16 porch.

17 MS. HERRING-LASH: Your Honor, that
18 would be that part of the testimony.

19 THE COURT: Any questions to the
20 witness?

21 MS. FORD: Yes, Your Honor.

22 THE COURT: You may proceed.

23 EXAMINATION

24 BY MS. FORD:

25 Q. Do you have any idea what time this was

EMILE LACROIX - PROFFER

1 when Emile (sic) came to you?

2 A. First -- when he first came to my house
3 it was probably about, I would say, around noon or
4 2:00, somewhere around there.

5 Q. So noon to 2:00 when he first told you
6 what he saw?

7 A. Yes, ma'am.

8 Q. And so the police came much later,
9 though?

10 A. Right.

11 Q. Okay. So there seemed to be a long
12 time frame in --

13 A. There was a good bit of time frame. I
14 don't know exactly how much it was, you know.

15 Q. Okay. And he hadn't been hanging out
16 with you prior to that, prior to talking to you?

17 A. Junior? The guy?

18 Q. Yes, sir.

19 A. Well, I had a car hit me. I used to do
20 all the maintenance. He had 20 apartments in
21 another place and I did the maintenance on both of
22 them, where I live and on the other 20. Well, I
23 had a car hit me on the bicycle. I wasn't able to
24 cut the grass no more so I had Junior to cut the
25 grass.

EMILE LACROIX - PROFFER

1 And he said, well, how about letting me
2 move there. Can I rent an apartment? And I said,
3 yeah, why not. So that's how he got, you know --

4 Q. That was that day?

5 A. No. That was before. I didn't even
6 know his name. All I know is he cut grass.

7 Q. Oh, you mean Mr. Stevens?

8 A. Right.

9 Q. You didn't know his name even when he
10 talked to you?

11 A. All I know was Junior.

12 Q. Okay.

13 A. I mean, I had known him for years, but
14 I didn't know him like a close friend, you know.

15 Q. Right. But at the time that he spoke
16 to you, you think this was like 12 or 2:00 in the
17 afternoon?

18 A. Around noon or a little bit later.

19 Q. Okay.

20 A. It's been a long time, I can't really
21 remember, but I would say that's the time frame.

22 Q. So it's been a long time so your memory
23 is kind of not the best. Is that what you're
24 saying?

25 A. No. I remember exactly what happened,

EMILE LACROIX - PROFFER

1 but I don't remember the time, you know.

2 Q. But you think the time frame between
3 when he told you and the police came was a long
4 time?

5 A. Yeah, it was a good while.

6 MS. FORD: Beg the Court's indulgence?

7 THE COURT: Yes, ma'am.

8 MS. FORD: No further questions.

9 THE COURT: Any redirect?

10 MS. HERRING-LASH: No, Your Honor.

11 THE COURT: All right. Is there any
12 objection to the testimony?

13 MS. FORD: Yes, Your Honor. I object
14 based on the same reasons as before. I don't think
15 he was able to give any more information than the
16 last witness gave about timing.

17 Clearly, he's saying that it happened
18 12 or 2, which doesn't even make sense with the
19 State's theory that it happened on the way to the
20 house from Save-A-Lot, so I think it would be
21 confusing to the jury as well, Your Honor. So
22 hearsay and then 403, Your Honor, I would argue as
23 well.

24 THE COURT: Would you like to respond?

25 MS. HERRING-LASH: Yes, Your Honor. I

EMILE LACROIX - PROFFER

1 think there is a difference besides the fact that
2 it fits the criteria as far as the startling event
3 and what have you, and that he knows that the child
4 was left in the apartment --

5 THE COURT: Is that really
6 controverted?

7 MS. HERRING-LASH: I think it makes a
8 difference now that it explains that it wasn't
9 carrying him to the car on the way --

10 THE COURT: That's not what I'm
11 asking. Is that really an issue that's in
12 contention? Nobody is denying that they left the
13 child alone in the apartment.

14 MS. HERRING-LASH: I think it helps
15 establish the timeline of how things happened and
16 corroborates D.S.'s statement of how he carried
17 him into the home. That he was left there.

18 And I think, Your Honor, it may not be
19 in contention, I'm not sure, but there was
20 cross-examination by both Shaquille and D.S.
21 inferring that they made up -- or that they changed
22 their stories saying that he was left there alone
23 after meeting with the Solicitor.

24 THE COURT: I might be inaccurate, but
25 I perceive that as their forthcoming or their

EMILE LACROIX - PROFFER

1 transparency or truthfulness, but not necessarily
2 that it didn't happen. Is that the purpose for
3 which you elicited testimony, or you were
4 contesting it didn't happen?

5 MS. FORD: No, Your Honor, I'm not.
6 According to my client's statement -- my point
7 was -- I think my client first left that out as
8 well, but he on his own -- the police didn't bring
9 that information to him, that was my point in
10 bringing that out. He gave this information to the
11 police on his own when others did not do so.

12 Also, I believe that the witness -- a
13 lot of times he's testifying to, I guess. So I
14 just think there is an issue there --

15 THE COURT: Well, I need to let Ms.
16 Herring-Lash finish making her argument and then
17 I'll let you respond.

18 MS. HERRING-LASH: I don't know. It
19 did seem that when you said you -- did said that
20 after meeting with the Solicitor. The other
21 timeline, Your Honor, as far as in relation to the
22 excited utterance, he sees him in the house and
23 then he goes and tells this man.

24 He makes it -- that narrows it down to
25 the time they were gone to Save-A-Lot because they

EMILE LACROIX - PROFFER

1 didn't leave him in the house when they went to the
2 hospital. They left him in the house when they
3 went to Save-A-Lot, which they were only gone
4 according to them around ten minutes.

5 THE COURT: I guess I'm still trying to
6 figure out what elements it goes to establish.

7 MS. HERRING-LASH: I think, Your Honor,
8 if Mr. Stevens was still alive and he was able to
9 testify, that he would be able to talk about what
10 he observed that day in relation to all these
11 events. And the fact that he -- I mean, his
12 statement is more lengthy than this. He talks
13 about the comings and goings. We just can't get in
14 that part because that was not part of the excited
15 utterance. Were he alive, this would come in and
16 this excited utterance --

17 THE COURT: Well, I don't know if it
18 would come in if he was alive. I have no idea
19 because I'm not able to hear his testimony, I'm not
20 able to judge. So I'm not going to speculate about
21 whether it would have come in or not; I have no
22 idea.

23 So I have to deal with what is, which
24 is whether these witnesses can establish the
25 appropriate timeline, whether it can be of some

EMILE LACROIX - PROFFER

1 relevance to the testimony to be established. I
2 don't think there's any contention that they left
3 the child alone when they went to Save-A-Lot.
4 There's no contention at this point that he fell,
5 that he defecated on himself, that he was taken
6 back.

7 And I'm certain that the medical
8 examiner's testimony will establish a timeline how
9 it progressed. And I don't know that this is --
10 can meet the -- first of all, the excited utterance
11 exception. And I'm really concerned about any
12 probative value it would have.

13 MS. HERRING-LASH: It does go to
14 explain the marks around his neck.

15 THE COURT: I think that's a stretch.
16 Holding somebody -- there is no specifics about how
17 he was holding his neck. In order to leave a mark
18 or bruise on a child you have to exert force, and
19 there's no testimony about that. The only
20 testimony is that he was holding a limp body, and
21 that's not in contention either because, based on
22 how this injury would have progressed, his body
23 would have been limp.

24 He wasn't drinking any water, he was
25 probably dehydrated at some point, he probably had

EMILE LACROIX - PROFFER

1 bled extensively into the body cavity. I'm
2 anticipating what the medical examiner's testimony
3 is going to be, but this witness cannot establish
4 that he was -- he would almost have had to
5 strangled to some extent the level of force that
6 would had to have been exerted to have left a
7 bruise. This witness' testimony can't establish
8 that. It can only establish that he was carrying
9 him by his neck.

10 I'm really concerned about whether it
11 meets the elements of the hearsay exception and
12 whether it's probative on any issue in the case and
13 it's relevant, so I'm excluding his testimony
14 subject to any exception by the State.

15 Now, is there any additional questions
16 that would need to be asked of this witness before
17 he's excused?

18 MS. HERRING-LASH: Let me look at his
19 questions just one second.

20 No, Your Honor.

21 THE COURT: Any cross-examination that
22 needs to be done in the presence of the jury?

23 MS. FORD: No, Your Honor. He was not
24 called in front of the jury.

25 THE COURT: He sure wasn't. I'm

1 having a double Monday.

2 Any objection to the witness being
3 excused?

4 MS. HERRING-LASH: No, Your Honor.

5 MS. FORD: No, Your Honor.

6 THE COURT: Thank you, sir. Have a
7 good day. You're excused.

8 Who is the State's next witness?

9 MS. HERRING-LASH: Joseph Harris. And,
10 Your Honor, he was one of the people that heard
11 this excited utterance, but I'm not asking him
12 about that. He has another issue I would be asking
13 him about.

14 THE COURT: Do I need to hear this in
15 camera? This isn't about excited utterance,
16 correct?

17 MS. HERRING-LASH: No, Your Honor.

18 THE COURT: Is there any testimony I
19 need to hear from him in camera before we proceed?

20 MS. FORD: Your Honor, my objection to
21 his testimony would just be -- the extent of his
22 testimony in summary is that he's going to say a
23 few days to a week before he was sleeping in the
24 living room -- he shares an apartment with Joan.
25 He testified that their walls go together, and in.

1 the morning when he woke up he heard what he
2 believed was Mr. Williams slapping the boy.

3 It's my understanding he doesn't say he
4 heard the boy say anything, but he just got the
5 impression that he was slapping the boy. I would
6 move to exclude prior bad acts, Your Honor. I
7 don't -- because of the time frame, he goes -- it
8 seems like it would have been before he was last at
9 daycare and daycare will testify that he didn't
10 have any bruises --

11 THE COURT: Those are all factual
12 issues and your client -- you have raised in the
13 cross-examination of these witnesses that your
14 client never laid a hand on that child. They're
15 allowed to rehabilitate their testimony to the
16 extent that they can establish the foundational
17 requirements for the testimony. If it's
18 speculative, I'm going to exclude it.

19 MS. HERRING-LASH: He's been very clear
20 -- do you want me to put it in camera?

21 THE COURT: Yes.

22 MS. HERRING-LASH: I have a few more
23 questions that won't -- that I won't ask him in
24 camera.

25 THE COURT: That's fine. I don't need

JOSEPH HARRIS - PROFFER

1 to hear any foundational stuff. I need you to get
2 to the heart of the testimony and the substance of
3 what Ms. Ford has objected to.

4 JOSEPH HARRIS,

5 being first duly sworn, testified as follows:

6 THE CLERK: Be seated. I need you to
7 speak into the microphone and state your full name
8 and spell your first and last name.

9 THE WITNESS: Joseph Harris,
10 J-O-S-E-P-H, H-A-R-R-I-S.

11 THE COURT: You may proceed.

12 EXAMINATION

13 BY MS. HERRING-LASH:

14 Q. Mr. Harris, are one of those apartments
15 you're looking at one of the apartments that you
16 lived in back in 2014?

17 A. Yes.

18 Q. And which one was it?

19 A. Number .

20 Q. Okay. And which one is ? You can
21 touch the screen.

22 A. (Indicating)

23 Q. And where did Krystal and C. J. and
24 Child live?

25 A. (Indicating) Number .

JOSEPH HARRIS - PROFFER

1 Q. And do you know where **Child** slept in
2 that home?

3 A. Not really, but I believe he slept in
4 the front room on the sofa.

5 Q. Why do you think that?

6 A. I don't know. When they first moved in
7 there, I walked in to see, you know, and he was on
8 the sofa then.

9 Q. And in your apartment, do you sometimes
10 sleep on the sofa?

11 A. Sometimes.

12 Q. And why do you sleep on the sofa
13 sometimes?

14 A. Because Joan she sleeps bad and kicks,
15 and so I have to get out of the bed.

16 Q. Now, when you're sleeping on your sofa,
17 is your living room wall, the one wall there with
18 Krystal's?

19 A. Yes.

20 Q. And did you -- do you remember back in
21 October when **Child** passed?

22 A. Uh-huh.

23 Q. A few days before that, or at some
24 point before that, tell us what you heard one
25 morning.

JOSEPH HARRIS - PROFFER

1 A. Well, it was about 6:30, 7:00, it was
2 early in the morning, I heard him beating him.

3 Q. What did you hear?

4 A. He was hitting him. You know, I could
5 hear the licks. There was no TV or nothing was on.
6 And he said, get his behind back to sleep.

7 Q. And did you hear anything else?

8 A. No. I heard him hit him two different
9 segments; like, four licks and then said, get your
10 behind back to sleep. And then I heard him hit him
11 again, and said, get back to sleep. That's all I
12 heard. And I didn't think no more of it, you know.

13 Q. Did you think anything about the
14 hitting?

15 A. Not at that time, because I just woke
16 up myself and it being so quiet I could hear that,
17 you know.

18 MS. HERRING-LASH: Your Honor, that
19 would be the substance.

20 THE COURT: You have failed to
21 establish the time frame that this happened.

22 BY MS. HERRING-LASH:

23 Q. About when was this?

24 A. It was in the morning, early in the
25 morning.

JOSEPH HARRIS - PROFFER

1 Q. What day?

2 A. What date?

3 Q. Yes.

4 A. I don't know what day it was.

5 Q. In relation to the day **Child** died?

6 A. I would say about four or five days
7 before that.

8 MS. HERRING-LASH: Okay.

9 THE COURT: Any cross-examination?
10 Are you done on your direct?

11 MS. HERRING-LASH: For the purposes of
12 this, yes, Your Honor.

13 THE COURT: Any cross-examination?

14 MS. FORD: Yes, Your Honor.

15 THE COURT: You may proceed.

16 EXAMINATION

17 BY MS. FORD:

18 Q. Mr. Harris, so you were saying that you
19 could hear this through the wall?

20 A. Yes.

21 Q. But you didn't say anything to anybody
22 about it that day?

23 A. No, I didn't. I really didn't -- I
24 heard that, but I was just waking up and I didn't
25 think too much of it. They had just moved there,

JOSEPH HARRIS - PROFFER

1 you know. I didn't know them either.

2 Q. So you didn't know them. You said when
3 they first moved, you went in and it looked -- can
4 you explain that to --

5 A. I went in to see who was moving in,
6 moving there.

7 Q. Correct. But you didn't really know
8 the situation, how they lived?

9 A. No, I didn't know nothing about them.

10 Q. Did you ever hear a name being given?

11 A. No.

12 Q. Through the wall, when you heard the --

13 A. No, I didn't heard nothing. I didn't
14 hear him calling no name or nothing.

15 Q. Did you ever hear -- I'm assuming by
16 your testimony, you heard a male say the words that
17 you were telling us, get your behind back to bed?

18 A. No, I didn't hear Emile say that.

19 Q. Well, who did you hear say it?

20 A. The guy who was living there with
21 Krystal, I guess. I don't know who it was. I
22 didn't see who it was saying it.

23 Q. But was it a male voice?

24 A. Yeah, it was a male voice. I thought
25 you said Emile.

JOSEPH HARRIS - PROFFER

1 Q. Oh, no, I'm sorry. I said a male
2 voice.

3 And the other person, did you hear
4 anything from the other person?

5 A. No.

6 Q. So did you hear crying?

7 A. No, I didn't hear him crying or
8 hollering, nothing.

9 Q. You only heard one person?

10 A. That's right.

11 Q. And you only heard a male?

12 A. Right.

13 Q. And you assumed that it was
14 Mr. Williams?

15 A. Yes, I assumed it.

16 Q. You don't know his voice or anything?

17 A. Not really because, like I said, I
18 didn't know them. I only seen him a couple of
19 times, I mean, coming and going.

20 Q. And you didn't know them well enough to
21 know their situation inside the house, who was
22 staying there or --

23 A. No.

24 MS. FORD: Okay. Beg the Court's
25 indulgence?

JOSEPH HARRIS - PROFFER

1 THE COURT: Uh-huh.

2 MS. FORD: No further questions.

3 THE COURT: Any redirect?

4 EXAMINATION

5 BY MS. HERRING-LASH:

6 Q. Mr. Harris, you had said that you
7 thought that he was hitting a child. Why did you
8 think that?

9 A. Well, I could hear. I could hear the
10 licks and I figured that's who it was. You know,
11 he was talking to the kid, you know. No sign he
12 was talking to an adult.

13 Q. What about it made you think he was
14 talking to a child?

15 A. The way he was talking to him.

16 Q. Like?

17 A. I figured he wouldn't talk to an adult
18 like that and hitting an adult, and then you didn't
19 hear him say nothing.

20 MS. HERRING-LASH: That would be all,
21 Your Honor.

22 THE COURT: Is the State going to be
23 able to establish this witness knew the defendant's
24 voice enough to establish that he recognized it as
25 his voice?

JOSEPH HARRIS - PROFFER

1 BY MS. HERRING-LASH:

2 Q. Had you ever spoken to Mr. Curtis
3 Williams before?

4 A. No.

5 Q. And had you ever talked to him at all?

6 A. No, we never had no conversation.

7 Q. What made you think it was him?

8 A. Because I seen him going and coming
9 with the kid. I figured it was him.

10 Q. And do you know if there was anybody
11 else in the home that lived in that home?

12 A. No. I didn't know anybody lived there
13 but him and Krystal.

14 Q. And this was 6:30 in the morning?

15 A. About 6:30, 7:00, something like that.

16 Q. And would you see them in the morning
17 going to the bus and things like that?

18 A. Every now and then I would see him in
19 the mornings. I mostly saw him in the evenings
20 when he came home.

21 MS. HERRING-LASH: Your Honor, that
22 would be all.

23 THE COURT: Is there any objection to
24 the testimony?

25 MS. FORD: Yes, Your Honor. I had

1 already -- based on relevance because I don't think
2 it's been established, the parties. First of all,
3 it's just been established -- he's basically making
4 assumptions. He's saying he never talked to my
5 client, he didn't know his voice, he just assumed
6 because it was a male.

7 He doesn't know them well enough to
8 know their situation. You know, perhaps another
9 male was in the house, but he didn't hear the other
10 party at all either, and so **Child** wasn't the only
11 other person who lived in the house.

12 THE COURT: Who else lived in the
13 house?

14 MS. FORD: Krystal.

15 THE COURT: He wouldn't be hitting an
16 adult, not a woman. Not like that.

17 MS. FORD: Well, again --

18 THE COURT: I think that strains the
19 imagination.

20 MS. FORD: I'm just arguing that he's
21 not been able to establish the identity of either
22 party. It's just based on the assumption that it
23 was my client and **Child**. But he readily says he
24 didn't know my client's voice and he'd never talked
25 to him.

1 THE COURT: Anything further on the
2 objection?

3 MS. FORD: No, Your Honor.

4 THE COURT: Anything from the State in
5 response?

6 MS. HERRING-LASH: Your Honor, it has
7 been established by several witnesses that three
8 people lived there. And I think the -- what -- Ms.
9 Ford's argument goes more to the weight than the
10 admissibility of this. It is obvious -- this
11 gentleman may not be able to articulate exactly,
12 but that he was hitting a child because he could
13 tell by the way he was hitting, that he was hitting
14 a child. And we have also I think established that
15 he slept on the couch.

16 THE COURT: I'll take the matter under
17 advisement. Sir, I need to advise you that you're
18 still subject to the subpoena, and I need you to
19 return after lunch which will probably be around
20 2:00 or 2:15. I'll have the State advise exactly
21 what time we'll be resuming testimony. Okay.
22 During this break do not discuss your testimony
23 with anyone. You may step down.

24 Who is the State's next witness?

25 MS. HERRING-LASH: Your Honor, the next

1 witness would be the detective, which will be an
2 extremely lengthy witness.

3 THE COURT: Well, we can get started.
4 Who is that?

5 MS. HERRING-LASH: That is Sid Lewis,
6 that is the tape --

7 THE COURT: You have other questions
8 to ask him other than his statement, correct? The
9 defendant's statement?

10 MS. HERRING-LASH: Yes. And the
11 reason, a couple of other witnesses need to come
12 after him and -- for their testimony.

13 THE COURT: I'm sorry?

14 MS. HERRING-LASH: I have some short
15 witnesses after, but I can't call them before we
16 decided the statement comes in or not.

17 THE COURT: I'm sorry, say that one
18 more time.

19 MS. HERRING-LASH: I have some other
20 witnesses that would be shorter, but I cannot call
21 them until we know if Mr. Williams' statement is
22 coming in.

23 THE COURT: Do you have questions you
24 can ask of the witness that do not deal with the
25 statement?

1 MS. HERRING-LASH: Yes, Your Honor. I
2 could go through just the preliminary of what
3 happened at the scene -- at the hospital and the
4 scene that night before the next day when they go.

5 THE COURT: Let's try to do that, get
6 as close to 1:00 as we can.

7 MS. HERRING-LASH: One of those issues
8 will be the reenactment, which may take awhile. I
9 may go all the way up to where we start the
10 reenactment. That's about 10 or 15, or maybe more,
11 pictures.

12 THE COURT: Okay. Does the defense
13 have any objection to the way the video was
14 redacted?

15 MS. FORD: No, Your Honor. I still
16 have issues with the --

17 THE COURT: I understand that, but
18 that's not my question. It's a very direct one.
19 Do you have any objection to the way the video was
20 redacted?

21 MS. FORD: No, Your Honor.

22 THE COURT: I have not had a chance to
23 review the redacted video, and I will do that at
24 lunch.

25 (Jury in, 12:49 p.m.)

SIDNEY LEWIS - DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: Thank you, ladies and
2 gentlemen, for your patience. We will resume
3 testimony. You may call the next witness.

4 MS. HERRING-LASH: The State calls
5 Sergeant Sid Lewis.

6 THE COURT: Sir, come to the stand to
7 be sworn.

8 SIDNEY LEWIS,
9 being first duly sworn, testified as follows:

10 THE CLERK: Be seated. I need you to
11 speak into the microphone. Please state your full
12 name and spell your last name for the record.

13 THE WITNESS: Sidney Lewis, L-E-W-I-S.

14 THE COURT: You may proceed.

15 DIRECT EXAMINATION

16 BY MS. HERRING-LASH:

17 Q. Sergeant Lewis, where do you work?

18 A. North Charleston Police Department.

19 Q. And how long have you worked there?

20 A. Thirteen years.

21 Q. And what are your duties now?

22 A. I'm the sergeant over the Special
23 Victims Unit, which is a unit in the detective
24 division.

25 Q. And back in 2014, what was your job?

SIDNEY LEWIS - DIRECT EXAM BY MS. HERRING-LASH

1 A. The same job.

2 Q. And as part of that, do you work on a
3 call-out system?

4 A. Yes, ma'am, we do.

5 Q. And did you get called out regarding
6 this case?

7 A. Yes, ma'am, I did.

8 Q. And what was the date and time?

9 A. I got called out October 26, 2014, it
10 was roughly 6:00 in the evening.

11 Q. And where did you go?

12 A. I immediately went to the Medical
13 University, MUSC.

14 Q. And what was that call? What did that
15 call come in as?

16 A. It came in as an unresponsive
17 three-year-old arriving at the hospital and later
18 dying upon arrival.

19 Q. When you got the first call, it was not
20 called a death yet?

21 A. Yes, ma'am. As I got the call, it was
22 -- that's kind of what it came in as, child died
23 upon arrival.

24 Q. And was there a 911 call made in this
25 case?

SIDNEY LEWIS - DIRECT EXAM BY MS. HERRING-LASH

1 A. No, ma'am.

2 Q. And what did you do when you initially
3 arrived at the hospital?

4 A. When I arrived at the hospital -- on
5 the way to the hospital, I notified additional
6 members of my call-out team to give them some
7 instruction, and as I arrived I met with the
8 responding officer, Officer Luke Cummings, MUSC
9 Public Safety, and the Corner Rae Wooten was on the
10 scene as well.

11 Q. Were you briefed about what was going
12 on?

13 A. Officer Cummings briefed me on the
14 initial reports that he was -- that he obtained and
15 met with public safety from MUSC. They described
16 how the -- how the call came in and how the vehicle
17 -- found the vehicle kind of offsite a little bit,
18 left abandoned, and how the three occupants from
19 that vehicle was transporting the child to the
20 hospital.

21 Q. You said you called out other members.
22 Did you send other people to different locations?

23 A. Yes, ma'am. I contacted Detective
24 Terry and requested him to respond to the hospital
25 with me. Then I contacted Detective MacDonald and

SIDNEY LEWIS - DIRECT EXAM BY MS. HERRING-LASH

1 Detective Monroe to go to the address of the
2 incident location which was

3 Q. Did you send people there so that
4 they'd kind of watch --

5 A. Yes, ma'am. I sent Detective MacDonald
6 and Detective Monroe to to do what we
7 call door knocks, kind of go around and try to
8 obtain witnesses and then to secure the residence.
9 In the event that we needed to get a search
10 warrant, we knew the residence was secured.

11 Q. After being initially briefed, what did
12 you do?

13 A. After I was initially briefed, I met
14 with the individuals that was determined that
15 brought **Child** to the hospital. It was **D.S.**
16 , Shaquille Prioleau, and Mr. Williams.

17 Q. And did you talk with Mr. Williams at
18 that point?

19 A. I did. We started with **D.S.**
20 first because he was a juvenile and we wanted to
21 get him out of that environment as quickly as
22 possible. So we started with **D.S.** and I
23 then talked to Shaquille Prioleau and then spoke to
24 Mr. Williams.

25 Q. And at that point in time at the

SIDNEY LEWIS - DIRECT EXAM BY MS. HERRING-LASH

1 hospital, what did Mr. Williams tell you?

2 A. I asked him to explain the events of
3 the day prior to him arriving at the hospital. He
4 stated that Krystal left for work, it was around
5 9:00. He and **Child** went back to sleep, laid back
6 down and went back to sleep and they woke up about
7 11.

8 He said that they were going to watch
9 the football game, and before the football game he
10 took **Child** to the park near Chicora Elementary
11 School. He said that while at the park he was --
12 Mr. Williams was playing on his phone, and he said
13 at some point in time he kind of lost -- lost sight
14 of **Child**, about five to ten minutes he said. He
15 said at that time --

16 Q. Can you hold on for one minute?

17 A. Yes, ma'am.

18 MS. HERRING-LASH: May I approach the
19 Court Reporter?

20 THE COURT: You may.

21 MS. HERRING-LASH: Your Honor, at this
22 time the State would move in State's Exhibit Number
23 71.

24 THE COURT: Any objection?

25 MS. FORD: No, Your Honor.

SIDNEY LEWIS - DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: Marked and admitted without
2 objection.

3 (STATE EXH. 71 in evidence.)

4 BY MS. HERRING-LASH:

5 Q. Is this the park that you are referring
6 to?

7 A. Yes, ma'am; it's the park by the
8 community center.

9 Q. And you're familiar with the park
10 itself?

11 A. Yes, ma'am.

12 Q. Is that community center pretty close
13 to ?

14 A. It's within walking distance.

15 Q. So Mr. Williams told you he was sitting
16 on the swing?

17 A. He said he was -- he was -- he didn't
18 say where he was sitting. He said he was playing
19 on his phone and he'd lost sight of **Child** at which
20 time he looked up and realized that he hadn't seen
21 **Child** . When he got up, he found **Child** sitting on
22 a bench.

23 Q. And can you see the bench in that
24 picture?

25 A. Yes, ma'am.

SIDNEY LEWIS - DIRECT EXAM BY MS. HERRING-LASH

1 Q. Can you make a mark? It's kind of hard
2 to see from here.

3 A. (Marking)

4 Q. That's the bench?

5 A. Yes, ma'am.

6 Q. So he found him sitting there. I'm
7 sorry, I interrupted you.

8 A. He said that he observed him -- **Child**
9 sitting on the bench with his head down.

10 Q. And then what did they do?

11 A. He said that **Child** was kind of acting
12 strange, then they began to walk home. He said on
13 the walk home **Child** did not say anything, did not
14 talk to him, just kind of acting out of character.

15 He said when they arrived home, he
16 tried to give him a Tootsie Roll and some juice.
17 He said that **Child** took a bite of the Tootsie
18 Roll, didn't finish eating it, and he said that he
19 had to remove a portion of the Tootsie Roll that he
20 had bitten, he had to remove it from his mouth.

21 Q. And then what happened?

22 A. He said that his two friends, Shaquille
23 and **D.S.**, they arrived shortly after that.
24 And, initially, they were going to show up to watch
25 football, and shortly after their arrival, they had

SIDNEY LEWIS - DIRECT EXAM BY MS. HERRING-LASH

1 to go to Save-A-Lot to meet with his girlfriend,
2 Krystal.

3 Q. And then what happened after that?

4 A. On the way to -- on the way to the car
5 to go to Save-A-Lot -- at some point he stated
6 **Child** had an accident in his pants. He said
7 **Child** pooped in his pants. He said after that he
8 had taken **Child** back into the house and they went
9 to Save-A-Lot.

10 Q. And after they returned, does he say
11 what happened?

12 A. He said when they returned back to the
13 house, he cleaned him up, removed his soiled
14 clothing, cleaned him up, and he said that's when
15 **Child** started behaving a lot different and noticed
16 his breathing became very shallow, like, trouble
17 breathing.

18 And he said that shortly after that his
19 body went limp, and he asked Shaquille to take him
20 to the hospital.

21 Q. And that's when you all stepped in,
22 when they got to the hospital?

23 A. Yes.

24 Q. And did you talk with any other
25 professionals there at the hospital?

SIDNEY LEWIS - DIRECT EXAM BY MS. HERRING-LASH

1 A. When I first arrived at the hospital, I
2 met with MUSC Public Safety Officer Cummings,
3 Coroner Rae Wooten. The first medical staff person
4 I talked to was the respiratory therapist nurse I
5 believe.

6 Q. Jean Smith, the lady we saw yesterday?

7 A. Yes. She was getting off of work so we
8 spoke to her first. She was the first person to
9 have contact with the family -- or Mr. Williams and
10 **Child** and Shaquille and **D.S.**

11 Q. Did you then go -- when you left the
12 hospital, where did you go?

13 A. When we left the hospital, we went back
14 to

15 THE COURT: Is this a good place to
16 stop?

17 MS. HERRING-LASH: We could, Your
18 Honor.

19 THE COURT: Mr. Foreman, I've been
20 about to call you Madam every day, I apologize.
21 People call me sir every day and I'm about to do
22 the same thing. I apologize in advance if I do
23 that.

24 We are going to take advantage of the
25 break in testimony to take our lunch recess. We

1 will break until 2:15. During the break, please do
2 not discuss the case, please don't have any contact
3 with anyone in or about the courthouse and please
4 do not do any independent research on the Internet,
5 and don't allow yourself to be exposed to any media
6 coverage about this case.

7 When you return, you will come directly
8 to your jury room, and as soon as everyone has
9 returned, we will then resume the testimony of the
10 witness.

11 Hope you have a good lunch. Leave your
12 notepads in your seats.

13 (Jury out, 1:00 p.m.)

14 THE COURT: Sir, you may step down.
15 Please don't discuss your testimony during the
16 break.

17 Anything before we break for lunch?
18 From the State?

19 MS. HERRING-LASH: No, Your Honor.

20 THE COURT: From the defense?

21 MS. FORD: No, Your Honor.

22 THE COURT: We'll deal with the knife
23 after lunch. I didn't forget. We'll hear any
24 objections and then I'll make a contemporaneous
25 ruling.

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 MS. FORD: Yes, ma'am.

2 THE COURT: All right. Have a good
3 lunch. See you at 2:15.

4 (A luncheon recess transpired.)

5 THE COURT: State ready to proceed?

6 MS. HERRING-LASH: Yes.

7 THE COURT: Defense ready to proceed?

8 MS. FORD: Yes.

9 THE COURT: When you get to the point
10 of his statement, let me know and we'll take a
11 quick break.

12 MS. HERRING-LASH: Yes, Your Honor.

13 THE COURT: If the officer could
14 retake the stand. I will remind you that you are
15 still under oath.

16 (Jury in, 2:39 p.m.)

17 THE COURT: Thank you, ladies and
18 gentlemen. I hope you had a pleasant lunch. We
19 will resume testimony of the witness. The State
20 may proceed.

21 CONTINUED DIRECT EXAMINATION

22 BY MS. HERRING-LASH:

23 Q. Sergeant Lewis, I think we were at the
24 point in your testimony when you were going to
25 leave the hospital?

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. Yes, ma'am.

2 Q. And go to the scene?

3 A. Correct.

4 Q. And that would have been the scene at
5 ?

6 A. That's correct, yes, ma'am.

7 Q. When you all get there, do you get
8 there at the same time with Tiffany --

9 A. We do. We all left the hospital
10 together so we got there at relatively the same
11 time.

12 Q. Do you all wait for her to go in and
13 take her preliminary pictures?

14 A. Yes, ma'am. Back before that began, we
15 explained to Curtis and to Krystal the nature of
16 why we were there, to conduct the reenactment. We
17 explained the consent to search form to her, to Ms.
18 Williams.

19 Ms. Williams signed a consent to search
20 form to allow us to enter her residence to do the
21 reenactment and to take overall photos.

22 Q. So Krystal Williams signed the consent
23 form for you?

24 A. Yes.

25 Q. And after that, Tiffany was able to go

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 in and start taking pictures?

2 A. Yes.

3 Q. And did she go in first?

4 A. Yes, ma'am, she did. After

5 Mr. Williams -- he had to climb in the window to
6 open the front door. He thought he left the house
7 key in Shaquille's vehicle. Once he opened the
8 door, we were granted access and Crime Scene Tech
9 Adams began taking overall photos.

10 Q. When you went in -- I'm going to call
11 your attention to State's Number 35. And before
12 when you were talking about the statement that Mr.
13 Williams gave you at the hospital, you mentioned a
14 Capri Sun and Tootsie Roll?

15 A. Yes.

16 Q. Is that reflected in this picture?

17 A. Yes. That's one of the first things we
18 observed when we entered was the Capri Sun and the
19 Tootsie Roll that had been previously bitten.

20 Q. And that's why you all zoomed in on
21 this particular --

22 A. Yes.

23 Q. Now I want to show you State's Number
24 33. And what is the -- what is that a picture of?

25 A. That's the bedroom which was off of the

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 living room.

2 Q. Whose bedroom was that?

3 A. Curtis and Krystal Williams bedroom.

4 Q. Was there another bedroom in the home?

5 A. No, ma'am, just one.

6 Q. Where did **Child** sleep?

7 A. To my knowledge, on the couch.

8 Q. And now as part of this visit into the
9 home, did you also have Mr. Williams do what would
10 be called a reenactment?

11 A. Yes, ma'am. The reenactment was done
12 with Mr. Williams by the aid of a baby doll.

13 Q. Is that to show what happened prior to
14 the child becoming ill?

15 A. Yes, ma'am. We just explained to him
16 that we would like to retrace his steps with the
17 use of the baby doll, to kind of go over the events
18 that led up to him being transported to the
19 hospital.

20 Q. What caused him to take the little boy
21 to the hospital?

22 A. Yes, ma'am.

23 Q. I'm going to show you State's
24 Exhibit 41 to start with. And what is that?

25 A. That was the pair of pants that **Child**

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 had his accident in on the way to the store.

2 Q. And why did you take a -- why did you
3 have a picture taken of that knife?

4 A. It kind of struck me as odd to be a
5 butcher knife -- for one, a butcher knife being in
6 the bathroom. And it just kind of was out of
7 place.

8 Q. Had Mr. Williams told you about him
9 using that knife at that point?

10 A. Yes, ma'am. He stated that after
11 **Child** had pooped in his pants, that he used that
12 butcher knife to cut off his underwear.

13 MS. HERRING-LASH: Court's indulgence
14 for one moment?

15 THE COURT: Uh-huh.

16 BY MS. HERRING-LASH:

17 Q. I'm going to show you what was
18 previously marked as State's Exhibit Number 16.
19 And explain to us what is happening there. Is this
20 part of the reenactment?

21 A. Yes, ma'am, this is -- in this picture,
22 it's Curtis with the baby doll that was provided by
23 the coroner. He was going through his reenactment
24 while Crime Scene Adams was taking pictures.

25 Q. Is that what was happening in the

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 bathroom?

2 A. Yes, ma'am.

3 Q. What was he explaining?

4 A. He was explaining how he was -- how he
5 laid down **Child** on the bathroom floor, took off
6 his pants, and cut his underwear. He was basically
7 explaining that he was changing his clothing,
8 cleaning him up from the accident.

9 Q. And then I will show you --

10 THE COURT: What was that number
11 again?

12 MS. HERRING-LASH: That's 50.

13 THE COURT: Thank you. You may
14 proceed.

15 BY MS. HERRING-LASH:

16 Q. I will show you what was marked as
17 State's Exhibit Number 16. And what is this?

18 A. It's the same thing as the previous
19 picture. Crime Scene Adams was just taking photos
20 during the reenactment while she as explaining to
21 us that he laid him down and removed his clothing
22 and cut off his underwear to put him in the bath to
23 clean him up.

24 Q. And now State's Exhibit Number 17?

25 A. Yes, ma'am. This was him demonstrating

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 him picking **Child** up off of the floor.

2 Q. Are you all kind of going frame by
3 frame?

4 A. Yes, ma'am. While he was explaining
5 what's going on, Ms. Adams is taking pictures.

6 Q. And State's Exhibit Number 18?

7 A. Yes, ma'am. This is him demonstrating
8 picking up **Child** to prepare him --

9 Q. And it's kind of the same because it is
10 actually -- as it's just actually happening?

11 A. Yes.

12 Q. And State's Number 19. And what is
13 this?

14 A. After he -- he said after he cleaned
15 him up he brought him back into the living room and
16 laid him on the couch.

17 Q. State's Exhibit 20?

18 A. This is him demonstrating how **Child**
19 was laying on the pillow on top of the bookbag. He
20 said he was laying face down. And a few more
21 frames is where he said he was covering him up with
22 a blanket.

23 Q. Did he comment on whether or not the
24 bookbag had been there?

25 A. He did not.

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 Q. He just laid him on top of it?

2 A. He laid him on top of the bookbag.

3 Q. And State's Exhibit Number 21?

4 A. Just a closer picture of how he was
5 laying on the pillow.

6 Q. And State's Number 23? Number 3, I'm
7 sorry.

8 A. Yes, ma'am. This is him just
9 explaining how **Child** was laying on the couch.

10 Q. And was he sitting like that or --

11 A. He said he was -- no, this is him
12 demonstrating how **Child** was laying.

13 Q. And State's Number 4?

14 A. This is when he was -- explained after
15 **Child** laid down, he covered him up with a blanket.

16 Q. And Number 5?

17 A. This is just him demonstrating
18 basically **Child** laying under the blanket. Again,
19 these pictures were taken during the reenactment,
20 just snapshots while we were speaking.

21 Q. And State's Number 6?

22 A. I believe this is whenever he was
23 either taking the blanket on or taking the blanket
24 off while he was demonstrating how **Child** was
25 laying. He did make -- he did make mention it was

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 hard to maneuver that baby doll as a three-year-old

2 would, so there was some back and forth of how

3 **Child** was positioned because the baby doll --

4 Q. Was smaller than **Child** ?

5 A. -- so much smaller than an average
6 three-year-old.

7 Q. State's Number 21?

8 A. Yes, ma'am. I believe this is kind of
9 the same thing along the lines of him laying down
10 and covering him up with a blanket.

11 Q. State's Exhibit Number 22?

12 A. This is -- obviously, he's demonstrated
13 **Child** under the blanket. And we were talking with
14 Mr. Williams and he's just kind of going over the
15 series of events that was taking place, about how
16 he was laying him down and he noticed that he was
17 breathing shallow.

18 Q. At that point in time he'd already
19 started --

20 A. Yes. This is when we were having the
21 conversation of -- Curtis was trying to explain
22 that -- he was trying to demonstrate on the baby
23 doll how **Child** was laying. He tried to
24 demonstrate on the baby doll, but -- he was trying
25 to take the baby doll's knees and tuck them up

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 underneath the stomach. That's -- he was trying to
2 demonstrate that with the baby doll. A couple of
3 frames later, I believe Mr. Williams demonstrates
4 with his own body for us to visualize what was
5 going on.

6 Q. So State's Exhibit Number 6. What is
7 that?

8 A. Yes, ma'am.

9 Q. State's Exhibit 23. What is this?

10 A. This is kind of what I was talking in
11 the last frame; he was just trying to demonstrate
12 on the baby doll in this position. It was
13 difficult to get that small doll to be in this
14 position so Mr. Williams, began to demonstrate on
15 himself of how **Child** was laying.

16 Q. Next?

17 A. And while -- he was explaining how
18 **Child** was laying with his knees tucked up
19 underneath him. He demonstrates -- again, all of
20 this is underneath -- while he was covered up.
21 He's explaining how **Child** was just rolling back
22 and forth. And these pictures will demonstrate how
23 he was kind of rolling back and forth to try to get
24 comfortable.

25 Mr. Williams did -- he did state that

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 he thought **Child** was dehydrated.

2 Q. Did you ask him what he meant by
3 dehydrated?

4 A. Yes, ma'am. He just said he thought he
5 was dehydrated from being at the park and was just
6 acting funny, so that's -- was the first thing he
7 said, that he thought he was dehydrated.

8 Q. Next, State's Number 25. Is that him
9 rolling?

10 A. These are pictures of him rolling, yes,
11 ma'am. He rolled that way to his right and then
12 rolled back, and while he was doing this Ms. Adams
13 was taking pictures.

14 Q. So State's Exhibit Number 26?

15 A. This was him rolling back the other
16 way, showing how **Child** was rocking back and forth
17 while Ms. Adams was snap-shoting (sic) these
18 pictures.

19 Q. I'm assuming that these are still shots
20 that he was rolling to show you-all?

21 A. Yes, ma'am.

22 Q. And State's Number 27?

23 A. During this he stated **Child** just kind
24 of leaned back -- leaned up and kind of just went
25 limp and started breathing different.

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 Q. Is that him showing him going limp?

2 A. Yes, ma'am. At this point, he kind of
3 abandoned the baby doll for the reenactment because
4 it was so hard to maneuver. It's so small, it was
5 hard to demonstrate on that baby doll.

6 Q. And Number 13 -- sorry, 7?

7 A. This is him after **Child** -- he said
8 **Child** kind of just -- his body just kind of
9 relaxed. He picks him up, asked if he was okay,
10 and then he starts listening. And he knows that
11 his breathing is really shallow.

12 Q. This is after him going limp he puts
13 him in his lap?

14 A. Yes, ma'am.

15 Q. And Number 8?

16 A. This is us talking to him. He's
17 holding the baby doll while he was explaining that
18 after he kind of went limp, his breathing got
19 really shallow.

20 Q. And Number 9?

21 A. And this is -- he said the breathing
22 got shallow and he picked **Child** up and put him
23 close to his ear to listen to his breathing, and he
24 explained it was very shallow.

25 Q. Number 10?

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. And then while doing this, he says he
2 brought **Child** from his ear to look down at him,
3 and **Child** just kind of went limp. And that's when
4 he asked Shaquille -- we need to go to the
5 hospital.

6 Q. Okay. That's State's Exhibit Number
7 11.

8 A. These are just the chronological
9 pictures that was taken while he was explaining
10 **Child** 's breathing getting very shallow. He was
11 listening, brought him down, and **Child** went limp,
12 and this demonstrates what he was -- what part his
13 actions were.

14 Q. Was he or were you all having
15 conversations during this or he was just explaining
16 what he was doing?

17 A. No, he was explaining. He was going
18 over the sequence of events. So while he was going
19 over this, these are the pictures that were taken
20 kind of to document what he's explaining.

21 Q. Now, at this point in time when you
22 began to do this, had he explained to you that they
23 had come back from Save-A-Lot or did you talk about
24 that at this point?

25 A. I believe we had talked about that

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 because he had changed his diaper after they got
2 back.

3 Q. And this begins with the changing of
4 the diaper?

5 A. Yes, ma'am.

6 Q. And this is what was directly before
7 leaving him?

8 A. This is the event that took place right
9 before they transported him to the hospital.

10 Q. And did you do anything else that
11 evening regarding the case?

12 A. No, ma'am. After we -- after we left
13 the residence, that's all we did for the night.
14 Crime scene techs went back to city hall to log the
15 evidence, but as far as the investigation, that's
16 all we did.

17 Q. Do you know about what time that was?

18 A. I don't. It was later on.

19 Q. It was dark?

20 A. Yes.

21 Q. And the next morning, did you -- what
22 did you do?

23 A. The next morning, I -- after a major
24 incident like this happens, we always have a
25 follow-up the next day. And as a supervisor, part

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 of that -- part of my job is to make sure the
2 follow-up is done. So I sent messages to some of
3 my detectives to do the follow-up work that needed
4 to be done.

5 I instructed Detective Bailey there was
6 some follow-up she needed to do with the daycare --
7 I'm sorry, she had to get video from Save-A-Lot.
8 Detective Benton did the follow-up at the daycare
9 and I just made sure that was to be done.

10 Q. Do you know if an autopsy was done the
11 next day?

12 A. Yes, ma'am. Autopsy was completed that
13 morning, and once it was completed -- Coroner
14 Wooten contacted me once it was done.

15 Q. Okay. And at that point, did you set
16 up an appointment for Mr. Williams and Ms. Krystal
17 Williams to come in and meet with you?

18 A. We did. She contacted me and wanted to
19 go over the results with the family, and we set up
20 a meeting so she could share that information with
21 him.

22 MS. HERRING-LASH: And, Your Honor, at
23 this point we would have a matter to take up with
24 you.

25 THE COURT: Mr. Foreman, ladies and

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 gentlemen, we have a brief matter of law to take
2 up. During the break, please do not discuss the
3 case and please leave your notepads in your seats.
4 We appreciate your patience.

5 (Jury out, 3:02 p.m.)

6 THE COURT: Other than the statement,
7 do you have any other questions?

8 MS. HERRING-LASH: No, Your Honor. We
9 will start with the interview.

10 THE COURT: Other than the questions
11 for him that you would have about the video, which
12 is the recorded statement, do you have any other
13 questions for the witness?

14 MS. HERRING-LASH: Let me make sure.
15 No, Your Honor.

16 THE COURT: Okay. We will be at ease
17 about two minutes. I need to retrieve the original
18 video from my office.

19 Also, as it regards the testimony of
20 Mr. Joseph Harris, I'm ruling that the testimony is
21 admissible, that while it may be in the nature or
22 could be characterized as a prior bad act, it
23 certainly falls within one of the Lyle exclusions
24 and, therefore, it would be admissible.

25 The State is entitled to rehabilitate

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 their witness and present evidence that, in
2 essence, this was not a mistake and -- as it
3 regards intent, because there has been testimony
4 elicited by the defense that the defendant never
5 hit the minor child, that they never saw him treat
6 the minor child in any untoward way, and that they
7 never saw him -- and these are my words, not
8 theirs, I'm paraphrasing -- in essence, they said
9 he never laid a hand on the minor in their
10 presence.

11 From my observation, this is a very
12 small apartment. Based on what was elicited from
13 Mr. Harris, it has very thin walls. Now, after I
14 have heard the testimony of the officer, it is
15 corroborated that only three people lived in the
16 apartment, that there was only one bedroom, and
17 absent -- that even if there is contrary testimony
18 that someone else other than the defendant and the
19 minor's mother shared that one bedroom, I don't
20 know that it's material or not where the minor
21 child slept; however, what is material is that Mr.
22 Harris overheard what he believed to be the
23 defendant striking, as in his words, he heard four
24 licks, a comment about going back to sleep and then
25 what he believed to be the child being hit again

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 and being told to go to sleep again.

2 I had some concerns about the time
3 frame that the testimony was elicited, but it was
4 established that it was within four to five days
5 before the minor's death, and I do not find
6 credible the argument that it could have been done
7 to an adult.

8 And the State again is entitled to
9 provide proof to refute his assertion that he never
10 laid a hand on the child and never administered any
11 type of corporal punishment to the child. Any
12 objections go to the weight and not admissibility.

13 So if you want to call that witness out
14 of order, I'll leave that to you in consultation
15 with your co-counsel. If you will give me a few
16 minutes, I will be right back. I need to go get
17 that tape --

18 MS. HERRING-LASH: Your Honor, out of
19 order, you mean before this witness completes his
20 testimony?

21 THE COURT: -- if you want to call him
22 out of order, you just need to make sure that Ms.
23 Ford has no objection to that. If she has an
24 objection, I will take it up in a minute.

25 Sir, you can walk around if you would

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 like. Don't discuss your testimony.

2 THE WITNESS: Okay. Thank you, ma'am.

3 (A recess transpired.)

4 THE COURT: I listened to the arguments
5 regarding the admissibility of the defendant's
6 statement. The Court looks at the statement based
7 on the standard of the preponderance of the
8 evidence. It's not for the Court to determine
9 beyond a reasonable doubt whether the statement was
10 made and the veracity of the statement.

11 Clearly, the requirements of Miranda
12 were met. It is clear that the defendant was of
13 sufficient age and capacity to understand his
14 rights and did, in fact, waive his rights.

15 There was no indication he was under
16 any duress, other than the normal duress of the
17 event, that he was made any promises, that he was
18 under the influence of any drugs or alcohol, or
19 that he was threatened in any way or denied any
20 substantial rights, such as bathroom, et cetera,
21 during the course of the interview.

22 The defense has argued that he was not
23 allowed to see his family. I would note for the
24 record that the State has no constitutional
25 obligation to allow him to see his family and they

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 had more than protected interests in not letting
2 him see his family, that being the possibility of
3 -- due to the loss of interest the defense -- the
4 State would have in not allowing someone to
5 potentially collude with their family or see
6 someone regarding an incident when they're in the
7 middle of an interrogation. And so they had no
8 obligation to allow him access to his family.

9 Nor do I find any merit to the argument
10 that somehow that was collusive or threatening or
11 caused him to be under any particular duress. In
12 fact, the statements made by the police seemed to
13 reassure him that once they are done, he would be
14 allowed to see his family and that, that right will
15 not -- that right or that desire, that request will
16 not be denied to him.

17 Nor do I find him crying during the
18 interview represented any level of duress. I think
19 under the circumstances it was a normal reaction to
20 the stressfulness of the situation, but not such
21 that it incapacitated him.

22 The statement is admissible. And as I
23 understand it, Ms. -- and I want to be clear,
24 Ms. Ford. You do not have any objection to the
25 redacted version of the statement; is that correct?

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 MS. FORD: I do not have an objection
2 to playing the video, cutting out the areas where
3 no one is talking, Your Honor. My concern is, as I
4 stated before, sometimes the officer when he's
5 talking to my client, he mentions things that would
6 not be admissible --

7 THE COURT: That's why I told you all
8 to talk about it and get those things redacted
9 before today. You all should have been able to
10 work on that and agree to that. I think the State
11 knows there are things that should not be included
12 in an interview, and I thought you all had done
13 that.

14 MS. FORD: No, we have not done that, I
15 apologize. I don't think that was our
16 understanding. There are several areas where he's
17 talking about Mr. Stevens, the neighbor who has
18 died, what he said.

19 THE COURT: It's what Mr. Stevens said
20 to your client?

21 MS. FORD: No. No. No. It's -- the
22 officer is telling him --

23 THE COURT: Oh, I understand what
24 you're saying.

25 MS. FORD: -- we've talked to somebody

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 who said he saw you do whatever, there was banging
2 around the apartment, things of that nature;
3 however, the State will not be able to provide a
4 witness to actually testify to that. And that's my
5 concern, Your Honor, that the officer is basically
6 testifying to certain things that he's not an
7 actual witness to, and it's inadmissible hearsay
8 what he's basically testifying to in the statement
9 talking to my client.

10 THE COURT: Yes, ma'am.

11 MS. HERRING-LASH: Your Honor, I think
12 things like that happen all the time during an
13 interrogation, saying things that other people
14 said, but in this case, actually, Mr. Williams does
15 say that he said, stand up, he just didn't know if
16 anybody else heard it. Because he said, I didn't
17 know they heard it. And the officer says, they
18 heard it, so...

19 THE COURT: I don't think any of those
20 things are being offered for the truth. They are
21 simply part of the interrogation. They really
22 become part of the res gestae to some extent.
23 Really, those things to -- as triggers for your
24 client to elicit certain information.

25 MS. FORD: And that is why I asked the

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 Court if perhaps you would consider giving a
2 limiting instruction to the jury just that the
3 thing that the officer is saying --

4 THE COURT: You can argue that.

5 MS. FORD: -- in the recording --

6 THE COURT: And I think my
7 instructions are clear. I'm not going to give any
8 limiting instruction that could be perceived as any
9 reference to the facts in this case as to how they
10 are to weigh that testimony. I will give them an
11 instruction at the end regarding how they are to
12 judge the statement, which is all inclusive.

13 It includes all of your client's
14 constitutional rights and how they are to judge the
15 statement, that it is ultimately their decision to
16 decide whether it was made beyond a reasonable
17 doubt. And I will give another instruction
18 regarding witnesses and how they are to judge
19 witness credibility and believability.

20 If you want to comment about the facts
21 as an advocate, that's your prerogative, but this
22 Court will not make any comments regarding the
23 facts.

24 MS. FORD: And just, I guess, what I
25 will do is object at the moments of the video --

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 THE COURT: You have already objected,
2 and I've already ruled on it. It's already been
3 preserved.

4 MS. FORD: Thank you, Your Honor.

5 THE COURT: Court is not under any
6 requirement to give a limiting instruction. You
7 can request it, but under these circumstances it
8 would not be appropriate because it would be a
9 comment on the facts of the case.
10 You're basically asking me to tell the
11 jury how to weigh a witness's statement, and I'm
12 going to give an instruction regarding how they
13 weigh testimony, but I'm not going to single him
14 out and give what would really amount to an
15 impermissible comment on the facts.

16 MS. FORD: And I don't look at it as
17 commenting on his testimony, but rather just in his
18 conversation with my client --

19 THE COURT: Same soup, different bowl.
20 You're asking me to make a comment about what he's
21 doing and how he's doing it. That's for you to
22 argue as an advocate. It's not for the Court to
23 comment on. I will give a general instruction
24 about witnesses. I will give a general
25 instruction, which is more than sufficient, for the

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 jury to make the appropriate findings regarding
2 that, but I'm not going to make a comment about an
3 individual's testimony.

4 It singles it out, highlights it and,
5 therefore, the inference is that they should not
6 give any weight to what the officer is saying. And
7 they can give weight to what he's saying. It's
8 ultimately up to them to determine the weight they
9 give to the comments he made, how he conducted the
10 investigation, how he elicited testimony. Those
11 are all weight issues solely within the providence
12 of the jury.

13 I will note your objection and it's
14 overruled. I assume the State -- I need to hear
15 what the State's response would be to her request
16 for a curative instruction for preservation of the
17 record.

18 MS. HERRING-LASH: Your Honor, I don't
19 think a curative instruction is necessary in this
20 case. It is truly just an interrogation and the
21 kind that happens in every case. I mean, sometimes
22 the defendant would say, no, that didn't happen.
23 Here he did say, yeah, but it would, aside from
24 that, highlight that part of the testimony.

25 THE COURT: What do you want to do

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 with -- first, the State made a motion during the
2 first portion of the morning to admit the butcher
3 knife which had not been individually marked, as I
4 understood it. I can't remember which witness it
5 was you're seeking to introduce it through. I
6 believe it was the crime scene person.

7 MS. HERRING-LASH: Yes, Your Honor.

8 THE COURT: And that name is?

9 MS. HERRING-LASH: Tiffany Adams. I
10 think it was marked for ID only.

11 THE COURT: And who marked it for ID
12 only?

13 MS. HERRING-LASH: I did.

14 THE COURT: In the future, you get the
15 Court's permission before you mark anything. It
16 really doesn't need to be marked for ID because
17 it's not going to be shown to the jury. You only
18 mark things for ID when they're going to be used
19 for impeachment purposes or otherwise, such that it
20 needs to be preserved for the record. The knife is
21 not coming in, it doesn't need to be marked, and we
22 have ample pictures of it.

23 I need to know for what purpose you
24 would be seeking to introduce the knife.

25 MS. HERRING-LASH: Your Honor, I think

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 for the same issue that I had mentioned before, the
2 use of a knife like that on a small three-year-old
3 child, who at that point was cognizant. And I
4 think it has throughout -- the defense has talked
5 about what a great caretaker he was, he never
6 scared Child , he was never mean to Child , they
7 got along great, and there was really no other
8 reason in the world to use that knife, other than
9 to intimidate this little boy.

10 THE COURT: What would be the
11 defense's response?

12 MS. FORD: Your Honor, the State has
13 shown no evidence, including from the two witnesses
14 who were present when the knife was used, that my
15 client used the knife in an intimidating way. He
16 cooperated with the police and told them that he
17 used it to cut the pants so she, in fact, did
18 introduce it into evidence to show that.

19 I mean, I use my kitchen knife all the
20 time to cut things because I can find them more
21 easily than my scissors. So I don't think it's
22 fair to say there is no other reason. It was just
23 the most accessible thing more than likely, but
24 there's just no evidence that he used it in an
25 intimidating way.

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 They have a picture of it, Your Honor.
2 No one is trying to hide the fact that he used a
3 butcher knife to cut the pants, and so we just feel
4 like having this weapon into evidence is not a
5 weapon that was actually used to injure **Child** in
6 any way. We just feel like it's more prejudicial
7 than probative, especially from the -- the picture
8 is not even admitted into evidence.

9 THE COURT: Anything further from the
10 State?

11 MS. HERRING-LASH: No, Your Honor.

12 THE COURT: The Court finds that the
13 knife is not admissible. It is unconverted that
14 the knife was used to cut off the minor child's
15 clothing. We have a picture of the knife. There
16 is no need for the knife itself to be admitted into
17 evidence. I cannot find any relevance in it other
18 than the cutting of the clothing. I cannot see any
19 probative value at this point.

20 The testimony up to this point is that
21 the child at that time was basically unresponsive.
22 So there really is no testimony that he was even
23 cognizant of what was going on at that time. In
24 addition to that, there is no independent evidence
25 to support that he in any way threatened the child

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 with a knife. In fact, the two witnesses for the
2 state, Mr. Prioleau and Mr. D.S. , indicated they
3 heard nothing from the bathroom, no whimpering, no
4 cries, no threats or otherwise.

5 There is contradictory testimony as to
6 whether the door was opened or closed, but I don't
7 know that it's dispositive. And I find that the
8 admissibility of the knife would be more
9 prejudicial than probative because there is no
10 evidence to link it to the event other than cutting
11 off the child's clothing, and there's no need to
12 mark it for ID because it will not be shown to the
13 jury.

14 Now, have you all decided what you want
15 to do with Mr. Harris, whether you want to call him
16 out of order or not?

17 MS. HERRING-LASH: Yes, Your Honor.

18 Ms. Ford agreed that we can call him now.

19 THE COURT: So why don't we go ahead
20 and call Mr. Harris out of order and then we'll
21 resume with the officer's testimony and then you
22 all can set up the statements to be played.

23 MS. FORD: And, Your Honor, just -- I
24 raised it yesterday, but I know I didn't raise it
25 today. I just wanted to bring it up today so I

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 wouldn't have to object during the video. Some of
2 the -- the sergeant does bring up at certain points
3 the reason for the death. And so just normally he
4 wouldn't be able to testify to the spleen being
5 ruptured and internal bleeding causing the death.
6 That would be for the --

7 THE COURT: I think it's merely
8 cumulative because it's clear that was the manner
9 of his death, and I would imagine he had the report
10 available to him. It's not being offered for its
11 truth. It's being used for the purpose of the
12 interrogation of the defendant.

13 Now you raised on yesterday -- I want
14 to make sure -- and that's why I originally asked
15 the question. There's some reference to a
16 misprision charge that your client had. You said
17 you had no objection to that testimony being within
18 the video and I wanted to make sure that that is
19 accurate.

20 MS. FORD: No, Your Honor. We had
21 discussed muting it at that point.

22 THE COURT: And that's what you plan
23 to do?

24 MS. HERRING-LASH: That would be fine.

25 THE COURT: And I told you all that

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 wasn't going to work because it needed to be
2 redacted all together because the jury shouldn't
3 have to come in here and watch the video. And I
4 listened to it and it's still in there, and that's
5 why I'm asking the question.

6 So if you want to mute it while it's
7 being played today, but I expect a fully redacted
8 copy. The jury should not have to come into this
9 courtroom to watch it. They should be able to do
10 it in their jury room and discuss it as they
11 desire.

12 MS. HERRING-LASH: Well, I think we can
13 do it in the courtroom, can't we? We will try. It
14 took a lot of redacting from that --

15 THE COURT: You should be able to mute
16 and take sound off of the video. They should be
17 able to --

18 MS. ELLIOTT: So just to clarify, Your
19 Honor, as long as we're removing the audio at that
20 point --

21 THE COURT: Yeah, because there's
22 nothing to see. They're just sitting there
23 talking. What's problematic is the testimony about
24 a prior bad act. It has nothing to do with this.

25 MS. ELLIOTT: Yes, Your Honor.

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 THE COURT: All right. Is there
2 anything else we need to take up before we resume
3 testimony from the State?

4 MS. HERRING-LASH: No, Your Honor.

5 THE COURT: From the defense?

6 MS. FORD: No, Your Honor.

7 THE COURT: Is Mr. Harris in the
8 courtroom?

9 MS. HERRING-LASH: Yes, Your Honor.

10 THE COURT: And, again, I will caution
11 you all to watch that redacted video and make sure
12 there's nothing else that needs to be redacted that
13 you all agree about before it is shown to the jury.
14 That's what I anticipated you all would have done
15 over the evening recess.

16 Please get the jury for me.

17 (Jury in, 3:32 p.m.)

18 THE COURT: Ladies and gentlemen, we
19 appreciate your patience as we dealt with that
20 matter of law. We are going to take a witness out
21 of order. We appreciate your patience.

22 The State may proceed.

23 MS. HERRING-LASH: The State would call
24 Joseph Harris.

25 THE COURT: Sir, if you would come and

JOSEPH HARRIS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 stand to be sworn.

2 MS. HERRING-LASH: Right up there,
3 Mr. Harris.

4 JOSEPH HARRIS,
5 being first duly sworn, testified as follows:

6 THE CLERK: Mr. Harris, if you will
7 please speak into the mic and state your full name
8 and spell your last name.

9 THE WITNESS: Joseph Harris,
10 H-A-R-R-I-S.

11 THE COURT: You may proceed.

12 DIRECT EXAMINATION

13 BY MS. HERRING-LASH:

14 Q. Mr. Harris, where do you live?

15 A. At the time I lived at

16

17 Q. And now where do you live?

18

19 Q. I would like to show you what was
20 previously marked as State's Exhibit Number 43. Is
21 this the one you used to live at?

22 A. Right.

23 Q. And now you just live across the way?

24 A. Right.

25 Q. Like, that grass we see is in the

JOSEPH HARRIS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 middle of your --

2 A. That's right.

3 Q. Now, can you just point out to the jury
4 who lived in which of these apartments, if you
5 know? Back in --

6 A. I lived in this one, and Krystal lived
7 in this one, and Steven, we called him Junior, he
8 lived in this one. (Indicating)

9 Q. And who lived in the one on that end?

10 A. Emile.

11 Q. And how long have you lived there,
12 Mr. Harris?

13 A. I guess about a couple of years at that
14 time.

15 Q. And who do you live with?

16 A. Joan Sangster.

17 Q. And how long have you all lived
18 together?

19 A. Four years.

20 Q. And you said Krystal lived in that
21 apartment. And who else lived in there with
22 Krystal?

23 A. She had a young man and a kid living
24 with her.

25 Q. And did you ever meet the child?

JOSEPH HARRIS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. No. I seen him as they go by, you
2 know..

3 Q. You would just see him around?

4 A. Yeah. When they first moved in I
5 walked down there, and Krystal and the young man
6 was in there, and then the kid was sitting on the
7 sofa. I introduced myself and said, I'm your
8 next-door neighbor. I just wanted to see who was
9 moving in.

10 Q. Right. And did they introduce
11 themselves?

12 A. I guess. I don't remember, you know,
13 that detail.

14 Q. Did you already know Krystal?

15 A. No. Joan already knew her, I didn't.

16 Q. Now, calling your attention back to
17 October of 2014. Did you ever sleep on your couch?

18 A. Yes, every now and then.

19 Q. And why would you sleep on your couch?

20 A. Because Joan, she kicks when she's
21 sleeping. Sometimes she kicks me so much I get out
22 of the bed.

23 Q. I think they can appreciate that. And
24 as you pointed out, do you share a wall in your
25 living room with Krystal's living room?

JOSEPH HARRIS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. Right. Yeah, I do.

2 Q. And was there any -- tell the jury if
3 you heard anything going on in that apartment one
4 day.

5 A. Yeah. There was --

6 MS. FORD: Objection, based on my prior
7 objection.

8 THE COURT: It's already been heard
9 and overruled and it's preserved.

10 You may proceed.

11 THE WITNESS: One morning I woke up
12 around about 6:30 or 7:00.

13 BY MS. HERRING-LASH:

14 Q. Do you know when that was in relation
15 to the day **Child** died?

16 A. Maybe four or five days I guess.

17 Q. Okay.

18 A. And I just woke up, you know, hadn't
19 got up, still laying there. And I heard someone
20 beating -- hit the kid saying, lay back down, go
21 back to sleep. You know, excessive hitting, licks,
22 you know. I said he was beating the boy pretty bad
23 for a two-year-old kid. It was pretty loud licks.

24 Q. You heard the licks. And then what did
25 you hear said?

JOSEPH HARRIS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. He said, lay back down, go back to
2 sleep.

3 Q. And after that, did you hear anything
4 else?

5 A. Well, no. I heard that twice and I
6 heard the licks twice, two different sections of
7 it.

8 Q. And did you talk -- tell anybody about
9 that?

10 A. No, because by the time I told anybody,
11 they were done -- you know, hitting him. I didn't
12 think about it anymore.

13 Q. Did you think about it later when all
14 of this happened?

15 A. Yeah, I thought about it then.

16 MS. HERRING-LASH: Mr. Harris, those
17 are all the questions that I have. If you would
18 answer any that Ms. Ford may have.

19 THE WITNESS: Okay.

20 THE COURT: Please approach.

21 (Bench conference.)

22 THE COURT: You may proceed with
23 cross.

24 CROSS-EXAMINATION

25 BY MS. FORD:

JOSEPH HARRIS - CROSS EXAMINATION BY MS. FORD

1 Q. You had never talked to Mr. Williams.
2 before this, correct?

3 A. No, I hadn't. I walked down there to
4 see who was moving in and I said, hi. That was
5 about it.

6 Q. So you wouldn't have been able to
7 necessarily recognize his voice, correct?

8 A. No.

9 Q. Okay. And when you heard some
10 slapping, did you hear a second party at all?

11 A. No. Only one male voice I heard.

12 Q. Okay. But you didn't hear anyone else,
13 you didn't hear anyone crying, correct?

14 A. No, I never did hear the kid holler.

15 Q. Never heard anyone screaming?

16 A. No.

17 Q. Just silence from the other party?

18 A. I guess. I never did hear anybody
19 else.

20 Q. And so afterwards you didn't mention
21 anything to your wife?

22 A. No, not at that time because she was in
23 one room I was in the other one.

24 Q. You didn't mention it later on that
25 day?

JOSEPH HARRIS - CROSS EXAMINATION BY MS. FORD

1 A. No.

2 Q. You didn't mention it to anyone else
3 that day?

4 A. No, not that day.

5 Q. Okay. And you didn't think anything
6 else of it?

7 A. Right. Right. Right.

8 Q. The night that -- the day that **Child**
9 died, the police came out that evening, correct?

10 A. Correct.

11 Q. And so you saw the police out there?

12 A. Yes.

13 Q. Okay. And you didn't try to tell them
14 anything that night, correct?

15 A. No, I didn't talk to them, period.

16 Q. The area where you lived, there aren't
17 too many apartments, correct?

18 A. Well, that building there's four in
19 there and three on the other side.

20 Q. But it's a fairly small community?

21 A. Basically, yes.

22 Q. You never actually saw Mr. Williams hit
23 **Child** , correct?

24 A. No, I never saw him hit him.

25 Q. You never saw him yelling at **Child** ,

JOSEPH HARRIS - CROSS EXAMINATION BY MS. FORD

1 correct?

2 A. No.

3 Q. The day **Child** died, were you home with
4 Joan watching football?

5 A. Yes.

6 Q. And your door was open?

7 A. Might have been. I can't remember now
8 whether it was open or not.

9 Q. But you were sitting in the living room
10 most of the day, correct?

11 A. Right.

12 Q. And that's the same living room with
13 the wall that's connected to Krystal's wall,
14 correct?

15 A. Yes.

16 Q. Okay. So that day you didn't hear
17 anything, any slapping, correct?

18 A. That's right. I didn't hear nothing
19 that day.

20 Q. And you didn't hear any screaming that
21 day, correct?

22 A. No.

23 Q. And you didn't hear any crying that
24 day?

25 A. No, I sure didn't.

JOSEPH HARRIS - CROSS EXAMINATION BY MS. FORD

1 Q. You never called 911 that day?

2 A. No.

3 MS. FORD: Beg the Court's indulgence?

4 THE COURT: Uh-huh.

5 BY MS. FORD:

6 Q. Just a few more questions to clarify,
7 Mr. Harris. Back to when -- now, when you heard
8 slapping that one time, that was four to five days
9 before **Child** 's death. Is that fair to say?

10 A. Yes, somewhere like that.

11 Q. So it would have been within the middle
12 of the prior week?

13 A. I can't really say. All I know, it was
14 maybe four or five days before I heard it.

15 Q. It wasn't just the day before, though?

16 A. No.

17 Q. And that -- you didn't hear any names
18 being used during that --

19 A. No.

20 Q. -- interaction?

21 MS. FORD: Beg the Court's indulgence?

22 THE COURT: Yes, ma'am.

23 BY MS. FORD:

24 Q. One more question. Since -- you know,
25 you told us you didn't really know them, so you

JOSEPH HARRIS - REDIRECT EXAMINATION BY MS. HERRING-LASH

1 didn't know their living situation inside their
2 apartment?

3 A. No. That's right, I didn't know them.

4 MS. FORD: Okay. Thank you.

5 THE COURT: Any redirect?

6 MS. HERRING-LASH: Yes, Your Honor.

7 THE COURT: You may proceed.

8 REDIRECT EXAMINATION

9 BY MS. HERRING-LASH:

10 Q. Mr. Harris, that night of Child 's
11 death when the police came out, is there a reason
12 you didn't go out to talk to the police that night?

13 A. Yes, I had a reason.

14 Q. What was it?

15 A. I had a family court going.

16 Q. And have you taken care of that now?

17 A. Yes.

18 Q. And that Sunday, October the 24th, was
19 that during -- that day what were you doing?

20 A. I was inside the house. I didn't know
21 anything went on until I went outside and Junior --

22 Q. We won't be able to talk about what
23 someone else said.

24 Were you watching football?

25 A. Yes.

JOSEPH HARRIS - REDIRECT EXAMINATION BY MS. HERRING-LASH

1 Q. So the TV was on?

2 A. Right.

3 Q. And that morning when you heard this,
4 was your TV on early that morning?

5 A. No.

6 Q. Was it loud or quiet that morning?

7 A. It was quiet.

8 Q. Nobody up and --

9 A. Nobody stirring around.

10 Q. And on that Sunday, were there
11 people -- without saying what they said, were there
12 people stirring around?

13 A. Yes, I guess so.

14 MS. HERRING-LASH: Those are all the
15 questions I have.

16 THE COURT: Any objection to the
17 witness being excused? From the State?

18 MS. HERRING-LASH: No, Your Honor.

19 THE COURT: From the defense?

20 MS. FORD: No, Your Honor.

21 THE COURT: Sir, you're excused.

22 THE WITNESS: Okay.

23 THE COURT: State may proceed.

24 MS. HERRING-LASH: Your Honor, may we
25 approach?

HESTER HAYNES - DIRECT EXAMINATION BY MS. ELLIOTT

1 (Bench conference.)

2 THE COURT: You may proceed.

3 MS. HERRING-LASH: State would call
4 Hester Haynes.

5 THE COURT: Hester Haynes.

6 HESTER HANES,

7 being first duly sworn, testified as follows:

8 THE CLERK: Sit there, please. Get
9 close to the microphone and state your full name
10 and spell your first and last name.

11 THE WITNESS: Hester Haynes,
12 H-E-S-T-E-R, H-A-Y-N-E-S.

13 THE COURT: You may proceed.

14 MS. ELLIOTT: Thank you, Your Honor.

15 DIRECT EXAMINATION

16 BY MS. ELLIOTT:

17 Q. Afternoon, Ms. Haynes. Could you tell
18 us where you work?

19 A. We Care For Children Child Development
20 Center.

21 Q. And where is that located?

22 A. 4319 Rivers Avenue.

23 Q. And what is your position with Wee
24 Care?

25 A. The director of the center.

HESTER HAYNES - DIRECT EXAMINATION BY MS. ELLIOTT

1 Q. And how long have you been the director
2 there?

3 A. Three years.

4 Q. Was **Child** a student there?

5 A. Yes, he was.

6 Q. How long had he been coming to your
7 daycare?

8 A. He has been a student prior to the time
9 that he came back, which was October 20, 2014.

10 Q. If I were to show you his attendance
11 schedule, would that help you with the exact dates
12 of when he started?

13 A. Yes, it would.

14 MS. ELLIOTT: Your Honor, may I
15 approach the witness?

16 THE COURT: You may.

17 BY MS. ELLIOTT:

18 Q. Take a look at that and tell me when
19 you have been refreshed.

20 Does that help you remember when **Child**
21 first started coming to your daycare?

22 A. Yes, it does.

23 Q. When did he first start coming?

24 A. He first started May 11, 2014.

25 Q. And he started the week of May 11, but

HESTER HAYNES - DIRECT EXAMINATION BY MS. ELLIOTT

1 did he actually start that first day?

2 A. No, ma'am. He started on the 14th,
3 2014.

4 Q. And how long was he with your daycare
5 during that stint?

6 A. His voucher had ended in June 20th,
7 2014. And then his voucher started again in August
8 17th, and then his voucher had ended September 19,
9 2014. And then his voucher had started again which
10 was October 20, 2014.

11 Q. And what is this voucher that you're
12 talking about?

13 A. It's the A, B, C voucher that parents
14 get that help assist for children -- for their
15 child's childcare.

16 Q. And that assists some of the parents so
17 they can afford to have daycare?

18 A. Correct.

19 Q. And you said that he came back the week
20 of October 20th of 2014. Did he come that full
21 week?

22 A. No, he didn't.

23 Q. Why not?

24 A. Well, he came October 20th. And then
25 on October 21st, we noticed that he had -- his eye

HESTER HAYNES - DIRECT EXAMINATION BY MS. ELLIOTT

1 was pink, he had pinkeye. So he went home early
2 that day. He missed October 22nd and then
3 October 24th was his last day.

4 Q. So he was there on the 23rd?

5 A. Yes.

6 Q. And there on the 24th?

7 A. Yes.

8 Q. How would **Child** get to daycare?

9 A. The bus. I'm actually was the bus
10 driver. I help with transportation for clients who
11 have don't have transportation.

12 Q. So you would pick him up at his home?

13 A. Correct.

14 Q. How would he get home after school?

15 A. Monday through Thursday -- well, Monday
16 through Friday, I would pick up from home, and on
17 Friday is the only day that the parents would come
18 and pick the child up. I do not deliver on Friday.

19 Q. Why is that?

20 A. To allow the parents a chance to come
21 to the center and see what their child has done, if
22 they have any questions or concerns.

23 Q. What time would you normally pick
24 **Child** up in the morning?

25 A. I would pick him up around -- any time

HESTER HAYNES - DIRECT EXAMINATION BY MS. ELLIOTT

1 between 7:30 to 8:30. All depends on the
2 scheduling.

3 Q. Now, at your daycare do you have a
4 policy if a child has a bathroom accident?

5 A. Yes.

6 Q. What is that policy?

7 A. If a child has an accident, we -- the
8 caregiver would actually clean the child, change
9 him, and then they would put their soiled clothes
10 in a bag to go home.

11 Q. And what are your policies if the child
12 is injured at your daycare?

13 A. We would do an incident report to send
14 home to the parents, and if it is severe we would
15 call the parent on the spot.

16 Q. Do you remember ever having to do an
17 injury report because of an injury for Child at
18 your daycare?

19 A. No.

20 Q. What about any policy if you or any of
21 the care providers noted any unusual bruising or
22 injuries to a child?

23 A. We would have to report it.

24 Q. Report it to whom?

25 A. DSS.

HESTER HAYNES - DIRECT EXAMINATION BY MS. ELLIOTT

1 Q. Did you ever have to make any reports
2 like that regarding **Child** ?

3 A. No.

4 MS. ELLIOTT: Beg the Court's
5 indulgence?

6 THE COURT: Yes, ma'am.

7 BY MS. ELLIOTT:

8 Q. Did **Child** have any behavioral problems
9 that you remember?

10 A. I don't recall behavioral problems. He
11 was only three and, normally, he's just an active
12 little boy, like to have fun. You know, everyday
13 is not the best day, but, you know, he's just a
14 normal three-year-old.

15 Q. But you recall him as being active?

16 A. Correct, yes.

17 Q. How did you learn that **Child** had
18 passed away?

19 A. That Monday, by a family member.
20 Curtis and I believe his mother and sister came by
21 the center.

22 Q. And how did you actually find out he
23 had passed away?

24 A. They came and tell me.

25 Q. Who told you?

HESTER HAYNES - DIRECT EXAMINATION BY MS. ELLIOTT

1 A. The mom and Curtis and grandmother.

2 Q. Did you ask what happened?

3 A. Yes, I did.

4 Q. Did Curtis tell you what happened?

5 A. Yes.

6 Q. What did he say?

7 A. He said that they were in a park and,
8 apparently, I guess, he was on his phone. And when
9 he looked around, he noticed that he didn't see him
10 playing, so he went walking around and, I guess, he
11 saw him sitting. And then he noticed that he was a
12 little dehydrated so he took him home and gave him
13 some juice.

14 And I guess he realized he wasn't -- he
15 wasn't looking that he was feeling good, so that's
16 when he took him to the hospital.

17 MS. HERRING-LASH: Beg the Court's
18 indulgence?

19 THE COURT: Yes, ma'am.

20 BY MS. ELLIOTT:

21 Q. Where were you when you learned of
22 Child 's death?

23 A. I was at work actually getting prepared
24 to go do public school pickup.

25 Q. And where in your facility did you have

HESTER HAYNES - DIRECT EXAMINATION BY MS. ELLIOTT

1 this conversation with Curtis and his family?

2 A. In my office.

3 Q. Where was everyone?

4 A. Everyone was in the office.

5 Q. Did you ask Krystal what had happened?

6 A. Well, at first I asked her.

7 Q. And what happened then?

8 A. She said, ask Curtis because he was in
9 his care.

10 Q. Did you attend his funeral?

11 A. Yes, I did.

12 Q. Did you play any part in it?

13 A. Yes, I did.

14 Q. What did you do?

15 A. I spoke --

16 MS. FORD: Objection; relevance.

17 THE COURT: Sustained, relevance.

18 MS. ELLIOTT: I don't have any further
19 questions of you, Ms. Haynes. Please answer any
20 Ms. Ford might have.

21 THE COURT: Ms. Ford, you may proceed.

22 MS. FORD: Thank you, Your Honor.

23 THE COURT: You're welcome.

24 CROSS-EXAMINATION

25 BY MS. FORD:

HESTER HAYNES - CROSS EXAMINATION BY MS. FORD

1 Q. Ms. Haynes, so you are the director of
2 the daycare?

3 A. Yes.

4 Q. And so, at the time, that was your
5 position as well?

6 A. Yes.

7 Q. So you weren't Child 's actual teacher?

8 A. No.

9 Q. And Child had first become a student
10 in May you told us?

11 A. Correct.

12 Q. And just to clarify, when you told us
13 about how you're required to call DSS if you see
14 any signs of abuse, is that because you're a
15 mandatory reporter? Is that what that's called?

16 A. Correct. But, I mean, if we see like
17 bruises, we are mandated to report it. It could be
18 me or any of the staff members.

19 Q. And that's just part of your business
20 running a business dealing with children --

21 A. Correct.

22 Q. -- you have that obligation, correct?

23 A. Correct.

24 Q. And you can get in trouble if you
25 don't, correct?

HESTER HAYNES - REDIRECT EXAMINATION BY MS. ELLIOTT

1 A. Correct.

2 MS. FORD: Beg the Court's indulgence?

3 THE COURT: Yes, ma'am.

4 MS. FORD: No further questions.

5 THE COURT: Any redirect?

6 REDIRECT EXAMINATION

7 BY MS. ELLIOTT:

8 Q. While **Child** was attending the daycare,
9 how often would you see him?

10 A. Every day. I'm the one that drives the
11 bus.

12 Q. Who would bring him to the bus stop?

13 A. Curtis.

14 MS. FORD: Objection.

15 THE COURT: Basis?

16 MS. FORD: Outside of the scope.

17 THE COURT: Overruled.

18 BY MS. ELLIOTT:

19 Q. I'm sorry, who?

20 A. Curtis.

21 MS. ELLIOTT: No further questions,
22 Your Honor.

23 THE COURT: Any objection to the
24 witness being excused? From the State?

25 MS. ELLIOTT: None from the State.

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 THE COURT: From the defense?

2 MS. FORD: No, Your Honor.

3 THE COURT: Ma'am, you're excused.

4 Call your next witness.

5 MS. HERRING-LASH: The State would call
6 Tiffany Frierson.

7 TIFFANY FRIERSON,

8 being first duly sworn, testified as follows:

9 THE CLERK: Please speak into the
10 microphone and state your full name and spell your
11 last name.

12 THE WITNESS: Tiffany Frierson,
13 F-R-I-E-R-S-O-N.

14 THE COURT: You may proceed.

15 DIRECT EXAMINATION

16 BY MS. HERRING-LASH:

17 Q. Ms. Frierson, where do you live?

18 A. North Charleston.

19 Q. And who do you live with?

20 A. Ricky Williams, Ro.W.
21 , K.W. , and Ri.W.

22 Q. Are those last three you mentioned your
23 children?

24 A. Uh-huh.

25 Q. And how old are they?

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. Three, two, and one.

2 Q. And is Ricky Williams related to
3 Krystal Williams?

4 A. Yes.

5 Q. And what is that relationship?

6 A. Her brother.

7 Q. So you were like Child 's aunt?

8 A. Yes, ma'am.

9 Q. And are you working right now?

10 A. Yes.

11 Q. Where do you work?

12 A. EGS.

13 Q. And how long have you known Ricky?

14 A. Six years.

15 Q. And is that the amount of time that you
16 have also known Krystal?

17 A. Yes, ma'am.

18 Q. Were you and Krystal friends?

19 A. We became friends when I met Ricky.

20 Q. And did you talk to each other a lot?

21 A. Yes, ma'am.

22 Q. Visit?

23 A. Yes, ma'am.

24 Q. Now, was there ever a time when you all
25 kind of lived --

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. Yes.

2 Q. -- together?

3 A. Yes.

4 Q. Was that more than one time when you
5 all kind of lived together?

6 A. One time we moved in with her.

7 Q. What about before that when she was
8 with her mother, did you all kind of stay there
9 some?

10 A. We would visit some days, go back and
11 forth.

12 Q. How close do you live to Krystal and
13 Ricky's mother?

14 A. Three houses down.

15 Q. So would it be fair to say that you
16 spent a lot of time with Krystal and Child ?

17 A. Yes, ma'am.

18 Q. Do you remember when he was born?

19 A. Yes, ma'am.

20 Q. And were you there?

21 A. Yes, ma'am.

22 Q. And do you remember when Child moved
23 back to Charleston from Florence?

24 A. Yes, ma'am.

25 Q. When was that?

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. A couple of months after he was born.

2 Q. And at that point in time, did you
3 spend time with him?

4 A. Yes, ma'am.

5 Q. And was there any other men in
6 Krystal's life at that point in time?

7 A. Yes, ma'am.

8 MS. FORD: Objection; relevance.

9 THE COURT: I'll give her a little
10 latitude subject to connection. Overruled.

11 BY MS. HERRING-LASH:

12 Q. Did you spend time with him and Child ?

13 A. Yes, ma'am.

14 Q. What was that like?

15 A. He was another -- he was a father
16 figure.

17 Q. And after that relationship ended, did
18 Krystal get into another relationship?

19 A. Yes, ma'am.

20 Q. And who was that with?

21 A. C. J.

22 Q. And what was that relationship like?

23 A. Difficult.

24 Q. What do you mean?

25 A. To me, he had -- he was kind of

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 standoffish, so I didn't really approve of the
2 relationship.

3 Q. What about he and **Child** , did you
4 observe them together?

5 A. **Child** didn't seem himself around him.

6 Q. Didn't what?

7 A. He didn't seem like himself around him.

8 Q. Can you give us an example?

9 A. When **Child** 's around family, he's very
10 playful, very -- he likes to laugh, play, giggle
11 and talk, but when he's around C. J., he doesn't do
12 that.

13 Q. Did you visit **Child** and Krystal and
14 C. J. in one of their homes?

15 A. I visited **Child** and Krystal in one of
16 their homes.

17 Q. Was C. J. ever there?

18 A. No, ma'am.

19 Q. Did you ever hear C. J. talking to him?

20 A. Oh, yes, ma'am.

21 Q. Where was that?

22 A. At her mother's house.

23 Q. Okay. At Krystal's mother's house?

24 A. Yes, ma'am.

25 Q. And what in particular, did you hear

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 C. J. say to him?

2 A. He was fussing at him all the time --

3 MS. FORD: Objection; hearsay.

4 THE WITNESS: -- for doing something.

5 THE COURT: Sustained; hearsay.

6 Unless you can establish one of the exceptions and
7 establish a time frame to bring it -- to make it
8 relevant.

9 BY MS. HERRING-LASH:

10 Q. When was this?

11 A. My son had just turned one and we was
12 at Krystal's mother's house and him and Child was
13 playing in the house and --

14 THE COURT: I need to know a year and
15 I need to know the extent.

16 MS. HERRING-LASH: What year?

17 THE COURT: -- in relationship to this.

18 BY MS. HERRING-LASH:

19 Q. What year was your son one?

20 A. 2013. No, he was two. 2014. Sorry.

21 Q. And where were you all? Krystal's
22 mother's house?

23 A. Yes, ma'am,

24 Q. And was this -- like, where in the
25 house was it and what was going on?

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. In Krystal's room, they were playing.

2 Q. And was this a statement that Curtis
3 made to **Child** ?

4 A. Yes.

5 THE COURT: Approach.

6 (Bench conference)

7 THE COURT: You may proceed.

8 BY MS. HERRING-LASH:

9 Q. And, Tiffany what did you hear C. J.
10 say to **Child** ?

11 A. Tell him to sit his punk ass down and
12 stop acting out, stop playing.

13 Q. What was his tone of voice when he was
14 saying that?

15 A. Angry.

16 Q. Was it soft or loud?

17 A. Loud.

18 Q. Like, can you -- can you demonstrate?

19 A. Like -- like, a man's voice.

20 Q. What did you hear?

21 A. He was -- basically, a very man voice,
22 like, sit your punk ass down. Like, you're not no
23 momma's boy, don't punk ass around me.

24 Q. He called him a momma's boy?

25 A. Yes, ma'am.

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 Q. And did you hear him call him a momma's
2 boy and a punk ass?

3 A. Yes, ma'am.

4 Q. More than one time?

5 A. Just that one incident.

6 Q. Did you ever hear him call him -- raise
7 his voice to **Child** other than that?

8 A. Just that one incident.

9 Q. And how did **Child** act?

10 A. He kind of went and sat down, like he
11 was scared to do anything after that.

12 Q. And did you ever see him strike **Child** ?

13 A. Yes.

14 Q. And where was that?

15 A. On his hand, arm kind of.

16 Q. And where -- first of all, I'm sorry,
17 what location were you?

18 A. Like, right here, the part right here.

19 (Indicating) He basically popped him.

20 Q. Were you at his house or --

21 A. Krystal's momma's.

22 Q. And did you talk or -- without saying
23 anything that Krystal said, did you ever mention
24 this concern to her?

25 A. Well, at that time it was a simple pop,

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 it wasn't nothing alarming to talk to her about.

2 Q. What about the punk ass comment?

3 A. I did say something to her about that.

4 Q. Now, were you around them at all on
5 ?

6 A. No, ma'am.

7 Q. When did you stop hanging around them?

8 A. I think it was around the time they
9 moved off of Jackson Street and they moved onto

10

11 Q. So you never went to ?

12 A. No, ma'am.

13 Q. And since this has happened, have you
14 talked to C. J.?

15 A. No, ma'am.

16 MS. HERRING-LASH: Beg the Court's
17 indulgence for one moment?

18 THE COURT: Uh-huh.

19 BY MS. HERRING-LASH:

20 Q. Now, do you remember the day that C. J.
21 -- excuse me, Child died?

22 A. Yes, ma'am.

23 Q. What did you do when you got that news?

24 A. Broke down and went and checked on
25 Ricky.

TIFFANY FRIERSON - DIRECT EXAMINATION BY MS. HERRING-LASH

1 Q. And where did you go?

2 A. We went straight to MUSC.

3 Q. When you got to MUSC, who all did you
4 meet with?

5 A. We met with **Child** 's other uncle
6 William, his other uncle Kenneth, his other uncle
7 Bryant, **Child** 's grandmother, Krystal and C. J.,
8 and Shaquille and another little boy.

9 Q. And did C. J. tell you all at that
10 meeting what happened?

11 A. Yes, ma'am.

12 Q. What did he say?

13 A. **Child** got in an accident at the park
14 and when he got home, he was acting strange and he
15 moved on himself. He said he changed him and he
16 tried to give him some juice and a Tootsie Roll and
17 he wouldn't take it.

18 Q. And was that about the extent of that
19 conversation?

20 A. Yes, ma'am.

21 MS. HERRING-LASH: Those are all the
22 questions I have, Ms. Frierson. Please answer any
23 questions that Ms. Ford may have.

24 THE COURT: Ms. Ford, you may proceed.

25 MS. FORD: Thank you, Your Honor. May

TIFFANY FRIERSON - CROSS EXAMINATION BY MS. FORD

1 it please the Court?

2 THE COURT: Yes, ma'am, you may
3 proceed.

4 CROSS-EXAMINATION

5 BY MS. FORD:

6 Q. Just a few questions. You never spoke
7 to the police or anything, correct?

8 A. No, ma'am.

9 Q. So the Solicitor's office contacted you
10 or contacted the family?

11 A. Uh-huh.

12 Q. About trying to find out any
13 information, correct?

14 A. Uh-huh.

15 THE COURT: Ma'am, if you could say
16 yes or no.

17 THE WITNESS: I'm sorry. Yes, ma'am.

18 THE COURT: That's okay.

19 MS. FORD: No further questions.

20 THE COURT: Any redirect?

21 MS. HERRING-LASH: No, Your Honor.

22 THE COURT: Any objection to the
23 witness being excused?

24 MS. HERRING-LASH: No, Your Honor.

25 THE COURT: Ma'am, you're excused.

RICKY WILLIAMS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 THE WITNESS: Okay.

2 THE COURT: Call your next witness.

3 MS. HERRING-LASH: The State would call
4 Ricky Williams.

5 THE CLERK: Mr. Williams, up here
6 please.

7 RICKY FERNANDO WILLIAMS,
8 being first duly sworn, testified as follows:

9 THE CLERK: Please be seated.

10 Mr. Williams, if you could get close to this mic
11 and state your full name and spell your last name.

12 THE WITNESS: Ricky Fernando Williams,
13 W-I-L-L-I-A-M-S.

14 THE COURT: You may proceed.

15 DIRECT EXAMINATION

16 BY MS. HERRING-LASH:

17 Q. And, Mr. Williams, where do you live?

18 A. , North Charleston.

19 Q. Who do you live with?

20 A. My girlfriend, Tiffany Frierson and my
21 three kids, Ro.W. , Ri.W.
22 and K.W.

23 Q. And who is K.W. named after?

24 A. My nephew Child .

25 Q. And so you were related to Child by

RICKY WILLIAMS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 being his uncle?

2 A. Yes.

3 Q. And did Krystal and **Child** spend time
4 with you and your wife when she was pregnant with
5 **Child** ?

6 A. Yes, ma'am.

7 Q. And did she live in Charleston?

8 A. Yes.

9 Q. About when did she move here?

10 A. I would say it was sometime after her
11 and Terry broke up.

12 Q. Okay. And who is Terry?

13 A. **Child** 's father.

14 Q. And did you meet Terry?

15 A. Yes. On a few occasions, when he would
16 come down to Charleston.

17 Q. Would he come and visit **Child** ?

18 A. Yes.

19 Q. Did **Child** go and visit him?

20 A. Yes.

21 Q. Do you know what that visitation
22 schedule was like?

23 A. No, not exactly. I know he used to
24 come and get him every -- every so often, most of
25 the time.

RICKY WILLIAMS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 Q. So he had his visitation --

2 A. Yes.

3 Q. -- with **Child** ?

4 A. Yes. Yes, he would come and get him.

5 Q. Did Krystal have some boyfriends when
6 she got back here?

7 A. One prior to C. J.

8 Q. And who was that?

9 MS. FORD: Objection; again, relevance.

10 THE COURT: Please approach.

11 (Bench conference.)

12 THE COURT: You may proceed.

13 BY MS. HERRING-LASH:

14 Q. Were you around that relationship?

15 A. Yes.

16 Q. And did you spend time with him?

17 A. Yes.

18 Q. When did she meet C. J.?

19 A. I want to say between maybe April and
20 March.

21 Q. Of which years?

22 A. 2014.

23 Q. The same year that **Child** died?

24 A. Yes.

25 Q. And now would you spend a lot of time

RICKY WILLIAMS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 around Krystal, **Child** , and C. J.?

2 A. Sometimes.

3 Q. As much as before with -- with Krystal?

4 A. Yes, ma'am.

5 Q. How did you and C. J. get along?

6 A. It was -- it was fine --

7 MS. FORD: Objection; relevance.

8 THE COURT: Overruled. It goes to
9 credibility.

10 BY MS. HERRING-LASH:

11 Q. How did you and C. J. get along?

12 A. It was fine. There wasn't nothing
13 between us. It was --

14 THE COURT: I'm sorry, sir, we can't
15 hear you. I need you to speak up please.

16 THE WITNESS: I said it was fine.

17 There was no problem between us. I'd say -- it was
18 fine.

19 Q. What about with C. J. and **Child** ?

20 A. Sometimes -- he did a good job around
21 him so far as I saw.

22 Q. Were you around them a lot?

23 A. No, not all the time. Sometimes.

24 Q. Why not?

25 A. Just didn't take too kind to the guys

RICKY WILLIAMS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 that she --

2 THE COURT: Sorry, sir, I need you to
3 speak directly into the microphone.

4 THE WITNESS: I didn't take to -- I
5 didn't care for the guy she was talking to.

6 BY MS. HERRING-LASH:

7 Q. Why didn't you take kindly to C. J.?

8 A. There was some things I heard about
9 him.

10 Q. Anything regarding Child is the only
11 thing?

12 A. No, ma'am.

13 Q. Now, did you go to the hospital the
14 night that Child died?

15 A. Yes, ma'am.

16 Q. And after that, have you been around
17 Krystal a lot?

18 A. Yes, ma'am.

19 Q. And have you continued to see Krystal
20 on a pretty regular basis?

21 A. Yes, ma'am.

22 Q. Was there a time you didn't?

23 A. Yes, ma'am.

24 Q. And why was that?

25 A. I learned that she was still

RICKY WILLIAMS - DIRECT EXAMINATION BY MS. HERRING-LASH

1 conversating with him.

2 Q. With who?

3 A. C. J.

4 MS. HERRING-LASH: Beg the Court's
5 indulgence?

6 I have no further questions,
7 Mr. Williams.

8 THE COURT: Any questions for the
9 witness?

10 MS. FORD: I have no questions for this
11 witness.

12 THE COURT: Any objection to the
13 witness being excused? From the State?

14 MS. HERRING-LASH: No, Your Honor.

15 THE COURT: From the defense?

16 MS. FORD: No, Your Honor.

17 THE COURT: Sir, you are excused.

18 You may call your next witness.

19 MS. HERRING-LASH: Your Honor, may we
20 approach?

21 (Bench conference.)

22 MS. HERRING-LASH: The State would call
23 Sergeant Sid Lewis back to the stand.

24 THE COURT: Sergeant Lewis, would you
25 retake the stand? I would remind you that you are

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 still under oath.

2 SIDNEY LEWIS,

3 being previously duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. HERRING-LASH:

6 Q. Sergeant Lewis, I think we had gotten
7 to the point of your testimony when you all were
8 going -- you had called Krystal Williams and C. J.
9 Williams to come in and speak with you at the North
10 Charleston Police Department; is that correct?

11 A. Yes, ma'am.

12 Q. And when he -- when C. J. Williams came
13 in, did you escort him to an interview room?

14 A. Yes.

15 Q. And what are those interview rooms
16 like?

17 A. They are -- it's a table with four
18 chairs, audio and video activated.

19 Q. And so it was video and audio recorded?

20 A. Yes, ma'am.

21 Q. Now, when you -- before you began
22 questioning him, did you advise him of his Miranda
23 rights?

24 A. Yes, ma'am, I did.

25 Q. And how do you do that?

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 A. I use an Advisement of Rights form.

2 It's a form that was drafted that we have at our
3 disposal to aid us in advising them of their
4 rights.

5 Q. Tell the jury how you began and what
6 that process was like.

7 A. Yes, ma'am. The top portion is
8 basically their information. It has the date of
9 birth, their educational level, if they received a
10 diploma or GED.

11 Q. And what was his date of birth?

12 A. .

13 Q. And what was his educational
14 background?

15 A. He had a GED.

16 Q. And then how did you go about reading
17 these rights?

18 A. I go line by line. This is your right,
19 I write in the name. I have been advised by
20 myself, Sergeant Lewis of the North Charleston
21 Police Department that -- and then from there it
22 goes line to line. Would you like me to read it?

23 Q. Yes.

24 A. So the line says, I have the absolute
25 right to remain silent, to not answer any questions

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 or give a statement, and this fact cannot be used
2 against me.

3 And then the next line says, if I do
4 answer questions or give a statement, anything I
5 say can and will be used against me in a court of
6 law. I have the right to consult with a lawyer of
7 my choice before answering questions or give a
8 statement and also have them present while I'm
9 being questioned. If I wish to talk to a lawyer or
10 ask him or her to be present, but I'm unable afford
11 to hire a lawyer, one will be appointed to
12 represent me free of charge.

13 And the last sentence is, if I decide
14 to answer questions or give a statement without
15 having a lawyer present to represent me, I have the
16 absolute right during this interview to stop
17 answering questions and remain silent.

18 Q. And did he initial each of those?

19 A. Yes, ma'am. After each sentence
20 there's a space for him to initial stating that I
21 read that to him and that he understands.

22 Q. And then what is the next part?

23 A. Then the next portion of it is in bold
24 writing. It says, I fully understand each of these
25 rights as explained to me, and there's a place for

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 him to sign. And there's two witness spots as to
2 the two people that were witnesses to him being
3 advised.

4 Q. And he agreed to waive his rights?

5 A. Yes, ma'am. He signed -- he signed
6 that portion. And then the bottom portion of this
7 form says, having these rights in mind, I wish to
8 waive these rights to answer questions. No
9 threats, force or promises of any kind have been
10 made by me or anyone to cause me to waive these
11 rights and/or answer questions.

12 And he signed that as well.

13 Q. What day and time was this?

14 A. That was on October 27, 2014, at 1800
15 which was 6:00 p.m.

16 Q. And when you were speaking with him
17 during that time, did he appear to be intoxicated
18 or under the influence of anything?

19 A. No, ma'am, he did not.

20 Q. Did he appear to understand what you
21 were talking about?

22 A. Yes, he did.

23 Q. Did he, in fact, have any questions
24 about exactly what the rights meant?

25 A. He did. The last portion, I had to go

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 over again, said, having these rights in mind, I
2 wish to waive these rights. No threats -- no
3 threats have been made against me to waive these
4 rights, no threats, force or promises have been
5 made. So I reread that portion.

6 Q. And did you make any threats to him?

7 A. No, ma'am, I did not.

8 Q. Did you make any promises to him to
9 make him talk?

10 A. No, ma'am.

11 Q. At any point during your interview with
12 him, did he ask for an attorney?

13 A. No, ma'am, he did not.

14 MS. HERRING-LASH: And, Your Honor, at
15 this point we would offer into evidence the
16 videotaped statement that he gave?

17 THE COURT: Marked and admitted,
18 subject to the objection.

19 MS. FORD: Thank you.

20 (STATE EXH. 72 in evidence.)

21 (Videotaped statement played in open
22 court.)

23 THE COURT: Mr. Foreman, ladies and
24 gentlemen, we are going to take advantage of this
25 break in testimony to take our evening recess.

SIDNEY LEWIS - CONTINUED DIRECT EXAMINATION BY MS. HERRING-LASH

1 During the break, please do not discuss the case in
2 any manner whatsoever. Please don't have any
3 contact with anyone in or about the courthouse when
4 you return in the morning at 9:30.

5 During the break, do not read, watch,
6 or listen to any media accounts and do not do any
7 independent research on the Internet.

8 Please put your notebooks on the end of
9 that bannister so we can secure them during the
10 evening recess. I would appreciate it.

11 Hope you have a great evening. See you
12 in the morning at 9:30.

13 (Jury out, 5:08 p.m.)

14 THE COURT: You may step down. During
15 the break, please don't discuss your testimony with
16 anyone.

17 Anything from the State before we
18 adjourn for the evening?

19 MS. HERRING-LASH: Your Honor, I have
20 been in communication with Dr. Presnell.

21 THE COURT: Oh, good, I was going to
22 ask you.

23 MS. HERRING-LASH: And the last update
24 I got, the trial that was supposed to be going in
25 Jasper had two missing witnesses and they may not

1 be able to start. And so she can be here in the
2 morning.

3 THE COURT: Okay. That works. Well,
4 you may want to finish this witness and tell her --
5 gauge when you think that will conclude so that she
6 can be here and -- instead of sitting here.

7 MS. HERRING-LASH: That's what I will
8 try to do. They told her they would let her know
9 for sure by 9:30 if they've located those people,
10 but they may not be able to go forward at all. And
11 they had told me as long as she could be done here
12 and there by 2:00, they could call her in the
13 afternoon.

14 THE COURT: Okay. That works.
15 Who on this list will you not be
16 calling? You can just give me numbers. Will you
17 be calling number 7?

18 MS. HERRING-LASH: Let me get to the
19 list that you have. It's different from ours.
20 No.

21 THE COURT: Number 15?

22 MS. HERRING-LASH: No.

23 THE COURT: Number 16?

24 MS. HERRING-LASH: No.

25 THE COURT: 18?

1 MS. HERRING-LASH: No.

2 THE COURT: 19?

3 MS. HERRING-LASH: No.

4 THE COURT: Excuse me, 21?

5 MS. HERRING-LASH: No.

6 THE COURT: 22?

7 MS. HERRING-LASH: No.

8 THE COURT: 23?

9 MS. HERRING-LASH: Yes.

10 THE COURT: And then I assume you will
11 be calling 24 through 26?

12 MS. HERRING-LASH: Yes.

13 THE COURT: And will you be calling
14 27?

15 MS. HERRING-LASH: If it's 27, it would
16 be in rebuttal.

17 THE COURT: Anything further from the
18 State before we adjourn?

19 MS. HERRING-LASH: The one person in
20 the office that can do the redaction is gone for
21 the day. We may have to play it --

22 THE COURT: It just needs to be done
23 by the time it's submitted to the jury.

24 MS. HERRING-LASH: We may have to mute
25 it in the courtroom.

1 THE COURT: I need for you all to come
2 to some conclusion, though, and have some agreement
3 about what it is you can agree on.

4 Okay. Anything else from the State?

5 MS. HERRING-LASH: No, Your Honor.

6 THE COURT: From the defense?

7 MS. FORD: No, Your Honor.

8 THE COURT: You-all have a good
9 evening. See you in the morning at 9:30.

10 (These proceedings were recessed at
11 5:10 p.m., to be continued September 14, 2016 at
12 9:30 a.m.)

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (The following proceedings were held
2 September 14, 2016 at 9:59 a.m., in re: State v.
3 Curtis Williams, Charleston County Circuit Court,
4 Charleston, South Carolina.)

5 THE COURT: Have you agreed to any of
6 the exhibits.

7 MS. HERRING-LASH: Your Honor, they
8 were three images that were going to be admitted
9 without opposition.

10 THE COURT: I need to know the number.

11 MS. HERRING-LASH: 54, 55, and 56.

12 THE COURT: And are those admitted
13 without objection?

14 MS. FORD: Yes.

15 THE COURT: Those will be marked and
16 admitted without objection.

17 (STATE EXH. 54 in evidence.)

18 (STATE EXH. 55 in evidence.)

19 (STATE EXH. 56 in evidence.)

20 THE COURT: Sir, you can retake the
21 stand. I will remind you that you were still under
22 oath.

23 SIDNEY LEWIS,
24 having been previously sworn, testified as follows:

25 THE COURT: Do you have the video

SIDNEY LEWIS - CONTINUED DIRECT EXAM BY MS. HERRING-LASH

1 cued?

2 MS. ELLIOTT: Yes, Your Honor.

3 (Jury in, 9:56 a.m.)

4 THE BAILIFF: All jurors are present.

5 THE COURT: Thank you. Good morning,
6 ladies and gentlemen. I hope everyone had a
7 pleasant evening. We're so happy that everyone
8 arrived safely. I know that we're all dealing with
9 the effects of Tropical Storm Julia, and I'm glad
10 that everybody arrived without incident.

11 We are now going to resume the
12 testimony of the witness and the playing of the
13 video. You may proceed.

14 Before we do that, can you approach for
15 me?

16 (Bench conference.)

17 THE COURT: You may proceed.

18 (Videotaped statement played in open
19 court.)

20 THE COURT: Please stop the video and
21 approach please.

22 (Bench conference.)

23 THE COURT: Mr. Foreman, ladies and
24 gentlemen, you are to disregard the last portion of
25 the video where the defendant's mother and Ms. --

SIDNEY LEWIS - CONTINUED DIRECT EXAM BY MS. HERRING-LASH

1 and the minor child's mother enter the room and any
2 statements that were made to the defendant from
3 that portion of the video. You are to disregard
4 and disabuse it from your mind. You are not to
5 give it any consideration whatsoever and it is not
6 to be discussed in any manner whatsoever in the
7 deliberative process.

8 That would conclude the playing of that
9 portion of the testimony. You all have been
10 sitting a little over an hour. I am going to give
11 you a midmorning restroom break. During the break,
12 please do not discuss the case and please leave
13 your notepads in your seats.

14 We will be out for as long as it takes
15 you to refresh yourselves.

16 (Jury out, 11:05 a.m.)

17 THE COURT: Sir, you may step down.
18 Please do not discuss your testimony with anyone.
19 We will be at ease about ten minutes for a restroom
20 break.

21 (A recess transpired.)

22 THE COURT: State ready?

23 MS. HERRING-LASH: Yes, Your Honor.

24 THE COURT: Defense ready to proceed?

25 MS. FORD: Yes, Your Honor.

SIDNEY LEWIS - CONTINUED DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: Please bring in the jury.

2 (Jury in, 11:23 a.m.)

3 THE BAILIFF: Jurors are seated.

4 THE COURT: We will resume testimony.

5 State may proceed.

6 MS. HERRING-LASH: Thank you, Your

7 Honor.

8 THE COURT: You're welcome.

9 CONTINUED DIRECT EXAMINATION

10 BY MS. HERRING-LASH:

11 Q. Sergeant Lewis, did you -- was that --
12 after that interview, was that pretty much the end
13 of most of your involvement in the case?

14 A. Yes, it was.

15 MS. HERRING-LASH: Beg the Court's
16 indulgence?

17 May I approach the witness?

18 THE COURT: You may.

19 BY MS. HERRING-LASH:

20 Q. I want to show you an envelope
21 containing two CDs. Did you receive those from
22 Rebecca Bailey?

23 A. Yes. These are the videos that
24 Detective Bailey retrieved for me.

25 Q. What did you do with them?

SIDNEY LEWIS - CROSS EXAM BY MS. FORD

1 A. Placed them into evidence.

2 MS. HERRING-LASH: Your Honor, I would
3 now -- would like for a number to be marked on
4 these and would have Rebecca Bailey --

5 THE COURT: Mark them for ID.

6 Do you have any exceptions to that, Ms.
7 Ford?

8 MS. FORD: I think it would --

9 MS. HERRING-LASH: I have one more
10 witness --

11 THE COURT: You're not moving it to be
12 admitted?

13 MS. HERRING-LASH: Not at this time.

14 THE COURT: It will be marked for ID
15 only.

16 (STATE EXH. 74, Envelope with 2 CDs,
17 was marked for identification.)

18 MS. HERRING-LASH: Those are all the
19 questions I have.

20 THE COURT: Any cross examination of
21 the witness?

22 MS. FORD: Yes, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. FORD:

25 Q. Sergeant Lewis, you spoke to Mr.

SIDNEY LEWIS - CROSS EXAM BY MS. FORD

- 1 Williams on several occasions, correct?
- 2 A. Yes, that's correct.
- 3 Q. So you spoke to him the night that
- 4 Child died?
- 5 A. I did, at the hospital.
- 6 Q. And then you went to the house
- 7 afterwards?
- 8 A. Correct.
- 9 Q. He didn't have his key, right?
- 10 A. He told us he did not have his house
- 11 key and stated he could climb in.
- 12 Q. But he consented to you going inside of
- 13 his home, correct?
- 14 A. Yes, he and Krystal. Krystal signed
- 15 the consent search form.
- 16 Q. The coroner was there as well?
- 17 A. Yes.
- 18 Q. And Curtis, Mr. Williams, he consented
- 19 to showing you all what happened before Child was
- 20 taken to the hospital, correct?
- 21 A. He did a reenactment of the events from
- 22 the initial story that he told at the hospital,
- 23 correct.
- 24 Q. And then the next day you asked him to
- 25 come to the police station?

SIDNEY LEWIS - CROSS EXAM BY MS. FORD

1 A. Yes.

2 Q. And that was after you received the
3 autopsy results?

4 A. Yes.

5 Q. So, at that point, you didn't indicate
6 to him that he was a suspect, correct?

7 A. I'm sorry?

8 Q. When you asked him to come in?

9 A. No, ma'am.

10 Q. But he fully cooperated in coming in?

11 A. He did.

12 Q. So, to your knowledge, up until the
13 interview, no one -- it had not been indicated to
14 him that Child -- the reason for Child 's death?

15 A. Not until we went over the results of
16 the autopsy.

17 Q. And people talked to Krystal as well,
18 correct? Or you did?

19 A. Yes, ma'am.

20 Q. Curtis admitted to not taking Child to
21 the store, correct?

22 A. He did.

23 Q. At that point, nobody else had
24 indicated that to you?

25 A. I don't recall.

SIDNEY LEWIS - CROSS EXAM BY MS. FORD

1 Q. D.S. never mentioned that to you?

2 A. No, ma'am.

3 Q. And Shaquille never mentioned that to
4 you?

5 A. No, ma'am.

6 Q. And Krystal hasn't mentioned they went
7 to the store, correct?

8 A. Later, I believe, in the prior
9 interview she said -- she first omitted that and
10 then said she didn't think it was relevant because
11 it was such a short meeting with her at the store,
12 she didn't think about it.

13 Q. That was at the same time -- her
14 interview was going on simultaneously with Mr.
15 Williams, correct?

16 A. Yes, correct.

17 Q. They were both at the police station?

18 A. Yes, ma'am.

19 Q. So C. J. is actually the one who told
20 you first about that, correct?

21 A. I don't remember. We were back and
22 forth between the rooms. They -- it was both told
23 the same day, yes.

24 Q. You told us today -- of course we saw
25 the video of C. J.'s statement that day. So he

SIDNEY LEWIS - CROSS EXAM BY MS. FORD

1 told you about some of his statements the day
2 before?

3 A. Yes.

4 Q. As an officer, you've been trained,
5 correct? You have been to the police academy?

6 A. Yes, I have.

7 Q. And one thing you do there is learn how
8 to write police reports?

9 A. Yes.

10 Q. Because police reports are really
11 important; is that fair to say?

12 A. Yes, ma'am.

13 Q. That a lot of people rely on them?

14 A. Well, yes.

15 Q. The attorneys rely on them, for
16 example?

17 A. Yes.

18 Q. Your supervisor may rely on them?

19 A. Yeah. Well, I'm the supervisor.

20 Q. I know you are.

21 A. I'm the supervisor of the unit, so...

22 Q. You actually may have to rely on them
23 at some point for your memory, correct?

24 A. Yes. We rely on a lot of things, yes,
25 ma'am.

SIDNEY LEWIS - CROSS EXAM BY MS. FORD

1 Q. Because sometimes it can take years to
2 go to court?

3 A. Correct.

4 Q. And you deal with many people?

5 A. Yes.

6 Q. So you did write a report in this case?

7 A. I wrote some case notes, yes, ma'am.

8 Q. And just to be clear, you never
9 indicated what C. J. had said the night of Child 's
10 death in your statement, in your police report?

11 A. No, I did not.

12 Q. Everything you told us yesterday, that
13 was from just your memory?

14 A. My memory and Detective Terry was
15 present during those interviews as well.

16 Q. Okay.

17 A. As a supervisor -- as a supervisor many
18 detectives that work under me they notate their
19 case notes as well.

20 Q. Okay. You didn't actually dictate or
21 you didn't actually summarize or write out
22 Mr. Williams' statement in your report?

23 A. No, I did not.

24 MS. FORD: Beg the Court's indulgence?

25 I have no further questions.

SIDNEY LEWIS - REDIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: Any redirect?

2 MS. HERRING-LASH: Just briefly.

3 THE COURT: You may proceed.

4 REDIRECT EXAMINATION

5 BY MS. HERRING-LASH:

6 Q. Sergeant Lewis, was Detective Terry
7 someone that was working, I guess, under your
8 supervision?

9 A. Yes.

10 Q. And did you use his notes that he took
11 during your interview as the refresher for your
12 memory as to what was said?

13 A. Correct.

14 MS. HERRING-LASH: That's all the
15 questions I have.

16 THE COURT: Sir, you may step down.

17 THE WITNESS: Thank you.

18 THE COURT: You may call your next
19 witness.

20 MS. HERRING-LASH: State would call
21 Rebecca Bailey.

22 REBECCA BAILEY,
23 being first duly sworn, testified as follows:

24 THE CLERK: Be seated. Please state
25 your full name and spell your last name.

REBECCA BAILEY - DIRECT EXAM BY MS. HERRING-LASH

1 THE WITNESS: Rebecca Bailey,
2 B-A-I-L-E-Y.

3 THE COURT: You may proceed.

4 DIRECT EXAMINATION

5 BY MS. HERRING-LASH:

6 Q. Detective Bailey, where do you work?

7 A. North Charleston Police Department.

8 Q. And what is your position there?

9 A. I'm a detective with the special
10 victims unit.

11 Q. Did you have any involvement in this
12 case?

13 A. Minimal; I collected the video per
14 request.

15 Q. And that -- were you instructed by your
16 supervisor to do that?

17 A. Yes.

18 Q. And what did you do first?

19 A. I went to the store and spoke to --

20 Q. What store?

21 A. Save-A-Lot on Rivers and Durant in
22 North Charleston and asked to speak to whomever was
23 going to be able to download a video. Contacted
24 Sergeant Lewis again to ask for a little more
25 detail as far as the time frame and what we were

REBECCA BAILEY - DIRECT EXAM BY MS. HERRING-LASH

1 looking for. They had several cameras within the
2 store.

3 Once that was established, the person I
4 spoke to, I don't remember his name -- I don't have
5 the report in front of me -- was unable to download
6 the video requested.

7 We then went back the next day with
8 Detective Rio, who is a little more inclined
9 technically, and we were able to get the video.

10 Q. And did you stay there while it was
11 being copied onto a disc for the North Charleston
12 Police Department?

13 A. I did.

14 MS. HERRING-LASH: May I approach the
15 witness, Your Honor?

16 THE COURT: Yes, ma'am.

17 BY MS. HERRING-LASH:

18 Q. I'm going to show you what's been
19 marked as State's Exhibit 74 for identification
20 only. Do you recognize that envelope?

21 A. I do.

22 Q. Is that your writing?

23 A. Yes.

24 Q. What did you place in that envelope?

25 A. DVDs.

REBECCA BAILEY - DIRECT EXAM BY MS. HERRING-LASH

1 Q. From where?

2 A. Save-A-Lot.

3 Q. And what did you do with them?

4 A. Gave them to Sergeant Lewis.

5 MS. HERRING-LASH: Your Honor, at this
6 time, we would move in State's Exhibit 74.

7 THE COURT: Any objection?

8 MS. FORD: Yes, Your Honor.

9 THE COURT: Basis?

10 MS. FORD: May we approach?

11 THE COURT: You may approach.

12 (Bench conference.)

13 BY MS. HERRING-LASH:

14 Q. Detective Bailey, when you went to the
15 Save-A-Lot, did you request a particular day and
16 time frame?

17 A. I did.

18 Q. What was that?

19 A. Without my notes, I don't remember.

20 Q. Would you like me to give you a copy of
21 the notes?

22 A. Sure.

23 MS. HERRING-LASH: May I approach?

24 THE COURT: You may.

25 THE WITNESS: Thanks. I requested the

REBECCA BAILEY - DIRECT EXAM BY MS. HERRING-LASH

1 video for the date of October 26, 2014, and
2 Sergeant Lewis requested the times between the
3 hours of 1:00 a.m. and 5:00 p.m.

4 BY MS. HERRING-LASH:

5 Q. And is that what you asked the store
6 to --

7 A. I usually ask for an hour or two
8 before, maybe an hour after. So it's a possibility
9 there is a longer time frame.

10 Q. Okay. Your Honor, at this time, we
11 would offer State's Exhibit Number 74 into
12 evidence.

13 THE COURT: Any objection?

14 MS. FORD: Just my prior objection.

15 THE COURT: Overruled, goes to weight,
16 not admissibility. The video is
17 self-authenticating. Any objection goes to weight,
18 not admissibility. You will have the opportunity
19 to cross-examine the witness.

20 MS. HERRING-LASH: Those are all the
21 questions I have.

22 THE COURT: Any questions for the
23 witness?

24 CROSS-EXAMINATION

25 BY MS. FORD:

REBECCA BAILEY - CROSS EXAM BY MS. FORD

1 Q. Hello. Just when you watched the
2 video, did you make any effort to make sure that
3 the timing was correct on the video?

4 A. I did not watch the video. I remember
5 looking at the video screen as they were trying to
6 establish a time frame requested, but I think they
7 were paying more attention to the time frame that
8 was being requested than I was.

9 Q. Okay. Sometimes on the surveillance
10 videos the timing on the video may not be the
11 correct time, correct?

12 A. I wouldn't know. I had nothing to do
13 with the actual downloading of the video. I
14 requested it and they downloaded it.

15 Q. So this particular DVD you were unsure,
16 is that what you're saying?

17 A. Unsure of what?

18 Q. If the time that is on the video is the
19 real time that things happened.

20 A. I can only assume that it is the
21 correct time. If it's not, I wouldn't have any
22 knowledge of that.

23 MS. FORD: Okay. No further questions.

24 THE COURT: Any redirect?

25 MS. HERRING-LASH: No, Your Honor.

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: Any objection to the
2 witness being excused? From the State?

3 MS. HERRING-LASH: No, Your Honor.

4 THE COURT: From the defense?

5 MS. FORD: No, Your Honor.

6 THE COURT: Ma'am, you're excused.

7 Call your next witness.

8 MS. HERRING-LASH: The State could call
9 Krystal Williams.

10 THE COURT: Krystal Williams.

11 KRYSTAL WILLIAMS,

12 being first duly sworn, testified as follows:

13 THE CLERK: Ms. Williams, speak into
14 the microphone, state your full name, and spell
15 both your first and last name.

16 THE WITNESS: Krystal Williams,
17 K-R-Y-S-T-A-L W-I-L-L-I-A-M-S.

18 THE COURT: You may proceed.

19 DIRECT EXAMINATION

20 BY MS. HERRING-LASH:

21 Q. Krystal, what relationship are you or
22 were you to **Child** ?

23 A. His mother.

24 Q. And what was **Child** 's birth date?

25 A.

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: I'm sorry, ma'am, we can't
2 hear.

3 THE WITNESS:

4 BY MS. HERRING-LASH:

5 Q. Now, where were you born?

6 A. Newark, New Jersey.

7 Q. And where did you grow up?

8 A. Charleston, South Carolina.

9 Q. And who all was your family?

10 A. Ricky Williams, Brian Williams, Kenneth
11 Russ Williams, and Harvey George, and Angela
12 Williams.

13 Q. Are those your brothers?

14 A. Yeah.

15 Q. Okay. Does most of your family still
16 live in the Charleston area?

17 A. Yes.

18 Q. And who is **Child** 's father?

19 A. Terry Tyrone McKithen.

20 Q. Is he in the courtroom?

21 A. Yes.

22 Q. And where was **Child** born?

23 A. Florence, South Carolina.

24 Q. And how did you end up living in
25 Florence?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

- 1 A. I met Terry.
- 2 Q. Pardon me?
- 3 A. I met Terry.
- 4 Q. Is that where he lived?
- 5 A. Yeah.
- 6 Q. And where did you all live? In
- 7 Florence or small town or --
- 8 A. It was between Timmons ville and
- 9 Darlington.
- 10 Q. How long did you live there with Terry
- 11 and Child ?
- 12 A. Well, before I had Child ?
- 13 Q. From the whole time you lived there and
- 14 then with Child , yes?
- 15 A. Two years.
- 16 Q. And how old was Child when you moved
- 17 away from Timmons ville?
- 18 A. He was ten months.
- 19 Q. And when you and Child came back to
- 20 Timmons ville, where did you live?
- 21 A. No, I didn't come back to Timmons ville.
- 22 Q. I'm sorry, back to Charleston.
- 23 A. We lived with my mother on
- 24
- 25 Q. At that point in time who all lived

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 with your mom?

2 A. Kenneth, Russ, Ricky Williams, Tiffany
3 Frierson, my mom, and Harvey George.

4 Q. You had a full house?

5 A. Yeah.

6 Q. And at that time were you working?

7 A. No.

8 Q. And at some point did you move from
9 your mom's house?

10 A. Yes.

11 Q. And where did you move to?

12 A. On Success Street.

13 Q. Do you know about when that was?

14 A. I think it was, like, the end of 2012
15 or -- yeah, I think it was 2012.

16 Q. And at Success Street, who lived with
17 you?

18 A. I had different people there, but not
19 at the same time.

20 Q. Like, can you give us --

21 A. It was me, **Child**, my friend Slim,
22 Ricky, Tiffany, and my nephew.

23 Q. And who was Slim?

24 A. A friend of mine.

25 Q. And after that, where did you move?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

- 1 A. I moved back to my mom's house.
- 2 Q. And was that you and **Child** ?
- 3 A. Yes.
- 4 Q. And then at some point in time, did you
- 5 leave your mom's house again?
- 6 A. Uh-huh.
- 7 Q. Do you know when that was?
- 8 A. 2014, like in April.
- 9 Q. If you don't remember exactly just --
- 10 you can let us know that you're guessing if you are
- 11 guessing.
- 12 A. I don't remember.
- 13 Q. And where did you move to?
- 14 A. I don't know her address, but it was
- 15 behind Cosgrove Bridge.
- 16 Q. Who was it?
- 17 A. Lu-Lu.
- 18 Q. And who is Lu-lu?
- 19 A. Who is she to -- a friend.
- 20 Q. A friend of yours?
- 21 A. I met her through C. J.
- 22 Q. So before you moved in with Lu-Lu, you
- 23 had met Curtis Williams?
- 24 A. Yes.
- 25 Q. When did you meet Curtis Williams?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

- 1 A. In March.
- 2 Q. Of?
- 3 A. 2014.
- 4 Q. And when did you all become an official
- 5 couple?
- 6 A. It was on my birthday.
- 7 Q. When is that?
- 8 A. .
- 9 Q. Of '14?
- 10 A. Yes.
- 11 Q. When you moved in with Lu-Lu, did
- 12 Curtis Williams move in with you?
- 13 A. Yes.
- 14 Q. And at that point in time were you
- 15 working?
- 16 A. Yes.
- 17 Q. And where were you working?
- 18 A. Goodwill and Save-A-Lot.
- 19 Q. Both jobs?
- 20 A. Yes.
- 21 Q. Where was Curtis working?
- 22 A. Well, he wasn't really "working"
- 23 working, but he was at his uncle's car wash.
- 24 Q. What do you mean by not really
- 25 "working" working?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. Go in when he wanted to. He didn't go,
2 like, every day.

3 Q. And did -- when you worked, who took
4 care of **Child** ?

5 A. C. J.

6 Q. And is C. J. what you call Curtis
7 Williams?

8 A. Yes.

9 Q. And after -- so C. J. would be the
10 primary caretaker?

11 A. Yes.

12 Q. And after living with Lu-Lu, did you
13 and Curtis move to another location?

14 A. Yes. We moved to Jackson Road with his
15 cousin.

16 Q. And who was that cousin?

17 A. Sharell.

18 Q. And did you and Curtis eventually move
19 to ?

20 A. Yes.

21 Q. And do you know when that was?

22 A. October 3rd, 2014.

23 Q. So October 3, 2014?

24 A. Yes.

25 Q. And I would show you what has been

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 previously marked as State's Exhibit Number 43.

2 And we have seen this throughout the trial, but is
3 this where you lived?

4 A. Yes.

5 Q. And just to refresh us, what apartment
6 did you and **Child** and C. J. live in?

7 A. (Marking)

8 Q. And when you lived in that apartment,
9 where did **Child** sleep?

10 A. On the couch.

11 Q. And when you moved -- when you and
12 C. J. and **Child** moved into that apartment, where
13 were you working?

14 A. Goodwill and Save-A-Lot.

15 Q. Now, when you worked, at some point did
16 **Child** begin to go to daycare?

17 A. Yes. He actually started daycare when
18 I was still with my mother.

19 Q. What daycare did he go to?

20 A. We Care For Children.

21 Q. And would he go all day most weeks?

22 A. Yeah.

23 Q. Did you have some issues with vouchers?

24 A. Yes.

25 Q. How does that work?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. Basically, they give you a paper and
2 tell you what time frame to go to daycare, and you
3 have to recertify to enter the class again.

4 Q. So they will give you, like, a time
5 frame, let's just say September to October, and
6 then if that runs out, he can't go back until you
7 recertify?

8 A. Yeah. And I had to wait for a letter
9 to come in the mail.

10 Q. Were there time frames when he was
11 going to daycare and that certification would run
12 out and he couldn't go to daycare?

13 A. Yes.

14 Q. When that happened, who would take care
15 of him?

16 A. C. J.

17 Q. Going back to your actual working, what
18 hours would you work at Goodwill?

19 A. Mainly mornings and sometimes
20 afternoon.

21 Q. When you say mornings, what do you
22 mean?

23 A. Like, 8 to 3 or 8 to 4.

24 Q. Okay. And did you also work -- you
25 said Save-A-Lot?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

- 1 A. Yes.
- 2 Q. And what were your hours there?
- 3 A. They usually be, like, right afterwards
- 4 sometimes or, like, middays.
- 5 Q. And what would afterwards mean?
- 6 A. Probably, like, 5 to 10 and sometimes
- 7 12 to 7.
- 8 Q. Okay. And would it be fair to say that
- 9 you worked mornings in one job and the afternoons
- 10 in the other, or vice versa?
- 11 A. Yes.
- 12 Q. Most days did you work both jobs?
- 13 A. Yes.
- 14 Q. Now, when you worked the evening shift,
- 15 from what you described, would **Child** sometimes be
- 16 asleep when you got home?
- 17 A. Sometimes.
- 18 Q. And would there be times when Curtis
- 19 would have to bathe **Child** because you didn't get
- 20 home before he went to bed?
- 21 A. Yes.
- 22 Q. Now, when **Child** was sick, would you
- 23 take him for visits?
- 24 A. Yes, ma'am.
- 25 Q. And when you lived on Jackson Street,

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 going back, that's before ?

2 A. Yes.

3 Q. Did you have family members that would
4 visit then?

5 A. Yes. Tiffany.

6 Q. Tiffany?

7 A. Yes.

8 Q. Is that what you said?

9 A. Yes.

10 Q. And was Tiffany -- how is she related
11 to you?

12 A. I consider her a sister-in-law. It's
13 my brother's girlfriend.

14 Q. I guess she's the mother of your niece
15 and your nephew?

16 A. Yes.

17 Q. And did she have a child that was close
18 in age to Child ?

19 A. Yes

20 Q. And would they play?

21 A. Yes.

22 Q. And so she would visit at that home?

23 A. Yes.

24 Q. Did she ever visit you at that
25 you remember?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

- 1 A. No. No.
- 2 Q. Now, do you know Shaquille Prioleau?
- 3 A. Yes.
- 4 Q. And how do you know Shaquille?
- 5 A. I met him through C. J.
- 6 Q. And do you remember when you met him?
- 7 A. No. No.
- 8 Q. Did **Child** play with Shaquille?
- 9 A. Yes.
- 10 Q. What kind of things would they do?
- 11 A. Well, like, if he's playing a game, he
- 12 would give him a control even though it's not
- 13 really hooked up.
- 14 Q. **Child** thinks he's playing?
- 15 A. Yeah.
- 16 Q. What other kind of things?
- 17 A. They will play outside and -- he just
- 18 played with him a lot.
- 19 Q. What did Shaquille call him?
- 20 A. G. B.
- 21 Q. What did that stand for?
- 22 A. Granddaddy belly.
- 23 Q. Did **Child** like Shaquille?
- 24 A. Yes.
- 25 Q. Now, what was the relationship like

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 between C. J. and **Child** ?

2 A. It was -- I don't really see him, like,
3 interacting with him, like, how Shaq would -- or
4 Shaquille would.

5 Q. So it was different?

6 A. Yes.

7 Q. How did **Child** act around C. J.?

8 A. Not really his -- he didn't really talk
9 like that.

10 Q. Can you give an example or general
11 or --

12 A. Like, if it's me, C. J., and **Child**
13 around, he'll just come sit by me and not really
14 talk. I mean, he'll talk to me, but he won't talk
15 loud like he normally would talk.

16 Q. Did C. J. ever yell at **Child** ?

17 A. Yes.

18 Q. And did he call him names?

19 A. Uh-huh, yes.

20 Q. Can you tell the jury what you mean by
21 yelling and what names?

22 A. Like, I guess, he would consider him
23 being a mama's boy and tell him to sit your punk
24 ass down.

25 Q. What would make him call him a mama's

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 boy?

2 A. Because he was always up under me.

3 Q. And how would he often -- when you
4 say -- say that, was his tone like you were saying
5 it or was it different?

6 A. Different.

7 Q. How was it?

8 A. Higher.

9 THE COURT: Sorry?

10 THE WITNESS: It was higher.

11 BY MS. HERRING-LASH:

12 Q. You mean loud?

13 A. Yeah.

14 Q. Did C. J. ever get mad at **Child** ?

15 A. Not really, but besides -- just the
16 fact that he was -- **Child** was up under me all the
17 time.

18 Q. And what do you mean by up under me?

19 A. Wherever I go, he would follow me.

20 Q. And that made C. J. upset?

21 A. Yes. He considered him being a mama's
22 boy, soft.

23 Q. Soft?

24 A. (Nodding)

25 Q. Did **Child** ever cry?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. Cry for what?

2 Q. When C. J. would yell at him?

3 A. It depends.

4 Q. On what?

5 A. I guess, how he would say it to him or
6 how he would fuss at him.

7 Q. What kind of fussing or yelling would
8 it be to make him cry?

9 A. Basically, just getting loud.

10 Q. And did you agree with the way that
11 C. J. treated **Child** ?

12 A. No.

13 Q. And what did you do about it?

14 A. I used to always tell him, like, as far
15 as don't -- because I don't even fuss at **Child** .
16 So I was really kind of lenient with him. So if
17 anybody else would fuss at him, I take it
18 offensive.

19 Q. Now, did C. J. have a relationship with
20 a former girlfriend that had a child?

21 A. Yes.

22 Q. What was that little girl's name?

23 A. **J.** .

24 Q. And did **J.** visit you all?

25 A. Yes.

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 Q. Did you, yourself, observe the
2 interactions between C. J. and **Child** and J. ?

3 A. Yes.

4 Q. And was there a difference?

5 A. Yes.

6 Q. What was that?

7 A. Favoritism.

8 Q. And what do you mean by that?

9 A. Like, when she's around, it's like he
10 forgets he's in a relationship or he caters to her.

11 Q. And what about **Child** ?

12 A. It was like he's not -- we're not
13 there.

14 Q. Now, were there times or a time when
15 **Child** didn't want you to leave him?

16 A. I would say that day, sorry, that when
17 I left to go to work he just looked --

18 Q. What day are you talking about?

19 A. The -- October 26th.

20 Q. And what happened that you think that
21 happened?

22 A. Nothing really happened. It was just
23 -- he'd been looking at me like he didn't want me
24 to go to work.

25 Q. I guess you had to anyway?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. Yes.

2 Q. Taking your attention for a moment,
3 away from that day to the week before, the week
4 after **Child** died. Did he go to daycare that week?

5 A. Yeah, I think so.

6 Q. Had he been away from daycare for
7 awhile?

8 A. Yeah. He had pinkeye.

9 Q. Which day of the week did he have
10 pinkeye; do you remember?

11 A. It was actually the last week.

12 Q. That last week. Which -- was there one
13 day that week that you had to go get him because of
14 pink eye?

15 A. No. She had to drop him back off
16 early.

17 Q. When you say dropped him back off --

18 A. She dropped him back off at the house.

19 Q. Did you have to take him to the doctor?

20 A. Yes.

21 Q. And did he go back to school the next
22 day or did he have to wait?

23 A. No, he had to wait.

24 Q. And so that week he was in school just
25 three days?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. Yes.

2 Q. Excuse me. When he was out of daycare,
3 the timing before that week when he went back and
4 that week when he had to be out with pinkeye, who
5 watched him then?

6 A. C. J.

7 Q. Now, do you remember that week what
8 your schedule was all that week at Goodwill?

9 A. It was mainly mornings and sometimes 3
10 to 9 or 10.

11 Q. If you worked mornings, what would it
12 be?

13 A. 8 to 4, or 8 to 3.

14 Q. Would it help you if I showed you a
15 copy of your work schedule to remember exactly?

16 A. Yes.

17 MS. HERRING-LASH: May I approach the
18 witness, Your Honor?

19 THE COURT: You may.

20 BY MS. HERRING-LASH:

21 Q. And we are talking here about the 20th.
22 What hours did you work on Monday, October 20th?

23 A. At 3 to 8:30.

24 Q. And what about the 21st?

25 A. I was off that day.

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

- 1 Q. Is that the day **Child** had the pinkeye?
- 2 A. Yes.
- 3 Q. And next day he had to stay home. What
- 4 did you work that day?
- 5 A. That Wednesday?
- 6 Q. Uh-huh.
- 7 A. 8 to 3.
- 8 Q. Okay. And then does it go -- do you
- 9 have a break and then go on?
- 10 A. Yes. I went to work at 12:30 -- 12:28.
- 11 Q. And then when?
- 12 A. I came back at 12:55.
- 13 Q. And then when did you leave?
- 14 A. 3:30.
- 15 Q. So that break is your lunch or your
- 16 break?
- 17 A. Yes.
- 18 Q. And that was Wednesday, so that was the
- 19 morning. What about Thursday, when did you work?
- 20 A. I went in at 2:57, and I got off at
- 21 8:44.
- 22 Q. 8:44?
- 23 A. Uh-huh.
- 24 Q. And on that Friday, when did you work?
- 25 A. 8:33 to 3:15.

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 Q. Now going back to that Monday, I'm not
2 sure you read the entire time frame, what were the
3 hours on Monday?

4 A. I got there at 3:01, went on a break at
5 5:35, came back at 6:10 and got off 8:34.

6 Q. So that Monday you worked until 8:30 --

7 A. Four.

8 Q. And that Tuesday you were off?

9 A. Yes.

10 Q. And when you were off at Goodwill, did
11 you work at Save-A-Lot?

12 A. Yes.

13 Q. And do you remember your hours at
14 Save-A-Lot?

15 A. It was usually after four. So it was
16 probably like five and sometimes it would be mid
17 shift.

18 Q. Okay. And then that Wednesday, again,
19 you just worked what?

20 A. For this schedule?

21 Q. Yes.

22 A. 8 to 3.

23 Q. And would you have worked at Save-A-Lot
24 also?

25 A. Yes.

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

- 1 Q. And that would be the evening shift?
- 2 A. Yes.
- 3 Q. And that Thursday, what were your hours
- 4 again?
- 5 A. 2:57 to 8:44.
- 6 Q. 8:44. And that Friday, when did you
- 7 work?
- 8 A. 8:33 to 3:15.
- 9 Q. You were working a lot of hours?
- 10 A. (No response)
- 11 Q. Now, how would **Child** get to daycare?
- 12 A. They had a bus that would come and get
- 13 him.
- 14 Q. And do you know what time that bus
- 15 could come?
- 16 A. It usually be before 8:00.
- 17 Q. And if you had to be at work already,
- 18 would C. J. take him to the bus stop?
- 19 A. Yes.
- 20 Q. When we say bus stop, where would that
- 21 be?
- 22 A. They come in front of the house.
- 23 Q. Right in front of the house?
- 24 A. Yes.
- 25 Q. And how would he get home?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. Monday through Thursday, they will --
2 Monday through Friday they'll pick them up and
3 bring them back Monday through Thursday, but on
4 Friday you have to go get him.

5 Q. So that Friday, March 24th, do you
6 remember who picked **Child** up that day?

7 A. Yeah, I did.

8 Q. And what did you do after you picked
9 him up?

10 A. We went to Save-A-Lot.

11 Q. And what did you do at Save-A-Lot?

12 A. I went in there and got some canned
13 goods and a customer or a cashier, somebody gave
14 him some candy.

15 Q. Did they know **Child** ?

16 A. Uh-huh.

17 Q. Had you taken him in there some?

18 A. Yes.

19 Q. He got candy that day?

20 A. Yes.

21 Q. And do you remember what you did Friday
22 evening?

23 A. No.

24 Q. Now, when you picked him up on Friday,
25 do you remember if they had given you -- let me

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 show you what has been previously marked as State's
2 Exhibit 36. Do you recognize that bag under the
3 chair there?

4 A. I see it, but I don't recognize it.

5 Q. At daycare, if he wet his clothes,
6 would they give you his clothes in a bag like that?

7 A. Yes.

8 Q. Do you remember if they gave you his
9 wet clothes that day?

10 A. No.

11 Q. Let me show you then what is State's
12 Exhibit Number 39. Those were the pants out of
13 that bag. Do you recognize those?

14 A. Yes.

15 Q. And do you know how long they had been
16 wet in the bag? If it had been Thursday, Friday,
17 or when?

18 A. I couldn't tell you; I don't remember.

19 Q. You don't remember?

20 A. No.

21 Q. Okay. But they were wet. They
22 wouldn't wash them. They would give them to you
23 wet?

24 A. Yes.

25 Q. Now what did you do that Saturday?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. We normally have meetings at Goodwill,
2 so I think -- I believe I had a meeting that
3 morning.

4 Q. What about at Save-A-Lot?

5 A. I worked.

6 Q. Do you remember what hours?

7 A. 12 to 7.

8 Q. And so when you did -- do you remember
9 if that Saturday evening, the 25th, if you gave
10 **Child** a bath or not?

11 A. I don't remember.

12 Q. And let's go to Sunday morning, the
13 26th. That's the morning you said you felt like he
14 didn't want you to leave?

15 A. Yes.

16 Q. But you don't exactly -- you can't
17 exactly articulate why?

18 A. No.

19 Q. What the action was?

20 A. No.

21 Q. What did you do that Sunday morning?

22 A. When I got up, he was kind of already
23 up, but he was still laying down.

24 Q. By he, do you mean **Child** or C. J.?

25 A. **Child** . And I noticed that his nose

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 was bleeding -- must be in his sleep. That's when
2 I went to the bathroom, I washed his face and we
3 both brushed our teeth.

4 Q. Did his nose bleed?

5 A. Yes, he normally picks his nose.

6 Q. And so after you brushed his teeth and
7 washed his face, what did you do?

8 A. He went to go lay down on the couch.

9 Q. Do you remember if C. J. was up or not?

10 A. I don't remember.

11 Q. And do you remember if Child had
12 bruises about his face and neck that morning when
13 you washed him?

14 A. No.

15 Q. No, you don't remember or, no, he
16 didn't?

17 A. No, I don't remember him having bruises
18 before I went to work.

19 Q. Now, did you hear from C. J. during the
20 day?

21 A. Yes.

22 Q. And what was that about?

23 A. I had gotten a message.

24 Q. You mean a text message?

25 A. A text message. He was telling me that

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 **Child** was acting weird. So by him saying that, I
2 took it as maybe they were talking or he was like
3 being himself around him, but that was the end of
4 the message.

5 Q. What do you mean by **Child** was being
6 himself around him?

7 A. Like he couldn't hold a conversation,
8 but just talking to him and being himself.

9 Q. And that would have been weird?

10 A. Yeah.

11 Q. Now, did you see C. J. that day?

12 A. Yes.

13 Q. And where did you see him at that time?

14 A. Save-A-Lot.

15 Q. And did you see **Child** with him that
16 day?

17 A. No.

18 Q. Who was with him?

19 A. Shaq.

20 MS. HERRING-LASH: Your Honor, at this
21 time, the State would offer to play State's Exhibit
22 Number 74.

23 THE COURT: You may proceed..

24 MS. FORD: I would just note my
25 objection.

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: Noted and overruled.

2 (CD played.)

3 BY MS. HERRING-LASH:

4 Q. What is this, if you can orient or
5 explain to the jury what this is?

6 A. The inside of Save-A-Lot.

7 Q. And that's where you worked?

8 A. Yeah.

9 Q. And do you recognize where you were in
10 this particular frame?

11 A. Yes.

12 Q. Where? You can touch the --

13 A. (Marking)

14 Q. Okay. That is you there?

15 A. Uh-huh.

16 Q. What time is this?

17 A. It's in military time.

18 Q. There is one that's not military time
19 beside it.

20 A. Oh, 4:16.

21 Q. And you were working at 4:16 that day?

22 A. Yes.

23 Q. Okay. We'll run the video.

24 (CD played.)

25 BY MS. HERRING-LASH:

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And if you will tell us when you see
2 C. J. and Shaq come in.

3 Was that Shaq's car?

4 A. Yes. That's Shaq and C. J. right
5 there.

6 Q. What time is that?

7 A. 4:17.

8 Q. 4:17:47?

9 A. Yes.

10 Q. Is that --

11 A. C. J. standing by my register. By
12 register 1 and 2.

13 Q. Okay. And that's Shaq.

14 A. And that's C. J. and Shaq again.

15 Q. That's them by --

16 A. Register -- leaning over register 1.

17 Q. Can you point?

18 A. (Pointing)

19 Q. Which register were you at?

20 A. Three. I believe 3 or 4. I think it
21 was 3. I'm back at my register.

22 Q. You're back to your register now?

23 A. Yes. And that's C. J. and Shaq. And
24 now they leave.

25 Q. That's them getting ready to leave?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 And that's them leaving?

2 A. Yes, ma'am.

3 Q. What time is that?

4 A. 4:21:14.

5 Q. And did you hear from C. J. again that
6 day?

7 A. Yes.

8 Q. And about when was that; do you know?

9 A. I don't remember what time it was.

10 Q. And where was he calling you from?

11 A. First, he called me from his cell phone
12 and then -- he didn't really go into detail. And
13 then that's when I hung up the phone, and I got
14 another call from the hospital.

15 Q. From the hospital?

16 A. Yes.

17 Q. And what happened then?

18 A. I don't know who it was, someone got on
19 the phone and said, come to MUSC, to have someone
20 drive me, don't drive. And that's pretty much the
21 end of that call.

22 Q. And is that what you did?

23 A. Yes.

24 Q. Who was able to drive you?

25 A. It was a friend of the family.

1 Q. And when you got there, did you see

2 **Child** ?

3 A. As soon as I got there.

4 Q. Well, what happened when you got there?

5 A. I was going up the ramp and it was,
6 like, a good bit of nurses standing outside of the
7 door that was open. And some lady was there with a
8 wheelchair. So I guess they were waiting for me to
9 come.

10 Q. And where did you go?

11 A. They -- they was directing me down this
12 hall, and that's when I saw a bunch of, like,
13 doctors and nurses in the hallway.

14 Q. And then what did you do?

15 A. I can't remember who came to me, but I
16 think it was, like, a Chaplin, someone that came to
17 me. He was telling me what happened. And then
18 some lady with the -- the lady with the wheelchair
19 was standing behind me.

20 Q. And then what happened?

21 A. That's when I saw C. J. He was
22 running up to me, telling me -- he didn't really
23 say nothing. He was running up to me crying and
24 that's when the Chaplin had told me what happened.

25 Q. Did you go in the room where **Child**

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 was?

2 A. Yes.

3 Q. And what happened in there?

4 A. There was, like, two or three nurses in
5 there, and he was laying on this bed.

6 Q. Was he covered?

7 A. Yes.

8 Q. Did he have a sheet?

9 A. Yes.

10 Q. Did you ask C. J. what happened that
11 day?

12 A. I didn't really -- like, after, because
13 he was telling me what happened was something about
14 the park.

15 Q. Okay. Let me --

16 MS. HERRING-LASH: Your Honor, may I
17 approach the witness?

18 THE COURT: Yes.

19 BY MS. HERRING-LASH:

20 Q. I will show you what has been marked as
21 State's Exhibit 75 without objection.

22 THE COURT: Did you show it to her?

23 MS. FORD: Yes, Your Honor.

24 THE COURT: Marked and admitted without
25 objection.

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 (STATE EXH. 75 in evidence.)

2 BY MS. HERRING-LASH:

3 Q. Do you recognize this?

4 A. Yes.

5 Q. What is that?

6 A. (Inaudible)

7 THE COURT REPORTER: I can't hear you.

8 THE COURT: Ma'am, I need you to speak
9 up.

10 THE WITNESS: The community center
11 park.

12 By MS. HERRING-LASH:

13 Q. I'll show you what is State's
14 Exhibit 75. And what is that?

15 A. The park down the street from my house,
16 the community center.

17 Q. And now I'll show you what is 71. Is
18 that the park that C. J. was telling you about?

19 A. Yes.

20 Q. And that's where he said he took him?

21 A. Yes.

22 Q. And then what else did he say?

23 A. That was pretty much it. And -- well,
24 he said that he had lost sight of him, and then
25 when he looked up he seen he was sitting on a bench

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 with his head down.

2 Q. And was he saying this to you alone or
3 to a group?

4 A. Whoever else was in the room. It
5 wasn't just me.

6 Q. Was it other family members or medical
7 people?

8 A. Family members.

9 Q. Do you know who they all were?

10 A. He told my mother, my brothers,
11 Child 's grandmother, she came up there. And
12 that's -- that's about it.

13 Q. Now, after you all left the Medical
14 University, where did you go?

15 A. Back to the house.

16 Q. And did just you and C. J. or a lot of
17 people go?

18 A. Well, when we got there, there was a
19 lot of people out there.

20 Q. You mean like police officers?

21 A. Yes.

22 Q. And what happened there?

23 A. We couldn't go inside the house. They
24 were taking pictures and evidence.

25 Q. And where did you go?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. I sat outside.

2 Q. Did you go to a neighbor's?

3 A. Yeah, because I had to use the
4 bathroom.

5 Q. Who was that?

6 A. Joanne.

7 Q. Is she, like, right next to you?

8 A. Yes.

9 Q. And is she -- is her boyfriend Joseph
10 Harris?

11 A. Yes.

12 Q. Now, that -- did you just have to wait
13 outside for a long time?

14 A. Yes.

15 Q. After everyone left, what did you do?

16 A. I went in the house. I wasn't saying
17 much, I was isolating myself in the bathroom.

18 Q. Did you talk to C. J.?

19 A. I really wasn't saying nothing to him.

20 Q. What happened the next day?

21 A. His mother, his sister, and, I think,
22 his nephew was with them; they came to the house.

23 Q. And where did you go after that?

24 A. We went to the daycare.

25 Q. And why did you go to the daycare?

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 A. To let her know what happened.

2 Q. Ms. Haynes?

3 A. Yeah, Ms. Haynes.

4 Q. Where did you go after the daycare?

5 A. If it wasn't to get something to eat,
6 probably went to James Island, back to C. J.'s
7 mother's house.

8 Q. And after that, where did you go?

9 A. Someone had called my phone to come to
10 the city hall -- for me and C. J. to come to the
11 city hall.

12 Q. Who all went to city hall?

13 A. It was me, C. J., his mother, sister
14 and her two kids.

15 Q. What happened when you got there?

16 A. They separated me and C. J.

17 Q. And did they talk to you?

18 A. Yes.

19 Q. And do you know if they spoke with
20 C. J.?

21 A. Yes.

22 Q. And at any point, did you go in the
23 room with him?

24 A. After the interview, yeah.

25 Q. Now, after that, did you go to the bond

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 hearing for C. J.?

2 A. Yes.

3 Q. And did you visit him?

4 A. Uh-huh, yes.

5 Q. And when is the first time you went to
6 visit him?

7 A. If it wasn't the next day, probably,
8 like, two days later.

9 Q. And did you continue to visit him?

10 A. Yes.

11 Q. And did you talk with him pretty much
12 daily?

13 A. Yes.

14 Q. Now at the time that -- had you,
15 yourself, seen the pictures of Child 's body?

16 A. At the time? No.

17 Q. And did you visit C. J.?

18 A. Yes.

19 Q. Did you ever ask him what happened?

20 A. Yes.

21 Q. Did he tell you?

22 A. Yes.

23 Q. What did he tell you?

24 A. At first, when I was asking, I was
25 talking to him, he didn't really want to talk about

KRYSTAL WILLIAMS - DIRECT EXAM BY MS. HERRING-LASH

1 it. And then that's pretty much why I kept seeing
2 him, to get the reason why or what happened. And
3 he told me that he didn't -- he hit him because he
4 didn't get out of the bathroom fast enough.

5 Q. Did he tell you where he hit him?

6 A. His side.

7 Q. And did he tell you how he hit him?

8 A. With a chop.

9 Q. And do you know about when that was
10 that he told you that?

11 A. I believe it was in November.

12 Q. And now after C. J. was home and all,
13 did you continue to have a relationship with him
14 for awhile?

15 A. Yes.

16 Q. And were you at that point in time
17 also, you know, hanging or spending time I guess
18 with his mom and sister?

19 A. Yes.

20 Q. What did your family think about that?

21 A. Well, at first, they didn't know until
22 -- I can't remember how they found out, but
23 eventually they end up finding out. They weren't
24 too fond about that.

25 Q. Did it cause problems?

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 A. Yeah.

2 Q. Now, at this point in time, have you
3 seen the pictures of **Child** 's body?

4 A. Yes.

5 Q. And you have seen the bruises?

6 A. Yes.

7 Q. Did **Child** look like that when you left
8 him Sunday morning?

9 A. No.

10 Q. Did **Child** look like that the last time
11 you would have seen him without his clothes on?

12 A. No.

13 MS. HERRING-LASH: Krystal, those are
14 all the questions I have for you. Please answer
15 any Ms. Ford might have.

16 THE COURT: You may proceed.

17 MS. FORD: Thank you, Your Honor. May
18 it please the Court?

19 THE COURT: You're welcome.

20 CROSS-EXAMINATION

21 BY MS. FORD:

22 Q. Hey, Krystal.

23 Krystal, you told us today you
24 suggested you were still seeing C. J. after
25 **Child** 's death to try to find out what happened?

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 A. Yes.

2 Q. But he indicated to you that he had hit
3 Child in November?

4 A. Uh-huh.

5 Q. So that's just a month later, correct?

6 A. Yes.

7 Q. But you continued to see him --

8 A. Yes.

9 Q. -- correct? You continued to see him
10 into 2015?

11 A. Yes.

12 Q. You told us today that Child --
13 something seemed not right when you left for work
14 that day, right?

15 A. Yes.

16 Q. But you've talked to numerous people
17 before you came to court here today, right?

18 A. Yes.

19 Q. About this case? You've talked to a
20 lot of people about this case?

21 A. Yes.

22 Q. The police talked to you?

23 A. Yes.

24 Q. They talked to you the night Child
25 died?

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 A. Yes.

2 Q. And they talked to you the day after,
3 correct?

4 A. Yes.

5 Q. They had you at the police station or
6 you were there for hours, right?

7 A. Yes.

8 Q. Because you stayed the whole time that
9 C. J. was there, correct?

10 A. Yes.

11 Q. Actually you could have left, but you
12 chose to stay and wait for C. J., right?

13 A. They had just finished talking to me.

14 Q. They didn't talk to you for as long as
15 they talked to C. J.?

16 A. I was in there for a long time.

17 Q. Did you watch his interview?

18 A. Yes.

19 Q. You never indicated to them in any way
20 that **Child** was not acting normal when you left for
21 work that day?

22 A. What do you mean acting normal?

23 Q. You never told them that **Child** wasn't
24 acting -- that he gave you a look or anything that
25 day?

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 A. No, it wasn't no look that -- as far as
2 it was something bad. He was just looking like he
3 didn't want me to go to work. That's not no
4 drastic look as far as me saying, oh, he always
5 look like that.

6 Q. You didn't mention that to the police,
7 correct?

8 A. Yes.

9 Q. You did mention that to the police or
10 you did not?

11 A. Oh, no.

12 Q. Okay. You also spoke to someone from
13 my office, Mr. Harry Long, correct? You spoke to
14 him several times?

15 A. Yes.

16 Q. And you spoke to him one time,
17 November 19th, 2014, does that sound about right?
18 About a month after **Child** 's death?

19 A. Yes.

20 Q. And you told him that that morning you
21 woke up and **Child** was acting normal?

22 A. Yes.

23 Q. Okay. And, again, you didn't mention
24 anything to him about **Child** giving you a look like
25 he didn't want you to leave?

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 A. Normal, as in he was talking being his
2 self.

3 Q. So you didn't mention anything to him
4 about **Child** looking like he didn't want you to
5 leave, correct?

6 A. I don't recall that.

7 Q. And you met with Mr. Long again in
8 2015, March 2015. Does that sound about right?

9 A. Yes.

10 Q. And you didn't mention that to him at
11 that point either, correct?

12 A. No, I guess not.

13 Q. **Child** was sometimes a very active boy?

14 A. He was very active.

15 Q. And sometimes he would even be clumsy?

16 A. Uh-huh.

17 Q. Yes?

18 A. Yes.

19 Q. And there was a knot on **Child** 's head
20 the police asked you about, a bump or something on
21 **Child** 's head when they spoke to you the day after
22 **Child** 's death? Do you remember speaking to the
23 police?

24 A. Uh-huh.

25 Q. Well, we just talked about how you met

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 with them the day after Child 's death?

2 A. Yes.

3 Q. And they recorded that interview.

4 A. Yes.

5 Q. And they asked you several times about
6 a bump on Child 's head and you told them then that
7 he came home with that from daycare earlier that
8 week?

9 A. I don't remember.

10 Q. It's on the recorded interview.

11 A. Mine?

12 Q. Yes.

13 A. I don't remember saying that because if
14 it was that -- if it -- if he came from daycare
15 with that, Ms. Haynes would have told me that.

16 Q. But you told police it was there.

17 A. I don't --

18 Q. Are you denying it's on the video?

19 A. No.

20 Q. Okay. So you agree it's on the video,
21 you just don't recall that?

22 A. Yes.

23 Q. Were you -- did -- Child 's dad, did
24 you ever live together, just to clarify, after he
25 was born?

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 A. Yes.

2 Q. And did any other male live with you
3 before C. J.?

4 A. Yes.

5 Q. And who was that?

6 A. Slim.

7 Q. Slim. And how long was that for?

8 A. I knew Slim since I was 18, but we were
9 staying together like a year probably.

10 Q. And C. J. actually cared for **Child**
11 more than anyone else you had ever dated? Do you
12 remember saying that?

13 A. I don't remember saying that. Why
14 wouldn't he care for him? If you're in a
15 relationship with me, you have to care for my child
16 too.

17 Q. Do you recall meeting with Mr. Long in
18 November of 2014?

19 A. Yes.

20 Q. And you told him that C. J. cared for
21 **Child** more than anyone else you had ever dated?

22 A. Yes.

23 Q. Also you had indicated to Mr. Long that
24 **Child** did not seem afraid of C. J.?

25 A. No, he was not really -- by him not

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 talking, I didn't take it as him being afraid of
2 C. J. I said as far as C. J. was not interacting
3 with him like anybody else would.

4 Q. Okay. But he didn't seem afraid of
5 him?

6 A. No.

7 Q. You wouldn't have described C. J. as
8 violent with **Child** ?

9 A. No.

10 Q. And you had seen C. J. play with other
11 kids; you told us about J. ?

12 A. Yes.

13 Q. And he had played with his nephews,
14 too?

15 A. Yes.

16 Q. And he wasn't violent with the other
17 kids as far as you saw, correct?

18 A. Correct.

19 Q. The morning before you left for work,
20 you told us **Child** had a nose bleed?

21 A. That was the morning of.

22 Q. That's what I meant, the morning you
23 left for work.

24 A. Uh-huh.

25 Q. And those were frequent?

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

- 1 A. Yes.
- 2 Q. Did **Child** have a regular pediatrician?
- 3 A. Yes.
- 4 Q. Who was that?
- 5 A. I can't remember her name, but it was
- 6 at Franklin C. Fetter.
- 7 Q. Okay. And as with children, you're
- 8 supposed to take them for well visits, correct?
- 9 A. Yes.
- 10 Q. And that's every so many months. Are
- 11 you aware of that?
- 12 A. Yes.
- 13 Q. You're supposed to take a child
- 14 basically right when they're born at one week,
- 15 correct?
- 16 A. Yes.
- 17 Q. And at two weeks, does that sound
- 18 familiar?
- 19 A. Yes.
- 20 Q. One month?
- 21 A. Yes.
- 22 Q. Two months?
- 23 A. Yes.
- 24 Q. Four months?
- 25 A. Yes.

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

- 1 Q. Six months?
- 2 A. Yes.
- 3 Q. Nine months?
- 4 A. Yes.
- 5 Q. Twelve months?
- 6 A. Yes.
- 7 Q. Fifteen months?
- 8 A. Yes.
- 9 Q. Two and-a-half years?
- 10 A. Yes.
- 11 Q. And three years?
- 12 A. Yes.
- 13 Q. The only record -- you only took C. J.
- 14 -- or **Child** to Franklin Fetter for a 19-month -- a
- 15 19-month well visit, correct? And a two-year well
- 16 visit, correct? Two times, you only took him two
- 17 times for a well visit?
- 18 A. He wasn't born down here.
- 19 Q. But you haven't been able to tell
- 20 anyone where else you took him, correct?
- 21 A. It was in Florence as well.
- 22 Q. How long were you living in Charleston?
- 23 A. Since he turned one. He was ten
- 24 months.
- 25 Q. Where was he taken for the well visits

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 before he was 19 months old?

2 A. It would have been -- I don't know the
3 name, but it was in Darlington County.

4 Q. So you were living here, but taking him
5 to the doctor in --

6 A. I'm saying before he turned one.

7 Q. You were never able to give anyone,
8 though -- when people asked you about his prior
9 doctors, you never knew enough or couldn't remember
10 enough to tell anybody where he had gone?

11 A. Yes.

12 Q. And, normally, if **Child** had a health
13 problem, you would take him to Roper, the medical
14 emergency type of place?

15 A. Correct.

16 Q. Not the hospital?

17 A. No.

18 Q. And that's where you took him when he
19 had the nose bleed --

20 A. Yes.

21 Q. -- that week? And earlier that day you
22 had taken him there because he had issues with
23 vomiting?

24 A. Yes.

25 Q. You told us that you lived with C. J.

KRYSTAL WILLIAMS - CROSS EXAM BY MS. FORD

1 in two places before ?

2 A. Yes.

3 Q. And you told us that was with Sharell,
4 C. J.'s cousin?

5 A. Yes.

6 Q. And she has a son, Antione?

7 A. Yes.

8 Q. And you also lived -- you weren't sure
9 of her name, Lu-Lu?

10 A. Yolanda.

11 Q. Yolanda Tyler? And she has children as
12 well?

13 A. Yes.

14 Q. And so C. J. was around **Child** and
15 other children during that time?

16 A. Yes.

17 Q. And you never saw anything -- C. J. be
18 violent with any of those children?

19 A. No; I was always at work.

20 MS. FORD: Beg the Court's indulgence?

21 BY MS. FORD:

22 Q. Just another question about seeing him
23 with kids. The Solicitor asked you about Shaq and
24 how he would play with **Child** correct?

25 A. Yes.

KRYSTAL WILLIAMS - REDIRECT EXAM BY MS. HERRING-LASH

1 Q. Well, Curtis -- you indicated that
2 Curtis with kids is good, attentive, and plays with
3 them?

4 A. To his -- like, to his nephew and

5 J. .

6 Q. So when you met with Mr. Long back in
7 November of 2014, he asked, how is Curtis around
8 kids. And you said, good, attentive and plays with
9 them; is that correct?

10 A. Uh-huh.

11 Q. And you never indicated to him,
12 everyone except Child correct?

13 A. Correct.

14 Q. And when you were seeing C. J. after
15 his arrest, your family didn't like that, correct?

16 A. Yes.

17 MS. FORD: No further questions.

18 THE COURT: Any redirect of the
19 witness?

20 REDIRECT EXAMINATION

21 BY MS. HERRING-LASH:

22 Q. Krystal, while you were at the police
23 department that night, were officers in and out
24 talking with you and C. J?

25 A. Yes.

KRYSTAL WILLIAMS - REDIRECT EXAM BY MS. HERRING-LASH

1 Q. So they were talking to you for a long
2 time also?

3 A. Yes.

4 Q. And before the questions about how was
5 **Child** that day, and you were saying normal, had
6 anyone ever asked you, specifically, did he ever
7 act like he didn't want you to leave before?

8 A. Yes.

9 Q. And who was that?

10 A. I can't remember who said it. Someone
11 did kind of ask me that.

12 Q. And was that when you were getting
13 ready for your testimony?

14 A. I can't remember.

15 Q. Now, when you were working -- excuse
16 me, when you were living with the other people,
17 Lu-Lu and the cousin, you were working a lot then
18 also?

19 A. Yes.

20 Q. And when you say that C. J. was caring
21 for the child, he was babysitting?

22 A. Yes.

23 Q. The question that Ms. Ford posed --
24 that Mr. Long posed to you was how did C. J. act
25 with kids. And you said what?

KRYSTAL WILLIAMS - REDIRECT EXAM BY MS. HERRING-LASH

- 1 A. Caring.
- 2 Q. And what kids are you talking about?
- 3 A. To be specific?
- 4 Q. Yes.
- 5 A. Other kids.
- 6 Q. And what other kids, in particular,
- 7 have you seen him with?
- 8 A. J. , his nephews.
- 9 Q. Was there a big difference between how
- 10 he treated J. and Child ?
- 11 A. Yes.
- 12 Q. And when Child was sick, you would
- 13 take him, I think, to the Roper Emergency?
- 14 A. Yes.
- 15 Q. How did you like that place?
- 16 A. It was actually fast.
- 17 Q. And did C. J. ever take him there when
- 18 he was sick?
- 19 A. No. Usually I would go and he would
- 20 come with me.
- 21 Q. So you would take him?
- 22 A. Yes.
- 23 MS. HERRING-LASH: Those are all the
- 24 questions I have for you.
- 25 THE COURT: Ma'am, you may step down.

1 Mr. Foreman, ladies and gentlemen, we
2 are going to take advantage of the break in
3 testimony to take our lunch recess. During the
4 break, please do not discuss the case among
5 yourselves or with anyone else. Please don't have
6 any contact with anyone in or about the courthouse
7 and, also, please don't watch, read, or listen to
8 any media accounts about this case.

9 And, also, I would ask that you not
10 make any comments on any social networking sites
11 regarding your jury service. That includes
12 Facebook, Instagram, Snapchat or any other social
13 medium. It is very easy for those comments to be
14 misinterpreted by someone reading them.

15 You would be amazed the people who
16 troll those sites every day and call and tell us to
17 let us know what you say. So I would appreciate
18 that you would refrain from any such remarks
19 regarding your jury service.

20 We will resume at 2:00. You will
21 return directly to your jury room at which time
22 once everyone has returned, we will resume
23 testimony. If you would leave your notepads in
24 your seats, we will secure them during the break.
25 See you at 2:00.

1 (Jury out, 12:45 p.m.)

2 THE COURT: Is there anything else we
3 need to take up before we adjourn for lunch?

4 MS. HERRING-LASH: Not from the State,
5 Your Honor.

6 THE COURT: From the defense?

7 MS. FORD: No, Your Honor.

8 THE COURT: See you all at 2:00.

9 (A luncheon recess transpired.)

10 THE COURT: Is the State ready to
11 proceed?

12 MS. HERRING-LASH: Yes.

13 THE COURT: Is the defense ready to
14 proceed?

15 MS. FORD: Yes, Your Honor.

16 (Jury in, 2:08 p.m.)

17 THE BAILIFF: All jurors are present.

18 THE COURT: Thank you. Ladies and
19 gentlemen, I hope you had a pleasant lunch, hope
20 that you were able to stay dry. I'm trying to see
21 about the temperature. See if we can warm it up a
22 little bit. Unfortunately, we're in an
23 institutional building; it's either hot or cold.
24 We can't seem to find a medium. I'm going to have
25 the environmental people work on it for us and see

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 if we can warm it up a little bit.

2 The State may proceed.

3 MS. HERRING-LASH: The State would call
4 Dr. Erin Presnell.

5 SUSAN ERIN PRESNELL, M.D.,
6 being first duly sworn, testified as follows:

7 THE WITNESS: Yes, sir.

8 THE CLERK: Be seated. Please state
9 your full name and spell your last name for the
10 record.

11 THE WITNESS: My name is Susan Erin
12 Presnell, P-R-E-S-N-E-L-L.

13 THE COURT: You may proceed.

14 DIRECT EXAMINATION

15 BY MS. HERRING-LASH:

16 Q. Dr. Presnell, what is your occupation?

17 A. I'm a forensic pathologist. I work at
18 the Medical University of South Carolina, just
19 right down the road.

20 Q. And are you a licensed physician?

21 A. I am.

22 Q. And what and where did you receive your
23 education?

24 A. Well, I majored in microbiology, and
25 then after that which was 1989, I came to MUSC

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 Medical School and I stayed there. So I did
2 medical school. After those four years, I got my
3 M.D. and then picked the speciality of pathology.
4 I did a five-year training program in that, and
5 that's general pathology. And then I did an
6 additional one year forensic pathology fellowship,
7 so that took me through 1998 and 1999, and then I
8 was hired as faculty and stayed on. And then I've
9 also taken those boards for board certification in
10 pathology and the subspecialty of forensic
11 pathology.

12 Q. Could you please explain to them what
13 forensic pathology means as opposed to regular
14 pathology?

15 A. Regular path -- well, I don't know if
16 you're familiar with the term, but just to back up,
17 general pathology is the study of disease. So
18 pathologists are the ones that, if you go to your
19 family doctor or a surgeon and they take a piece of
20 tissue or do surgery and take out, like, your
21 appendix or a tumor or something like that, that
22 tissue goes to the pathologist.

23 They look at it, they look at it under
24 the microscope and they diagnose. Is it cancer or
25 not cancer? Is it infection or not? If it's

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 cancer, did they get it all out.

2 I trained in general pathology, but,
3 like I said, I did the additional year in forensics
4 where we're not just looking at a piece of tissue
5 or a biopsy, we're looking at the whole entire
6 person that's passed. And then we do look for
7 diseases because a lot of our deaths may be due to
8 natural disease, but we also evaluate trauma. And
9 that process, of course, is through the autopsy.
10 And after that, we decide the cause and manner of
11 death.

12 Q. And I think you said this, but are you
13 certified by the American Board of Pathologists?

14 A. Yes, and general pathology and
15 forensics.

16 Q. And have you been qualified as an
17 expert in forensic pathology in the past?

18 A. Yes.

19 Q. In what courts and approximately how
20 many times?

21 A. I would just estimate around 100, but
22 it's mostly in the general sessions courts in South
23 Carolina and a couple of times in federal courts.

24 MS. HERRING-LASH: At this time, I
25 would offer Dr. Presnell as an expert in forensic

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 pathology.

2 THE COURT: Any objection or questions.

3 MS. FORD: No, Your Honor.

4 THE COURT: So admitted without
5 objection. You may proceed.

6 BY MS. HERRING-LASH:

7 Q. To begin with, Dr. Presnell, can you
8 explain to the jury what steps you go through in
9 performing an autopsy?

10 A. So we are the coroner's aide, so upon a
11 death, a coroner, which is elected by county, will
12 respond to that death and decide on the
13 circumstances whether or not they would like to
14 order an autopsy. If they order an autopsy, they
15 can select who they would like to assign the case
16 to. So, at MUSC, we mostly get Charleston County
17 and the surrounding counties.

18 Once we get a case, then we do a --
19 well, we do a lot of documentation with photographs
20 and diagrams. What we do is a complete external
21 exam, you know, documenting medical intervention,
22 injury, disease processes. And then after that,
23 we're going to do a complete internal exam.

24 And so internally we look at the -- we
25 look and take out all the organs and do a

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 dissection on the all the organs, and that would
2 even include the brain. We may sample tissues to
3 look under the microscope depending on what we're
4 finding. We also draw blood and, if this person
5 has it, urine to analyze for drugs and alcohol.

6 And then we may do other ancillary
7 types of procedures just depending on the type of
8 case. And when all the information becomes fact,
9 then we compile all of that into the autopsy report
10 and, again, ultimately culminating into the cause
11 and manner of death.

12 Q. And did you perform an autopsy on
13 **Child** ?

14 A. Yes; I did that autopsy October 27,
15 2014.

16 Q. What time did you do that?

17 A. This was one of our first cases, so
18 9:00 in the morning.

19 Q. And when you would begin, I think you
20 explained to the jury that you start with an
21 external examination. And beginning with, what was
22 **Child** 's height and weight?

23 A. Let's see, so **Child** was 38 inches; he
24 weighed about 32 pounds.

25 Q. And did you find any evidence of

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 external injury on Child ?

2 A. Yes. Child had multiple bruises, also
3 called contusions, and abrasions, which often are
4 known as scratches, across his body.

5 Q. And did these wounds appear relatively
6 fresh?

7 A. They appeared recent, yes.

8 Q. And were they in the early stages of
9 inflammatory reaction?

10 A. Well, so, there's great controversy in
11 trying to date and time bruises. Basically, most
12 methods are unreliable. They try to do it on color
13 of the contusion, they try to do it on size.
14 They've done it on a lot of different things.
15 There's just so many variables between how deep is
16 the injury or bruise? The color of the person's
17 skin might affect the color change.

18 One of the things we try to do is we
19 can sample the tissue and look under a microscope
20 to see if there is any kind of body response to it.
21 So, like, if you get a bruise, after several hours
22 you're going to have inflammatory cells coming in
23 and reacting to it. And then after a day or so,
24 you're going to get more and more cells that come
25 in and start to clean it up which starts to change

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 the bruise to that yellow color. And it follows a
2 certain timeline.

3 Of course the timelines are very
4 general. In **Child** 's case, I did sample several
5 things including a contusion that did show an early
6 inflammatory response indicating to me that this
7 was a recent contusion, so within hours. And, you
8 know, it -- they -- you know, it could have been a
9 longer period of hours. It could have been a
10 shorter period of hours. You just -- you just
11 really can't tell.

12 Q. Would you say it would be consistent
13 within nine hours of the infliction of the bruises?

14 A. Well, yes, it could be within nine
15 hours.

16 MS. HERRING-LASH: Your Honor, at this
17 time, the State would ask --

18 THE COURT: You have to establish
19 foundational questions before you seek to introduce
20 anything.

21 MS. HERRING-LASH: I wanted to show her
22 these. (Indicating)

23 THE COURT: Uh-huh.

24 MS. HERRING-LASH: Your Honor, may I
25 approach the witness?

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: You may.

2 BY MS. HERRING-LASH:

3 Q. Dr. Presnell, I'm going to show you
4 what has been previously marked for State's
5 Exhibits only 57 through 66. If you would please
6 look at those?

7 A. (Complies)

8 Q. Are you finished?

9 A. Yes.

10 Q. And you mentioned when you were
11 describing the autopsy that you diagram and you
12 also do photo documentation. Are those the photos
13 -- is that the photo documentation, some of the
14 photo documentation, that you did of **Child** 's body
15 during the external exam?

16 A. Yes. These are some of the photographs
17 or copies of some of the photographs we took at the
18 time of autopsy.

19 MS. HERRING-LASH: Your Honor, at this
20 time, the State would offer in State's Exhibits 55
21 through 67.

22 THE COURT: Any objection?

23 MS. FORD: Yes, Your Honor. Based on
24 my prior objection and I think before we had
25 discussed the establishing --

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: Approach please.

2 (Bench conference)

3 THE COURT: Marked and admitted. You
4 may proceed.

5 MS. HERRING-LASH: Your Honor, I have
6 one more picture that we did not previously mark,
7 but I wanted to show.

8 (STATE EXH. 55 - 66 in evidence.)

9 (STATE EXH. 76, Photo, was marked for
10 identification.)

11 THE COURT: Any objection?

12 MS. FORD: Yes, Your Honor. It's just
13 the same as the other pictures.

14 THE COURT: Objection is sustained.

15 BY MS. HERRING-LASH:

16 Q. So, Dr. Presnell, we have now -- you
17 have looked at and you have copies of all the photo
18 documentation that you prepared during Child 's
19 autopsy?

20 A. Yes.

21 Q. And I will show you those on the screen
22 in front of you starting with State's 57. And if
23 you would explain to the jury what you are
24 observing?

25 A. Okay. Yes. Should I draw on it?

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 Q. You can.

2 A. Well, obviously, this is the head. On
3 the forehead we have a large contusion that's in
4 this area here. (Marking) With an abrasion there.
5 (Marking) Abrasion means scratch. We also see an
6 abrasion right there as well. (Marking)

7 Just to kind of summarize as we're
8 going through this, on the head you have five areas
9 of contusions or bruising, and actually nine areas
10 of abrasions or scratches; on the torso, including
11 the buttocks, the body parts, we have 22
12 contusions; on the right -- on the back of the
13 right hand and arm we have three; on the back of --
14 or including the left arm and forearm we have 11;
15 and on the left leg we have 11.

16 So as we go through, these are
17 photographs of the overall -- these overall
18 contusions.

19 Q. And do you take them like starting with
20 the head and then down one area of the body and
21 progress around?

22 A. Correct, when we're documenting.
23 That's not necessarily in the order of -- that they
24 are inflicted. It's just how we're documenting.

25 Q. Just how you photo document?

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 A. Yes.

2 Q. And then next is State's Exhibit 58?

3 A. This is on, obviously, the right side
4 of Child 's face. There is a scab under the
5 eyebrow, which is nothing, but there's -- there are
6 three contusions here. (Marking) I don't think
7 you can see the abrasion on the back of his head,
8 and then on the neck we have several areas of
9 contusion. There is one down here (Marking) and
10 there is also an area under his chin that you can't
11 see.

12 Q. And was it difficult to photograph
13 under the chin?

14 A. Not necessarily. It's difficult to
15 draw it on the diagram.

16 Q. And State's Number 57. 59, I'm sorry.

17 A. Okay. So we jumped to the left leg and
18 you can see contusions in this area here. And so
19 three contusions in those areas right there.
20 (Marking) And one of the things that you are going
21 to see, especially like on the torso, is what we
22 call his lividity which is where his blood settles
23 just postmortem due to gravity. And it's going to
24 have that purple, pink color; it can look like
25 bruises, but it's not. So I will continue to

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 circle the areas that are true contusions.

2 Q. So what may look to the jury like
3 bruising may be lividity and you will point out the
4 difference?

5 A. Correct. Right.

6 Q. State's Number 60?

7 A. This is the back of the left hand and
8 again, the contusions right there. (Marking)

9 Q. State's Exhibit Number 61?

10 A. The back of the left arm or the side of
11 the left arm and there is an a contused area right
12 there.

13 Q. I realize these are not all the
14 pictures that you used in your photo documentation.

15 A. Right, yes.

16 Q. And State's Exhibit Number 62.

17 A. All right. We're back up to the head.
18 You can see a small abrasion at the base of his
19 chin right here, an abrasion of the -- kind of
20 upper chest there, and these two abrasions on the
21 side of his head. (Marking)

22 These marks on the neck are just
23 pigmentations or scar pigmentations and then on the
24 back of his neck is like a birthmark.

25 Q. And you mentioned earlier, before we go

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 on, there was -- that there will not be a picture
2 of this, a contusion on the back of his head?

3 A. There is a contusion on the back of his
4 head.

5 Q. And State's Number 64?

6 A. Okay. So we're looking at his left
7 side. And it's a little difficult to appreciate,
8 but we have this conglomerate right here, and most
9 of the bruises along the -- there's ten along the
10 left flank and back. And so some of them will be
11 along his back. The top of the photograph is his
12 front, his abdomen, his chest, and the bottom of
13 the photograph is his back. It's hard to
14 appreciate it. I think there's some in that area.

15 Q. State's Exhibit 65?

16 A. Now we've moved to the right side, his
17 right flank. I think it's a little easier to see
18 on this photograph on his right side, but we have
19 several areas along here that you can appreciate.
20 (Marking) And there's seven along the right side
21 and back.

22 Q. And State's Exhibit Number 66?

23 A. This is the buttocks and we do have
24 some punctate scratches, which I don't know if that
25 really means anything, but the worst is this large

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 area of bruising right here. (Marking)

2 Q. Now, did you also find evidence of
3 internal injuries?

4 A. Yes; and the internal injury was his
5 cause of death. When we opened his body and looked
6 in, there was almost half of a liter of blood in
7 his abdomen, and the blood is coming from his
8 spleen which was ruptured. The spleen normally
9 sits along your left back side and right under the
10 ribs. And that was ruptured, yes.

11 Q. Were there other internal injuries that
12 were not fatal, but to other organs in the body?

13 A. Well, there's some minimal findings in
14 particular. There's some -- a little bit of
15 hemorrhage on the outside of the colon on the
16 intestine on the right side. There is a little bit
17 of hemorrhage on the bottom of the liver and a
18 little bit around the center part of the lung,
19 which I can't completely exclude wasn't from
20 resuscitation efforts, aggressive resuscitation
21 efforts, but there is no blood in the chest cavity.
22 And that's -- that's really the only other findings
23 inside.

24 Q. If there were blood in the chest
25 cavity, what would -- what difference would that

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 make?

2 A. I'm just commenting that there wasn't
3 blood -- the hemorrhage that was kind of in the
4 central part of the lung wasn't -- didn't have a
5 lot of body to it.

6 Q. And when you -- you said that the fatal
7 injury was a laceration to the spleen?

8 A. Yes.

9 Q. Just to perhaps orient the jury, I want
10 to show you what has been marked into -- previously
11 marked into evidence as State's Exhibit Number 55.
12 And what is this?

13 A. This appears to be a cartoon with ghost
14 organs inside. So up top, these are the lungs
15 right here. (Indicating) And then we have stomach
16 -- oops, that's the liver. This is the stomach and
17 bowel and then the highlighted organ is the spleen.

18 Q. That's where the body is and that's
19 from the front view?

20 A. Yes, front side. Yeah.

21 Q. And this exhibit is in evidence,
22 State's Exhibit Number 54.

23 A. So now we're looking from the back. So
24 we're looking from the back side. So, again, we
25 still see the lungs now from the back, and these

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 are the kidneys right here, (Indicating) and then
2 you see the spleen. I don't have to draw it -- the
3 orange organ back up on the left side area.

4 Q. And did you say there was some amount
5 of -- a little bit of injury to the lung?

6 A. Well, it's in the -- what we call the
7 pulmonary hilum which is where the airway, the
8 trachea, the bronchi and the vessels all come
9 together.

10 Q. And State's Number 56? This is just
11 another -- can you explain this?

12 A. A cartoon diagram showing the spleen
13 tucked up in there and some protection.

14 Q. How is the spleen protected?

15 A. Well, it's -- the ribs are over it and
16 it's kind of buried in the back side.

17 Q. And can you explain, you may have, but
18 how this injury becomes fatal?

19 A. Well, so this spleen is lacerated so
20 that translates into blunt trauma, so -- and the
21 purpose of the spleen basically is to filter all
22 the blood and look for microorganisms. So all the
23 blood is passing through it. So with a lacerated
24 spleen, the end result if it's not fixed medically,
25 surgically, it's exsanguinating or bleeding out.

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 Q. As part of the autopsy, do you remove
2 the spleen?

3 A. We remove all of the organs, yes.

4 Q. I show you what's been marked for ID
5 only, State's Exhibit 68. Do you recognize that
6 picture?

7 A. I do. It's a photograph of the spleen.

8 Q. And does that picture reflect the
9 laceration that you found?

10 A. It reflects one of the lacerations on
11 the front, but there's more on the back side of it
12 which I don't see.

13 MS. HERRING-LASH: Your Honor, we would
14 offer State's Exhibit 69 into evidence.

15 THE COURT: Any objection?

16 MS. FORD: Yes, Your Honor, just based
17 on my prior objection.

18 THE COURT: The objection is
19 overruled. The photo shows the mode and manner of
20 death and I've had it done in black and white to
21 eliminate the risk of any inflammatory response.
22 Overruled; marked and admitted.

23 (STATE EXH. 69 in evidence.)

24 BY MS. HERRING-LASH:

25 Q. And where is the laceration?

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 A. The laceration is right there.

2 (Marking)

3 Q. And on the other side there is more
4 laceration?

5 A. It connects up with that laceration.
6 It goes -- the spleen has a hilum which is where
7 the great vessels enter and exit. And it has more
8 lacerations on the opposite side of this.

9 Q. And that laceration would have caused
10 bleeding?

11 A. Yes.

12 Q. Now, did you also photo-document other
13 areas of the body internally?

14 A. Yes, we did.

15 MS. HERRING-LASH: Your Honor, may I
16 approach?

17 THE COURT: You may.

18 BY MS. HERRING-LASH:

19 Q. I show you what has been marked for ID
20 State's Exhibit Number 70. Do you recognize that
21 picture?

22 A. I do.

23 Q. And what is reflected in that picture?

24 A. Well, so, one of the things that we do
25 at autopsy, of course, at the very end -- well,

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 you've heard of the Y incision on the front where
2 we enter the body. Well, we also, at the end of
3 the autopsy, do a Y incision on the back to peel
4 back the skin to look underneath and see if we can
5 find any more injuries.

6 Remember how I was referring to that
7 lividity, that lighter -- before when the blood
8 settles, it kind of changes the skin to this purple
9 color? So we see this reflection of the skin to
10 see if there's really hemorrhages that are not
11 because lighter won't show up as a hemorrhage.

12 So the photograph I'm looking at is the
13 skin reflected, and you can see the extent of the
14 bruise on the deep tissue of the buttocks.

15 Q. And does that picture reflect the
16 bruising over the spleen also?

17 A. It's hard to tell in black and white
18 because the skeletal muscle has kind of that same
19 color.

20 THE COURT: Give her the color picture.
21 And take that down please.

22 THE WITNESS: Yes. You can see
23 multiple -- many areas on the back, as well, that
24 had contusions.

25 MS. HERRING-LASH: Your Honor, at this

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 time, we would offer State's Exhibit 70 into
2 evidence.

3 THE COURT: Any objection?

4 MS. FORD: Based on my prior objection,
5 Your Honor.

6 THE COURT: Admitted and overruled.
7 It goes to establish an element of the
8 offense.

9 (STATE EXH. 70 in evidence.)

10 BY MS. HERRING-LASH:

11 Q: Now, to reorient the jury, what are we
12 looking at?

13 A. So --

14 THE COURT: And the mode and manner of
15 death. I apologize for interrupting you, Doctor.
16 You may proceed.

17 THE WITNESS: So this area is the
18 buttocks and this area is the back. Again, the
19 skin is reflected, so right down the middle here is
20 his backbone. This area right here is some
21 hemorrhage that's on the left side of the back that
22 is extending through the skin and the subcutaneous
23 tissue into this muscle area here, and then a
24 larger area, (marking) -- all that is hemorrhage
25 from over the right buttock extending through the

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 skin and subcutaneous tissue and the fat to the
2 muscle.

3 BY MS. HERRING-LASH:

4 Q. What does it say about a contusion that
5 it extends to the muscle?

6 A. Well, just that it's relatively deep.
7 And then the one right here, this is the general
8 area of the spleen. (Marking)

9 Q. When you were showing, before, the
10 external injuries, was that mark that you just
11 circled about the spleen, is that underneath what
12 those bruises were that we saw over the back?

13 A. Yes. These are bruises that we saw.
14 We saw some of them on the surface of the skin and
15 some of them extend down deeper and these are those
16 that did.

17 Q. For the area that you circled for the
18 buttock, is that underneath the area that you
19 circled where the bruise was on the buttock?

20 A. Yes, correct.

21 Q. Now, Dr. Presnell, do you as part of
22 your autopsy and you -- do you make a determination
23 of cause of death, and do you have an opinion to a
24 reasonable degree of medical certainty what the
25 case of death was in this case?

SUSAN ERIN PRESNELL, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 A. Yes. I classified the cause of death
2 in this case as splenic laceration due to blunt
3 trauma to the torso due to a beating.

4 Q. And what was the manner of death?

5 A. The manner of death is homicide which
6 means -- in my profession means death at the hands
7 of another.

8 Q. And what is the basis of those
9 opinions?

10 A. Well, his autopsy findings with
11 multiple blunt force injuries across his body, the
12 multiple contusions and then the lacerated spleen
13 with the 450 milliliters of blood into the abdomen.

14 Q. And did you drain that and measure that
15 blood?

16 A. Yes.

17 Q. What part of as far -- if you know,
18 percentage of the body's blood would that be?

19 A. For adults I know -- the adult usually
20 has five to six liters of blood in the body. So
21 he's, like, much less than that, so I don't know
22 off the top of my head, but it's much less than
23 five to six liters for adults.

24 MS. HERRING-LASH: Those are all the
25 questions that I have, Dr. Presnell. If you would

SUSAN ERIN PRESNELL, M.D. - CROSS EXAM BY MS. FORD

1 answer any that Ms. Ford may have.

2 THE COURT: You may proceed.

3 MS. FORD: Thank you, Your Honor. May
4 it please the Court?

5 CROSS-EXAMINATION

6 BY MS. FORD:

7 Q. Hey, Dr. Presnell.

8 You told us that it's controversial to
9 look at the bruises to determine the age of them?

10 A. Yeah. It's not just -- it hasn't
11 really turned -- proven to be reliable.

12 Q. So you looked at some samples under the
13 microscope?

14 A. Yes.

15 Q. And how many did you do that for?

16 A. I sampled one contusion, and then I
17 sampled some hemorrhage in the diaphragm, which is
18 -- well, what separates the chest from the abdomen,
19 and then I also sampled the spleen and also a clot
20 that was at the hilum on the spleen.

21 Q. So you did not look at all of them
22 under the microscope, correct?

23 A. No. I did not look at all of the
24 contusions under the microscope. I just looked at
25 one.

SUSAN ERIN PRESNELL, M.D. - CROSS EXAM BY MS. FORD

1 Q. Generally, I guess the way you were
2 mentioning looking at color, first the bruise may
3 appear reddish for the first couple of days,
4 correct?

5 A. It could. Some turn blue, you know,
6 and, again, that's the whole controversy.

7 Q. And then the bluish-purplish stage
8 usually comes, like, at two to five days, correct?

9 A. It might start off with purple. The
10 one reliable -- one paper and, actually, that's
11 been contested too, but one paper looked at, when
12 does the yellow color show up? That means that
13 your body is breaking the bruise down, breaking the
14 blood down and converting it to hemosiderin which
15 gives it that yellow color.

16 And usually you think of macrophages
17 coming in to clean it up -- I know I'm getting into
18 real pathology -- at 48 hours, but they -- they did
19 examinations from the time -- a known time when a
20 contusion was inflicted and when the yellow color
21 would appear. And, basically, all they could
22 conclude from that was, I think it was at least --
23 that the bruise was at least 17 or 18 hours old is
24 the thing they could say.

25 Q. Sometimes it can take two to four weeks

SUSAN ERIN PRESNELL, M.D. - CROSS EXAM BY MS. FORD

1 for a bruise to heal?

2 A. Depending on how big it is, yes.

3 Q. Didn't you note that the abdomen was
4 distended?

5 A. Let's see, yes, I said that the abdomen
6 is slightly distended.

7 Q. Would you have wanted to know if that
8 was his regular appearance of his abdomen?

9 A. I mean, it's always good to have
10 information from when they're alive. Ultimately,
11 we're going to open up and look and see what is
12 inside. It's not unusual to have some distension
13 in the abdomen when resuscitations have been
14 attempted, because no matter how hard, even if
15 you're intubated correctly, the air will sneak
16 around down the esophagus and inflate the stomach a
17 little bit.

18 So I'm not surprised that he was
19 slightly distended no matter what was inside.

20 Q. Okay. And the spleen, when that is
21 ruptured, does that affect the other organs in the
22 body?

23 A. So the way that it would affect the
24 other organs in the body, it starts to bleed and
25 then you start to lose blood pressure because of

SUSAN ERIN PRESNELL, M.D. - CROSS EXAM BY MS. FORD

1 the amount of blood you've lost, then it might shut
2 down blood supply to other organs which try to keep
3 the vital organs with blood flow.

4 Q. And it affects the oxygen supply?

5 A. The amount of blood available in the
6 blood system and thereby the oxygen, yes.

7 Q. And the colors of a bruise, one reason
8 they're a different color is because that could
9 depend on certain levels of oxygen, correct? At
10 that location?

11 A. I'm not sure.

12 Q. Your job is -- you mentioned the
13 toxicology report. Was anything sent off for
14 toxicology?

15 A. Yes. We sent blood off and it was
16 negative for drugs and alcohol.

17 Q. But you didn't send his blood off to
18 look for the presence of any disease or anything of
19 that nature?

20 A. Well, so at the request of Counsel, we
21 sent off that metabolic screen to look for what
22 they call inborn errors of metabolism from genetic
23 defects. And the basic screen was negative.

24 Q. So you didn't do any testing to see if
25 there was any type of disease or anything of that

SUSAN ERIN PRESNELL, M.D. - CROSS EXAM BY MS. FORD

1 nature, other than the metabolic screening?

2 A. Just by eyesight, but the organs looked
3 normal. And the ones that we deemed were normal,
4 except the hemorrhage area, but no genetic DNA-type
5 testing, no.

6 MS. FORD: Beg the Court's indulgence?

7 THE COURT: Yes, ma'am.

8 By MS. FORD:

9 Q. Just a few more questions.

10 You are a doctor, correct?

11 A. Yes.

12 Q. So you are a scientist; is that fair to
13 say?

14 A. I have a bachelor's of science in
15 microbiology.

16 Q. But your job is, you look at -- you
17 come to a medical conclusion, correct?

18 A. I do a medical opinion, yes.

19 Q. Okay. But you're not obviously an
20 actual witness to any of the events that may have
21 led up to somebody's death?

22 A. Correct.

23 Q. And you are given a brief summary of
24 the circumstances of how someone came to you,
25 correct? Generally?

1 A. Well, it depends on the case, but, yes,
2 it's a summary.

3 Q. But, in general, you're not aware of
4 any of the facts, or the history, or anything like
5 that in the case, correct?

6 A. Well, I mean, like a medical history,
7 we get a fair amount of and -- but, usually --
8 depends on the case as to how much history
9 regarding what was going on around those
10 circumstances.

11 Q. In this case, you just got the
12 information that the mom's boyfriend came in, that
13 he was behaving differently and not responding
14 appropriately to commands, and he brought him to
15 the hospital, correct?

16 A. Correct.

17 Q. So you yourself didn't do any
18 investigation into this case?

19 A. No. We rely on the coroners, they have
20 the authority. And since we are a coroner state,
21 they do the investigation along with law
22 enforcement.

23 Q. So you just look at what is in front of
24 you at the moment, correct?

25 A. Yes. And what comes back from the

SUSAN ERIN PRESNELL, M.D. - REDIRECT EXAM BY MS. HERRING-LASH

1 ancillary test, like looking in the microscope or
2 the tox screen, et cetera.

3 MS. FORD: No further questions.

4 THE COURT: Any redirect?

5 MS. HERRING-LASH: Yes, Your Honor.

6 THE COURT: You may proceed.

7 REDIRECT EXAMINATION

8 BY MS. HERRING-LASH:

9 Q. Were any of the contusions on Child 's
10 body yellow that you noticed?

11 A. No, but we -- there were a couple of
12 abrasions that were scabbed-up.

13 Q. And you didn't -- those weren't the
14 contusions that you were talking about. Those were
15 the scabs?

16 A. Yeah. There was -- there were a couple
17 of scabs, but the contusions, they all had that
18 purplish color.

19 Q. Would it be fair to say when it comes
20 to aging bruises, you really can't, but the best
21 way to do it is at autopsy as opposed to just
22 looking at somebody?

23 A. It would be more efficient to actually
24 look under the microscope for the light reflection
25 to the injury as opposed to just looking, yes.

SUSAN ERIN PRESNELL, M.D. - REDIRECT EXAM BY MS. HERRING-LASH

1 Q. And what was inside of Child 's belly?

2 A. Inside Child 's what?

3 Q. Belly?

4 A. The 450 milliliters of blood.

5 Q. And I think just as Ms. Ford said, you
6 based all this on what you saw in the body?

7 A. Right. This was the facts at autopsy.

8 MS. HERRING-LASH: Those are all the
9 questions I have, Doctor.

10 THE COURT: Any objection to the
11 witness being excused?

12 MS. HERRING-LASH: None from the State.

13 THE COURT: From the defense?

14 MS. FORD: No, Your Honor.

15 THE COURT: Doctor, you're excused.

16 Call your next witness.

17 MS. HERRING-LASH: The State would call
18 Dr. Carey Busch.

19 CAREY BUSCH, M.D.,
20 being first duly sworn, testified as follows:

21 THE CLERK: Be seated. Please state
22 your full name and spell your last name.

23 THE WITNESS: Sure. My name is Dr.
24 Carey Busch, B-U-S-C-H.

25 THE COURT: You may proceed.

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 DIRECT EXAMINATION

2 BY MS. HERRING-LASH:

3 Q. Dr. Busch, where do you work?

4 A. At the Medical University of South
5 Carolina.

6 Q. And what are your duties and position
7 there?

8 A. I'm an assistant professor in
9 pediatrics, and I'm dually appointed in the
10 pediatric emergency room and also in child abuse
11 pediatrics. So I see patients both in a clinic
12 setting where there is a concern for abuse or
13 neglect, and I also see patients that are admitted
14 to the hospital where there is a concern for abuse
15 or neglect, and then I also am attending in our
16 pediatric emergency room.

17 Q. What is your educational background?

18 A. I completed four years of undergraduate
19 education at Texas Lutheran University with a dual
20 major in molecular biology and chemistry, and then
21 completed four years of medical school at Texas
22 A&M. I then went on to three years of pediatric
23 residency at MUSC, and after that transitioned to a
24 four-year dual fellowship in pediatric emergency
25 medicine and child abuse pediatrics. During that

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 fellowship, I also completed a master's in clinical
2 research and I'm now on faculty.

3 Q. And as part of that do you have
4 specialized training in dealing with child abuse
5 and neglect?

6 A. Yes, ma'am, the fellowship was
7 specialized training.

8 Q. What does that entail, to get that
9 fellowship?

10 A. Fellowships in pediatrics are
11 classically three years, because mine was combined,
12 it was four. During that time, we get additional
13 training in areas of trauma, abuse, in multiple
14 different medical arenas that would be relevant to
15 inflicted injury.

16 Q. And are you licensed and certified?

17 A. I am. So I'm a board certified
18 pediatrician, I'm also a board certified child
19 abuse pediatrician, and I'm board eligible for the
20 pediatric emergency medicine boards, and I take
21 those in the spring.

22 MS. HERRING-LASH: At this time, we
23 would offer Dr. Busch as an expert in child abuse
24 pediatrics?

25 THE COURT: Any objection or

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 questions?

2 MS. FORD: Beg the Court's indulgence?

3 Your Honor, may we approach?

4 (Bench conference)

5 THE COURT: Step back for me.

6 Mr. Foreman, ladies and gentlemen, I

7 have a brief matter of law to take up with the

8 attorneys. During the break do not discuss the

9 case and leave your notepads in your seats.

10 (Jury out, 3:03 p.m.)

11 THE COURT: You never asked her how

12 many times she's been qualified to testify as an

13 expert.

14 MS. HERRING-LASH: How many times have

15 you been qualified to testify as an expert?

16 THE WITNESS: Three.

17 THE COURT: What courts?

18 THE WITNESS: Twice in Charleston

19 County and once in Dorchester County.

20 THE COURT: Now, Ms. Ford, I need to

21 know the nature of your objection. Is it to her

22 expertise or to the nature of the testimony?

23 MS. FORD: It's to the nature of her

24 testimony, Your Honor.

25 THE COURT: So you don't object to her

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 expertise and you will admit that she does more
2 than possess the qualifications to be qualified as
3 an expert in child abuse pediatrics?

4 MS. FORD: Yes, Your Honor.

5 THE COURT: What exactly do you plan to
6 try to elicit from this witness?

7 MS. HERRING-LASH: To begin with, she
8 was at the autopsy and participated in the autopsy,
9 so she has some direct observations and --

10 THE COURT: Why was she at the
11 autopsy?

12 MS. HERRING-LASH: Pardon me?

13 THE COURT: Why was she at the autopsy?

14 MS. HERRING-LASH: Because she was
15 doing her rotation with the pathology department at
16 that point in time.

17 THE COURT: As part of the fellowship
18 or as part of -- why was she even doing a rotation
19 in forensic pathology?

20 MS. HERRING-LASH: Why were you doing
21 your rotation in forensic pathology?

22 THE WITNESS: It's part of the
23 fellowship.

24 THE COURT: You may continue. I need
25 to know what it is that you would be seeking to

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 elicit.

2 MS. HERRING-LASH: Do you want me to
3 ask all of the --

4 THE COURT: No. I need you to tell me
5 in general, and then I will deal with that and go
6 from there. I think Ms. Ford needs to know so I
7 can ask her -- so I can know exactly what the basis
8 of her objection is.

9 MS. HERRING-LASH: I was going to ask
10 her some general questions about what she observed
11 at the autopsy and about the significance of
12 bruises being on different planes of the body in
13 different locations of the body, because throughout
14 the -- do you want me to explain to you the
15 relevance?

16 THE COURT: I want to know, first of
17 all, how she would be qualified to testify to that.
18 We've already had a witness testify as to the
19 window of the age of the bruises.

20 MS. HERRING-LASH: Not --

21 THE COURT: I'm trying to figure out
22 exactly what is it that you're trying to elicit so
23 I can determine if it's relevant and competent.

24 MS. HERRING-LASH: Not about the age.

25 THE COURT: I understand.

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 MS. HERRING-LASH: But the significance
2 of the bruises of different planes of the body as
3 the history in this case was to a fall at the park,
4 to an injury at the park. I know it was later that
5 was changed, but I feel like as part of the --

6 THE COURT: Why didn't you ask the
7 forensic pathologist that as part of a
8 hypothetical?

9 MS. HERRING-LASH: When I tried to ask
10 the forensic pathologist, she felt like it was
11 better to ask a person that treated live patients.
12 I had another question regarding --

13 THE COURT: This wasn't a live
14 patient. It's not making a whole lot of sense to
15 me.

16 MS. HERRING-LASH: I know, and that's
17 why the forensic pathologist couldn't answer it.

18 THE COURT: No. No. They answer
19 those questions all the time. It's no different
20 than saying when somebody says I shot -- he got
21 shot when he was laying down versus he got shot
22 when he was standing up. The person was alive when
23 they got shot, but they're being examined when they
24 are passed.

25 So I'm trying to figure out why she

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 could not -- why you would not have been able to
2 ask the forensic pathologist --

3 MS. HERRING-LASH: I may --

4 THE COURT: -- consistent with a fall
5 at the park.

6 MS. HERRING-LASH: When I went over
7 those questions with her and some of these other
8 questions, she felt it would have been better to
9 ask a pediatrician who treats live patients,
10 especially about spleen injuries and different
11 mechanisms where spleens are injured, because a
12 pediatrician who treats children who have injuries
13 to the spleen or -- very commonly that does not
14 cause a death because it can be treated. The time
15 frame in this case is what caused it.

16 THE COURT: Why didn't you ask her
17 about the time frame? Well, she did ask her --

18 MS. HERRING-LASH: I did.

19 THE COURT: -- but you didn't ask her
20 very specifically.

21 MS. HERRING-LASH: When I asked her
22 that specific question is when she told me it would
23 be better to ask a pediatrician.

24 THE COURT: Now my next question is,
25 do you plan to ask her in the nature of a

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 hypothetical or do you plan to try to ask her about
2 this particular individual?

3 MS. HERRING-LASH: Not -- I was -- is
4 the spleen a common organ that sustains injury?
5 And she will --

6 THE COURT: I think we all know --

7 MS. HERRING-LASH: -- the liver is the
8 most common --

9 THE COURT: Yeah, people get spleen
10 injuries all the time.

11 MS. HERRING-LASH: And what are some of
12 the common mechanisms that you see as a
13 pediatrician to injuries to the spleen, and was
14 there a hemorrhage in this case, and what does the
15 hemorrhage mean?

16 THE COURT: Is that the extent of the
17 questions?

18 MS. HERRING-LASH: Were there other
19 organs that were -- that were injured? Are the
20 various locations of the injuries significant?
21 What happens as a body begins to shut down?

22 THE COURT: Why couldn't the medical
23 examiner answer that? That's her job, isn't it?
24 I mean, in a real --

25 MS. HERRING-LASH: That is another

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 question that--

2 THE COURT: -- she studies death. She
3 should be able to say what processes the body goes
4 through when it's dying.

5 MS. HERRING-LASH: I can only tell you
6 what I was told.

7 THE COURT: She couldn't tell you what
8 the various stages are when the body is breaking
9 down from death?

10 MS. HERRING-LASH: When I asked the
11 question, I was told it would be better to ask the
12 pediatrician.

13 THE COURT: To ask what the processes
14 are after the body has died --

15 MS. HERRING-LASH: No, before death.
16 Before death. And I think her thought probably
17 legitimately was this -- a pediatrician treating a
18 child in the hospital sees that process. The
19 pathologist never sees that because --

20 THE COURT: Maybe I'm not
21 understanding exactly what you're saying. Repeat
22 the question again.

23 MS. HERRING-LASH: What begins to
24 happen as the body shuts down? And --

25 THE COURT: Before death?

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 MS. HERRING-LASH: Yes.

2 THE COURT: And what else?

3 MS. HERRING-LASH: And did she also
4 review -- personally observe the autopsy and review
5 the autopsy? Did she review the birth records, the
6 doctors' visits to the ER, the well baby visits,
7 the screens done in autopsy, the metabolic screens
8 done in addition to the one at birth, the MUSC
9 record regarding another time that the child had
10 been at MUSC, and about a review of all of those
11 records.

12 THE COURT: And so what is her
13 opinion?

14 MS. HERRING-LASH: Was there -- my
15 question would be, were there any pre-existing
16 medical conditions that would have contributed to
17 Child 's death?

18 THE COURT: What is her answer going
19 to be?

20 MS. HERRING-LASH: That there weren't,
21 that she didn't find any --

22 THE COURT: Basically, she's just going
23 to say he was healthy.

24 MS. HERRING-LASH: And she explains
25 going over the records just briefly, if it was --

5 THE COURT: All right. What's the
6 nature of the objection, Ms. Ford?

11 THE COURT: I don't think she is going
12 to testify to any of the specifics of the autopsy.

15 THE COURT: I don't think she's
16 competent to.

19 THE COURT: I don't think that they're
20 going to ask her any specifics -- as I understand
21 it, and if I'm wrong, please correct me, it's my
22 understanding they're going to say she was there to
23 observe it as part of her rotation in her
24 fellowship?

25 MS. HERRING-LASH: I would ask her if

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 she observed the body and how it arrived.

2 THE COURT: Why is that relevant?

3 MS. HERRING-LASH: And did she observe
4 injuries on the body?

5 THE COURT: Why is that relevant?
6 We've already had the medical examiner to testify.

7 MS. HERRING-LASH: Because I wanted to
8 ask her the question about injury to the different
9 planes of the body being medically significant when
10 you're looking at --

11 THE COURT: Why are they medically
12 significant?

13 MS. HERRING-LASH: Looking at whether
14 there was one blow, as opposed to multiple parts of
15 the body were injured, were afflicted. I don't
16 know that -- that's what the argument would be, but
17 I can't come back and say, wait, this couldn't have
18 been from a one blow -- this injury couldn't have
19 been from one blow, as the defendant has said it
20 was, both inferring he fell in the park, and he hit
21 this child one time.

22 I can't come back then and say, wait.
23 It's too late then. I don't have -- I don't have
24 the ability to call that if it's in closing
25 argument. And I think he has said that in his

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 tape.

2 THE COURT: I understand that, but the
3 pathologist should have been able to say what
4 caused the injury.

5 MS. HERRING-LASH: She did say what --

6 THE COURT: She can opine as to
7 whether it was these other -- you could have asked
8 her, hypothetically, could this injury have been
9 caused at the playground. She should be qualified
10 to answer that and I'm a little -- I guess I'm a
11 little concerned why you didn't ask her that.

12 MS. HERRING-LASH: When I was going
13 over the testimony, that is what we discussed, that
14 it would be better if I had a pediatrician to go
15 over a lot of these. Especially, I guess, when we
16 were talking about how the body reacts. This
17 person treats kids that don't die and she says, you
18 know, I see them after they're dead.

19 THE COURT: Yeah, but she is -- it's
20 her job to tell the mode and manner of death. She
21 knows how a spleen gets ruptured.

22 MS. HERRING-LASH: Right, but I don't
23 think these other bruises caused the death.

24 THE COURT: She testified already that
25 they contributed. That there were multiple

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 blunt-force injuries that contributed to this
2 injury. I'm trying to figure out what the
3 substance is of what it is that you're -- are you
4 trying to imply through this witness that this
5 child was the victim of child abuse?

6 MS. HERRING-LASH: I wasn't going to
7 ask her that.

8 THE COURT: Well, when you have
9 somebody qualified as a pediatric child abuse
10 specialist, that's clearly the inference.

11 MS. HERRING-LASH: I don't know that
12 she can testify about the -- like the injuries to a
13 spleen and how -- and common mechanisms that you
14 see when children -- when people come in with
15 injury to a spleen, and the process that the body
16 goes through as they are dying, and the looking
17 over all of those records --

18 THE COURT: I don't have a problem
19 with any of that. What I'm concerned about is when
20 you talk about the significance of injuries on the
21 plane to the body, I need you to be more specific
22 about that and what is it that you're trying to
23 elicit from this witness.

24 MS. HERRING-LASH: Different areas --
25 different areas of the body injured in different

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 planes suggest a single fall or a single blow.

2 THE COURT: You need to ask her a
3 direct question and stay away from the leading.
4 She should be able to say how a spleen was injured
5 and if she is an expert she should be able to --

6 MS. HERRING-LASH: That question wasn't
7 about the spleen, but about all the other different
8 injuries to the left side of the body, the right
9 side of the body, the arms, leg, head. That wasn't
10 one blow is what --

11 THE COURT: I don't think you need a
12 medical expert to tell you that.

13 MS. HERRING-LASH: But you never know.
14 I have to prove my case.

15 THE COURT: You do have to prove your
16 case, but I think it's common sense that one blow
17 doesn't inflict 17 injuries. That would strain the
18 imagination.

19 MS. HERRING-LASH: I agree.

20 THE COURT: Unless you fell and hit
21 yourself in 17 different places, which is possible
22 if you fall down some stairs or something, but
23 there is no testimony that that happened.

24 MS. HERRING-LASH: But I don't know
25 what the defendant's testimony is going to be.

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 THE COURT: Okay. What's the nature
2 of the objection?

3 MS. FORD: Your Honor, I do agree that
4 -- I think my concern is qualifying her as an
5 expert in child abuse, my concern -- why I raised
6 my concern is that she was going to get up there
7 and offer a legal conclusion. An element of one of
8 the offenses is that child abuse was admitted.

9 THE COURT: Well, they said she's not
10 going to do that.

11 MS. FORD: That's what first drew my
12 attention because I was concerned by her title, an
13 expert in child abuse. Her testimony, some of it I
14 agree with, things going into his history that she
15 didn't see --

16 THE COURT: I don't think she has to
17 with an expert. That's what experts do, they
18 opine. They're qualified by the nature of the
19 training and experience to look at criteria and
20 data and draw conclusions from it because they have
21 better expertise than the rest of us.

22 Medical experts do it all the time in
23 medical malpractice cases. They look at somebody's
24 records and say to a reasonable degree of medical
25 certainty, this is how this happened within certain

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 variables.

2 MS. FORD: Yes, Your Honor. I think
3 it's a little different in -- well, just as far as
4 it sounds like the Solicitor wasn't going to ask
5 her that question, so --

6 THE COURT: It sound like she's asking
7 very general questions, like, how does the spleen
8 get injured? What mechanisms and ways does the
9 spleen get injured? When a spleen gets injured,
10 how is it treated? Is it easily treatable? And,
11 basically, how long does it take for you to succumb
12 to a spleen injury without treatment? And I think
13 all of that is fair game.

14 MS. FORD: I would -- the part I would
15 object to is her testifying to things the autopsy
16 that's already been testified to or --

17 THE COURT: I don't think she -- yeah,
18 I don't think -- I don't mean to interrupt you.

19 But, Ms. Herring-Lash, while we're on
20 that point, it's not my understanding that you plan
21 to ask her anything about the autopsy?

22 MS. HERRING-LASH: The only thing that
23 I was going to ask her about the autopsy was, did
24 you observe injuries and bruises on the body?

25 THE COURT: And how would that be

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 relevant?

2 MS. HERRING-LASH: If you have asked me
3 not to ask a question about the bruises on the
4 different planes of the body, I will not.

5 THE COURT: Well, no, I'm trying to
6 determine that. I need to know why you would ask
7 her, and how it would be relevant.

8 MS. HERRING-LASH: I think it is
9 relevant to show this was not from a single blow or
10 a single fall.

11 THE COURT: Now, she does have a
12 point, Ms. Ford, which is, if I follow the line of
13 questioning and the original recounts of the
14 chronology of these events, your client's
15 consistent story or version has been that he took
16 this child to the playground, that he lost sight of
17 him because he was preoccupied with his cell phone
18 -- I'm paraphrasing -- that the pure inference from
19 that is that somehow he hurt himself somehow,
20 because when he saw him later, he was acting
21 uncharacteristic, that would be sitting on a bench
22 with his head down.

23 And then after he took him home, he
24 didn't want to eat or drink anything, and then his
25 behavior turned for the worst. And then we have a

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 whole continuum of rushing him to the emergency
2 room and him soiling himself.

3 So if I follow that line of reasoning,
4 since the State has to prove their case beyond a
5 reasonable doubt, they do have the ability to
6 anticipate what the defense will be and to rebut
7 that because they have to disprove it. He doesn't
8 have any burden of proof; they do. If they're
9 offering this to disprove that he couldn't have
10 gotten hurt at the playground, which I'm certain in
11 cross you would ask, is it possible that he got
12 hurt at the playground? Well, yeah, he could have
13 fallen off of something.

14 I don't know what the doctor's response
15 would be, but my inclination at this point that
16 your objection would really go to weight, not
17 admissibility. Because now we're talking about two
18 separate things. We're talking about what one
19 doctor observed in their speciality, which is the
20 cause, mode, and manner of death, which is after
21 the body is no longer functioning versus body
22 processes when it is alive and functioning.

23 And so I think you would have an
24 adequate opportunity to cross-examine her on those
25 issues.

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 Now, my ruling only deals with what I
2 have heard so far. If there is something that's
3 going beyond, that does not relieve you of your
4 responsibility to make a contemporaneous objection
5 if it's veering from one way to the left or to the
6 right. And I do think she has the ability as an
7 expert to review the records.

8 And because you've asked a line of
9 questions about pre-existing injuries, genetic
10 testing and things like that to imply maybe that he
11 had some other genetic disorder that could have
12 caused this, and I think they have a right to rebut
13 that by saying that she looked at his records and
14 he was basically a healthy child, that he had no
15 conditions that would have contributed to the
16 rupture of the spleen.

17 MS. FORD: Yes. And I wasn't objecting
18 to that line of questioning. Just the line
19 contributing to -- going to his cause of death.

20 THE COURT: I don't think she can
21 testify about the mode and manner of death. She's
22 not qualified.

23 MS. HERRING-LASH: I was not going to
24 ask her mode and manner of death.

25 THE COURT: And I will have to hear

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 what -- well, why don't you go ahead and ask that
2 question about -- I need some more specificity when
3 you're asking about the significance of the planes
4 of his injuries.

5 BY MS. HERRING-LASH:

6 Q. Doctor Busch, were you able to as part
7 of your pathology rotation, observe the autopsy --
8 my question will be a little different -- observe
9 the autopsy of **Child** ?

10 A. I was.

11 Q. And when he arrived in the autopsy,
12 what were your first observations of his external
13 injuries to his body?

14 A. What was initially visible was multiple
15 bruises on multiple locations of his body.

16 Q. And when you say multiple locations,
17 what locations?

18 A. The forehead, the right and left side
19 of the face, the back of his head, his neck, both
20 of his hands, the left upper arm and forearm,
21 chest, both sides of his flank, his abdomen, his
22 buttocks and legs.

23 Q. Were these injuries on different areas
24 of his body?

25 A. Yes.

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And would injuries on different areas
2 of the body -- what would you opine about that as
3 far as the significance of if there was one blow or
4 one fall?

5 A. To the multiple planes, implies
6 multiple blows, multiple points of impact. With a
7 typical single fall that a child would have during
8 a normal routine child's play, that would involve
9 one plane of the body.

10 Q. And by plane, just for the jury, we're
11 talking front, back, side?

12 A. Correct.

13 MS. HERRING-LASH: And that would be
14 the --

15 THE COURT: Any objection to that line
16 of questioning?

17 MS. FORD: Well, just going to the
18 number of bruises she saw, I think that's
19 bolstering cumulative.

20 THE COURT: Well, if she's going to
21 relate it to how this injury could have taken
22 place, I don't think it's cumulative. I think what
23 she's observed, if we're going to relate it to the
24 process of how this injury -- how injuries in
25 general occur, coupled with the implication of the

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 inference that this could have happened on the
2 playground, I think it's relevant.

3 But, again, you're going to have to
4 make a contemporaneous objection if it goes beyond
5 or is out of line of what I have heard just now.

6 All right. Bring in the jury, please.

7 Again, to reiterate, you have no
8 objection to her qualifications as an expert,
9 correct?

10 MS. FORD: No, Your Honor, just the
11 name of the qualification I guess.

12 THE COURT: That's what she is.
13 That's what she's board certified in. She's
14 sitting for the boards in pediatrics ER; she can't
15 necessarily -- she wouldn't really meet the
16 qualifications of an expert in that criteria until
17 she -- she doesn't have to be board certified, but
18 that certainly bolsters.

19 MS. FORD: And just to clarify, an
20 expert in pediatric child abuse or --

21 MS. HERRING-LASH: It's called -- child
22 abuse pediatrics is the title.

23 THE COURT: So she has a board
24 certification. Which, if I read that correctly, is
25 about injuries -- a specialty in injuries to

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 children. I don't know that necessarily implies
2 that it's child abuse or --

3 MS. HERRING-LASH: Or to explain why it
4 wasn't child abuse.

5 (Jury in, 3:20 p.m.)

6 THE BAILIFF: Jurors are all seated,
7 Your Honor.

8 THE COURT: Ladies and gentlemen, we
9 appreciate your patience. The witness is admitted
10 as expert without objection.

11 You may proceed.

12 BY MS. HERRING-LASH:

13 Q. Dr. Busch, in October of 2014, were you
14 doing a pathology rotation?

15 A. I was.

16 Q. What does a rotation mean?

17 A. So during our training in fellowship,
18 each month is considered a separate rotation, and
19 you are on various experiences to broaden your
20 depth of knowledge in relation to what you're
21 training in. So one of the rotation options for
22 child abuse pediatric fellowship is forensic
23 pathology, to become familiar with the autopsy
24 process and also the physical appearance of
25 injuries.

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And you were there for a month?

2 A. Yes, ma'am.

3 Q. And so you didn't just observe
4 children's autopsy, but any autopsy that was --

5 A. Correct. Anything that occurred in
6 that month.

7 Q. And during that time, were you --
8 during that October, were you present and observing
9 **Child** autopsy?

10 A. I was.

11 Q. And when the -- when **Child** arrived in
12 the autopsy room, did you observe his external
13 injuries?

14 A. I did.

15 Q. And what were those?

16 MS. FORD: Objection, my prior --

17 THE COURT: Approach.

18 (Bench conference)

19 THE COURT: Question is withdrawn. You
20 may proceed.

21 BY MS. HERRING-LASH:

22 Q. While observing that autopsy, you
23 observed the internal autopsy also?

24 A. I did.

25 Q. And what organ was the main cause of

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 the injury to **Child** ?

2 A. The spleen was the primary injury.

3 Q. And is the spleen -- the jury has
4 already seen a picture of where the spleen is
5 located. Is the spleen protected in the body?

6 A. It is in a relatively protected
7 location. So it's typically tucked up under the
8 left side of the rib cage and that provides a
9 little protection from the outside world.

10 Q. Is the spleen a commonly injured organ?

11 A. It is. The spleen and liver are the
12 two most common solid organs that are injured in
13 trauma.

14 Q. And the side of the liver or --

15 A. Correct. The liver primarily lives on
16 the right side of your body, but also it's large
17 enough to cross midline. So being the largest
18 organ in the body, it's the most likely to have --
19 to be the location of impact.

20 Q. And is the spleen what you call a fixed
21 organ?

22 A. I would call it a tethered organ so it
23 is not typically adherent to the side of the
24 abdominal wall, but it is tethered by its blood
25 supply. So it has kind of a fixed location,

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 typical location in the abdomen and that blood
2 supply keeps it in that particular location.

3 Q. What are some of the common mechanisms
4 of injury to the spleen that you see in
5 individuals?

6 A. Most commonly we see it in motor
7 vehicle collisions. We also, in pediatrics, see it
8 as sports injuries, some football or soccer.
9 Typically, then there is a history of a direct blow
10 of a helmet or foot to that side of the body.

11 Q. What kind of force are we talking
12 about?

13 A. It's typically significant force, so in
14 a situation of a sports injury or a car accident,
15 you've got something that is moving at a high
16 velocity that imparts a significant force on the
17 object that it hits.

18 Q. And are these injuries often -- are you
19 able -- if they present, are you able to treat
20 them?

21 A. Very commonly. It is exceedingly rare
22 for splenic injuries to be fatal.

23 Q. What would the treatment be?

24 A. So the primary treatment is supportive.
25 So when any injury -- internal injury that's

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 concerning is ongoing bleeding. So we support the
2 body by giving additional fluids or blood products
3 to compensate for what's being lost for the
4 bleeding in hopes that the body will stop the
5 bleeding on its own.

6 If that doesn't happen, then sometimes
7 the spleen needs to be removed or some of the
8 arteries need to be blocked to stop the bleeding.

9 Q. And you're using the word bleeding. Is
10 hemorrhaging another word for bleeding?

11 A. Yes.

12 Q. As the body begins to lose blood or to
13 shut down, how does that occur when you have your
14 patients that are beginning to die?

15 A. So the patients are losing blood,
16 either to the outside world or into their -- in a
17 spleen laceration, into their abdomen. The amount
18 of blood is actually in the vasculature so the
19 arteries and veins throughout the rest of the body
20 is starting to go down.

21 And it hits a certain point where
22 there's not enough blood in the arteries and veins
23 to get oxygen to the rest of the body, so the body
24 compensates by shunting the blood to the vital
25 organs, like your heart and lungs.

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 Q. What does shunting mean?

2 A. It means that it would preferentially
3 send blood to those organs by decreasing blood flow
4 to other organs. So we call that shock, that
5 process is shock. And when patients present in
6 shock, and they've been in that state for a
7 significant period of time, even if I can
8 resuscitate them out of it, I expect a significant
9 amount of damage to be done to, like, the GI tract,
10 the bowel, to the kidneys, to the liver. It's not
11 uncommon after the setting in of shock to have
12 liver or kidney failure, because they didn't get
13 enough blood supply.

14 Q. Would one of the first signs of that
15 shut down be loss of bowel --

16 MS. FORD: Objection.

17 THE COURT: Basis?

18 MS. FORD: Leading.

19 THE COURT: Sustained; leading.
20 Rephrase.

21 BY MS. HERRING-LASH:

22 Q. You mentioned the digestive tract.
23 What would that suggest to you?

24 A. When the digestive tract starts to shut
25 down, it decrease its overall tone. So it's kind

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 of a muffled contraction. It loses the ability to
2 control itself. So we can see vomiting and we can
3 see diarrhea.

4 Q. And that begins before the vital organs
5 shut down?

6 A. Correct. It's a continuum. It's all
7 happening kind of as a process, but that will
8 typically happen before the heart stops.

9 MS. HERRING-LASH: And, Your Honor, may
10 we approach?

11 THE COURT: You may.

12 (Bench conference.)

13 THE COURT: You may proceed.

14 BY MS. HERRING-LASH:

15 Q. When you observed **Child** 's body
16 externally, what did you see?

17 MS. FORD: Objection; based on my prior
18 objection.

19 THE COURT: Overruled, subject to the
20 Court's instructions to Counsel.

21 BY MS. HERRING-LASH:

22 Q. What did you see externally?

23 A. So externally, on the skin, there were
24 multiple areas of bruising to multiple different
25 parts of the body.

CAREY BUSCH, M.D. - DIRECT EXAM BY MS. HERRING-LASH

1 Q. And what would that suggest to you
2 about those injuries?

3 MS. FORD: Objection; speculation.

4 THE COURT: Overruled.

5 THE WITNESS: The various locations
6 raise the level of concern for multiple points of
7 impact. So when we're talking about where injuries
8 are, we classify them in planes of the body. So,
9 for example, the front of the body, the back, the
10 sides.

11 So when we're looking at this bruising
12 and they're in more than one plane of the body, it
13 tells me there's been more than one site of impact.
14 BY MS. HERRING-LASH:

15 Q. Now, as part of your preparation for
16 this case, Dr. Busch, did you, as well, observe the
17 autopsy, look over the autopsy report and other
18 records?

19 A. I did.

20 Q. What other records did you look over?

21 A. I reviewed the child's birth history, I
22 reviewed multiple emergency room records both from
23 MUSC and another facility. I also reviewed two
24 records from two well child checks, and then the
25 records from the emergency room visit on the day of

CAREY BUSCH, M.D. - CROSS EXAM BY MS. FORD

1 his death.

2 Q. And for his ER visits, were there any
3 routine visits?

4 A. Very routine. There was one for a
5 tummy bug, another one for a virus, and another for
6 pinkeye.

7 Q. And in your review of the records, did
8 you see any pre-existing medical conditions that
9 could have contributed to Child 's death?

10 A. I did not.

11 MS. HERRING-LASH: Those are all the
12 questions that I would have for her.

13 THE COURT: You may proceed with
14 cross-examination.

15 CROSS-EXAMINATION

16 BY MS. FORD:

17 Q. Dr. Busch, you told us how you reviewed
18 various medical records. You told us about some
19 well visits that you reviewed?

20 A. Yes.

21 Q. You were just given two of them,
22 correct?

23 A. Correct.

24 Q. And in your field, you know that it's
25 recommended that there are numerous well visits for

CAREY BUSCH, M.D. - CROSS EXAM BY MS. FORD

1 a child, especially a small child, correct?

2 A. Yes, ma'am.

3 Q. So there's actually one -- there is
4 supposed to be one at one week old?

5 A. Right after birth there is a little
6 variability, depending on how pediatricians like to
7 see patients. Typically, there is a visit after
8 discharge from the hospital, and then at least at
9 two months, if not one in between there.

10 Q. So it's two months, and then at one at
11 four months?

12 A. Yes.

13 Q. And one at six months?

14 A. Yes.

15 Q. And one at nine months?

16 A. Yes.

17 Q. And one at 12 months?

18 A. Yes.

19 Q. And one at 15 months?

20 A. Yes.

21 Q. And one at 18 months?

22 A. Yes.

23 Q. And one at two years?

24 A. (Nodding)

25 Q. And one at two-and-a-half years?

CAREY BUSCH, M.D. - CROSS EXAM BY MS. FORD

- 1 A. Yes.
- 2 Q. And one at three years?
- 3 A. (Nodding)
- 4 Q. So for a three-year-old child, they
- 5 should have had at least over ten well visits in
- 6 that amount of time?
- 7 A. That is what is recommended.
- 8 Q. And so you only reviewed two well
- 9 visits?
- 10 A. Correct.
- 11 Q. **Child** most recently had gone to the
- 12 doctor for pinkeye, does that sound right?
- 13 A. Yes, ma'am.
- 14 Q. And he went to Roper Emergency Center?
- 15 A. Yes.
- 16 Q. And if a child presents for pinkeye, is
- 17 it fair to say that's probably a fairly quick
- 18 visit?
- 19 A. Typically.
- 20 Q. They are given some medicine?
- 21 A. Usually.
- 22 Q. So they can go back to school?
- 23 A. Or daycare.
- 24 Q. So it's unlikely they would do any type
- 25 of a full scan or a view of the child?

CAREY BUSCH, M.D. - CROSS EXAM BY MS. FORD

1 A. So every practice has a little
2 different standard, but it is for an ER standard to
3 do a full assessment or triage. And most ER
4 physicians will listen to heart and lungs and
5 palpate the belly at every visit, every time,
6 regardless of the reason, and we complete a review
7 of systems where we go through multiple different
8 -- essentially a line of questioning by systems to
9 try and elicit any other symptoms that the family
10 has already mentioned.

11 Q. But for pinkeye, it's going to be a
12 pretty quick visit?

13 A. I think a quick visit, but I would
14 expect them to look at more than the eye.

15 Q. And doctors are what are called
16 mandatory reporters, correct?

17 A. Yes.

18 Q. And that means -- we've heard about it
19 already, but if you see any signs of abuse you are
20 required to report it, correct?

21 A. Yes, ma'am.

22 Q. And, to your knowledge, looking at the
23 medical records, you did not see -- you did not see
24 that any doctor saw signs of abuse that they felt
25 needed to be reported, correct?

CAREY BUSCH, M.D. - CROSS EXAM BY MS. FORD

1 A. Not that they documented, correct.

2 Q. Earlier in 2014, Child was seen -- and
3 this was in February of 2014, Child was seen at
4 Roper Emergency Care again, correct?

5 A. I believe so.

6 Q. And that was for vomiting and diarrhea?

7 A. Yes.

8 Q. And as part of your review of Child 's
9 past, did you at any time talk to any of his family
10 members about his history?

11 A. I did not. It was totally a chart
12 review.

13 Q. Okay. And there were no tests done for
14 any nutritional deficiency or anything of that
15 nature, correct?

16 A. Not that I saw, but I wouldn't expect
17 that.

18 Q. But it's something that a doctor could
19 do?

20 A. If he had a reason to be suspicious of
21 that, yes.

22 MS. FORD: Beg the Court's indulgence?

23 THE COURT: Yes, ma'am.

24 BY MS. FORD:

25 Q. Do you have any of your records in

CAREY BUSCH, M.D. - CROSS EXAM BY MS. FORD

1 front of you, Doctor?

2 A. I do.

3 Q. Do you know the date of the -- when

4 **Child** was seen for pinkeye?

5 A. The visits to Roper are prior to the
6 his final visit to MUSC. I believe five days
7 before.

8 Q. On the 21st? October 21st, does that
9 sound right?

10 A. Yes.

11 Q. So that would have been earlier in the
12 week?

13 A. I honestly can't recall what day of the
14 week it was.

15 Q. Okay. Well, **Child** died on a Sunday,
16 so it would have been --

17 A. A week prior.

18 Q. And other than a metabolic screening
19 that was sent off, there were no tests of any kind
20 done on **Child** 's blood other than the -- well, the
21 screening and toxicology, correct?

22 A. Not that I'm aware of, but I'm not a
23 pathologist. I was there for observation and there
24 were parts of that process I was not privy to.

25 Q. So you reviewed what the Solicitor gave

CAREY BUSCH, M.D. - REDIRECT EXAM BY MS. HERRING-LASH

1 you?

2 A. Yes.

3 MS. FORD: No further questions.

4 THE COURT: Any redirect?

5 REDIRECT EXAMINATION

6 BY MS. HERRING-LASH:

7 Q. Dr. Busch, would it help refresh your
8 memory if you were to look at the exam of
9 October 21st?

10 A. It would.

11 MS. HERRING-LASH: May I approach the
12 witness?

13 THE COURT: You may.

14 MS. FORD: Your Honor, she never
15 testified that --

16 THE COURT: You opened the door when
17 you asked that question, so she can rehabilitate
18 her witness.

19 MS. FORD: She never said she didn't
20 remember something.

21 THE COURT: She doesn't have to. She
22 can inquire into that line of questioning and
23 elaborate on it on redirect.

24 You may proceed.

25 BY MS. HERRING-LASH:

CAREY BUSCH, M.D. - REDIRECT EXAM BY MS. HERRING-LASH

1 Q. In this exam, were all systems checked?

2 A. They documented a review of systems and
3 all other systems reviewed are negative and that's
4 a standard panel so the other physicians know what
5 that means. And they documented nine systems in
6 the exam.

7 Q. Was the skin one of them?

8 A. Yes.

9 Q. What was the skin results?

10 A. Normal in color and normal in
11 temperature.

12 MS. HERRING-LASH: Those are all the
13 questions I have.

14 THE COURT: Any objection to the
15 witness being excused? From the State?

16 MS. HERRING-LASH: No, Your Honor.

17 THE COURT: From the defense?

18 MS. FORD: No, Your Honor.

19 THE COURT: Doctor, you're excused.

20 The State may proceed.

21 MS. HERRING-LASH: Your Honor, at this
22 time, the State would rest.

23 THE COURT: Mr. Foreman, ladies and
24 gentlemen, the State has rested their case. There
25 are some matters of law I need to take up with the

1 attorneys. During this break, please do not
2 discuss the case and please leave your notepads in
3 your seats.

4 We appreciate your patience.

5 (Jury out, 3:48 p.m.)

6 THE COURT: Are there any motions?

7 MS. FORD: Your Honor, at this time, I
8 would move to renew all of my prior objections and
9 move for a directed verdict. I don't think there
10 is no witness to C. J. doing anything that day or
11 recently, Your Honor. There was one witness, Mr.
12 Harris, who said he heard slapping, he believes,
13 four or five days prior, but there is nothing --
14 there is no witness.

15 C. J. admitted that he hit him in a
16 location -- the video said he struck him one time.
17 We don't think there is enough evidence to show
18 that he's the one that caused the injuries, but
19 more specifically, we don't think that the State
20 has shown extreme indifference to human life. I
21 think by that standard that they do have to prove
22 -- not that he intended death certainly, but that
23 he did something knowing that death could result,
24 and so that's why I would move for a direct
25 verdict.

1 THE COURT: Would the State like to
2 respond?

3 MS. HERRING-LASH: Yes, Your Honor. In
4 the light most favorable to the State, there is
5 plenty of evidence that from 8:30, 8:40 that
6 morning he was the only caretaker of this child and
7 that these injuries were within that -- until the
8 time five-something, when they arrived at the
9 hospital, is nine hours. I specifically asked
10 about a nine-hour period and where they were during
11 that time period.

12 He does not have to intend to cause the
13 death, but extreme indifference. Both doctors
14 talked about the force of the impact. Dr. Busch
15 alluding to a football injury with a person being
16 hit by a helmet. This had to be a very forceful
17 injury.

18 Not only that, the contusions and
19 abrasions about his body also goes to extreme
20 indifference, and the jury has plenty of evidence
21 before it to find that, if they find it credible
22 evidence.

23 THE COURT: Anything further from the
24 defense?

25 MS. FORD: No, Your Honor.

1 THE COURT: In order to establish its
2 case, the State must prove beyond a reasonable
3 doubt that the defendant caused the death of a
4 child under the age of 11 while committing child
5 abuse or neglect. And that is defined as an act or
6 failure to act which causes harm to the child's
7 physical health or welfare.

8 And that it is also broken down to be
9 defined as harm to the child's physical health or
10 welfare means that the defendant either inflicted
11 or allowed to be inflicted on the child's physical
12 -- on the child, physical injury, failed to supply
13 the child with health care -- and I omitted the
14 rest of that portion of the statute because that's
15 not applicable.

16 There is no indication that he failed
17 to supply adequate food, clothing or shelter, but
18 failed to supply the child with health care and
19 this failure caused a physical injury or condition
20 which caused death. There is no indication of
21 abandonment so that would not be applicable.

22 And then the State must prove beyond a
23 reasonable doubt that the death occurred under
24 circumstances showing extreme indifference to human
25 life. When considering a motion for directed

1 verdict, the Court is not the finder of fact. It
2 does not weigh evidence. The Court must only
3 determine in the light most favorable to the State
4 whether they have shown by direct or substantial
5 circumstantial evidence whether -- I apologize, I
6 misstated what I was trying to say.

7 The State must show, either by direct
8 or substantial circumstantial evidence, evidence
9 which tends to prove the defendant's guilt or where
10 it may be logically deduced. Of course that
11 evidence must rise above a mere suspicion of guilt;
12 however, the Court is not required to find that the
13 evidence presented inferred guilt to the exclusion
14 of any other reasonable hypothesis.

15 While there is no direct evidence, in
16 other words, there is no eyewitness that can say
17 that the -- that the defendant inflicted this
18 injury, we do have his voluntary Mirandized
19 statement indicating that he did inflict an injury
20 upon the child that is consistent with the medical
21 examiner's testimony of where the bruising existed
22 which caused the fatal injury to this child or, in
23 other words, as stated, the manner of his death,
24 that being the injury to his spleen.

25 And it could be argued by the State

1 that by showing -- there are many things that the
2 State could argue are extreme indifference. It
3 could be the infliction of the injury itself. It
4 could be that -- with a highly treatable condition
5 when it was apparent that this child was
6 languishing, that the defendant failed to provide
7 him with adequate and immediate medical attention,
8 which could have prevented his death and ultimately
9 resulted in his death.

10 And the term that is used in the
11 statute which is extreme indifference to human life
12 is a very broad statement which really could
13 include and does include what really would amount
14 to in a tort context of negligence. But, clearly,
15 under the -- with the evidence that has been
16 provided inferentially and circumstantially which
17 is, I assume, the way the State would argue their
18 case, there is substantial circumstantial evidence
19 as well as direct evidence when viewed together
20 reasonably tends to prove the defendant's guilt of
21 the elements of homicide by child abuse and,
22 therefore, the motion for directed verdict is
23 denied.

24 Sir, stand for me please and raise your
25 right hand to be sworn.

1 CURTIS WILLIAMS,

2 being first duly sworn, testified as follows:

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: You can put your right
5 hand down.

6 EXAMINATION

7 BY THE COURT:

8 Q. State your full name.

9 A. Curtis Tyrone Matthew Williams..

10 Q. And, sir, how old are you?

11 A. 27 years old.

12 Q. At this time, I'm going to explain to
13 you certain of your rights. If there is something
14 you do not understand that I've said or something
15 you need me to explain in more detail, please let
16 he know. Do you understand that?

17 A. Yes.

18 Q. Sir, we will soon reach the stage of
19 the trial -- we have reached the stage of the trial
20 where you may present your defense. You have the
21 right to claim the protections given to you by the
22 Fifth Amendment of the Constitution of the United
23 States and that amendment states, in part, that no
24 person shall be compelled in any criminal case to
25 be a witness against himself.

1 That means, sir, that you cannot be
2 compelled in any manner whatsoever to testify or to
3 testify against your own interest. You have the
4 right to testify; however, no one can make you
5 testify. This is a personal right and no one can
6 waive this right except you.

7 If you decide to testify you will be
8 subject to the same rules that govern other
9 witnesses and you may be examined and
10 cross-examined on any relevant issue in this case.

11 In addition, if you have any
12 convictions involving dishonesty or for false
13 statement or for crimes punishable by imprisonment
14 for more than one year and this court determines
15 that the probative value in admitting the evidence
16 outweighs its prejudicial effect to you, the
17 Solicitor will be able to introduce your record to
18 attack your credibility.

19 It's my understanding, and I need to
20 make sure that I'm accurate, that the State, when
21 asked at the beginning of this trial, indicated to
22 the Court that there was no record that you will be
23 seeking to impeach his credibility, correct?

24 MS. HERRING-LASH: That's right.

25 THE COURT: Does he have a criminal

1 record?

2 MS. HERRING-LASH: A misprision of a
3 felony conviction.

4 THE COURT: From what year?

5 MS. HERRING-LASH: Just a moment, Your
6 Honor. It's fairly recent. 2010, and a
7 shoplifting conviction in 2005.

8 THE COURT: Which would be beyond --

9 MS. HERRING-LASH: Beyond, yes. And an
10 unlawful carrying of a weapon --

11 THE COURT: I assumed it was
12 magistrate level, the shoplifting?

13 MS. HERRING-LASH: Yes, Your Honor.

14 THE COURT: And the weapon, in what
15 year?

16 MS. HERRING-LASH: Unlawful carrying of
17 a weapon in 2009. He received one year for that.

18 THE COURT: One year or one year
19 probation?

20 MS. HERRING-LASH: Convicted one year
21 suspended upon one year of probation.

22 THE COURT: That's the extent of the
23 record?

24 MS. HERRING-LASH: Yes, Your Honor.

25 BY THE COURT:

1 Q. Sir, the State has indicated they would
2 not be seeking --

3 MS. HERRING-LASH: Your Honor, I am
4 sorry. He had some traffic offenses in 2011 and a
5 DUS in 2012, and another traffic offense, and he's
6 currently incarcerated for strong-armed robbery and
7 assault and battery second.

8 THE COURT: Is that a conviction or is
9 that --

10 MS. HERRING-LASH: It's a recent
11 arrest. I think August of this year.

12 THE COURT: August of 2016. Those are
13 not convictions.

14 MS. HERRING-LASH: No, Your Honor.
15 That's what he's incarcerated on at the moment, and
16 a failure to stop for a blue light in 2014, for
17 which he received six months.

18 THE COURT: I assume suspended to
19 probation.

20 MS. HERRING-LASH: Suspended to
21 probation.

22 THE COURT: Is he still on probation?
23 No. '09 would have finished the probation. I'm
24 sure that is long ended. And I would imagine the
25 probation on the failure to stop has ended?

1 MS. FORD: Yes, Your Honor. They
2 actually violated his probation as a result of this
3 arrest, and we had a hearing and they terminated
4 it.

5 THE COURT: Terminated the failure to
6 stop?

7 MS. FORD: Yes, ma'am.

8 BY THE COURT:

9 Q. Sir, again, and I hate to backtrack. I
10 apologize, but I would rather you hear it twice
11 than I have omitted any of your rights.

12 The State has indicated that there is
13 none of your -- while you have a criminal history,
14 they would not be seeking to introduce any of that
15 record to attack your credibility.

16 Sir, if you decide to testify, this
17 decision on your part must be made freely,
18 voluntarily and intelligently with knowledge of the
19 protections given to you by the Fifth Amendment and
20 the consequences of your decision to testify.

21 If you decide not to testify, I will
22 instruct the jury that they cannot give the fact
23 that you did not testify any consideration
24 whatsoever, that there is to be absolutely no
25 prejudice to you because you did not testify. In

1 fact, I will instruct them that you have no burden
2 of proof, that the burden of proof remains on the
3 State to prove their case against you beyond a
4 reasonable doubt, and that they are not to discuss
5 the fact that you did not testify in any manner
6 whatsoever during their deliberations, that that
7 would be improper, and there is to be no inference
8 of guilt drawn from that.

9 It is left entirely up to you whether
10 or not you testify. You may speak with your
11 attorney, your family members, friends, or anyone
12 else, but the final decision is left entirely up to
13 you.

14 Sir, do you understand your rights as I
15 have explained them to you?

16 A. Yes.

17 Q. I'm going to recess this part of the
18 instructions to give you all the additional
19 opportunity to speak with him now that I have
20 advised him of his rights.

21 Sir, you may take your seat.

22 My next question becomes however, from
23 the defense, do you have -- do you plan to call any
24 of the witnesses that you provided to the Court?

25 MS. FORD: I do. I plan to call three

1 of them.

2 THE COURT: Tell me -- let's start
3 with -- do you plan to call number one, Detective
4 Benton?

5 MS. FORD: No.

6 THE COURT: Harry Long.

7 MS. FORD: No.

8 THE COURT: A.J. ?

9 MS. FORD: Yes.

10 THE COURT: Sharell Jenkins?

11 MS. FORD: No, Your Honor.

12 THE WITNESS: Amber Medley?

13 MS. FORD: No, Your Honor.

14 THE COURT: Shameeka Tyler?

15 MS. FORD: No, Your Honor.

16 THE COURT: Yolanda Tyler?

17 MS. FORD: Yes.

18 THE COURT: Genarro Flores?

19 MS. FORD: No, ma'am.

20 THE COURT: Joseph Matthews?

21 MS. FORD: Yes, ma'am.

22 THE COURT: And Cedra Jenkins.

23 MS. FORD: No, Your Honor.

24 THE COURT: So that is -- do you have
25 any of those witnesses here today?

1 MS. FORD: I believe they are all here.

2 THE COURT: Why don't we do one of
3 your witnesses and then we will adjourn to give you
4 the opportunity to talk with your client and then
5 we'll resume in the morning with the remainder of
6 your witness. And, at that time, I will complete
7 questioning him regarding whether he wants to
8 testify or not.

9 MS. FORD: Can I have a brief moment,
10 Your Honor?

11 THE COURT: Sure. Are they --

12 MS. FORD: I think they are here.

13 THE COURT: You want to decide who you
14 want to call?

15 MS. FORD: Yes, Your Honor.

16 THE COURT: You can have a moment.

17 (Off-the-record conference.)

18 MS. ELLIOTT: I provided the defense
19 with a copy that redacts out about that minute's
20 time that I had to mute, and it's -- also, only has
21 the first four clips on it.

22 THE COURT: It doesn't have the last
23 clip.

24 MS. ELLIOTT: Does not have the last
25 clip at all.

1 THE COURT: Have you watched it.

2 MS. FORD: Yes, Your Honor.

3 THE COURT: Is that accurate.

4 MS. EHRLICH: The fifth clip is removed
5 in that section was muted. I didn't watch the
6 whole thing.

7 THE COURT: We will substitute that as
8 the redacted copy for whatever number that should
9 be.

10 MS. E: We have it at our table, Your
11 Honor, as 72.

12 THE COURT: Okay. That's the one that
13 was played for the jury.

14 MS. ELLIOTT: Yes.

15 THE COURT: The one that was played for
16 the jury has his mother --

17 MS. ELLIOTT: I'm sorry. We marked the
18 envelope and currently that is what is sitting
19 there and I'll just sub out the --

20 THE COURT. Any objection?

21 MS. FORD: No, Your Honor.

22 THE COURT: The full one is a Court's
23 Exhibit. So that will be marked and admitted --
24 well, it's already been marked and admitted. I
25 just wanted to make sure those redactions had been

1 made.

2 Are there any requests for instructions
3 that you want to give me?

4 MS. FORD: Your Honor, I wanted to -- I
5 know --

6 THE COURT: I'm going to have a charge
7 conference. I just need to know if there's
8 something in writing that you want to give me.

9 MS. FORD: Yes, Your Honor. Just
10 because I'm not sure if in your instructions you
11 include a definition for extreme indifference.

12 THE COURT: Does the case law define
13 extreme indifference?

14 MS. FORD: Well, it does.

15 THE COURT: Where?

16 MS. FORD: The case I have is Phillips,
17 411 South Carolina 124, and this case had been
18 overruled on other grounds concerning the waiver
19 issue at the directed verdict, but in that case it
20 just defines it as homicide by child abuse does not
21 require the State to prove the defendant acted with
22 the intent to harm in order to prove extreme
23 indifference.

24 Instead, the State must prove the
25 defendant performed a deliberate act that he knew

1 or she knew would create a risk of death to the
2 child, a deliberate act in the face of such
3 knowledge is a reckless disregard to the risk and
4 thus demonstrates extreme indifference to the
5 child.

6 THE COURT: That's dicta. That's not
7 holding. And I think our instructions adequately
8 state what extreme indifference is, but I will look
9 at it and I will look at the case.

10 MS. FORD: And I'm not sure what the
11 instruction is. That's why I was asking.

12 THE COURT: Well, is there going to be
13 a request for lesser included offenses?

14 MS. FORD: No, Your Honor.

15 THE COURT: Any request for
16 instructions from the State?

17 MS. HERRING-LASH: No, Your Honor. I
18 just have the statute that I had printed out, but I
19 think it's what you will be reading.

20 THE COURT: Uh-huh. Is the defense
21 ready to proceed?

22 MS. FORD: Yes, Your Honor.

23 THE COURT: Please bring in the jury.

24 (Jury in, 4:13 p.m.)

25 THE BAILIFF: All jurors are seated.

A.J.

- DIRECT EXAM BY MS. FORD

1 THE COURT: Ladies and gentlemen, we
2 appreciate your patience. We are now going to
3 resume testimony.

4 You may proceed.

5 MS. FORD: Thank you, Your Honor. The
6 defense calls A.J.

7 A.J.

8 being first duly sworn, testified as follows:

9 THE CLERK: Please be seated. Mr.
10 A.J., I need you to speak into the microphone.
11 You need to get kind of close to it. Say your full
12 name and then spell your last name.

13 THE WITNESS: And my middle name, too?

14 THE CLERK: Yes, your full name and
15 spell your last name.

16 THE WITNESS: A.J.

17 A.J.

18 THE COURT: How do you spell your first
19 name?

20 THE WITNESS: A.J.

21 THE COURT: Thank you. You may
22 proceed.

23 DIRECT EXAMINATION

24 BY MS. FORD:

25 Q. Hi. Do you know Curtis Williams?

A.J.

- DIRECT EXAM BY MS. FORD

- 1 A. Ma'am?
- 2 Q. Do you know Curtis Williams?
- 3 A. Yes, ma'am.
- 4 Q. And what do you call him?
- 5 A. I call him C.J.
- 6 Q. And how do you know him?
- 7 A. It's my cousin.
- 8 Q. And who is your mom?
- 9 A. Sharell Jenkins.
- 10 Q. **A.J.** , how old are you?
- 11 A. 13.
- 12 Q. What grade are you in?
- 13 A. Eighth.
- 14 Q. Did you know **Child** , too?
- 15 A. Yes, ma'am.
- 16 Q. And how did you know **Child** ?
- 17 A. By C. J. and Krystal.
- 18 Q. Okay. Did you ever live with C. J. and
- 19 **Child** ?
- 20 A. No, they lived with us.
- 21 Q. They lived with you?
- 22 A. Yes, ma'am.
- 23 Q. And do you remember how long they lived
- 24 with you?
- 25 A. About three or two months.

A.J.

- DIRECT EXAM BY MS. FORD

1 Q. And was Krystal there, too?

2 A. Yes, ma'am.

3 Q. Did you see -- since they lived with
4 you, did you see C. J. and **Child** together a lot?

5 A. Yes.

6 Q. What kind of things would they do
7 together?

8 A. They would play video games, watch TV,
9 go to the park, stuff like that.

10 Q. And were you involved too with them at
11 times?

12 A. Yes.

13 Q. Okay. So would you play with them?

14 A. Yes, ma'am.

15 Q. Did you ever see C. J. hit **Child** ?

16 A. Not -- probably like pop him, but not
17 hit.

18 Q. Was C. J. mean to **Child** ?

19 A. No, ma'am. Not from what I thought.

20 Q. How did **Child** act around C. J.?

21 A. He was happy around C. J. He was never
22 scared.

23 Q. So **Child** didn't seem afraid of C. J.?

24 A. No, ma'am.

25 MS. FORD: Beg the Court's indulgence?

A.J.

- CROSS EXAM BY MS. HERRING-LASH

1 THE COURT: Uh-huh.

2 MS. FORD: No further questions.

3 THE COURT: Any questions for the
4 witness?

5 MS. HERRING-LASH: Yes, Your Honor.

6 THE COURT: You may proceed.

7 CROSS-EXAMINATION

8 BY MS. HERRING-LASH:

9 Q. A.J. ?

10 A. Yes, ma'am.

11 Q. And you said that you are 13 now?

12 A. Yes, ma'am.

13 Q. When did C. J. and Child and Krystal
14 live with you?

15 A. About, I think, last year.

16 Q. If you -- so what grade were you in
17 when they lived there?

18 A. Sixth and seventh.

19 Q. Okay. And so that -- how old was
20 Child ?

21 A. I can't remember. Probably about two
22 or three.

23 Q. Was he talking, walking?

24 A. Yes, ma'am.

25 Q. Do you remember Child 's second