

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM OCONEE COUNTY
COMMON PLEAS COURT
R. Lawton McIntosh, Circuit Court Judge

Case No. 2014-CP-37-0133
Appellate Case No.: 2016-

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S.C. SUPREME COURT

Matthew Hinton, ... Petitioner,

v.

State of South Carolina, ... Respondent.

APPENDIX VOLUME III

Patrick L. Schmeckpeper, Esq.
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

Attorney for Respondent

Robert C. Childs, III
Childs Law Firm L.L.C.
2100 Poinsett Hwy., Suite D.
Greenville SC 29609

J. Falkner Wilkes (SC Bar #12893)
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
(864) 271-6035 (facsimile)

Counsel for Petitioner

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1 WHEREUPON,

2 BRETT WOODARD,

3 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MS. SIMMONS:

5 MR. SENERIUS: EXCUSE ME, YOUR HONOR. I'M FAMILIAR
6 WITH DR. WOODARD AND THE DEFENSE IS PREPARED TO STIPULATE
7 TO HIS QUALIFICATIONS AS AN EXPERT WITNESS.

8 THE COURT: EXPERT IN FORENSIC PATHOLOGY?

9 MR. SENERIUS: FORENSIC PATHOLOGY, YES, SIR.

10 THE COURT: IS THAT THE QUALIFICATION THAT YOU WANT,
11 MADAM SOLICITOR?

12 MS. SIMMONS: YES, YOUR HONOR.

13 THE COURT: ALL RIGHT. LET'S DO THIS FIRST, THOUGH.

14 IF YOU WOULD PLEASE, DR. WOODARD, WOULD YOU GIVE US
15 YOUR NAME FOR THE RECORD.

16 THE WITNESS: BRETT HOUGHTEN WOODARD, W-O-O-D-A-R-D.

17 THE COURT: ALL RIGHT. DR. WOODARD HAS BEEN
18 QUALIFIED, AT LEAST ACKNOWLEDGED AS AN EXPERT FORENSIC
19 PATHOLOGIST, SO HE WILL BE ABLE OR WILL BE PERMITTED TO
20 GIVE HIS OPINION IN THAT AREA OF EXPERTISE. AGAIN, AS
21 WITH ALL WITNESSES, THE VALUE OF HIS TESTIMONY IS FOR
22 YOUR DETERMINATION.

23 ALL RIGHT. MADAM SOLICITOR?

24 BY MS. SIMMONS:

25 Q. GOOD AFTERNOON, DR. WOODARD.

1 A. GOOD AFTERNOON.

2 Q. HOW LONG HAVE YOU BEEN THE FORENSIC PATHOLOGIST
3 FOR ANDERSON AND OCONEE COUNTIES?

4 A. FOR, IN ANDERSON COUNTY SINCE THE EARLY 1980'S;
5 OCONEE COUNTY, MID 1990'S.

6 Q. AND EXPLAIN TO US IN LAYPERSON'S TERMS WHAT
7 FORENSIC PATHOLOGISTS DO.

8 A. WELL, FORENSIC PATHOLOGY IS A SPECIALTY AREA IN
9 THE FIELD OF PATHOLOGY THAT DEALS WITH HUMAN INJURY, WHAT
10 THAT HUMAN INJURY, INCAPACITY IT MIGHT PUT ON THE
11 INDIVIDUAL WHO HAS THOSE INJURIES, THE MECHANISMS BY
12 WHICH THE INJURIES COULD BE PRODUCED, AND THE
13 DOCUMENTATION OF THOSE INJURIES OR DISEASES, AND HOW THEY
14 MAY HAVE INTERACTED IN A GIVEN INDIVIDUAL TO PRODUCE
15 THEIR COMPROMISE UP TO THE POINT OF DEATH.

16 Q. AND OVER THESE YEARS HOW MANY AUTOPSIES DO YOU
17 ESTIMATE YOU HAVE CONDUCTED?

18 A. I DO ABOUT 250 ON AVERAGE POST-MORTEM EXAMINATIONS
19 AND HAVE BEEN DOING SO SINCE THE EARLY 1980'S.

20 Q. WELL INTO THE THOUSANDS, THEN?

21 A. THAT'S CORRECT.

22 Q. ARE YOU BEING COMPENSATED FOR YOUR TESTIMONY
23 TODAY?

24 A. NO, I'M NOT.

25 Q. DID YOU CONDUCT AN AUTOPSY ON

1 A. YES, I DID.

2 Q. HOW OLD WAS [REDACTED]

3 A. BEFORE THE AUTOPSY [REDACTED] WAS FIVE MONTHS AND 20
4 DAYS OLD.

5 Q. AND WHEN DID YOU PERFORM THE AUTOPSY?

6 A. WE PERFORMED THE AUTOPSY ON THE 20TH OF AUGUST OF
7 2009.

8 Q. WHAT DOES A COMPLETE AUTOPSY ENTAIL?

9 A. WE START WITH THE INDIVIDUAL AS WE RECEIVE THEM
10 AFTER MEDICAL CARE OR DIRECTLY FROM THE PLACE THAT THEY
11 WERE FOUND DEAD. IN THIS CASE THE CHILD WAS BROUGHT FROM
12 THE GREENVILLE HOSPITAL SYSTEM.

13 WE EXAMINED THE IV'S OR BLOOD LINES THAT WERE
14 PRESENT ON THE CHILD, ANY TUBES THAT WERE PLACED INTO
15 THEIR STOMACH OR THEIR MOUTH, OTHER PLACES, ANY MARKS
16 THAT MAY BE RELATED TO TAPE THAT WAS USED TO HOLD THOSE
17 THINGS IN PLACE; AND WORK OUR WAY DOWN TO THE ACTUAL
18 CHILD HERSELF, AND THEN WE EXAMINED FOR THE PRESENCE OF
19 INJURIES THAT WERE NOT RELATED TO ANY KIND OF MEDICAL
20 INTERVENTION OR POSSIBLE MEDICAL INTERVENTION, AND
21 DOCUMENT THOSE INJURIES, THEIR DISTRIBUTION, AND THEN
22 PROCEED TO THE INTERNAL ORGANS TO SEE HOW THOSE INJURIES
23 TRANSLATED OR EXPRESSED THEMSELVES IN THE UNDERLYING BODY
24 PARTS.

25 Q. WORKING FROM YOUR EXTERNAL ANALYSIS OF [REDACTED]

1 EXTERNAL AND INTERNAL, USING THE POINTER AND THE DIAGRAM
2 BEHIND YOU, CAN YOU TELL ME ABOUT WHAT EXTERNAL INJURIES
3 YOU SAW ON

4 A. WELL, THE NON-MEDICAL EXTERNAL INJURIES, OR
5 INJURIES THAT WERE PROBABLY MEDICAL, WOULD HAVE OCCURRED
6 AS A LARGE BRUISE IN THE CENTER OF THE CHEST, A SMALLER
7 BRUISE UP ON THE LEFT CHEST, AND A SMALLER BRUISE DOWN ON
8 THE RIGHT CHEST.

9 ON THE BACK PORTION WE FOUND BRUISES AROUND THE
10 SPINE JUST TO THE LEFT OF THE CENTERLINE AND DOWN ON THE
11 BONE AS THE HIP COMES AROUND ON THE LEFT SIDE.

12 AND THEN WHEN WE LOOKED IN THE SCALP, BACK ON THE
13 RIGHT SIDE WE SAW A BRUISE IN THE BACK PART OF THE SKULL
14 AND THE SCALP OF THE BACK PART. WE SAW SOME SMALLER
15 SCRAPES THAT MAY OR MAY NOT HAVE BEEN RELATED TO MEDICAL
16 INTERVENTION THAT WERE SEEN ON THE TOES, AND THEN WE SAW
17 A LARGE BRUISE OR -- A LARGE BRUISE UP IN THE SCALP THAT
18 WAS RELATED TO A PUNCTURE MARK THAT AT ONE TIME HAD BEEN
19 AN I.V. SITE.

20 Q. THE STERNUM INJURY YOU JUST DESCRIBED, IN YOUR
21 PROFESSIONAL OPINION IS THAT MOST LIKELY CAUSED BY C.P.R.
22 OR BLUNT FORCE?

23 A. THAT WAS MOST CONSISTENT WITH BLUNT FORCE. IT WAS
24 VERY UNLIKELY TO HAVE BEEN A C.P.R. INJURY.

25 Q. IS IT CONSISTENT AT ALL WITH A STERNUM RUB?

1 A. NO. RUBBING PRODUCES THE ENERGY ACROSS THE SKIN.
2 SO IT, THE PERSON WHO RUBS, PUSHES ACROSS THE SKIN RATHER
3 THAN DOWN. AND WHAT THIS OFTEN DOES IS PRODUCE, WE USED
4 TO CALL IT A CHERRY WHEN I WAS WRESTLING IN HIGH SCHOOL
5 WHEN THE SKIN SCRAPED AWAY, MUCH LIKE WHEN A CHILD DRAGS
6 THEIR KNEE ACROSS CONCRETE WHEN THEY HAVE AN ACCIDENT AND
7 PRODUCES WHAT WE CALL AN ABRASION OR A SCRAPE OF THE SKIN
8 RATHER THAN A BRUISE.

9 Q. AND THIS BRUISE WE'RE DISCUSSING, WAS IT
10 SUPERFICIAL OR MULTILAYER?

11 A. IT WAS MULTILAYER ALL THE WAY DOWN TO THE BONE
12 ITSELF.

13 Q. AND HOW LARGE WAS THE BRUISE?

14 A. IT WAS TWO AND THREE FOURTHS OF AN INCH BY ONE AND
15 A QUARTER INCHES ON ITS SURFACE PRESENTATION.

16 Q. THE BRUISES ON THE SPINE THAT YOU SAW, WHAT WERE
17 THEY CONSISTENT WITH?

18 A. THEY WERE OF A SIZE AND SHAPE TO BE CONSISTENT
19 WITH STRONGLY APPLIED FINGERTIPS WHEN THE FINGERS COME
20 DOWN AND COME ON TO A BONY PROMINENCE SUCH AS THE LITTLE
21 BUMPS THAT STICK UP FROM THE BACK OF YOUR SPINE, IT WILL
22 CAUSE THE SKIN TO BE CRUSHED BETWEEN THE FINGER SURFACE
23 AND THE BONE BENEATH IT PRODUCING A BRUISE INTO THE
24 TISSUES, AND THIS PRODUCES A SMALL, RELATIVELY ROUND
25 BRUISE; THERE WILL OFTEN BE MULTIPLE ONES, TWO TO FOUR,

1 DEPENDING UPON EXACTLY HOW THE GRIPPING OCCURRED.

2 Q. DO THESE FINGERTIP INJURIES ON THE SPINE LINE UP
3 WITH THIS BRUISE ON THE CHEST AT ALL?

4 A. NO. THESE ARE IN THE LOWER PORTION OF WHAT YOU
5 WOULD CALL YOUR, THE SWAY BACK PORTION OF YOUR BACK OR
6 YOUR LOWER BACK. THEY LINE UP IN GENERAL POSITION WITH A
7 RIGHT HAND BEING APPLIED TO THE SPINE AREA AND THUMB
8 BEING APPLIED TO THE BONY PROMINENCE OVER THE HIP.

9 Q. WHAT DID THE FINGERTIP-LIKE BRUISES SUGGEST TO YOU
10 AS THE PATHOLOGIST?

11 A. THAT THERE WAS FORCEFUL GRIPPING IN ALL
12 PROBABILITY BY A RIGHT HAND GRABBING THE LEFT LOWER BACK
13 AND THE THUMB BEING PLACED AGAINST THE HIP.

14 Q. IS THIS CONSISTENT WITH AN ACCIDENTAL OR
15 INTENTIONAL GRIPPING?

16 A. IT'S CONSISTENT WITH AN INTENTIONAL VERY FORCEFUL
17 GRIPPING.

18 Q. ALONG THE LINES OF THE GRIPPING, DID YOU FIND ANY
19 INTERNAL RIB FRACTURES?

20 A. THERE WAS A FRACTURE OVER THE FIRST RIB ON THE
21 RIGHT SIDE. THIS WOULD BE HIGH, IF YOU SAW THE SKELETON
22 IT WOULD BE HIGH ABOVE THE SCAPULA HERE IN THE BACK
23 PORTION OF THE FIRST RIB WHERE THE RIB ARCHES BACK AND
24 THEN COMES IN CONTACT WITH THE SPINE AND THE BACK. THIS
25 TYPE OF FRACTURE IS VERY CHARACTERISTIC OF A GRIPPING AND

1 INWARD FORCE SO THAT WHERE THE RIB APPLIES ITSELF TO THE
2 VERTEBRAL BODY, IT'S HINGED AGAINST THAT SPINAL BONE AND
3 THE VERTEBRAL BODY PRODUCES THIS TYPE OF FRACTURE. IT'S
4 NOT A FRACTURE THAT WOULD OCCUR WITH C.P.R.

5 Q. IS IT A FRACTURE THAT CAN BE CAUSED BY BEING, A
6 SEVERE DROP, OR A DROP IN A BATHTUB?

7 A. NO. IT WOULDN'T BE WHAT WE CALL -- A POINT BREAK
8 FRACTURE REQUIRES THIS HINGING MOTION RATHER THAN A BLOW.
9 CHILDREN'S RIBS ARE MUCH LIKE A WET WISHBONE. IF YOU
10 EVER TRIED TO BREAK THE WISHBONE AT THANKSGIVING, WHEN
11 IT'S FIRST CUT OUT OF THE TURKEY YOU CAN ALMOST PULL IT
12 BOTH DIRECTIONS AND IT WON'T BREAK, IT'S VERY ELASTIC.
13 CHILDREN'S RIBS ARE VERY ELASTIC AND PEOPLE'S RIBS
14 MAINTAIN A LOT OF ELASTICITY INTO THEIR LATE TWENTIES AND
15 EARLY THIRTIES. THOSE OF US WITH GRAY HAIR HAVE RIGID
16 RIBS AND THAT'S WHY OLDER PEOPLE TEND TO BREAK THEIR RIBS
17 MORE COMMONLY. OUR RIBS ARE MORE LIKE THE DRIED OUT
18 TURKEY BONE.

19 Q. DID YOU FIND ANY LEG FRACTURES WHEN YOU ANALYZED
20 HER LEGS?

21 A. YES. WE EXAMINED HER FEMUR AND HER TIBIA ON THE
22 RIGHT SIDE AND FOUND THAT WHERE THE GROWTH PLATE MEETS
23 THE FORMED BONE OR THE GROWING SURFACE HAD BEEN PULLED
24 AWAY FROM THE BONE. THIS IS A FRACTURE THAT'S PRODUCED
25 BY A PULLING OR YANKING MECHANISM, OFTEN WITH AN ELEMENT

1 OF TWISTING AT THE SAME TIME THAT THE TWO BONES ARE
2 PULLED APART.

3 Q. WHAT KIND OF FORCE IS REQUIRED TO GENERATE THAT
4 KIND OF LEG INJURY?

5 A. SIGNIFICANT FORCE.

6 Q. GIVE ME AN EXAMPLE OF HOW IT HAPPENED?

7 A. IF SOMEBODY WAS GRABBED AND SOMEBODY PULLED BACK,
8 AN ADULT PULLED BACK AS HARD AS THEY COULD ON THAT LEG
9 WHEN THE CHILD WAS IN SOMEWHAT OF A FIXED POSITION, THEY
10 WOULD PRODUCE THAT TYPE OF INJURY, OR COULD.

11 Q. WHAT KIND OF TRAUMA ARE THE SKELETAL INJURIES, THE
12 WHOLE, THE RIB FRACTURE AND THE LEG FRACTURE INDICATIVE
13 OF?

14 A. THEY'RE INDICATIVE OF INFLICTED TRAUMA OF A
15 SIGNIFICANT, WHERE SIGNIFICANT FORCE WAS HAVING BEEN
16 APPLIED.

17 Q. CAN YOU PRECISELY DATE EITHER ONE OF THOSE
18 FRACTURES?

19 A. THE LEG FRACTURE IS DIFFICULT TO DATE BECAUSE
20 UNTIL CALLUS OR FUSION OF BONE BEGINS TO OCCUR, WE DON'T
21 GET A SENSE FOR DATING THOSE. THE RIB FRACTURE, ON THE
22 OTHER HAND, WAS RECENT, WITHIN LESS THAN 24 HOURS OF THE
23 TIME OF DEATH OF THE CHILD. THE BLOOD WAS FRESH AND WELL
24 FORMED. THOSE CHANGES OF DEGENERATION ON THAT SITE
25 HADN'T OCCURRED YET. SO IT WAS IN A GENERAL TIME FRAME

1 CONSISTENT WITH A HEAD TRAUMA TIME FRAME.

2 Q. ARE YOU ABLE TO DATE THIS MORE PRECISELY THAN THE
3 OTHER DOCTORS BECAUSE YOU ACTUALLY SAW THE BONE?

4 A. YES. I HAD THE ADVANTAGE NOT JUST LOOKING AT THE
5 SHADOWS THAT ARE MADE BY X-RAY, BUT I COULD SEE THE
6 LIQUIDS THAT ARE AROUND THE BONE. THEY COULD ONLY JUDGE
7 THE AGING OF THE FRACTURE ONCE CALLUS OR REPAIR STARTS TO
8 FORM, WHICH TAKES TEN TO 14 DAYS IN A YOUNG CHILD.

9 Q. MOVING ON TO THE OTHER INTERNAL INJURIES, CAN WE
10 TALK ABOUT THE HEAD INJURY?

11 A. YEAH. THERE WAS A LARGE BRUISE IN THE BACK
12 PORTION OF THE HEAD WITH HEMORRHAGE INTO THE SKULL BONE.
13 THE SKULL BONE IS LIKE A SANDWICH. IT'S TWO PIECES OF
14 BONE THAT ARE CLOSELY APPLIED TO EACH OTHER WITH A SPACE
15 IN BETWEEN. AND UNDERNEATH THIS LARGE BRUISE THERE WAS A
16 PALE AREA WITH HEMORRHAGE AROUND THE OUTSIDE.

17 A BABY'S SKULL IS MUCH LIKE A PING PONG BALL.
18 AGAIN, IT'S NOT WELL CALCIFIED, IT'S SOFT. AND SO LIKE A
19 PING PONG BALL, IT CAN BE PUSHED IN AND THEN POPPED BACK
20 OUT WITHOUT PRODUCING A FRACTURE. THE ADULT SKULL IS
21 MORE RIGID, AND WHEN THAT FORCE PUSHES IT IN, IT PRODUCES
22 AT LEAST A LINEAR FRACTURE BUT THAT'S NOT ALWAYS TRUE IN
23 A BABY.

24 INSIDE THE BRAIN ITSELF WAS BLEEDING BETWEEN THE
25 FIBROUS LAYER THAT HOOKS THE SKULL TO THE BRAIN AND THEN

1 SUPPORTS THE BRAIN INSIDE. THERE WAS BLEEDING BETWEEN
2 THAT LAYER. THAT BLEEDING WAS CAUSED BY TEARS IN LITTLE
3 VEINS. THE VEINS DRAIN OFF YOUR BRAIN AND COME INTO THAT
4 FIBROUS LAYER WHERE THEY'RE CARRIED AWAY BY A VEIN THAT'S
5 ENTRAPPED IN THE FIBROUS LAYER. THIS IS USUALLY CAUSED BY
6 SOME DEGREE OF A ROTATIONAL FORCE ELEMENT INVOLVED WITH
7 THE INJURY.

8 THERE WAS SEVERE SWELLING OF THE BRAIN, AND THE
9 SWELLING OF THE BRAIN HAD FORCED PORTIONS OF THE BRAIN
10 THROUGH CLOSED AREAS OF THE BRAIN THAT RESULTED IN DEATH
11 OF THE BACK PORTION OF THE BRAIN. WE CALL THIS TEMPORAL
12 HEMORRHAGE; AND DEATH OF THE VITAL CENTERS OF THE BRAIN,
13 WE CALL THIS TONSILLAR HERNIATION OR BRAIN STEM
14 HERNIATION. THERE WAS HEMORRHAGE AROUND THE EYES AS THE
15 NERVE COMES OUT OF THE BRAIN AND IT GOES TO THE BACK OF
16 THE EYE, AND THEN THERE WAS HEMORRHAGE IN THE EYES
17 THEMSELVES.

18 Q. IN YOUR EXPERT OPINION, HOW WOULD THIS FATAL HEAD
19 INJURY BEEN CAUSED? AND IS IT A MULTI-IMPACT OR
20 SINGLE-IMPACT INJURY?

21 A. WELL, THERE WAS AN IMPACT TO THE FRONT PORTION OF
22 THE SKULL AS WELL THAT WE HAVEN'T SPOKEN OF, WHICH AGAIN
23 HAD THE FINGERTIP QUALITY THAT WAS SEEN ON THE RIGHT SIDE
24 OF THE EYEBROW AND WOULD BE CONSISTENT WITH SOME SORT OF
25 FORCE BEING APPLIED WITH THE HAND AGAINST THE BABY'S

1 HEAD. THE, SOME COMPONENT OF TORSION OR TWISTING OF THE
2 HEAD, COUPLED WITH A SUDDEN BLOW TO THE HEAD, WAS HOW THE
3 INJURY WAS PRODUCED.

4 Q. IN LAYMEN'S TERMS ARE WE TALKING ABOUT A BLUNT
5 FORCE AND A SHAKING INCIDENT?

6 A. SOME SORT OF RAPID MOTION WHERE THE FORCES ARE NOT
7 JUST CONVEYED THROUGH THE FRONT AND BACK OF THE HEAD,
8 THEY'RE CONVEYED OFF ANGLE IN THE HEAD SO THAT THE VEINS
9 BECOME STRETCHED AS THE BRAIN EITHER IS BEHIND OR IN
10 FRONT OF THE SKULL MOVING, AND SO THE VEINS GET PULLED
11 APART AND TORN.

12 Q. WOULD HAVE CRIED DURING THIS FATAL HEAD
13 INJURY, THE INFLICTION OF IT?

14 A. BEFORE THE INJURY OCCURRED, BUT ONCE THE INJURY
15 OCCURRED SHE WOULD HAVE GONE QUIET. SHE WOULD HAVE BEEN
16 ESSENTIALLY UNCONSCIOUS, AND WITHIN A SHORT TIME PERIOD
17 COMA WOULD OCCUR WHERE SHE WOULD BE UNAROUSABLE, AND THEN
18 EVENTUALLY THE VITAL, AS THIS PRESSURE BUILDS AND THE
19 BRAIN IS PUSHED DOWN SO THE BRAIN STEM IS BEING
20 COMPROMISED, SHE WOULD BEGIN TO LOSE HER RESPIRATORY
21 FUNCTIONS. IF THAT WAS PREVENTED EVENTUALLY AT SOME
22 POINT SHE WOULD ALSO LOSE HER CARDIAC FUNCTION.

23 Q. HOW QUICKLY WOULD THIS INJURY HAVE BEEN APPARENT
24 TO A CAREGIVER?

25 A. INSTANTLY THE CHILD WOULD HAVE BEEN QUIET. IF THE

1 CHILD HAD BEEN FUSSY BEFOREHAND, IT WOULD BE TOTALLY
2 SILENT, UNAROUSABLE. IT WOULD NOT TAKE ANY FEEDINGS IF
3 YOU OFFERED IT FEEDINGS, AND IF YOU STUCK THE NIPPLE IN
4 ITS MOUTH IT WOULDN'T CHOKE ON THE NIPPLE. IT WOULD BE
5 OBVIOUS TO A LAYPERSON THAT THERE IS SOMETHING SERIOUSLY
6 WRONG WITH THIS CHILD.

7 Q. DID YOU SEE ANY EXTERNAL LINEAR INJURIES TO
8 HEAD OR FACE?

9 A. SHE HAD THE FINGERTIP INJURIES THAT I DISCUSSED. ON
10 HER FOREHEAD AND THEN THE INJURIES ON HER LEFT RIGHT
11 CHEST AND CENTRAL CHEST.

12 Q. SO THE INJURIES -- THE BRUISES -- THE INJURIES ON
13 THE HEAD, ARE YOU SAYING THAT'S WITH FINGERTIPS?

14 A. THAT'S AGAIN FINGERS, THEY ARE OF THE SIZE AND
15 CHARACTER CONSISTENT WITH FINGERS PRESSING VERY FIRMLY
16 AGAINST THE HEAD AND CATCHING THE SKIN AND SOFT TISSUES
17 BETWEEN THE SKULL, WHICH IS RIGID, AND THOSE FINGERS
18 PRESSING.

19 Q. THE LEG INJURY, HAD IT OCCURRED FIRST, WOULD SHE
20 HAVE BEEN CRYING?

21 A. YES, SHE WOULD HAVE BEEN -- ALMOST EVERY TIME SHE
22 WAS MOVED, SHE WOULD HAVE BEEN INCONSOLABLE. SHE WOULD
23 HAVE BEEN EXTREMELY FUSSY, ALWAYS CRYING ALL THE TIME
24 WOULD HAVE BEEN THE TYPES OF THINGS THAT WOULD BE STATE

25 Q. BUT THE CONSTELLATION OF INJURIES YOU SAW, WOULD

1 IT BE POSSIBLE TO INFLICT THESE INJURIES TO THE CHILD
2 WITHOUT HER MAKING ANY NOISE AT ALL?

3 A. THEY COULD OCCUR QUICKLY ENOUGH THAT THE CHILD
4 WOULD MAKE VERY LITTLE NOISE WHEN THEY OCCURRED. AGAIN,
5 ONCE THE HEAD INJURY OCCURS, THE CHILD IS NOT GONNA MAKE
6 ANY KIND OF NOISE THAT SOMEBODY WOULD HEAR.

7 Q. BUT THE LEG INJURY, THEY WOULD?

8 A. AFTER THE LEG INJURY, THE CHILD WOULD START
9 CRYING, YES.

10 Q. ARE INJURIES CONSISTENT WITH ANY SORT OF
11 ACCIDENTAL FALL OR MISHAP WITHIN THE HOUSEHOLD?

12 A. IN MY OPINION, NO. IT WOULD REQUIRE THE BABY TO
13 LITERALLY BOUNCE DURING THIS ACCIDENT, AND BABIES DON'T
14 BOUNCE. THE BABY WOULD HAVE TO STRIKE ITSELF ON MULTIPLE
15 BODY SURFACE AREAS AND PRODUCE INJURIES THAT TAKE
16 DIFFERENT MECHANISMS TO BE PRODUCED DURING THIS SINGLE
17 ACCIDENT.

18 Q. IS THERE ANY NATURAL CAUSE THAT YOU CAN IMAGINE
19 FOR THIS CONSTELLATION OF INJURIES?

20 A. NO, THIS IS NOT A NATURAL DISEASE PROCESS.

21 Q. WHAT -- TAKEN TOGETHER AS A WHOLE, WHAT ARE THE
22 INJURIES CONSISTENT WITH?

23 A. INFLICTED TRAUMA.

24 Q. IS IT UNUSUAL THAT THERE ARE FEW OUTWARD
25 MANIFESTATIONS OF INJURY WITH SUCH SEVERE INTERNAL

1 INJURIES?

2 A. NO, IT'S NOT UNCOMMON AT ALL. IN FACT, WHEN WE DO
3 THE AUTOPSY, WE HAVE TO CAREFULLY LOOK UNDER THE SKIN
4 THROUGHOUT THE BODY IN ORDER TO BE ABLE TO DOCUMENT ALL
5 THE INJURIES THAT ARE PRESENT. IT'S NOT UNCOMMON AT ALL
6 THAT A SIGNIFICANT BRUISE CAN BE SEEN UNDER THE SKIN THAT
7 IS NOT EVIDENT FROM THE, ON THE SURFACE OF THE SKIN.

8 Q. WHAT DID YOU RULE AS [REDACTED] PRIMARY CAUSE OF
9 DEATH?

10 A. HER HEAD INJURIES, THE BRAIN SWELLING AND THE FACT
11 THAT IT PUSHED THE BRAIN DOWN THROUGH THESE CLOSED AREAS
12 AND THAT PRODUCED DEATH AT THOSE CENTERS.

13 Q. COULD IMMEDIATE MEDICAL INTERVENTION HAVE CHANGED
14 THE RESULT FOR [REDACTED]

15 A. IT'S VERY POSSIBLE.

16 Q. IN YOUR PROFESSIONAL OPINION IS IT MORE LIKELY
17 THAT THESE INJURIES WERE INFLICTED BY A FEMALE OR A
18 STRONG MALE?

19 A. THEY'RE MORE LIKELY TO HAVE BEEN INFLICTED BY A
20 STRONGER THAN A WEAKER PERSON, A LARGER THAN A SMALLER
21 PERSON.

22 Q. DO YOU HAVE AN OPINION AS TO WHEN THESE INJURIES
23 WERE INFLICTED ON [REDACTED]

24 A. THE SKIN INJURIES THAT WE DESCRIBED, THE HEAD
25 INJURIES, THE INTERNAL HEAD INJURIES AND THE RIB FRACTURE

1 ALL OCCURRED IN A SIMILAR TIME PERIOD. THE LEG INJURY
2 COULD HAVE OCCURRED BEFORE THIS TIME PERIOD. BUT AT THE
3 TIME THAT THE HEAD INJURY WAS INCURRED, I DON'T KNOW IF
4 IT WAS BEFORE OR AFTER THE RIB FRACTURE OCCURRED. ONCE
5 THE HEAD INJURY OCCURRED, THE CHILD WOULD GO UNCONSCIOUS
6 AND WOULD PROCEED FROM UNCONSCIOUSNESS INTO COMA AND
7 FINALLY A RESPIRATORY FAILURE AND DEATH.

8 Q. AND WHEN, BASED ON YOUR RECORDS, WHEN DID HER
9 RESPIRATORY DISTRESS BEGIN? OR IS IT DOCUMENTED?

10 A. BASED ON MY RECORDS, THE INFORMATION I WAS
11 SUPPLIED WITH INDICATED THAT RESPIRATORY DISTRESS OR
12 UNUSUAL BREATHING WAS NOTED BY THE MOTHER SOMETIME AFTER
13 SHE RETURNED BUT BEFORE THE FATHER AWOKE AND EMS WAS
14 CALLED.

15 Q. IS THERE A TIME FRAME PRIOR TO THE ONSET OF
16 RESPIRATORY DISTRESS THAT YOU CAN DATE THIS, THAT YOU CAN
17 NARROW THIS HEAD INJURY DOWN TO?

18 A. CERTAINLY THE HEAD INJURY HAD TO OCCUR EIGHT HOURS
19 OR LESS BEFORE EMS WAS CONTACTED.

20 Q. BASED ON THE MEDICAL EVIDENCE YOU SAW AND THE
21 HISTORY GIVEN, ARE THESE INJURIES CONSISTENT -- THE FATAL
22 INJURY, WAS IT CONSISTENT WITH BEING INFLICTED ON THE
23 AFTERNOON OF SUNDAY, AUGUST THE 16TH?

24 A. YES, IT WOULD BE.

25 MS. SIMMONS: PLEASE ANSWER ANY QUESTIONS

1 MR. SENERIUS MAY HAVE.

2 CROSS-EXAMINATION BY MR. SENERIUS:

3 Q. GOOD AFTERNOON, DOCTOR.

4 A. GOOD AFTERNOON.

5 Q. YOU TESTIFIED I BELIEVE THAT IF IMMEDIATE, I'M
6 ASSUMING LIKE REALLY IMMEDIATE MEDICAL ATTENTION HAD
7 OCCURRED, IT MIGHT HAVE SAVED THE CHILD'S LIFE?

8 A. SHORTLY AFTER THE TRAUMA OCCURRED, IF THE PERSON
9 WHO WAS PRESENT HAD CALLED EMS AND MEASURES TO PREVENT
10 THE CONTINUED BLEEDING COULD THEN BE APPLIED AND ALSO TO
11 REDUCE OR PREVENT THE SWELLING OF THE BRAIN.

12 Q. BUT IT'S ALSO POSSIBLE THAT IMMEDIATE MEDICAL
13 ATTENTION WOULD NOT HAVE DONE ANYTHING, EITHER?

14 A. THAT'S CORRECT.

15 Q. YOU SAID THAT YOU BELIEVE THAT THE HEAD INJURY
16 OCCURRED EIGHT HOURS OR LESS BEFORE EMS ARRIVED?

17 A. THAT'S CORRECT.

18 Q. OKAY. SO IT COULD HAVE BEEN AN HOUR BEFORE,
19 ANYWHERE FROM THE TIME EMS ARRIVED TO EIGHT HOURS EARLIER
20 IN THE DAY?

21 A. CERTAINLY WE'LL GIVE A FEW MINUTES BEFORE EMS
22 ARRIVES, BUT, YEAH, A SHORT TIME BEFORE EMS ARRIVES OR UP
23 TO EIGHT HOURS BEFORE THAT CALL WAS MADE.

24 Q. OKAY. AND IT'S YOUR MEDICAL OPINION THAT THE HEAD
25 INJURY WOULD HAVE RESULTED IN ALMOST INSTANTANEOUS

1 UNCONSCIOUSNESS?

2 A. THAT'S CORRECT.

3 Q. IS IT YOUR MEDICAL OPINION THAT THE HEAD INJURY --
4 WELL, LET'S JUST BACK UP FOR A SECOND.

5 IS IT YOUR MEDICAL OPINION THAT THE HEAD INJURY
6 OCCURRED AS A RESULT OF ONE INCIDENT OF TRAUMA AS OPPOSED
7 TO REPEATED, TWO, THREE, FOUR OR MORE?

8 A. THERE, BASED ON THE INJURIES TO THE HEAD THERE
9 WERE AT LEAST TWO INJURIES TO THE HEAD, SO THERE WERE AT
10 LEAST TWO DIRECTED TRAUMAS AT THE HEAD.

11 Q. OKAY. WHICH HEAD INJURY WOULD HAVE CAUSED THE
12 INSTANTANEOUS UNCONSCIOUSNESS: THE FIRST OR THE SECOND?

13 A. OBVIOUSLY, I DON'T KNOW WHICH ONE WAS FIRST AND
14 WHICH ONE WAS SECOND. BUT THE INJURY TO THE BACK OF THE
15 HEAD WOULD BE THE ONE THAT WOULD RENDER HER UNCONSCIOUS.

16 MR. SENERIUS: IF I MIGHT HAVE A MOMENT, YOUR HONOR?

17 THE COURT: CERTAINLY.

18 (THERE WAS A PAUSE IN THE PROCEEDINGS.)

19 BY MR. SENERIUS:

20 Q. THE RETINAL HEMORRHAGING THAT YOU OBSERVED WAS
21 PREDOMINANTLY ON THE RIGHT EYE, AM I CORRECT, FROM YOUR
22 REPORT? I'M LOOKING AT PAGE 7 OF 9 OF YOUR AUTOPSY
23 REPORT.

24 A. YES. THE OPTIC NERVE HEMORRHAGE WAS ON THE RIGHT
25 SIDE. THAT'S DIFFERENT THAN RETINAL HEMORRHAGES.

1 RETINAL HEMORRHAGES WERE SEEN IN BOTH EYES.

2 Q. AND EQUALLY IN BOTH EYES?

3 A. I DIDN'T MAKE AN ATTEMPT TO QUANTITATE WHICH EYE
4 WAS GREATER.

5 MR. SENERIUS: EXCUSE ME.

6 BY MR. SENERIUS:

7 Q. DOCTOR, IN YOUR EXPERIENCE DO SOME CHILDREN OR
8 SOME ADULTS FOR THAT MATTER BREATHE HEAVIER OR LOUDER
9 THAN OTHERS?

10 A. OH, ABSOLUTELY. SOME PEOPLE SNORE.

11 Q. WE'RE NOT TALKING ABOUT SNORING NOW. WE'RE NOT
12 TALKING ABOUT SNORING. I'M JUST TALKING ABOUT BREATHING.

13 A. CERTAINLY DEPENDING ON YOUR AIRWAY PASSAGES. IF
14 YOU HAVE A COLD, HOW YOUR HEAD MAY BE LYING, SOMEBODY MAY
15 MAKE MORE NOISE WHILE THEY'RE BREATHING THAN ANOTHER
16 PERSON.

17 MR. SENERIUS: THANK YOU. I HAVE NO FURTHER
18 QUESTIONS, DOCTOR.

19 THE COURT: RE-EXAM?

20 REDIRECT EXAMINATION BY MS. SIMMONS:

21 Q. DR. WOODARD, WOULD THE SOUND OF
22 BREATHING HAVE CHANGED BECAUSE UPON THE INFLECTION OF A
23 HEAD INJURY?

24 A. YES, IT WOULD BECOME LOUDER BECAUSE THE NATURAL,
25 THE TISSUES IN THE BACK OF YOUR PHARYNX AND LARYNX WOULD

1 BECOME LAXED OR RELAXED, SO THE AIRWAY PASSAGES WOULD,
2 THE UPPER AIRWAY PASSAGES WOULD ACTUALLY NARROW MUCH LIKE
3 THEY DO WHEN SOMEBODY GETS A BAD COLD AND A LOT OF POST
4 NASAL DRIP, SO IT WOULD BECOME LOUDER. ALSO, DEPENDING
5 HOW YOU LAY THE CHILD, THE TONGUE WOULD AGAIN BE RELAXED
6 AND IT WOULD TEND TO DRIFT BACK INTO THE AIRWAY.

7 Q. WAS [REDACTED] OFFICIAL CAUSE OF DEATH HOMICIDE?

8 A. YES.

9 MS. SIMMONS: NOTHING FURTHER.

10 RECROSS-EXAMINATION BY MR. SENERIUS:

11 Q. THE BREATHING PATTERN OF THE CHILD COULD HAVE
12 CHANGED MERELY BY THE POSITIONING OF THE CHILD'S HEAD?

13 A. WELL, ONCE THE CHILD'S GONE INTO A COMA,
14 ABSOLUTELY.

15 Q. WHAT ABOUT IF THE CHILD WASN'T IN A COMA?

16 A. THERE COULD BE SOME DEGREE OF CHANGE DEPENDING ON
17 HOW -- IF THE, FOR INSTANCE, IF THE HEAD IS COCKED
18 SEVERELY FORWARD LIKE ON TOO HIGH OF A PILLOW, IT CAN
19 PRODUCE SOME ELEMENT OF AIRWAY OBSTRUCTION.

20 Q. KIND OF LIKE SNORING?

21 A. YES, ABSOLUTELY LIKE SNORING.

22 MR. SENERIUS: THANK YOU.

23 THE COURT: RE, RE-EXAM?

24 MS. SIMMONS: WE HAVE NOTHING FURTHER FOR
25 DR. WOODARD.

1 THE COURT: MAY HE BE EXCUSED?

2 MS. SIMMONS: YES.

3 MR. SENERIUS: NO OBJECTION.

4 THE COURT: ALL RIGHT. WITHOUT OBJECTION YOU MAY BE
5 EXCUSED. THANK YOU, DOCTOR.

6 THE WITNESS: CERTAINLY.

7 (WHEREUPON, THE WITNESS WAS EXCUSED.)

8 (DISCUSSION AT SIDEBAR.)

9 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
10 JURY, I'M ADVISED THAT THIS WILL PROBABLY BE THE
11 TESTIMONY FOR TODAY. THERE ARE CERTAIN THINGS I NEED TO
12 DO WITH THE ATTORNEYS IN ORDER TO PREPARE FOR TOMORROW.
13 BUT I WOULD IMAGINE THAT THE TESTIMONY WILL CONCLUDE
14 TOMORROW. BUT WE NEED TO PREPARE AT THIS TIME FOR
15 TOMORROW AND I DON'T WANT TO HAVE TO KEEP YOU WAITING
16 BACK THERE IN THE JURY ROOM. SO I'M GOING TO EXCUSE YOU
17 FOR THE BALANCE OF THE DAY.

18 AND AGAIN I'M GONNA HAVE TO ASK YOU TO COME IN AT
19 10:00 IN THE MORNING, IF YOU WOULD PLEASE, USE THE SAME
20 JURY ROOM YOU HAVE BEEN USING. AND AGAIN, DO NOT
21 UNDERTAKE DISCUSSION OF THE CASE AMONG YOURSELVES OR
22 PERMIT ANYONE TO DISCUSS IT WITH YOU.

23 EVERYONE REMAIN SEATED WHILE THE JURY RETIRES FROM
24 THE COURTROOM.

25 (WHEREUPON, THE JURY LEFT THE COURTROOM AT

1 APPROXIMATELY 3:10 P.M.)

2 THE COURT: ALL RIGHT. LET'S TAKE A SHORT RECESS,
3 AND WHEN YOU ARE READY TO PROCEED, LET ME KNOW.

4 MS. SIMMONS: THANK YOU, JUDGE.

5 (A RECESS WAS TAKEN.)

6 THE COURT: IS THE STATE READY TO PROCEED?

7 MS. SIMMONS: YOUR HONOR, AT THIS POINT IN TIME THE
8 STATE WOULD REST.

9 THE COURT: ALL RIGHT. IS THERE ANYTHING ELSE FROM
10 THE STATE? HAVE YOU CHECKED YOUR EXHIBITS AND ALL?

11 MS. SIMMONS: WE HAVE CHECKED EXHIBITS, YOUR HONOR.

12 THE COURT: ALL RIGHT. FROM THE DEFENSE?

13 MR. SENERIUS: WE HAVE MOTIONS IF YOU WANT TO
14 DISMISS THE JURY FIRST BEFORE WE MAKE OUR MOTIONS. OR WE
15 COULD MAKE OUR MOTIONS NOW. OR DID YOU DISMISS THEM?
16 OH, I'M SORRY.

17 THE COURT: DUH.

18 MR. SENERIUS: I'M SORRY. YOUR HONOR, WE WOULD
19 MOVE --

20 THE COURT: YOU'LL HAVE TO EXCUSE ME. I WAS A
21 LITTLE BIT CONCERNED. BUT IT HAPPENS TO THE BEST OF US,
22 I CAN ASSURE YOU.

23 DEFENSE MOTION FOR DIRECTED VERDICT:

24 MR. SENERIUS: YOUR HONOR, AT THIS TIME WE WOULD
25 MAKE A MOTION FOR A DIRECTED VERDICT OF ACQUITTAL. I

1 WOULD HAND UP TO THE COURT THE CASE OF STATE V.

2 BALLENGER. I'VE HANDED A COPY TO MS. SIMMONS.

3 STATE V. BALLENGER IS A CASE, ACTUALLY IT'S A DRUG
4 CASE THAT JUDGE HENRY FLOYD WAS THE CIRCUIT COURT JUDGE
5 ON. IT'S A CASE OF A SITUATION WHERE AN INDIVIDUAL WAS
6 CHARGED WITH POSSESSION OF DRUGS. THE SOLE EVIDENCE OF
7 POSSESSION OF DRUGS WAS CIRCUMSTANTIAL.

8 THE TRIAL JUDGE DENIED THE MOTION FOR A DIRECTED
9 VERDICT, AND THE COURT OF APPEALS REVERSED, FINDING SUCH
10 LANGUAGE IN HERE SHORTLY. THE SUPREME COURT THEN
11 REVERSED THE COURT OF APPEALS SAYING THAT THE COURT OF
12 APPEALS WAS WEIGHING THE EVIDENCE. BUT WE CITE THIS CASE
13 FOR THE PROPOSITIONS OF LAW CONTAINED THEREIN.

14 ON PAGE 7 IT TALKS ABOUT THE MOTION BEING MADE AND
15 IT SAYS THAT (READING): THE STANDARD THE TRIAL JUDGE
16 SHOULD MEASURE CIRCUMSTANTIAL EVIDENCE ON OF A DIRECTED
17 VERDICT AS SET FORTH IN STATE VERSUS LITTLEJOHN.

18 AND IN THAT CASE IT SAYS THAT (READING): THE TRIAL
19 JUDGE IS CONCERNED WITH THE EXISTENCE OR NON-EXISTENCE OF
20 EVIDENCE, NOT WITH ITS WEIGHT, AND ALTHOUGH HE SHOULD NOT
21 REFUSE TO GRANT THE MOTION WHERE EVIDENCE MERELY RAISES A
22 SUSPICION THAT THE ACCUSED IS ACTUALLY GUILTY, IT IS HIS
23 DUTY TO SUBMIT THE CASE TO THE JURY IF THERE IS
24 SUBSTANTIAL EVIDENCE WHICH REASONABLY TENDS TO PROVE THE
25 GUILT OF THE ACCUSED, OR FROM WHICH HIS GUILT MAY BE

1 FAIRLY AND LOGICALLY DEDUCED.

2 IT GOES ON ON THE NEXT PAGE, ON PAGE 6, STATING THAT
3 (READING): THE MOTION SHOULD BE GRANTED WHERE A JURY
4 WOULD BE SPECULATING AS TO THE ACCUSED GUILT, CITING
5 BROWN, THE BROWN CASE, WHICH IS ANOTHER SOUTH CAROLINA
6 SUPREME COURT CASE, OR WHEN THE EVIDENCE IS SUFFICIENT
7 ONLY TO RAISE A STRONG SUSPICION OF GUILT, CITING STATE
8 VERSUS TOTTEROW.

9 YOUR HONOR, WE WOULD SUBMIT TO THE COURT THAT AT
10 THIS POINT IN THE TRIAL THERE IS MERELY CIRCUMSTANTIAL
11 EVIDENCE THAT DOES NOT RISE TO THE LEVEL OF THAT CITED IN
12 THE BALLENGER CASE, AND BASED UPON THAT, WE FEEL THAT THE
13 JURY WOULD BE AT BEST SPECULATING, AND THAT THE EVIDENCE
14 IS NOT SUFFICIENT FOR THE CASE TO GO TO THE JURY AT THIS
15 TIME, AND WE WOULD REQUEST A DIRECTED VERDICT OF
16 ACQUITTAL.

17 THE COURT: ALL RIGHT. MADAM SOLICITOR?

18 MS. SIMMONS: THANK YOU, YOUR HONOR. WHEN HEARING A
19 MOTION FOR DIRECTED VERDICT, THE SUPREME COURT HAS STATED
20 THE JUDGE MUST DETERMINE THE EXISTENCE OR THE
21 NON-EXISTENCE OF EVIDENCE, NOT ITS WEIGHT, EVEN IF THE
22 STATE CHOSE SOLELY TO RELY ON CIRCUMSTANTIAL EVIDENCE. I
23 BELIEVE THAT THERE IS, LOOKING AT THIS IN THE LIGHT MOST
24 FAVORABLE TO THE NON-MOVING PARTY, THAT THERE IS
25 SUFFICIENT EVIDENCE TO SEND THIS TO THE JURY.

1 YOUR HONOR, IF I MAY APPROACH, I WOULD ALSO PASS UP
2 STATE VERSUS CHAD SMITH FROM 2004. THIS ADDRESSES A
3 DIRECTED VERDICT MOTION IN THE CONTEXT OF HOMICIDE BY
4 CHILD ABUSE. THE CASE SPECIFICALLY, FACTUALLY YOU HAD A
5 CHILD WITH AGAIN A MASSIVE HEAD INJURY THAT OCCURRED ON A
6 SPECIFIC DAY. IT OCCURRED SEVERAL HOURS PRIOR TO THE
7 CHILD'S PRESENTATION AT THE HOSPITAL, AND THE
8 CIRCUMSTANCES INDICATED THAT THERE WERE ONLY TWO PEOPLE
9 WHO WERE WITH THE CHILD BASED ON THEIR OWN ADMISSIONS ON
10 THE DAY THAT MEDICAL EXPERTS TESTIFIED THAT THE INJURY
11 WAS INFLICTED. I BELIEVE IT IS ANALOGOUS TO THE FACTS OF
12 THIS CASE AND A DIRECTED VERDICT WAS DENIED IN THAT CASE.

13 THE COURT: MR. SENERIUS?

14 MR. SENERIUS: YES, YOUR HONOR. IN LOOKING THROUGH
15 THE CASE CITED BY MS. SIMMONS, I DON'T SEE WHERE THE
16 COURT -- AND AGAIN, THIS IS A COURT OF APPEALS CASE AND
17 NOT A SUPREME COURT CASE, *LITTLEJOHN* AND *BROWN* AND
18 *TETHERO* -- *TOTHEROW* -- I'M SORRY I'M MISPRONOUNCING IT --
19 I DON'T NOTICE ANY DISCUSSION THAT THAT LANGUAGE THAT
20 SAYS THAT THE MOTION SHOULD BE GRANTED WHERE A JURY WOULD
21 BE SPECULATING AS TO THE ACCUSED GUILT OR THE EVIDENCE IS
22 SUFFICIENT ONLY TO RAISE A STRONG SUSPICION OF GUILT.

23 AGAIN, EVEN THOUGH IT MAY BE FACTUALLY SOMEWHAT
24 SIMILAR, WE HAVE TESTIMONY HERE THAT THIS, THE TIME LINE
25 IN WHICH THIS COULD HAVE OCCURRED IS A SITUATION WHERE

1 MORE THAN ONE PARTY WAS IN THE LOCATION OF THE INJURED
2 CHILD, AND TO MERELY CAST SUSPICION BECAUSE OF
3 CIRCUMSTANTIAL EVIDENCE WE FEEL IS INSUFFICIENT FOR THIS
4 CASE TO GO FORWARD.

5 THE COURT: WELL, YOU ARE RELYING ON *BALLENGER*; IS
6 THAT CORRECT?

7 MR. SENERIUS: I'M RELYING -- ACTUALLY *BALLENGER* IS
8 THE MOST RECENT STATEMENT OF WHICH BOTH THAT LANGUAGE WAS
9 IN. BUT *BALLENGER*, THE DECISION IN *BALLENGER* WAS THE
10 SUPREME COURT SAYING THAT THEY THOUGHT THE COURT OF
11 APPEALS IN *BALLENGER* WEIGHED THE EVIDENCE AS OPPOSED TO
12 CHERISHED (PHONETIC) IT. CHIEF JUSTICE FINNEY, ACTUALLY
13 IN THAT *BALLENGER* WAS NOT A MAJORITY OPINION, CHIEF
14 JUSTICE FINNEY DISSENTED AND CHIEF JUSTICE FINNEY STATED
15 IN HIS DISSENT (READING): I RESPECTFULLY DISSENT AND
16 WOULD AFFIRM THE HOLDING OF THE COURT OF APPEALS THAT
17 *BALLENGER* WAS ENTITLED TO HAVE A MOTION FOR A DIRECTED
18 VERDICT.

19 AND TALKING ABOUT, IT SAYS WHETHER -- (READING):
20 FURTHERMORE, WHERE THE MAJORITY RELIES UPON DRUG
21 PROFILING AND OTHER TESTIMONY TO APPEAR, THAT *BALLENGER*
22 APPEARED TO BE INVOLVED IN THE DRUG TRANSACTION AND THAT
23 HE RAN FROM AN UNMARKED POLICE CAR, WHILE SUCH EVIDENCE
24 MAY RAISE A SUSPICION OF GUILT, MERE SUSPICION ALONE IS
25 INSUFFICIENT TO SEND THE CASE TO THE JURY. THERE THEY

1 QUOTE STATE VERSUS BARKSDALE -- OR HE QUOTES THE STATE
2 VERSUS BARKSDALE, A COURT OF APPEALS DECISION OF 1993.

3 IN THIS PARTICULAR CASE THERE ARE NO, THERE'S NO
4 OTHER EVIDENCE THAT MR. HINTON EVER DISPLAYED ANY OTHER
5 TENDENCIES OTHER THAN THAT OF A LOVING FATHER, THE
6 TESTIMONY ---

7 THE COURT: WELL, NO. AGAIN, DIRECTED VERDICT IS A
8 MATTER OF LAW.

9 MR. SENERIUS: A MATTER OF LAW, YES, SIR.

10 THE COURT: SO I'M NOT REALLY CONCERNED ABOUT THE
11 WEIGHT OF THE EVIDENCE, I'M JUST TRYING TO DETERMINE IF
12 THERE IS ANY EVIDENCE, CIRCUMSTANTIAL OR DIRECT.

13 MR. SENERIUS: BUT CIRCUMSTANTIAL MUST BE SUFFICIENT
14 TO EXCLUDE ---

15 THE COURT: NO. I THINK IT'S CLEAR IT'S NO LONGER
16 THE OLD -- DON'T GET SO -- IF YOU WANT TO, YOU CAN LOOK
17 AT STATE VERSUS DOBSON, WHICH WILL TELL YOU IT HAS THE
18 OLD CIRCUMSTANTIAL EVIDENCE WHICH MUST BE TO THE
19 EXCLUSION OF ANY REASONABLE EXPLANATION. SO IT'S
20 SOMETHING MORE THAN THAT.

21 AND BY THE WAY, IF I'M NOT MISTAKEN, I HAD TO LOOK
22 TO BE SURE I WAS CORRECT ON IT, IN BALLENGER THEY
23 ACTUALLY REINSTATED THE GUILTY VERDICT.

24 MR. SENERIUS: I THOUGHT I STATED THAT, YOUR HONOR.

25 THE COURT: WELL, I'M SURE YOU DID. BUT THE

1 STATEMENT (READING): BY DOING THAT, VIEWING ALL OF THE
2 EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE, WE
3 FIND SUFFICIENT EVIDENCE TO ALLOW BALLENGER'S GUILT TO BE
4 LOGICALLY AND FAIRLY DEDUCED.

5 IT WENT BEYOND JUST SAYING THERE WAS MERE PRESENCE.
6 (READING): BALLENGER MATCHED THE DESCRIPTION THE POLICE
7 WERE GIVEN. HE SEEMED TO BE INVOLVED IN A DRUG
8 TRANSACTION. WHEN HE SAW THE UNMARKED POLICE CAR HE
9 SEEMED TO PUT SOMETHING IN HIS POCKET AND RAN. SEVERAL
10 DETECTIVES TESTIFIED HE HAD YEARS OF EXPERIENCE IN THE
11 DRUG TRADE IN THE AREA. THEY NEVER FOUND DRUGS IN THE
12 SPECIFIC AREA WHERE BALLENGER WAS ARRESTED.

13 AS I SAY, I THINK THAT IT'S NO LONGER -- IN FACT,
14 GRIPPON, WHICH WAS CITED THE YEAR AFTER BALLENGER, IS
15 CLEAR, AND I THINK IT WAS SAID IN CHERRY, GRIPPON, WHICH
16 WAS DECIDED JUST IN 2004, THAT GRIPPON IS THE
17 CIRCUMSTANTIAL EVIDENCE THAT YOU CHARGE NOW. SO, AND
18 WHICH SAYS IT DOESN'T HAVE TO BE EXCLUSIVE OF ANY
19 REASONABLE EXPLANATION.

20 MR. SENERIUS: ALL RIGHT. IF I MAY --

21 THE COURT: EXCUSE ME.

22 MR. SENERIUS: I'M SORRY, SIR.

23 THE COURT: NO, THAT'S ALL RIGHT. I MEAN, I'M JUST
24 SAYING THAT I'M FAMILIAR WITH THE WORK. ALSO, I WILL SAY
25 THIS, NOT THAT WE'VE GOTTEN TO THAT POINT. I STILL

1 CONTAIN, OR RETAIN IN MY CHARGE, WHICH IS BASED ON
2 GRIPPON, I CHARGE YOU THAT SUSPICION, HOWEVER STRONG, IS
3 NOT ENOUGH TO SUSTAIN A CONVICTION.

4 MR. SENERIUS: YES, SIR.

5 THE COURT: WHICH I UNDERSTAND IS THE LAW.

6 MR. SENERIUS: YES, SIR. IF I MAY MAKE --

7 THE COURT: PLEASE.

8 MR. SENERIUS: -- JUST A COUPLE OF POINTS?

9 THE COURT: CERTAINLY.

10 MR. SENERIUS: THE SUPREME COURT IN DECIDING THE
11 LAST LINE, THEY SAID (READING): WE FIND THE COURT OF
12 APPEALS IMPERMISSIBLY WEIGHED EVIDENCE INSTEAD OF
13 DETERMINING WHETHER SUFFICIENT EVIDENCE EXISTED TO
14 BALLENGER'S GUILT.

15 THE COURT: WELL, THE COURT OF APPEALS FOUND WHEN
16 THEY WEIGHED THE EVIDENCE THAT THERE WAS INSUFFICIENT
17 EVIDENCE TO SUPPORT A CONVICTION. AND THAT'S WHAT THEY
18 BASED IT ON. THEY WERE SITTING THERE TRYING TO DO THE
19 JURY'S WORK.

20 AND RULE -- IS IT 19? CRIMINAL RULES OF PROCEDURE
21 CLEARLY STATES NOW EXACTLY WHAT THE -- RULE 19, RULES OF
22 CRIMINAL PROCEDURE (READING): ON MOTION OF THE DEFENDANT
23 OR ON ITS OWN MOTION THE COURT SHALL DIRECT A VERDICT IN
24 THE DEFENDANT'S FAVOR ON ANY OFFENSE CHARGED IN THE
25 INDICTMENT AFTER THE EVIDENCE ON EITHER SIDE IS CLOSED.

1 IF THERE IS A FAILURE OF COMPETENT EVIDENCE TENDING TO
2 PROVE THE CHARGE IN THE INDICTMENT.

3 IN RULING ON THE MOTION THE TRIAL JUDGE SHALL
4 CONSIDER ONLY THE EXISTENCE OR NON-EXISTENCE OF EVIDENCE,
5 NOT ITS WEIGHT.

6 MR. SENERIUS: YES, SIR.

7 THE COURT: THAT'S WHAT THEY SAID IN *BALLENGER*.

8 MR. SENERIUS: YES, SIR. AND THEY ---

9 THE COURT: AND THAT'S WHY THEY REVERSED THE COURT
10 OF APPEALS BECAUSE THEY WEIGHED IT.

11 MR. SENERIUS: WELL...

12 THE COURT: THEY DIDN'T DETERMINE WHETHER THERE WAS
13 ANY EVIDENCE; THEY DETERMINED WHETHER EVIDENCE WASN'T
14 SUFFICIENT, AND THAT'S WEIGHING IT.

15 MR. SENERIUS: FACTUALLY, THE ONLY EVIDENCE OF
16 POSSESSION, OF ACTUAL POSSESSION OR CONSTRUCTIVE
17 POSSESSION, BECAUSE WHEN THE DEFENDANT IN *BALLENGER* WAS
18 TAKEN INTO CUSTODY, HE HAD NO DRUGS ON HIM. AND WHEN
19 THEY WENT TO LOOK AT THE PLACE WHERE HE SUPPOSED I GUESS
20 JUMPED OVER THE FENCE OR CLIMBED OVER A FENCE, THERE WERE
21 NO DRUGS FOUND THERE. THERE WERE DRUGS FOUND IN THE
22 VICINITY AND THAT WAS THE CIRCUMSTANTIAL EVIDENCE OF THE
23 POSSESSION. THE COURT OF APPEALS ---

24 THE COURT: AND ALSO THE SUPREME COURT SAID THAT
25 THERE WAS TESTIMONY BY AN EXPERIENCED POLICE OFFICER THAT

1 THIS WAS NOT AN AREA WHERE DRUGS HAD BEEN FOUND BEFORE
2 BASED ON HIS EXPERIENCE. I MEAN, AGAIN, YOU'RE TALKING
3 ABOUT IS IT SUFFICIENT EVIDENCE TO CONVICT SOMEBODY OR IS
4 IT EVIDENCE --

5 MR. SENERIUS: YES, SIR.

6 THE COURT: -- THAT'S ADMISSIBLE AND WOULD SUPPORT
7 IF BELIEVED?

8 MR. SENERIUS: AND THE DISTINCTION, IF I MAY, THAT I
9 WOULD DRAW BETWEEN *BALLENGER* AND THIS CASE IS THAT IN
10 THIS CASE THERE IS ONLY EVIDENCE OF NON-ACCIDENTALLY
11 INDUCED TRAUMA I BELIEVE IS THE TERM THEY'VE BEEN USING.
12 THERE IS NOT DIRECT EVIDENCE NOR IS THERE ANYTHING OTHER
13 THAN MERE CIRCUMSTANTIAL EVIDENCE BY VIRTUE OF THE
14 PRESENCE OF THE DEFENDANT.

15 THE COURT: LET ME READ YOU GRIPPON.

16 MR. SENERIUS: YES, SIR.

17 THE COURT: (READING): THE LAW MAKES ABSOLUTELY NO
18 DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO
19 EITHER TO DIRECT OR CIRCUMSTANTIAL EVIDENCE --

20 MR. SENERIUS: YES, SIR.

21 THE COURT: -- NOR IS A GREATER WEIGHT OR DEGREE OF
22 CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF
23 DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE EVIDENCE IN
24 THE CASE. IF AFTER WEIGHING ALL OF THE EVIDENCE, IF YOU
25 ARE NOT CONVINCED OF THE GUILT...

1 MR. SENERIUS: YES, SIR.

2 THE COURT: NOW, YOU -- JUST AS THEY SAID IN
3 BALLENGER, COURTS ARE NOT SUPPOSED TO WEIGH EVIDENCE,
4 THEY'RE ONLY SUPPOSED TO DETERMINE IF THERE IS ANY
5 EVIDENCE.

6 MR. SENERIUS: YES, SIR. AND OBVIOUSLY, IT'S OUR
7 POSITION THAT THERE ISN'T.

8 THE COURT: WELL, OBVIOUSLY THAT WILL BE FOR THE
9 JURY TO DECIDE IF IT GOES TO THE JURY.

10 ANYTHING ELSE FROM THE STATE?

11 MS. SIMMONS: NO, YOUR HONOR.

12 THE COURT: MOTION FOR DIRECTED VERDICT DENIED.
13 NOTED FOR THE RECORD, OF COURSE.

14 NOW, IS 10:00 ALL RIGHT IN THE MORNING FOR YOU?

15 MR. SENERIUS: YES, SIR.

16 THE COURT: STATE?

17 MS. SIMMONS: YES, YOUR HONOR.

18 THE COURT: I THINK WE'VE GOTTEN REQUESTS FOR
19 CHARGES. I'M NOT TRYING TO ANTICIPATE ANYTHING, BUT I
20 WOULD CERTAINLY LIKE TO BE IN A POSITION ONCE ALL THE
21 EVIDENCE IS IN THE CASE AND BOTH SIDES REST THAT WE BE
22 ABLE TO, WOULD BE ABLE TO GO FORWARD RATHER THAN TAKE
23 ANOTHER DAY TO...

24 SO I'M ASKING YOU, WOULD YOU WANT TO DISCUSS YOUR
25 REQUESTS, HAVE A CHARGE CONFERENCE NOW?

1 MS. SIMMONS: I CERTAINLY DON'T OBJECT TO THAT,
2 JUDGE.

3 THE COURT: MR. SENERIUS?

4 MR. SENERIUS: THAT WOULD BE FINE.

5 CHARGE CONFERENCE:

6 THE COURT: ALL RIGHT. AND AGAIN, IF YOU WOULD
7 FORGIVE ME, I'M GOING TO TREAT THIS CHARGE CONFERENCE
8 LIKE I DO ANY MOTION *IN LIMINE*. IN OTHER WORDS, I'LL
9 GIVE YOU MY RULING FIRST BLUSH, AND THEN IF SOMETHING
10 SHOULD DEVELOP, THEN, OF COURSE, IT CAN BE CHANGED. BUT
11 WHEN YOU DO REST, WHEN BOTH SIDES REST, THAT'S TO INCLUDE
12 ANY REBUTTAL CASE, THEN YOU MUST RENEW YOUR MOTIONS.

13 MR. SENERIUS: YES, SIR.

14 THE COURT: BUT I WOULD LIKE TO GO AHEAD AND ADDRESS
15 THEM. AND OF COURSE, THIS MIGHT HELP YOU IN BRINGING THE
16 OWL'S EYES OPEN. NOT TOO MUCH LIKE IT, BUT SORT OF.

17 ALL RIGHT. LET'S SEE. YOU ARE READY FOR YOUR --
18 ALL RIGHT. I HAVE --

19 MR. SENERIUS: YOUR HONOR, EXCUSE ME. COULD WE HAVE
20 FIVE MINUTES?

21 THE COURT: OH, CERTAINLY, CERTAINLY. EXCUSE ME.

22 AND NOW OBVIOUSLY THIS IS A LITTLE BIT PREMATURE, SO
23 I CERTAINLY WANT THAT UNDERSTOOD, TOO, THAT NORMALLY WE
24 DO NOT EXCHANGE REQUESTS FOR CHARGES UNTIL ALL OF THE
25 EVIDENCE IS IN AND WE GO TO THE JURY, SO I MEAN AT THAT

1 TIME. AND I'LL ENTERTAIN, IN FACT, I'LL TELL YOU NOW
2 THAT I'LL GRANT YOUR MOTION TO CONTINUE THIS UNTIL THE
3 CASE IS, THE EVIDENCE IS CLOSED.

4 I WAS JUST TRYING TO THINK, LOOKING AT THE REQUESTS,
5 I COULD GIVE YOU SOME IDEA AS TO WHAT YOU MIGHT WANT TO
6 PREPARE FOR OR MAYBE, AS MR. SENERIUS HAS OFFERED TO DO
7 TO ENLIGHTEN THE COURT SO I MIGHT SEE SOMETHING THAT I
8 MIGHT HAVE MISSED.

9 MS. TYE: YOUR HONOR, THERE ARE A COUPLE OF ISSUES
10 THAT WE FEEL LIKE WE NEED TO DISCUSS WITH OUR CLIENT
11 BEFORE WE GO TO --

12 THE COURT: OH, CERTAINLY.

13 MS. TYE: -- THE FULL REQUEST TO CHARGE. IF WE TALK
14 ABOUT THIS TODAY AND GO FORWARD TODAY AND WE DECIDE ON
15 SOMETHING SOMEWHAT DIFFERENT, IS THAT GOING TO BE AN
16 ISSUE?

17 THE COURT: NO PROBLEM. BUT THE ONLY THING IS, DO
18 UNDERSTAND THAT THE REASON THAT THE RULE PROVIDES THAT
19 YOU ONLY GO INTO THE CHARGES OR THE REQUESTS FOR CHARGES
20 IS AFTER THE EVIDENCE IS FINISHED IS BECAUSE OBVIOUSLY
21 YOU ARE ALERTING THE OTHER SIDE JUST AS THE STATE IS
22 ALERTING YOU AS TO WHAT THEY WOULD REQUEST. SO I'M
23 NOT -- AS I SAY, I'M JUST TRYING TO -- I'LL TELL YOU
24 THIS. Y'ALL HAVE BEEN VERY EFFICIENT IN THE TRIAL OF THE
25 CASE. IN OTHER WORDS, WE HAVE MOVED RIGHT ALONG. BUT I

1 JUST DON'T WANT ANY MORE TIME EXPENDED IN NON-PRODUCTIVE
2 EFFORTS.

3 MS. TYE: YES, YOUR HONOR. I BELIEVE --

4 THE COURT: WE'LL TAKE ABOUT -- WELL, I'M GOING BACK
5 IN THE CONFERENCE ROOM, AND WHEN YOU ARE READY JUST LET
6 ME KNOW AND WE'LL PROCEED THEN.

7 MR. SENERIUS: YES, SIR. THANK YOU, JUDGE.

8 (A RECESS WAS TAKEN.)

9 THE COURT: ALL RIGHT. I MET WITH THE COUNSEL IN
10 CHAMBERS, AND DECIDED ON, CONSIDERING THE HOUR, THAT WE
11 WILL RECESS FOR THE DAY.

12 NOW, THE STATE HAS RESTED ON THE RECORD BUT NOT
13 BEFORE THE JURY, SO IF SOMETHING COMES UP WE CAN DO THAT

14 BUT WE ARE GETTING CLOSE TO THAT TIME WHEN THE
15 DEFENDANT HAS TO CONSIDER HIS CASE. AND I WOULD LIKE ALL
16 DEFENDANTS AND ALL CITIZENS REALLY TO CONSIDER THEIR
17 RIGHTS. AND IN THIS, IN PARTICULAR ANY CRIMINAL CASE IS
18 OF COURSE, WHETHER OR NOT THE DEFENDANT WILL TESTIFY.

19 OUR CONSTITUTION -- AND, OF COURSE, I WILL EXPLAIN
20 THAT IN MORE PARTICULARITY -- PROVIDES THAT, OF COURSE,
21 THAT NO ONE HAS TO TESTIFY AGAINST THEMSELVES OR OFFER
22 EVIDENCE AGAINST THEMSELVES.

23 BUT I WANT YOU, MR. HINTON, TO CONSIDER THAT VERY
24 CAREFULLY, SO I'M GOING TO ASK YOU IF YOU WOULD PLEASE
25 STAND. DO YOU UNDERSTAND YOU ARE STILL UNDER OATH? I

1 PUT YOU UNDER OATH I THINK THE FIRST DAY ON SOME OTHER
2 MATTER. YESTERDAY WE TALKED ABOUT THE BOND. AND I SEE
3 YOUR MOTHER IS STILL HERE.

4 YOU ARE STILL ON THAT BOND; IS THAT CORRECT?

5 DEFENDANT'S MOTHER: YES, SIR.

6 THE COURT: THANK YOU VERY MUCH.

7 AND SO YOU ARE STILL UNDER OATH, TOO? DO YOU
8 UNDERSTAND.

9 DEFENDANT'S MOTHER: (NODDED HEAD.)

10 COURT'S DISCUSSION WITH DEFENDANT RE TESTIFYING OR NOT:

11 THE COURT: AT THIS TIME I AM GOING TO EXPLAIN TO
12 YOU CERTAIN OF YOUR RIGHTS. IF YOU DO NOT UNDERSTAND
13 ANYTHING WE SAY, PLEASE LET ME KNOW. IF YOU WANT ME TO
14 EXPLAIN ANYTHING IN MORE DETAIL, PLEASE LET ME KNOW. DO
15 YOU UNDERSTAND THIS?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: WE HAVE NOW REACHED THE STAGE OF THE
18 TRIAL WHERE YOU MAY PRESENT YOUR DEFENSE. YOU HAVE THE
19 RIGHT TO CLAIM THE PROTECTIONS GIVEN TO YOU BY THE FIFTH
20 AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES. THE
21 FIFTH AMENDMENT STATES, IN PERTINENT PART: NO PERSON
22 SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS
23 AGAINST THEMSELVES. THIS MEANS THAT YOU CANNOT BE
24 REQUIRED TO TESTIFY IN THIS CASE. YOU HAVE THE RIGHT TO
25 TESTIFY ON YOUR OWN BEHALF; HOWEVER, YOU CANNOT --

1 HOWEVER, NO ONE CAN MAKE YOU TESTIFY. THIS IS A PERSONAL
2 RIGHT AND NO ONE CAN WAIVE THIS RIGHT EXCEPT YOU. IF YOU
3 DECIDE TO TESTIFY, YOU WILL BE SUBJECT TO THE SAME RULES
4 THAT GOVERN OTHER WITNESSES AND YOU MAY BE EXAMINED AND
5 CROSS-EXAMINED ON ANY RELEVANT ISSUE IN THIS CASE.

6 IN ADDITION, IF YOU HAVE ANY CONVICTIONS INVOLVING
7 DISHONESTY OR FALSE STATEMENT OR FOR CRIMES PUNISHABLE BY
8 IMPRISONMENT FOR MORE THAN ONE YEAR, AND THIS COURT
9 DETERMINES THE PROBATIVE VALUE OF ADMITTING THIS EVIDENCE
10 OUTWEIGHS ITS PREJUDICIAL EFFECT TO YOU, THE SOLICITOR
11 WILL BE ABLE TO INTRODUCE YOUR RECORD TO ATTACK YOUR
12 CREDIBILITY.

13 IF YOU DECIDE TO TESTIFY, THIS DECISION ON YOUR PART
14 MUST BE FREELY, VOLUNTARILY, AND INTELLIGENTLY MADE WITH
15 THE KNOWLEDGE OF THE PROTECTIONS GIVEN TO YOU BY THE
16 FIFTH AMENDMENT AND THE CONSEQUENCES OF YOUR DECISION TO
17 TESTIFY. DO YOU UNDERSTAND THIS?

18 THE DEFENDANT: YES, SIR.

19 THE COURT: IF YOU DECIDE NOT TO TESTIFY, I WILL
20 INSTRUCT THE JURORS THAT THEY CANNOT GIVE THE FACT THAT
21 YOU DID NOT TESTIFY ANY CONSIDERATION WHATSOEVER AND THAT
22 THERE IS TO BE ABSOLUTELY NO PREJUDICE TO YOU BECAUSE YOU
23 DID NOT TESTIFY.

24 YOU SHOULD TALK WITH YOUR ATTORNEY, YOUR FAMILY AND
25 FRIENDS OR ANYONE ELSE, BUT THE FINAL DECISION WILL BE

1 LEFT TO YOU ENTIRELY. DO YOU UNDERSTAND THAT?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: DO YOU UNDERSTAND WHAT I'VE EXPLAINED TO
4 YOU?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT WHAT
7 I'VE EXPLAINED TO YOU?

8 THE DEFENDANT: NO, SIR.

9 THE COURT: ALL RIGHT. WITH THAT I'M GOING TO
10 RECESS FOR THE DAY AND SEE YOU AT 10:00 IN THE MORNING.

11 MR. SENERIUS: YES, SIR.

12 THE COURT: VERY GOOD.

13 MR. SENERIUS: THANK YOU, YOUR HONOR.

14 MS. SIMMONS: THANK YOU, JUDGE.

15 (COURT ADJOURNED AT 4:30 P.M., TO RESUME ON
16 THURSDAY, MARCH 3, 2011, AT APPROXIMATELY
17 10:00 A.M.)

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1 *** MARCH 3, 2011 ***

2 (WHEREUPON, THE PROCEEDINGS RESUMED ON
3 THURSDAY, MARCH 3RD, 2011, IN OCONEE COUNTY
4 GENERAL SESSIONS COURT BEFORE THE HONORABLE
5 ALEXANDER S. MACAULAY, IN THE TRIAL IN THE
6 MATTER OF THE STATE OF SOUTH CAROLINA VERSUS
7 MATTHEW TAYLOR HINTON, AT APPROXIMATELY 10:16
8 A.M.)

9 THE COURT: ALL RIGHT. IT IS MY UNDERSTANDING THE
10 JURY IS HERE. IS THERE ANYTHING FROM THE STATE BEFORE WE
11 PROCEED?

12 MS. SIMMONS: NO, YOUR HONOR.

13 THE COURT: ANYTHING FROM THE DEFENSE?

14 MR. SENERIUS: NO, SIR.

15 THE COURT: ALL RIGHT. TWO THINGS. OF COURSE, WE
16 DID NOT REST. THE STATE INTENDS TO REST TODAY?

17 MS. SIMMONS: YES, YOUR HONOR.

18 THE COURT: ALL RIGHT. YOU'LL REST AND THAT WILL BE
19 THE FIRST THING TO DO.

20 NOW I ALREADY HEARD YOUR MOTIONS. IN OTHER WORDS,
21 YOU ARE READY TO PROCEED WITH THE DEFENSE CASE?

22 MR. SENERIUS: YES, SIR.

23 THE COURT: ALL RIGHT. IN OTHER WORDS, I'VE HEARD
24 YOUR MOTIONS AND RULED ON THEM AT THE END OF THE STATE'S
25 OR WHEN THE STATE ANNOUNCED TO THE COURT IT HAD RESTED.

1 AND NOW, I DO HAVE ONE THING, THOUGH, ABOUT HAVING
2 DISCUSSED WITH THE DEFENDANT WHETHER HE WISHES TO
3 TESTIFY.

4 MR. SENERIUS: I HAVE, YOUR HONOR.

5 THE COURT: WOULD HE -- HAS HE MADE UP HIS MIND? HE
6 DOESN'T HAVE TO UNTIL THAT TIME COMES WHEN HE WOULD
7 TESTIFY OR NOT.

8 MR. SENERIUS: I BELIEVE HE'S MADE UP HIS MIND, YOUR
9 HONOR.

10 THE COURT: PARDON?

11 MR. SENERIUS: I BELIEVE HE HAS MADE A DECISION.

12 THE COURT: AND WHAT IS THAT?

13 WELL, IF YOU WOULD, PLEASE. (DEFENDANT STANDS.)
14 COURT'S RE-ADVISEMENT OF DEFENDANT'S RIGHT TO TESTIFY OR
15 NOT TO TESTIFY:

16 THE COURT: NOW, MR. HINTON, YOU ARE STILL UNDER
17 OATH, DO YOU UNDERSTAND THAT?

18 THE DEFENDANT: YES, SIR.

19 THE COURT: AND YOU UNDERSTAND THAT YESTERDAY I
20 ADVISED YOU OF YOUR RIGHTS TO TESTIFY OR NOT TO TESTIFY
21 AND IT IS YOUR DECISION AND YOUR RIGHT TO EXERCISE NOT TO
22 TESTIFY, YOU DON'T HAVE TO IF YOU DON'T WANT TO. AND
23 I'LL INSTRUCT THE JURY, OF COURSE, THAT THAT CANNOT BE
24 CONSIDERED AGAINST YOU IN ANY WAY. DID YOU UNDERSTAND
25 WHAT I EXPLAINED TO YOU YESTERDAY?

1 THE DEFENDANT: YES, SIR.

2 THE COURT: DO YOU HAVE ANY QUESTIONS ABOUT WHAT I
3 EXPLAINED TO YOU?

4 THE DEFENDANT: YES, SIR.

5 THE COURT: HAVE YOU DISCUSSED WITH YOUR LAWYER
6 WHETHER OR NOT YOU SHOULD TESTIFY OR NOT TESTIFY?

7 THE DEFENDANT: YES, SIR.

8 THE COURT: DO YOU NEED TO TALK TO YOUR LAWYER ANY
9 MORE ABOUT THAT DECISION?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: YOU DO NEED TO TALK TO HIM SOME MORE?

12 THE DEFENDANT: OH, NO, I DON'T NEED TO, NO, SIR.

13 THE COURT: ALL RIGHT. AS I WAS SAYING, DO YOU WISH
14 TO TALK TO YOUR LAWYER ANY MORE AT THIS TIME?

15 THE DEFENDANT: NO, SIR.

16 THE COURT: DO YOU WISH TO TESTIFY IN THIS CASE?

17 THE DEFENDANT: YES, SIR.

18 THE COURT: VERY GOOD. AND YOU DO UNDERSTAND IF YOU
19 HAVE ANY -- WELL, IF YOU TESTIFY, YOUR CREDIBILITY IS
20 SUBJECT TO CHALLENGE AS ANY OTHER WITNESS?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: ALL RIGHT. VERY GOOD. THANK YOU.

23 MR. SENERIUS: THANK YOU, YOUR HONOR.

24 THE COURT: ALL RIGHT. ANYTHING ELSE FROM THE
25 STATE?

1 MS. SIMMONS: NO, YOUR HONOR.

2 THE COURT: FROM THE DEFENSE?

3 MR. SENERIUS: NO, SIR.

4 THE COURT: ALL RIGHT. ASK THE JURY TO JOIN US,
5 PLEASE.

6 (THE JURY ENTERED THE COURTROOM AT
7 APPROXIMATELY 10:40 A.M.)

8 THE COURT: LET THE RECORD REFLECT THE JURY AND
9 ALTERNATES ARE IN THE JURY-BOX.

10 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, I
11 APOLOGIZE ABOUT THE DELAY IN GETTING STARTED, BUT WE HAD
12 SOME TECHNICAL DIFFICULTIES OF A MORE COMMON NATURE, IN
13 OTHER WORDS, A FLAT TIRE, SO IT TOOK US A WHILE TO GET
14 HERE.

15 ALL RIGHT. I'LL RECOGNIZE THE STATE. MADAM
16 SOLICITOR?

17 MS. SIMMONS: YOUR HONOR, AT THIS TIME THE STATE
18 WOULD REST..

19 THE COURT: VERY WELL. IS THE DEFENSE READY TO GO
20 FORWARD?

21 MR. SENERIUS: YES, YOUR HONOR.

22 THE COURT: SUBJECT TO PRIOR MOTIONS, I RECOGNIZE
23 MR. SENERIUS FOR HIS FIRST WITNESS.

24 MR. SENERIUS: THANK YOU, YOUR HONOR, MAY IT PLEASE
25 THE COURT. WE WOULD CALL MATTHEW HINTON.

1 WHEREUPON,

2 MATTHEW TAYLOR HINTON,

3 AFTER FIRST HAVING BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

4 DIRECT EXAMINATION BY MR. SENERIUS:

5 THE COURT: ALL RIGHT. IF YOU WOULD, SIR, PLEASE
6 GIVE US YOUR FULL NAME FOR THE RECORD.

7 THE WITNESS: MATTHEW TAYLOR HINTON.

8 THE COURT: SPELL YOUR LAST NAME, MR. HINTON,
9 PLEASE.

10 THE WITNESS: H-I-N-T-O-N.

11 THE COURT: VERY GOOD. THANK YOU.

12 YOU MAY PROCEED.

13 MR. SENERIUS: THANK YOU, YOUR HONOR.

14 BY MR. SENERIUS:

15 Q. MATTHEW, DID YOU DO ANYTHING INTENTIONALLY TO HARM

16

17 A. NO, SIR.

18 Q. HOW OLD ARE YOU, MATTHEW?

19 A. TWENTY-FOUR.

20 Q. AND IN AUGUST OF 2009, HOW OLD WERE YOU?

21 A. TWENTY-TWO.

22 Q. OKAY. WHERE WERE YOU BORN?

23 A. IN GREENVILLE, SOUTH CAROLINA.

24 Q. AND WERE YOU RAISED IN GREENVILLE, SOUTH CAROLINA?

25 A. YES, SIR.

1 Q. YOU WENT TO SCHOOL IN GREENVILLE, SOUTH CAROLINA?

2 A. YES, SIR.

3 Q. HOW FAR DID YOU GO IN SCHOOL?

4 A. THROUGH HIGH SCHOOL.

5 Q. YOU GRADUATED FROM HIGH SCHOOL?

6 A. YES, SIR.

7 Q. HOW LONG BEFORE [REDACTED] WAS BORN HAD YOU AND
8 ASHLEY BRIGHT BEEN TOGETHER?

9 A. I WOULD SAY ROUGHLY TWO YEARS. OH, BEFORE SHE WAS
10 BORN. I'M SORRY. BEFORE SHE WAS BORN, I WOULD SAY A FEW
11 MONTHS BEFORE SHE WAS BORN.

12 Q. OKAY. AND MATTHEW, YOU NEED TO SPEAK UP INTO THAT
13 MICROPHONE --

14 A. I'M SORRY.

15 Q. -- SO THE JURY CAN HEAR YOU. AND I'M A LITTLE BIT
16 CLOSER AND I'M HAVING A LITTLE TROUBLE HEARING YOU, SO
17 I'M NOT SURE THAT THEY'RE GONNA BE ABLE TO HEAR
18 EVERYTHING YOU SAY.

19 A. OH. IT WAS -- BEFORE SHE WAS BORN IT WAS I WANT
20 TO SAY A FEW MONTHS WE WERE TOGETHER.

21 Q. OKAY. AND WERE YOU EMPLOYED AT THE TIME BEFORE
22 [REDACTED] WAS BORN?

23 A. YES, SIR, I WAS.

24 Q. AND WHERE WERE YOU WORKING?

25 A. I WAS WORKING AT THE PIZZA HUT IN SENECA.

1 Q. OKAY. AND IN AUGUST OF -- STRIKE THAT. BACK UP.

2 IN AUGUST OF 2009 WERE YOU EMPLOYED?

3 A. NO, SIR.

4 Q. WHEN DID YOU BECOME UNEMPLOYED?

5 A. IT WAS EARLIER THAT YEAR. I WANT TO SAY AROUND

6 MAY IS WHEN I QUIT PIZZA HUT.

7 Q. AND WHY DID YOU QUIT YOUR JOB AT PIZZA HUT?

8 A. I WAS A DELIVERY DRIVER. AND WHEN I FIRST
9 STARTED, YOU KNOW, DELIVERY DRIVERS MADE TIPS, REALLY
10 GOOD TIPS. BUT WHEN THE ECONOMY DROPPED, I WASN'T
11 GETTING PAID NEARLY WHAT I NEEDED TO TAKE CARE OF MY
12 VEHICLE AND EVERYTHING ELSE I NEEDED TO, SO I WAS LOSING
13 MONEY IN THE LONG RUN. SO I HAD TO QUIT. I WAS TRYING
14 TO SEARCH FOR ANOTHER JOB, BUT THAT TURNED UP SHORT.

15 Q. SO BASICALLY YOU QUIT YOUR JOB BECAUSE IT WAS
16 COSTING YOU MONEY TO GO TO WORK?

17 A. CORRECT.

18 Q. OKAY. AND BEFORE YOU QUIT YOUR JOB WITH PIZZA
19 HUT, DID YOU DISCUSS THAT WITH ASHLEY?

20 A. WE HAD TALKED ABOUT IT BRIEFLY BUT NOT IN ANY
21 DETAIL.

22 Q. ALL RIGHT. SO YOU WEREN'T ABLE TO -- SINCE YOU
23 QUIT YOUR JOB WERE YOU DRAWING UNEMPLOYMENT INSURANCE?

24 A. NO, NO, SIR.

25 Q. OKAY. WHEN WAS BORN?

REDACT
ED

REDACTED

RE
DA
CTE

1 A. FEBRUARY OF 2009.

2 Q. OKAY. AND WHEN ASHLEY FIRST BECAME PREGNANT WITH
3 [REDACTED] WERE YOU EXCITED ABOUT IT?

4 A. PRETTY MUCH. I MEAN I WAS, I WAS EXCITED AND I
5 WAS SCARED, IF THAT MAKES ANY SENSE. A NEW FATHER HAVING
6 A BABY COME IN, IT'S SCARY, YOU KNOW?

7 Q. OKAY. TELL ME ABOUT YOUR RELATIONSHIP WITH YOUR
8 DAUGHTER.

9 A. MY RELATIONSHIP WITH [REDACTED] WAS GREAT FROM THE
10 VERY BEGINNING. WE BONDED. FROM DAY ONE IT WAS AN
11 INSTANT BONDING AND, WHEN BABIES ARE BORN, I GUESS.

12 Q. AND SHORTLY AFTER OR SOMETIME AFTER [REDACTED] WAS
13 BORN, ASHLEY WENT BACK TO -- WENT TO WORK OR WENT BACK TO
14 WORK?

15 A. IT WAS A FEW MONTHS AFTER, OR A COUPLE MONTHS,
16 YES, SIR.

17 Q. A COUPLE MONTHS AFTER. AND WHEN SHE WENT BACK TO
18 WORK AFTER [REDACTED] WAS BORN, WHERE WAS SHE WORKING, DO
19 YOU REMEMBER?

20 A. THE THEATER IN SENECA.

21 Q. OKAY. AND WAS SHE WORKING THERE FULL-TIME OR
22 PART-TIME?

23 A. PART-TIME.

24 Q. AND WERE YOU LIVING IN THE SAME APARTMENT THEN OR
25 THE SAME LOCATION THEN AS YOU WERE LIVING WHEN, IN AUGUST

REDACTED

REDACTED

1 OF 2009?

2 A. YES, SIR.

3 Q. ASHLEY WAS A GOOD MOTHER?

4 A. I WOULD SAY SO.

5 Q. OKAY. Y'ALL WERE, THE THREESOME WERE PRETTY HAPPY
6 TOGETHER?

7 A. FAIRLY. WE HAD OUR UPS AND DOWNS, BUT FAIRLY.

8 Q. NOW, WE'VE HEARD TESTIMONY THAT [REDACTED] STARTED
9 SLEEPING THROUGH THE NIGHT FAIRLY QUICKLY.

10 A. SHE DID. I THINK SHE GOT THAT FROM ME, THOUGH.

11 Q. OKAY. YOUR MOTHER DIDN'T KNOW ABOUT [REDACTED]

12 A. NO, SHE DID NOT.

13 Q. YOUR MOTHER KNEW THAT YOU WERE IN A RELATION- --
14 STRIKE THAT. DID YOUR MOTHER KNOW THAT YOU WERE IN A
15 RELATIONSHIP WITH ASHLEY?

16 A. SORT OF. SHE KNEW OF A RELATIONSHIP WITH ASHLEY,
17 NOT REALLY THE RELATIONSHIP THAT I WANT TO SAY ASHLEY
18 WANTED, IT WAS MORE LIKE, HOW ASHLEY PUT IT WAS LIKE
19 ROOMMATE, I GUESS, KIND OF RELATIONSHIP.. THAT'S WHAT WAS
20 TOLD TO MY MOM.

21 Q. WHY DIDN'T YOU TELL YOUR MOTHER ABOUT YOUR
22 RELATIONSHIP WITH ASHLEY?

23 A. IT WAS DUE TO ASHLEY -- IT WAS ASHLEY'S OPINION OF
24 NOT WANTING MY MOM TO THINK SHE WAS -- I DON'T KNOW WHAT
25 I CAN SAY IN COURT -- A CHOICE NAME. CAN I SAY IT? I

1 DON'T THINK --

2 Q. OKAY. LET ME SEE IF I CAN HELP YOU OUT. ASHLEY
3 DIDN'T THINK YOUR MOTHER WOULD APPROVE?

4 A. RIGHT, CORRECT.

5 Q. YOU HEARD ASHLEY SAY THAT -- WELL, STRIKE THAT.

6 WHEN [REDACTED] WAS BORN, DID THAT OPINION CHANGE? I
7 MEAN, DID ASHLEY WANT YOUR MOTHER TO KNOW ABOUT [REDACTED]

8 A. NO. IT WAS PRETTY MUCH CONSTANT THE WHOLE TIME.

9 Q. OKAY. NOW YOU HEARD ASHLEY TESTIFY EARLIER IN
10 THIS TRIAL THAT YOU WERE THE ONE THAT DIDN'T WANT YOUR
11 MOTHER TO KNOW?

12 A. CORRECT.

13 Q. WERE YOU THE -- I MEAN, WAS IT A MUTUAL DECISION
14 OR DID YOU NOT WANT YOUR MOTHER TO KNOW?

15 A. I WENT ALONG WITH IT. I TOLD HER THAT I COULDN'T
16 WAIT ANY LONGER THAN SIX MONTHS. SIX MONTHS WAS AS FAR
17 AS I COULD TAKE IT. IF I WAITED ANY MORE THAN THAT,
18 THAT'S HALF, THAT'S HALF OF A YEAR THAT SHE'S NOT GONNA
19 KNOW ABOUT HER, SO I COULDN'T WAIT ANY LONGER THAN THAT.

20 Q. OKAY. NOW, WHEN ASHLEY WENT BACK TO WORK, YOU
21 WERE STILL WORKING AT PIZZA HUT?

22 A. NO. WHEN ASHLEY WENT BACK TO WORK I WAS
23 UNEMPLOYED.

24 Q. OKAY. DID YOU BECOME MORE OR LESS THE PRIMARY
25 CAREGIVER FOR [REDACTED] THEN?

REDACTED
D

1 A. CORRECT, YES, SIR.

2 Q. AND HOW DID YOU REACT TO THAT?

3 A. I ENJOYED IT.

4 Q. DID YOU GET TEASING OR RIBBING FROM FRIENDS?

5 A. NO. MY FRIENDS WERE ACTUALLY SUPPORTING ME IN
6 TAKING CARE OF HER. THEY WOULD ASK ME IF I NEEDED ANY
7 HELP. THEY WANTED TO COME OVER AND SEE HER. SO THEY
8 WERE ACTUALLY SUPPORTING ME.

9 Q. OKAY. AND WAS ASHLEY'S SCHEDULE AT THE THEATER A
10 REGULAR SCHEDULE OR DID IT FLUCTUATE FROM WEEK TO WEEK?

11 A. HONESTLY, I CAN'T RECALL.

12 Q. GOING BACK NOW TO THE MIDDLE OF AUGUST. WELL,
13 BEFORE WE GO THERE. WHAT KIND OF A BABY WAS

14 A. SHE WAS HAPPY, SHE LOVED EVERYBODY, EVERYBODY
15 LOVED HER. WE EVEN HAD ONE PERSON TOLD US WE SHOULD PUT
16 HER IN A MAGAZINE. SHE WAS A HAPPY BABY CONSTANTLY.

17 Q. WAS SHE FUSSY?

18 A. SHE WAS MAYBE THE FIRST COUPLE WEEKS BUT, YOU
19 KNOW, SHE WAS FINE. IF SHE GOT FUSSY, I WOULD CALM HER
20 DOWN. THAT'S THE BOND WE HAD, IT WAS ME AND HER.

21 Q. OKAY. SOMETIME IN AUGUST WHEN SHE WAS ABOUT FIVE
22 MONTHS OLD DID SHE START TEETHING?

23 A. SHE DID, SHE GOT HER TWO BOTTOM TEETH IN.

24 Q. DID THESE TEETH, DID THEY ACTUALLY COME THROUGH
25 BREAK THE SURFACE?

1 A. NO, THEY ACTUALLY JUST CAME IN PRETTY SHARP.

2 Q. OKAY. AROUND THE MIDDLE OF AUGUST SHE WAS STILL
3 TEETHING?

4 A. YES, SIR.

5 Q. OKAY. AND LET'S GO TO THE EVENING OF AUGUST 15TH,
6 OKAY? WAS TEETHING AT THAT TIME?

7 A. YES, SIR.

8 Q. AND THAT EVENING WAS SHE FUSSY, I MEAN, DID SHE
9 APPEAR TO BE UNCOMFORTABLE?

10 A. SHE DID. I MEAN, IT WAS JUST THE TEETHING
11 PROCESS. BUT, YOU KNOW, USUALLY WE WOULD, WE WOULD GIVE
12 HER A COLD, SOMETHING COLD TO PUT IN HER TEETH OR SOME
13 BABY ORAJEL I MEAN, THAT WOULD USUALLY CALM HER DOWN
14 PRETTY QUICK.

15 Q. DID SHE SLEEP THROUGH THE NIGHT OF AUGUST 15TH?

16 A. THE 15TH INTO THE 16TH?

17 Q. INTO THE 16TH, YES, SIR.

18 A. SHE DID. SHE -- I GUESS SHE GOT UP MAYBE A COUPLE
19 OF TIMES, BUT NOTHING OUT OF THE ORDINARY.

20 Q. ASHLEY WENT TO SLEEP AT SOME TIME THE NIGHT OF THE
21 15TH BECAUSE SHE HAD TO WORK THE NEXT DAY?

22 A. CORRECT.

23 Q. OKAY. DID YOU GO TO SLEEP THE NIGHT OF THE 15TH?

24 A. I WENT TO SLEEP I WOULD SAY PROBABLY EARLY
25 MORNING.

Ashley went to sleep with child in his sleep

2 AM Text?

1 Q. SO YOU DIDN'T GO TO SLEEP UNTIL SOMETIME THE
2 MORNING OF THE 16TH?

3 A. YEAH, CORRECT.

4 Q. ALL RIGHT. SO WHEN ASHLEY WAS ASLEEP AND
5 WASN'T NEEDING TO BE CONSOLED FOR HER TEETHING, WHAT WERE
6 YOU DOING?

7 A. THE SAME THING I WAS ALWAYS DOING: PLAYING WITH MY
8 XBOX.

9 Q. PLAYING WITH YOUR XBOX. YOU HEARD ASHLEY TESTIFY
10 THAT SHE GOT UP SHORTLY BEFORE SHE HAD TO BE AT WORK?

11 A. UH-HUH.

12 Q. YOU HAVE TO SAY YES OR NO. SHE CAN'T --

13 A. I'M SORRY.

14 Q. "YES"?

15 A. YES, SIR.

16 Q. OKAY. AND WAS THAT KIND OF A USUAL PATTERN?

17 A. YES, SIR.

18 Q. OKAY. WHEN SHE LEFT FOR WORK WERE YOU STILL IN
19 BED?

20 A. YES, SIR.

21 Q. WERE YOU AWAKE WHEN SHE LEFT?

22 A. SHE TOLD ME SHE WAS LEAVING AND WOKE ME UP AND I
23 WENT BACK TO SLEEP.

24 Q. OKAY. SO YOU WERE CONSCIOUS WHEN SHE SAID I'M
25 LEAVING AND I'M GOING TO WORK?

1 A. RIGHT.

2 Q. AND THEN YOU WENT BACK TO SLEEP?

3 A. CORRECT.

4 Q. AND WHERE WAS [REDACTED] SLEEPING AT THAT TIME?

5 A. ASHLEY HAD PUT HER IN HER CRIB.

6 Q. AND THE CRIB WAS IN WHAT ROOM?

7 A. I GUESS THE MASTER BEDROOM IF YOU WANT TO CALL IT
8 THAT.

9 Q. THE BACK BEDROOM?

10 A. CORRECT.

11 Q. IS THAT WHERE YOU WERE SLEEPING THEN?

12 A. YES, SIR.

13 Q. OKAY. WHAT TIME DID -- WHO WOKE UP FIRST, YOU OR
14 [REDACTED]

15 A. I GUESS [REDACTED] DID BECAUSE SHE WAS AWAKE WHEN I
16 WAS UP, OR WHEN I WOKE UP.

17 Q. OKAY. SO WHEN YOU GOT UP, ABOUT WHAT TIME WAS
18 THIS?

19 A. I'D SAY AROUND PROBABLY CLOSER TO TWO.

20 Q. OKAY. AND SO AFTER YOU GOT UP, WHAT DID YOU AND
21 [REDACTED] DO FIRST?

22 A. I CHANGED HER, I CHANGED HER WET DIAPER. AND THEN
23 WE WENT INTO THE LIVING ROOM AND I PUT HER IN HER PLAYPEN
24 AND I WATCHED T.V. THAT WAS PRETTY MUCH IT UNTIL ABOUT
25 3:00.

1 Q. ALL RIGHT. WHAT HAPPENED AT ABOUT 3:00, WHAT
2 HAPPENED NEXT?

3 A. AT 3:00 SHE HAD USED THE BATHROOM AGAIN. AND IN
4 MY OPINION, INSTEAD OF CLEANING HER AND CHANGING HER
5 DIAPER, I WOULD JUST GIVE HER A BATH. SO I GAVE HER A
6 BATH. I REALLY GAVE HER A BATH AROUND THAT TIME ANYWAYS
7 IT WAS PRETTY MUCH EVERY DAY, ROUTINE.

8 SO I GAVE HER A BATH. AFTER I GAVE HER A BATH, I
9 TOOK A SHOWER WITH HER. I DO THAT EVERY DAY, ROUTINE.
10 THE ONLY REASON I TAKE A SHOWER WITH HER IN THERE WITH ME
11 IS BECAUSE I FEEL SAFER KNOWING THAT SHE'S RIGHT THERE
12 WITH ME INSTEAD OF ME PUTTING HER IN HER PLAYPEN AND ME
13 GOING IN AND TAKING A SHOWER AND LEAVING HER BY HERSELF.
14 WITH HER IN THE SHOWER, WHERE SHE WAS IN THE
15 SHOWER, THE WATER COULD CASCADE OVER HER, NOT ON HER, IT
16 WOULD CASCADE OVER HER AND I COULD SIT IN THERE AND WATCH
17 HER. YOU KNOW, IF SHE ROLLED OR ANYTHING, I WAS RIGHT
18 THERE.

19 Q. OKAY. AFTER THE SHOWER, WHAT HAPPENED?

20 A. AFTER I GOT DONE TAKING MY SHOWER, I GOT HER, I
21 WAS GONNA DRY HER OFF. AND I HAD, I HAD I PICKED HER UP
22 ON HER BUTT AND HER BACK AND I HAD HER UP AGAINST ME.
23 AND SHE KICKED AND TURNED, AND EVERYTHING AFTER THAT JUST
24 WENT IN LIKE SLOW MOTION. IT WAS, I GRABBED HER LEG,
25 GRABBED HER ON HER CHEST AND JUST JERKED UP, I GUESS

1 BECAUSE I WAS SCARED. I DON'T WANT HER TO FALL
2 COMPLETELY DOWN.

3 AND THEN AFTER THAT SHE; SHE CRIED MAYBE I'D SAY
4 TWO MINUTES AND I CHECKED HER OUT. I NOTICED THAT SHE
5 DID, HAD SOME MARKS ON HER TONGUE. AND I TOOK THAT AS
6 HER BITING HER TONGUE WHEN SHE CAME BACK WHEN HER HEAD
7 HIT MY COLLARBONE IS WHAT MADE THOSE MARKS ON HER TONGUE.

8 Q. OKAY. WHEN YOU PULLED HER BACK TO YOU, DID YOU DO
9 SO GENTLY --

10 A. NO, SIR.

11 Q. -- OR RAPIDLY?

12 A. I'D SAY IT WENT IN SLOW MOTION. BUT IT, IT WAS --
13 I COULDN'T TELL YOU HOW, HOW RAPIDLY I PULLED HER BACK.
14 I JUST KNOW WHEN SHE FELL I WAS, I WAS IN SHOCK, AND I
15 JUST, I JUST REMEMBER YANKING HER BACK.

16 Q. DO YOU KNOW IF SHE STRUCK HER HEAD ON ANYTHING?

17 A. I DON'T KNOW IF SHE -- THE ONLY THING I KNOW SHE
18 STRUCK HER HEAD ON WAS THE BACK OF HER HEAD ON MY
19 COLLARBONE BECAUSE I HAD A BRUISE RIGHT THERE. IT WASN'T
20 A VISIBLE BRUISE, BUT, YOU KNOW, A BONE BRUISE OR
21 SOMETHING LIKE THAT. IT WAS THERE.

22 Q. OKAY. BUT YOU DON'T KNOW IF SHE STRUCK THE FRONT
23 OF THE HER HEAD ON ANYTHING?

24 A. NO, SIR, I DON'T.

25 Q. AT VARIOUS TIMES DID YOU TALK WITH PEOPLE AND SAY,

1 WELL, MAYBE THIS COULD HAVE HAPPENED OR MAYBE THAT COULD
2 HAVE HAPPENED?

3 A. NO, SIR.

4 Q. SO AFTER YOU GAVE HER A SHOWER, THEN WHAT
5 HAPPENED?

6 A. AFTER I GAVE HER A SHOWER, LIKE I SAID, SHE CRIED
7 FOR A COUPLE MINUTES BUT SHE WAS FINE AFTER THAT. I
8 DRIED HER OFF, CHANGED HER, FED HER. SHE ONLY EIGHT ATE
9 TO THREE OUNCES WHICH WAS REALLY ABNORMAL FOR HER. SHE
10 USUALLY DRANK AT LEAST FIVE TO SIX. SO AFTER SHE ATE
11 WHAT SHE WANTED, I PUT HER IN HER PLAYPEN. SHE WAS IN
12 HER PLAYPEN. I SAT DOWN AGAIN TO WATCH T.V.

13 SHE STARTED RUBBING HER EYES LIKE SHE WAS TIRED.
14 SO I WENT OVER THERE, PICKED HER UP, STARTED ROCKING HER
15 TO SLEEP. SHE WOULD GO TO SLEEP IN MY ARMS. I PUT HER
16 BACK IN HER PLAYPEN. SHE'D WAKE BACK UP. THAT HAPPENED,
17 THAT WENT ON AND ON FOR I'D SAY THREE OR FOUR TIMES.

18 SO I REALIZED WELL, SHE'S NOT GONNA GO TO SLEEP
19 UNLESS I'M HOLDING HER. SO I TEXTED ASHLEY TO SAY, HEY,
20 ME AND [REDACTED] WERE GOING TO LAY DOWN, YOU KNOW, TRY NOT
21 TO WAKE US. BECAUSE I WAS TIRED FROM THE MORNING BEFORE
22 I COULD SLEEP, I COULD SLEEP ALL DAY IF YOU LET ME. AND
23 [REDACTED] WAS OBVIOUSLY TIRED SO WE WENT TO THE MIDDLE
24 BEDROOM.

25 WE WENT TO THE MIDDLE BEDROOM BECAUSE IT IS DARKER

1 IN THERE AND THAT IS SUPPOSED, WAS SUPPOSED TO BE HER
2 ROOM WHEN SHE GOT OLDER, AND SO THAT'S WHY I WENT IN
3 THERE.

4 Q. OKAY. BEFORE YOU DID THAT YOU WENT IN TO LAY --
5 I'M SORRY -- BEFORE YOU WENT IN TO LAY DOWN IN THE
6 BEDROOM YOU SENT A TEXT TO ASHLEY?

7 A. YES, SIR.

8 Q. AND THOSE WERE THE TEXT MESSAGES THAT WERE READ
9 EARLIER IN COURT?

10 A. CORRECT.

11 Q. OKAY. DO YOU KNOW EXACTLY WHAT TIME ASHLEY GOT
12 HOME?

13 A. I DO NOT.

14 Q. BUT SOMETIME AFTER YOU LAID DOWN WITH
15 ASHLEY GOT HOME?

16 A. YES, SIR.

17 Q. DO YOU RECALL AWAKENING OR BEING AROUSED AT ANY
18 POINT IN TIME BY ASHLEY?

19 A. OH, TWO TIMES ASHLEY WOKE ME UP. SHE WOKE ME UP
20 ONCE BECAUSE THE BLANKET WAS -- SHE TOLD ME IT WAS UP
21 ABOVE HER EYES, UP ABOVE EYES, SO I WOKE UP AND
22 MOVED THE BLANKET DOWN. AND LIKE ANY BABY DOES WHEN YOU
23 TAKE THEIR WARMTH AWAY, THE BABY KIND OF JUMPED A LITTLE
24 BIT.

25 I TOOK THAT AWAY. THE SECOND TIME I REMEMBER

1 BEING AWAKENED WAS WHEN I GUESS [REDACTED] HAD ROLLED OVER
2 INTO MY SIDE, AND ASHLEY DIDN'T THINK SHE COULD BREATHE
3 GOOD ENOUGH SO I JUST MOVED MY ARM AND [REDACTED] TURNED HER
4 HEAD AND ROLLED BACK OVER AND WE WENT BACK TO SLEEP.

5 Q. OKAY. WHEN YOU LAID DOWN WITH [REDACTED] DID YOU
6 WRAP HER IN ANYTHING?

7 A. NO, SIR. IT WAS -- WHEN I LAY DOWN I CONSIDER MY
8 BODY, I GIVE OFF A LOT OF BODY HEAT, AND I CONSIDER IT AN
9 ABUNDANCE OF WARMTH. SO THE ONLY THING WE HAD WAS A
10 BROWN FLEECE BLANKET OVER BOTH OF US. WELL, AND THE
11 COMFORTERS YOU SAW ON THE BED, BUT THOSE WERE LIKE THE
12 SHEETS. BUT WHEN I WOKE UP, SHE, SHE HAD THE PINK
13 BLANKET AROUND HER LEGS.

14 Q. OKAY. WHEN YOU WOKE UP WHEN?

15 A. WHEN I WOKE UP AROUND 10:00 AFTER WE CALLED 9-1-1.

16 Q. ALL RIGHT. AFTER YOU CALLED 9-1-1 OR BEFORE YOU
17 CALLED 9-1-1?

18 A. WELL, BEFORE -- I WOKE UP AND THEN CALLED 9-1-1.

19 Q. OKAY.

20 A. IT'S KIND OF HARD TO WAKE UP AND...

21 Q. DID YOU INITIALLY TRY TO DO -- PERFORM C.P.R. ON
22 YOUR DAUGHTER?

23 A. YES, SIR, I DID.

24 Q. YOU SPENT SOME TIME IN THE MILITARY?

25 A. YES, SIR.

1 Q. YOU WERE TAUGHT TO DO C.P.R. WHILE YOU WERE IN THE
2 MILITARY?

3 A. YES, SIR, IN THE BUDDY SYSTEM.

4 Q. AND WERE YOU TAUGHT TO DO C.P.R. ON AN ADULT OR ON
5 A CHILD?

6 A. ON AN ADULT.

7 Q. ON AN ADULT?

8 A. YES, SIR.

9 Q. WHEN YOU STARTED TO DO C.P.R. ON YOUR DAUGHTER --

10 A. YES, SIR.

11 Q. -- WERE YOU DOING IT THE WAY YOU HAD BEEN TAUGHT?

12 A. YES, SIR. I JUST --

13 Q. AT FIRST?

14 A. WELL AT FIRST. BUT I SUBTRACTED, I KIND OF HALVED
15 EVERYTHING I WAS TAUGHT BECAUSE SHE WAS SMALLER, SO I
16 HALVED EVERYTHING. INSTEAD OF DOING FULL COMPRESSIONS
17 AND FULL BREATHS, I JUST KIND OF HALVED EVERYTHING.

18 Q. BUT YOU WERE DOING THE COMPRESSIONS WITH YOUR
19 HANDS?

20 A. YES, SIR.

21 Q. OKAY. AND ASHLEY GOT 9-1-1 ON THE PHONE?

22 A. YES, SIR.

23 Q. AND BROUGHT THE PHONE TO YOU?

24 A. SHE WAS STANDING IN THE DOORWAY OF THE BEDROOM ON
25 9-1-1, AND WHEN THE DISPATCHER GOT ON, SHE PUT IT ON

1 SPEAKER PHONE AND HANDED ME THE PHONE AND I SAT THE PHONE
2 ON THE BED WITH THE PHONE NEXT TO ME.

3 Q. AND THEN YOU STARTED DOING THE C -- THE
4 COMPRESSIONS WITH YOUR FINGERS?

5 A. YES, SIR.

6 Q. THAT'S WHAT THE 9-1-1 OPERATOR TOLD YOU TO DO?

7 A. YES, SIR.

8 Q. OKAY. AND YOU CONTINUED TO DO THAT, COMPRESSIONS
9 AND BREATHS, UNTIL EMS ARRIVED?

10 A. CORRECT. ALONG WITH THE COMPRESSIONS AND BREATHS,
11 I ALSO GAVE HER A STERNUM RUB LIKE WE WERE TAUGHT IN THE
12 MILITARY. ANY KIND OF STIMULANT THAT YOU CAN GIVE
13 SOMEBODY TO SEE IF THEY'RE COMING THROUGH, TO PRESSURE
14 POINTS, A STERNUM RUB, ANYTHING. SO SHE HAD A SMALLER
15 STERNUM RUB. IF YOU HAVE EVER HAD A STERNUM RUB, YOU
16 KNOW HOW PAINFUL IT IS IF IT'S DONE CORRECTLY. AND
17 HONESTLY, I COULDN'T TELL YOU HOW HARD I WAS DOING IT,
18 BUT I WAS TRYING TO GET A RESPONSE OUT OF MY DAUGHTER.

19 Q. OKAY. NOW, EMS SHOWS UP?

20 A. YES, SIR.

21 Q. THEY TAKE OVER FROM YOU?

22 A. YES, SIR.

23 Q. AND AT SOME POINT IN TIME THEY TRANSPORT
24 TO OCONEE MEMORIAL HOSPITAL?

25 A. YES, SIR.

1 Q. AND YOU AND ASHLEY, DID YOU RIDE IN THE AMBULANCE
2 OR HOW DID YOU GET TO OCONEE MEMORIAL HOSPITAL, IF YOU
3 REMEMBER?

4 A. I THINK ASHLEY ACTUALLY RODE IN THE AMBULANCE
5 BECAUSE I STAYED BEHIND, I WAS GONNA GRAB A BLANKET AND
6 STUFF LIKE THAT. AND I THINK BEFORE THE AMBULANCE EVEN
7 GOT OUT, ASHLEY'S, I THINK IT WAS HER GRANDMA SHOWED UP
8 AND I RODE WITH THEM.

9 Q. YOU WENT TO GREENVILLE MEMORIAL HOSPITAL?

10 A. YES.

11 Q. YOU TOOK [REDACTED] IN TO EMERGENCY, OKAY? DID YOU
12 SPEAK WITH ANY OF THE DOCTORS OR THE NURSES THERE?

13 A. THE ONLY DOCTOR I REMEMBER SPEAKING TO AT
14 GREENVILLE WAS A DR. GWYN.

15 Q. OKAY. NOW LET'S BACK UP. WE'RE STILL AT OCONEE.

16 A. ALL RIGHT, OCONEE. DOCTOR -- I DON'T REMEMBER
17 TALKING TO ANY DOCTORS. BUT I REMEMBER ASHLEY TALKING TO
18 THE FEMALE DOCTOR THAT WAS HERE EARLIER.

19 Q. DR. BARDEN?

20 A. I THINK SO.

21 Q. AT SOME POINT IN TIME THEY -- STRIKE THAT.

22 DID THE MEDICAL PEOPLE AT OCONEE TELL YOU ANYTHING
23 ABOUT [REDACTED] INJURIES?

24 A. IT WAS A LITTLE LATER AFTER WE GOT THERE THEY TOLD
25 US THAT SHE DID HAVE -- WELL, AFTER THEY DID THE CAT

1 SCAN -- THEY WERE TELLING US THEY WERE GONNA DO A CAT
2 SCAN. AFTER THAT CAME BACK, THEY TOLD US WHAT THEY FOUND
3 AND IT WAS BLEEDING ON THE BRAIN. AND WHEN THEY TOLD US
4 THAT, I, I LOST IT.

5 Q. OKAY. SOMETIME AFTER THAT, [REDACTED] WAS
6 TRANSFERRED TO GREENVILLE MEMORIAL HOSPITAL?

7 A. YES, SIR.

8 Q. OKAY. AND YOU AND ASHLEY WENT FROM OCONEE
9 MEMORIAL HOSPITAL TO GREENVILLE MEMORIAL?

10 A. YES, SIR.

11 Q. AND HOW LONG WERE THE -- IF YOU REMEMBER -- HOW
12 LONG -- STRIKE THAT.

13 IF YOU REMEMBER, WHAT TIME DID YOU GET TO
14 GREENVILLE MEMORIAL HOSPITAL?

15 A. OH, I COULDN'T EVEN REMEMBER.

16 Q. DO YOU HAVE ANY IDEA HOW LONG YOU WERE AT
17 GREENVILLE MEMORIAL HOSPITAL?

18 A. A FEW HOURS.

19 Q. OKAY. WHILE AT GREENVILLE MEMORIAL HOSPITAL DID
20 YOU TALK TO ANY DOCTORS OR POLICE OFFICERS?

21 A. AT GREENVILLE I TALKED TO DETECTIVE ROUNDY AND I
22 TALKED TO A DR. GWYN.

23 Q. DO YOU REMEMBER TALKING TO, I THINK IT WAS AT THE
24 TIME, OFFICER KELLY AT SENECA?

25 A. YES, SIR, IN OCONEE --

1 Q. IN OCONEE?

2 A. YES, SIR -- IS WHEN HE TOOK MY STATEMENT, YES,
3 SIR.

4 Q. AND DO YOU REMEMBER WHAT HE ASKED YOU?

5 A. I DO. HE ASKED ME WHAT HAPPENED FROM THE LAST
6 TIME I SAW [REDACTED] AWAKE, SO I TOOK THAT AS MEANING THE
7 LAST TIME I SAW HER AWAKE AND THEN WHAT HAPPENED AFTER
8 THAT.

9 Q. AND YOU GAVE THEM A STATEMENT?

10 A. I DID.

11 Q. OKAY. AND DID YOU TRY TO GIVE THEM AS COMPLETE
12 AND ACCURATE A STATEMENT AS YOU COULD?

13 A. YES, SIR.

14 Q. DID HE TELL YOU THAT YOU DIDN'T HAVE TO TALK TO
15 HIM?

16 A. YES, SIR.

17 Q. BUT YOU WENT AHEAD AND TALKED TO HIM ANYWAYS?

18 A. YES, SIR.

19 Q. OKAY. AND THEN YOU SAID YOU TALKED WITH DETECTIVE
20 ROUNDY AT OCONEE MEMORIAL HOSPITAL?

21 A. AT GREENVILLE.

22 Q. AT GREENVILLE HOSPITAL?

23 A. YES.

24 Q. AND ABOUT WHAT TIME DID YOU TALK WITH DETECTIVE
25 ROUNDY?

1 A. I COULDN'T TELL YOU.

2 Q. HAD YOU TALKED WITH THE MEDICAL PEOPLE BEFORE, AT
3 GREENVILLE HOSPITAL, BEFORE YOU TALKED TO DETECTIVE
4 ROUNDY?

5 A. NO, SIR.

6 Q. DO YOU REMEMBER TALKING WITH -- HEARING ANY
7 CONVER- -- STRIKE THAT.

8 DO YOU REMEMBER BEING TOLD ABOUT YOUR DAUGHTER'S
9 INJURIES AT GREENVILLE HOSPITAL?

10 A. OH, THEY ACTUALLY WOULDN'T TELL US ANYTHING ABOUT
11 HER. ALL THEY WOULD TELL US WAS THAT SHE WAS IN STABLE
12 CONDITION. THAT'S IT. THAT'S ALL THEY WOULD GIVE US.
13 THEY WOULDN'T TELL US ANY DETAIL OF HOW SHE WAS DOING,
14 NOTHING LIKE THAT, BESIDES "STABLE" OR "CRITICAL" OR
15 ANYTHING LIKE THAT.

16 Q. ALL RIGHT. BEFORE YOU TALKED TO DETECTIVE ROUNDY,
17 DO YOU RECALL ANYONE TELLING YOU THAT YOUR DAUGHTER HAD
18 BROKEN LEG?

19 A. NO, SIR.

20 Q. DO YOU RECALL ANYONE TELLING YOU THAT YOUR
21 DAUGHTER HAD A BROKEN RIB?

22 A. NO, SIR.

23 Q. WHEN YOU WERE TALKING TO DETECTIVE ROUNDY, OR YOU
24 GAVE A STATEMENT TO DETECTIVE ROUNDY I SHOULD SAY, DID HE
25 ASK YOU DIFFERENT QUESTIONS THAN OFFICER KELLY HAD ASKED

1 YOU PREVIOUSLY?

2 A. HE DID. HE ASKED ME WHAT HAPPENED FROM WHEN I
3 WOKE UP THAT DAY, AND THEN THROUGHOUT THE DAY WHAT
4 HAPPENED.

5 Q. OKAY. AT SOME POINT IN TIME -- THIS IS ON THE
6 17TH NOW?

7 A. OKAY.

8 Q. AT SOME POINT IN TIME ON THE 17TH WHILE YOU WERE
9 AT GREENVILLE MEMORIAL HOSPITAL, YOU AND ASHLEY LEFT?

10 A. YES, SIR.

11 Q. AND WHERE DID YOU GO INITIALLY?

12 A. WE WENT TO THE APARTMENT BECAUSE WE WERE WANTING
13 TO GET SOME CLOTHES AND TAKE A SHOWER SO WE COULD GO BACK
14 TO GREENVILLE.

15 Q. AND WHEN YOU GOT BACK TO THE APARTMENT WERE YOU
16 ABLE TO GET INTO THE APARTMENT AND TAKE A SHOWER AND
17 EVERYTHING YOU WANTED TO DO?

18 A. NO, SIR. THEY WERE AT THAT TIME DOING A SEARCH
19 WARRANT.

20 Q. OKAY. SO WHERE DID YOU GO AFTER THAT?

21 A. WE WENT TO D.S.S. AFTER THAT.

22 Q. I'M SORRY?

23 A. D.S.S.

24 Q. WHY DID YOU GO TO D.S.S.?

25 A. UM, THEY WANTED US TO GO TO D.S.S. TO, I GUESS

REDACTED

1 SINCE THERE WAS A CHILD INVOLVED D.S.S. WAS INVOLVED.
2 THEY WANTED TO TALK TO US, INTERVIEW US, AND WE ALSO HAD
3 TO DO A DRUG TEST FOR THEM.

4 Q. YOU SUBSEQUENTLY -- STRIKE THAT.

5 DID YOU GIVE ANY OTHER STATEMENTS TO LAW
6 ENFORCEMENT OTHER THAN THE TWO WRITTEN STATEMENTS?

7 A. NO, SIR.

8 Q. DID YOU GIVE ANY ORAL STATEMENTS THAT WEREN'T
9 WRITTEN THAT YOU REMEMBER?

10 A. NOT THAT I REMEMBER.

11 Q. OKAY. YOU DON'T REMEMBER TALKING WITH ANYBODY AT
12 THE SENECA POLICE DEPARTMENT?

13 A. THAT DAY?

14 Q. THAT DAY OR AFTER THAT, AFTER THAT, AFTER YOU WENT
15 TO D.S.S. ANY TIME AFTER YOU WENT TO D.S.S.?

16 A. I CAN'T REMEMBER IF IT WAS AFTER D.S.S. OR THE DAY
17 AFTER WHEN ROUNDY AND JONES CAME INTO THE DEPARTMENT AND
18 GOT US.

19 Q. LIEUTENANT JONES AND DETECTIVE ROUNDY?

20 A. YEAH, I'M SORRY.

21 Q. AND DO YOU REMEMBER WHO YOU TALKED TO AT SENECA?

22 A. I TALKED TO ROUNDY, DETECTIVE ROUNDY.

23 Q. DETECTIVE ROUNDY. THAT'S FINE.

24 MR. SENERIUS: IF I MIGHT HAVE A MOMENT, YOUR HONOR
25 THE COURT: CERTAINLY.

1 BY MR. SENERIUS:

2 Q. THE TWO WRITTEN STATEMENTS AND THE ORAL STATEMENT
3 THAT YOU GAVE TO DETECTIVE ROUNDY, WHY DID YOU DO THAT?

4 A. I WAS CONCERNED ABOUT [REDACTED] AND I JUST WANTED TO
5 FIND OUT WHAT WAS GOING ON.

6 Q. YOU KNEW YOU DIDN'T HAVE TO TALK TO THE POLICE?

7 A. CORRECT.

8 Q. DID YOU SUSPECT THAT THEY THOUGHT YOU CAUSED THESE
9 INJURIES?

10 A. I DID, JUST THE SIMPLE FACT THAT WHEN I WAS A
11 POLICE OFFICER IN THE AIR FORCE, I WENT THROUGH THE SAME
12 TRAINING. I TOOK LAW ENFORCEMENT IN HIGH SCHOOL. I KNEW
13 WHAT WAS GOING ON. I KNEW THAT I WAS BEING LOOKED AT.
14 SO I KNEW WHAT THEY WERE TRYING TO DO. BUT I STILL HAD A
15 DAUGHTER THAT I HAD UNANSWERED QUESTIONS ABOUT SO I
16 WANTED TO FIND OUT WHAT WAS GOING ON.

17 Q. OKAY. DID YOU AT ANY TIME FROM THE EARLY MORNING
18 HOURS OF AUGUST 16TH TO, SAY, PRIOR TO BEING TOLD THAT
19 YOUR DAUGHTER HAD PASSED AWAY, WERE YOU LOOKING UP
20 INFORMATION ON THE INTERNET?

21 A. I DID. IT WAS, IT WAS AFTER WE HAD BEEN TOLD I
22 THINK AT OCONEE THAT SHE HAD BLEEDING ON THE BRAIN, AND I
23 DID DO RESEARCH ON THAT. I WANTED TO FIND OUT WHAT WOULD
24 CAUSE IT, BECAUSE IN MY OPINION I DIDN'T KNOW WHAT COULD
25 OR WHAT HAPPENED THAT WOULD HAVE CAUSED IT. SO YES, I

1 DID RESEARCH TO TRY TO FIND OUT.

2 Q. ARE YOU SURE YOU DIDN'T DO THIS SO THAT YOU COULD
3 CONCOCT SOME STORY TO THROW SUSPICION AWAY FROM YOU?

4 A. OH, I'M POSITIVE.

5 Q. DID YOU PERSONALLY SUSTAIN ANY PHYSICAL INJURIES
6 OR HAVE ANY PHYSICAL, ANYTHING WRONG WITH YOU DURING THE
7 MONTH OF AUGUST OF 2009?

8 A. I HAD BROKE MY HAND I WOULD SAY UP TO THREE WEEKS
9 EARLIER, IT WAS STILL HEALING. I STILL HAD THE HALF-CAST
10 THAT I HAD BEEN WEARING OFF AND ON, WHICH I SHOULD HAVE
11 BEEN WEARING IT ALL THE TIME. BUT I HAD WHAT IS CALLED A
12 BOXER BREAK, AND, YEAH, I WAS STILL HEALING FROM THAT.

13 Q. WHICH HAND WAS THAT?

14 A. THAT WAS MY RIGHT HAND.

15 Q. ARE YOU RIGHT-HANDED?

16 A. YES, SIR.

17 Q. MATTHEW, AS YOU SIT HERE TODAY, ARE YOU SURE IN
18 YOUR MIND THAT YOU DIDN'T DO ANYTHING TO INTENTIONALLY
19 CAUSE INJURY TO YOUR CHILD?

20 A. YES, SIR.

21 Q. DID YOU LOVE YOUR CHILD?

22 A. VERY MUCH.

23 Q. WERE YOU ABLE TO GO TO HER FUNERAL?

24 A. I WAS NOT.

25 MR. SENERIUS: I HAVE NO FURTHER QUESTIONS AT THIS

1 TIME. PLEASE ANSWER ANY QUESTIONS THAT MS. SIMMONS MAY
2 HAVE, PLEASE.

3 CROSS-EXAMINATION BY MS. SIMMONS:

4 Q. MR. HINTON, YOU SAY BACK IN AUGUST OF 2009 YOU
5 WERE RECOVERING FROM A BROKEN HAND?

6 A. CORRECT.

7 Q. YOU WEREN'T IN A CAST.

8 A. I WAS IN A HALF-CAST.

9 Q. HOW DID YOU BREAK YOUR HAND?

10 A. IT HAD BEEN OVER AN ARGUMENT WITH AN UPSTAIRS
11 NEIGHBOR. HIS WIFE HAD CAME DOWN AND SAID THAT HE WAS
12 VIOLENT TOWARDS HER AND WAS BEATING ON HER, SO I WENT
13 OUTSIDE TO CONFRONT HIM. AND INSTEAD OF TAKING MY ANGER
14 OUT ON HIM, I TOOK IT OUT ON A BRICK WALL.

15 Q. SO YOU BROKE YOUR HAND BY PUNCHING A WALL IN
16 ANGER?

17 A. CORRECT.

18 Q. OKAY. I WANT TO TAKE YOU BACK -- WE'RE GONNA GO
19 CHRONOLOGICALLY THROUGH THE THINGS YOU TALKED ABOUT WITH
20 MR. SENERIUS, AND I WANT TO MAKE SURE I UNDERSTOOD SOME
21 THINGS.

22 A. OKAY.

23 Q. YOU SAID: I TOOK A -- I BATHED ON A
24 REGULAR BASIS, AND THEN AFTER I BATHED HER, I WOULD PUT
25 HER IN THE SHOWER WITH ME.

1 A. CORRECT.

2 Q. AND YOU ARE SAYING THAT YOU PUT HER -- LET'S LOOK
3 AT THE PICTURE.

4 A. OKAY.

5 Q. THIS IS NOT A BIG SHOWER, IS IT?

6 A. NO, MA'AM. I COULDN'T LAY DOWN IN IT UNLESS I WAS
7 SITTING.

8 Q. AND YOU ARE A PRETTY BIG GUY?

9 A. CORRECT.

10 Q. CAN YOU SEE THE TOP OF [REDACTED] SEAT IN THAT
11 PICTURE?

12 A. CORRECT.

13 Q. OKAY. SO THAT'S, YOU ARE SAYING THAT YOU HAD HER
14 IN THAT SPOT WHILE YOU TOOK A SHOWER WITH HER?

15 A. THE SEAT RIGHT THERE, IT WAS MORE MOVED UP AS YOU
16 CAN KIND OF SEE WHERE THE FAUCET -- YOU CAN JUST BARELY
17 SEE WHERE THE FAUCET IS STICKING OUT FROM THE CURTAIN?

18 Q. RIGHT.

19 A. IT WAS MOVED UP UNDER THAT. AND, YES, I DIDN'T
20 HAVE MUCH ROOM TO TAKE A SHOWER WITH, BUT AS LONG AS THE
21 WATER WAS ARCHED OVER [REDACTED] I TOOK A SHOWER WITH HER
22 IN THERE WITH ME, YES, MA'AM.

23 Q. SO YOU WERE ABLE TO TAKE A SHOWER IN THIS SMALL
24 SHOWER WITH [REDACTED] RIGHT THERE AND NOT DROWN HER?

25 A. YES, MA'AM, I WAS.

1 Q. AND DO YOU USE SOAP WHILE YOU SHOWER?

2 A. I DID. BUT HOW YOU WOULD HAVE TO WASH IN THE
3 SHOWER WHICH, I WANT TO SAY IT'S COMMON SENSE, IS THAT
4 YOU WASH ONE SIDE, LET THE WATER HIT ON THIS SIDE WHERE
5 YOU DON'T HAVE ANY SOAP. THEN YOU TURN, YOU TURN SLOWLY
6 SO THE WATER RUNS AWAY FROM YOUR BABY IF YOU HAVE ONE.

7 Q. SO YOU MANAGED TO TAKE A SHOWER WITHOUT SPLASHING
8 SOAP OR WATER ALL OVER

9 A. SHE'S GONNA GET WATER ON HER, THAT'S A GIVEN.
10 IT'S WATER, IT SPLASHES. BUT SHE'S NOT GONNA DROWN LIKE
11 SHE WOULD IF THE WATER WAS TRYING, IF IT WAS DIRECTLY ON
12 HER. BUT YES, SHE'S GOT TO BE WET, SHE'S WET FROM HER
13 BATH, BUT SHE'S NOT GONNA DROWN.

14 Q. YOUR POSITION IS THIS IS THE SAFEST WAY YOU COULD
15 HAVE BATHED HER?

16 A. NOT BATHED HER. I HAD JUST GAVE HER A BATH.

17 Q. BATHED WITH HER.

18 A. BATHED WITH HER, CORRECT.

19 Q. OKAY. TALKING ABOUT YOUR MILITARY TRAINING, YOU
20 SAY YOU WERE A POLICE OFFICER IN THE MILITARY?

21 A. SECURITY FORCES, YES, MA'AM.

22 Q. SO YOU WERE A SECURITY FORCES HELPER FOR THREE
23 MONTHS?

24 A. IT WAS SOMEWHERE AROUND THERE, YES, MA'AM.

25 Q. HOW LONG WERE YOU ACTUALLY IN THE MILITARY?

1 A. SIX MONTHS. I GOT VETERANS STATUS BECAUSE I WAS
2 SERVING SIX MONTHS IN WARTIME.

3 Q. SO YOU ONLY SERVED SIX MONTHS?

4 A. CORRECT.

5 Q. BUT YOU RECEIVED THE EXTENSIVE C.P.R. TRAINING
6 DURING THEN?

7 A. I DID. THE FIRST THING YOU GO INTO IN SECURITY
8 FORCES, EVEN IN BASIC TRAINING, IS THE BUDDY SYSTEM.
9 FROM THE BUDDY SYSTEM, FROM DAY ONE YOU HAVE A BUDDY.
10 FROM DAY TWO YOU LEARN ABOUT YOUR BUDDY. DAY THREE IT
11 PROGRESSES. YOU START LEARNING WHAT IF YOUR BUDDY GOES
12 DOWN, WHAT DO YOU DO? IF HE'S UNCONSCIOUS, WHAT DO YOU
13 DO? DAY FIVE IS C.P.R. TRAINING.

14 Q. OKAY. AND THEN SO YOU HAVE EVERYTHING YOU WERE
15 TAUGHT IN C.P.R. WHEN YOU DID THIS TO

16 A. CORRECT, YES, MA'AM.

17 Q. AND I THINK I UNDERSTOOD YOU SAID THAT YOU DID
18 FULL HAND COMPRESSIONS ON HER?

19 A. IT WAS, HOW THEY TAUGHT US IN BUDDY SYSTEM, WITH
20 INTERLOCKED HANDS YOU PRESSED DOWN WITH YOUR PALM. YOU
21 DON'T DO A FULL HAND BECAUSE THAT EXTENDS THE PRESSURE,
22 IT BUSTS LUNGS, YOU DON'T WANT TO DO THAT. IT ALSO MAKE
23 RIBS BREAK VERY EASILY. IF YOU DO IT PALM DOWN TO
24 STERNUM, USUALLY IT CRACKS. IF YOU DO IT CORRECTLY, THE
25 STERNUM WILL CRACK. WITH HER I DIDN'T WANT TO BREAK

1 ANYTHING, SO YES, I HAD TO.

2 Q. YOU WERE EXTRA CAREFUL?

3 A. IN THAT STATE OF MIND I CAN SAY I WAS ONLY AS
4 CAREFUL AS THAT STATE OF MIND PERMITTED ME TO BE.

5 Q. OKAY. LET'S MOVE INTO -- YOU SAY YOU NEVER TALKED
6 TO ANYONE ABOUT, OTHER THAN THE LAW ENFORCEMENT, ABOUT
7 WHAT MAY OR MAY NOT HAVE HAPPENED. I THINK YOUR,
8 MR. SENERIUS ASKED YOU, SO YOU NEVER SAID MAYBE THIS OR
9 THAT COULD HAVE HAPPENED AFTER THIS ACCIDENT WITH

10

11 A. CORRECT.

12 Q. OKAY. AND IN THE INCIDENT IN THE SHOWER YOU SAY
13 SHE KICKED, TURNED, JERKED, HIT HER HEAD ON MY COLLARBONE
14 AND CRIED FOR TWO MINUTES?

15 A. A COUPLE MINUTES, YES, MA'AM.

16 Q. AND SHE HIT HER HEAD ON YOUR COLLARBONE SO HARD
17 THAT IT LEFT A BRUISE ON YOUR COLLARBONE?

18 A. IT WASN'T A -- YOU COULDN'T SEE IT, BUT IT WAS A
19 BONE BRUISE, A MUSCLE BRUISE, YES, SHE DID. I MEAN, SHE
20 HIT HER HEAD HARD ENOUGH TO WHERE SHE BIT HER TONGUE, AND
21 SHE'S ONLY GOT TWO TEETH ON THE BOTTOM.

22 Q. AND YOU DIDN'T THINK IT WAS IMPORTANT ENOUGH TO
23 CALL FOR HELP AFTER THIS ALLEGED ACCIDENT OCCURRED?

24 A. NO, MA'AM, I DIDN'T. BECAUSE AFTER SHE HAD
25 STOPPED CRYING, AFTER SHE HAD CALMED DOWN, EVERYTHING WAS

1 FINE AFTER THAT. I DIDN'T SEE ANYTHING ELSE WRONG WITH
2 HER. I MEAN, YEAH, THE TONGUE THING, AND ANY TIME I SAW
3 THAT, I WONDERED ABOUT IT. BUT I DIDN'T THINK IT WAS
4 IMPORTANT ENOUGH TO CALL 9-1-1, TAKE HER TO THE HOSPITAL
5 OR NOTHING LIKE THAT.

6 Q. AND YOU ALSO DIDN'T THINK IT WAS IMPORTANT ENOUGH
7 TO MENTION THIS ACCIDENT TO DR. BARDEN, OFFICER KELLY, OR
8 DR. GWYN WHEN YOU WERE QUESTIONED ABOUT WHAT HAD HAPPENED
9 THAT DAY?

10 A. AT OCONEE THEY DIDN'T QUESTION ME AS EXTENSIVELY
11 AS GREENVILLE. AND HONESTLY, NO, MA'AM, BECAUSE THAT
12 INCIDENT IN MY HEAD NOTHING HAPPENED. I DIDN'T SEE HER
13 FALLING. I DIDN'T -- SHE DIDN'T HIT HER HEAD ON ANYTHING
14 BUT MY COLLARBONE. AND AT THAT TIME THE COLLARBONE WAS
15 LITTLE SORE BUT IT WASN'T BRUISED, SO I DIDN'T THINK IT
16 WAS THAT EXTENSIVE.

17 Q. BUT YOU THOUGHT IT WAS IMPORTANT ENOUGH TO LET ALL
18 THE FOLKS AT OCONEE KNOW THAT SHE HAD A FEVER A COUPLE
19 DAYS BEFORE?

20 A. THAT WAS ME AND ASHLEY THAT TOLD THEM, YES, MA'AM.

21 Q. AND YOU LET DR. GWYN KNOW THAT ---

22 A. THEY ASKED US IF SHE WAS SICK A COUPLE WEEKS, A
23 DAY BEFORE, AND THAT'S WHEN THE FEVER CAME UP.

24 Q. AND WITH DR. GWYN YOU TOLD HIM THAT SHE HAD HAD
25 REFLUX TWO DAYS PRIOR?

1 A. WHAT IS REFLUX?

2 Q. ACID REFLUX, LIKE HEARTBURN?

3 A. OH. I DON'T REMEMBER TELLING HIM THAT. THAT
4 MIGHT HAVE BEEN SOMETHING ASHLEY TOLD HIM. THE ONLY
5 CONVERSATION ME AND DR. GWYN HAD WAS WHEN HE ASKED ME HOW
6 HARD I PUSHED DOWN ON [REDACTED] TO DO C.P.R. AND THAT WAS
7 THE ONLY CONVERSATION ME AND GWYN HAD.

8 Q. SO YOU DENY HAVING A CONVERSATION WITH DR. GWYN
9 WHERE HE ASKED YOU ABOUT TRAUMA, FALLS, OR INJURIES TO
10 [REDACTED]

11 A. I DO NOT REMEMBER HAVING ANY OTHER CONVERSATION
12 BESIDES THE C.P.R. CONVERSATION.

13 Q. AND YOU DENY TELLING ASHLEY -- WELL, YOU TOLD
14 ASHLEY ABOUT THE SHOWER STORY. YOU DENY TELLING DONNA
15 ELLER THAT SHE MAY HAVE HIT HER MOUTH ON THE SHOWER? YES
16 OR NO.

17 A. OKAY. YES, I DENY THAT.

18 Q. AND YOU DENY TELLING PAIGE WILLIAMS THAT [REDACTED]
19 MAY HAVE HIT HER HEAD ON THE SINK?

20 A. YES, I DENY THAT, TOO.

21 Q. OKAY. AND ONCE AGAIN, DESPITE THE FACT -- YOU
22 TOLD MR. SENERIUS WHEN [REDACTED] FELL IN THE SHOWER, AND
23 THIS INCIDENT HAPPENED, I WAS IN SHOCK. IS THAT THE
24 WORDS YOU USED?

25 A. I WOULD GUARANTEE YOU IT WAS SHOCK.

1 Q. BUT DESPITE THE FACT THAT THAT INCIDENT WAS SO
2 SIGNIFICANT IN YOUR MIND THAT YOU WERE IN SHOCK, YOU
3 DIDN'T BOTHER TO TELL ANYBODY WHO WAS TRYING TO SAVE YOUR
4 CHILD'S LIFE ABOUT IT UNTIL THE NEXT MORNING?

5 A. NO. BECAUSE I HAD BEEN ASLEEP WITH HER FOR I
6 WOULD SAY A GOOD FIVE TO SIX HOURS BEFORE THAT, SO, NO.
7 AT THAT POINT IN TIME FROM OCONEE SINCE OFFICER KELLY
8 ASKED ME WHAT HAPPENED FROM THE LAST TIME I SAW HER AWAKE
9 UNTIL AFTER, YOU KNOW, THEY STARTED SAYING, WELL,
10 SOMETHING HAPPENED WHILE SHE WAS ASLEEP, NOT WHAT
11 HAPPENED EARLIER THAT DAY. THAT'S WHY WHEN DETECTIVE
12 ROUNDY ASKED ME WHAT HAPPENED EARLIER THAT DAY, I TOLD
13 HIM WHAT HAPPENED.

14 Q. SO YOU DIDN'T THINK IT WAS IMPORTANT ENOUGH TO
15 TELL ANYONE BEFORE THEN?

16 A. NO, MA'AM, I DID NOT.

17 MS. SIMMONS: THANK YOU.

18 THE COURT: RE-EXAM?

19 MR. SENERIUS: ONE MOMENT, YOUR HONOR.

20 WE HAVE NO FURTHER QUESTIONS FOR MR. HINTON.

21 THE COURT: YOU MAY STEP DOWN. THANK YOU, SIR.

22 (WITNESS LEAVES STAND.)

23 THE COURT: MADAM SOLICITOR WHAT WAS THE EXHIBIT
24 NUMBER ON THE PHOTOGRAPH THAT YOU USED?

25 MS. SIMMONS: I APOLOGIZE, JUDGE. 6-C.

1 THE COURT: THANK YOU VERY MUCH.

2 MR. SENERIUS: YOUR HONOR, THE DEFENSE RESTS.

3 THE COURT: ANY REBUTTAL?

4 MR. SENERIUS: YOUR HONOR, BEFORE REBUTTAL, IF THERE
5 IS ANY, WE WOULD --

6 THE COURT: DO YOU WANT A BREAK?

7 MR. SENERIUS: NO, SIR. I BELIEVE THAT I'M REQUIRED
8 TO RENEW PREVIOUS MOTIONS.

9 THE COURT: I UNDERSTAND. THAT'S WHY WE'RE GONNA
10 BREAK.

11 MR. SENERIUS: OH, YES, SIR. I MISUNDERSTOOD YOU.

12 THE COURT: ALL RIGHT.

13 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, WE
14 NEED TO TAKE UP SOME MATTERS WITH THE ATTORNEYS SO I'M
15 GOING TO ASK YOU TO RETIRE TO THE JURY ROOM. AND IT
16 MIGHT TAKE A LITTLE TIME, SO IF YOU WOULD LIKE TO TAKE
17 YOUR MORNING BREAK AT THIS TIME AND THEN ANY
18 REFRESHMENTS.

19 AND THEN ONCE YOU ARE READY TO COME BACK, KNOCK ON
20 THE DOOR, AND THEN WHEN WE ARE FINISHED WITH OUR WORK
21 HERE, WE'LL COME BACK AND CONTINUE THE TRIAL.

22 NOW, DO REMEMBER YOU HAVE NOT HEARD THE ENTIRE CASE,
23 SO YOU NEED TO REMEMBER TO NOT DISCUSS THE CASE AMONG
24 YOURSELVES IN ANY WAY. VERY GOOD. THANK YOU.

25 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES

1 FROM THE COURTROOM.

2 (WHEREUPON, THE JURY LEFT THE COURTROOM AT
3 APPROXIMATELY 11:26 P.M.)

4 THE COURT: ALL RIGHT. ANYTHING FURTHER FROM THE
5 STATE?

6 MS. SIMMONS: NO, YOUR HONOR, WE DO NOT INTEND TO
7 CALL ANY REBUTTAL WITNESSES.

8 THE COURT: VERY WELL.

9 ANYTHING FROM THE DEFENDANT?

10 DEFENDANT'S RENEWED MOTION FOR DIRECTED VERDICT:

11 MR. SENERIUS: YOUR HONOR, WE WOULD RENEW OUR MOTION
12 FOR A DIRECTED VERDICT OF ACQUITTAL. WE FEEL AGAIN THE
13 STATE HAS NOT MET ITS BURDEN OF PROOF.

14 IN ADDITION TO THE ARGUMENTS THAT WERE MADE
15 YESTERDAY, WE WOULD REMIND THE COURT OF THE TESTIMONY OF
16 DR. WOODARD, WHO STATED THAT BASED UPON HIS EXPERT
17 OPINION, THE INJURIES SUSTAINED IN THIS PARTICULAR MATTER
18 BY [REDACTED] COULD HAVE OCCURRED ANYWHERE FROM SHORTLY
19 BEFORE EMS ARRIVED TO AS MUCH AS EIGHT HOURS BEFORE EMS
20 ARRIVED.

21 DURING THAT PERIOD OF TIME MY CLIENT WAS NOT THE
22 ONLY PERSON IN THE APARTMENT OR AROUND [REDACTED] AND AS
23 SUCH, WE DON'T BELIEVE THAT THERE IS EVIDENCE SUFFICIENT
24 TO EXCLUDE OTHER POSSIBILITIES.

25 THE COURT: MADAM SOLICITOR?

1 MS. SIMMONS: YOUR HONOR, THE STATE CERTAINLY
2 BELIEVES THAT THERE IS ENOUGH CIRCUMSTANTIAL EVIDENCE IN
3 THIS CASE TO SEND THIS MATTER TO THE JURY. VIEWING IT IN
4 THE LIGHT MOST FAVORABLE TO THE NON-MOVING PARTY, WE
5 BELIEVE THAT WE HAVE MET THE BURDEN FOR THE JURY TO MAKE
6 ITS DETERMINATION IN THIS CASE.

7 THE COURT: MR. SENERIUS?

8 MR. SENERIUS: NOTHING FURTHER, YOUR HONOR.

9 THE COURT: WELL, AS I UNDERSTAND THE LAW, WHEN WE
10 START TALKING ABOUT THIRD-PARTY GUILT, THE EVIDENCE MUST
11 BE LIMITED TO SUCH FACTS THAT ARE INCONSISTENT WITH HIS
12 OWN GUILT AS TO RAISE A REASONABLE INFERENCE OF A
13 PRESUMPTION OF HIS INNOCENCE. (READING): EVIDENCE WHICH
14 CAN HAVE NO OTHER EFFECT THAN CAST A BARE SUSPICION UPON
15 ANOTHER OR RAISE CONJECTURAL INFERENCES TO THE COMMISSION
16 OF THE CRIME BY ANOTHER IS NOT ADMISSIBLE.

17 I SAY THAT BECAUSE THAT'S WHAT YOU ARE DOING OR WHAT
18 YOU ARE SUGGESTING. THERE MUST BE SUCH PROOF OR
19 CONNECTION WITH THE PARTICULAR EVENT AND THE FACTS AND
20 CIRCUMSTANCES IT STANDS CLEARLY TO POINT OUT SUCH OTHER
21 PERSON AS THE GUILTY PARTY. (READING): REMOTE ACTS
22 DISCONNECTED WITH THE CRIME CANNOT BE CONSIDERED FOR SUCH
23 A PURPOSE.

24 IN OTHER WORDS, THERE'S NOTHING THAT SAYS THAT
25 ANYONE ELSE DID ANYTHING, IT'S JUST CONJECTURAL. AS FAR

1 AS THE TIME FRAME, IF I REMEMBER, DR. WOODARD TALKED
2 ABOUT THE DIFFERENT INJURIES. AND I THINK THAT WAS THE
3 HEAD INJURIES WERE THE ONES THAT -- WELL, EXCUSE ME --
4 THAT THE -- EXCUSE ME -- THE PRIMARY CAUSE OF DEATH WITH
5 A HEAD INJURY IS VERY POSSIBLE TO RESPOND TO EARLY
6 TREATMENT. LEG INJURIES COULD HAVE OCCURRED BEFORE.
7 ONCE HEAD INJURY, NO RESPONSE.

8 IN HIS MEDICAL OPINION HEAD INJURY WOULD RESULT IN
9 ALMOST IMMEDIATE INSTANTANEOUS UNCONSCIOUSNESS, INJURY TO
10 BACK OF HEAD.

11 I THINK THAT NOT ONLY IS THERE NO EVIDENCE THAT
12 WOULD SUGGEST ANYTHING OCCURRED BETWEEN THE TIME THAT THE
13 PHYSICIANS DETERMINED THE CAUSES OF THE INJURY, THE FATAL
14 CAUSES OF INJURY. IN FACT, I THINK THE ONLY TESTIMONY WE
15 HAVE IS THAT THE DEFENDANT, WHATEVER DAMAGE TO THE HEAD
16 BEING, STRIKING THE HEAD ON HIS COLLARBONE ALL OCCURRED
17 WHEN THE MOTHER WAS NOT THERE.

18 MR. SENERIUS: IF I MAY?

19 THE COURT: CERTAINLY. I'M JUST SAYING THAT NOT
20 ONLY I DON'T THINK THERE'S ANY ADMISSIBLE TESTIMONY OR
21 EARLIER TESTIMONY THAT WOULD SUGGEST A THIRD PARTY.

22 MR. SENERIUS: YOUR HONOR, I THINK THAT THAT, IN
23 RESPONSE TO THAT I WOULD SAY, YOUR HONOR, IS THAT THE
24 MEDICAL TESTIMONY IS THAT THAT COULD NOT HAVE CAUSED THE
25 HEAD INJURY, THAT THE HEAD INJURY WAS CAUSED BY A

1 NON-ACCIDENTAL TRAUMA. THIS WAS BROUGHT OUT REPEATEDLY
2 BY MS. SIMMONS WITH HER MEDICAL EXPERTS. AND MY NOTES
3 INDICATE IN DIRECT EXAMINATION, IN RESPONSE TO QUESTIONS
4 BY MS. SIMMONS AS TO A TIME LINE, DR. WOODARD SAID THAT
5 IT OCCURRED EIGHT HOURS OR LESS BEFORE EMS ARRIVED. IT
6 COULD HAVE OCCURRED SHORTLY BEFORE EMS ARRIVED, BUT NO
7 LONGER THAN EIGHT HOURS PRIOR TO EMS ARRIVING. EMS DID
8 NOT ARRIVE UNTIL ABOUT 10:30 OR 11:00 THAT EVENING.

9 THE COURT: WELL, THEN THAT WOULD PUT IT BACK IN THE
10 AFTERNOON.

11 MR. SENERIUS: SIR?

12 THE COURT: THAT COULD PUT IT BACK IN THE AFTERNOON.

13 MR. SENERIUS: WELL, IT COULD PUT IT AS FAR BACK
14 AS ---

15 THE COURT: WELL, AGAIN, WE DON'T HAVE ANY TESTIMONY
16 THAT ANYTHING ELSE OCCURRED, OTHER THAN JUST SUSPICION.

17 MR. SENERIUS: WHICH AGAIN GOES TO OUR ARGUMENT AS
18 TO THE CIRCUMSTANTIAL EVIDENCE.

19 THE COURT: IT DOES. THERE IS NO CIRCUMSTANTIAL
20 EVIDENCE THAT POINTS TO ANYONE ELSE. ALL RIGHT.
21 ANYTHING ELSE? MOTION DENIED.

22 MR. SENERIUS: YES, SIR.

23 THE COURT: AND YOUR DIRECTED VERDICT MOTION IS ALSO
24 DENIED BASED ON THE RULING YESTERDAY.

25 MR. SENERIUS: YES, SIR.

1 CHARGE CONFERENCE:

2 THE COURT: ALL RIGHT. LET'S SEE. JUST AS A, AS
3 FAR AS THE CHARGES IN THIS CASE, OF COURSE I'LL CHARGE
4 THE PRESUMPTION OF INNOCENCE, REASONABLE DOUBT. NOW, AS
5 FAR AS ANY STATEMENTS, THERE HASN'T BEEN ANY CHALLENGE TO
6 THE STATEMENTS. I THINK THEY COME IN -- THEY HAVE BEEN
7 ADMITTED WITHOUT OBJECTION; IS THAT CORRECT?

8 MR. SENERIUS: THAT'S CORRECT, YOUR HONOR.

9 THE COURT: SO I DON'T NEED TO CHARGE ON THE
10 STATEMENTS.

11 I WILL CHARGE DIRECT AND CIRCUMSTANTIAL EVIDENCE
12 FROM *GRIPPON* AS NOTED IN *STATE V. CHERRY*, WHICH REQUIRES
13 SOMETHING, THAT DIRECT AND CIRCUMSTANTIAL EVIDENCE STAND
14 ON THE SAME GROUND. HOWEVER, I WILL CHARGE I THINK THAT
15 SUSPICION, HOWEVER STRONG, IS NOT ENOUGH TO SUSTAIN A
16 CONVICTION.

17 CRIMINAL INTENT IS THE ONE FROM *FERGUSON*, WHICH --
18 THE ONLY THING I THINK WE DISCUSSED IS THE NEGLIGENCE
19 ASPECT OF IT. AND THEN, OF COURSE, EXTREME INDIFFERENCE
20 IS DEFINED AS A MENTAL STATE AKIN TO INTENT CHARACTERIZED
21 BY A DELIBERATE ACT CULMINATING IN DEATH.

22 BUT AS WE DISCUSSED EARLIER, I WILL NOT CHARGE
23 NEGLIGENCE, CRIMINAL NEGLIGENCE, BECAUSE I DON'T THINK
24 THAT'S -- THAT'S A LESSER DEGREE THAN CRIMINAL INTENT
25 WOULD BE NECESSARY FOR THIS.

1 MR. SENERIUS: YES, SIR.

2 THE COURT: IN OTHER WORDS, IT WOULD SUGGEST THAT
3 THERE'S A LESSER GROUND POINT. IN OTHER WORDS, I WILL
4 NOT CHARGE THE STATE BE REQUIRED TO BE PROVEN BY THE
5 STATE FOR A PARTICULAR CRIME MIGHT BE PURPOSE, INTENT,
6 KNOWLEDGE, RECKLESSNESS, OR CRIMINAL NEGLIGENCE. IN
7 OTHER WORDS, IT HAS TO BE SOMETHING, A CONSCIOUS
8 INDIFFERENCE RATHER THAN JUST MERE NEGLIGENCE.

9 I ALSO DO INSTRUCT THE JURY ABOUT THE ONE
10 INDICTMENT.

11 AGAIN, I'LL CHARGE HOMICIDE BY CHILD ABUSE OR
12 NEGLECT FROM SECTION 16-3-85(A), TRACKING THE LANGUAGE
13 THERE.

14 LET ME ASK YOU THIS. MADAM SOLICITOR, ARE YOU
15 RELYING ON HARM TO THE CHILD'S PHYSICAL HEALTH, WELFARE
16 MEANS THE DEFENDANT INFLICTED OR ALLOWED IT TO BE
17 INFLICTED? IN OTHER WORDS, I WOULD, UNDER THE FACTS OF
18 THIS CASE -- WELL, THE EVIDENCE UNDER THE FACTS, THE
19 FACTS ARE FOR THE JURY TO DETERMINE. BUT UNDER THE
20 EVIDENCE OF THIS CASE THAT IT WOULD PROBABLY BE HARM TO
21 THE CHILD'S PHYSICAL HEALTH OR WELFARE MEANS THAT THE
22 DEFENDANT EITHER AFFLICTED ON THE CHILD PHYSICAL INJURY.

23 MS. SIMMONS: YES, YOUR HONOR. WE ARE RELYING ON
24 THAT IT WAS CHILD ABUSE OR NEGLECT UNDER THE STATUTE.

25 THE COURT: YOU ARE? YOU ARE TALKING ABOUT NEGLECT,

1 T00?

2 MS. SIMMONS: YES, YOUR HONOR.

3 THE COURT: WHAT DO YOU SAY, MR. SENERIUS? IN OTHER
4 WORDS, WHAT I'VE DONE IS TRIED TO MODIFY THE LANGUAGE
5 WHICH MIGHT HAVE SOME PURPOSE.

6 MR. SENERIUS: WE HAVE, WE HAVE NO OBJECTION TO THAT
7 INSTRUCTION.

8 THE COURT: I'LL LOOK AT IT, AS I SAY. THERE IS NO
9 AIDING OR ABETTING IN THIS, THOUGH?

10 MS. SIMMONS: NO, YOUR HONOR.

11 MR. SENERIUS: NO, SIR.

12 THE COURT: ALL RIGHT. I WON'T CHARGE THAT.

13 AND, AS I SAY, THEN I'LL END WITH REASONABLE DOUBT.

14 ANY OTHER REQUESTS --

15 MS. SIMMONS: NO, YOUR HONOR.

16 THE COURT: -- OR EXCEPTIONS TO THE CHARGE AT THIS
17 TIME?

18 MS. SIMMONS: NO, SIR.

19 THE COURT: FROM THE DEFENDANT?

20 MR. SENERIUS: YES, SIR. WE DON'T HAVE ANY
21 EXCEPTIONS.

22 THE COURT: GO AHEAD.

23 MS. TYE: YOUR HONOR, WE WOULD REQUEST THE EXPERT
24 WITNESS.

25 THE COURT: OH, YES. I'M SORRY. I SKIPPED OVER

1 THAT. I DO HAVE EXPERT WITNESS. AND I MIGHT, IT ENDS
2 THIS AS FAR AS YOUR OBSERVATION, MR. SENERIUS:
3 (READING): AN EXPERT WITNESS' TESTIMONY IS TO BE GIVEN NO
4 GREATER WEIGHT THAN ANY OTHER WITNESS' SIMPLY BECAUSE THE
5 WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT REQUIRED TO
6 ACCEPT AN EXPERT'S OPINION, EVEN THOUGH IT IS NOT
7 CONTRADICTED.

8 MR. SENERIUS: YES, SIR. WE WOULD REQUEST, YOUR
9 HONOR, THREE ADDITIONAL.

10 THE COURT: ALL RIGHT.

11 MR. SENERIUS: WE ARE REQUESTING THAT YOU INSTRUCT
12 ON THE LESSER-INCLUDED OF AN INFLICTION OR ALLOWING
13 INFLICTION OF GREAT BODILY INJURY TO A CHILD, 16-3-95.
14 WE ASK THAT YOU INSTRUCT AND GIVE A LESSER-INCLUDED
15 INSTRUCTION ON THE CHARGE OF UNLAWFUL CONDUCT TOWARDS A
16 CHILD, 63-5-70. AND ALSO UNLAWFUL CONDUCT TOWARDS A
17 CHILD, 3-7-50.

18 THE COURT: ALL RIGHT. MADAM SOLICITOR?

19 MS. SIMMONS: JUDGE, AS TO ALL OF THE REQUESTED
20 LESSER-INCLUDEDS BY THE DEFENSE, I DO NOT BELIEVE THAT
21 THEY WERE PROPER IN THIS CASE BECAUSE WE HAVE STATUTORILY
22 DISTINCT ELEMENTS IN A CHARGE OF HOMICIDE BY CHILD ABUSE
23 THAN EXISTS IN THESE TWO CHARGES, AND IT'S AKIN TO FELONY
24 D.U.I. DEATH OR FELONY D.U.I. GREAT BODILY INJURY AS WE
25 DISCUSSED BEFORE. I MEAN, THERE'S ONLY ONE CONCLUSION IN

1 THIS CASE: THE CHILD IS DECEASED. AND THAT FITS UNDER
2 HOMICIDE BY CHILD ABUSE.

3 THE COURT: MR. SENERIUS, ANYTHING ELSE?

4 MR. SENERIUS: NO, YOUR HONOR. AS WE PREVIOUSLY
5 DISCUSSED, OBVIOUSLY WE DISAGREE WITH THE SOLICITOR'S
6 OFFICE AND WE FEEL THESE ARE APPROPRIATE REQUESTS.

7 THE COURT: I UNDERSTAND. AS I SAY, THE COURT HAS
8 TRIED TO GET A BETTER FEELING FOR SUCH A CHARGE AS WE
9 HAVE HERE, AND, OF COURSE, THE COURT WAS UNABLE TO FIND
10 ANYTHING THAT WAS DIRECTLY ON POINT AS TO ANY
11 LESSER-INCLUDED OR UNDER THE HOMICIDE BY CHILD ABUSE
12 STATUTE; EXCEPT THE ANALOGY, OF COURSE, TO FELONY D.U.I.
13 WHICH HAS TWO PARTS, OF COURSE, RESULTING IN DEATH OR
14 SERIOUS INJURY, WHERE IN THE CASE OF *STATE VERSUS CAIN*
15 WHEN IT WAS FIRST BROUGHT UP, THE COURT NOTED THAT THESE
16 ARE ALTERNATE ELEMENTS OF THE CRIMES AND THEY ARE
17 SEPARATE BECAUSE EITHER ONE SIDE IS DEATH OR INJURY. ONE
18 IS NOT CONTAINED IN THE OTHER.

19 AND THEN ALSO IN THE SAME CONTEXT IS THAT THE STATE
20 *V. CRIBB*, 310 S.C. 518, THE SUPREME COURT HELD THAT
21 RECKLESS DRIVING WAS NOT A LESSER-INCLUDED OFFENSE OF
22 FELONY D.U.I.

23 IN THIS CASE WE'RE TALKING ABOUT THE SAME TYPE OF
24 THING, THAT WE'VE GOT TWO DIFFERENT CRIMES WITH TWO
25 DIFFERENT ELEMENTS, AND THE DISTINGUISHING ELEMENT, OF

1 COURSE, IS THE UNFORTUNATE DEATH OF THE VICTIM. SO I'M
2 GOING TO DENY YOUR MOTION. IT'S NOTED FOR THE RECORD,
3 THOUGH.

4 MR. SENERIUS: YES, SIR.

5 THE COURT: VERY GOOD. ANYTHING ELSE? SO I WON'T
6 CHARGE ANY LESSER-INCLUDED.

7 MS. SIMMONS: NOTHING FROM THE STATE, YOUR HONOR.

8 MR. SENERIUS: NOTHING FROM THE DEFENSE.

9 THE COURT: ALL RIGHT. LET'S TAKE A FEW MINUTES.
10 IT'S A QUARTER TO 12. LET ME DO SEE THE ATTORNEYS.

11 (DISCUSSION AT SIDEBAR.)

12 THE COURT: WE'LL STAND AT EASE FOR ABOUT TEN
13 MINUTES.

14 (A RECESS WAS TAKEN.)

15 THE COURT: ANYTHING FURTHER FROM THE STATE AT THIS
16 TIME?

17 MS. SIMMONS: NO, YOUR HONOR.

18 THE COURT: FROM THE DEFENSE?

19 MR. SENERIUS: NO, SIR.

20 THE COURT: I'LL EXCUSE THE JURY FOR LUNCH FROM 12
21 UNTIL THEY WANT TO COME BACK. THAT WILL GIVE EVERYONE AN
22 OPPORTUNITY TO SORT OF GATHER THEIR THOUGHTS AND ALSO
23 PERMIT THE JURY TO HAVE A LUNCH AT THEIR OWN TERMS, I
24 GUESS YOU WOULD SAY, TIME AS WELL AS PLACE.

25 IS THERE ANY OBJECTION FROM THE STATE?

1 MS: SIMMONS: NO, YOUR HONOR.

2 THE COURT: FROM THE DEFENSE?

3 MR. SENERIUS: NO, SIR.

4 THE COURT: ALL RIGHT. ASK THE JURY TO JOIN US,
5 PLEASE.

6 (THE JURY ENTERED THE COURTROOM AT
7 APPROXIMATELY 12:00 P.M.)

8 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
9 JURY, UPON REFLECTION, I HAVE NOTED FINALLY THAT 12:00
10 NOON IS REALLY CLOSER TO A LUNCHTIME THAN TO GO INTO
11 SOMETHING WHICH THIS WILL BE THE FINAL STAGES OF THE
12 CASE; IN OTHER WORDS, THE FINAL ARGUMENTS BY THE COUNSEL
13 AND THEN THE CHARGE ON THE LAW BEFORE IT'S GIVEN TO YOU
14 AND THAT COULD TAKE US SOME TIME.

15 AND I'M GONNA SUGGEST THAT YOU DO GO TO LUNCH AND
16 THAT YOU COME BACK. AGAIN, MR. FOREMAN, I'M GONNA ASK
17 YOU TO CHECK WITH YOUR JURY. HOW LONG WOULD YOU LIKE FOR
18 LUNCH? I WOULD SUGGEST, OF COURSE, 1:00, 1:15 OR EVEN
19 1:30. AND BY THE WAY, THIS IS NOT UNANIMOUS. THIS IS
20 NOT A UNANIMOUS VERDICT, JUST A CONSENSUS.

21 (JURY CONFER IN JURY-BOX.)

22 THE FOREMAN: 1:00 WOULD BE FINE, YOUR HONOR.

23 THE COURT: 1:00. VERY GOOD, SIR. SO JUST COME
24 BACK TO THE JURY ROOM THAT YOU'VE BEEN USING. NOW, AS I
25 SAID EARLIER AND I'VE SAID THROUGHOUT THE TRIAL, DO NOT

1 UNDERTAKE DISCUSSION OF THIS CASE UNTIL IT IS FINALLY
2 GIVEN TO YOU FOR YOUR DECISION, DO NOT DISCUSS IT AMONG
3 YOURSELVES AND DO NOT PERMIT ANYONE TO DISCUSS IT WITH
4 YOU. VERY GOOD.

5 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
6 FROM THE COURTROOM, AND I'LL SEE YOU AT 1:00.

7 (A LUNCHEON RECESS OCCURRED.)

8 THE COURT: ANYTHING FROM THE STATE?

9 MS. SIMMONS: NO, YOUR HONOR.

10 THE COURT: FROM THE DEFENSE?

11 MR. SENERIUS: NO, SIR.

12 THE COURT: ALL RIGHT. DO TRY TO BE -- NOT TRY --
13 DO BE BACK AT 1:00 SO WE CAN PROCEED AT THAT TIME.

14 (A LUNCHEON RECESS OCCURRED.)

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1 AFTERNOON PROCEEDINGS

2 (APPROXIMATELY 1:13 P.M.)

3 THE COURT: IT IS MY UNDERSTANDING THAT THE JURY IS
4 HERE. IS THERE ANYTHING FROM THE STATE BEFORE WE BRING
5 THE JURY BACK?

6 MS. SIMMONS: NO, YOUR HONOR, WE ARE READY TO
7 PROCEED.

8 THE COURT: FROM THE DEFENSE?

9 MR. SENERIUS: NO, SIR.

10 THE COURT: VERY WELL. THE STATE WILL OPEN FULLY,
11 THEN THE DEFENSE WILL ARGUE, AND THE STATE WILL CLOSE.
12 ALL RIGHT. ASK THE JURY TO JOIN US, PLEASE.

13 (THE JURY ENTERED THE COURTROOM AT
14 APPROXIMATELY 1:14 P.M.)

15 THE COURT: ALL RIGHT. LET THE RECORD REFLECT THE
16 JURY AND ALTERNATES ARE IN THE JURY-BOX.

17 MR. FOREMAN, LADIES AND GENTLEMEN OF THE JURY, AS I
18 MENTIONED EARLIER, THIS WILL BE THE FINAL STAGES OF THIS
19 TRIAL AND IT WILL CONCLUDE THE TESTIMONY AND EVIDENCE,
20 ARGUMENT AND LAW, AND THEN IT WILL BE GIVEN TO YOU FOR
21 YOUR DELIBERATIONS.

22 THE STATE, HAVING THE BURDEN OF PROOF, WILL GO
23 FIRST, AND THE DEFENDANT WILL ARGUE, AND THEN THE STATE
24 WILL CLOSE.

25 I RECOGNIZE THE SOLICITOR FOR HER CLOSING ARGUMENT.

1 MS. SIMMONS: THANK YOU, YOUR HONOR, MAY IT PLEASE
2 THE COURT.

3 CLOSING ARGUMENT ON BEHALF OF THE STATE (LAW):

4 MS. SIMMONS: LADIES AND GENTLEMEN, FIRST OF ALL, I
5 WANT TO THANK YOU FOR YOUR TIME AND ATTENTION OVER THE
6 LAST FEW DAYS. I KNOW THAT THIS HAS BEEN A LENGTHY
7 TRIAL, AND I HAVE NOTICED THAT YOU ALL HAVE PAID VERY
8 CLOSE ATTENTION AND I THANK YOU FOR THAT.

9 WE ARE AT THE TIME OF THIS TRIAL WHERE WE ARE AT THE
10 END, AND I NOW BRIEFLY GET THE OPPORTUNITY TO TELL YOU
11 WHAT THE LAW IS IN THIS CASE. I WILL TELL YOU THE LAW
12 AND THEN YOU CAN KEEP THAT IN MIND THROUGHOUT THE CLOSING
13 ARGUMENTS YOU WILL HEAR.

14 ONCE I INSTRUCT YOU ON THE LAW, THE DEFENSE WILL
15 HAVE AN OPPORTUNITY TO PRESENT THEIR CLOSING ARGUMENT TO
16 YOU. AFTER THAT, I'LL BE BACK TO SPEAK TO YOU AGAIN AND
17 DISCUSS WITH YOU HOW WHAT YOU HAVE HEARD OVER THE LAST
18 FEW DAYS FITS THE LAW AS WE WILL DISCUSS FOR A COUPLE
19 MINUTES NOW.

20 THE DEFENDANT IS CHARGED WITH HOMICIDE BY CHILD
21 ABUSE. A PERSON WHO CAUSES THE DEATH OF A CHILD UNDER
22 THE AGE OF ELEVEN, WHILE COMMITTING CHILD ABUSE OR
23 NEGLIGENCE, AND THE DEATH OCCURS UNDER CIRCUMSTANCES
24 MANIFESTING AN EXTREME INDIFFERENCE TO HUMAN LIFE. SO
25 YOU ARE LOOKING AT A FEW DIFFERENT ELEMENTS DURING THE

1 COURSE OF YOUR DELIBERATIONS.

2 AND THE JUDGE IS ALSO GOING TO INSTRUCT YOU ON THE
3 LAW.

4 SOMEONE CAUSED THE DEATH, THE DEFENDANT, OF A CHILD
5 UNDER ELEVEN, [REDACTED] UNDER CIRCUMSTANCES OF
6 CHILD ABUSE OR CHILD NEGLECT AND THE DEATH OCCURRED UNDER
7 CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO HUMAN
8 LIFE.

9 CHILD ABUSE OR CHILD NEGLECT, EITHER ONE OF THOSE
10 THINGS, IT MEANS AN ACT OR AN OMISSION BY ANY PERSON
11 WHICH CAUSES HARM TO THE CHILD'S PHYSICAL HEALTH OR
12 WELFARE. IN THIS CASE THE CHILD DIED.

13 EXTREME INDIFFERENCE IS DEFINED AS A MENTAL STATE
14 AKIN TO INTENT CHARACTERIZED BY A DELIBERATE ACT
15 CULMINATING IN DEATH.

16 IT HAS BEEN MY JOB OVER THE LAST FEW DAYS TO PROVE
17 THOSE ELEMENTS TO YOU BEYOND A REASONABLE DOUBT. THE
18 JUDGE IS ALSO GONNA CHARGE ON REASONABLE DOUBT.
19 REASONABLE DOUBT IS NOT BEYOND ALL DOUBT. IT IS JUST
20 REASONABLE DOUBT, REASONABLE DOUBT, THE KIND OF DOUBT
21 THAT WOULD CAUSE A REASONABLE PERSON TO HESITATE TO ACT.

22 SO THROUGH THE COURSE OF THE NEXT FEW MINUTES, AS
23 YOU HEAR THE DEFENDANT'S CLOSING, AND I'LL BE BACK AGAIN
24 TO TALK TO YOU, KEEP IN MIND THE LAW ON HOMICIDE BY CHILD
25 ABUSE, APPLY IT TO WHAT YOU HEAR. THINK ABOUT IT AND

1 TAKE THAT KNOWLEDGE INTO THE JURY ROOM WITH YOU AS YOU
2 DELIBERATE. I'LL BE BACK IN JUST A FEW MINUTES.

3 THE COURT: MR. SENERIUS?

4 MR. SENERIUS: THANK YOU, YOUR HONOR, MAY IT PLEASE
5 THE COURT, MS. SIMMONS, LADIES AND GENTLEMEN OF THE JURY.
6 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT:

7 MR. SENERIUS: I TOO WANT TO THANK YOU FOR THE
8 ATTENTION TO DETAIL THAT I THINK YOU ALL HAVE GIVEN IN
9 THIS CASE. WE'VE BEEN WATCHING YOU. I WATCH JURIES ALL
10 THE TIME TO SEE WHETHER OR NOT THEY ARE PAYING ATTENTION,
11 AND YOU APPEARED TO HAVE BEEN PAYING VERY CLOSE ATTENTION
12 TO THE EVIDENCE THAT WAS PRESENTED IN THIS CASE.

13 MY JOB IS JUST ABOUT DONE. I'VE GOT A FEW MINUTES
14 MORE TO WORK AND THEN IT'S YOUR JOB, YOUR JOB BEGINS.
15 IT'S A VERY DIFFICULT JOB.

16 AS YOU WERE TOLD AT THE BEGINNING OF THIS CASE IT'S
17 NOT LIKE TELEVISION. YOU DON'T HAVE ANY CONFESSIONS,
18 NOBODY JUMPING UP IN THE BACK OF THE COURTROOM SAYING "I
19 DID IT," AND UNFORTUNATELY FOR YOU IT LASTED MORE THAN AN
20 HOUR, ACTUALLY 43 MINUTES IF YOU TAKE OUT THE
21 COMMERCIALS.

22 BUT THAT MAKES IT NO LESS IMPORTANT, ACTUALLY MORE
23 SO, THAN ANYTHING THAT YOU'VE PROBABLY DONE BEFORE AS FAR
24 AS DECISIONS IN LIFE GO.

25 THIS IS A CASE OF TRAGEDY AND IT'S A TRAGEDY FOR

1 MANY, MANY PEOPLE. MOST OF ALL IT'S A TRAGEDY FOR
2 [REDACTED] SHE WILL NEVER KNOW WHAT HER LIFE COULD HAVE
3 TURNED OUT TO BE. IT'S A TRAGEDY FOR HER MOTHER, ASHLEY,
4 LOSING A CHILD. I CAN ONLY IMAGINE HOW HEART WRENCHING
5 THAT MIGHT BE. IT'S A TRAGEDY FOR MATTHEW; HE TOO LOST A
6 CHILD. IT'S A TRAGEDY FOR ASHLEY'S PARENTS, THEY LOST A
7 GRANDCHILD.

8 AND IT'S A TRAGEDY FOR MATTHEW'S FAMILY BECAUSE THEY
9 NEVER GOT TO KNOW [REDACTED] WHO BY ALL ACCOUNTS WAS A
10 HAPPY LITTLE BABY. TWO MONTHS STARTED SLEEPING THROUGH
11 THE NIGHT. MY GOSH. IT DOESN'T HAPPEN OFTEN, NOT OFTEN
12 AT ALL.

13 WHAT YOU HAVE TO REMEMBER, THOUGH, IS THAT THE
14 BURDEN THAT THE STATE MUST PROVE IS PROOF BEYOND A
15 REASONABLE DOUBT, AND IT'S VERY HARD TO DEFINE. ONE OF
16 THE THINGS IN THE LAW THAT WE ALWAYS TALK ABOUT IS
17 REASONABLE DOUBT OR REASONABLE PERSON OR THE REASONABLE
18 MAN IS AS IT'S ACTUALLY USED. REASONABLE PERSON IS WHAT
19 IT SHOULD BE. BUT WHO IS A REASONABLE MAN? WHAT IS A
20 REASONABLE DOUBT? WELL, I DON'T KNOW. THAT'S THE
21 BIGGEST PROBLEM I HAD IN LAW SCHOOL: IS THIS REASONABLE
22 OR IS THAT REASONABLE? LIKE EVERYTHING ELSE IN LIFE,
23 WHETHER SOMETHING IS REASONABLE OR NOT IS A MATTER OF
24 OPINION. WHAT YOU MAY THINK IS REASONABLE UNDER A
25 CERTAIN SET OF CIRCUMSTANCES I MAY THINK IS NOT

1 REASONABLE UNDER THE SAME SET OF CIRCUMSTANCES AND VICE
2 VERSA.

3 YOU HAVE ALL SEEN THE STATUE OR PICTURES OF THE
4 STATUE OF LADY JUSTICE. SHE'S STANDING THERE WITH A
5 SWORD IN ONE HAND GENERALLY AND SCALES OF JUSTICE UP HERE
6 AND BLINDFOLDS ON. THE BLINDFOLD MEANS THAT SHE'S NOT TO
7 BE INFLUENCED BY OUTSIDE FACTORS. WE ALL FEEL VERY BAD
8 ABOUT WHAT HAPPENED IN THIS CASE. BUT NOTHING THAT YOU
9 DECIDE CAN BRING BACK [REDACTED] LIFE. AND SYMPATHY FOR
10 MATTHEW OR FOR ASHLEY OR FOR [REDACTED] IS NOT SOMETHING
11 THAT YOU ARE SUPPOSED TO TAKE INTO CONSIDERATION WHEN YOU
12 DECIDE THIS CASE. AND THAT'S GONNA BE HARD, IT'S GONNA
13 BE REAL HARD, ESPECIALLY WHEN WE'RE TALKING ABOUT THE
14 DEATH OF A CHILD.

15 REASONABLE DOUBT IS KIND OF EXPRESSED SOMETIMES AS
16 THE SCALES OF JUSTICE. IN A CIVIL CASE IF WE WERE HERE,
17 MS. SIMMONS AND I SUING OUR RESPECTIVE CLIENTS FOR BREACH
18 OF CONTRACT OR FOR AN AUTO ACCIDENT OR SOMETHING ELSE,
19 WHOEVER WAS THE PLAINTIFF WOULD JUST HAVE TO TIP THOSE
20 SCALES A LITTLE BIT IN THE OF FAVOR OF THE PLAINTIFF.
21 LESS, ANYTHING OVER 50 PERCENT. 50.001 PERCENT WOULD BE
22 A PREPONDERANCE OF THE EVIDENCE AND THAT'S WHAT WE USE IN
23 CIVIL CASES.

24 IN SOME FAMILY COURT AND SOME OTHER CIVIL MATTERS,
25 WE USE THE DEFINITION OF CLEAR AND CONVINCING EVIDENCE,

1 AND THAT'S TIPPING IT A LITTLE BIT MORE. HOW MUCH MORE I
2 CAN'T REALLY TELL YOU, BUT IT'S TIPPING IT FAIRLY
3 HEAVILY.

4 REASONABLE DOUBT? THE HEAVIEST BURDEN OF ALL.
5 THOSE SCALES HAVE GOT TO BE TIPPED REALLY, REALLY FAR.
6 THEY DON'T HAVE TO HIT THE FLOOR. THAT WOULD BE BEYOND
7 ALL DOUBT. AND I DON'T KNOW IF THERE IS ANYTHING IN LIFE
8 THAT'S BEYOND ALL DOUBT. BUT BEYOND REASONABLE DOUBT.

9 YOU, USING YOUR COLLECTIVE MEMORIES AND YOUR
10 COLLECTIVE WISDOM AND EXPERIENCE DETERMINING WHETHER OR
11 NOT THE STATE HAS MET ITS BURDEN OF REASONABLE DOUBT.

12 IN MANY CASES YOU HAVE DIRECT EVIDENCE. YOU WILL
13 HAVE A BROKEN BAT, A GUN, D.N.A. EVIDENCE, FINGERPRINT
14 EVIDENCE, THINGS OF THAT NATURE, NONE OF WHICH IS IN THIS
15 CASE PRESENT. THE CLOSEST THING TO DIRECT EVIDENCE I
16 WOULD SUBMIT TO YOU LADIES AND GENTLEMEN, THAT YOU HAVE
17 IN THIS CASE ARE MEDICAL OPINIONS AND FINDINGS OF THE
18 DOCTORS, MORE SO THE FINDINGS THAN THEIR OPINIONS.

19 BECAUSE AGAIN IT IS THEIR OPINION. WHETHER TWO OR THREE
20 OR FOUR OR FIVE OF THEM CONCUR IN THAT OPINION OR WHETHER
21 OR NOT ONE CONCURS AND FIVE DISAGREE, THEY'RE STILL
22 OPINIONS. THEIR MEDICAL FINDINGS ARE OBJECTIVE AND
23 THAT'S WHAT DIRECT EVIDENCE IS, OBJECTIVE EVIDENCE.

24 CIRCUMSTANTIAL EVIDENCE IS A LITTLE BIT DIFFERENT.
25 AN EXAMPLE THAT'S GENERALLY USED OF CIRCUMSTANTIAL

1 EVIDENCE IS WE'RE SITTING IN THIS COURTROOM. THERE
2 AREN'T ANY WINDOWS. IT'S RELATIVELY WELL, ACOUSTIC --
3 YOU CAN'T HEAR OUTSIDE QUESTIONS VERY WELL, OUTSIDE
4 NOISES EXCEPT WHEN THE JACKHAMMER GOES OFF IN THE
5 REMODELING. AND SOMEBODY WALKS IN THAT BACK DOOR AND
6 THEY ARE SOAKING WET.

7 WELL, CIRCUMSTANTIAL EVIDENCE WOULD MEAN IT'S
8 RAINING OUTSIDE. WELL, WE MIGHT AS WELL SIT HERE TILL
9 THE RAIN STOPS. CIRCUMSTANTIAL EVIDENCE ALSO COULD
10 INDICATE THAT THAT PERSON JUST HAPPENED TO BE WALKING
11 THROUGH A LAWN WHEN THE SPRINKLERS CAME ON AND GOT
12 SOAKED. IT'S NOT CONCLUSIVE, IT'S CIRCUMSTANTIAL.

13 LET'S KIND OF REVIEW FOR YOU NOW THE EVIDENCE, THE
14 TESTIMONY THAT WAS PRESENTED. OF COURSE, WE FIRST HEARD
15 FROM ASHLEY BRIGHT, THE BABY'S MOTHER. ASHLEY TALKED
16 ABOUT WHAT A GREAT KID THIS WAS, HOW RECENTLY SHE HAD
17 BECOME A LITTLE FUSSY BECAUSE SHE WAS TEETHING. ALL
18 BABIES BECOME FUSSY WHEN THEY'RE TEETHING. BUT THAT SHE
19 WAS A BRIGHT, HAPPY KID, ALWAYS SMILING.

20 SHE HAD JUST RECENTLY BECOME A LITTLE FUSSIER THAN
21 NORMAL. AND THE NIGHT OF THE 15TH INTO THE MORNING OF
22 THE 16TH SHE HAD BEEN A LITTLE FUSSY AND ASHLEY HAD TO GO
23 TO WORK ON THE 16TH AND ASHLEY WENT TO BED, AND MATTHEW,
24 AS HE TESTIFIED TO, WAS STAYING UP PLAYING HIS XBOX AND
25 THAT HE WAS TAKING CARE OF

1 SHE TESTIFIED THAT LATER IN THE DAY SHE GOT A TEXT
2 MESSAGE FROM MATTHEW SAYING THAT [REDACTED] WAS BEING A
3 LITTLE FUSSY AND HAVING TROUBLE GETTING HER TO GO TO
4 SLEEP AND HE WAS GONNA LAY DOWN WITH HER IN THE WHAT I'LL
5 REFER TO IT AS THE SMALL BEDROOM. I THINK IT WAS THE
6 FRONT BEDROOM, PERHAPS, NOT THE MASTER BEDROOM.

7 SHE THOUGHT THAT WAS UNUSUAL, BUT SHE DID SAY THAT
8 THAT WAS PROBABLY THE DARKER ROOM AND THAT MAY BE, HAVE
9 BEEN WHY THEY WERE LYING DOWN IN THERE, EVEN THOUGH THEY
10 NORMALLY SLEPT BACK IN THE BIG, IN THE LARGE BEDROOM.

11 SHE GOT HOME, WENT IN, CHECKED ON HER CHILD, SHE
12 SEEMED TO BE FINE. LAYING THERE SLEEPING. NOTHING
13 APPEARED TO BE ABNORMAL. SHE WENT BACK IN A LITTLE WHILE
14 LATER. IN FACT, SHE SAID SHE WENT IN AND CHECKED EVERY
15 30 TO 45 MINUTES WHENEVER SHE GOT DONE WATCHING AN
16 EPISODE, I THINK IT WAS OF *LAW & ORDER* THAT SHE WAS
17 WATCHING ON THE COMPUTER.

18 ONE TIME SHE WENT IN AND MATTHEW STIRRED UP AND THE
19 BABY -- THE BLANKET HAD COME UP ABOVE THE BABY, BABY'S
20 EYES, COVERING HER NOSE, RATHER, AND SHE WANTED IT PULLED
21 DOWN, THEY PULLED THE BLANKET DOWN, AND THE BABY JUST
22 SNUGGLED BACK UP AND NOTHING SEEMED TO BE WRONG.

23 SHE WENT BACK IN ANOTHER TIME, FELT THAT THE BABY'S
24 LEGS HAD SOMEHOW GOTTEN UNCOVERED. FELT THE CHILD'S
25 LEGS, THEY WERE COLD, SO SHE PUT ANOTHER BLANKET, A

1 DIFFERENT BLANKET ON, I BELIEVE A PINK BLANKET ON TO
2 COVER HER LEGS.

3 SHE WENT IN A COUPLE MORE TIMES DURING THE EVENING.
4 NOTHING SEEMED TO BE WRONG. ONE TIME SHE WENT IN AND THE
5 BABY WAS BREATHING A LITTLE HEAVY, BUT IT WAS NOTHING OUT
6 OF THE ORDINARY AND SHE WASN'T CONCERNED ABOUT THAT.

7 AND THE NEXT THING SHE KNEW WAS THAT SOMETIME AROUND
8 10:30, 10:45 MATTHEW WOKE UP AND SAID, "CALL 9-1-1
9 IS NOT BREATHING." AND SHE CALLED 9-1-1. AND
10 MATTHEW WAS TRYING TO RESUSCITATE HIS DAUGHTER. AND
11 EVENTUALLY EMS SHOWED -- OR 9-1-1, SHE PUT IT ON SPEAKER
12 PHONE, THE CELL PHONE, 9-1-1 GAVE HIM INSTRUCTIONS AS TO
13 HOW TO DO IT PROPERLY.

14 EMS SHOWED UP. THEY TOOK OVER. MATTHEW AND ASHLEY
15 STOOD THERE AND WATCHED WHAT WAS GOING ON. DIDN'T TAKE
16 EMS TOO LONG TO GET THERE. AND THEN THEY WENT TO THE
17 HOSPITAL, OCONEE MEMORIAL HOSPITAL.

18 INITIALLY MATTHEW SAID HE DIDN'T KNOW WHAT HAPPENED.
19 HIS CONCERN OBVIOUSLY WOULD BE LOGICAL, WOULD BE FOR HIS
20 DAUGHTER WHO WAS LAYING THERE IN OBVIOUS DISTRESS.

21 NEXT YOU HEARD FROM TED ROUNDY, DETECTIVE ROUNDY,
22 RETIRED. AND ONE OF THE THINGS THAT HE CAME UP WITH WAS
23 A TIME LINE THAT THIS HAPPENED BETWEEN TWO AND FOUR IN
24 THE AFTERNOON. NOW, THAT'S SIGNIFICANT FOR A COUPLE OF
25 REASONS. NUMBER ONE, HE'S THE ONLY ONE THAT SAID THAT.

1 NUMBER TWO, THE DOCTORS DON'T EVEN COME ANYWHERE CLOSE TO
2 A TWO-TO-FOUR-IN-THE-AFTERNOON TIME LINE, THEY STRETCH IT
3 MUCH FARTHER. AND, OF COURSE, NUMBER THREE, JUST HAPPENS
4 TO COINCIDE WITH WHAT DESMOND HOLLAND TESTIFIED TO AS FAR
5 AS HEARING NOISES. BUT WE'LL GET BACK TO THAT IN A
6 MINUTE.

7 THEY WENT TO, I BELIEVE HE WENT -- ORIGINALLY SHOWED
8 UP AT OCONEE HOSPITAL AND THEN WENT TO GREENVILLE
9 HOSPITAL.

10 THEN WE HEARD FROM CHRIS KELLY. NOW, THE PROSECUTOR
11 TOLD YOU IN OPENING STATEMENT THAT MATTHEW KEPT CHANGING
12 HIS STORY TO FIT THE FACTS, AND YET THE TESTIMONY THAT
13 YOU HAVE HEARD IN THIS CASE FROM CHRIS KELLY AND TED
14 ROUNDY ABOUT MATTHEW'S STATEMENTS DOESN'T COINCIDE WITH
15 THAT.

16 CHRIS KELLY GOT ON THE STAND AND INITIALLY TESTIFIED
17 ON DIRECT EXAMINATION THAT HE ASKED MATTHEW TO TELL HIM
18 WHAT HAPPENED, AND MATTHEW JUST GAVE A STATEMENT FROM
19 ABOUT 4:45 OR SO WHEN HE LAID DOWN WITH [REDACTED] TO TAKE A
20 NAP, ON, AND THAT HE DIDN'T TELL HIM ABOUT ANYTHING
21 EARLIER IN THE DAY.

22 AND AFTER SOMEWHAT PERHAPS POINTED
23 CROSS-EXAMINATION, HE FINALLY ADMITTED THAT YEAH, HE,
24 HE'S A TRAINED POLICE OFFICER, HE'S TOLD TO PUT IN HIS
25 REPORTS ACCURATE INFORMATION, AND THAT IN HIS REPORT HE

1 FINALLY ADMITTED THAT HE HAD ASKED MATTHEW TO TELL HIM
2 WHAT HAPPENED FROM THE LAST TIME HE SAW [REDACTED] AWAKE.
3 NOT WHAT HAD HAPPENED BEFORE THAT. AND WHAT DID MATTHEW
4 DO? HE TOLD HIM WHAT HE REMEMBERED FROM THE LAST TIME
5 THAT HE SAW [REDACTED] AWAKE.

6 THEN HE GIVES A SECOND STATEMENT. AND IN THE SECOND
7 STATEMENT HE ADDS TO THAT. HE DOESN'T CONTRADICT WHAT HE
8 SAID, HE ADDS TO IT. AND THIS IS GIVEN AFTER HE'S TOLD
9 OF THE BRAIN INJURIES, NOT BEEN TOLD ABOUT THE RIB
10 INJURIES, AND NOT BEEN TOLD ABOUT THE BROKEN LEG. BUT
11 HE'S TOLD THAT THERE APPEARS TO BE SOME BE BLEEDING ON
12 THE BRAIN AND SO HE GIVES THIS OTHER STATEMENT, THIS MORE
13 INCLUSIVE STATEMENT, SIMILAR TO WHAT HE HAD GIVEN BEFORE,
14 JUST ADDING INFORMATION TO IT, INCLUDING REACHING OUT AND
15 GRABBING THE CHILD'S LEGS.

16 THIS IS WHERE HE SAYS THAT HE GAVE THE BABY A BATH,
17 PUT THE CHILD IN THE BATHTUB IN THE BABY SEAT, TOOK A
18 SHOWER WITH THE WATER NOT SPLASHING DIRECTLY ON THE
19 CHILD, BECAUSE HE COULD KEEP AN EYE ON HIS DAUGHTER. IT
20 SEEMS LOGICAL TO ME. SEEMS, QUITE HONESTLY, VERY CARING
21 AS OPPOSED TO LEAVING THE CHILD IN A PLAYPEN IN ANOTHER
22 ROOM AND NOT BEING ABLE TO KNOW WHAT WAS GOING ON.

23 DONNA ELLER, ASHLEY'S MOTHER, [REDACTED] GRANDMOTHER,
24 SHE TESTIFIED THAT SHE SAW [REDACTED] FREQUENTLY WHEN SHE
25 COULD. ONLY KNOWS, ONLY KNEW MATTHEW THROUGH HIS

1 RELATIONSHIP WITH ASHLEY, THAT SHE WAS HELPING THEM WITH
2 THEIR FINANCES BECAUSE MATTHEW DIDN'T HAVE A JOB ANYMORE
3 AND [REDACTED] WAS ONLY WORKING PART-TIME. SHE HAD A LEG
4 INJURY, I THINK IT WAS, OR AN ANKLE INJURY, I DON'T
5 REMEMBER EXACTLY WHAT SHE SAID. SHE WAS ON SOME PAIN
6 MEDICATION. AND SHE DIDN'T SEE [REDACTED] FROM ABOUT THE
7 13TH OR 14TH, I THINK IT WAS, UNTIL AFTER THIS INCIDENT
8 OCCURRED.

9 SHE SOMEWHAT CONFIRMS, SOMEWHAT CONTRADICTS
10 MATTHEW'S STATEMENT SAYING HE TOLD HER SHE MAY HAVE HIT
11 HER HEAD INSIDE THE SHOWER STALL. WELL, SHE WAS IN THE
12 SHOWER STALL OR THE BATHROOM. I SUPPOSE THAT'S POSSIBLE.
13 BUT CONSISTENTLY MATTHEW SAID HE DIDN'T KNOW ABOUT THAT.
14 HE NEVER SAID EITHER TO THE POLICE OR TO THE DOCTORS THAT
15 SHE HIT HER HEAD ON ANYTHING OTHER THAN HIS COLLARBONE
16 WHEN HE RAPIDLY PULLED HER BACK AND [REDACTED] HIT THE BACK
17 OF HER HEAD ON HIS COLLARBONE.

18 PAIGE -- I FORGET HER LAST NAME -- A COUSIN I THINK
19 IT IS, TESTIFIED THAT MATTHEW SAID, WELL, SHE MAY HAVE
20 HIT HER HEAD ON THE SINK. OKAY. YOU HAVE TO UNDERSTAND
21 I THINK IT'S REASONABLE TO CONCLUDE THAT DURING THIS
22 POINT IN TIME THAT MATTHEW IS TRYING TO FIGURE OUT WHAT
23 HAPPENED TO HIS DAUGHTER AND HE'S VOLUNTARILY TALKING TO
24 PEOPLE. I'VE ALREADY TOLD YOU, IF HE'D HAVE BEEN A SMART
25 CRIMINAL, HE WOULDN'T HAVE BEEN TALKING. HE WOULD HAVE

1 EXERCISED HIS RIGHT TO REMAIN SILENT. BUT TRYING TO
2 FIGURE OUT WHAT HAPPENED AND TRYING TO HELP EVERYBODY PUT
3 THESE PIECES OF THIS JIGSAW PUZZLE TOGETHER, HE DRAWS A
4 BULL'S EYE ON HIS BACK. "NO, I WAS THERE." "NO, I
5 DON'T -- THIS IS WHAT I THINK HAPPENED."

6 HE DOESN'T POINT THE FINGER AT ANYBODY ELSE, QUITE
7 THE CONTRARY TO A LOT OF OTHER PEOPLE THAT ARE POINTING
8 THE FINGER AT HIM.

9 SERGEANT JONES -- I'M SORRY, LIEUTENANT JONES --
10 TESTIFIED THAT HE PARTICIPATED IN THE SEARCH OF THE
11 APARTMENT. I THINK IT WAS THE SECOND SEARCH OF THE
12 APARTMENT. THE APARTMENT WAS SEARCHED TWO TIMES. HE
13 DIDN'T SEE ANY LARGE OBJECTS ON THE FLOOR. THAT WHEN
14 INFORMED BY I THINK IT WAS MEDICAL PEOPLE THAT
15 LEG WAS BROKEN, MY CLIENT APPEARED SHOCKED, NOT CALMLY
16 REACTING TO ANYTHING.

17 FIRST THEY LOOKED AT BOTH PARENTS. IT'S THE TYPICAL
18 THING YOU HEAR ON TELEVISION. IF YOUR SPOUSE DIES, YOU
19 ARE THE FIRST PERSON THEY LOOK AT. IF A CHILD IS
20 INJURED, THE PARENTS ARE THE FIRST PERSONS THAT ARE
21 LOOKED AT. IT'S TYPICAL PROCEDURE. NOTHING WRONG WITH
22 THAT.

23 BECAUSE OF THIS TWO-TO-FOUR-O'CLOCK-IN-THE-AFTERNOON
24 TIME LINE THEY STOPPED LOOKING AT ANYBODY BUT MATTHEW.
25 MATTHEW KEPT TALKING TO THEM. HE TALKED TO THEM THREE

1 TIMES, TWICE IN WRITING AND ONCE ORALLY, FREELY AND
2 VOLUNTARILY.

3 THEY CONFIRMED THAT ASHLEY HAD WATCHED *LAW & ORDER*
4 BECAUSE OF THE NETFLIX SCHEDULING THING. BUT THEY JUST
5 CONFIRMED THAT SHE -- THAT THOSE THINGS HAD PLAYED DURING
6 THAT PERIOD OF TIME. THAT WAS REALLY ABOUT IT.

7 THERE WAS TALK ABOUT THE PERSON INVOLVED HAD TO HAVE
8 LARGE HANDS. WHAT ARE LARGE HANDS? MY HANDS ARE LARGE,
9 MY HANDS ARE LARGER THAN MY DAUGHTER'S. MAYBE MY HANDS
10 ARE LARGE FOR AN ADULT, AN ADULT MALE, MAYBE THEY'RE
11 MEDIUM, MAYBE THEY'RE SMALL. AGAIN, OPINION. AND
12 NOTHING MORE WAS DONE. IN FACT, THEY TOOK, THEY EXECUTED
13 A THIRD SEARCH WARRANT, I THINK IT WAS, FOR PHOTOGRAPHS
14 AND MEASUREMENTS OF MATTHEW'S HANDS. NOBODY EVER
15 OBJECTED TO ANY OF THIS STUFF. IT HAPPENED.

16 DESMOND HOLLAND TESTIFIED THAT HE HEARD TWO LOUD
17 CRASHES. THE FIRST, ACCORDING TO HIS WRITTEN STATEMENT,
18 WHICH HE APPARENTLY WROTE HIMSELF, READ AND SIGNED, SAID
19 THAT HE WAS LAYING IN BED WHEN HE HEARD THE FIRST LOUD
20 NOISE ABOUT 2:50. BUT ON THE STAND HE SAID, WELL, I KNOW
21 IT WAS 2:50 BECAUSE I WAS WALKING MY FIANCEE TO THE DOOR
22 TO GO TO WORK. NOTHING ABOUT HIS FIANCEE IN HIS WRITTEN
23 STATEMENT.

24 WHICH WOULD BE LIKELY TO BE MORE ACCURATE? THE ONE
25 THAT HE GAVE A COUPLE OF DAYS AFTER THE FACT OR ONE THAT

1 HE TESTIFIES TO OVER A YEAR, ALMOST A YEAR AND A HALF
2 LATER?

3 I SUBMIT TO YOU THAT HIS ACCURATE STATEMENT IS THAT
4 HE WAS LAYING IN BED WHEN HE SAYS THAT HE HEARD THIS
5 NOISE. A LOUD NOISE. IT BOTHERED HIM SO MUCH HE GOT UP,
6 A RACKET GOING ON, HE WENT UPSTAIRS. IT WASN'T A SERIES
7 OF NOISES, IT WAS ONE NOISE. WENT UPSTAIRS, POUNDED ON
8 THE DOOR, HEARD THE DOGS BARK, HEARD A BABY WHIMPERING,
9 NOT CRYING, NOT SCREAMING, BUT WHIMPERING.

10 NO ONE ANSWERED THE DOOR, AND AFTER A COUPLE OF
11 MINUTES HE GAVE UP AND WENT BACK DOWNSTAIRS.

12 HE BARELY GETS INTO HIS APARTMENT WHEN HE HEARS A
13 LOUD NOISE FROM UPSTAIRS, NOT QUITE AS LOUD AS THE FIRST
14 TIME, BUT IT SOUNDED LIKE, ACCORDING TO HIS WRITTEN
15 STATEMENT, A 23-INCH TELEVISION FELL ON THE FLOOR. OKAY.
16 A FAIRLY LOUD NOISE.

17 GOES BACK UPSTAIRS, BANGS ON THE DOOR AGAIN. THIS
18 TIME ALL HE HEARS IS THE DOG BARKING AND SCRATCHING AT
19 THE DOOR. HE DOESN'T HEAR A CHILD WHIMPERING. HE
20 DOESN'T THINK ANYTHING ABOUT IT. IT'S GONNA BE NOISY.
21 I'LL GO TO MOM'S HOUSE AND GET SOME SLEEP THERE.

22 WE TALKED ABOUT WHAT IS A REASONABLE REACTION? YOU
23 HEAR A CHILD WHIMPERING AND THEN YOU DON'T HEAR A CHILD
24 ANYMORE? IT SEEMS TO ME A REASONABLE REACTION WOULD BE
25 TO CALL SOMEONE TO LOOK INTO THE MATTER. BUT HE DIDN'T

1 BECAUSE, I THINK HE SAID NOT HEARING THE BABY DIDN'T
2 CONCERN HIM.

3 DR. BARDEN TESTIFIED SHE SAW THE CHILD. SHE DIDN'T
4 KNOW ANYTHING ABOUT THE CHILD AHEAD OF TIME. THE CHILD
5 WAS BROUGHT TO THE EMERGENCY ROOM AT OCONEE MEMORIAL
6 HOSPITAL. TESTIFIED PRETTY MUCH TO JUST MEDICAL
7 FINDINGS. SHE DIDN'T RENDER A MEDICAL OPINION, BUT HER
8 MEDICAL FINDINGS WERE THE TRAUMA TO THE HEAD -- AND I
9 BELIEVE SHE MAY HAVE ALSO TESTIFIED BRUISE ON THE CHEST,
10 COLLAPSED LUNG, AND BRAIN SWELLING AND BLEEDING FROM I
11 BELIEVE IT WAS THE CT-SCAN SHE GOT THAT INFORMATION OFF
12 OF THAT THEY HAD DONE THERE.

13 SO THESE INJURIES COULD HAVE HAPPENED AS MUCH AS
14 SEVERAL HOURS BEFORE, SHE WASN'T SURE, AND WHEN ASKED
15 WHETHER IMMEDIATE MEDICAL ATTENTION WOULD HAVE MADE ANY
16 DIFFERENCE, SHE COULDN'T GIVE AN OPINION ON THAT.

17 DR. TROUP, WHO WAS THE PEDIATRIC NEUROSURGEON -- I
18 DIDN'T REALIZE THEY WERE SUCH A RARE COMMODITY IN THIS
19 PART OF THE COUNTRY -- HE PRETTY MUCH TESTIFIED AS TO
20 FACTUAL THINGS OR INFORMATION HE HAD GAINED AS A RESULT
21 OF REVIEWING CHARTS OR CT-SCANS. HE DID SAY THAT THIS
22 COULD HAVE BEEN, ALL OF THESE INJURIES COULD HAVE
23 OCCURRED FROM ONE IMPACT, OR ONE INSTANCE, RATHER, BUT
24 MORE LIKELY FROM A SERIES, NOT TWO, THREE, FOUR, A
25 SERIES, WHATEVER HE MEANT BY THAT, OF IMPACTS.

1 IT COULD HAVE OCCURRED, IN HIS OPINION AS A
2 NEUROSURGEON, AS MUCH AS 24 HOURS PRIOR TO THE CHILD
3 BEING SEEN BY MEDICAL PERSONNEL. HE DIDN'T THINK IT
4 COULD HAVE OCCURRED IN THE SHOWER BUT IT COULD HAVE
5 OCCURRED AS MUCH AS 24 HOURS. SO NOW WE EXPAND THIS TIME
6 FRAME AND THIS TIME LINE.

7 DR. GWYN, WHO IS A PEDIATRIC CRITICAL CARE PHYSICIAN
8 THAT TREATED [REDACTED] AT GREENVILLE MEMORIAL HOSPITAL,
9 TOLD US THAT, IF YOU WILL REMEMBER THAT THE FORCE WAS NOT
10 NECESSARILY HITTING SOMETHING LIKE THAT (DEMONSTRATING),
11 DIDN'T NEED TO BE THAT, IT WAS JUST A TWISTING FORCE, IN
12 ESSENCE BEING THROWN OR DROPPED ON TO A MATTRESS, ON TO A
13 PILLOW. HE FELT THAT IT OCCURRED SOMETIME THAT DAY, THAT
14 IMMEDIATE CARE MIGHT HAVE HELPED, BUT HE DID NOT TELL
15 MATTHEW NOR ASHLEY ABOUT THE INJURIES THE CHILD HAD
16 SUSTAINED. AND THAT'S SIGNIFICANT BECAUSE SHORTLY AFTER
17 THAT IS WHEN MATTHEW GIVES THE MORE DETAILED STATEMENT TO
18 DETECTIVE ROUNDY.

19 HIS OPINIONS OF THE INJURIES WERE THAT THE RIB
20 INJURY COULD HAVE OCCURRED AS MUCH AS TEN DAYS EARLIER.
21 THE BLOOD THAT HE SAW ON THE BRAIN, THAT COULD HAVE
22 STARTED AS MUCH AS THREE DAYS -- I'M SORRY -- LESS THAN
23 THREE DAYS EARLIER. AND THE COMBINATION OF THE BLOOD AND
24 THE RETINAL BLEEDING PROBABLY OCCURRED SOMETIME WITHIN
25 THE PAST DAY. AND HE FELT, AGAIN, IT WAS NOT ACCIDENTAL.

1 LAST, FOR THE PROSECUTION, WE HEARD FROM
2 DR. WOODARD, AGAIN, SOMEONE WHO IS TESTIFYING AS TO
3 MEDICAL FINDINGS AFTER THE FACT. HE TESTIFIED THAT SOME
4 OF THE INJURIES WERE CAUSED BY WHAT HE DESCRIBED AS
5 FORCEFUL GRIPPING BY A RIGHT-HANDED PERSON.

6 MATTHEW TESTIFIED HE'S RIGHT-HANDED. HE ALSO TOLD
7 YOU THAT HE BROKE HIS HAND ABOUT THREE WEEKS BEFORE. HOW
8 DID HE BREAK HIS HAND? INSTEAD OF PUNCHING SOME GUY THAT
9 WAS GIVING HIS WIFE A HARD TIME, HE PUNCHED A WALL
10 (DEMONSTRATING). I DON'T KNOW WHICH WE WOULD HAVE
11 PREFERRED HE DO.

12 DR. WOODARD'S MEDICAL OPINION WAS THAT THIS WAS
13 INFLICTED TRAUMA AND THAT IT WAS DIFFICULT TO TELL WHEN
14 THE LEG WAS BROKEN, BUT THE RIB AND THE HEAD INJURIES
15 WERE BROKEN AT THE SAME -- I'M SORRY -- THE RIB INJURY
16 AND THE BRAIN INJURIES WERE CAUSED AT THE SAME TIME.

17 HE OPINED THAT THESE COULD HAVE OCCURRED SO FAST
18 THAT THE CHILD WOULD HAVE MADE NO NOISE AND WOULD HAVE
19 GONE ALMOST INSTANTANEOUSLY UNCONSCIOUS, THE HEAD INJURY
20 WAS THE CAUSE OF DEATH. AND WHEN ASKED WHETHER THESE
21 INJURIES WERE CAUSED BY A MALE OR A FEMALE, HE SAID THEY
22 WERE CAUSED BY A STRONGER PERSON. STRONGER PERSON.

23 AND HIS TIME LINE SAID THAT IT OCCURRED EIGHT HOURS
24 OR LESS THAN THE TIME BEFORE EMS GOT THERE; AGAIN,
25 EXPANDING THAT TIME LINE.

1 AND THEN MATTHEW TESTIFIED. NOW, AS WE ALL KNOW, HE
2 DIDN'T HAVE TO. HE HAD A RIGHT NOT TO TAKE THE STAND,
3 NOT TO SUBJECT HIMSELF TO CROSS-EXAMINATION. HE HAD THE
4 RIGHT NOT TO DO ANYTHING BECAUSE HE DOESN'T HAVE TO DO
5 ANYTHING IN THIS CASE. HE DOESN'T HAVE TO PRESENT ANY
6 EVIDENCE IN THIS CASE. AS WE STAND HERE RIGHT NOW, HE IS
7 STILL PRESUMED TO BE INNOCENT, AND THAT IS AN IMPORTANT
8 CORNERSTONE OF OUR LEGAL SYSTEM.

9 HE TOLD THE AUTHORITIES WHAT, HE ANSWERED THEIR
10 QUESTIONS. HE RESPONDED TO THEM WITH TWO WRITTEN
11 STATEMENTS AND AN ORAL STATEMENT TRYING TO ANSWER WHAT
12 THEY ASKED HIM. AND IF THEY ASKED HIM WHERE HE WENT TO
13 GRADE SCHOOL, HE DIDN'T TELL HIM WHERE HE WENT TO HIGH
14 SCHOOL.

15 THEY ASKED HIM, WHAT HAPPENED AFTER THE LAST TIME
16 YOU REMEMBER SEEING HER AWAKE? AND HE TOLD HER. AND
17 THEN SOMEBODY ELSE SAID TELL ME, GO BACK FURTHER. SO HE
18 TOLD I BELIEVE DETECTIVE ROUNDY, WHAT HAPPENED BEFORE THE
19 LAST TIME YOU SAW HER AWAKE? AND THE SECOND ORAL
20 STATEMENT THAT HE GAVE AT THE SENECA POLICE DEPARTMENT, I
21 BELIEVE IT WAS TWO DAYS LATER, AGAIN WAS NOT INCONSISTENT
22 WITH ANYTHING HE HAD SAID BEFORE, NOT SUBSTANTIALLY
23 INCONSISTENT. IT WASN'T EXACTLY THE SAME BECAUSE IT
24 WASN'T SOMETHING THAT HE HAD REHEARSED.

25 HE ADMITTED THAT HE DIDN'T TELL HIS MOM ABOUT THIS.

1 THERE IS SOME CONFLICT IN TESTIMONY ABOUT WHY HE DIDN'T
2 TELL HIS MOTHER ABOUT HAVING A CHILD. BOTH I WOULD
3 SUBMIT TO YOU ARE REASONABLE EXPLANATIONS. BOTH MAKE AS
4 MUCH SENSE AND THAT PROBABLY THE TRUTH IS PROBABLY
5 SOMEWHERE IN BETWEEN THERE, BETWEEN WHAT ASHLEY TOLD YOU
6 AND WHAT MATTHEW TOLD YOU.

7 BUT YOU SAW HIM ON THE WITNESS STAND. YOU HAVE SEEN
8 HIM SITTING OVER ON THE DEFENSE TABLE FOR THE BETTER PART
9 OF THREE, GOING ON FOUR DAYS. WHAT THE STATE WOULD HAVE
10 YOU BELIEVE IS THIS LOVING FATHER, WHO LOVED HIS
11 DAUGHTER, WHO BONDED WITH HER, WHO COULD CALM HER DOWN
12 WHEN SHE WAS FUSSY BY PICKING HER UP AND ROCKING HER,
13 THAT ALL OF A SUDDEN OUT OF THE CLEAR BLUE (POUNDS ON
14 TABLE) HE SNAPPED, AND HE DID SOMETHING NOT ONLY ONCE BUT
15 AT LEAST TWICE AND POSSIBLY THREE TIMES; THAT HE BROKE
16 HIS DAUGHTER'S LEG BY JERKING ON IT LIKE THAT
17 (DEMONSTRATING) BECAUSE THAT'S THE TYPE OF INJURY THAT
18 DR. WOODARD TESTIFIED TO.

19 I SUBMIT TO YOU LADIES AND GENTLEMEN, THE EVIDENCE
20 DOESN'T SUPPORT THAT. THERE IS NO EVIDENCE THAT
21 SUPPORTED THAT. QUITE THE CONTRARY, MATTHEW LOVED HIS
22 DAUGHTER. THIS CASE, AS THE PROSECUTOR TOLD YOU, IS A
23 JIGSAW PUZZLE. PIECES INDIVIDUALLY MAY MEAN NOTHING.
24 THE PIECES WHEN YOU PUT THEM TOGETHER SHE SAID WOULD SHOW
25 BEYOND A REASONABLE DOUBT THAT MATTHEW, WITH EXTREME

1 INDIFFERENCE TO HUMAN LIFE, BATTERED HIS DAUGHTER, BROKE
2 HER LEG, GRIPPED HER WITH SUCH STRENGTH WITH A BROKEN
3 HAND THAT HE BROKE A RIB, JUST OUT OF THE CLEAR BLUE, FOR
4 NOTHING.

5 LADIES AND GENTLEMEN, I SUBMIT TO YOU THAT THE STATE
6 HAS NOT PROVED ITS CASE. CIRCUMSTANTIAL EVIDENCE, EVEN
7 IF IT RAISES A STRONG SUSPICION, IS NOT ENOUGH TO
8 CONVICT. WE DON'T KNOW WHAT HAPPENED THOSE LAST 24 HOURS
9 OF [REDACTED] LIFE. NOBODY SEEMS TO REALLY KNOW FOR SURE.
10 NOBODY HAS A DIRECT OPINION. NOBODY CAN POINT AT A
11 SPECIFIC INSTANCE AND SAY, THIS IS WHAT OCCURRED.
12 BECAUSE NOBODY KNOWS.

13 AND THE ONLY PERSON WHO CONSISTENTLY WAS WILLING TO
14 TRY TO HELP LAW ENFORCEMENT AND MEDICAL PERSONNEL
15 DETERMINE WHAT HAPPENED IS THE GUY THAT ENDS UP SITTING
16 AT THAT TABLE ACCUSED OF KILLING HIS DAUGHTER. IT'S NOT
17 ENOUGH, LADIES AND GENTLEMEN, IT'S CLEARLY NOT ENOUGH.

18 I THINK WHEN YOU GO BACK TO THE JURY ROOM, YOU USE
19 YOUR COMMON SENSE, YOU LOOK AT ALL OF THESE PIECES, SOME
20 OF WHICH FIT, SOME OF WHICH DON'T, SOME OF WHICH FIT THIS
21 THEORY, SOME OF WHICH FIT THAT THEORY. THE INJURIES
22 OCCURRED BETWEEN TWO AND FOUR O'CLOCK IN THE AFTERNOON,
23 THEY OCCURRED BETWEEN TWO AND TEN O'CLOCK AT NIGHT, THEY
24 COULD HAVE OCCURRED AS MUCH AS 24 HOURS EARLIER. THEY
25 DON'T FIT. THEY DON'T FIT. AND BECAUSE THEY DON'T FIT,

1 YOU MUST ACQUIT HIM. THANK YOU, LADIES AND GENTLEMEN.

2 MS. SIMMONS: THANK YOU, YOUR HONOR. MR. SENERIUS.

3 CLOSING ARGUMENT ON BEHALF OF THE STATE (FACTS):

4 MS. SIMMONS: LADIES AND GENTLEMEN, WHEN I WAS UP

5 HERE A FEW MINUTES AGO, I TOLD YOU ABOUT THE LAW OF

6 HOMICIDE BY CHILD ABUSE. I WANT TO TOUCH ON A COUPLE

7 THINGS ON THAT AND THEN WE'LL GO INTO DISCUSSING THE

8 EVIDENCE YOU HAVE HEARD OVER THE LAST FEW DAYS.

9 HOMICIDE BY CHILD ABUSE INVOLVES CHILD ABUSE OR

10 CHILD NEGLECT. I HAD TO PROVE TO YOU OVER THE COURSE OF

11 THE LAST FEW DAYS THAT EITHER, A, THIS MAN CAUSED THIS

12 CHILD'S INJURIES INTENTIONALLY, WHICH I BELIEVE HE DID,

13 OR THAT HE NEGLECTED HER. YOU CAN FIND THAT NEGLECT IS

14 LIKE FAILING TO GET MEDICAL HELP FOR A CHILD WHO IS

15 SERIOUSLY INJURED. HOMICIDE BY CHILD ABUSE COVERS CHILD

16 ABUSE OR CHILD NEGLECT. DURING THE COURSE OF YOUR

17 DELIBERATIONS KEEP THAT IN MIND.

18 THERE'S ONE THING THAT I DON'T HAVE TO PROVE TO YOU.

19 I DIDN'T HAVE TO PROVE TO YOU OVER THE LAST FEW DAYS THAT

20 MATTHEW HINTON WOKE UP ON AUGUST 16TH, 2009, AND SAID, "I

21 THINK I'M GONNA KILL MY DAUGHTER TODAY." THAT IS NOT AN

22 ELEMENT OF THE CRIME OF HOMICIDE BY CHILD ABUSE.

23 HOMICIDE BY CHILD ABUSE COVERS SITUATIONS JUST LIKE

24 DR. TROUP TOLD YOU. PEOPLE GET ANGRY WITH THEIR

25 CHILDREN, SNAP AND FATALLY INJURE THEM. THAT IS WHAT THE

1 HOMICIDE BY CHILD ABUSE STATUTE IS MADE FOR.

2 I WANT TO SPEND A BRIEF AMOUNT OF TIME TALKING ABOUT
3 THE DEFENSE CASE. IT'S SMOKE AND MIRRORS. THEY SPENT
4 THEIR TIME OVER THE COURSE OF THIS CASE TRYING TO GET YOU
5 OFF TRACK, TRYING TO MAKE YOU LOSE YOUR FOCUS. THEY SAY
6 THIS CASE IS ABOUT OPINIONS, ASSUMPTIONS AND
7 CIRCUMSTANTIAL EVIDENCE. THAT'S THE CRUX OF A CASE LIKE
8 THIS.

9 IT IS THE PROSECUTION'S JOB TO BUILD A CASE FOR A
10 VICTIM THAT CANNOT TELL HER STORY. CHILD ABUSE OCCURS IN
11 PRIVATE; IT OCCURS BEHIND CLOSED DOORS. PEOPLE DON'T
12 CALL THEIR FRIENDS OVER AND ASK THEM TO WATCH THEM ABUSE
13 THEIR CHILD.

14 ALL THE THINGS THE DEFENSE HAS BROUGHT UP TO YOU ARE
15 DESIGNED TO CONFUSE YOU, DESIGNED TO GET YOU OFF TRACK
16 AND GET YOU TO FORGET ABOUT THIS YOUNG LIFE TAKEN TOO
17 SOON.

18 AT TIMES THE DEFENSE DID FOCUS ON THE MOTHER IN THIS
19 CASE, BUT I REMIND YOU SHE WAS ELIMINATED AS A SUSPECT BY
20 LAW ENFORCEMENT. YOU HEARD FROM HER ON THE STAND.
21 EVERYTHING THEY TOLD -- THEY RECEIVED FROM HER THEY
22 CHECKED OUT AND IT MATCHED UP. THE DEFENDANT HIMSELF ON
23 THE STAND TOLD YOU SHE WAS A GOOD MOTHER. TOLD YOU SHE
24 WAS A GOOD MOTHER. SHE IS THE ONLY OTHER PERSON WHO SAW
25 THIS CHILD ON THIS DATE, AND NONE OF THE EVIDENCE POINTS

1 TO HER.

2 THERE IS NOT SOME MASSIVE COINCIDENCE AT PLAY HERE.
3 MATTHEW HINTON DOES NOT HAVE SUCH BAD LUCK THAT HE HAD AN
4 ACCIDENT WITH HIS CHILD ON AUGUST THE 16TH, BUT ON THAT
5 SAME DAY, WHEN HE ADMITS BEING WITH THE CHILD ALL
6 WEEKEND, SOME UNKNOWN PERSON INTENTIONALLY AND FATALLY
7 INJURED HER. IT DOESN'T MAKE SENSE.

8 MATTHEW HINTON WOULD HAVE YOU BELIEVE THIS WAS AN
9 ACCIDENT. NOT ONE SINGLE PROSECUTION EXPERT TOLD YOU
10 THIS IS AN ACCIDENTAL INJURY. THEY ALL TOLD YOU IT IS
11 NON-ACCIDENTAL TRAUMA. THE DEFENDANT WANTS YOU TO
12 BELIEVE HE DOESN'T KNOW WHAT HAPPENED TO HIS CHILD ON
13 AUGUST 16TH. HE DOES. HE WAS WITH HER THE ENTIRE DAY.
14 BY HIS OWN ADMISSION HE WAS WITH HER EXCLUSIVELY IN A
15 ROOM FROM NOON TO ALMOST 11 P.M. THAT DAY.

16 EVEN IF YOU BELIEVE HIM THAT IT'S AN ACCIDENT, IT'S
17 STILL CHILD NEGLECT. HE DID ABSOLUTELY NOTHING TO HELP
18 [REDACTED] FROM APPROXIMATELY 3 P.M. TILL 10:30 WHEN HE TOLD
19 ASHLEY TO CALL 9-1-1.

20 HE WANTS YOU TO BELIEVE THAT THIS ACCIDENT THAT LEFT
21 HIMSELF IN SHOCK AND IT WAS -- AND LEFT HIM BRUISED ON
22 HIS CHEST, HE WANTS YOU TO BELIEVE THAT THAT ACCIDENT WAS
23 SO SHOCKING, BUT YET IT WAS NOT IMPORTANT ENOUGH TO TELL
24 THE PEOPLE TRYING TO SAVE HIS CHILD'S LIFE UNTIL THE NEXT
25 DAY. LADIES AND GENTLEMEN, IT DOESN'T MAKE SENSE.

1 NOT ONE SINGLE EXPERT TOLD YOU THIS WAS AN ACCIDENT.
2 A CHILD DOES NOT HIT HER HEAD AGAINST HER FATHER'S
3 COLLARBONE IN A SHOWER AND SUSTAIN A FIRST RIB FRACTURE,
4 A BROKEN LEG (POINTING) A MULTILAYER STERNUM BRUISE, A
5 BRUISE; FINGER-LIKE MARKS DOWN HER BACK; AND TWO HEAD
6 INJURIES, ONE ON THE FRONT AND ONE ON THE BACK, FROM A
7 FALL IN A SINGLE IMPACT IN A SHOWER. NO WAY, NO HOW,
8 THIS IS NO ACCIDENT. HE INFLICTED THESE INJURIES UPON
9 THIS CHILD.

10 THIS MAN, WHO ADMITS THAT HE HAS SUCH A BAD TEMPER
11 HE HIT A BRICK WALL AND BROKE HIS HAND TWO MONTHS PRIOR
12 TO THIS CHILD'S DYING.

13 THIS CASE IS ABOUT CIRCUMSTANTIAL EVIDENCE, AND THIS
14 CASE IS BUILT ON CIRCUMSTANTIAL EVIDENCE BECAUSE A
15 DECEASED FIVE-MONTH-OLD LITTLE GIRL CANNOT PROVIDE YOU
16 DIRECT EVIDENCE. THE JUDGE WILL CHARGE YOU ON
17 CIRCUMSTANTIAL EVIDENCE AND IT IS PERMISSIBLE UNDER THE
18 LAW AND YOU SHOULD TREAT IT NO DIFFERENTLY THAN DIRECT
19 EVIDENCE.

20 IT IS TRUE OUR CASE YOU DO HAVE TO PUT TOGETHER LIKE
21 A PUZZLE. I TOLD YOU THAT IN MY OPENING. NO ONE PIECE
22 OF THE PUZZLE IS THE SMOKING GUN. WE HAVE TO PUT THE
23 PIECES OF THE PUZZLE TOGETHER AND FIGURE OUT WHAT
24 HAPPENED.

25 THE DEFENDANT GAVE A NUMBER OF ACCOUNTS, STATEMENTS

1 TO PEOPLE. LET'S LOOK (SHOWING DOCUMENT ON OVERHEAD) --
2 I KNOW YOU CAN'T SEE THAT SO I'LL JUST DISCUSS IT WITH
3 YOU -- LET'S LOOK AT HOW THOSE STATEMENTS EVOLVED.

4 ON AUGUST 16TH, 2009, IN THE NIGHT, IN THE LATE
5 NIGHTTIME HOURS HE DID TALK TO DR. BARDEN. SHE TOLD YOU
6 SHE TALKED TO THE PARENTS. IT WAS RELAYED TO HER THE
7 CHILD WAS FINE AND WAS SLEEPING IN THE BED WITH THE DAD
8 SINCE 4:00. THE DAD HAD BEEN WITH HER ALL DAY. SHE WAS
9 FINE WHEN THEY WENT TO SLEEP. DR. BARDEN ASKED THE
10 PARENTS, WAS THERE A HISTORY OF ACCIDENT OR TRAUMA? NO.
11 SHE WAS TOLD NO. BUT THE DEFENDANT TOLD YOU THAT -- TOLD
12 DR. BARDEN SHE HAD A FEVER A COUPLE DAYS BEFORE.

13 IF YOU HAD THIS HORRIBLE ACCIDENT IN THE SHOWER THAT
14 LEFT YOU IN SHOCK, WOULDN'T YOU THINK IT WAS IMPORTANT
15 ENOUGH TO MENTION IT TO DR. BARDEN? SHE THOUGHT IT WAS
16 IMPORTANT ENOUGH TO ASK HIM IF HE HAD ROLLED OVER ON HIS
17 CHILD. SHE TOLD YOU THAT. AT THAT POINT IN TIME HE
18 SHOULD HAVE SAID, NO, BUT THERE WAS A SHOWER ACCIDENT.
19 HE DIDN'T SAY IT. AND THIS WAS AT THE POINT IN TIME
20 WHERE DR. BARDEN HAD TOLD HIM IT WAS A HEAD INJURY.

21 THEN HE DID SPEAK TO OFFICER KELLY SHORTLY AFTER
22 SPEAKING TO DR. BARDEN ON THE EARLY MORNING HOURS OF
23 AUGUST 17TH. HE TOLD OFFICER KELLY, (READING): I TEXTED
24 ASHLEY AND TOLD HER WE WERE LAYING DOWN. ASHLEY WOKE US
25 PERIODICALLY WHEN SHE GOT HOME EVERY 30 TO 45 MINUTES.

1 SO THE DEFENDANT IS NOT SUCH A HARD SLEEPER THAT HE
2 DOESN'T REMEMBER BEING WOKEN UP EVERY 30 TO 45 MINUTES.

3 (READING): I DID C.P.R. AND RUBBED HER STERNUM WITH
4 TWO OF MY KNUCKLES TO TRY TO GET HER TO COME AROUND.

5 TWO KNUCKLES DON'T CAUSE MASSIVE CHEST BRUISES. AND
6 AGAIN, HE HAD THE OPPORTUNITY TO TELL SOMEONE WHO WAS
7 TRYING TO HELP HIM ABOUT THIS ACCIDENT IN THE SHOWER, AND
8 HE DOESN'T.

9 THEN HE MEETS WITH DR. GWYN LATER THAT MORNING ON
10 THE 17TH. HE REPORTS HE DID C.P.R. AND CHEST
11 COMPRESSIONS TO DR. GWYN. HE DEMONSTRATES THE C.P.R. ON
12 DR. GWYN'S ARM JUST LIKE DR. GWYN DID TO ME. IT'S
13 UNREMARKABLE. WHEN DR. GWYN SPECIFICALLY INQUIRES, HE'S
14 GIVEN NO HISTORY OF TRAUMA, FALLS, OR INJURY. HE
15 SPECIFICALLY ASKED, IS THERE ANYTHING YOU NEED TO TELL
16 ME? THIS DEFENDANT TOLD HIM NOTHING. BUT HE DID REPORT
17 AN EPISODE OF REFLUX TWO DAYS PRIOR. THIS MAN IS TRYING
18 TO SAVE YOUR CHILD'S LIFE AND YOU ARE LEAVING OUT THIS
19 ACCIDENT THAT OCCURRED IN THE SHOWER.

20 LATER, TO TED ROUNDY, REALIZING THE SEVERITY OF HIS
21 CHILD'S INJURIES, HE DOES COME AROUND OR REMEMBER THIS
22 ACCIDENT IN THE SHOWER, AND HE DOES SAY THAT (READING):
23 THE CHILD KICKED AND SLIPPED OUT OF HIS GRASP. I CAUGHT
24 HER BY THE LEG AND ABDOMEN, JERKED HER UP, AND SHE FUSSED
25 FOR THREE MINUTES BUT SHE WAS FINE.

1 BUT YET TODAY HE TESTIFIED FOR YOU HE WAS IN SHOCK
2 AFTER THE INCIDENT AND THAT THIS INCIDENT WAS SO SEVERE
3 TO HIM, IT BRUISED HIS CHEST.

4 THEN HE FINALLY TELLS ASHLEY BRIGHT THAT STORY ON
5 THE MORNING OF AUGUST 17TH AT GREENVILLE MEMORIAL
6 HOSPITAL. HE TELLS HER ABOUT THIS INCIDENT IN THE SHOWER
7 AND THAT THEY HIT DOWN AND -- BASICALLY THAT SHE WAS HIT
8 AND THEN THEY WENT TO SLEEP.

9 LATER THE MORNING OF AUGUST 17TH, IN A CONVERSATION
10 HE CONVENIENTLY DOES NOT REMEMBER, HE TOLD PAIGE WILLIAMS
11 (READING): [REDACTED] FELL DURING THE SHOWER WITH ME AND
12 SHE MIGHT HAVE HIT HER HEAD ON THE SINK.

13 YOU KNOW IF YOUR CHILD HITS HER HEAD ON THE SINK OR
14 NOT.

15 THEN ON AUGUST 17TH IN THE AFTERNOON HE TALKS TO TED
16 ROUNDY AGAIN. HE SAYS THAT [REDACTED] HAD NOT BEEN LEFT
17 ALONE WITH ANYONE OTHER THAN HE OR ASHLEY IN THE LAST ONE
18 TO TWO WEEKS AND THAT ASHLEY'S MOM SPENT SATURDAY NIGHT.
19 NO ONE ELSE REMEMBERS ASHLEY'S MOM SPENDING SATURDAY
20 NIGHT.

21 HE TALKS TO HER LATER AND TELLS HER (READING):
22 [REDACTED] SLIPPED FROM MY GRASP WHILE WE WERE TAKING A BATH
23 AND HIT HER MOUTH ON THE SHOWER. WE'VE GONE FROM
24 COLLARBONES TO SINKS TO MOUTHS GETTING HIT ON THE SHOWER.
25 THE STORY IS EVOLVING, THE STORY IS INCONSISTENT.

1 THEN, AFTER HIS CHILD'S DEATH, WITHIN MINUTES OF HIS
2 CHILD'S DEATH HE MAKES A COMMENT ON AUGUST THE 18TH TO
3 SERGEANT JONES -- LIEUTENANT JONES AND SERGEANT ROUNDY
4 (READING): WHEN I WOKE UP, [REDACTED] WASN'T NEXT TO ME.
5 AND I DON'T KNOW IF ASHLEY CAME IN THE ROOM AND PICKED
6 HER UP WHILE WE WERE SLEEPING OR NOT AND THEN REPLACED
7 HER IN THE BED.

8 MINUTES AFTER YOUR CHILD'S DEATH YOU SUDDENLY THINK
9 YOU NEED TO TELL THIS TO LAW ENFORCEMENT. WHY? TRYING
10 TO CAST SUSPICION ON TO SOMEONE ELSE.

11 THE PIECES OF THE PUZZLE ARE COMING TOGETHER, LADIES
12 AND GENTLEMEN. (POINTING TO OVERHEAD DRAWING) THE
13 DEFENDANT'S OWN STATEMENTS, THEY'RE POINTING TO HIS
14 GUILT.

15 THEN LET'S TALK ABOUT THE DOCTORS. DR. GWYN. HE'S
16 A PEDIATRIC INTENSIVE CARE DOCTOR TRAINED AT JOHNS
17 HOPKINS. HE TOLD YOU THIS IS NON-ACCIDENTAL TRAUMA. HE
18 TOLD YOU ABOUT THE FORCE NECESSARY TO INFLICT THESE
19 INJURIES. HE TOLD YOU THIS CHEST BRUISE IS NOT
20 CONSISTENT WITH C.P.R. HE TOLD YOU THE INJURIES OCCURRED
21 ON THE DAY OF HOSPITAL ADMISSION, THE DAY THAT THIS
22 DEFENDANT SPENT ALL DAY WITH THIS CHILD. HE TOLD YOU
23 THERE WOULD HAVE BEEN AN IMMEDIATE CHANGE IN THE CHILD'S
24 DEMEANOR NOTICEABLE TO A CAREGIVER.

25 DR. BARDEN ALSO TELLS YOU THIS IS NON-ACCIDENTAL

1 TRAUMA. SHE TELLS YOU THE CHEST BRUISE IS NOT CONSISTENT
2 WITH C.P.R. SHE TELLS YOU THIS MASSIVE HEAD INJURY
3 OCCURRED THE DAY [REDACTED] WAS ADMITTED TO THE HOSPITAL.
4 SHE ALSO TELLS YOU THERE WOULD HAVE BEEN AN IMMEDIATE
5 CHANGE IN [REDACTED] DEMEANOR.

6 DR. TROUP TOLD YOU THE HEAD INJURY IS PROFOUND. THE
7 BRAIN IS PRETTY MUCH DEAD. THERE'S AN IMMEDIATE CHANGE
8 IN THE CHILD AND NO WAY FOR HER TO APPEAR NORMAL. HE
9 TELLS YOU THE CONSTELLATION OF HER INJURIES POINT TO ONE
10 THING: NON-ACCIDENTAL TRAUMA. THERE IS NO WAY THIS IS AN
11 ACCIDENT. HE TELLS YOU THE CHEST BRUISE IS NOT RELATED
12 TO C.P.R. AND WAS LESS THAN 24 HOURS OLD.

13 WHEN THE DEFENSE TOLD YOU ABOUT THE CHEST BRUISE,
14 ABOUT THE 24 HOURS, DR. TROUP TOLD YOU IT WAS THE CHEST
15 BRUISE THAT WAS 24 HOURS OLD. HE DID NOT SAY THIS HEAD
16 INJURY WAS 24 HOURS OLD. HE TOLD YOU THE HEAD INJURY WAS
17 CONSISTENT WITH OCCURRING THE DAY OF HOSPITAL ADMISSION
18 AND CONSISTENT WITH OCCURRING IN THE AFTERNOON.

19 HE ALSO TOLD YOU THAT HE HAS TREATED THOUSANDS OF
20 CHILD ABUSE CASES, AND SOME CASES ARE CASES OF REPEATED
21 ABUSE, AND SOME CASES ARE PEOPLE WHO SNAP ON ONE
22 PARTICULAR DAY AND FATALLY INJURE THEIR CHILD.

23 YOU ALSO HEARD FROM DR. WOODARD. HE AGAIN TOLD YOU
24 ABOUT THE CONSTELLATION OF INJURIES. THIS IS NOT
25 ACCIDENTAL TRAUMA. THIS IS HOMICIDE. HE SAW FINGER

1 MARKS, BRUISES ON THE HEAD AND SPINE OF THIS CHILD. HE
2 TOLD YOU THE BRUISE ON THE CHEST IS NOT C.P.R. HE TOLD
3 YOU THE FIRST RIB INJURY IS CAUSED BY EXTREME FORCE.
4 WE'RE TALKING ABOUT BREAKING THE WET WISHBONE AT
5 THANKSGIVING. STRONG HAND.

6 HE TELLS YOU ABOUT THE HEAD INJURY. THERE ARE TWO
7 POSSIBLE BLUNT FORCE TRAUMA EPISODES. HE DOESN'T TELL
8 YOU THEY OCCURRED A LONG TIME APART. THOSE TWO EPISODES
9 COULD HAVE OCCURRED IN THE SAME INCIDENT. IT'S
10 CONSISTENT WITH A HEAD BEING HIT AGAINST SOMETHING IN
11 CONCERT WITH A ROTATIONAL HEAD INJURY. YOU WOULD NOTICE
12 AN IMMEDIATE CHANGE IN THE CHILD. SHE MAY HAVE MADE SOME
13 NOISE DURING THE INFLECTION OF THE INJURY BUT THEN WOULD
14 HAVE SETTLED INTO QUIET AND THEN COMA.

15 THE RESULT OF THIS CASE HE SAID MIGHT HAVE BEEN
16 CHANGED IF SHE HAD SOUGHT IMMEDIATE MEDICAL ATTENTION.
17 HE TELLS YOU THAT THE RIB BREAKS ARE CONSISTENT WITH
18 HAPPENING WHEN THE HEAD INJURY OCCURRED. THEY ARE MORE
19 CONSISTENT WITH BEING INFLECTED BY A STRONG PERSON. AND
20 THE FATAL INJURIES OCCURRED EIGHT HOURS OR LESS PRIOR TO
21 CALLING EMS.

22 EMS WAS CALLED AT APPROXIMATELY 10:30. ROLL THE
23 CLOCK BACK EIGHT HOURS. ONLY ONE PERSON HAD ACCESS TO
24 HER.

25 HE TELLS YOU THE INJURIES ARE CONSISTENT WITH BEING

1 INFLICTED ON AUGUST 16, 2009. THE DEFENDANT HIMSELF TOLD
2 YOU HE WAS IN THE SAME ROOM WITH [REDACTED] ALL OF THOSE
3 HOURS.

4 THE TIME LINE OF THE MEDICAL, THE MEDICAL EXPERTS
5 POINTS YOU TO, AND THE DEFENDANT'S OWN ADMISSIONS
6 SQUARELY POINT THAT HE WAS THE PERSON WHO INFLICTED THESE
7 INJURIES.

8 YES, ALL DOCTORS HAVE OPINIONS. FOUR OF THEM CANNOT
9 BE WRONG. THESE DOCTORS ARE COMPLETELY CONSISTENT WITH
10 ONE ANOTHER. SOME OF THEM DON'T EVEN WORK IN THE SAME
11 HOSPITAL. THEY DIDN'T GET TOGETHER AND CONCOCT THIS
12 STORY AND SAY, "HEY, WE'RE GONNA GET MATTHEW HINTON."
13 THERE'S NO PURPOSE IN DOING THAT.

14 YOU ALSO HEARD FROM CHRIS KELLY, AND WE DISCUSSED
15 THAT THE DEFENDANT NEVER TOLD HIM ABOUT THIS ACCIDENT
16 THAT OCCURRED ON AUGUST 16TH. YOU HEARD FROM RORY JONES
17 WHO WORKED TO ESTABLISH A TIME LINE AND CORROBORATE ALL
18 THE MOTHER'S STORIES IN THIS CASE.

19 YOU ALSO HEARD FROM TED ROUNDY. HE TOLD YOU IN HIS
20 OPINION THAT THE DEFENDANT'S STORIES EVOLVED TO FIT THE
21 EVIDENCE IN THIS CASE. THE DEFENSE MADE A BIG DEAL ABOUT
22 THE FACT THAT THE DEFENDANT COOPERATED WITH LAW
23 ENFORCEMENT. IN MR. ROUNDY'S TESTIMONY HE TOLD YOU HE
24 HAD BEEN IN LAW ENFORCEMENT ALMOST 30 YEARS. GUILTY AND
25 INNOCENT PEOPLE COOPERATE WITH THE POLICE.

1 ASHLEY BRIGHT. WE LEARNED, SHE TOLD US ABOUT THE
2 TIME FRAME. SHE TOLD US THE CHILD WAS FUSSY ON THE DAY
3 IN QUESTION. THE DEFENDANT STAYED UP ALL NIGHT LONG
4 PLAYING VIDEO GAMES, WHAT HE ALWAYS DID. HE TOLD HER AT
5 OCONEE MEMORIAL HOSPITAL HE DIDN'T KNOW WHAT HAPPENED TO
6 THE CHILD, BUT LATER HE GIVES HER THIS SHOWER STORY.

7 SHE TOLD YOU ABOUT THE TEXT MESSAGES. THEY ARE IN
8 EVIDENCE. SHE THOUGHT THEY WERE ODD, OUT OF THE BLUE.
9 "I DON'T WANT YOUR MOM COMING OVER." WONDER WHY. "DON'T
10 WAKE US UP. WE'LL BE IN THE FRONT BEDROOM." AND MOST
11 IMPORTANTLY, "IF YOU TAKE THE RAP FOR THIS, YOU WON'T GET
12 MUCH TIME BECAUSE YOU DON'T HAVE A PRIOR RECORD."

13 WHAT INNOCENT PERSON SAYS THIS TO THE MOTHER OF HIS
14 CHILD? THEY DON'T. GUILTY PEOPLE SAY THIS WHO ARE
15 TRYING TO GET SOMEONE TO TAKE THE BLAME.

16 PAIGE WILLIAMS. THE DEFENDANT DOESN'T REMEMBER
17 TALKING TO HER. HE TELLS HER THE STORY ABOUT MAYBE SHE
18 HIT HER HEAD ON THE SINK. THEN HE ASKED HER, "HMM, WHEN
19 DO YOU THINK THE POLICE WILL MAKE AN ARREST?" THAT'S NOT
20 THE QUESTION OF AN INNOCENT PERSON.

21 YOU HAVE DONNA ELLER WHO TELLS YOU THAT SHE HAD THIS
22 CONVERSATION WITH THE DEFENDANT THAT HE DOESN'T REMEMBER
23 HAVING ABOUT WHERE HE ADMITS THE CHILD MAY HAVE HIT HER
24 MOUTH ON THE SHOWER, AND ALSO TOLD YOU SHE HADN'T SEEN
25 HER GRANDCHILD SINCE THE THURSDAY BEFORE. DESPITE THE

1 FACT THAT IN HIS THIRD INTERVIEW, THE DEFENDANT SAID,
2 "OH, ASHLEY'S MOM SPENT SATURDAY NIGHT," AGAIN CASTING
3 SUSPICION.

4 MATTHEW HINTON DIDN'T COUNT ON DESMOND HOLLAND,
5 THOUGH, AND WHAT DESMOND HEARD. DESMOND HAS NO STAKE IN
6 THIS CASE. EVERY REASON TO BE TRUTHFUL. HE FURTHER
7 ESTABLISHES OUR TIME FRAME. THE CRIES THAT DESMOND HEARD
8 WERE LIKELY [REDACTED] FINAL ONES BEFORE SHE LAPSED INTO A
9 COMA.

10 REMEMBER, DESMOND HEARD TWO LOUD NOISES.
11 DR. WOODARD TESTIFIED THERE WERE TWO BLUNT FORCE INJURIES
12 TO [REDACTED] HEAD CONSISTENT WITH HER HEAD BEING HIT
13 AGAINST SOMETHING.

14 LADIES AND GENTLEMEN, THIS IS FLAT OUT CHILD ABUSE,
15 AND THIS DEFENDANT CAUSED THE DEATH OF HIS CHILD. HE
16 COULD HAVE CALLED FOR HELP. INSTEAD, HE LAID IN THE BED
17 WITH HIS DYING BABY FOR PROBABLY HOURS AND DID NOTHING.
18 HE PROBABLY HOPED SHE'D SLEEP IT OFF. OR, LIKE DR. TROUP
19 SAID, SOME PEOPLE THINK, "HEY, THAT WORKED PRETTY WELL,
20 SHE'S QUIET NOW." INSTEAD HIS CALLUS INACTION CAUSED HER
21 DEATH.

22 IN A FEW MINUTES YOU ARE GOING INTO THE JURY ROOM TO
23 DELIBERATE. I TOLD YOU AT THE BEGINNING OF THIS CASE USE
24 YOUR COMMON SENSE, IT'S THE MOST IMPORTANT TOOL YOU HAVE
25 YOUR COMMON SENSE TELLS YOU THIS MAN CAUSED THESE

1 INJURIES TO HIS OWN FIVE-MONTH-OLD DAUGHTER. EACH
2 WITNESS FROM THE PROSECUTION TELLS A PIECE OF THE STORY
3 AND POINTS TO ONE THING: THE DEFENDANT'S GUILT. YOUR
4 COMMON SENSE TELLS YOU HE IS GUILTY.

5 THIS CASE IS ABOUT [REDACTED] IT IS ABOUT THE
6 ULTIMATE BETRAYAL BY A FATHER, THE MAN WHO IS SUPPOSED TO
7 LOVE YOU, WHO IS SUPPOSED TO CARE FOR YOU, WHO IS
8 SUPPOSED TO MAKE SURE YOU ARE SAFE IN THIS WORLD. HE
9 BETRAYED HER IN THE WORST WAY IMAGINABLE. EVEN IF
10 [REDACTED] HAD LIVED, SHE WOULD NOT BE ABLE TO TELL YOU HER
11 STORY. YOU MUST TRUST IN MEDICINE, YOU MUST TRUST IN LAW
12 ENFORCEMENT TO RECREATE THE EVENTS OF AUGUST 2009.

13 IT HAS BEEN MY JOB OVER THE LAST FEW DAYS TO PROVE
14 TO YOU BEYOND A REASONABLE DOUBT THE DEFENDANT DID THESE
15 TERRIBLE THINGS TO HIS OWN FLESH AND BLOOD, THE PRECIOUS
16 DAUGHTER HE WOULDN'T EVEN ACKNOWLEDGE TO HIS OWN MOTHER.

17 TODAY IS THE DAY TO SPEAK FOR [REDACTED] I ONCE READ
18 THAT CHILDREN ARE OUR ONLY HOPE FOR THE FUTURE. BUT WE
19 ARE THEIR ONLY HOPE FOR THEIR PRESENT AND THEIR FUTURE.
20 MATTHEW HINTON ROBBED HIS DAUGHTER OF HER PRESENT, HE
21 ROBBED HIS DAUGHTER OF A FUTURE, A FUTURE THAT WAS
22 LIMITLESS. HE TOOK IT ALL AWAY. TODAY IS THE DAY FOR
23 JUSTICE FOR [REDACTED] AND THE DAY OF RECKONING FOR
24 MATTHEW HINTON. THANK YOU.

25

1 THE COURT'S CHARGE ON THE LAW:

2

3 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
4 JURY, YOU HAVE CERTAIN FUNCTIONS AND RESPONSIBILITIES TO
5 PERFORM WHICH ARE ENTIRELY SEPARATE AND DISTINCT FROM
6 THOSE OF MINE AS THE TRIAL JUDGE. I AM PROHIBITED BY THE
7 CONSTITUTION OF OUR STATE FROM CHARGING YOU ON THE FACTS
8 OF THIS CASE. I AM ALSO PROHIBITED FROM DISCUSSING THE
9 FACTS OF THE CASE WITH YOU OR IN ANY WAY INTIMATING WHAT
10 MY FEELINGS, IF ANY, ARE ABOUT THE FACTS OF THE CASE. IT
11 IS YOUR RESPONSIBILITY AND YOURS ALONE TO PASS UPON ALL
12 ISSUES OF FACT PRESENTED IN THE CASE.

13 I WOULD, THEREFORE, CHARGE YOU THAT IF DURING THE
14 COURSE OF THE TRIAL OR DURING MY CHARGE YOU HAVE BEEN
15 GIVEN OR LEFT WITH THE IMPRESSION OR FEELING THAT I DO
16 HAVE A PERSONAL FEELING ABOUT THE FACTS OF THIS CASE, I
17 WOULD SPECIFICALLY INSTRUCT YOU TO DISREGARD THAT FEELING
18 OR IMPRESSION.

19 MOREOVER, YOU ARE THE SOLE JUDGES OF WHAT THE
20 TESTIMONY WAS AND NOT THE ARGUMENT OF COUNSEL. IT IS
21 ALSO YOUR DUTY AND YOURS ALONE TO WEIGH THE TESTIMONY AND
22 EVIDENCE IN THE CASE AND TO PASS UPON THE CREDIBILITY OR
23 BELIEVABILITY OF THE WITNESSES. IN THIS CONNECTION YOU
24 HAVE A RIGHT TO BELIEVE ALL THAT A WITNESS TELLS YOU OR
25 TO DISBELIEVE ALL OF WHAT A WITNESS TELLS YOU. YOU HAVE

1 THE RIGHT TO BELIEVE A PART OF WHAT A WITNESS TELLS YOU
2 AND DISBELIEVE A PART OF WHAT A WITNESS TELLS YOU. YOU
3 HAVE THE RIGHT TO TAKE INTO CONSIDERATION ANY BIAS OR
4 PREJUDICE OR INTEREST YOU FEEL THE WITNESS MAY HAVE IN
5 THE CASE. I SAY THIS MERELY TO EMPHASIZE THAT THE WEIGHT
6 YOU SEE FIT TO GIVE TO THE TESTIMONY, TO THE CREDIBILITY
7 OF THE WITNESSES, AS WELL AS ALL ISSUES OF FACT, ARE FOR
8 YOUR SOLE DETERMINATION.

9 AS JUDGES OF THE FACTS YOU ARE THE SOLE JUDGES OF
10 THE CREDIBILITY, THAT IS THE BELIEVABILITY, OF THE
11 WITNESSES WHO HAVE TESTIFIED IN THIS CASE. IN PASSING
12 UPON THAT CREDIBILITY YOU MAY TAKE IN CONSIDERATION MANY
13 THINGS, SUCH AS THE APPEARANCE AND MANNER OF THE WITNESS
14 ON THE STAND, SOMETIMES REFERRED TO AS THE DEMEANOR OF
15 THE WITNESS. WAS THE WITNESS FORTHRIGHT OR HESITANT?
16 WAS THE WITNESS'S TESTIMONY CONSISTENT OR DID IT CONTAIN
17 SOME DISCREPANCIES? WHAT WAS THE ABILITY OF THE WITNESS
18 TO KNOW THE FACTS ABOUT WHICH HE OR SHE TESTIFIED? DID
19 THE WITNESS HAVE A CAUSE OR REASON TO BE BIASED OR
20 PREJUDICED IN FAVOR OF THE TESTIMONY HE OR SHE GAVE? WAS
21 THE TESTIMONY OF THE WITNESS CORROBORATED OR MADE
22 STRONGER BY OTHER TESTIMONY AND EVIDENCE OR WAS IT MADE
23 WEAKER OR IMPEACHED BY SUCH OTHER TESTIMONY AND EVIDENCE?

24 AS JURORS YOU HAVE THE RIGHT TO BELIEVE A SMALL
25 PORTION OF A WITNESS'S TESTIMONY AND DISCARD THE LARGER

1 OR VICE VERSA. YOU MAY BELIEVE ALL OF A WITNESS'S
2 TESTIMONY OR NONE. YOU MAY BELIEVE THE TESTIMONY OF A
3 SINGLE WITNESS AGAINST THAT OF MANY WITNESSES OR THE
4 OTHER WAY AROUND. MOST CERTAINLY YOU DO NOT DETERMINE
5 THE AMOUNT OF CREDIBILITY OR BELIEVABILITY BY COUNTING UP
6 THE NUMBER OF WITNESSES WHO MAY HAVE TESTIFIED ON BEHALF
7 OF THE PARTIES.

8 NOW, THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT
9 WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN
10 EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL
11 EXPERT WITNESSES. A WITNESS WHO BY EDUCATION AND
12 EXPERIENCE HAS BECOME AN EXPERT IN SOME ART, SCIENCE,
13 PROFESSION, OR CALLING MAY STATE AN OPINION AS TO
14 RELEVANT AND MATERIAL MATTER TO WHICH THE WITNESS CLAIMS
15 TO BE AN EXPERT, AND MAY ALSO STATE THE REASONS FOR THEIR
16 OPINIONS. YOU SHOULD CONSIDER ANY EXPERT OPINION
17 RECEIVED IN EVIDENCE IN THIS CASE, AND LIKE ANY OTHER
18 EVIDENCE, GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF
19 YOU DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS NOT
20 BASED ON SUFFICIENT EDUCATION OR EXPERIENCE, OR IF YOU
21 CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THAT
22 OPINION ARE NOT SOUND OR THAT OPINION IS OUTWEIGHED BY
23 OTHER EVIDENCE, YOU MAY DISREGARD THAT OPINION ENTIRELY.
24 AN EXPERT WITNESS'S TESTIMONY IS TO BE GIVEN NO GREATER
25 WEIGHT THAN THE OTHER WITNESSES' SIMPLY BECAUSE THE

1 WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT REQUIRED TO
2 ACCEPT AN EXPERT'S OPINION EVEN THOUGH IT IS NOT
3 CONTRADICTED. THROUGHOUT THIS ENTIRE PROCESS YOU HAVE
4 ONE OBJECTIVE, AND THAT IS TO SEEK THE TRUTH, REGARDLESS
5 OF FROM WHAT WITNESS THAT TESTIMONY MAY HAVE COME.

6 NOW, BY THE SAME CONSTITUTION AND LAW WHICH MAKE YOU
7 THE FINDERS OF THE FACTS AND THE EVIDENCE, AS I'VE
8 EXPLAINED TO YOU, I AM AS THE JUDGE MADE THE SOLE AND
9 ONLY INSTRUCTOR OF THE LAW. YOU MUST ACCEPT AS CORRECT
10 THE LAW WHICH I CHARGE AND APPLY TO IT THE EVIDENCE AS
11 YOU FIND IT AND REACH YOUR VERDICT.

12 IF I SHOULD MAKE AN ERROR IN THE LAW AS I INSTRUCT
13 IT TO YOU, THERE IS ANOTHER TIME AND PLACE THAT ERROR CAN
14 BE CONSIDERED AND, IF NECESSARY, CORRECTED. BUT FOR THE
15 PURPOSES OF THIS CASE TODAY YOU MUST ACCEPT THE LAW AS I
16 CHARGE IT TO YOU TO BE THE CORRECT LAW.

17 AND FINALLY I CHARGE YOU IN THIS REGARD. YOU, NOR
18 FOR THAT MATTER I, SHOULD BE CONSIDERED WHAT THE LAW
19 OUGHT TO BE BUT RATHER WHAT I CHARGE YOU THE LAW TO BE.

20 NOW, THE DEFENDANT PLED NOT GUILTY TO THIS
21 INDICTMENT AND THAT PLEA PUTS THE BURDEN ON THE STATE TO
22 PROVE THE DEFENDANT GUILTY. A PERSON CHARGED WITH
23 COMMITTING A CRIMINAL OFFENSE IN SOUTH CAROLINA IS NEVER
24 REQUIRED TO PROVE HIMSELF INNOCENT.

25 I CHARGE YOU THAT IT IS AN IMPORTANT RULE OF LAW

1 THAT A DEFENDANT IN A CRIMINAL TRIAL, NO MATTER WHAT THE
2 SERIOUSNESS OF THE CHARGE MAY BE, WILL ALWAYS BE PRESUMED
3 INNOCENT OF THE CRIME FOR WHICH THE INDICTMENT WAS ISSUED
4 UNLESS GUILT HAS BEEN PROVEN BY EVIDENCE SATISFYING YOU
5 OF THAT GUILT BEYOND A REASONABLE DOUBT.

6 THIS PRESUMPTION OF INNOCENCE DOES NOT END WHEN YOU
7 BEGIN YOUR DELIBERATIONS BUT IT ACCOMPANIES THE DEFENDANT
8 THROUGHOUT THE TRIAL UNTIL YOU REACH A VERDICT OF GUILT
9 BASED UPON EVIDENCE SATISFYING YOU OF THAT GUILT BEYOND A
10 REASONABLE DOUBT.

11 THE PRESUMPTION OF INNOCENCE IS LIKE A ROBE OF
12 RIGHTEOUSNESS PLACED ABOUT THE SHOULDERS OF THE DEFENDANT
13 WHICH REMAINS WITH THE DEFENDANT UNTIL IT HAS BEEN
14 STRIPPED FROM THE DEFENDANT BY EVIDENCE SATISFYING YOU OF
15 THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT. THE
16 PRESUMPTION OF INNOCENCE IS NOT A MERE LEGAL THEORY, IT'S
17 NOT JUST A LEGAL PHRASE; IT IS A SUBSTANTIAL RIGHT TO
18 WHICH EVERY DEFENDANT IS ENTITLED UNLESS YOU, THE JURY,
19 ARE SATISFIED FROM THE EVIDENCE OF THE DEFENDANT'S GUILT
20 BEYOND A REASONABLE DOUBT.

21 NOW, WHAT IS A REASONABLE DOUBT? A REASONABLE DOUBT
22 IS THE KIND OF DOUBT THAT WOULD CAUSE A REASONABLE PERSON
23 TO HESITATE TO ACT.

24 NOW, THERE ARE TWO TYPES OF EVIDENCE WHICH ARE
25 GENERALLY PRESENTED DURING A TRIAL: DIRECT EVIDENCE AND

1 CIRCUMSTANTIAL EVIDENCE. DIRECT EVIDENCE IS THE
2 TESTIMONY OF A PERSON WHO CLAIMS THEY HAVE ACTUAL
3 KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS. IT IS
4 EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO
5 BE PROVED. CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN
6 OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A
7 FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES
8 COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE
9 INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE
10 AND NOT ON PERSONAL KNOWLEDGE OR OBSERVATION. IT IS
11 PROOF THAT DOES NOT ACTUALLY ESTABLISH THE FACT IN
12 QUESTION BUT THAT ASSERTS OR DESCRIBES SOMETHING ELSE
13 FROM WHICH YOU MAY EITHER REASONABLY INFER THE TRUTH OF
14 THE FACT OR AT LEAST REASONABLY INFER AN INCREASE IN THE
15 PROBABILITY THE FACT IS TRUE. FOR CIRCUMSTANTIAL
16 EVIDENCE TO BE SUFFICIENT TO WARRANT THE FINDING OF A
17 FACT THE CIRCUMSTANCES MUST LEAD TO THE FACT WITH
18 REASONABLE CERTAINTY.

19 THE FACTS AND CIRCUMSTANCES SHOULD BE CONSIDERED IN
20 LIGHT OF ORDINARY EXPERIENCE AND COMMON SENSE. THE
21 EXISTENCE OF A FACT CANNOT BE BASED ON SPECULATION,
22 SURMISE, OR CONJECTURE. THE LAW MAKES ABSOLUTELY NO
23 DISTINCTION THE WEIGHT OR VALUE TO BE GIVEN TO EITHER
24 DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER
25 DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE

1 THAN OF DIRECT EVIDENCE.

2 YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE
3 AFTER WEIGHING ALL OF THE EVIDENCE, IF YOU ARE NOT
4 CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A
5 REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT GUILTY.

6 I CHARGE YOU THAT SUSPICION, HOWEVER STRONG, IS NOT
7 ENOUGH TO SUSTAIN A CONVICTION. THE EVIDENCE PRESENTED
8 BY THE STATE MUST BE SUBSTANTIAL EVIDENCE THAT TENDS TO
9 PROVE THE GUILT OF THE DEFENDANT BEYOND A REASONABLE
10 DOUBT.

11 NOW, IN ORDER TO ESTABLISH CRIMINAL LIABILITY,
12 CRIMINAL INTENT IS REQUIRED. FOR EXAMPLE, THE MENTAL
13 STATE REQUIRED TO BE PROVEN BY THE STATE FOR A PARTICULAR
14 CRIME MIGHT BE PURPOSE, INTENT, KNOWLEDGE, OR
15 RECKLESSNESS. CRIMINAL INTENT MUST BE PROVEN BY THE
16 STATE BEYOND A REASONABLE DOUBT. CRIMINAL INTENT IS
17 ALWAYS A MATTER THAT MUST BE DETERMINED BY THE JURY FROM
18 THE CIRCUMSTANCES SURROUNDING THE SITUATION. THERE IS NO
19 WAY TO PROVE INTENT TO A MATHEMATICAL CERTAINTY. THERE
20 IS NO WAY MEDICAL SCIENCE CAN DISSECT A PERSON'S BRAIN
21 AND DETERMINE WHAT THE PERSON HAD IN MIND. SO THE LAW
22 SAYS THAT CRIMINAL INTENT MAY BE INFERRED FROM THE
23 CIRCUMSTANCES SHOWN TO HAVE EXISTED. THIS IS HOW YOU
24 MAKE A DETERMINATION OF WHETHER OR NOT THE REQUIRED
25 INTENT WAS PRESENT. IT IS NOT NECESSARY TO ESTABLISH

1 INTENT BY DIRECT AND POSITIVE EVIDENCE, BUT INTENT MAY BE
2 ESTABLISHED BY INFERENCE IN THE SAME WAY AS ANY OTHER
3 FACT, BY TAKING INTO CONSIDERATION THE ACTS OF THE
4 PARTIES AND ALL OF THE FACTS AND CIRCUMSTANCES OF THE
5 CASE. CRIMINAL INTENT IS A MENTAL STATE, A CONSCIOUS
6 WRONGDOING. IT IS UP TO YOU TO DETERMINE WHAT THE
7 DEFENDANT INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN
8 TO HAVE EXISTED. CRIMINAL INTENT CAN ARISE FROM THE
9 ACTION OR FAILURE TO ACT. IT MAY ARISE FROM RECKLESSNESS
10 OR AN INDIFFERENCE TO THE DUTY OR CONSEQUENCES THAT ARE
11 CONSIDERED BY THE LAW TO BE THE EQUIVALENT OF CRIMINAL
12 INTENT.

13 CRIMINAL INTENT IS A STATE OF MIND THAT OPERATES
14 JOINTLY WITH AN ACT OR OMISSION IN THE COMMISSION OF A
15 CRIME. CRIMINAL INTENT IS A MENTAL STATE. INTENT
16 INCLUDES THOSE CONSEQUENCES WHICH REPRESENT THE VERY
17 PURPOSE FOR WHICH AN ACT IS DONE OR ARE KNOWN TO BE
18 SUBSTANTIALLY CERTAIN TO RESULT FROM THE ACT REGARDLESS
19 OF DESIRE.

20 CRIMINAL INTENT AND CRIMINAL LIABILITY IS NORMALLY
21 BASED UPON THE OCCURRENCE OF TWO FACTORS: AN EVIL MEANING
22 MIND AND AN EVIL DOING HAND. A PERSON WHO CAUSES A
23 PARTICULAR RESULT IS SAID TO ACT PURPOSEFULLY IF HE
24 CONSCIOUSLY DESIRES THAT RESULT, WHATEVER THE LIKELIHOOD
25 OF THAT RESULT HAPPENING FROM HIS CONDUCT.

1 A PERSON IS SAID TO ACT KNOWINGLY IF HE IS AWARE THE
2 RESULT -- A PERSON IS SAID TO ACT KNOWINGLY IF HE IS
3 AWARE THAT THE RESULT IS PARTICULARLY CERTAIN TO FOLLOW
4 FROM THE CONDUCT, WHATEVER HIS DESIRE MAY BE, TO THAT
5 RESULT.

6 NOW, IN INDICTMENT NUMBER 2009-GS-37-1347 THE
7 DEFENDANT, MATTHEW TAYLOR HINTON, IS CHARGED WITH
8 HOMICIDE BY CHILD ABUSE UNDER SOUTH CAROLINA CODE SECTION
9 16-3-85. THAT SECTION DEFINES HOMICIDE BY CHILD ABUSE AS
10 CAUSING THE DEATH OF A CHILD UNDER THE AGE OF ELEVEN
11 WHILE COMMITTING CHILD ABUSE OR NEGLECT AND THE DEATH
12 OCCURS UNDER THE CIRCUMSTANCES MANIFESTING AN EXTREME
13 INDIFFERENCE TO HUMAN LIFE.

14 I REMIND YOU THAT THE FACT THE DEFENDANT WAS
15 ARRESTED, CHARGED, AND INDICTED IN THIS CASE IS NOT
16 EVIDENCE IN THIS CASE AND CANNOT BE CONSIDERED BY YOU AS
17 EVIDENCE OF GUILT IN THIS CASE, NOR DOES IT CREATE ANY
18 PRESUMPTION OR INFERENCE OF GUILT. THE INDICTMENT IS
19 SIMPLY THE FORMAL INSTRUMENT WHICH CONTAINS THE CHARGE
20 MADE AGAINST THE DEFENDANT. IT IS THE FORMAL DOCUMENT BY
21 WHICH THE CASE IS BROUGHT INTO COURT.

22 IN THE INDICTMENT THE DEFENDANT, AS I SAY, IS
23 CHARGED WITH, IN HOMICIDE BY CHILD ABUSE, PURSUANT TO
24 SECTION 16-3-85 OF OUR SOUTH CAROLINA CODE OF LAWS, THE
25 STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE

1 DEFENDANT CAUSED THE DEATH OF A CHILD UNDER THE AGE OF
2 ELEVEN YEARS WHILE COMMITTING CHILD ABUSE OR NEGLECT.
3 CHILD ABUSE OR NEGLECT IS AN ACT OR FAILURE TO ACT WHICH
4 CAUSES HARM TO THE CHILD'S PHYSICAL HEALTH OR WELFARE.
5 HARM TO THE CHILD'S PHYSICAL HEALTH OR WELFARE MEANS THAT
6 THE DEFENDANT INFLICTED ON THE CHILD PHYSICAL INJURY,
7 FAILED TO SUPPLY THE CHILD WITH ADEQUATE CARE -- WITH
8 ADEQUATE HEALTH CARE, AND THIS FAILURE CAUSED A PHYSICAL
9 INJURY OR CONDITION WHICH CAUSED THE DEATH. THE STATE
10 MUST ALSO PROVE BEYOND A REASONABLE DOUBT THE DEATH
11 OCCURRED UNDER CIRCUMSTANCES SHOWING AN EXTREME
12 INDIFFERENCE TO HUMAN LIFE.

13 UNDER SECTION 16-3-85 A PERSON IS GUILTY OF HOMICIDE
14 BY CHILD ABUSE IF THE PERSON CAUSES THE DEATH OF A CHILD
15 WHILE COMMITTING CHILD ABUSE OR NEGLECT AND THE DEATH
16 OCCURS UNDER CIRCUMSTANCES MANIFESTING AN EXTREME
17 INDIFFERENCE TO HUMAN LIFE.

18 A CONVICTION FOR HOMICIDE BY CHILD ABUSE REQUIRES
19 THE STATE PROVING AN EXTREME INDIFFERENCE TO HUMAN LIFE
20 FOR PURPOSES OF THE HOMICIDE BY CHILD ABUSE STATUTE.
21 EXTREME INDIFFERENCE IS A MENTAL STATE AKIN TO INTENT
22 CHARACTERIZED BY A DELIBERATE ACT CULMINATING IN DEATH.
23 IN THIS STATE A PERSON'S ACTS, UNDER THE CIRCUMSTANCES
24 MANIFESTING AN EXTREME INDIFFERENCE TO THE VALUE OF HUMAN
25 LIFE, WHEN THAT PERSON ENGAGES IN DELIBERATE CONDUCT

1 WHICH CULMINATES IN THE DEATH OF ANOTHER PERSON.

2 IF YOU HAVE A REASONABLE DOUBT OF THE DEFENDANT'S
3 GUILT AFTER CONSIDERING ALL OF THE EVIDENCE, THEN YOU
4 MUST FIND THE DEFENDANT NOT GUILTY. ON THE OTHER HAND,
5 IF YOU HAVE NO REASONABLE DOUBT AS TO THE DEFENDANT'S
6 GUILT AFTER CONSIDERING ALL THE EVIDENCE, THEN YOU MUST
7 FIND THE DEFENDANT GUILTY.

8 YOU HAVE BEEN SELECTED AS FAIR AND IMPARTIAL JURORS.
9 MR. FOREMAN AND LADIES AND GENTLEMEN OF THE JURY, SWORN
10 TO IMPARTIALLY TRY AND DETERMINE THE FACTS OF THIS CASE,
11 AND WHEN YOU HAVE COMPLIED WITH YOUR OATH TO DO SO, THEN
12 NO ONE WILL HAVE THE RIGHT TO CRITICIZE YOUR VERDICT AND
13 YOU WOULD HAVE FULLY DISCHARGED YOUR DUTY AS JURORS.

14 YOU SHOULD NOT BE INFLUENCED BY OPINIONS OR
15 EXPRESSIONS OF OPINIONS, IF ANY, WHICH YOU MAY HAVE HEARD
16 ON THE OUTSIDE, BUT YOU ARE TO DECIDE THIS CASE ACCORDING
17 TO THE TESTIMONY THAT YOU HAVE HEARD FROM THE LIPS OF THE
18 SWORN WITNESSES ALONG WITH THE OTHER EVIDENCE THAT MAY
19 HAVE BEEN INTRODUCED. YOU MUST NOT CONSIDER AS EVIDENCE
20 ANY STATEMENT OF COUNSEL MADE DURING THE TRIAL. HOWEVER,
21 IF COUNSEL FOR THE PARTIES HAVE STIPULATED TO ANY FACT,
22 ANY FACT AS BEING ADMITTED BY COUNSEL, YOU WILL REGARD
23 THAT FACT AS BEING CONCLUSIVELY PROVED AS TO THE PARTY OR
24 PARTIES MAKING THE STIPULATION OR ADMISSION.

25 AS TO THOSE QUESTIONS TO WHICH AN OBJECTION WAS

1 SUSTAINED, YOU MUST NOT SPECULATE AS TO WHAT THE ANSWER
2 MIGHT HAVE BEEN OR AS TO THE REASON FOR THE OBJECTION.
3 YOU MUST NOT CONSIDER FOR ANY PURPOSE ANY OFFER OF
4 EVIDENCE THAT WAS REJECTED OR ANY EVIDENCE THAT WAS
5 STRICKEN BY THE COURT. SUCH MATTER IS TO BE TREATED BY
6 YOU AS THOUGH YOU HAD NEVER KNOWN IT.

7 YOU MUST NEVER SPECULATE TO BE TRUE ANY INSINUATION
8 SUGGESTED BY A QUESTION ASKED A WITNESS. A QUESTION IS
9 NOT EVIDENCE AND THAT MAY BE CONSIDERED ONLY AS IT
10 SUPPLIES MEANING TO THE ANSWER.

11 AS I SAID EARLIER, YOU ARE THE JUDGES OF THE FACTS
12 IN THIS CASE AND YOU ARE TO DETERMINE ONLY IF THE
13 DEFENDANT IS GUILTY OR NOT GUILTY BASED ON THE TESTIMONY
14 AND EVIDENCE IN THE TRIAL AND AFTER APPLYING THE LAW AS I
15 HAVE GIVEN IT TO YOU. IF FROM THE EVIDENCE YOU HAVE A
16 REASONABLE DOUBT AS TO WHETHER OR NOT THE DEFENDANT IS
17 GUILTY, IT IS YOUR DUTY TO ACQUIT HIM AND WRITE THE TWO
18 WORDS "NOT GUILTY."

19 UNDER THE OATH YOU TOOK YOU SWORE TO TRY THIS CASE
20 BASED ONLY AND SOLELY ON THE TESTIMONY AND EVIDENCE AND
21 LAW PRESENTED AND HEARD IN THIS COURTROOM. IT IS YOUR
22 DUTY TO LAY ASIDE ALL BIAS OR PREJUDICE OR SYMPATHY YOU
23 MAY HAVE IN REACHING YOUR VERDICT. YOU HAVE NO FRIENDS
24 TO REWARD OR ENEMIES TO PUNISH IN THIS CASE.

25 I MIGHT NOTE THAT THE WORD "VERDICT" COMES FROM THE

1 LATIN TERM "VEREDICTO," WHICH MEANS TO SPEAK THE TRUTH.
2 ABIDE BY YOUR OATH AND RETURN A VERDICT WHICH DOES, IN
3 FACT, SPEAK THE TRUTH.

4 NOW, MR. FOREMAN, I HAVE PREPARED A VERDICT FORM FOR
5 YOU IN THE USE OF THIS CASE. WHATEVER VERDICT IS REACHED
6 BY THE JURY, IT MUST BE UNANIMOUS; THAT MEANS ALL 12 MUST
7 AGREE TO THAT VERDICT. HOWEVER, MR. FOREMAN, YOU ARE THE
8 PERSON THAT WILL COMPLETE THIS FORM.

9 AS YOU WILL NOTE, IT SAYS, INDICTMENT NUMBER
10 2009-GS-37-1347, HOMICIDE BY CHILD ABUSE, AND IT SAYS
11 PLEASE CHECK ONE OF THE FOLLOWING VERDICTS. WE, THE
12 JURY, UNANIMOUSLY FIND THE DEFENDANT, MATTHEW TAYLOR
13 HINTON, IS GUILTY OF HOMICIDE BY CHILD ABUSE OR NOT
14 GUILTY.

15 WHATEVER IS THE UNANIMOUS VERDICT OF THE JURY,
16 MR. FOREMAN, YOU WILL CHECK THE APPROPRIATE BOX IN FRONT
17 OF THE APPROPRIATE VERDICT. ONCE THE VERDICT FORM HAS
18 BEEN COMPLETED, IF YOU WOULD THEN SIGN YOUR NAME, KNOCK
19 ON THE DOOR, AND THE JURY WILL RETURN AND WE'LL RECEIVE
20 YOUR VERDICT.

21 NOW I'M GOING TO ASK YOU TO RETURN THE VERDICT FORM
22 TO THE BAILIFF AND ONE LAST TIME TO RETIRE TO THE JURY
23 ROOM WITHOUT BEGINNING YOUR DELIBERATIONS. I'VE GOT SOME
24 MATTERS I NEED TO TAKE UP WITH THE ATTORNEYS THAT WILL
25 JUST TAKE A MINUTE OR SO. BUT ONCE YOU RECEIVE ALL THE

1 EXHIBITS FROM THE BAILIFF TOGETHER WITH THE VERDICT FORM,
2 THEN YOU WILL BEGIN YOUR DELIBERATIONS AT THE TIME YOU
3 RECEIVE THE VERDICT FORM AND THE EXHIBITS.

4 SO IF YOU WOULD PLEASE RETIRE TO THE JURY ROOM AND
5 AWAIT THE -- EXCEPT THE ALTERNATES, PLEASE -- AND WAIT
6 TILL YOU GET THE VERDICT FORM AND THE EXHIBITS. BUT IF
7 YOU WOULD, ALL 12 MEMBERS -- THESE ARE THE FIRST 12 --
8 WILL RETIRE. THE ALTERNATES WILL STAY WITH US FOR A FEW
9 MINUTES. VERY GOOD.

10 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES
11 FROM THE COURTROOM.

12 (W [REDACTED] THE JURY LEFT THE COURTROOM AT
13 APPROXIMATELY 2:34 P.M.)

14 THE COURT: ARE THERE ANY EXCEPTIONS TO THE CHARGE
15 OR ANY REQUESTS FOR ADDITIONAL CHARGES FROM THE STATE?

16 MS. SIMMONS: NO, YOUR HONOR.

17 THE COURT: FROM THE DEFENSE?

18 MR. SENERIUS: NO, YOUR HONOR.

19 THE COURT: OTHER THAN WHAT HAS BEEN PREVIOUSLY
20 REQUESTED?

21 MR. SENERIUS: OTHER THAN WHAT HAS BEEN PREVIOUSLY
22 REQUESTED.

23 THE COURT: I UNDERSTAND.

24 ALL RIGHT. CHECK TO BE SURE ALL OF THE EXHIBITS
25 THAT ARE TO GO BACK DO GO BACK AND NONE THAT ARE NOT.

1 (WHEREUPON, THERE WAS AN OFF-THE-RECORD
2 CONFERENCE AMONG COUNSEL AND THE COURT
3 REPORTER, DURING WHICH TIME THE COURT
4 CONFERRED WITH THE ALTERNATE JURORS, AFTER
5 WHICH THE ALTERNATE JURORS WERE EXCUSED.)
6 (DISCUSSION OFF THE RECORD.)

7 THE COURT: IS THAT EVERYTHING?

8 MS. SIMMONS: IT IS, YOUR HONOR. WE HAVE CONFIRMED.

9 (WHEREUPON, THE JURY'S DELIBERATIONS STARTED
10 AT APPROXIMATELY 2:37 P.M.)

11 THE COURT: ALL RIGHT. WE'LL STAND AT EASE AWAITING
12 THE VERDICT OF THE JURY.

13 I DO WANT TO THANK ALL OF THE LAWYERS FOR THEIR
14 SERVICE, NOT ONLY TO THEIR CLIENTS AND THEIR POSITIONS,
15 BUT ALSO TO THE COURT AND THE PROCESS, AND I THANK YOU
16 VERY MUCH. AND YOU'VE DONE IT VERY PROFESSIONALLY.
17 THANK YOU.

18 MR. SENERIUS: THANK YOU, JUDGE.

19 MS. SIMMONS: THANK YOU, JUDGE.

20 (A RECESS WAS TAKEN.)

21 (WHEREUPON, WHILE THE JURY WAS DELIBERATING
22 THE COURT CONSIDERED OTHER MATTERS UNTIL 3:30
23 P.M., WHEN THERE WAS A VERDICT OF THE JURY.)

24 VERDICT OF THE JURY:

25 THE COURT: IT IS MY UNDERSTANDING THE JURY HAS

1 REACHED A VERDICT. ANYTHING FROM THE STATE?

2 MS. SIMMONS: NO, YOUR HONOR.

3 THE COURT: ANYTHING FROM THE DEFENDANT BEFORE WE
4 BRING THE JURY BACK?

5 MR. SENERIUS: NO, SIR.

6 THE COURT: ASK THE JURY TO JOIN US, PLEASE.

7 (THE JURY ENTERED THE COURTROOM AT
8 APPROXIMATELY 3:40 P.M.)

9 THE COURT: MR. FOREMAN, I UNDERSTAND THE JURY HAS
10 REACHED A VERDICT?

11 THE FOREMAN: YES, SIR, WE HAVE.

12 THE COURT: IF YOU WOULD PLEASE HAND IT UP TO THE
13 BAILIFF.

14 MADAM CLERK, IF YOU WOULD PLEASE PUBLISH THE
15 VERDICT.

16 WOULD THE DEFENDANT STAND AND FACE THE JURY.

17 THE CLERK: IN THE MATTER OF CASE NUMBER

18 2009-GS-37-1347, *THE STATE OF SOUTH CAROLINA VERSUS*

19 *MATTHEW TAYLOR HINTON*, WE, THE JURY, UNANIMOUSLY FIND THE
20 DEFENDANT, MATTHEW TAYLOR HINTON, IS GUILTY OF HOMICIDE
21 BY CHILD ABUSE.

22 LADIES AND GENTLEMEN OF THE JURY, IF THIS WAS YOUR
23 VERDICT AND REMAINS YOUR VERDICT, PLEASE INDICATE SO BY
24 RAISING YOUR RIGHT HAND.

25 LET THE RECORD REFLECT THAT ALL MEMBERS OF THE JURY

1 HAVE RAISED THEIR RIGHT HAND.

2 THE COURT: VERY GOOD. THANK YOU, MADAM CLERK.

3 IS THERE ANYTHING FROM THE STATE BEFORE I DISMISS
4 THE JURY?

5 MS. SIMMONS: NO, YOUR HONOR.

6 THE COURT: FROM THE DEFENSE?

7 MR. SENERIUS: NOT BEFORE WE DISMISS THE JURY.

8 THE COURT: MR. FOREMAN, LADIES AND GENTLEMEN OF THE
9 JURY, THE COURT IS NEVER INTERESTED IN A VERDICT, ONLY
10 HOW THAT VERDICT IS REACHED. AND I CAN ASSURE YOU, AS I
11 DID THE TWO ALTERNATES WHO I DISMISSED BEFORE YOUR
12 DELIBERATION, THAT ALTHOUGH THAT I SEEM TO BE DOING
13 EVERYTHING ELSE EXCEPT PAYING ATTENTION UP HERE, I'VE
14 DEVELOPED AN ABILITY I GUESS YOU WOULD CALL IT OR
15 SOMETHING OF THAT NATURE OF KEEPING UP WITH WHAT GOES ON
16 IN THE COURTROOM. AND I CAN SAY WITH VERY COMPLETE
17 CONFIDENCE THAT I NOTICED THAT EACH OF YOU, AND THAT ALSO
18 GOES FOR THE ALTERNATES EARLIER, PAID VERY CAREFUL AND
19 CLOSE ATTENTION TO THE TESTIMONY AND THE EVIDENCE AND ALL
20 OF THE EXHIBITS AS WELL AS ARGUMENT, IF YOU WOULD, AND
21 DISCUSSIONS ON THE LAW BY THE COURT AND THE ATTORNEYS.
22 YOU HAVE REACHED A VERDICT THAT'S IN ACCORDANCE WITH YOUR
23 FINDINGS OF THE FACTS AND THE LAW GIVEN TO YOU, AND I'M
24 SATISFIED THAT YOU GAVE BOTH THE STATE AND THE DEFENDANT
25 A FAIR AND IMPARTIAL TRIAL.

1 NONE OF YOU ASKED TO BE HERE. I'M SURE ALL OF YOU
2 WOULD RATHER HAVE BEEN ANYWHERE ELSE BUT WHERE WE HAVE
3 BEEN FOR THE LAST FOUR DAYS. HOWEVER, YOUR SERVICE AS
4 JURORS HAS MADE THE DIFFERENCE IN OUR SYSTEM OF JUSTICE
5 NOT ONLY HERE IN OCONEE COUNTY, SOUTH CAROLINA, BUT IT IS
6 KNOWN THROUGHOUT THE WORLD AS THE FINEST SYSTEM THAT YOU
7 CAN HAVE. AND THE REASON FOR THAT IS BECAUSE OF CITIZEN
8 PARTICIPATION AND I THANK YOU.

9 I THINK THE ATTORNEYS OFTEN WANT TO QUOTE WINSTON
10 CHURCHILL ABOUT THE HIGHEST FORM, HIGHEST DUTY THAT A
11 CITIZEN CAN PERFORM IN PEACETIME THAT IS AS A JUROR,
12 BECAUSE IF WE DID NOT HAVE CITIZEN PARTICIPATION OUR
13 SYSTEM WOULD NOT NOT ONLY FUNCTION, BUT IT CERTAINLY
14 WOULD NOT BE ADMIRER AS IT IS, AND I THANK YOU FOR THAT.

15 I WISH THERE WAS SOMETHING THAT I COULD DO FOR YOU,
16 BUT AS I MENTIONED TO THE ALTERNATES ALSO, THAT IF YOU
17 REMEMBER WHEN I QUALIFIED THE JURY THE FIRST DAY, I ASKED
18 HOW MANY HAD SERVED ON A JURY IN THE LAST THREE YEARS.
19 BUT AT LEAST IT WILL BE AT LEAST THREE YEARS BEFORE YOU
20 WILL HAVE TO SERVE AGAIN. BUT I DO HOPE YOUR SERVICE HAS
21 NOT BEEN WITHOUT SOME BENEFIT BECAUSE, AS I SAY, WE ARE
22 ALL INDEBTED TO YOU FOR YOUR PARTICIPATION IN THE PROCESS
23 AND I THANK YOU. YOU MAY BE EXCUSED NOW AND OBVIOUSLY
24 THIS DOES COMPLETE THE SERVICE.

25 EVERYONE ELSE REMAIN SEATED WHILE THE JURY RETIRES

1 FROM THE COURTROOM.

2 OH, I DO NEED TO SEE THE FOREMAN.

3 (WHEREUPON, THE FOREMAN AND THE COURT
4 CONFERRED OFF RECORD, AFTER WHICH THE FOREMAN
5 WAS EXCUSED, THE REMAINDER OF JURY HAVING
6 ALREADY BEEN EXCUSED.)

7 THE COURT: IS THE STATE READY TO PROCEED?

8 MS. SIMMONS: YES, YOUR HONOR.

9 THE COURT: DEFENSE READY TO PROCEED?

10 DEFENSE MOTIONS:

11 MR. SENERIUS: YES, YOUR HONOR. AT THIS TIME WE
12 WOULD RENEW OUR MOTIONS PREVIOUSLY MADE FOR A JUDGMENT OF
13 ACQUITTAL NOTWITHSTANDING THE VERDICT AND TO ADD TO THAT
14 A MOTION FOR A NEW TRIAL.

15 COURT'S RULING ON DEFENSE MOTIONS:

16 THE COURT: I FEEL THAT, AS I SAID, THAT AT BOTH
17 DIRECTED VERDICT STAGES THAT THERE WAS SUFFICIENT
18 EVIDENCE TO GO FORWARD TO THE JURY AND THAT OBVIOUSLY
19 SUFFICIENT EVIDENCE TO SUSTAIN THE VERDICT FOR THE JURY
20 AND I, THEREFORE, DENY YOUR MOTIONS FOR JUDGMENT
21 NOTWITHSTANDING THE VERDICT.

22 SENTENCING:

23 THE COURT: ALL RIGHT. MADAM SOLICITOR, DOES THE
24 STATE HAVE ANYTHING THEY WANT TO BRING TO THE COURT'S
25 ATTENTION?

1 MS. SIMMONS: WE HAVE THE SENTENCING SHEET FOR YOUR
2 HONOR AND THE VICTIM'S MOTHER WOULD LIKE TO BE HEARD AT
3 THE APPROPRIATE TIME.

4 THE COURT: I'D LIKE TO HEAR FROM HER.

5 MS. SIMMONS: MAY I APPROACH?

6 THE COURT: PLEASE. LET ME ASK YOU, FIRST, IS THERE
7 ANY PRIOR RECORD?

8 MS. SIMMONS: YOUR HONOR, HE HAS A PRIOR
9 MAGISTRATE'S COURT CONVICTION FOR DISORDERLY CONDUCT.

10 THE COURT: ONE FOR DISORDERLY CONDUCT?

11 MS. SIMMONS: YES, YOUR HONOR. IF I COULD BEG THE
12 COURT'S INDULGENCE FOR ONE MOMENT, I'LL CONFIRM THAT.

13 IT SHOWS A 2006 BREACH OF PEACE.

14 IS THAT CORRECT, MR. SENERIUS?

15 MR. SENERIUS: THAT IS CORRECT.

16 MS. SIMMONS: THAT IS IT, YOUR HONOR.

17 THE COURT: ALL RIGHT.

18 MR. SENERIUS: I THINK THAT'S CORRECT, YOUR HONOR.

19 THE COURT: WHAT?

20 MR. SENERIUS: I WAS JUST GONNA SAY I THINK THAT'S
21 CORRECT, YOUR HONOR.

22 THE COURT: ALL RIGHT. VERY GOOD. THANK YOU,
23 MR. SENERIUS.

24 ALL RIGHT. I WOULD LIKE TO HEAR FROM ANYONE WHO
25 WOULD LIKE TO BE HEARD.

1 YES, MA'AM. AGAIN, IF YOU WOULD GIVE US YOUR NAME
2 FOR THE RECORD.

3 ASHLEY BRIGHT: ASHLEY BRIGHT.

4 THE COURT: YES, MA'AM.

5 MS. BRIGHT: THANK YOU. I JUST WANT TO SAY THAT I
6 KNOW THERE'S NO AMOUNT OF TIME THAT HE CAN RECEIVE THAT
7 WILL EVER BRING HER BACK. BUT HE TOOK HER LIFE AND I
8 DON'T BELIEVE HE DESERVES THE CHANCE TO GET OUT. HE
9 DOESN'T DESERVE TO LIVE A NORMAL LIFE AS SHE WILL NEVER
10 GET ONE. SHE COULD HAVE BEEN ANYTHING, AND NOW [REDACTED]
11 WILL NEVER HAVE THE CHANCE.

12 SHE WAS A HAPPY, HEALTHY BABY THE MORNING I WENT TO
13 WORK ON AUGUST 16TH, AND NOW SHE'S NOT HERE AND SHE
14 SHOULD BE. SHE SHOULD HAVE CELEBRATED HER BIRTHDAY ON
15 SUNDAY AND CONTINUED TO BRING THE JOY TO ALL OF OUR LIVES
16 THAT SHE HAD. AND HE TOOK THAT FROM HER AND HE DOESN'T,
17 HE DOESN'T DESERVE TO HAVE A CHANCE TO HAVE A NORMAL
18 LIFE.

19 THE COURT: THANK YOU, MA'AM.

20 YES, MA'AM.

21 PAM GROGAN: MY NAME IS PAM GROGAN. [REDACTED] WAS MY
22 GREAT NIECE. AND, YOUR HONOR, I'M ASKING ON HER BEHALF
23 AND ON BEHALF OF THE FAMILY THAT MATTHEW HINTON BE
24 SENTENCED TO LIFE IN PRISON WITHOUT PAROLE.

25 AS ASHLEY SAID, [REDACTED] DIDN'T HAVE A CHANCE TO LIVE

1 HER LIFE, AND NEITHER DOES HE. SHE WAS AN INNOCENT BABY.
2 IF PEOPLE CAN GO TO PRISON FOR LIFE FOR ADULT KILLING AN
3 INFANT, THEY SHOULD BE ABLE TO SERVE THAT AMOUNT OF TIME
4 FOR KILLING AN INFANT. THAT INFANT WAS HELPLESS. SHE
5 HAD NO DEFENSE MECHANISMS THAT DAY.

6 WE MAY NOT KNOW EXACTLY WHAT HAPPENED, BUT THAT BABY
7 IS DEAD AND IT'S AT THE HANDS OF HER FATHER, AND I ASK
8 FOR LIFE IN PRISON WITHOUT PAROLE FOR HIM. THANK YOU.

9 THE COURT: YES, MA'AM.

10 MS. BOND: MY NAME IS LINDSEY BOND. AS HER AUNT, I
11 FEEL THAT IT'S ONLY RIGHT HE GET LIFE FOR TAKING HERS.
12 SHE SHOULD BE A HAPPY TODDLER WALKING AND TALKING ABOUT
13 FREELY, AND I DON'T THINK IT'S FAIR FOR HIM TO GET TO IF
14 SHE CAN'T.

15 MS. ELLER: MY NAME IS DONNA ELLER, I AM
16 GRANDMOTHER. SHE WAS MY FIRST GRANDCHILD. FOR SOME
17 REASON MATTHEW DECIDED TO TAKE HER FROM US THAT DAY. I
18 DON'T KNOW THE REASON WHY. BUT WE'LL NEVER GET TO
19 CELEBRATE A BIRTHDAY WITH HER OR HER FIRST DAY OF SCHOOL
20 OR ANYTHING LIKE THAT. WE ASK FOR THE STIFFEST SENTENCE
21 YOU CAN GIVE HIM. THANK YOU.

22 THE COURT: THANK YOU, MA'AM.

23 ANYONE ELSE?

24 MS. SIMMONS: JUDGE, ON BEHALF OF THE SOLICITOR'S
25 OFFICE AND THE SENECA POLICE DEPARTMENT, YOU HAVE HEARD

1 THE FACTS OF THIS CASE AND YOU HAVE HEARD THE BRUTAL AND
2 SUBSTANTIAL INJURIES THIS FIVE-MONTH-OLD CHILD SUSTAINED
3 AT THE HANDS OF HER FATHER. WE BELIEVE A LIFE SENTENCE
4 IS APPROPRIATE IN THIS CASE.

5 THE COURT: MADAM SOLICITOR, ACCORDING TO THE
6 STATUTE, THE COURT MUST CONSIDER ANY AGGRAVATING
7 CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO A DEFENDANT'S
8 PAST PATTERN OF CHILD ABUSE AND NEGLECT FOR A CHILD UNDER
9 THE AGE OF ELEVEN AND ANY MITIGATING CIRCUMSTANCES. I
10 ASK NOW: DOES THE STATE HAVE ANY OTHER AGGRAVATING
11 CIRCUMSTANCES THAT, OTHER THAN WHAT HAS BEEN...

12 MS. SIMMONS: YOUR HONOR, WE DO NOT HAVE ANY PRIOR
13 HISTORY OF ABUSE OF CHILDREN BY THIS DEFENDANT. HE DOES
14 HAVE ANOTHER SMALL CHILD THAT HE RELINQUISHED HIS
15 PARENTAL RIGHTS TO WHEN SHE WAS LESS THAN TWO YEARS OLD.

16 THE COURT: ALL RIGHT. ANYTHING ELSE FROM THE
17 STATE?

18 MS. SIMMONS: NO, YOUR HONOR.

19 THE COURT: MR. SENERIUS, MS. TYE, ANYTHING YOU WANT
20 TO SAY ON BEHALF OF THE DEFENDANT?

21 MR. SENERIUS: YES, YOUR HONOR. NOTHING THAT
22 HAPPENED HERE IN THIS COURTROOM OR CAN HAPPEN HERE IN
23 THIS COURTROOM CAN ERASE THE TRAGIC CONSEQUENCES OF WHAT
24 HAPPENED BACK IN AUGUST OF 2009. AS I TOLD THE JURY,
25 IT'S A TRAGEDY FOR EVERYONE INVOLVED IN THIS PARTICULAR

1 CASE.

2 MATTHEW DID HAVE A PRIOR CHILD WHO HE GAVE UP HIS
3 PARENTAL RIGHTS TO AT THE REQUEST OF THE BIRTH MOTHER SO
4 THAT HER NEW HUSBAND COULD ADOPT THAT CHILD. THERE IS NO
5 HISTORY, NO INDICATION THAT HE EVER WAS INVOLVED IN
6 ANYTHING LIKE THIS BEFORE.

7 WE FEEL THAT WE -- CLEARLY WE DISAGREE WITH THE
8 JURY'S VERDICT BUT WE RESPECT THE JURY'S VERDICT.
9 MATTHEW DID EVERYTHING HE COULD TO TRY TO HELP LAW
10 ENFORCEMENT AND TRY TO HELP THE DOCTORS FIGURE OUT WHAT
11 HAPPENED ON THAT PARTICULAR DAY. I DON'T THINK THAT
12 OTHER THAN WHAT HE HAS TOLD YOU THAT HE KNOWS ANYTHING
13 MORE THAT HE COULD SAY OR DO TO CHANGE THINGS. IF HE
14 COULD GO BACK TO AUGUST 15TH AND LIVE HIS LIFE OVER,
15 THINGS MAY BE DIFFERENT, MAY NOT. WE DON'T KNOW.

16 AS THE COURT IS WELL AWARE, YOU HAVE HEARD THE
17 TESTIMONY FROM THE WITNESS STAND, AND THIS IS
18 PREDOMINANTLY A CIRCUMSTANTIAL CASE. UNFORTUNATELY, THE
19 JURY FELT THAT THE CIRCUMSTANCES ALL POINTED TO MATTHEW
20 AS THE PERPETRATOR OF THIS TERRIBLE INCIDENT.

21 HE'S TWENTY-FOUR YEARS OLD. MILITARY SERVICE TO THE
22 EXTENT THAT HE WAS ABLE TO. HE WAS MEDICALLY DISCHARGED.
23 NO PRIOR CRIMINAL HISTORY OTHER THAN I THINK IT WAS A
24 BREACH OF THE PEACE OR DISORDERLY CONDUCT CHARGE IN
25 MAGISTRATE'S COURT.

1 HIS MOTHER IS HERE, OTHER FAMILY MEMBERS ARE HERE.
2 I DON'T KNOW IF THEY WANT TO SAY ANYTHING TO THE COURT
3 WITH REGARD TO THE ISSUE OF SENTENCING OR NOT.

4 I JUST DON'T KNOW WHAT ELSE, YOU KNOW, CAN BE SAID.
5 WE'VE HEARD THE FACTS. I THINK THAT A LIFE SENTENCE IS
6 TOO HARSH, BUT THERE'S NOTHING THAT IS GONNA BRING
7 [REDACTED] BACK, SO THE COURT WILL HAVE TO RENDER A SENTENCE
8 THAT IT FEELS IS FAIR AND APPROPRIATE UNDER THE
9 CIRCUMSTANCES.

10 THE TESTIMONY UP UNTIL AUGUST THE 16TH WAS THAT
11 MATTHEW WAS A GOOD FATHER AND BONDED WITH HIS CHILD AND
12 LOVED HIS CHILD. THERE'S NO EXTENUATING CIRCUMSTANCES OR
13 AGGRAVATING CIRCUMSTANCES, AND THOSE ARE THE ONLY
14 MITIGATING CIRCUMSTANCES.

15 THANK YOU, YOUR HONOR.

16 THE COURT: ALL RIGHT. ANYONE ELSE LIKE TO SAY
17 ANYTHING ON BEHALF OF MR. HINTON?

18 MR. SENERIUS: YES, SIR.

19 THE COURT: YOUR NAME, PLEASE?

20 MR. RIDLEY: MY NAME IS RON RIDLEY (PHONETIC) AND I
21 AM MATTHEW'S UNCLE. [REDACTED] WOULD HAVE BEEN BY BLOOD MY
22 GREAT NIECE. AND I COME TO SPEAK IN BEHALF OF MATTHEW,
23 KNOWING HIM ALL OF HIS LIFE. AND BEING CONVICTED TODAY
24 BY A JURY OF HIS PEERS, WE RESPECT THAT.

25 HOWEVER, ALL OF THAT WAS ON CIRCUMSTANTIAL EVIDENCE.

1 NO ONE HAS SEEN HIM WITH THEIR EYES PHYSICALLY ABUSE

2 [REDACTED]

3 AND I WOULD JUST ASK THE COURT TODAY THAT AS GOD HAS
4 MERCY ON US, THIS COURT WOULD HAVE MERCY UPON MATTHEW,
5 AND I PRAY THAT YOUR HONOR WOULD EXERCISE THAT MERCY.

6 THANK YOU VERY MUCH.

7 THE COURT: THANK YOU, SIR.

8 ANYONE ELSE?

9 MS. RICHARDSON: I'M MATTHEW'S MOTHER, DENISE
10 RICHARDSON. HE IS MY ONLY SON, AND I BELIEVE WITH EVERY
11 FIBER OF MY BEING THAT HE WAS NEVER CAPABLE OF BRINGING
12 ANY HARM TO ANY CHILD. HE WAS RAISED IN A GOOD FAMILY
13 AND A GOOD HOME. I KNOW, ALTHOUGH I DID NOT GET THE
14 OPPORTUNITY TO MEET [REDACTED] I KNOW HE LOVED THAT BABY
15 WITH EVERYTHING THAT HE IS AS A HUMAN BEING AND AS A
16 FATHER. HE ENJOYED THAT RESPONSIBILITY. I KNOW HIM
17 BETTER THAN ANYBODY ELSE. WHEN YOU'RE AN ONLY CHILD, YOU
18 JUST ESTABLISH THAT RELATIONSHIP WITH YOUR CHILD.

19 I KNOW THAT HE HAD A WONDERFUL RELATIONSHIP WITH
20 ALATA (PHONETIC), THE OTHER CHILD THAT WAS MENTIONED HERE
21 TODAY. I KNOW THAT FIRSTHAND.

22 I KNOW THE DECISION IS LEFT UP TO YOU AND I JUST, I
23 ASK FOR YOUR CONSIDERATION AND YOUR MERCY FOR HIS LIFE.
24 HE IS TWENTY-FOUR. I KNOW HIM BETTER THAN ANYBODY ELSE,
25 BETTER THAN THAT JURY, BETTER THAN ANYBODY OVER THERE.

1 AND IRREGARDLESS OF THE THINGS THAT WERE SAID TODAY, I
2 KNOW THIS MAN, I KNOW HIS HEART.

3 I RESPECT WHAT YOUR DECISION WILL BE. I WON'T AGREE
4 WITH IT, OBVIOUSLY, BUT I RESPECT IT. I, I WOULD LOVE
5 NOTHING MORE THAN TO HAVE MY SON IN MY LIFE FOR THE REST
6 OF MY LIFE. HE IS THE ONLY CHILD I WILL EVER HAVE. I
7 JUST ASK FOR YOUR LENIENCY AND YOUR MERCY IN THIS CASE.

8 THANK YOU.

9 THE COURT: YES, MA'AM.

10 MS. STEWART: YOUR HONOR, I'M LYNETTE STEWART, I'M
11 MATTHEW'S AUNT. I'VE KNOWN HIM EVER SINCE HE WAS BORN ON
12 OCTOBER 10TH, 1986. I HAVE FOUR CHILDREN AND HE'S BEEN
13 AROUND EVERY SINGLE ONE OF MY GRANDCHILDREN. THEY ALL
14 LOVE HIM, HE LOVES THEM. THIS YOUNG MAN HAS THE BIGGEST
15 HEART I'VE EVER KNOWN IN MY LIFE. BIG, HUGE GENTLE
16 HEART, TENDER-HEARTED. HE LOVES EVERYBODY. HE LOVES
17 CHILDREN. HE LOVES ANIMALS. HE PROTECTS THEM ALL.

18 HIS FAMILY KNOWS HIM BETTER THAN ANYBODY. THERE
19 COULD BE NOTHING MORE THAN THIS WAS SOME KIND OF A TRAGIC
20 ACCIDENT IS ALL IT WAS. I RESPECT THE OPINIONS OF THE
21 JURORS, BUT NOBODY KNOWS MATTHEW LIKE HIS FAMILY THAT'S
22 KNOWN HIM ALL HIS LIFE. I ASK YOUR MERCIES. I PRAY
23 GOD'S BLESSINGS. PLEASE GIVE HIM BACK TO US.

24 THANK YOU.

25 THE COURT: THANK YOU, MA'AM.

1 YES, MA'AM.

2 MS. SPRINGFIELD: I AM JOY SPRINGFIELD (PHONETIC), I
3 AM MATTHEW'S AUNT. GROWING UP HE WAS OVER AT MY HOUSE
4 HALF THE TIME AND OVER AT HIS MOTHER'S HOUSE HALF THE
5 TIME. HE AND MY SON ARE NINE MONTHS AND ONE DAY APART.
6 AT SEVERAL OCCASIONS MY SON, WHICH IS OLDER THAN MATTHEW
7 BUT SMALLER THAN MATTHEW, HAD VERY VIOLENT INTERACTIONS
8 WITH MATTHEW, AND I'VE SEEN MATTHEW BE HIT IN THE FACE BY
9 MY SON, WALK AWAY, GET IN HIS CAR AND LEAVE, WITHOUT
10 TOUCHING MY SON AT ALL.

11 I KNOW HE LOVES MY GRANDSON. HE WAS OVER THERE
12 SEVERAL TIMES. HE WOULD PLAY. HE WOULD RUN IN MATTHEW'S
13 ARMS WANTING MATTHEW TO PICK HIM UP, HOLD HIM, AND
14 MATTHEW WOULD, LOVING THAT CHILD. LOVING MY 16-YEAR-OLD
15 SON WHICH IS HERE WITH ME TODAY.

16 MATTHEW, ON SEVERAL OCCASIONS I ASKED MATTHEW, CAN
17 YOU PLEASE WATCH HIM WHILE I HAD TO GO DO OTHER THINGS?
18 AND NO HARM EVER CAME TO MY GRANDSON OR MY SON OR MY
19 OLDER SON IN THE HANDS OF MATTHEW.

20 I RESPECT YOU AND YOUR OPINION, BUT HE IS LIKE MY
21 OWN CHILD, AND I WANT HIM BACK.

22 THANK YOU.

23 THE COURT: ANYONE ELSE?

24 MR. SENERIUS: I THINK THAT'S IT, YOUR HONOR.

25 THE COURT: IF THE DEFENDANT WOULD COME AROUND.

1 MR. HINTON, ANYTHING YOU WOULD LIKE TO SAY?

2 THE DEFENDANT: I DON'T AGREE WITH WHAT HAPPENED
3 TODAY, BUT I DO RESPECT IT. I LOVED MY DAUGHTER VERY
4 MUCH. LIKE I SAID IN MY STATEMENT AND FROM EVERYBODY
5 ELSE THAT KNOWS ME AND THAT KNEW MY RELATIONSHIP WITH
6 [REDACTED] WE BONDED FROM DAY ONE, AND IT WAS, THAT BONDAGE
7 GREW STRONGER FROM THAT DAY.

8 NOTHING I CAN DO CAN BRING HER BACK. I WISH -- LIKE
9 MY ATTORNEY SAID, I WISH I COULD GO BACK TO THE DAY
10 BEFORE AND JUST LIVE IT OVER AGAIN. BUT I CAN'T, I CAN'T
11 BRING HER BACK. I WISH I COULD. I WISH I COULD GIVE MY
12 LIFE FOR HERS.

13 BUT IN SAYING THAT, IT'S JUST, I STILL THINK THE
14 JURY MADE THE WRONG DECISION, WHICH I'M GOING TO, AND I
15 RESPECT IT JUST THE SAME.

16 THE COURT: ANYONE ELSE?

17 MR. SENERIUS: NO, SIR.

18 THE COURT: WELL, A LOT HAS BEEN SAID ABOUT THE
19 EVIDENCE, THAT THE RESULT WAS RELIED ON IN THIS CASE.
20 UNFORTUNATELY, IN DEATH CASES, BE THEY INFANTS OR ADULTS,
21 THE VICTIM CAN NEVER GIVE DIRECT EVIDENCE; SO THAT'S WHY
22 WE RELY ON CIRCUMSTANTIAL EVIDENCE IN DEATH CASES.

23 I UNDERSTAND THAT [REDACTED] WAS LOVED BY THOSE WHO
24 KNEW HER. BUT AS WE ALL KNOW, NOTHING WE DO HERE TODAY
25 WILL BRING HER BACK, JUST AS HAS BEEN SAID. I KNOW THAT

1 GOD HAS MERCY ON HER SOUL, AND GOD WILL HAVE MERCY ON ALL
2 OF OUR SOULS.

3 BUT WHAT I HAVE TO DO MANY TIMES IS NOT WHAT I WOULD
4 LIKE TO DO OR WOULD WANT TO DO, BUT HAVE TO DO. AND IN
5 THIS CASE I FIND THAT A SENTENCE OF 41 YEARS IS
6 APPROPRIATE. HOPEFULLY IN THAT TIME, BECAUSE THAT WILL
7 BE AN ACTIVE LIFE SENTENCE IN THE SENSE THAT YOU, WHEN
8 YOU ARE ELIGIBLE FOR PAROLE, OR WHENEVER YOU WOULD GET
9 OUT BECAUSE YOU WILL HAVE TO ASSUME THAT YOU WILL SERVE
10 THE ENTIRE TIME IN JAIL THAT I SENTENCE YOU TO, YOU WILL
11 HAVE LIVED THE BEST PART OF YOUR LIFE, ALTHOUGH
12 NEVER HAD A LIFE.

13 MAY GOD HAVE MERCY -- MAY YOUR GOD HAVE MERCY ON
14 YOUR SOUL. THANK YOU.

15 ANY TIME THAT HE SERVED, TIME SERVED?

16 MR. SENERIUS: YES, YOUR HONOR. WE ASK FOR CREDIT
17 FOR TIME SERVED. MR. HINTON WAS HELD, I'M NOT SURE THE
18 EXACT LENGTH OF TIME, FROM AUGUST I BELIEVE 20TH UNTIL
19 SHORTLY AFTER THE BOND WAS POSTED IN 2010.

20 THE COURT: I'LL JUST PROVIDE THAT HE BE GIVEN
21 CREDIT FOR TIME SERVED AS PROVIDED BY LAW.

22 MR. SENERIUS: YES, SIR. THANK YOU, YOUR HONOR.

23 MS. SIMMONS: THANK YOU, JUDGE.

24 THE COURT: ALL RIGHT. THIS COURT WILL STAND IN
25 RECESS UNTIL 10:00 IN THE MORNING.

1 (WHEREUPON, THE TRIAL OF THE STATE OF SOUTH
2 CAROLINA VERSUS MATTHEW TAYLOR HINTON WAS
3 CONCLUDED AT APPROXIMATELY 4:10 P.M. ON MARCH
4 3, 2011.)

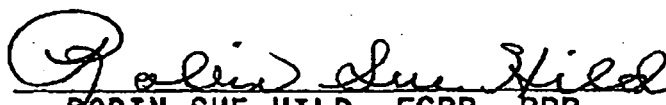
5 ** END OF REQUESTED CERTIFIED TRANSCRIPT OF RECORD **
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CERTIFICATE OF COURT REPORTER

I, THE UNDERSIGNED, ROBIN SUE HILD, FCRR, RPR,
OFFICIAL COURT REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF
THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE
FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF
RECORD OF THE PROCEEDINGS HAD AND THE EVIDENCE INTRODUCED
IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL,
IN THE COURT OF GENERAL SESSIONS FOR OCONEE COUNTY, SOUTH
CAROLINA, ON THE 28TH DAY OF FEBRUARY, AND THE 1ST, 2ND,
AND 3RD DAYS OF MARCH, 2011.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL
NOR INTEREST TO ANY PARTY HERETO.

JULY 11, 2011


ROBIN SUE HILD, FCRR, RPR
CIRCUIT COURT REPORTER

Oconee County Clerk Of Court RANDOM STRIKE SHEET

4-A

JUDGE NAME :

TRIAL TYPE :

PANEL ID : 2009GS3701347

COURTROOM CTRM

DESCRIPTION : State of SC V Hinton, Matthew

Sorted by: Random Nbr

Trial

NAME	DOB	RACE	SEX	STRIKE	DEF	CRIM	REMARKS
1 Wilson, Hugh G III	146	W	M	()	()	()	#1 ✓✓
2 Todd, Rhonda F	233	W	F	()	#1	()	
3 Makinson, David N	83	W	M	()	#2	()	
4 Towe, Don J	133	W	M	()	()	()	#2 ✓✓
5 Smith, Brent A	222	W	M	()	()	()	#3 ✓✓
6 Doherty, Cynthia A	40	W	F	()	#3	()	
7 Gibson, Margaret M	181	W	F	()	()	()	#4 ✓✓
8 Herring, David W	187	W	M	()	#4	()	
9 Nelms, Rickie J	98	W	M	()	()	()	#5 ✓✓
10 Tate, Michael S	229	W	M	()	()	()	#6 ✓✓
11 Bonilla, Mayra A	157	H	F	#1	()	()	
12 Hammett, Jon A	55	W	M	()	()	()	#7 ✓✓
13 Williamson, Shawn A	246	W	M	()	()	()	#8 ✓✓
14 Hix, Ryan D	62	W	M	()	()	()	#9 ✓✓
15 Qualls, Samuel D E	111	W	M	#2	()	()	
16 Vos, Paulus A	236	W	M	()	()	()	#10 ✓✓
17 Moss, Michael A	94	B	M	()	()	()	#11 ✓✓
18 Libby, George B	78	W	M	()	#5	()	
19 Owens, Loretta L	208	W	F	()	()	()	#12 ✓✓
20 Fendley, Allan D	47	W	M	A1 #1	()	()	
21 Dost, Anita E	41	W	F	()	()	()	#A1 ✓✓
22 Musselman, Thomas F	95	W	M	()	A2 #1	()	
23 Bullard, David B	165	W	M	()	A2 #2	()	
24 Caddell, Rhonda G	14	W	F	()	()	()	#A2 ✓✓

Oconee County Clerk Of Court
RANDOM STRIKE SHEET

425

4-B

JUDGE NAME:

TRIAL TYPE:

PANEL ID: 2009GS3701347

COURTROOM CTRM

DESCRIPTION: State of SC V Hinton, Matthew

Sorted by: Random Nbr

Trial

NAME	AGE	SEX	STRIKE	DEF	CP	REMARKS
25 Hawkins, Marcia L	59	W	F	()	()	()
26 Wilson, Daniel R	248	W	M	()	()	()
27 Sullivan, Ashley L	129	W	F	()	()	()
28 Smith, Teresa L	122	W	F	()	()	()
29 Waterman, Cynthia L	137	W	F	()	()	()
30 Moore, Holly J Nya	88	W	F	()	()	()
31 Laffoon, Elizabeth T	71	W	F	()	()	()
32 Nelson, Timothy E	99	W	M	()	()	()
33 Swafford, James K	227	W	M	()	()	()
34 Boone, Sarrah E	158	W	F	()	()	()
35 George, Donald K	53	W	M	()	()	()

Total Number of Jurors:

35

** END OF REPORT **

DOCKET NO. 2009GS37 01347

WITNESSES

ROUNDY, Seneca Police Department

The State of South Carolina

County of Oconee

BEVERLY A. HINTON
CLERK OF COURT

2009 DEC -7 P 12:55

COURT OF GENERAL SESSIONS

DEC 07 2009

Term

ARREST WARRANT NUMBER

J452575

THE STATE

vs.

Matthew Taylor Hinton

ACTION OF GRAND JURY

LSS

Indictment for

Murder / Homicide by child abuse (20Y to Life)

SC Code: 16-03-0085(A)(1)(B)(1)

CDR Code: 2358

VERDICT

Guilty

Foreperson of Petit Jury
Date: 3/3/2011

Appendix 858

STATE OF SOUTH CAROLINA)
COUNTY OF Oconee)

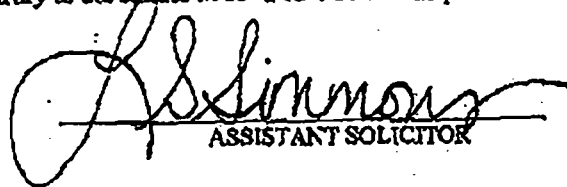
INDICTMENT

At a Court of General Sessions, convened on 2009 07 20, the Grand Jurors of Oconee County present upon their oath:

Murder / Homicide by child abuse (20Y to Life)

That Matthew Taylor Hinton did in Oconee County, on or about August 16, 2009, commit the crime of Homicide by Child Abuse in that the defendant did cause the death of one _____ a child who was under the age of eleven (11) at the time of his/her death, and that the defendant did cause the death of said child while committing child abuse or neglect, and the death of said child occurred under circumstances manifesting an extreme indifference to human life. This is in violation of 16-3-85(A)(1) of the South Carolina Code of Laws (1976) as amended.

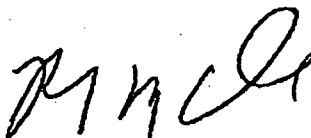
Against the peace and dignity of the State, and contrary to the statutes in such case made and provided.


ASSISTANT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

April 23rd, 2012



Robert M. Dudek
Chief Appellate Defender

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

ATTORNEY FOR APPELLANT

Exhibit 1

JAMES H. PRICE, III, P.A.

ATTORNEY AT LAW
644 E WASHINGTON STREET
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 271-3535
FACSIMILE (864) 242-6560

*Licensed to practice law in South Carolina and New York

September 16, 2009

Lindsey Simmons
Assistant Solicitor
415 South Pine Street
Walhalla, South Carolina 29691

Re: **State v. Matthew Hinton**
Warrant No.: J-452575

Dear Lindsey:

I haven't talked to you since the Bond Hearing. I was looking through the file yesterday and realized that the Bond Order did not contain a provision that the bond could be re-examined in ninety (90) days if Mr. Hinton was unable to make bond. I am assuming that this omission will not be an issue if such a thing occurs.

Needless to say I am very interested in getting copies of the following medical records as soon as possible:

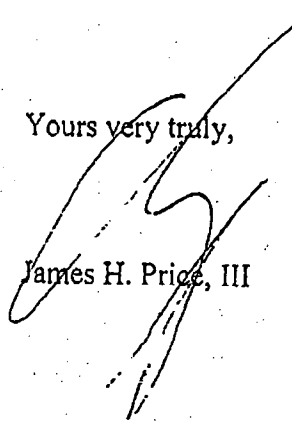
1. Coroner's report;
2. Autopsy Report;
3. All Oconee County Hospital medical records pertaining to this incident;
4. All Greenville Memorial Hospital medical records pertaining to this incident;
5. Brianna's pediatrician's records.

Last, the Judge put my client under a Restraining Order from having any contact with the victim's family. I am told that Ashley, the natural mother, wants to visit Matthew in the Detention Center and wants to see him after he is released. Does the State consider Ashley's contact with Matthew a violation of the Restraining Order?

I look forward to hearing from you.

As always, I remain,

Yours very truly,


James H. Price, III

JHP/sac

Exhibit 2

ANDERSON COUNTY COURTHOUSE
P.O. BOX 8002
ANDERSON, SC 29622
TELEPHONE 864-260-4046
FAX 864-260-4187

Office of Solicitor
TENTH JUDICIAL CIRCUIT
ANDERSON & OCONEE COUNTIES

OCONEE COUNTY COURTHOUSE
415 SOUTH PINE STREET
WALHALLA, SC 29691
TELEPHONE 864-838-4294
FAX 864-638-4295

CHRISSY T. ADAMS
SOLICITOR

September 18, 2009

James H. Price III, P A.
Attorney at Law
644 E. Washington Street
Greenville, South Carolina 29601

Dear Chip:

I am in receipt of your letter dated September 16, 2009. I certainly remember, and noted, that Mr. Hinton's bond may be revisited 90 days from September 4, 2009. As you would expect, the omission on the bond form is a non-issue. If he is unable to post the current bond in the specified time, please feel free to contact my investigator, Mike Smith, to set up a bond hearing. It appears the appropriate term of court would be November 30th through December 4th.

I am in the progress of obtaining all medical records in this case. At this point, I have Oconee Memorial Hospital, Greenville Memorial Hospital, and pediatrician records. I am still waiting on the Coroner and Autopsy Reports. Once I have all of these documents, I will be sure to forward all of them to you in discovery. Further, pursuant to our earlier conversation, Coroner Addis states that we can make any samples taken as part of our autopsy available to your pathologist if necessary. Please contact Mr. Addis if this is desired.

As for the "no contact" provisions of the bond, it is my position that the bond is in effect once he is released from custody. I do not believe I can object to Ms. Bright visiting Mr. Hinton in jail before he satisfies the terms of the bond. However, it is the State's position that any contact between them after bond is posted is a violation of the Order.

As always, I look forward to working with you in this case.

With best regards,

I am,

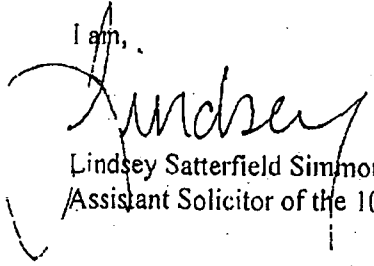

Lindsey Satterfield Simmons
Assistant Solicitor of the 10th Judicial Circuit

Exhibit 3

Matthew Hinton

1. Alex Hood, friend co-worker
 2. Ronnie Craig, friend *
 3. William Fowler, friend co-worker
 4. Danny Stevens, Mgr. @ Pizza Hut, Seneca
 5. Denise Richardson 6. Brandi Bargiol
- ✓ 2 or 3 incidents where child cried

ville co...

* Stmt from Dixie Gravely / McCracken: '07, Breach of Peace

*CHEEK
BRUISES,

↓
hit her
head
on toy

- she says he held knife to her throat
- Sat. told him she was watching Clemson game w/ her girlfriends, but when he went over there she was w/ a guy on a 4-wheeler 2 guys (neighbors of Dixie)

red
mark
on her
ht
arm...

Ashley - checking in

3:30 last feeding

Ashley got home around 5:30

5:30 - 7:30

- 3:45 Δ & child layed down and he was asleep. A woke them up - moved over & Brianna turned her head away from him; later A woke them

blatant, he did & she

- woke up about 10 something; couldn't hear her breathing

- CPR → Δ did as he would

Sternum rub; bruise OMH Δ told them about bruise

= unwrap pink blanket from her legs which he did not place around her legs

- child born w/ jaundice / high-level = sent home w/ light belt; every couple days she would have fits

= Ashley, A's Mom, A's Bro saw it

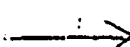


Drs were told twice

Carey

diagnosis

neca



Gulley, Female

- Ashley really didn't spend a lot of time w/ [REDACTED]

Military Discharge
- For Pregnancy

*Heavy Weapons
Specialist*

Kendra Kirkland
(high school girlfriend)

→ called to Sgt.

- 2 1/2 - 3 mos
w/ child

Lackland
TX. Airforce

- child support, was
paying

→ would
have
been
deployed

MOTION
IN LIMINE

→ more
prejudicial
than
probative

Task Δ
↓ ALLOWED
TERMINATED
RIGHTS TO ALLOW
STEP-FATHER
TO ADOPT
(.05) = approx.

Fathered

↳ two children

Travelers Rest Highschool - Graduated '04
10 COLLEGE

↓
Played
Baseball
for 8 yrs / Football
for 1 yr.

GREENVILLE

- Ashley was impatient w/ child; everytime B was crying A would hand her off to

Ashley was born 23/24

when B was born

A was born 22 when B was born

- A & M's mother talked a lot during time M was in jail

* Ashley never showed any emotion.

* 1:00 - shower; fell/dropped; he grabbed her & pulled her back up; she may have hit her head on collar bone; she bit her tongue; was fussy for approx 1 1/2 hrs.

2 broken legs/ → actually only has 1

DAY AFTER

- told cops (~~@ CHHS~~) he thought A broke her leg
Det. Rory Jones & one other

- nurses @ ~~CHHS~~ Grille Mem. picked up both legs to change her diaper
child by

Exhibit

4

JAMES H. PRICE, III, P.A.

ATTORNEY AT LAW
644 E. WASHINGTON STREET
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 271-3535
FACSIMILE (864) 242-6560

*Licensed to practice law in South Carolina and New York

March 4, 2010

VIA HAND DELIVERY

Gordon A. Senerius
Attorney at Law
609 N. Murray Avenue
Anderson, South Carolina 29625

Re: State v. Matthew Hinton
Warrant No.: J-452575

Dear Gordon.

By the time that you get this letter I planned to have talked with you by telephone. I understand that you are taking over the defense of the Hinton case in Oconee County, and I wish you the best of luck. I am giving you my original file in its entirety as opposed to copies. The file contains the discovery package that I received from Lindsey Simmons some time ago which has been divided into sub-files. I do not believe that we have gotten the 911 tapes yet.

I have also given you my notes file, but I wanted to explain the contents somewhat in case my writing/my investigator's scribbling make no sense to you. When we were hired we immediately retained a pathologist to do a second autopsy. His name is Dr. James Fulcher and he is with Pathology Associates of Greenville. I liked him very much, very professional, and was straight up with us. Dr. Fulcher's report is in the file, but when we met with him after the autopsy a second time after receiving medical records he told us the following:

1. The State's autopsy was very thorough. The State's pathologist removed/kept the entire right leg bone as well as the baby's eyes, brain, and retinal nerves. The left retinal hemorrhage was much greater than the right. The State's pathologist did a linear incision on the baby's back but missed two small hemorrhages on the back.

2. Indicators of violent child abuse were:

a. Common metathesial lesion. Linear fracture of the growth plate. This is also known as a "bucket handle fracture" which is well known in the child physical abuse literature;

b. Lots of retinal hemorrhages;

c. Subdural and acute arachnoid hemorrhages;

d. Acute fracture of first rib. This is very difficult to break due to the protection by the collar bone. This would take a very violent external force without impact. There was no impact site.

e. There were no areas of impact on the child;

f. The leg injury was caused by the legs going back and forth violently. The fractured area is in a growth area which consists of just cartilage and similar soft tissue. The weight of the leg provides torque that causes the fracture. External forces caused the fracture, not contact.

The skull was intact with no evidence of trauma. In addition to the left leg the State's pathologist kept 95% of the brain, the lungs, the heart, the eyes, kidneys, liver, spleen, and a section of the skull.

When the baby was initially taken to Oconee Memorial Matthew Hinton was told that the baby had elevated sugar levels which they could not understand. At that point the MRI/CT had not been done on the baby. Dr. Fulcher said that a brain injury of this severity will cause an elevated sugar level.

There were bruises found on the child's chest. Matthew claims that this was when he tried to do CPR on the baby once he realized the baby was in distress. Dr. Fulcher's response to this was that this is possible for a reasonably alarmed parent who is untrained in CPR.

We asked Dr. Fulcher if the first rib fracture could have been caused by CPR. His response was:

1. If posterior, no CPR;

2. If anterior -- remote possibility. The first rib is rare for a break due to the protection of the collar bone, its position on the body, etc.

Dr. Fulcher's summation was that the knee injury coupled with the eyes and the first rib fracture kills us. Our versions of what happened, according to him, are "not likely, not reasonable, and statistically improbable".

According to the records that he saw the infant looked to be in good health. There were no old fractures or injuries that he could see.

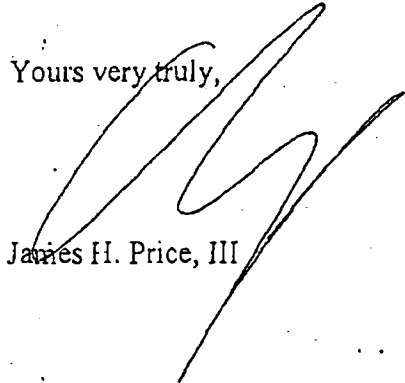
Matthew related that he and the mother, Ashley, thought that the baby was having tiny seizures prior to this incident. They question if these seizures could have caused the injuries. According to Dr. Fulcher a grand mal seizure would not statistically cause rib fracture and bucket fracture. He would not be able to determine if the child had seizures from the autopsy. In

any event seizures would be a problem caused by wiring and not anatomically. Dr. Fulcher checked the toxicology report and all was normal except for trauma related things. There was no metabolic reason for seizures.

Gordon, Dr. Fulcher was not on any mission nor did he have an agenda. He bent over backwards trying to be fair with us, come up with possible explanations for the injuries other than abuse, etc. He basically said that, in his opinion, we are out of luck.

As always, I remain,

Yours very truly,



James H. Price, III

JHP/sac

Exhibit 5

5613

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
GREENVILLE MEMORIAL HOSPITAL
MEDICAL RECORD

NAME: REDACTED
PATIENT NO: 000-970-81-8198

Patient Location: 08P15613AM
Billing NO: 080010694331

DATE OF ADMISSION 08/17/2009

SERVICE: Pediatric Intensive Care Unit.

ATTENDING PHYSICIAN: Dr. Darryl R. Gwyn

RESIDENT: Dr. Miranda Lynn Worster.

REASON FOR ADMISSION: Status post cardiac arrest. subdural hematoma.

HISTORY OF PRESENT ILLNESS: The patient is a 5-month-old white female. brought to the ER at Oconee by EMS in cardiac arrest. Per the parents, the patient was happy and playful on the early afternoon of 08/16/2009. fed 3 ounces at 2:30. afterwards, dad gave the patient a bath and put down in the crib. Mom went to work shortly after the 2:30 p.m. feed. At 4:30 p.m., dad picked the patient up from the crib because she was fussy and at 4:45, dad text messaged the mom to say that he and the patient were going to lie down in the bed together for a nap. At 5:30, mom came home work, found both the dad and the baby asleep in the bed with the patient breathing, looking normal. However, when dad awoke at 11 p.m., he found the infant beside him not breathing. He felt her chest, found a heart rate, but it was slow. Mom called 911. Dad performed CPR with chest compressions after instructions by the 911 operator until EMS arrived. The patient was intubated in the field and upon arrival to the ER, the patient was bradycardic with fixed dilated pupils, temperature of 89 degrees, and no response to pain. Heart rate had increased, so compressions were stopped, and the patient was bagged until arrival at Greenville Memorial Hospital PICU. In the ER, the patient had several chest x-rays, head CT, and labs done. The chest x-ray showed a right mainstem and the patient had a dropped left lung which was interpreted as pneumothorax, so a chest tube was placed. Head CT showed a left subdural hematoma with cerebral edema and possible herniation. As the patient was warmed, she became more responsive to pain. She did receive one dose of Rocephin and a dose of mannitol prior to transfer. The parents deny any trauma.

REVIEW OF SYSTEMS: Only elicits fever to 101 several days prior.

PAST MEDICAL HISTORY: Negative

PAST SURGICAL HISTORY: Negative.

MEDICATIONS. None.

HISTORY AND PHYSICAL
Page 1 of 3

CHART COPY

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
MEDICAL RECORD

NAME: REDACTED
PATIENT NO: 000-970-81-8198

Patient Location: 08P15613AM
Billing NO: 080010694331

ALLERGIES: NO KNOWN DRUG ALLERGIES.

IMMUNIZATIONS: Up-to-date.

BIRTH HISTORY: Term vaginal delivery, no complications.

SOCIAL HISTORY: Lives at home with mom and dad

FAMILY HISTORY: No history of bleeding disorders.

PHYSICAL EXAMINATION:

VITAL SIGNS: Weight is 6.4 kg, temperature 92.1 rectally, pulse 120, respiratory rate 30, blood pressure 95/55, and O₂ saturation 98% on 100% FiO₂.

GENERAL: The patient was intubated, pale, limp, in no acute distress.

HEENT: Pupils are fixed and dilated. Retinal hemorrhages are present on at least the left. A scalp IV was in her anterior fontanelle, so that could not be assessed. There is no visible trauma to the head.

NECK: Supple.

LUNGS: Decreased in the left base. A chest tube is in place.

CARDIOVASCULAR: Regular rate and rhythm, no murmurs. Capillary refill is three seconds.

ABDOMEN: Soft, nondistended. Bowel sounds are present.

SKIN: Pale. There is bruising over the sternum.

EXTREMITIES: Cool and pale.

NEUROLOGIC: The patient withdraws lower extremities to pain. No spontaneous movements.

LABS IN OCONEE: UDS was negative, pH 7.37. CMP showed a bicarbonate of 11, glucose 311, and elevated AST and ALT. CBC showed a hemoglobin 10.7, white blood cell count 9.8, platelets 330,000, and blood cultures are pending.

ASSESSMENT AND PLAN: This is a 5-month-old with subdural hematoma and cerebral edema per the preliminary head CT report in discussion with the radiologist. Probable retinal hemorrhages, status post cardiac arrest, possibly secondary to increased intracranial pressure and herniation. There is no history to explain any sign of trauma, so there is concern for nonaccidental trauma. Respiratory: The patient is on a ventilator in the SIMV, PR, VC mode. We will wean FiO₂ for saturations greater than 95% and follow gases every 12 hours. We will get a chest x-ray every morning. Right now, the chest tube will be set to 10 mm of water, but we will plan to discontinue this as soon as possible, if there is no evidence of a pneumothorax on x-ray. Cardiovascular: The patient has peripheral IV x2. A right internal jugular central venous line was placed on arrival. We will monitor the patient closely. So far, she has had no post-

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
MEDICAL RECORD

NAME: REDACTED
PATIENT NO: 000-970-81-8198

Patient Location: 08PI5613AM
Billing NO: 080010694331

arrest hypotension issues. We will check a CK-MB and troponin for any signs of heart damage. FEN: The patient received approximately 100 mL/kg normal saline prior to arrival. We will start the patient on maintenance with normal saline and add dextrose and potassium as needed. Except her sodium and chloride to be high initially, this is okay, considering the patient has increased intracranial pressure, and this may help to decrease cerebral edema. Check glucoses every four hours and renal panel every 12 hours. Will place the patient on some Zantac IV for prophylaxis. Place a Foley to monitor her input and output closely. Heme/ID: The initial hemoglobin was okay. We will follow CBCs every morning. We will check coags and fibrinogen. We will also send multiple studies for bleeding workup and consult Pediatric Hematology/Oncology to help rule out a bleeding diaphysis. With a history of fever and respiratory failure, we will check a Myco-flu, RSV, and blood, and urine cultures. Also urine organic acids for any metabolic causes of bleeding. We will place the patient on Rocephin daily until cultures are negative. Neurologic: The patient had a CT with subdural and cerebral edema. We will have this officially read by the neuroradiologist and repeat any imaging studies as needed. For now, the patient will have neurologic checks every hour. We will consult ophthalmology to confirm retinal hemorrhages. We will also consult the Forensic Pediatric Team to help with DSS and law enforcement, considering this is likely non-accidental trauma. We will a skeletal survey scheduled for later this morning.

Miranda Lynn Worster, MD

cc Darryl R. Gwyn, MD
Miranda Lynn Worster, MD

ID 08/17/2009 08:03 A T 08/17/2009 08:43 A zjl DVI 531393 C/S# 2847709

REDACT

Sex: F

BD: REDACTED

MR#: 970818198

Print this Page
PT#: 8010694331

Rm/Bed: 5613Am

HISTORY AND PHYS

Aug 17, 2009 08:00

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
GREENVILLE MEMORIAL HOSPITAL
MEDICAL RECORDNAME: REDACTED Patient Location: 08PI5613AM
PATIENT NO: 000-970-81-8198 Billing NO: 080010694331

DATE OF ADMISSION 08/17/2009

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ATTENDING PHYSICIAN: Dr. Darryl R. Gwyn.

RESIDENT: Dr. Miranda Lynn Worster.

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NEUROLOGIC: The patient withdraws lower extremities to pain. No spontaneous movements.

LABS IN OCONEE: UDS was negative, pH 7.37. CMP showed a bicarbonate of 11, glucose 311, and elevated AST and ALT. CBC showed a hemoglobin 10.7, white blood cell count 9.8, platelets 330,000, and blood cultures are pending.

ASSESSMENT AND PLAN: This is a 5-month-old with subdural hematoma and cerebral edema per the preliminary head CT report in discussion with the radiologist. Probable retinal hemorrhages, status post cardiac arrest, possibly secondary to increased intracranial pressure and herniation. There is no history to explain any sign of trauma, so there is concern for nonaccidental trauma. Respiratory: The patient is on a ventilator in the SIMV, PR, VC mode. We will wean FiO2 for saturations greater than 95% and follow gases every 12 hours. We will get a chest x-ray every morning. Right now, the chest tube will be set to 10 mm of water, but we will plan to discontinue this as soon as possible, if there is no evidence of a pneumothorax on x-ray. Cardiovascular: The patient has peripheral IV x2. A right internal jugular central venous line was placed on arrival. We will monitor the patient closely. So far, she has had no post-arrest hypotension issues. We will check a CK-MB and troponin for any signs of heart damage. FEN: The patient received approximately 100 mL/kg normal saline prior to arrival. We will start the patient on maintenance with normal saline and add dextrose and potassium as needed. Except her sodium and chloride to be high initially; this is okay, considering the patient has increased intracranial pressure, and this may help to decrease cerebral edema. Check glucoses every four hours and renal panel every 12 hours. Will place the patient on some Zantac IV for prophylaxis. Place a Foley to monitor her input and output closely. Heme/ID: The initial hemoglobin was okay. We will follow CBCs every morning. We will check coags and fibrinogen. We will also send multiple studies for bleeding workup and consult Pediatric Hematology/Oncology to help rule out a bleeding diaphysis. With a history of fever and respiratory failure, we will check a Myco-flu, RSV, and blood, and urine cultures. Also urine organic acids for any metabolic causes of bleeding. We will place the patient on Rocephin daily until cultures are negative. Neurologic: The patient had a CT with subdural and cerebral edema. We will have this officially ready by the neuroradiologist and repeat any imaging studies as needed. For now, the patient will have neurologic checks every hour. We will consult ophthalmology to confirm retinal hemorrhages. We will also consult the Forensic Pediatric Team to help with DSS and law enforcement, considering this is likely non-accidental trauma. We will a skeletal survey scheduled for later this morning.

Miranda Lynn Worster, MD

cc: Darryl R. Gwyn, MD

Miranda Lynn Worster, MD

D: 08/17/2009 08:05 A

T: 08/17/2009 08:43 A zjt

DVI: 531393

C/S#: 2847709

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
GREENVILLE MEMORIAL HOSPITAL
MEDICAL RECORD

5613

NAME: REDACTED
PATIENT MR#: 000-970-81-8198

Patient Location: 08P15613AM
Billing NO: 080010694331

DATE OF ADMISSION: 08/17/2009
DATE OF CONSULTATION: 08/17/2009

REQUESTING PHYSICIAN: Darryl Gwyn, MD

CHIEF COMPLAINT: Patient is status post cardiac arrest with subdural hematoma

HISTORY OF PRESENT ILLNESS: The patient is a 5-month-old white female brought to the Greenville Memorial Hospital in cardiac arrest. Patient was napping with father, however, when dad awoke from nap, patient was not breathing. Dad performed CPR to try to revive the baby. EMS was called. The patient was intubated in the field and brought to the emergency room. On evaluation at the hospital, the patient had left subdural hematoma with cerebral edema and possible herniation.

MEDICATIONS: None.

ALLERGIES: None.

PAST SURGICAL HISTORY: None.

PAST MEDICAL HISTORY: None.

IMMUNIZATIONS: Up to date.

BIRTH HISTORY: Normal vaginal delivery.

FAMILY HISTORY: Easy bruising.

SOCIAL HISTORY: Patient lives with mother.

REVIEW OF SYSTEMS: Positive for general changes. Positive for HEENT changes. Positive for respiratory changes. Negative for cardiovascular changes. Negative for GI. Negative for GU. Negative for musculoskeletal. Positive for neurologic. Negative for endocrine. Negative for integumentary. Negative for psychiatric.

OCULAR EXAMINATION: Patient was unresponsive at the time of examination. Patient was dilated with 1% Cyclogyl. External exam was normal. Anterior segment exam was normal.

CONSULTATION
Page 1 of 2

CHART COPY

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
MEDICAL RECORD

NAME: REDACTED
PATIENT MR#: 000-970-81-8198

Patient Location: 08P15613AM
Billing NO: 080010694331

Normal conjugate corneal lens and anterior chamber. Dilated fundus exam showed a small intraretinal hemorrhage superior to the macula on the right. However, on the left, the patient had extensive preretinal, intraretinal and subretinal hemorrhages, bundle vascular _____ and a large preretinal hemorrhage in her macula. Drawing was placed in the patient's chart.

ASSESSMENT: Retinal hemorrhages, more on the left than the right, consistent with non-accidental trauma.

PLAN: Patient should followup in one week for repeat dilation to follow blood resolution. If blood continues to be in the macula, patient is at risk for amblyopia and blindness.

Charlotte M. Akor, MD

cc: Charlotte M. Akor, MD

D 08/17/2009 11:49 A T. 08/17/2009 01:22 P mcm DVI 531602 C/S# 2848147

CONSULTATION
Page 2 of 2

CHART COPY

Appendix 881

Exhibit 6

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
GREENVILLE MEMORIAL HOSPITAL
MEDICAL RECORD

NAME: REDACTED
PATIENT MR#: 000-970-81-8198

Patient Location: 08PI5613AM
Billing NO: 080010694331

DATE OF ADMISSION: 08/17/2009
DATE OF CONSULTATION: 08/17/2009

HISTORY OF PRESENT ILLNESS: This is a 5-1/2-month-old, white female that was transferred to Greenville Memorial Hospital early this morning from Oconee County Emergency Room after being brought in by EMS. Information is provided by the admitting resident, Dr. Miranda Worster and Detective Sargent Ted Roundy of Seneca Police. The parents are not available here at the hospital secondary to the high concern of nonaccidental trauma.

By history, the patient had a fever to 101 two days prior to admission. On the day of admission, the patient was playful in her usual state of good health. Father of the patient was with the child most of the day. Mother left for work approximately 2:30 in the afternoon. Father bathed the child. Father then took a shower himself. He told law enforcement that after taking a shower he partially lost grip of the baby, but that she was never dropped. Father reports that she was fussy for a short time, but then fed normally and was put down for a nap. Father reports to law enforcement that he then laid down with the patient together. Mother returned home from work at approximately 5:30 and found father and baby who seemed to be doing okay. Mother continued to check in on father and baby periodically throughout the night. Mother continued to be on the computer. I am unsure why the infant was not awoken up to be fed during that time.

By history, the father awoke around 11:00 and noticed that the infant's heart rate was decreased. Mother called 911 and father began chest compressions on the infant as instructed by EMS and 911. The patient was intubated in the field and on arrival to Oconee Emergency Room, the patient was bradycardic with fixed and dilated pupils. Temperature apparently was 89 degrees with no response to pain. Heart rate then increased and chest compressions were stopped. The patient was bagged until arrival at Greenville Memorial Hospital.

CONSULTATION
Page 1 of 4

CHART COPY

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
MEDICAL RECORD

NAME: REDACTED
PATIENT MR#: 000-970-81-8198

Patient Location: 08P15613AM
Billing NO: 080010694331

FAMILY HISTORY: Negative by report.

PAST MEDICAL HISTORY: Negative by report.

PAST SURGICAL HISTORY: Negative by report.

MEDICATIONS: Negative by report.

ALLERGIES: NEGATIVE BY REPORT.

SOCIAL HISTORY: It is noted that mother and father live together. There are no other children in the home. By history, there is no previous DSS or law enforcement involvement.

PEDIATRICIAN: The patient's pediatrician is Dr. Gully. Phone number 880-0003. Dr. Gully's office was contacted today by law enforcement and apparently this patient has been there for her normal well child checks and is not noted to have any problems up to this point.

PHYSICAL EXAMINATION:

GENERAL: The child's weight is 6.4 kg. The patient is intubated and responsive, not on any sedation.

HEAD EXAM: Shows her anterior fontanelle is not palpable, but there is a scalp IV over this area. There is no bruising or trauma noted to the scalp. Her pupils are dilated with the left being greater than the right. There are retinal hemorrhages seen on the left. There is also a small bruise located in the middle part of her left ear. There are no bruises or petechiae posterior to either of the ears. Her TMs are clear. Her pharynx is not visualized secondary to the intubation.

CHEST: There is a 5.5 x 2.5 cm vertical overall erythematous bruise over the sternum. Breath sounds are equal bilaterally.

HEART: Regular rate and rhythm. No murmur appreciated.

ABDOMEN: Soft. No masses palpated.

GU EXAM: Reveals a Foley in place, but no abnormalities are noted to the genital area.

RECTAL EXAM: There is a rectal probe in place. Again, no trauma noted to the rectal area. There are 2 small fingertip, kind of gray, dark bruises located in the mid aspect of her

CONSULTATION
Page 2 of 4

CHART COPY

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
MEDICAL RECORD

NAME REDACTED
PATIENT MR#: 000-970-81-8198

Patient Location: 08P15613AM
Billing NO: 080010694331

posterior spine. Buttocks is normal. There are no bruises located in that area.

LABORATORIES: Urine drug screen was done at Oconee County Emergency Room, which was reported negative. Blood culture was drawn, which is pending.

Electrolytes: Noted sodium of 134, chloride 107, potassium 4.7, CO2 of 11, glucose 311, BUN 9, creatinine 0.4. Initial hemoglobin and hematocrit were 10.7 and 32.5. Platelet count 330,000.

Rapid flu test, mycoplasma and RSV were done: All of which were negative. Initial caffeine was 10.1. Alkaline phosphatase of 110. SGOT and SGPT slightly elevated at 124 and 155, respectively.

The initial CT scan showed diffuse edema primarily of the cerebral hemispheres bilaterally with transtentorial herniation. There also was noted a left frontoparietal acute subarachnoid hemorrhage and acute subdural hemorrhage.

The eye exam revealed extensive pre-retinal, intraretinal and subretinal hemorrhages with large pre-retinal hemorrhage, macular, on the left side and one small intraretinal hemorrhage was noted on the right. The skeletal survey noted a fracture of the first rib on the right anterolaterally. There was noted on the metaphyseal fracture of the proximal right tibia with a questionable CMF of the distal left femur medially.

IMPRESSION: Findings in this patient are consistent with nonaccidental head trauma. The severity of her injuries is associated with a high degree of mortality. Law enforcement and DSS have been notified of these findings and to the seriousness of the situation. They are continuing their investigation.

We would recommend also obtaining records from her pediatrician. I think DSS can help with that. The acute bruise noted on her chest I think is indeterminate for abuse secondary to chest compressions done at home and en route to the Emergency Room.

CONSULTATION
Page 3 of 4

CHART COPY

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
MEDICAL RECORD

NAME: REDACTED
PATIENT MR# 000-970-81-8198

Patient Location: 08P15613AM
Billing NO: 080010694331

Pictures were taken by my department and Social Services of the bruises on the examination today.

I will continue to follow this patient during the hospitalization.

Nancy A. Henderson, MD

cc: Nancy A. Henderson, MD
Miranda Lynn Worster, MD

D. 08/17/2009 09 21 P 1. 08/18/2009 08 33 A zbn DVI 532129 C/S# 2848619

Exhibit 7

Greenville Hospital System

CONSULTATION REQUEST

8010894331

970818198

REDACTED

GWYN, DARRYL R

PED

Admit Date - 08/17/09

Date of Birth [REDACTED]

Consulting Physician and/or Service Forensics

Reason for Request Subdural ? NAT

(Check one or more suitable blanks)

- ☐ At convenience of consultant
☐ Urgent, today if possible
☐ Opinion and recommendation only
☐ Write diagnostic orders and re-evaluate as indicated

- ☐ Evaluate and manage condition in your specialty
☐ Accept in transfer, if you will

Date 8-17-09 Signed M. De Wiest, MD
 Attending Physician

Date and Time Consultant Notified _____ Signed _____

ort: Smith WF transferred from Oconee City ER to responding arrest and subdural hematoma. Severe Police has EPC'd the child according to the severity of the injuries. Officer Ted Roush is the detective. He interviewed Dad. Dad stated to him that Brannon had fallen to 1012 days ago. After mom left for bank. He bathed child. Then her hot chamber picked up baby and lost control baby did not fall to ground - cloth jump - but then played and fed laid down with Dad around 5. Mom came home periodically checked on baby and Dad. Dad awoke around 11 PM. Infant had slow HR performed chest compressions and intubated at the scene.

CT scan @ for subdural hematoma, diffuse edema and hemorrhage.

Eye exam @ for retinal hemorrhages. Skel xray pending.

Imp - Highly likely nonaccidental trauma. Full dictation to follow.

ite _____ Signed M. De Wiest Consultant 903-5922

Exhibit 8.

GREENVILLE MEMORIAL HOSPITAL
GMH RADIOLOGY
GREENVILLE, SC

Patient Name: REDACTED
DOB: REDACTED
EX: Female
Reason for Exam: PROBABLE NAT

Medical Record#: 970818198
Pt. NS/Room: 08PI / 5613
Corp. Act. No:
Patient Type: Inpatient

ccount: 08010694331
Ordering MD: MIRANDA L., WORSTER, MD

01 GROVE RD
REENVILLE, SC 29605

X495800-SKELETAL SURVEY INFANT 08/17/2009 06:00AM EXAM#: 10816812

IMPRESSION:

THERE IS AN ACUTE RIB FRACTURE INVOLVING THE FIRST RIB ON THE RIGHT AND
THERE IS A CLASSIC METAPHYSEAL LESION INVOLVING THE PROXIMAL RIGHT TIBIA,
THERE THEN POSSIBLY A CML INVOLVING THE DISTAL RIGHT FEMUR MEDIALY.
FINDINGS ARE DIAGNOSTIC OF INFANT ABUSE.

RESULT:

REDACTED

SKELETAL SURVEY ON 8/17/09

PROCEDURE: Infant skeletal survey was done almost according to routine protocol. The study was done portably. We obtained an AP chest film, bilateral oblique rib detail films, an AP film of the pelvis, AP and lateral skull films, a lateral film of the cervical spine, a lateral film of the thoracic and lumbosacral spine, AP films of each humerus, AP films of each forearm, PA films of each hand, AP films of each femur, AP films of each tibia and AP films of each foot.

I then obtained a couple of chest films with a little different degree of collimation of the x-ray tube and I obtained AP and lateral views of the right knee.

FINDINGS: There is a right central line which is appropriately positioned. The endotracheal tube is appropriately positioned, as is the chest tube. There is a small pigtail-type chest tube related to the left chest. There is no pneumothorax. There may be a little haziness in the lungs. The heart is normal in size. There is a paucity of bowel gas in the abdomen with a little dilatation of several bowel loops noted centrally. There is a catheter in the bladder and a rectal temperature probe. The AP chest film and the bilateral oblique rib detail films show a reasonably

Exhibit 9

OCONEE MEMORIAL HOSPITAL
RADIOLOGY DEPARTMENT
298 MEMORIAL DR
Seneca, SC 29672
(864) 885-7198

Page :1

REDACTED
DOB REDACTED
Age 5M Sex F
Phone (864) 784-2369

Unit Number 000230440
P/T ER Rm No. DIS
Acct. # A0922800145
Chck-In Dt/Tm 08/16/09 2344

ORD: BARDEN, KATHRYN
298 MEMORIAL DRIVE
SENECA, SC 29672
(864) 885-7101

ADM: GULLY, CAREY M

Chk-in #	Order	Exam
1052149	0002	7110 XR CHEST PA SINGLE VIEW

Ord Diag: 519.9-RESP SYSTEM DISEASE NOS ** Portable **

AP PORTABLE CHEST AT 2330 HOURS: 08/16/09

INDICATION: Cardiac arrest.

FINDINGS: Heart size cannot be evaluated. There appears to be mediastinal shift from right to left and the left hemithorax is completely opacified. There appears to be compensatory inflation of the right lung. The right lung is clear. The right costophrenic angle is sharp. There is an endotracheal tube present. Difficult to evaluate the tip of the endotracheal tube due to overlying monitoring hardware. The stomach is air filled and distended.

PORTABLE CHEST AT 2340 HOURS: 08/16/09

INDICATION: Cardiac arrest.

FINDINGS: The left lung is now inflated. There still continues to be some volume loss in the left hemithorax with hyperinflation on the right. There may be some minimal infiltrate in the left lung possibly representing continued atelectasis. The costophrenic angles are sharp. An endotracheal tube is seen with its tip right at the carina.

AP PORTABLE CHEST AT 0030 HOURS: 08/17/09

INDICATION: Cardiac arrest.

FINAL DUPLICATE
Released 08/17/09 0941

OCONEE MEMORIAL HOSPITAL
RADIOLOGY DEPARTMENT
298 MEMORIAL DR
Seneca, SC 29672
(864) 885-7198

Page :2

REDACTED
DOB REDACTED
Age 5M Sex F
Phone (864) 784-2369

Unit Number 000230440
P/T ER Rm No. DIS
Acct. # A0922800145
Chck-In Dt/Tm 08/16/09 2344

ORD: BARDEN, KATHRYN
298 MEMORIAL DRIVE
SENECA, SC 29672
(864) 885-7101

ADM: GULLY, CAREY M

Checkin-Exam code Summary

1052149-7110, 1052150-7110, 1052151-7110

FINDINGS: The cardiophrenic silhouette is within normal limits. The heart and mediastinum are now midline. An endotracheal tube is in place with its tip only about 5 mm above the carina. An NG tube is now present with its tip just into the stomach and a cycle seen at about the level of the GE junction. A left chest tube is now in place with its tip seen in the left cardiophrenic sulcus. The left lung is more inflated than seen on the most recent prior examination. There continues to be a perihilar infiltrate. There is a new perihilar and right lower lung field infiltrate now seen on the left. The costophrenic angles are sharp. I do not see evidence of pneumothorax on this examination.

IMPRESSION:

1. Most recent examination showing now normal inflation of the left lung with resolution of previously seen volume loss and midline shift in the left hemithorax. I do not see evidence of pneumothorax on the most recent examination with the chest tube tip in the left cardiophrenic sulcus.
2. There are persistent perihilar infiltrates on the left and new perihilar and right lower lung field infiltrates present on the right.
3. Endotracheal tube seen with its tip only about 5 mm above the carina.
4. NG tube seen with its tip just into the area of the stomach and its side hole at the level of the GE junction. This should be advanced for more optimal placement.

FINAL DUPLICATE

Released 08/17/09 0941

Exhibit 10

VOLUNTARY STATEMENT

PAGE NO. 1 OF 2 PAGE:

(NOT UNDER ARREST)

Frederick Glenn Mitchell

I am not under arrest for, nor am I being detained for any criminal

offenses concerning the events I am about to make known to DAVID TODD WILLIAMS

Without being accused of, or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purposes it may serve.

Ph. **REDACTED**I am 20 years of age, D.O.B. **REDACTED** and I live at **REDACTED**

On the date of Aug. 16, 2009 at 22:58 R-91 was taxed out for a Pediatric cardiac arrest to 129 Northwoods Dr. Apt. F. Chief Phillips was at the station at the time the call was dispatched and he responded in Bath-7 and I in R-91. Bath-7 arrived on scene first and established command and R-91 arrived 2 to 3 seconds later, EMS was also arriving on scene at the same time. Once on scene I walked up the first flight of stairs of the apartment complex building and entered the door I had just seen ~~the~~ EMS go through. Once in the apartment the baby was found in the first room on the right down the hallway. On my way to the room I noticed the mother was crying in the living room and the father was walking around the house shellless. Once I made it to the room where the baby was I saw the child laying on the bed motionless, eyes wide open and also not breathing. The people to let were the two EMS ~~paramedics~~ ~~paramedics~~ working on her and Chief Phillips assisting them. There is one other thing I noticed about the baby a love ~~with~~ ~~with~~ not eyes and mouth, was there was a discoloration on the baby chest in the middle. EMS opened the medical box and pulled out a child size BVM, I noticed they had no Oxygen cylinder so I asked if they needed oxygen. EMS said yes so I ran back to the truck for an Oxygen cylinder and took it back to Chief Phillips. Once back up in the room they told me they needed a pediatric back board. On my way back down for the board I noticed officer Kelly from SPD walking in the front door of the apartment and Ray Smith, an off duty EMS worker, walking up the steps. I grabbed the pediatric board off of

I've read each page of this statement consisting of _____ page(s), each page of which bears my signature, and corrections, if bear my initials, and I certify that the facts contained herein are true and correct.

Signed at

**RED
ACT**

this

18th

day of

Aug.

09

WITNESS:

David Todd Williams

Signature of person giving voluntary statement

WITNESS:

Appendix 895

Date 8-18-09

Page No. 2

STATEMENT OF:

R-91 and went back up to the apartment and the room with the baby. Something I forgot to tell about the room the baby was in, was that it was poorly lit. There was a clinic lamp in the opposite corner of the room of where they were working. Because of the poor lighting of the room the door to the room was kept open and Officer Kelly and Ray Smith held flash lights on the area. I gave EMTs the back board and once the baby was strapped on to the board they were ready to transport to the ambulance. I established the heart monitor and the EMTs medical box while everyone else grabbed the back board for support and we all walked out of the room and the apartment down the stairs and loaded her in the ambulance. The two EMT workers, Ray Smith, and Chief Phillips all got in ambulance, Ray Smith was driving and they transported the patient to OHCA. I went back up to the apartment to get the extra oxygen cylinder left behind while in the apartment the father was smoking in the living room. I grabbed the cylinder and put it back in R-91. Both Chief Phillips and I had left me their keys to secure the vehicles and I did so. I drove up to the hospital and picked up Chief Phillips and took him back to his vehicle in Northwood and returned to the station. EGM

FGM 8-18-09

FGM

FGM

FGM

Exhibit

11

Ashley Bright

- Saw first signs of anger from Defendant July 2009 when Defendant would fight with upstairs neighbors. He hit wall at some point, resulting in hand injury
- 1 week after that the incident where SPD and EMS responded occurred. Defendant was combative, tried to climb over balcony, and went from rage to laughing in short period. Also, shortness of breath seemed to occur. At hospital he remembered nothing. His BA level was 4 times the legal limit and paramedics speculated he was on PCP.
- On day of incident and night proceeding, Defendant had been playing video games. He was up almost all night and she continually told him to go to bed b/c he had to keep the child the next day.
- No history of physical violence between Ashley and Defendant or Defendant and deceased child
- Defendant's mother pressured him re: school, etc. Defendant feared telling her about the child and it was continually put off by him. Said he didn't want mother to think Ashley was a "Whore." Hid Ashley's pregnancy from his Mom and hid child's stuff when his Mom came over. Defendant's mother found out child existed when he was charged with her death.
- Defendant had no relationship with 1st child
- Some depression by Defendant in time frame proceeding child's death
- Ashley's grandmother transported her to and from work on the day in question
- Child usually napped 3-5 time frame in afternoon. The length of this nap with the defendant was abnormal (front bedroom)
- Checked in room periodically and covered them up once. Defendant appeared to be sleeping also.
- @ hospital, defendant told Ashley they were taking a shower and child slipped. Said he grabbed her by the leg and she hit his collarbone and bit her tongue. She was then fussy, he fed her some (not all) and then they laid down. Never gave Ashley a story about hitting head on tub, shower, sink.
- Defendant used marijuana and alcohol since child's birth
- No prior injuries to the child
- Dec 2007: Defendant ended up in fight with teen boys while leaving work and Pizza Hut. Followed them in a rage all over the Mill Hill
- @ GMH, Monday AM, Defendant told Ashley that potential charge carried like 20 years but told her she'd only do a couple of years if she did it. Seemed as if Defendant trying to get her to admit something, promptly told him she did nothing. Thought comment was odd.
- Thinks Defendant was using drugs summer 2009. She found a glass pipe and scrubber around that time and threw it away. She also noticed \$ would go missing from her wallet.
- Oct 2008 was first time she saw defendant when she thought he was "on something" and at that time he claimed he had been carjacked.
- At funeral home, defendant refused to give parents name for inclusion in obituary

Paige Williams

- Told her (day of DSS interviews) that REDA fell and hit her head on the sink during bath with him
- Sink is 2-3 feet from bath
- Asked her what kind of evidence she thought the police would need in order to make an arrest
- Said the child ate after the bathtub incident, then became fussy and they laid down
- @ OMH he seemed upset. On ride to GMH/@ GMH, he would not leave Ashley alone and would not really talk. Did not seem super worried when they got home

Exhibit 12



Requesting Agency:
Accurate Diagnostics-Seneca
101 35-D Clemson Blvd
Seneca, SC, 29672
Telephone: 864-271-3306

LAN#: 689063
Specimen ID: 0952355
Reason For Test: Other
Date Collected: 8/17/2009
Date Received: 8/18/2009
Date Reported: 8/18/2009

Donor ID: Hinton, Matthew T SSN/ID: [REDACTED]

Test(s) Requested: Hair 5 Drug Panel & Extended Opiates

The standard Hair 5 Drug Panel and Extended Opiates Test includes the testing of the 5 major drug classes These include:
Amphetamines - Amphetamine, Methamphetamine and Ecstasy (MDMA)
Cocaine - Cocaine/Cocaine Metabolites
Opiates - Codeine, Morphine, Heroin Metabolite, Hydrocodone(Vicodin, Lorcet, Lortab)
Hydrocodone(Dilaudid)
Oxycodone(Percocet)
Phencyclidine(PCP)
THC Metabolite(Marijuana)

Drugs Tested For	Result	Screening Cut off <i>picograms per milligram of Hair</i>	Confirmation Cut off <i>picograms per milligram of Hair</i>
Amphetamines	Negative	500 pg/mg	500 pg/mg
Cocaine/Metabolites	Negative	500 pg/mg	500 pg/mg
Opiates	Negative	300 pg/mg	300 pg/mg
Extended Opiates	Negative	300 pg/mg	300 pg/mg
Phencyclidine	Negative	300 pg/mg	300 pg/mg
THC Metabolite	Negative	1.00 pg/mg	0.30 pg/mg

Hair 5 Drug Panel & Extended Opiates Test Result(s)

Negative

A negative result indicates that none of the drugs listed above were detected at a concentration greater than their listed cutoff levels.

REPORT NOTATIONS

0.5 - 1.0 inches in length (approximately 0-30,60 day time frame)

Occasional

Certified By: Laura L Alessandrini

Dave Engelhart, Ph.D
Laboratory Director

Omega Laboratories, Inc. - 400 N. Cleveland Ave. - Mogadore, OH 44260

Page 1 of 1

<https://extranet.omegalabs.net/ResultReporting/Reports/ResultReportPrintPage.aspx?id=4...> 8/19/2009

Exhibit 13



8 Memorial Medical Court, Suite 1
Greenville, SC 29605

(864) 295-3492 tel

(864) 295-4817 fax

Report of Findings

NAME:	REDACTED	AUTOPSY #:	A-09-356 (private)
AGE:	5-1/2 months	PRONOUNCED:	August 19, 2009
SEX:	Female	POST MORTEM:	August 29, 2009 at 10:00 a.m.
RACE:	White	PHYSICIAN:	James Fulcher, M.D.
		HOSPITAL #:	970818198

FINAL ANATOMIC DIAGNOSIS

I. STATUS POST PREVIOUS MEDICOLEGAL AUTOPSY:

External examination of the decedent reveals a Y-shaped torso incision and upper head incision, consistent with previous autopsy. Only the following organs and tissues are present in a viscera bag: fragments of brain measuring 5 x 5 x 1 cm in aggregate, two pieces of diaphragm measuring 20 x 10 cm in aggregate, entire stomach and esophagus, patellae, bilateral bony orbits, tongue, pancreas, female reproductive organs/bladder, and small and large bowel including appendix.

II. ADDITIONAL (NON-TYPICAL) ANATOMIC STRUCTURES REMOVED AT FIRST AUTOPSY:

Entire right first rib and distal femur-proximal tibia/fibula, right side, approximately 14 cm in total length.

Left parietal bone, 5 x 2 cm rectangular portion.

Bilateral eyes with portion of optic nerve.

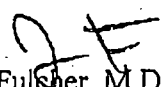
III. ADDITIONAL PROCEDURES PERFORMED AT PREVIOUS AUTOPSY INCLUDE:

A 10-1/2 inch linear incision of the posterior back with visualization of the underlying musculature and bony structures, as well as a 2-1/2 inch linear incision of the right buttocks.

IV. MODERATE DECOMPOSITION CHANGES WITH AUTOLYSIS OF ALL INTERNAL
ORGANS, AS WELL AS SKIN SLIPPAGE AND MARBLING.

CAUSE OF DEATH: Undetermined.

MANNER OF DEATH: Undetermined.


James Fulcher, M.D./aqm-September 17, 2009
Medical Examiner

PROTOCOL

An autopsy is performed on a body identified as [REDACTED] at the Greenville Memorial Hospital, Greenville County, South Carolina on the 29th day of August 2009. The autopsy is performed at the request of Ashley Bright, the mother of the decedent.

EXTERNAL EXAMINATION: The body is that of a well developed, well nourished Caucasian female infant of age 5-1/2 months, who weighs 4.5 kg (status post previous autopsy), has a crown-heel length of 69.0 cm, and a crown-rump length of 45.0 cm.

The body is received unclothed and is identified by identification tags present in and on the body bag.

The body is cool to the touch. Rigor mortis is absent. Livor mortis is not appreciable, secondary to decomposition changes.

The head is status post previous autopsy, but the extent it is examined is grossly unremarkable. The eyes are absent.

The ears are normally formed and normally placed, with the appropriate amount of cartilage. The nose and lips are unremarkable. The palate is intact and is neither high nor arched. The decedent has two lower incisors, in keeping with the age of the infant. The neck is symmetrical without abnormality.

The thorax is status post previous autopsy, and is unremarkable to the extent it can be examined. The back is injured, as described below. The anus is unremarkable.

The external genitalia are those of a normal female infant, without trauma.

The upper and lower extremities are well developed and symmetrical, without absence of digits. The palmar creases are unremarkable.

No identifying marks or scars are readily apparent.

There is no evidence of medical intervention.

EVIDENCE OF INJURY

Due to the extent of the first autopsy, the eyes, brain/skull, right first rib, and right lower limb bones are unable to be adequately examined at autopsy.

HEAD AND NECK

No injury.

THORAX AND ABDOMEN

Two small 0.5 and 0.6 cm subcutaneous hemorrhages are noted on the midline back, 11 inches from the top of the head and 1/2 inch left of posterior midline. There is no associated skeletal or soft tissue injury.

UPPER EXTREMITIES

No injury.

LOWER EXTREMITIES

No injury.

INTERNAL EXAMINATION

BODY CAVITIES: No adhesions or abnormal collections of fluid are present in any of the body cavities. All body organs are present in the normal and anatomic position. The subcutaneous fat layer of the abdominal wall is 0.5 cm thick.

HEAD: The brain is absent. Examination of the skull reveals decomposition changes of the residual fragments of dura and no bony defects, except those related to previous autopsy.

NECK: The strap muscles, large vessels, hyoid bone, larynx and proximal esophagus are absent, secondary to previous autopsy. The tongue is left intact and is grossly unremarkable.

CARDIOVASCULAR SYSTEM: The heart and great vessels are absent.

RESPIRATORY SYSTEM: The lungs are bilaterally absent.

LIVER AND BILIARY SYSTEM: The liver and biliary system are absent.

ALIMENTARY TRACT: The portion of esophagus received with the attached stomach is unremarkable. The stomach has been previously opened, preventing quantification of gastric contents. The small and large bowel are unremarkable and show an attached unremarkable appendix. The pancreas is unremarkable.

GENITOURINARY TRACT: The right and left kidneys are absent. The urinary bladder has been previously opened and is unremarkable. The uterus, fallopian tubes and ovaries are infantile and unremarkable.

RETICULOENDOTHELIAL SYSTEM: The spleen is absent. The thymus is absent.

ENDOCRINE SYSTEM: The pituitary, thyroid and adrenal glands are absent.

MUSCULOSKELETAL SYSTEM: The axial and appendicular skeleton that are received are unremarkable and without evidence of injury.

RADIOGRAPHS: Please see hospital record for description of antemortem skeletal survey and radiographs.

MICROSCOPIC EXAMINATION

BACK CONTUSION: Subcutaneous hemorrhage.

TONGUE: No significant histopathologic abnormality.

FRAGMENTS OF BRAIN: Associated fragments of brain showing minimal vascular congestion, bacterial overgrowth, and focal yeast growth.

LUNG: Largely decomposed lung with loss of cellular detail and collapse of alveoli. Significant post mortem bacterial overgrowth; however, a mixed inflammatory infiltrate is present.

UTERUS, OVARIES: Appropriate for age infantile ovary and uterus.

PANCREAS: Autolysis with loss of cellular detail. No significant histopathologic change.

BLOCK SUMMARY

- #1 Back Contusion
- #2 Tongue
- #3 Fragments of Brain
- #4 Fragment of Liver
- #5 Ovaries, Uterus
- #6 Pancreas

OPINION

The decedent was a 5-1/2 month old white female who died August 18, 2009. This private autopsy is performed with phone consent by the decedent's mother.

Important findings at autopsy include the previously performed post mortem examination, with the following absent anatomic structures that are not typically removed in pediatric autopsies: bilateral eyes, bones of the right leg, section of left parietal bone, and entire first right-sided rib. In general, these samples are removed and examined to evaluate trauma/abuse.

The cause and manner of death in this case are both undetermined, secondary to absent anatomic structures, particularly the brain.

Exhibit

14

VOLUNTARY STATEMENT
(NOT UNDER ARREST)

PAGE NO. 1 OF 1 PAGES

Lyndsey Bond

I am not under arrest for, nor am I being detained for any criminal

offenses concerning the events I am about to make known to Sgt. Tim Williamson.
Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purposes it may serve.

am 22 years of age, D.O.B. 10-20-86 and I live at [redacted] Ph [redacted]

I came from California to Seneca in late April, 2009 for my honeymoon so my husband could meet my family. My sister and (Ashley Bright) and I were going to Wal-Mart and started a conversation about her boyfriend (Matt Henton). She said she was in love with him, but he said he was not in love with her. End of Statement.

LB

- LB

LB

LB

I read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, near my initials, and I certify that the facts contained herein are true and correct.

at 16:02 this 20th day of August, 2008

SS: [Signature]

[Signature]

Signature of person giving voluntary statement

SS: _____

VOLUNTARY STATEMENT
(NOT UNDER ARREST)

PAGE NO. 1 OF 1 PAGE

William Fowler, am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to RORY JONES without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer the following information of my own free will, for whatever purposes it may serve.

am 48 years of age, D.O.B. 2/9/61 and I live at [REDACTED] Ph. [REDACTED]

I worked with MATT AND ASHLEY AT PIZZA HUT FOR APPROXIMATELY 1 YEAR DURING THAT TIME I NEVER SPENT ANY TIME WITH EITHER OF THEM OUTSIDE OF WORK. I did however get to know them on a somewhat personal level from our working many shifts together.

MY EXPERIENCE WITH MATT HAS BEEN A POSITIVE ONE. MATT HAS ALWAYS BEEN POLITE AND PERSONABLE. I NEVER SAW MATT BECOME ANGRY OR RUDE TO MY CO-WORKERS OR CUSTOMERS EVEN DURING STRESSFUL BUSY PERIODS AT WORK. MATT ALWAYS REMAINED EVEN TEMPERED AND CALM.

~~they was different from~~ BF. ASHLEY'S PERSONALITY WAS SOMEWHAT DIFFERENT AT WORK. I WITNESSED HER TREATING CUSTOMERS AND CO-WORKERS IN VERY DISRESPECTFUL WAYS ON MANY OCCASIONS. ASHLEY WAS TRYING TO REACH ME OUT WORK ON MY CELL PHONE ONCE AND MY WIFE HAD MY PHONE THAT DAY. MY WIFE ASKED HER WHY SHE WAS CALLING ME (RATHER THAN A MANAGER CALLING) AND SHE TOLD MY WIFE SHE DIDN'T NEED TO BE A BITCH ABOUT IT. I TOLD SUPERVISOR AND ASHLEY WAS WRITTEN A WARNING BUT SHE NEVER APOLOGIZED TO MY WIFE. (SHE DID APOLOGIZE TO ME). MY EXPERIENCE WITH ASHLEY CAUSED ME TO BELIEVE SHE WAS VERY IMMATURE AND KINDA INSECURE ABOUT HERSELF. SHE CONSTANTLY SPREAD RUMORS AND SAID MEAN THINGS ABOUT PEOPLE.

I DON'T BELIEVE ASHLEY HAS MUCH FAMILY SUPPORT AND WITH HER BEING A MOTHER WHILE WE WERE WORKING TOGETHER I FELT THAT I MIGHT PROTECT HER AND MATT OUT SOME. I NEVER DID SEE BRIANNA IN PERSON BUT BOUGHT SOME BABY CLOTHES AND A BOOK ON PARENTING TO HELP GUIDE THEM THROUGH THE FIRST YEAR. (I ALSO GAVE THEM THE COUCH THEY WERE BECAUSE THEY HAD NO FURNITURE)

AFTER LEAVING MY JOB AT PIZZA HUT IN MARCH 09 I'VE ONLY BRIEFLY MET MATT AND ASHLEY, ~~ONCE~~ ^{ONCE} AT WALMART AND IN THE PARKING LOT AT PIZZA HUT.

I read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, and I certify that the facts contained herein are true and correct.

Witnessed by Sence police Dept., this 18 day of August, 2009.

S: [Signature]

S: _____

William Fowler
Signature of person giving voluntary statement

Appendix 911



Serving Children and Families

KATHLEEN M. HAYES, PH.D.
STATE DIRECTOR

MARK SANFORD
GOVERNOR

**INDICATED CHILD PROTECTIVE SERVICES INVESTIGATIONS
FAMILY COURT ACTIONS AND NOTICE OF RIGHT
TO CHALLENGE THE DEPARTMENT'S FINDING**

Date: 09/21/09

To: MATTHEW HINTON

Address: C/O OCONEE COUNTY SHERIFF OFFICE

300 S. CHURCH ST.

WALHALLA, SC 29691

The department is taking this case to the Family Court for a hearing. You will be served with court papers that will tell you what the Department is asking the court to decide. The judge may rule on many things, including whether your name should be placed on the South Carolina Central Registry of Child Abuse and Neglect, whether your child should be placed in or remain in foster care, or whether treatment services are necessary for you and your child. The Family Court hearing provides an opportunity for you to ask the judge to rule that the Department's case decision was incorrect. The action(s) specific to your situation is/are checked below and provided in addition to the Determination Fact Sheet

☒ DSS will ask the judge to issue an order placing your name on the Central Registry.

The placement of your name on the Central Registry can only be done by specific order of a family court based on a preponderance of the evidence that you are the person responsible for harm to a child.

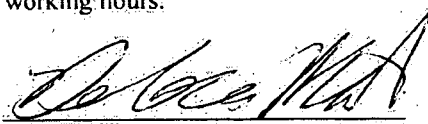
The Central Registry is a statewide confidential listing of perpetrators of child abuse and neglect. Being listed on the Central Registry can have serious consequences on employment, as well as your participation in programs involving children. Specifically, you will not be permitted to be a licensed foster parent or to operate or work in a child day care facility, or to be employed, operate, or volunteer in a residential child care facility. It may also affect your capacity to adopt a child.

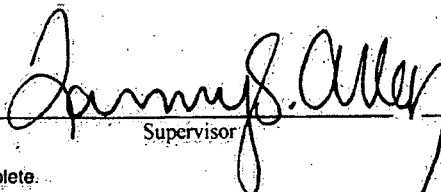
☐ DSS will ask the judge to issue an order approving treatment services with your child remaining in your custody.

☐ DSS will ask the judge to issue an order approving treatment services and removing custody of your child from you.

The Family Court hearing provides an opportunity for you to challenge the Agency's findings against you. You should pay careful attention to the court papers you will receive. Be sure to take the court papers, this letter and the Determination Fact Sheet to your attorney.

If you have any questions, contact the county caseworker or supervisor identified below during normal working hours.


Caseworker


Supervisor

864-638-4400
Telephone

DSS Form 3040 (SEP 07) Edition of JUN 05 is obsolete.

INSTRUCTIONS FOR DSS FORM 3040

Purpose

1. To provide notice of the outcome of the investigation;
2. To identify the worker and how to contact the worker;
3. To document providing the client with information about the client's rights to challenge agency decisions; and
4. To document providing the client with specific information about state statute requirements and agency actions.

General Instructions

References: SC Code of Laws Section 20-7-650, SCDSS Human Services Policy Manual – Chapter 7, Section 701 and 719. This form is to be completed and sent to the alleged perpetrator after the decision is made to indicate the investigation. This notice will advise the individual and family of the actions being taken in Family Court for a ruling on the Central Registry and/or additional oversight for treatment services.

This form is used at the case decision point when:

1. the person has been indicated for sexual abuse; or the facts of the case suggest that this person would be a threat to other children and should be listed on the Central Registry; and/or
2. treatment services are to be provided and there is disagreement over the service plan; and/or
3. there is a request to challenge the Agency's decision to indicate and treatment services are to be provided. Even if the family expresses willingness to participate in treatment, Family Court must resolve this conflict, NOT the Administrative Appeals.

Specific Instructions

Complete the sections with date, specific name and address. Check the appropriate box(es) that reflects the actual case information. More than one box may be checked.

- Check the first box if the person has been found by a preponderance of the evidence to have committed sexual abuse or if the facts of the case support that this person would be a threat to other children if they were in a caregiver role outside the home. (SC Code of Laws Ann. 20-7-650) Family Court must rule on whether the person is to be listed on the Central Registry if the court finds that the individual sexually abused the child.
- Check the second box if Family Court oversight is necessary because the family will not cooperate and/or wants to challenge the agency's decision, and the child appears to be safe in the home. Family Court must rule on whether there is a preponderance of evidence that the person abused or neglected the child and if services must be compelled.
- Check the third box if Family Court oversight is necessary because the family will not cooperate and/or challenge the Agency's decision, and the child appears not to be safe in the home. Family Court will rule on whether the child can stay in the home or come into state's custody, whether the agency's decision was correct, and if treatment services will be ordered.

Write or type in the name of the assigned caseworker, worker's supervisor and the telephone number where they can be reached.

PLEASE NOTE: This Family Court hearing provides an individual with the opportunity to challenge the Agency's decision.

South Carolina Department of Social Services
DETERMINATION FACT SHEET

Case Name: HINTON, MATTHEW Case Number: 0001109764
Address: C/O OLEC, 300 S. CHURCH ST., WALHALLA, SC 29691

As of 09/21/09, it is the decision of the department that the investigation/assessment initiated on 08/17/09 has been INDICATED for the following forms of maltreatment:

PHYSICAL ABUSE as supported by the facts and observations recorded below and in the county investigative/assessment file.

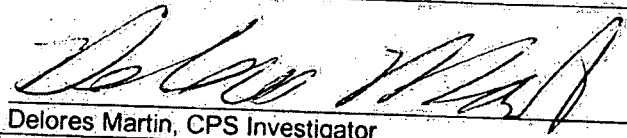
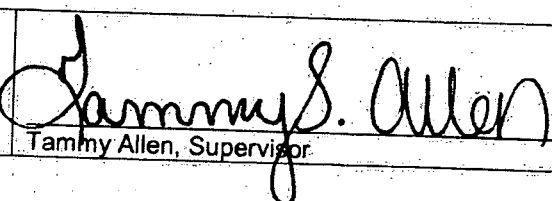
Facts/Observations	Supporting Documentation/Evidence
REDACTED received extensive broken bones and head trauma while in Matthew Hinton's care.	Hospital documentation states REDACTED injuries that were caused by "non-accidental trauma"
Due to these injuries determined to be caused by Matthew Hinton, REDACTED died 08/18/09.	Statements from the County Coroner's office indicates the broken bones were received at the time of the head trauma
	Matthew Hinton was the only parent and person with REDACTED at the time of her injuries
	REDACTED death was caused by the injuries received while in the care of Matthew Hinton.
No evidence of Ashley Bright causing harm to minor child REDACTED. No indication against Ashley Bright could be made.	Injuries occurred while in the care of Matthew Hinton.

For indicated investigations/assessments, check all that apply:

- ☒ You have been identified as the person responsible for harm to a child. (see attached DSS Form Ltr. 3040 or 30200.)
- ☐ A child with whom you are involved has been identified as being abused and/or neglected by state statute. You have not been identified as being responsible for the maltreatment. This information is being provided to you solely because of your legal relationship to the child.
- ☐ A child for whom you are the caregiver has been determined to be abused and/or neglected.
- ☐ **Day Care Facility:** The matter will be referred to your employer and the DSS Division of Child Day Care Licensing And Regulatory Services for action. (See attached DSS Ltr. 3061.)
- ☐ **Foster Homes, Group Homes and Residential Facilities:** See the attached letter for additional information regarding appeal of this decision. (See attached DSS Ltr. 3061.)
- ☐ A child has been determined to have been harmed while at your child care facility. The DSS Division of Child Day Care Licensing and Regulatory Services will contact you regarding a corrective action plan and/or any other actions needed to insure the safety of children.

For unfounded investigations/assessments:

- ☐ See attached DSS Form 3065.

 Delores Martin, CPS Investigator	 Tammy Allen, Supervisor

South Carolina Department of Social Services
SAFETY PLAN

Page 1 of 1

Name: Baigt Case Number: _____

DSS has identified the following concerns about the safety of your child or children. The purpose of this plan is to prevent removal of the child to foster care or as a plan to keep your child safe during the investigation and/or until the safety threats are reduced. The parties enter into this agreement voluntarily. The parents' agreement to this plan is not an admission that they have abused or neglected the child.

If YES is checked, DSS has determined that if the safety services are not provided or are not effective, foster care will be the plan for the child. ☒ Yes ☐ No

Describe the safety threats including a description of when, how often, and under what circumstances they are present; other influences involved; and how parents' or caregivers' access to the child(ren) affect the safety threats.

Minor child [REDACTED] is in hospital due to
major injuries.

1. Describe in detail the safety action or service selected to control the safety threat.

[REDACTED] will be protected from abuse and neglect.
Only approved persons allowed to visit Brianna while
DSS & LE is involved.

2. Identify the start date, frequency and level of effort for the safety action or service.

Beginning 08/17/09, there is to be no contact between
Ms. Baigt & Mr. Hunter with [REDACTED]

3. Identify the person(s) responsible for performing the safety action or service. Describe how the person was confirmed to be suitable to participate in the safety plan. (Protective Capacity - Can and Will Protect)

Will address at a later date.

4. Describe the method for monitoring the safety action or service.

DSS will continue investigation.
Ms. Baigt & Mr. Hunter will cooperate with DSS & LE.

By signing this Safety Plan, the parents and the protector understand and agree that the protector will be responsible for the safety of the child(ren) during the investigation or until safety threats are removed.

The parents and protector have the right to and agree to contact the caseworker if they no longer wish to carry out any part of the agreement, wish to change any part of the agreement, have questions, or want to bring something to the worker's attention. If the parent or protector withdraws from this agreement, the Department will reassess safety and do what is necessary to protect the child(ren).

If the report is unfounded, the Safety Plan will end automatically on the date of case decision.

Protector's Name _____

Relationship to Child _____

Telephone No. _____

Protector's Signature _____

Date _____

Worker's Signature _____

Date _____

Parent's Signature _____

Date _____

Parent's Signature _____

Date _____

☐ Parent(s)/Caretaker Refused to Sign

Note: Failure to comply with the Safety Plan may result in court intervention to assure the child's safety.

Exhibit

17

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

SEARCH WARRANT

COPY

Date: MONDAY AUGUST 20, 2009

Officer: Sgt Ted Roundy

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF OCONEE}

Personally appeared before me, one Sgt Ted Roundy who, being duly sworn, says that there is probable cause to believe that certain property subject to seizure under provisions of section 17-13-140, 1976 Code of Laws of South Carolina, as amended, is located on the following premises in this County:

DESCRIPTION OF PROPERTY SOUGHT
HAND MEASUREMENTS OF MATTHEW TAYLOR HINTON, CIRCUMFERENCE, SPREAD AND LENGTH OF EACH HAND

DESCRIPTION OF PREMISES (PERSON, PLACE OR THING)
TO BE SEARCHED
MATTHEW TAYLOR HINTON, WHITE MALE DOB 10.10.1986

REASON FOR AFFIANT'S BELIEF THAT THE
PROPERTY SOUGHT IS ON THE SUBJECT PREMISES

COPY

The affiant, Sgt Ted Roundy is a law enforcement officer with the Seneca Police Department in Seneca South Carolina and is currently investigating child abuse with a death, which occurred at apartment 129-F, Northwood apartments, 116 Northwood Road in Seneca. A five month old baby girl was admitted to Oconee Memorial Hospital unresponsive and with bruising found on the chest and back, indicating the child was held in a manner that caused the breaking of a rib and bruising on the chest. The child died while in Greenville Hospital as a result of a brain injury due to non accidental trauma. The named person, Matthew Taylor Hinton was the person who had custodial care of the child at the time.

Sworn to and Subscribed before me

this 20 day of Aug, 2009 }

[Signature] (L.S.)
1773
Signature of Judge

Affiant: [Signature]

Address: 205 North Depot Street, Box

Seneca, SC 29679

Phone: (864) 888-0874

1:25pm

RETURN

I received the attached Search Warrant Aug. 20 at 1257
 , 20 09, and have executed it as follows:

On Aug 20 at 09 o'clock M, I searched (the person) described in the warrant and (the premises) 3:05pm

I left a copy of the warrant with Matthew Hinton
of person searched "

Name of person searched or "at the place of search" with.
Together with a receipt for the items seized.

The following is an inventory taken pursuant to the warrant:

- Inventory taken pursuant to the warrant:
1. Photo of right hand palm out with 12" ruler
 2. Photo of left hand palm out with 12" ruler
 3. Photo of left hand spread with 12" ruler
 4. Photo of right hand spread with 12" ruler
 5. Photo of right hand cuped with Tape measure
 6. Photo of left hand cuped with Tape measure
 7. measurement of cuped right hand 7 1/2"
 8. measurement of cuped left hand 8"
- Additional crime scene photos taken by Crime Scene Investigators
See Crime Scene Supplement
- AND This inventory was made in the presence of Sgt Hoover

I swear that this inventory is a true and detailed account of all the property taken by me on the warrant.

SWORN to before me this _____ day of _____, 20____ } _____

(Signature of Officer Executing Warrant)

Signature of Judge _____ (L.S.)

Exhibit 18

SENECA POLICE DEPARTMENT
SEIZED PROPERTY REPORT

ADDRESS SEIZED: 10541 Clemson Blvd.

CASE #: 07001238

PROPERTY SEIZED FROM: BQS.

OFFENSE: Homicide by Child Abuse

ADDRESS: Same

DATE/TIME: 9-2-09 223

TELEPHONE NO.: 654-0801

SIGNATURE: Garnita Rami
(RECEIVED FROM)

SIGNATURE: [Signature]
(OFFICER)

NUMBER AND LIST ALL PROPERTY SEIZED (FULL DESCRIPTION)

Copy of Terrence Robinson Work SAL 8-10-09 thru 8-16-09

450R

450R

DO NOT USE BACK OF SHEET - USE INDIVIDUAL SHEETS

NUMBER OF ITEMS: 1

PAGE 1 OF 1

WHITE - EVIDENCE

CANARY - RECORDS

PINK - INDIVIDUAL / BUSINESS

GOLDENROD - OFFICER

WEEK OF:

8/10/09-8/16/09

BQS #5

EMPLOYEE	MON	TUE	WED	THU	FRI	SAT	SUN	REG HRS	OT HRS	VAC HRS
MICHELLE WRIGHT	IN: 6:00	IN: 5:45	IN: Paperwork	IN: 5:30	IN: 5:30	IN: Paperwork	IN: Paperwork	43.75		
MANAGER	OUT: 4:30	OUT: 4:30	OUT:	OUT: 4:30	OUT: 5:00	OUT:	OUT:			
GARY SHOOK	HRS: 10.5	HRS: 10.75	HRS:	HRS: 11	HRS: 12.5	HRS:	HRS:			
ASST MGR	IN: 2:30	IN: 2:30	IN:	IN: 2:30	IN: 2:30	IN:	IN:			
JAMIRA ROBINSON	OUT: 12:30	OUT: 12:30	OUT:	OUT: 12:30	OUT: 12:30	OUT:	OUT:	40		
FULL-TIME	HRS: 10	HRS: 10	HRS:	HRS: 10	HRS: 10	HRS:	HRS:			
KERSTON WHITMAN	IN: 2:30	IN:	IN: 10:00	IN:	IN: 5:15	IN: 5:15	IN: 3:15	40	2	
FULL-TIME	OUT: 12:15	OUT:	OUT: 12:15	OUT:	OUT: 10:00	OUT: 2:45	OUT: 7:00			
CRYSTAL HUNSINGER	HRS: 9.75	HRS:	HRS: 14.25	HRS:	HRS: 4.75	HRS: 9.5	HRS: 3.75			
FULL-TIME	IN:	IN: 9:20	IN: 5:30	IN:	IN:	IN:	IN: 5:50	25		
CRYSTAL HUNSINGER	OUT:	OUT: 11:45	OUT: 2:15	OUT:	OUT:	OUT:	OUT: 3:00			
FULL-TIME	HRS:	HRS: 6.5	HRS: 9.25	HRS:	HRS:	HRS:	HRS: 9.25			
BARBARA EASTMAN	IN:	IN:	IN: 5:10	IN:	IN: 10:00	IN: 2:30	IN: Sick	28.75		
FULL-TIME	OUT:	OUT:	OUT: 10:00	OUT:	OUT: 12:15	OUT: 12:15	OUT:			
KAY SUTTLES	HRS:	HRS:	HRS: 4.75	HRS:	HRS: 14.25	HRS: 9.75	HRS:			
FULL-TIME	IN: 5:15	IN:	IN: 2:30	IN: 2:15	IN:	IN: 2:30	IN: 8:00	38		
TASHIA RAYNOR	OUT: 2:45	OUT:	OUT:	OUT: 2:45	OUT:	OUT: 12:15	OUT: 12:15			
FULL-TIME	HRS: 9.5	HRS:	HRS:	HRS: 9.5	HRS:	HRS: 9.75	HRS: 9.25			
KAY SUTTLES	IN: —	IN: —	IN: 2:30	IN: 2:30	IN: —	IN: —	IN: 5:45 AM			
FULL-TIME	OUT: —	OUT: —	OUT: 12:15	OUT: 12:15	OUT: —	OUT: —	OUT: 3:15 PM	33		
TASHIA RAYNOR	HRS:	HRS:	HRS: 9.75	HRS: 9.75	HRS:	HRS:	HRS: 7.5 + 4			
PART-TIME	IN:	IN: 11:00 AM	IN:	IN:	IN:	IN: 5:15	IN: 11:00 PM	24		
	OUT:	OUT: 12:15 PM	OUT:	OUT:	OUT:	OUT: 2:45	OUT: 12:15 PM			
	HRS:	HRS: 13.25	HRS:	HRS:	HRS:	HRS: 9.5	HRS: 1.25			
	IN:	IN:	IN:	IN:	IN:	IN:	IN:			
	OUT:	OUT:	OUT:	OUT:	OUT:	OUT:	OUT:			
	HRS:	HRS:	HRS:	HRS:	HRS:	HRS:	HRS:			
	IN:	IN:	IN:	IN:	IN:	IN:	IN:			
	OUT:	OUT:	OUT:	OUT:	OUT:	OUT:	OUT:			
	HRS:	HRS:	HRS:	HRS:	HRS:	HRS:	HRS:			
	IN:	IN:	IN:	IN:	IN:	IN:	IN:			
	OUT:	OUT:	OUT:	OUT:	OUT:	OUT:	OUT:			
	HRS:	HRS:	HRS:	HRS:	HRS:	HRS:	HRS:			
TOTALS	39.75	40.50	38	40.25	40.50	38.50	37	272.50	2	

Appendix 922

✓ Seneca Police Dept.
Other _____

SENECA POLICE DEPARTMENT

PROPERTY REPORT

1. Status - Check One Only:

☒ Evidence ☐ Recovered ☐ Found ☐ Other _____

2. Case Number:

09001238

3. Date & Time:

08-18-09 / 11:30

IT IS MANDATORY TO SUBMIT A LABORATORY
ANALYSIS REQUEST FORM FOR ALL ARTICLES
REQUIRING LABORATORY OR FORENSIC PROCESSING

4. P & E use only

5. Case Type

Aggravated Assault

6. Found or Recovered From: ☐ Location ☐ Suspect ☐ Complainant ☐ Employer
☐ Victim ☐ Person Reporting ☐ AKA ☒ Other

7. Location Property Was Found/Impounded (Give Exact Address/Location)

1601 Sandifer Blvd.
Seneca, SC. 29678

Name: Steve Schindler

8. Owner's Name:

9. Owner's Address:

10. Owner's Phone #

11. Item #

12. Quantity:

13. Description:

14. NCIC HIT

Yes No

1 1 Disc Containing Visual Recording
2 1 Electronic Journal Report

15. I hereby acknowledge that the above list represents all property taken
from my possession and that I have received a copy of this report.

16. Impounding Officer (Print Full Name):

Tim Williamson

17. Com No

1087

18. Unit No

325

Signature:

19. Signature:

20. Investigating Officer

21. Received By:

Reason:

Date & Time Received:

Received By:

Reason:

Date & Time Received:

Received By:

Reason:

Date & Time Received:

Received By:

Reason:

Date & Time Received:

Received By:

Reason:

Date & Time Received:

Received By:

Reason:

Date & Time Received:

Received By:

Reason:

Date & Time Received:

AUTHORIZATION FOR DISPOSITION

IT IS THE EVIDENCE/PROPERTY OFFICER'S RESPONSIBILITY TO NOTIFY OWNERS TO CLAIM PROPERTY

Type of Disposition:

☐ Cleared for Disposal Items _____

Person Authorizing:

☐ Release To:

Name (Print): _____

Name (Print): _____

Signature: _____

Signature: _____

ID #: _____ Phone #: _____

Date: _____

Address: _____

City: _____ State: _____ Zip: _____

VOLUNTARY STATEMENT

(NOT UNDER ARREST)

PAGE NO. 1 OF 1 PAGEDesmond Mondelle Holland

I am not under arrest for, nor am I being detained for any crim

offenses concerning the events I am about to make known to R. Jones

Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I volunteer information of my own free will, for whatever purposes it may serve.

I am 23 years of age, D.O.B. 02-15-1986 and I live at [redacted]

On Sunday August 16th I was laying in my bedroom when I heard a loud boom upstairs. I went upstairs at 2:50pm to tell them to keep the noise down, but when I knocked, all I heard was the dogs at the door barking and jumping on the door, and the baby wimpering. So I came back downstairs to try and lay back down. By the time I made it to my back bedroom I heard the "boom" again and it sound like a 23 inch TV had falls. Although it was as loud as the first one, it was still loud enough to wake someone who's sleeping. So I went back upstairs to tell them they were being too loud and that this was my 2nd time coming up. So I knocked harder but that time all I heard was the dogs barking, and no one answer the door. So I went back to my apartment and got dressed and went over my mom's house.

END OF STATEMENT

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials, and I certify that the facts contained herein are true and correct.

Signed at SPDWITNESS: [Signature]WITNESS: [Signature]this 20 day of August, 2009

Signature of person giving voluntary statement

Appendix 924

Exhibit 19

AGENCY I.D.
SC0370100

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

09001238

NCIC

INO. ENDO.

☐ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL

☒ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☒ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 OF 10 PAGES

VIC/SUBJ ID OVERFLOW	COMPLAINANT	NAME (LAST, FIRST, MIDDLE) BRIGHT, ASHLEY RENEE										VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	VICTIM #	#1										#2	#3	J	S	O	W	F	24	09/16/1984	N
	SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, PHYSICAL PECULIARITIES, ETC.															
	RUNAWAY	503	250	RED	GRN	UNKNOWN															
	WANTED											CITY	STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE			
	WARRANT											SENECA	SC	29678	3						
	ARREST	☐ VICTIM NO. ☐ VISIBLE INJURY ☐ NO ☐ YES		☐ COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ NO ☐ YES		☐ VICTIM USING: ALCOHOL ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEH. ☐ DETECTIVE / SPLASMT. ☐ ALONE													
	JAIL	EXPLAIN -				☐ DRUGS ☐ NO ☐ YES TYPE: ☐ UNK		☐ ONE-MAN VEH. ☐ OTHER ☐ ASSISTED													
	SUMMONS	☒ SUBJECT NO. 2 USING ALCOHOL ☐ NO ☐ YES		☐ USING DRUGS: ☐ NO ☐ YES → TYPE: ☐ UNK																	
	SUSPECT	2																			
VIC ID UNDERFLOW	COMPLAINANT	NAME (LAST, FIRST, MIDDLE) CROMER, GREG										VICTIM RELATIONSHIP TO SUBJECT			RESIDENT	RACE	SEX	AGE	D.O.B.	ETH.	
	VICTIM #	#1										#2	#3	S	O	U	W	M	00		N
	SUBJECT #	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, PHYSICAL PECULIARITIES, ETC.															
	RUNAWAY																				
	WANTED	ADDRESS										CITY	STATE	ZIP CODE	LOCATION NO.	DAYTIME PHONE		EVENING PHONE			
	WARRANT	298 MEMORIAL DRIVE										SENECA	SC	29678							
	ARREST	☐ VICTIM NO. ☐ VISIBLE INJURY ☐ NO ☐ YES		☐ COMPLAINT OF ANY NON-VISIBLE INJURIES ☐ NO ☐ YES		☐ VICTIM USING: ALCOHOL ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEH. ☐ DETECTIVE / SPLASMT. ☐ ALONE													
	JAIL	EXPLAIN -				☐ DRUGS ☐ NO ☐ YES TYPE: ☐ UNK		☐ ONE-MAN VEH. ☐ OTHER ☐ ASSISTED													
	SUMMONS	☒ SUBJECT NO. 3 USING ALCOHOL ☐ NO ☐ YES		☐ USING DRUGS: ☐ NO ☐ YES → TYPE: ☐ UNK																	
	WITNESS	0																			

THERE WAS A BRUISE ON THE CHEST OF THE CHILD THAT DOCTOR CROMER COULDN'T EXPLAIN AT THE TIME AND THEY BELIEVED THE BRUISE COULD BE AN OLD BRUISE.

THE CHILD WAS IN CRITICAL CONDITION AND WAS IN THE PROCESS OF BEING TRANSFERRED TO GREENVILLE HOSPITAL AND THE "PEDIATRIC INTENSIVE CARE UNIT" OR "PICU."

THE FATHER OF THE CHILD, MATTHEW HINTON, TOLD OFFICERS AND THE DOCTOR THAT HE AND THE CHILD HAD BEEN IN BED SINCE AROUND 4:00 PM THIS AFTERNOON. WHEN HE GOT UP AROUND 11:00 AM THE CHILD WASN'T RESPONSIVE.

		JURISDICTION OF THEFT LAW ENFORCEMENT AGENCY				JURISDICTION OF RECOVERY LAW ENFORCEMENT AGENCY									
STATUS		TYPE		VIN AND/OR LICENSE NO.				BOAT HULL NO. AND/OR REG. NO.							
☐ STOLEN	☐ VEHICLE			SERIAL AND/OR OWNER APPLIED NO.				STATE							
☐ RECOVERED	☐ GUN			YEAR OF REGISTRATION				YEAR OF EXPIRATION		YEAR		MAKE		TYPE	
☐ FOUND	☐ BOAT			MODEL				STYLE		COLOR		BRAND NAME		CALIBER	
☐ SEIZED	☐ VEHICLE PARTS & ACCESSORIES			NIC NO.				DENOMINATION		ISSUER		SECURITIES DATE			
☐ SUSPECT	☐ SECURITIES / BOND, STOCKS			MISCELLANEOUS											
☐ VICTIM	☐ ARTICLE														
TYPE (GROUP)		TOTAL VALUE													
STOLEN															
DAMAGED															
BURNED															
RECOVERED															
SEIZED															
SUBJECT IDENTIFIED		SUBJECT LOCATED		ACTIVE		ADM. CLOSED		ARRESTED UNDER 18		EX-CLEAR UNDER 18					
☒ YES ☐ NO		☒ YES ☐ NO		☐ UNFOUNDED		☐ ADM. CLOSED		☐ ARRESTED 18 AND OVER		☐ EX-CLEAR 18 AND OVER					
REASON FOR EXCEPTIONAL CLEARANCE		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION		5. ☐ JUVENILE - NO CUSTODY					
REPORTING OFFICER		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER					
ROUNDY, T		08/17/2009		311		A. B. Wheeler				1119					
						FOLLOW-UP INVESTIGATION		☒ YES ☐ NO							

Exhibit 20

AGENCY I.D.
SC0370100

SUPPLEMENTARY REPORT

CASE NUMBER

09001238

NCIC

INQ. ENTD.

☐ ORIGINAL
REPORT

☒ SUPPLEMENTAL
REPORT

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
STOLEN PROPERTY

PAGE 4 OF 10 PAGES

☐ MODIFIES
ORIGINAL

☐ CASE STATUS
CHANGE

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
RECOVERED PROPERTY

THE BEDROOMS IN THE APARTMENT.

ASHLEY TOLD THE OFFICER THAT SHE CHECKED ON THE TWO SEVERAL TIMES WHILE SHE WAS WATCHING SOME PROGRAMS ON THE COMPUTER. MATTHEW THEN CALLED OUT TO HER TO HAVE HER CALL 911, AS WASN'T BREATHING. SHE DID SO AND 911 GAVE MATTHEW INSTRUCTIONS ON HOW TO ADMINISTER CPR

ASHLEY SAID THE ONLY TIME SHE WENT IN THE ROOM WAS TO PULL THE COVERS DOWN FROM THE BABY'S FACE AND THIS WAS AROUND 9:00 PM.

A STATEMENT WAS TAKEN FROM ASHLEY BRIGHT WHILE AT THE HOSPITAL BY SGT. WHEELER. THE INCIDENT TOOK PLACE AT NORTHWOOD APARTMENTS 116 NORTHWOOD DRIVE IN SENECA

I WATCHED BOTH COUPLES WHILE INTERACTING IN THE E.R. AND SAW THAT WHILE TALKING TO THE DOCTOR, ASHLEY SHOWED NO EMOTION; YET WHEN SHE ASKED HER HUSBAND FOR HIS PHONE, SHE CALLED SOMEONE AND STARTED THE CONVERSATION OFF LIKE SHE WAS UPSET. WHEN SHE HUNG THE PHONE UP AND CAME TO WHERE WE WERE STILL TALKING TO HER HUSBAND, SHE WAS DRY EYED AND AGAIN SHOWED NO EMOTION OR CONCERN.

THE CHILD WAS TAKEN TO HAVE A CT SCAN, AND WHILE THAT WAS BEING DONE, I RETURNED TO THE POLICE DEPARTMENT TO DRAW UP A SEARCH WARRANT FOR APARTMENT 129-F, NORTHWOOD APARTMENTS.

AT 1:33 AM I WAS CONTACTED BY MAJOR NORMANDIN, WHO WAS STILL AT THE HOSPITAL, TO TELL ME DOCTORS FOUND BLOOD ON THE BRAIN DURING THE CT SCAN.

AT 2:07 AM I WAS CONTACTED BY LT. TRIBBLE AND TOLD THAT I WAS GOING TO BE NEEDED AT GREENVILLE HOSPITAL, WHERE THE CHILD WAS TAKEN.

I COMPLETED THE SEARCH WARRANT FOR APARTMENT 129-F THEN, AFTER THE WARRANT WAS SIGNED BY JUDGE DANNY SINGLETON, I WENT WITH SGT. MELINDA NICHOLSON AND ASSISTED HER IN THE EXECUTION OF THE WARRANT.

AFTER STARTING THE SEARCH WARRANT, I HAD LT. TRIBBLE AND MAJOR NORMANDIN TAKE OVER THE EXECUTION OF THE WARRANT WITH SGT. NICHOLSON WHILE I WENT TO GREENVILLE HOSPITAL PICU.

ARRIVED AT GREENVILLE PICU AND CONTACTED DOCTOR DARRYL GWYN. I SPOKE WITH DOCTOR GWYN ABOUT THE INJURIES TO THE BABY AND I WAS TOLD THERE WAS BLOOD ON THE LEFT SIDE OF THE BRAIN AND RETINAL HEMORRHAGING. ALL THIS WAS CONSISTENT WITH WHAT IS KNOWN AS "NON-ACCIDENTAL TRAUMA "

THERE WAS GOING TO BE A FORENSIC TEAM FROM GREENVILLE HOSPITAL COMING TO CHECK ON THE BABY TO SEE IF THEY CAN DETERMINE THE TYPE OF INJURY AND HOW IT COULD HAVE HAPPENED LATER TODAY. AND WE SHOULD KNOW MORE THEN ON HOW THE CHILD WAS HURT AND THE EXTENT OF THOSE INJURIES.

AFTER TALKING WITH DOCTOR GWYN AT 4:48 AM, I SPOKE WITH MATTHEW HINTON IN ONE OF THE QUIET ROOMS IN THE PICU. I HAD MATTHEW GO OVER WHAT HAPPENED.

MATTHEW TOLD ME WOKE UP FROM A NAP AT 2:00 PM AND AT AROUND 3:00 PM HE GAVE HER BATH. AFTER GIVING HER A BATH, HE PUT IN A CHILD'S SEAT IN THE SHOWER STALL SO HE COULD TAKE A SHOWER AND WATCH HER AT THE SAME TIME.

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		ACTIVE ☐ UNFOUNDED		ADM. CLOSED		ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION		5. ☐ JUVENILE - NO CUSTODY	
REPORTING OFFICER		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		UNIT NUMBER	
ROUNDY, T		08/17/2009		311		A. B. Wheeler				1119	
FOLLOW-UP INVESTIGATION		OFFICER		ROUNDY, T		YES ☒ NO ☐					

Appendix 928

Exhibit 21

☐ ORIGINAL REPORT

☒ SUPPLEMENTAL REPORT

☐ ADDITIONAL VICTIMS

☐ ADDITIONAL STOLEN PROPERTY

PAGE 5 OF 10 PAGES

☐ MODIFIES ORIGINAL

☐ CASE STATUS CHANGE

☐ ADDITIONAL OFFENDERS

☐ ADDITIONAL RECOVERED PROPERTY

AFTER TURNING OFF THE WATER, MATTHEW SAID HE WENT TO PICK UP [REDACTED] AND AS HE WAS PICKING HER UP WITH HIS RIGHT HAND UNDER HER BUTT AND HIS LEFT HAND ON HER BACK, THE BABY KICKED AND HE LOST HIS GRIP.

HE TOLD ME HE GRABBED THE CHILD'S LEG WITH HIS RIGHT HAND AND THE BABY FELL STOMACH FIRST ACROSS HIS LEFT ARM. MATTHEW SAID HE JERKED HIS ARM UP ALONG WITH THE BABY TOWARD HIS CHEST, GETTING HIS HOLD BACK ON THE CHILD. AFTER THIS HAPPENED, THE CHILD CRIED FOR ONLY A FEW MINUTES THEN STOPPED.

MATTHEW SAID HE THEN FED THE CHILD 3 OZ OF FORMULA AND SHE THEN PLAYED FOR A WHILE IN HER PLAY PEN. AFTER A WHILE, AT 4:15 PM, [REDACTED] STARTED RUBBING HER EYES GETTING SLEEPY AND HE ROCKED HER TO SLEEP. AFTER SHE FELL ASLEEP HE LAID HER BACK IN THE PLAY PEN AND SHE'D WAKE UP.

MATTHEW SAID [REDACTED] WOULDN'T STAY ASLEEP UNLESS HE WAS HOLDING HER, SO AT 4:45 PM HE SENT ASHLEY A TEXT MESSAGE TELLING HER THAT HE WAS GOING TO LAY DOWN WITH THE BABY. THE REST OF MATTHEW'S STATEMENT TO ME WAS THE SAME AS HE GAVE THE OFFICERS AT OCONEE MEMORIAL HOSPITAL.

MATTHEW SAID HE'S NEVER HURT THE BABY AND HE'S NEVER SEEN ASHLEY HURT THE CHILD. HE WAS ONLY CONCERNED ABOUT HOW [REDACTED] GOT HURT AND THAT SHE WOULD BE OKAY. HE WANTED TO SEE HER AND I TOLD HIM HE WASN'T GOING TO BE ABLE TO AT THIS TIME, AS THE DOCTORS AND NURSES WERE WORKING ON [REDACTED]

I HAD MATTHEW WRITE A STATEMENT FOR ME ON WHAT HE SAID HAPPENED BEFORE LYING DOWN.

AT 5:41 AM I SPOKE WITH ASHLEY BRIGHT, AND THE STATEMENT SHE GAVE TO ME WAS THE SAME AS SHE GAVE AT OCONEE MEMORIAL HOSPITAL AND TO OFFICER CHRIS KELLY.

ASHLEY SAID SHE LEFT FOR WORK AT AROUND 11:45 AM, AS SHE HAD TO BE AT WORK AT 12:00 PM. SHE WORKED UNTIL 5:00 PM, BUT HAD TO GO TO WALGREENS AFTER WORK TO PICK UP A PRESCRIPTION, AND DIDN'T GET HOME UNTIL 5:30 PM. WHEN SHE DID ARRIVE HOME AFTER WORK, SHE CHECKED ON THE BABY AND MATTHEW IN THE FIRST BEDROOM ON THE RIGHT AND SAW THAT THEY WERE COVERED AND SLEEPING. SHE THEN WENT TO THE LIVING ROOM AND WATCHED SOME PROGRAMS ON HER COMPUTER.

AFTER EACH PROGRAM, SHE'D GO TO THE BEDROOM AND CHECK ON MATTHEW AND THE BABY, AND ONE TIME WHEN SHE WENT TO THE BATHROOM. THIS WOULD HAVE BEEN ABOUT EVERY 40 TO 45 MINUTES.

AT AROUND 10:30 TO 10:45 PM, MATT CALLED OUT, TELLING HER TO CALL 911 AS THE BABY WASN'T BREATHING. I READ THE STATEMENT SHE'D WRITTEN AT OCONEE MEMORIAL HOSPITAL AFTER I SPOKE WITH ASHLEY AND THEY WERE THE SAME, SO I TOOK NO WRITTEN STATEMENT FROM HER AT THE TIME.

AT NO TIME HAS ASHLEY EVER SEEN MATTHEW MISTREAT [REDACTED] NOR HAS SHE EVER SEEN HIM SHAKE THE BABY. WHEN SHE HAS PROBLEMS WITH [REDACTED] SHE'D PUT THE BABY DOWN AND WALK AWAY, OR SHE'D GIVE THE CHILD TO MATTHEW AND THE CHILD WOULD CALM DOWN RIGHT AWAY.

DURING MY INTERVIEW WITH ASHLEY, I OBSERVED AT NO TIME DID SHE ASK ABOUT THE CONDITION OF THE CHILD, HOW THE CHILD WAS DOING OR WHEN SHE COULD SEE THE CHILD. SHE ALSO NEVER INQUIRED AS TO HOW THE CHILD COULD HAVE BEEN INJURED.

☒ SUBJECT IDENTIFIED YES ☐ NO		☒ SUBJECT LOCATED YES ☐ NO		☐ ACTIVE UNFOUNDED		☐ ADM. CLOSED		☐ ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY											
REPORTING OFFICER			DATE		UNIT NUMBER		APPROVING OFFICER			DATE	
ROUNDY, T			08/17/2009		311		A. B. Wheeler				
							FOLLOW-UP INVESTIGATION			☒ YES ☐ NO	
							OFFICER ROUNDY, T			1119	

Exhibit 22

☐ ORIGINAL REPORT☒ SUPPLEMENTAL REPORT☐ ADDITIONAL VICTIMS☐ ADDITIONAL STOLEN PROPERTY

PAGE 7 OF 10 PAGES

☐ MODIFIES ORIGINAL☐ CASE STATUS CHANGE☐ ADDITIONAL OFFENDERS☐ ADDITIONAL RECOVERED PROPERTY

NIGHT SHE WOULD COME OVER SEVERAL TIMES DURING THE WEEK AND SPEND TIME WITH [REDACTED] AND VISIT. OTHER THAN THOSE THREE PEOPLE, NO ONE HAS BEEN TO THE APARTMENT AND IT'S JUST BEEN HE AND ASHLEY WITH THE BABY FOR THE PAST WEEK OR TWO.

WHEN ASKED ABOUT ASHLEY AND HOW SHE WAS WITH THE BABY, MATTHEW SAID SHE WOULD SOMETIMES GET UPSET AND FRUSTRATED WITH [REDACTED] WHEN SHE WOULDN'T STOP CRYING, AND ASHLEY WOULD PUT [REDACTED] DOWN AND WALK AWAY, OR GIVE HER TO HIM AND [REDACTED] WOULD STOP CRYING.

MATTHEW SAID HE'S BONDED WITH [REDACTED] SINCE SHE WAS BORN AND HE KNOWS WHAT EACH CRY THE CHILD MAKES MEANS. IN THE BEGINNING, HE DIDN'T KNOW IF HE WANTED THE BABY, BUT AFTER SPENDING TIME WITH HER, HE WOULDN'T KNOW WHAT TO DO WITHOUT HER.

AFTER THE INTERVIEW, SGT. JONES AND I SPOKE AND I WAS TOLD ASHLEY HAD REQUESTED AN ATTORNEY AND REFUSED TO SPEAK WITH HIM ANY LONGER ON THE MATTER.

THIS OCCURRED WHEN SGT. JONES AND I WERE SPEAKING FOR LESS THAN 30 SECONDS OUTSIDE OF HIS OFFICE. ASHLEY CALLED SOMEONE ON HER CELL PHONE, AND WHEN HE RE-ENTERED THE OFFICE TO CONTINUE THE INTERVIEW, SHE ASKED FOR AN ATTORNEY. (THE PERSON CALLED, WE LATER LEARNED, WAS AN UNCLE NAMED PAT GROGAN.)

AT 3:50 PM I CALLED PICU AND SPOKE WITH THE ATTENDING NURSE FOR [REDACTED] SHE WAS ABLE TO TELL ME [REDACTED] DID HAVE SEVERAL FRACTURES. THE FIRST RIB ON THE RIGHT SIDE WAS FRACTURED, AS WERE THE UPPER AND LOWER BONES OF THE RIGHT LEG. THE RADIOLOGIST SAID THE FRACTURES COULD HAVE OCCURRED ANYTIME IN THE PAST TWO WEEKS. AT THIS TIME THEY WERE GIVING [REDACTED] MEDICATION TO KEEP HER BLOOD PRESSURE UP.

AT 8:26 PM I CALLED PICU AGAIN TO CHECK ON THE CONDITION OF [REDACTED] AND SPOKE WITH THE NIGHT ATTENDING NURSE. I WAS TOLD THEY HAD DONE A BRAIN SCAN FOR BLOOD FLOW TO THE BRAIN ON [REDACTED] AND THE SCAN CAME BACK NEGATIVE, SHOWING NO BLOOD FLOW. THEY'LL DO SEVERAL MORE BEFORE COMING TO A CONCLUSION.

AUGUST 18TH OF 2009 AT 9:10PM, I RECEIVED A CALL FROM DOCTOR GRADISEK, A RESIDENT DOCTOR AT GREENVILLE HOSPITAL WHO IS WORKING WITH DOCTOR SEIGLER. I WAS TOLD [REDACTED] WAS GOING TO HAVE ANOTHER BLOOD FLOW TEST DONE THIS MORNING AND SHE WAS TRYING TO GET IN TOUCH WITH THE PARENTS, MATTHEW AND ASHLEY. I ASKED IF THEY WERE IN THE WAITING ROOM, AS WE WERE TOLD BY THEM DURING THE INTERVIEW THE DAY BEFORE THAT THEY WERE GOING TO BE AT THE HOSPITAL ALL NIGHT. I WAS TOLD THEY WERE NOT THERE AND HADN'T BEEN.

AT 10:10 AM, SGT. JONES AND I ARRIVED AT PICU AND SPOKE WITH DOCTOR SEIGLER. DOCTOR SEIGLER SAID WITH THE TYPE OF INJURY BRIANNA RECEIVED; THERE WOULD HAVE BEEN AN IMMEDIATE CHANGE IN HOW SHE WOULD HAVE ACTED. THE CHILD WOULD HAVE GONE UNCONSCIOUS IMMEDIATELY AND IT COULD HAVE BEEN MIS-INTERPRETED AS SLEEP.

WHEN TOLD OF THE CHANGES IN THE CHILD'S HABITS ON THAT SUNDAY, AND THE INCIDENT IN THE BATHROOM AFTER THE BATH, DOCTOR SEIGLER SAID THE INJURY COULD HAVE OCCURRED BETWEEN 2-3 PM THAT AFTERNOON, BUT HE COULDN'T COMPLETELY RULE OUT THE INJURIES OCCURRING THAT MORNING.

THE INCIDENT IN THE BATHROOM, HE DIDN'T FEEL COULD HAVE CAUSED THE BRAIN INJURY THE CHILD HAD. WHAT HAPPENED, DOCTOR SEIGLER SAID, WASN'T AN ACCIDENT AND THAT THERE WAS A LOT OF FORCE USED IN THE CAUSING OF THE INJURIES BRIANNA RECEIVED. WHAT HE COULD SAY FOR CERTAIN WAS THE

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		ACTIVE ☐ UNFOUNDED		ADM. CLOSED ☐		ARRESTED UNDER 18 ☐		EX-CLEAR UNDER 18 ☐	
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION		5. ☐ JUVENILE - NO CUSTODY			
REPORTING OFFICER ROUNDY, T		DATE 08/17/2009		UNIT NUMBER 311		APPROVING OFFICER A. B. Wheeler		DATE		UNIT NUMBER 1119	
						FOLLOW-UP INVESTIGATION ☒ YES ☐ NO					

Exhibit 23

☐ ORIGINAL REPORT

☒ SUPPLEMENTAL REPORT

☐ ADDITIONAL VICTIMS

☐ ADDITIONAL STOLEN PROPERTY

☐ MODIFIES ORIGINAL

☐ CASE STATUS CHANGE

☐ ADDITIONAL OFFENDERS

☐ ADDITIONAL RECOVERED PROPERTY

PAGE 8 OF 10 PAGES

INJURY TO THE CHILD WAS NOT A WEEK OLD, BUT HAPPENED THAT DAY.

AT 1:22 PM, THE CHILD WAS MOVED TO X-RAY AND AS SHE WAS BEING MOVED, ASHLEY, MATTHEW, AND ASHLEY'S MOTHER, DONNA ELLER, ARRIVED. THEY WERE TOLD TO HAVE A SEAT IN THE CHILD'S ROOM UNTIL SHE WAS RETURNED.

AT 1:45 PM, [REDACTED] CAME OUT OF X-RAY, AND WE WERE TOLD THERE WAS NO BLOOD FLOW TO THE BRAIN. THE CHILD WAS TAKEN BACK TO HER ROOM AT 1:50 PM, AND AS WE ARRIVED DOCTOR SEIGLER WAS INFORMING THE FAMILY OF THE NATURE OF [REDACTED] INJURIES. HE HAD NOT RECEIVED THE RESULTS FROM X-RAY AS YET.

DOCTOR SEIGLER LEFT THE ROOM TO GET THE TEST RESULTS AND RETURNED AT 2:11 PM. DOCTOR SEIGLER PRONOUNCED THE CHILD, [REDACTED] DEAD AT 2:10 PM.

EVERYONE SHOWED EMOTION OVER THIS INFORMATION EXCEPT ASHLEY, WHO SHOWED VERY LITTLE, IF ANY. I SPOKE WITH THE ATTENDING PHYSICIANS WHO WERE PRESENT AT THE TIME THE FAMILY WAS TOLD OF THE CONDITION OF [REDACTED] AND ASKED ABOUT THE RESPONSE FROM THE FAMILY AND ASHLEY. I WAS OLD IT WAS FLAT LINE AND NOT NORMAL.

AFTER A SHORT WHILE WE SPOKE WITH MATTHEW IN THE HALL AND HE SAID HE WANTED TO TALK WITH US, BUT NOT HERE. SGT JONES IS TO PICK HIM UP AT 10:00 AM AUGUST 19TH, AND BRING HIM TO THE SENECA POLICE DEPARTMENT.

MATTHEW TOLD SGT. JONES AND ME THAT WHEN HE WOKE, [REDACTED] WASN'T NEXT TO HIM WHERE HE PLACED HER WHEN THEY LAID DOWN, BUT NEXT TO THE WALL. THIS MENT SHE WOULD HAVE HAD TO HAVE ROLLED ALL THE WAY TO THE WALL AND HE WOULD HAVE FELT HER MOVE IF THAT HAD HAPPENED. HE DIDN'T KNOW IF ASHLEY CAME IN THE ROOM AND PICKED UP THE BABY WHILE THEY WERE SLEEPING OR NOT AND THEN REPLACED HER BACK IN THE BED.

WE WERE TOLD ASHLEY WANTED TO TALK WITH TAMMY ALLEN AT DSS BY LINDSEY SIMMONS, ASSISTANT SOLICITOR. IT'S NOT KNOWN WHEN THAT MEETING IS GOING TO BE TAKING PLACE.

ON AUGUST 19TH, I WAS TOLD DONNA ELLER WANTED TO SPEAK WITH SGT. JONES AND ME AT THE SENECA POLICE DEPARTMENT. WE WENT TO HER ADDRESS, 205 BRENTWOOD DRIVE AND PICKED HER UP, BRINGING HER BACK TO THE POLICE DEPARTMENT. DONNA WANTED TO KNOW IF MATTHEW WAS TELLING US THAT ASHLEY HAD PICKED [REDACTED] UP WHILE THE TWO OF THEM WERE SLEEPING IN THE BEDROOM, AND WE WOULDN'T RESPOND TO THE QUESTION.

DONNA TOLD US THAT SHE WAS SURE ASHLEY DIDN'T PICK UP THE BABY WHILE SHE AND MATTHEW WERE IN THE BEDROOM SLEEPING AND SHAKE [REDACTED] THEN PUT HER BACK IN THE BED. SHE SAID ASHLEY LOVED [REDACTED] TOO MUCH TO HURT HER.

DONNA ALSO TOLD US THAT MATTHEW HAD TOLD HER THAT DURING THE BATH AND WHEN [REDACTED] SLIPPED FROM HIS GRASP, SHE HIT HER HEAD ON THE WALL IN THE SHOWER STALL. THIS WAS LEFT OUT BY MATTHEW DURING HIS INTERVIEWS.

DONNA ALSO SAID MATTHEW'S MOTHER, DENISE RICHARDSON AND HIS FATHER (NAME UNKNOWN), DIDN'T KNOW HE HAD A BABY, AS MATTHEW WOULDN'T TELL THEM. THE MOTHER IS LIVING IN TRAVELERS REST AND THE FATHER IS LIVING IN ALABAMA.

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18		☐ EX-CLEAR UNDER 18	
REASON FOR EXCEPTIONAL CLEARANCE		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION	
REPORTING OFFICER		DATE		UNIT NUMBER		APPROVING OFFICER		DATE	
ROUNDY, T		08/17/2009		311		A. B. Wheeler		1119	
FOLLOW-UP INVESTIGATION		OFFICER ROUNDY, T		☒ YES ☐ NO					

Exhibit 24

AGENCY I.D.
SC0370100

SUPPLEMENTARY REPORT

CASE NUMBER

09001238

NCIC

INO ENTD

☐ ORIGINAL
REPORT

☒ SUPPLEMENTAL
REPORT

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
STOLEN PROPERTY

PAGE 9 OF 10 PAGES

☐ MODIFIES
ORIGINAL

☐ CASE STATUS
CHANGE

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
RECOVERED PROPERTY

SGT. JONES TRIED MOST OF THE DAY TO CONTACT MATTHEW ABOUT THE INTERVIEW THAT HAD BEEN SET FOR TODAY AND WHEN HE WAS ABLE TO GET IN TOUCH, MATTHEW SAID HE AND ASHLEY WERE IN ANDERSON LOOKING FOR AN URN TO PUT [REDACTED] ASHES, AS THEY WERE GOING TO HAVE HER CREMATED

AUGUST 20TH AT 9:49 AM, SGT. JONES, ASSISTANT SOLICITOR LINDSEY SIMMONS AND I ARRIVED AT ANDERSON HOSPITAL FOR THE AUTOPSY OF [REDACTED] THE AUTOPSY WAS CONDUCTED BY DOCTOR BRETT WOODARD IN THE MORGUE AT ANDERSON HOSPITAL.

THE AUTOPSY STARTED AT 10:04 AM AND ENDED AT 11:19 AM. DURING THE AUTOPSY, ADDITIONAL BRUISING WAS FOUND ON THE BODY OF [REDACTED] THERE WAS BRUISING ON THE FRONT OF THE HEAD AND BACK OF THE HEAD, WITH DOCTOR WOODARD SAYING THE CHILD'S HEAD HAD STRUCK SOMETHING WITH FORCE.

THERE WAS ALSO BRUISING FOUND ON THE SMALL OF THE BACK WHICH APPEARS TO HAVE BEEN MADE BY THE FINGERS OF THE RIGHT HAND OF WHOEVER HELD THE CHILD. THE BREAKING OF THE FIRST RIB ON THE RIGHT SIDE, DOCTOR WOODARD SAID, WAS CAUSED BY THE GRIP OF THE PERSON WHO HELD [REDACTED]

DOCTOR WOODARD ALSO SAID THE BRUISING TO THE FRONT OF THE CHILD'S CHEST WAS CAUSED BY THE THUMBS OF THE SUSPECT WHO HELD THE CHILD, AND NOT FROM A STERNUM RUB, AS WE WERE LEAD TO BELIEVE BY MATTHEW HINTON IN HIS INTERVIEW.

WHEN THE STOMACH CONTENTS WERE CHECKED, DOCTOR WOODARD SAID WHATEVER HAPPENED TO THE CHILD TO CAUSE THE HEAD TRAUMA AND WHICH CAUSED HER DEATH, OCCURRED AT LEAST TWO HOURS AFTER HER LAST FEEDING.

WHEN DOCTOR WOODARD WAS ASKED IF THE CHILD COULD HAVE BEEN ABLE TO BE FED AFTER THE HEAD TRAUMA, DOCTOR WOODARD SAID NO, AS THE CHILD WOULD HAVE BEEN UNCONSCIOUS IMMEDIATELY UPON RECEIVING THE HEAD TRAUMA THAT SHE HAD RECEIVED.

WHEN DOCTOR WOODARD WAS ASKED IF THE TIME OF THE TRAUMA COULD HAVE BEEN BETWEEN THE HOURS OF 2 AND 4 PM ON AFTERNOON OF SUNDAY AUGUST 16TH, DOCTOR WOODARD SAID THAT TIME WOULD BE CONSISTENT WITH WHAT HE SAW.

BASED ON THE INFORMATION RECEIVED DURING THE AUTOPSY AND AFTER DISCUSSING ALL THE INFORMATION WITH SOLICITOR LINDSEY SIMMONS AND CRISSY ADAMS, A WARRANT WAS REQUESTED FOR THE ARREST OF MATTHEW TAYLOR HINTON ON A CHARGE OF HOMICIDE BY CHILD ABUSE, 16-3-85, FROM THE CITY JUDGE'S OFFICE.

ALSO REQUESTED AT THE SAME TIME WAS A SEARCH WARRANT FOR THE MEASUREMENTS OF THE SUSPECT, MATTHEW HINTON'S, HANDS. BOTH WARRANTS WERE SIGNED AT 1:25 PM.

I, SGT. RORY JONES, AND OTHER OFFICERS WENT TO NORTHWOOD APARTMENTS AND APARTMENT 129-F TO LOCATE THE SUSPECT, MATTHEW HINTON, SO THE WARRANTS COULD BE SERVED. WE WERE ABLE TO GAIN ACCESS TO THE APARTMENT AND THERE WAS NO ONE HOME.

WE RETURNED TO THE SENECA POLICE DEPARTMENT AND SGT. JONES CALLED DONNA ELLER AT 205 BRENTWOOD DRIVE IN SENECA, AND HE WAS TOLD MATTHEW AND HIS WIFE, ASHLEY, WERE AT THE HOUSE, BUT THEY COULDN'T SPEAK WITH US, AS THEIR ATTORNEY TOLD THEM NOT TO TALK WITH US.

SUBJECT IDENTIFIED ☒ YES ☐ NO		SUBJECT LOCATED ☒ YES ☐ NO		ACTIVE ☐ UNFOUNDED ☐ ADM. CLOSED		ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER	
REASON FOR EXCEPTIONAL CLEARANCE		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED		4. ☐ VICTIM DECLINES COOPERATION	
5. ☐ JUVENILE - NO CUSTODY		REPORTING OFFICER		DATE		UNIT NUMBER		APPROVING OFFICER	
ROUNDY, T		08/17/2009		311		A. B. Wheeler		DATE	
								UNIT NUMBER	
								1119	
								FOLLOW-UP INVESTIGATION	
								☒ YES ☐ NO	

Appendix 936

Exhibit 25

AGENCY I.D.
SC0370100

SUPPLEMENTARY REPORT

CASE NUMBER

09001238

NCIC

INQ. ENTD.

☐ ORIGINAL
REPORT

☒ SUPPLEMENTAL
REPORT

☐ ADDITIONAL
VICTIMS

☐ ADDITIONAL
STOLEN PROPERTY

PAGE 2 OF 3 PAGES

☐ MODIFIES
ORIGINAL

☐ CASE STATUS
CHANGE

☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
RECOVERED PROPERTY

PROMOTE OR DEMOTE OUR SUSPICIONS FOR AN ANSWER TO WHY THEIR DAUGHTER WAS SERIOUSLY INJURED. I GAVE THEM A COPY OF THE SEARCH WARRANT THAT HAD ALREADY BEEN EXECUTED AND ADVISED THEM I WOULD LEAVE A COPY OF THE SECOND IN THE APARTMENT WHEN WE LEFT. ASHLEY ASKED ME TO LEAVE THE HOUSE KEY WITH THE APARTMENT MANAGER. I EXPLAINED TO HER THAT I WOULD NOT DO THAT BUT I WOULD CALL HER TO TURN THEM DIRECTLY OVER TO THEM WHEN WE WERE FINISHED; SHE REPLIED OK WE THEN COMPLETED THE SEARCH WARRANT AND SECURED THE APARTMENT AND LEFT THE SCENE.

AFTER SEVERAL ATTEMPTS, I MADE CONTACT WITH ASHLEY AND MATTHEW ABOUT THE HOUSE KEY AND TO ANSWER SOME QUESTIONS WE HAD. SGT ROUNDY AND I THEN MADE ARRANGEMENTS TO GO PICK THEM UP TO COME TO THE SENECA POLICE DEPARTMENT FOR THE RETURN OF THE KEY, AND TO ALSO ANSWER SOME QUESTIONS.

WHEN SGT. ROUNDY AND I ARRIVED AT THE APARTMENT, WE KNOCKED ON THE DOOR AND MATTHEW ANSWERED THE DOOR. HE ADVISED US HE HAD TO GET SOME PANTS ON, BECAUSE THEY HAD LAID DOWN TO SLEEP. WE THEN TRANSPORTED THEM TO THE POLICE DEPARTMENT BECAUSE THEIR CAR WAS BROKEN DOWN. UPON OUR ARRIVAL, I SPOKE TO ASHLEY WHILE ROUNDY SPOKE TO HINTON. I ADVISED ASHLEY OF HER RIGHTS, AND SHE COMPLETED A MIRANDA WAIVER. SHE STATED, WHILE BEING RECORDED, THAT MATTHEW HAD BEEN WATCHING THE VICTIM ON SUNDAY 08-16-09 FROM BEFORE 1200 pm TO AFTER 500 pm BY HIMSELF BECAUSE SHE HAD BEEN AT WORK DURING THOSE HOURS. ASHLEY SAID MATTHEW HAD TEXTED HER TO TELL HER AT APPROXIMATELY 430-445 pm TO LIE DOWN FOR A NAP. SHE ARRIVED HOME AFTER 530 pm TO FIND THEM STILL IN THE BED ASLEEP. ASHLEY STATED EVERY 35-40 MINUTES SHE WOULD CHECK ON THEM, BUT SHE NOTICED BETWEEN THE HOURS OF 800-900 pm THAT THE VICTIM'S BREATHING WAS LOUDER THAN NORMAL.

ASHLEY STATED THE VICTIM WOULD USUALLY TAKE A NAP ANYWHERE FROM 330-500 pm FOR ABOUT TWO HOURS, AND SHE WOULD NORMALLY EAT 3-5 oz OF FORMULA EVERY COUPLE OF HOURS. ASHLEY CONFIRMED THAT THE VICTIM WAS NOT WAKING UP, AND NOT EATING WAS WAY OUT OF THE ORDINARY FOR HER. ASHLEY SAID BETWEEN 1030-1100 pm MATTHEW HAD YELLED FOR HER TO CALL 911.

DURING THE INVESTIGATION I STEPPED OUT OF THE ROOM UPON THE REQUEST OF SGT. ROUNDY. UPON STEPPING OUT FOR A VERY BRIEF MOMENT, I COULD HEAR ASHLEY ON THE PHONE, SO AT THIS TIME I RE-ENTERED THE ROOM, AND SHE WAS ON THE PHONE. AT THIS TIME SHE ADVISED ME AT 202 pm, "I CAN'T SAY ANYTHING ELSE, I HAVE RETAINED BRAD NORTON AS MY LAWYER." I THEN STOPPED THE INTERVIEW, AND WALKED HER OUTSIDE.

I THEN ENTERED THE INTERVIEW WITH MATTHEW, AND I HEARD HIM TELL SGT. ROUNDY THAT HE WAS THE ONLY ONE WATCHING THE VICTIM ON THAT SUNDAY. MATTHEW ALSO GAVE A BRIEF STATEMENT OF WHAT HAPPENED THAT DAY. MATTHEW THEN STATED HE JUST NEEDED TO CLEAR HIS HEAD, AND HE WOULD CONTINUE THE INTERVIEW WITH ME THE NEXT DAY.

ON 08-18-09 I RECEIVED A WRITTEN STATEMENT FROM WILLIAM FOWLER, A SENECA CITY DISPATCHER, WHO STATED HE HAS WORKED WITH MATTHEW AND ASHLEY BEFORE. HE STATED THAT HIS EXPERIENCE WITH MATTHEW HAD BEEN PLEASANT, BUT NOT SO PLEASANT WITH ASHLEY.

SGT. ROUNDY, AND I THEN RESPONDED TO GREENVILLE MEMORIAL HOSPITAL TO SPEAK TO THE DOCTORS. UPON OUR ARRIVAL, THE VICTIM'S PARENTS WERE NOT THERE, NOR HAD THEY BEEN THERE.

WHILE AT THE HOSPITAL AWAITING SOME TEST RESULTS, I CONTACTED SGT. WILLIAMSON TO ASK HIM GO BY WALGREEN'S STORE TO CONFIRM ASHLEY HAD BEEN THERE ON 08-16-09 AFTER GETTING OFF WORK. SGT

☒ YES ☐ NO		☒ YES ☐ NO		☐ ACTIVE ☐ ADM. CLOSED		☐ ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18	
REASON FOR EXCEPTIONAL CLEARANCE		1. ☐ OFFENDER DEATH		2. ☐ NO PROSECUTION		3. ☐ EXTRADITION DENIED	
REPORTING OFFICER		DATE		UNIT NUMBER		APPROVING OFFICER	
JONES, R R		08/21/2009		314		A. B. Wheeler	
						1119	
				FOLLOW-UP INVESTIGATION		OFFICER ROUNDY, T	
				☒ YES ☐ NO		☐ YES ☐ NO	

Appendix 938

Exhibit 26

VOLUNTARY STATEMENT
(NOT UNDER ARREST)

07001238

PAGE NO. 1 OF 1 PAGE

Ashley Bright

I am not under arrest for, nor am I being detained for any criminal offenses concerning the events I am about to make known to AB WHEELER. Without being accused of or questioned about any criminal offenses regarding the facts I am about to state, I voluntarily state the information of my own free will, for whatever purposes it may serve.

I am 24 years of age, D.O. [REDACTED] and I live [REDACTED]

I got home from work around 5:30pm. When I got home I checked on Matt and [REDACTED] 30 to 45 minutes later I went and checked again, she was a little cold so I put another blanket over her legs. I continued to check in 30 to 45 minute intervals. Everything seemed fine. Matt suddenly screamed for me and said she's not breathing. I called 911 so I could. The responder asked our address and asked if she was breathing. Matt started doing CPR as instructed by the lady on the phone. The EMS and people got there.

Blanket was pulled up a little high so I pulled it back down near her armpits. High near her face. This was sometime between 9:00pm and 10:15pm.

Ashley Bright

AB

I have read each page of this statement consisting of 1 page(s), each page of which bears my signature, and corrections, and I bear my initials, and I certify that the facts contained herein are true and correct.

Witnessed at O'CONNOR MEDICAL CENTER

this 17th day of AUGUST 2009

WITNESS: [Signature]

WITNESS: Ashley Bright
Signature of person giving voluntary statement

Exhibit 27

Hey. I didn't ask you if you wanted me to leave because I plan on leaving. I just want to know what's going on. I feel like you hate me and that kills me. You know how I feel about you. I want to be with you. The thing that bothers me is for the past almost three weeks you go out every night. I don't mind you going out so please don't think that you just go out and get sooo high that all you wanna do is eat or pass out. I can barely talk to you and I'm not allowed to touch you. And it sucks for me. When you get home I wanna talk. I've been by myself with a baby and a puppy and they don't talk back. But you are completely zoned out. You know I don't mind you smoking I just wish you wouldn't get that high that's all. And like you said the other night no it's not your fault my friends ditch me. I've already lost them and now I feel like I'm losing you and I don't want that. You make me sooo happy. I just don't want to lose you, it scares me beyond belief. I'm sorry you have been so stressed and I'm sorry my not having a job or car puts more pressure on you. I'm sorry I'm a loser. I'm stressed out also.

though. I'm stressed because of the same reasons as you: money, bills, your mom finding out about Bri, and when you get your CDL's and go on the road. I just wish you would talk to me. You used to talk to me now you don't. What has changed to make you feel you can't talk to me anymore? Or do you just not want to? Whatever the reason it makes me sad. You have been pushing me away since Thanksgiving and I don't know why. When I do something that bothers you I wish you would tell me instead of waiting til you want to strangle me. When I try and talk to you about things you tune me out. You say I'm good to you and that's why you are with me, but then when you get mad at me the first thing you say is this might not work. If you are so quick to wanna end us then you must not think I'm that good to you. I think I'm good to you, I just get frustrated sometimes. Anyway I'm sorry for any stress or problems that I have ever caused you. I'm sooo sorry.

Love,
Aimey

Exhibit 28

11/29/08

You made the comment in the car last nite that you thought I would have had more to say to you after four days apart. I did have alot to say but when we were in the store you seemed like you were mad at me. I had been looking forward to you coming home since you dropped me off tuesday morning at mamas. I'm always happy to see you. But you never seem happy to see me or hear from me when I call. It hurts my feelings. You used to seem happy to see me or hear from me. You would always call or answer if I call. It hurts my feelings that my friends and people from work know about us but to all of your friends and family I'm just your roommate. I don't feel like you've attracted to me anymore. You seem annoyed when I come to hug you or kiss you. You basically never cuddle with me anymore. I'm sorry I don't feel comfortable with you hanging out with girls you've slept with or your ex's. That's just how I am. You say you would be fine with me hanging out with someone I had slept with but that isn't true. You got mad the nite Paige wanted me to hang out with her and Jeff. I would maybe be a little more comfortable if you hadn't already told me that you sometimes do things to mess up a relationship. I trust you but after hearing =>

that it would make it kind of hard.
Then I am so scared you are going to
leave me after I have this baby. I never
meant for this to happen. I sorry for
the problems its going to cause when
your mom finds out. I feel like this
pregnancy has made you like me less.
You are so detached from it, and
I feel like you are pushing me away and
it really sucks. Last night when you
came up to me in the kitchen and
wrapped your arms around me it made
me cry. You very rarely show any
affection like that anymore. Have I done
something to make your feelings change
or have you gotten bored with me? I
hope the answer is neither. I don't
want to lose you but I feel like I am.
Anyway I really don't know what else to say
so good bye.

Love,
Ashley

Exhibit 29

Patient Name: [REDACTED]

SSN: [REDACTED]

MR#: [REDACTED]

Birthdate: [REDACTED] Age: 5 months Sex: Female

Chart Copy to: Brett H. Woodard, M.D.

Chart CC to:

Client. 00721

Oconee County Coroner-721

PO Box 771

Walhalla SC 29691

Postmortem Report

Verified Date/Time.

9/8/09 2:09:01 PM

Accession Number.

OA-09-0000166

Final Anatomic Diagnosis:

BLUNT FORCE TRAUMA.

CONTUSIONS TO THE SKIN AND SOFT TISSUES OF THE BODY.

INTRA PARENCHYMAL HEMORRHAGE OF THE SKULL

SUBDURAL HEMATOMA TO THE LEFT CEREBRAL HEMISPHERE OF THE BRAIN.

CEREBRAL EDEMA.

BILATERAL TONSILAR CEREBELLAR HERNIATION OF THE BRAIN.

TENTORIAL HERNIATION OF THE BRAIN.

INFARCTION OF THE RIGHT POSTERIOR OCCIPITAL LOBE OF THE BRAIN.

FRACTURE OF THE POSTERIOR FIRST RIGHT RIB.

FRACTURE OF THE RIGHT DISTAL FEMUR AND PROXIMAL TIBIA.

ACUTE BRONCHOPNEUMONIA OF THE RIGHT AND LEFT LUNGS

CAUSE OF DEATH: SUBDURAL HEMATOMA WITH CEREBRAL EDEMA DUE TO BLUNT FORCE TRAUMA.

PATHOLOGIST- BRETT H. WOODARD, M.D.

KWA :BHW 09/08/09 14.09

Brett H. Woodard, M.D.

*** (Name Indicates Electronic Signature) ***

Comment:

This 5-month, 20-day old Infant female was under the care of her father. Her father alleged that "during a shower, she slipped from his grasp and he grabbed her by her leg throwing her over his arm". He then stated that she "took 2 ounces of formula" and went to bed. When the mother returned from her work, the father and the baby were sleeping in the bed. When the mother checked later, she alleges that the baby was sleeping but that the child was "breathing funny". Later on, when the father awoke, he discovered the child to be lifeless. Emergency medical services were summoned and the child was transported to

Patient [REDACTED]

Autopsy # OA-09-0000166

Page 2 of 9

Chart Print Date/ Time 09/10/09 9.45 AM

Appendix 948

Patient Name: [REDACTED]
SSN: [REDACTED]
MR#: [REDACTED]
Birthdate: [REDACTED] Age: 5 months Sex: Female
Chart Copy to: Brett H. Woodard, M.D.
Chart CC to:

Client: 00721
Oconee County Coroner-721
PO Box 771
Walhalla SC 29691

Postmortem Report

Verified Date/Time:
9/8/09 2:09:01 PM

Accession Number:
OA-09-0000166

Oconee Memorial Medical Center Emergency Department. The child was stabilized and transferred to the Pediatric Intensive Care at Greenville Memorial Hospital. Ultimately, the child expired.

Jurisdiction over the body was assumed by the Oconee County Coroner's Office. Authorization for a complete unrestricted autopsy was granted by Coroner Karl Addis.

The autopsy demonstrated evidence of blunt force trauma with contusional injuries to various locations over the body to include the head. Subdural hematoma was observed on the left side and severe cerebral edema was evident with herniation. Hemorrhage into the skull marrow cavity was noted. Fracture of the distal femur and proximal tibia was observed on radiographs and confirmed. An observable posterior fracture to the right first rib was evident with distal displacement anterior.

In my opinion, the cause of death was subdural hematoma with resultant cerebral edema due to blunt force trauma. Based on this examination and the information supplied by the parents at the of the incident, the manner of death is homicide.

Clinical Information:

DATE OF BIRTH: [REDACTED]

SS#: [REDACTED]

DATE OF DEATH: 08/17/09

AGE: 5 MONTHS, 20 DAYS SEX: FEMALE

DATE OF PERMIT: 08/20/09

DATE OF AUTOPSY: 08/20/09

TYPE OF AUTOPSY: LEGAL

TIME: 10:00 AM

AUTHORITY BY: OCONEE COUNTY CORONER KARL ADDIS
RELATION TO DECEASED: NOT APPLICABLE
IDENTIFICATION BY: FAMILY

EXAM REQUESTED BY: OCONEE COUNTY CORONER'S OFFICE
AUTHORIZATION CONFIRMED BY: MRS. KELLI CHAPMAN

PERSONNEL PRESENT: DR. BRETT H. WOODARD, MR. CHARLES BOSEMAN, MRS. KELLI CHAPMAN, CORONER KARL ADDIS, SENECA POLICE REPRESENTATIVES, OCONEE COUNTY SOLICITOR.

HISTORY:

OCCUPATION: CHILD

MEDICAL HISTORY: NO SIGNIFICANT PREVIOUS HISTORY BEFORE "LIFE-ENDING EVENT"

Patien [REDACTED]
Autopsy # OA-09-0000166

Page 3 of 9
Chart Print Date/ Time: 09/10/09 9:45 AM

Appendix 949

Birthdate: [REDACTED] Age: 5 months Sex: Female
Chart Copy to: Brett H. Woodard, M.D.
Chart CC to:

Client: 00721
Oconee County Coroner-721
PO Box 771
Walhalla SC 29691

Postmortem Report

Verified Date/Time:
9/8/09 2:09:01 PM

Accession Number:
OA-09-0000166

CIRCUMSTANCES OF DEATH: INFORMATION SUPPLIED BY FATHER INDICATED BABY FOUND UNRESPONSIVE AT HOME AND RUSHED TO HOSPITAL WHERE EXPIRED FROM CEREBRAL HERNIATION AND BRAIN DEATH.

External Examination:

BODY CONDITION: INTACT

HEIGHT: 27 INCHES

WEIGHT: 6570 GRAMS

RACE: CAUCASIAN

EYES: BLUE SCLERA: WHITE

HAIR: BROWN

FACIAL HAIR: ABSENT

BODY HEAT: COLD

JAUNDICE: ABSENT

EDEMA: ABSENT

RIGOR: +2

LIVOR: POSTERIOR FIXED

BODY HABITUS: MESOMORPHIC

TEETH: EDENTULOUS

EXTERNAL DESCRIPTION:

MEDICAL INTERVENTION: ORAL TRACHEAL TUBE, NASOGASTRIC TUBE, URINARY CATHETER, CHEST TUBE (LEFT CHEST), SHAVED HEAD BILATERAL TEMPLES, LEFT LEG BAND ID, RIGHT LOWER LEG ANTERIOR TIBIAL IV, RIGHT LATERAL IV, RIGHT SUBCLAVIAN IV WITH TWO STITCHES IN PLACE. NEEDLE PUNCTURES ARE OBSERVED ON THE LEFT HEEL, LEFT LATERAL FOOT, DORSAL RIGHT HAND. NEEDLE MARK LOWER LEG (ANTERIOR). THE TIP OF THE FOURTH FINGER OF THE RIGHT HAND DEMONSTRATES A PUNCTURE MARK.

JEWELRY: NONE

CLOTHING: DISPOSABLE DIAPER, INFANT BLANKET.

TATTOOS: NONE

SCARS: NONE

MISC: NOT APPLICABLE

EVIDENCE OF INJURY:

Multiple areas of injury were observed which are dictated in an order for the convenience of the prospector and not to indicate any events which may have occurred.

The right lateral fifth digit demonstrates an abrasion on the ventral surface which is less than 1/4 inch.

Patient
Autops

Page 4 of 9
Chart Print Date/ Time: 09/10/09 9:45 AM

Appendix 950

Patient Name: [REDACTED]
SSN: [REDACTED]
MR#: [REDACTED]
Birth: [REDACTED] Age: 5 months Sex: Female
Chart Copy to: Brett H. Woodard, M.D.
Chart CC to:

Client: 00721
Oconee County Coroner-721
PO Box 771
Walhalla SC 29691

Postmortem Report

Verified Date/Time:
9/8/09 2:09:01 PM

Accession Number:
OA-09-0000166

The right side of the forehead above the right eye demonstrates two contusions. These are 1/4 inch in diameter. They are 3 1/4 inches below the top of the head and 1 1/4 inch right of the anterior midline. They are not in the area of previously shaved hair for possible IV selection. The contusion is extended into the underlying scalp.

A contusion pattern is seen over the anterior sternum between the second and fourth ribs covering the general area of 2 3/4 x 1 1/4 inches. The contusion extends into the underlying fat and into the superficial portions of the underlying muscular tissues of the chest, laterally to the sternum. The sternum is not fractured.

In the right lower chest, an irregular area somewhat circular contusions with abrasion with observed which is 2 x 1 1/2 inch in general dimension.

An abrasion is observed on the tip of the right side of the tongue. This is in the general area of the positioning of the endotracheal tube. No tearing of the frenulum or bruises of the mucosal surface of lips or gums are seen.

Immediately above the left nipple, a 1/4 inch contusion is observed in the soft tissues of the chest.

Contusional injury is observed in the right occipital area of the skull. This runs roughly horizontal across the back of the skull 2 1/2 inches below the top of the head and it begins approximately 3/4 inches right of the anterior midline. It covers a general area of 2 3/4 x 3/4 inches. The underlying skull demonstrates an area of pallor with hyperemia accentuating the central pallor. No fracture is detected.

A contusion is observed on the frontal scalp, centrally which is 1 7/8 inches below the top of the head and 1/4 inch of the midline. This covers a general area of 1 1/4 x 3/4 inches. An area of hemorrhage in relationship to a scalp vein is observed on the left temple area and is in the area where observable IV was seen.

The lower back 12 1/2 inches below the top of the head and 1/4 inch left of the posterior midline demonstrates a pattern of three contusions over the osseous prominences. This is associated with contusional injuries into the overlying skin and subcutaneous fat.

Over the left iliac crest, 14 inches below the top of the head and 1 1/4 inches left of the posterior midline is a contusion in the soft tissues. This is 3/4 x 1/4 inch in maximum dimension.

The right first rib demonstrates a fracture in the posterior aspect with anterior displacement of the distal portion and associated soft tissue hemorrhage. This is seen in the paraspinous area posteriorly on the right side.

Patient Name

SSN:

MR#:

Birthdate: Age: 5 months Sex: Female

Chart Copy to: Brett H. Woodard, M.D.

Chart CC to:

Client: 00721

Oconee County Coroner-721

PO Box 771

Walhalla SC 29691

Postmortem Report

Verified Date/Time:

9/8/09 2:09:01 PM

Accession Number:

OA-09-0000166

The brain demonstrates severe cerebral edema. A large left subdural hematoma is observed with watery subarachnoid hemorrhage. The hematoma is approximately 40 cc.'s in quantity and extends from the cerebral cortex down into the middle fossa. It is not adherent to the dura or brain.

Bilateral cerebellar tonsillar herniation is associated with supratentorial herniation. The right posterior occipital lobe of the brain demonstrates necrosis.

Internal Gross Examination:

BODY CAVITIES: No adhesions are observed. No neoplastic infiltrates or areas of hemorrhage are seen.

CARDIOVASCULAR: The heart weighs 38.3 grams. The left ventricle is 1.5 centimeters. The right ventricle is 0.4 centimeters. The myocardium is homogenous without fibrosis or hemorrhage. The coronary arteries follow their normal orientation from the aorta. No aneurysms are observed. No congenital abnormalities or trauma are seen. The cardiac valves are intact without congenital abnormality or vegetations. No intraventricular or intra-atrial congenital abnormalities are seen. The pericardial surface is smooth and glistening without adhesions.

NECK: The neck organs are in their usual location. No hemorrhage into the strap muscles is evident. No fractures or hemorrhages into the cartilaginous structures are seen. The hyoid bone is intact. The epiglottis is without edema. No foreign obstructive material is seen in the glottis or vocal cords. No neoplasia is evident. The thyroid is grossly unremarkable.

RESPIRATORY TRACT: The respiratory tract is patent throughout. No foreign material or trauma is evident.

LUNGS: The right lung weighs 91 grams. The left lung weighs 67.4 grams. Edema and congestion of the lungs are observed which is somewhat more severe on the right than the left side. No consolidation or pneumonia is evident. No tumors or trauma is seen.

GI TRACT: The GI tract is studied from the esophagus to the anus. The stomach is filled with scant mucoid material without evidence of curdled milk. The upper small bowel is opened and no milk material is detected. Ulcers and erosion are not present. No perforation is seen. No trauma is evident. No neoplasia or congenital abnormality is identified.

APPENDIX: The appendix is present.

LIVER: The liver weighs 2335 grams. The liver is homogenous throughout and is reddish brown. The gallbladder is present. Small yellow granular lithiasis are seen within the gallbladder. These are of less than a millimeter in maximum dimension. Trauma is not evident.

Patient

Autopsy

Page 6 of 9

Chart Print Date/ Time: 09/10/09 9:45 AM

Appendix 952

Patient Name: [REDACTED]

SSN: [REDACTED]

MR#: [REDACTED]

Birth: [REDACTED] Age: 5 months Sex: Female

Chart Copy to: Brett H. Woodard, M.D.

Chart CC to:

Client: 00721

Oconee County Coroner-721

PO Box 771

Walhalla SC 29691

Postmortem Report

Verified Date/Time:

9/8/09 2:09:01 PM

Accession Number:

OA-09-0000166

PANCREAS: The pancreas is present without evidence of pancreatitis/trauma or neoplasia.

SPLEEN: The spleen weighs 18.8 grams. The spleen is present without congestion. No capsular trauma or tearing is seen.

ADRENALS: The adrenals are present without hemorrhage, neoplasia, hyperplasia or trauma.

URINARY TRACT: The urinary tract is patent throughout.

KIDNEYS: The right kidney weighs 25.3 grams. The left kidney weighs 24.3 grams. The capsular surface of the kidneys is not irregularly scarred. Lithiasis are not present. Trauma is not evident.

BLADDER: The bladder is present without trauma or neoplasia. Urine is not present in the bladder. A urinary catheter is in place.

REPRODUCTIVE TRACT: Juvenile female reproductive organs are present without abnormality.

MUSCULOSKELETAL SYSTEM: (SEE EVIDENCE OF INJURY). Muscular development appears normal for age.

IMMUNOLOGIC SYSTEM: The thymus is 20.7 grams. No hemorrhages or abnormalities are seen. Lymph nodes appear appropriate.

SCALP: (SEE EVIDENCE OF INJURY)

CRANIUM: (SEE EVIDENCE OF INJURY)

BRAIN: BRAIN: The brain is sectioned through the sagittal plane. Vascular congestion in the white matter and into the deep basal ganglion are evident. Focal areas of subcortical congestions are noted. Severe edema with necrosis of the brain is evident and herniation through the tentorium and tonsillar tissues of the cerebellum is evident. Tissue necrosis is detected within the right occipital lobe.

EYE: Sections through the right eye demonstrate possible small hemorrhages in the optic nerve dura. Gross large hemorrhages are not observed within the retina of the right eye.

SPECIAL STUDIES:

Blood is saved for toxicology and DNA.

Tissue is saved for histomorphology.

Photographs are made.

Xray of bones.

Patient: [REDACTED]

Autopsy #: OA-09-0000166

Page 7 of 9

Chart Print Date/ Time: 09/10/09 9:45 AM

Appendix 953

Patient Name: [REDACTED]
SSN: [REDACTED]
MR#: [REDACTED]
Birthdate: [REDACTED] Age: 5 months Sex: Female
Chart Copy to: Brett H. Woodard, M.D.
Chart CC to:

Client: 00721
Oconee County Coroner-721
PO Box 771
Walhalla SC 29691

Postmortem Report

Verified Date/Time:
9/8/09 2:09:01 PM

Accession Number:
OA-09-0000166

Microscopic Description:

HEART - The myocardium is intact. There is no evidence of fiber abnormality, interstitial inflammation, or congenital abnormality.

THYMUS - Good cortical medullary differentiation is observed. No severe involutionary changes are evident.

LUNG - Normal bronchial and alveolar tissues are seen. Some vascular congestion and atelectasis are evident. Bronchi show normal cartilage. Focal areas of atelectasis show early intra-alveolar inflammation with neutrophils and neutrophils are seen in adjacent bronchi. Edema fluid is detected.

LIVER - Hepatic parenchyma appears to be intact. Normal portal areas with normal appearing bile ducts are detected. Some central and sinusoidal congestion is present. No portal inflammation or lobular hepatitis is evident. No extramedullary hematopoiesis is detected and no viral cytopathic effect is present.

PANCREAS - The pancreas is intact with normal acinar and islet cells.

SPLEEN - Normal red and white pulp is seen. No significant hyperplasia is evident. No viral cytopathic effect is noted. No infarction is present.

KIDNEY - Normal glomeruli and tubules are seen. No neoplasia or congenital abnormality is detected.

ADRENAL GLAND - Normal cortex and medulla are seen. No tumors are present.

EPIGLOTTIS - No epiglottitis or epiglottal inflammation is seen. No interstitial edema or eosinophilia is evident.

THYROID - Normal thyroid structure is evident. No congenital abnormality or tumor is present.

EYES - Hemorrhages into the retina are observed which are primarily in the outer retinal layer. Focally a dural hemorrhage is identified within the optic nerve sheath.

DURA - A subdural hematoma is observed. No fibrous tissue or vascular ingrowth is detected. No adherence to the dura is noted.

CENTRAL NERVOUS SYSTEM - Extensive vascular congestion is observed with paravascular edema being evident. Interstitial edema of the brain is noted. Punctate hemorrhages into the choroid plexus are noted. Some subarachnoid hemorrhage is detected and edema is diffusely seen. The cerebellum shows normal germinal layers. No gliosis or fibrosis is present.

Patient: [REDACTED]
Autopsy #: OA-09-0000166

Page 8 of 9
Chart Print Date/ Time: 09/10/09 9:45 AM

Appendix 954

Patient Name: [REDACTED]
SSN: [REDACTED]
MR#: [REDACTED]
Birth: [REDACTED] Age: 5 months Sex: Female
Chart Copy to: Brett H. Woodard, M.D.
Chart CC to:

Client: 00721
Oconee County Coroner-721
PO Box 771
Walhalla SC 29691

Postmortem Report

Verified Date/Time:
9/8/09 2:09:01 PM

Accession Number:
OA-09-0000166

SKIN - Soft tissue hemorrhage is seen associated with fatty septum.

RIGHT SKULL - Decalcified sections of skull demonstrate intraparenchymal hemorrhage within the marrow cavity but no evidence of fracture or fracture repair of the cortical layer.

- A1- left eye
- A2- left eye
- A3- right eye
- A4- subdural hematoma
- A5- subdural hematoma
- A6- deep basal ganglion
- A7- subcortical hemorrhage
- A8- white matter hemorrhage
- A9- cerebral streak hemorrhages
- A10- cerebellum
- A11- skin. 6 representative sections.
- A12- heart to include left ventricle, right ventricle, and Interventricular septum. 3 representative sections.
- A13- thymus, pancreas, and spleen. 3 representative sections.
- A14- liver and gallbladder. 3 representative sections.
- A15- kidney and adrenal gland. 3 representative sections.
- A16- epiglottis and thyroid. 2 representative sections.
- A17-A18- lung. 5 representative sections.
- A19- representative sections of cranium after decalcification.

Patient Name [REDACTED]

SSN: [REDACTED]

MR#: [REDACTED]

Birth [REDACTED]

Age: 5 months Sex: Female

Chart Copy to: Brett H. Woodard, M.D.

Chart CC to:

Client: 00721

Oconee County Coroner-721

PO Box 771

Walhalla SC 29691

Provisional Postmortem Report

Verified Date/Time:

8/20/09 1:35:20 PM

Accession Number:

OA-09-0000166

Provisional Anatomic Diagnosis:

BLUNT FORCE TRAUMA.

CONTUSIONS TO THE SKIN AND SOFT TISSUES OF THE BODY.

SUBDURAL HEMATOMA TO THE LEFT CEREBRAL HEMISPHERE OF THE BRAIN.

CEREBRAL EDEMA.

BILATERAL TONSILAR CEREBELLAR HERNIATION OF THE BRAIN.

FRACTURE OF THE POSTERIOR FIRST RIGHT RIB.

FRACTURE OF THE RIGHT DISTAL FEMUR AND PROXIMAL TIBIA.

KWA :BHW 08/20/09 13:35

Brett H. Woodard, M.D.

*** (Name Indicates Electronic Signature) ***

Provisional Anatomic Comment:

See final report for complete results.

Patient: [REDACTED]

Autopsy #: OA-09-0000166

Page 1 of 9

Chart Print Date/ Time: 09/10/09 9:45 AM

Appendix 956

Patient Name: [REDACTED]

SSN: [REDACTED]

MR#: [REDACTED]

Birth: [REDACTED] Age: 5 months Sex: Female

Chart Copy to: Brett H. Woodard, M.D.

Chart CC to:

Client. 00721

Oconee County Coroner-721

PO Box 771

Walhalla SC 29691

Postmortem Report

Verified Date/Time:

9/8/09 2:09.01 PM

Accession Number:

OA-09-0000166

Final Anatomic Diagnosis:

BLUNT FORCE TRAUMA.

CONTUSIONS TO THE SKIN AND SOFT TISSUES OF THE BODY.

INTRA PARENCHYMAL HEMORRHAGE OF THE SKULL

SUBDURAL HEMATOMA TO THE LEFT CEREBRAL HEMISPHERE OF THE BRAIN.

CEREBRAL EDEMA.

BILATERAL TONSILAR CEREBELLAR HERNIATION OF THE BRAIN

TENTORIAL HERNIATION OF THE BRAIN.

INFARCTION OF THE RIGHT POSTERIOR OCCIPITAL LOBE OF THE BRAIN.

FRACTURE OF THE POSTERIOR FIRST RIGHT RIB.

FRACTURE OF THE RIGHT DISTAL FEMUR AND PROXIMAL TIBIA.

ACUTE BRONCHOPNEUMONIA OF THE RIGHT AND LEFT LUNGS.

CAUSE OF DEATH: SUBDURAL HEMATOMA WITH CEREBRAL EDEMA DUE TO BLUNT FORCE TRAUMA.

PATHOLOGIST- BRETT H WOODARD, M.D.

KWA :BHW 09/08/09 14:09

Brett H. Woodard, M.D.

*** (Name indicates Electronic Signature) ****

Comment:

This 5-month, 20-day old infant female was under the care of her father. Her father alleged that "during a shower, she slipped from his grasp and he grabbed her by her leg throwing her over his arm" He then stated that she "took 2 ounces of formula" and went to bed. When the mother returned from her work, the father and the baby were sleeping in the bed. When the mother checked later, she alleges that the baby was sleeping but that the child was "breathing funny". Later on, when the father awoke, he discovered the child to be lifeless. Emergency medical services were summoned and the child was transported to

Patient [REDACTED]

Autopsy [REDACTED]

Page 2 of 9

Chart Print Date/ Time 09/10/09 9.45 AM

Appendix 957

Patient Name: [REDACTED]

SSN: [REDACTED]

MR#: [REDACTED]

Birth: [REDACTED]

Age: 5 months Sex: Female

Chart Copy to: Brett H. Woodard, M.D.

Chart CC to:

Client: 00721

Oconee County Coroner-721

PO Box 771

Walhalla SC 29691

Postmortem Report

Verified Date/Time:

9/8/09 2:09:01 PM

Accession Number:

OA-09-0000166

Oconee Memorial Medical Center Emergency Department. The child was stabilized and transferred to the Pediatric Intensive Care at Greenville Memorial Hospital. Ultimately, the child expired.

Jurisdiction over the body was assumed by the Oconee County Coroner's Office. Authorization for a complete unrestricted autopsy was granted by Coroner Karl Addis.

The autopsy demonstrated evidence of blunt force trauma with contusional injuries to various locations over the body to include the head. Subdural hematoma was observed on the left side and severe cerebral edema was evident with herniation. Hemorrhage into the skull marrow cavity was noted. Fracture of the distal femur and proximal tibia was observed on radiographs and confirmed. An observable posterior fracture to the right first rib was evident with distal displacement anterior.

In my opinion, the cause of death was subdural hematoma with resultant cerebral edema due to blunt force trauma. Based on this examination and the information supplied by the parents at the of the incident, the manner of death is homicide.

Clinical Information:

[REDACTED]

AGE: 5 MONTHS, 20 DAYS SEX: FEMALE

DATE OF DEATH: 08/17/09

DATE OF PERMIT: 08/20/09

DATE OF AUTOPSY: 08/20/09

TIME: 10:00 AM

TYPE OF AUTOPSY: LEGAL

AUTHORITY BY: OCONEE COUNTY CORONER KARL ADDIS

RELATION TO DECEASED: NOT APPLICABLE

IDENTIFICATION BY: FAMILY

EXAM REQUESTED BY: OCONEE COUNTY CORONER'S OFFICE
AUTHORIZATION CONFIRMED BY: MRS. KELLI CHAPMAN

PERSONNEL PRESENT: DR. BRETT H. WOODARD, MR. CHARLES BOSEMAN, MRS. KELLI CHAPMAN, CORONER KARL ADDIS, SENECA POLICE REPRESENTATIVES, OCONEE COUNTY SOLICITOR

HISTORY:

OCCUPATION: CHILD

MEDICAL HISTORY: NO SIGNIFICANT PREVIOUS HISTORY BEFORE "LIFE-ENDING EVENT"

Patient

Autopsy #: OA-09-0000166

Page 3 of 9

Chart Print Date/ Time: 09/10/09 9:45 AM

Patient Name: [REDACTED]
SSN: [REDACTED]
MR#: [REDACTED]
Birth: [REDACTED] Age: 5 months Sex: Female
Chart Copy to: Brett H. Woodard, M.D.
Chart CC to:

Client: 00721
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Walhalla SC 29691

Postmortem Report

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Accession Number:
OA-09-0000166

CIRCUMSTANCES OF DEATH: INFORMATION SUPPLIED BY FATHER INDICATED BABY FOUND UNRESPONSIVE AT HOME AND RUSHED TO HOSPITAL WHERE EXPIRED FROM CEREBRAL HERNIATION AND BRAIN DEATH.

External Examination:

BODY CONDITION: INTACT

HEIGHT: 27 INCHES

WEIGHT: 6570 GRAMS

RACE: CAUCASIAN

EYES: BLUE SCLERA: WHITE

HAIR: BROWN

FACIAL HAIR: ABSENT

BODY HEAT: COLD

JAUNDICE: ABSENT

EDEMA: ABSENT

RIGOR: +2

LIVOR: POSTERIOR FIXED

BODY HABITUS: MESOMORPHIC

TEETH: EDENTULOUS

EXTERNAL DESCRIPTION:

MEDICAL INTERVENTION: ORAL TRACHEAL TUBE, NASOGASTRIC TUBE, URINARY CATHETER, CHEST TUBE (LEFT CHEST), SHAVED HEAD BILATERAL TEMPLES, LEFT LEG BAND ID, RIGHT LOWER LEG ANTERIOR TIBIAL IV, RIGHT LATERAL IV, RIGHT SUBCLAVIAN IV WITH TWO STITCHES IN PLACE. NEEDLE PUNCTURES ARE OBSERVED ON THE LEFT HEAL, LEFT LATERAL FOOT, DORSAL RIGHT HAND. NEEDLE MARK LOWER LEG (ANTERIOR). THE TIP OF THE FOURTH FINGER OF THE RIGHT HAND DEMONSTRATES A PUNCTURE MARK.

JEWELRY: NONE

CLOTHING: DISPOSABLE DIAPER, INFANT BLANKET.

TATTOOS: NONE

SCARS: NONE

MISC: NOT APPLICABLE

EVIDENCE OF INJURY:

Multiple areas of injury were observed which are dictated in an order for the convenience of the prosector and not to indicate any events which may have occurred.

The right lateral fifth digit demonstrates an abrasion on the ventral surface which is less than 1/4 inch.

Patient: [REDACTED]
Autopsy #: OA-09-0000166

Page 4 of 9
Chart Print Date/ Time: 09/10/09 9:45 AM

Patient Name: [REDACTED]
SSN: [REDACTED]
MR#: [REDACTED]
Birth: [REDACTED] Age: 5 months Sex: Female
Chart Copy to: Brett H. Woodard, M.D.
Chart CC to:

Client: 00721
Oconee County Coroner-721
PO Box 771
Walhalla SC 29691

Postmortem Report

Verified Date/Time:
9/8/09 2:09:01 PM

Accession Number:
OA-09-0000168

The right side of the forehead above the right eye demonstrates two contusions. These are 1/4 inch in diameter. They are 3 1/4 inches below the top of the head and 1 1/4 inch right of the anterior midline. They are not in the area of previously shaved hair for possible IV selection. The contusion is extended into the underlying scalp.

A contusion pattern is seen over the anterior sternum between the second and fourth ribs covering the general area of 2 3/4 x 1 1/4 inches. The contusion extends into the underlying fat and into the superficial portions of the underlying muscular tissues of the chest, laterally to the sternum. The sternum is not fractured.

In the right lower chest, an irregular area somewhat circular contusions with abrasion with observed which is 2 x 1 1/2 inch in general dimension.

An abrasion is observed is observed on the tip of the right side of the tongue. This is in the general area of the positioning of the endotracheal tube. No tearing of the frenulum or bruises of the mucosal surface of lips or gums are seen.

Immediately above the left nipple, a 1/4 inch contusion is observed in the soft tissues of the chest.

Contusional injury is observed in the right occipital area of the skull. This runs roughly horizontal across the back of the skull 2 1/2 inches below the top of the head and it begins approximately 3/4 inches right of the anterior midline. It covers a general area of 2 3/4 x 3/4 inches. The underlying skull demonstrates an area of pallor with hyperemia accentuating the central pallor. No fracture is detected.

A contusion is observed on the frontal scalp, centrally which is 1 7/8 inches below the top of the head and 1/4 inch of the midline. This covers a general area of 1 1/4 x 3/4 inches. An area of hemorrhage in relationship to a scalp vein is observed on the left temple area and is in the area where observable IV was seen.

The lower back 12 1/2 inches below the top of the head and 1/4 inch left of the posterior midline demonstrates a pattern of three contusions over the osseous prominences. This is associated with contusional injuries into the overlying skin and subcutaneous fat.

Over the left iliac crest, 14 inches below the top of the head and 1 1/4 inches left of the posterior midline is a contusion in the soft tissues. This is 3/4 x 1/4 inch in maximum dimension.

The right first rib demonstrates a fracture in the posterior aspect with anterior displacement of the distal portion and associated soft tissue hemorrhage. This is seen in the paraspinous area posteriorly on the right side.

Patient: [REDACTED]
Autops:

Page 5 of 9
Chart Print Date/ Time: 09/10/09 9:45 AM

Patient Name [REDACTED]

SSN: [REDACTED]

MR#: [REDACTED]

Birth: [REDACTED]

Age: 5 months Sex: Female

Chart Copy to: Brett H. Woodard, M.D.

Chart CC to:

Client: 00721

Oconee County Coroner-721

PO Box 771

Walhalla SC 29691

Postmortem Report

Verified Date/Time:

9/8/09 2:09:01 PM

Accession Number:

OA-09-0000166

The brain demonstrates severe cerebral edema. A large left subdural hematoma is observed with watery subarachnoid hemorrhage. The hematoma is approximately 40 cc.'s in quantity and extends from the cerebral cortex down into the middle fossa. It is not adherent to the dura or brain.

Bilateral cerebellar tonsillar herniation is associated with supratentorial herniation. The right posterior occipital lobe of the brain demonstrates necrosis.

Internal Gross Examination:

BODY CAVITIES: No adhesions are observed. No neoplastic infiltrates or areas of hemorrhage are seen.

CARDIOVASCULAR: The heart weighs 38.3 grams. The left ventricle is 1.5 centimeters. The right ventricle is 0.4 centimeters. The myocardium is homogenous without fibrosis or hemorrhage. The coronary arteries follow their normal orientation from the aorta. No aneurysms are observed. No congenital abnormalities or trauma are seen. The cardiac valves are intact without congenital abnormality or vegetations. No intraventricular or intra-atrial congenital abnormalities are seen. The pericardial surface is smooth and glistening without adhesions.

NECK: The neck organs are in their usual location. No hemorrhage into the strap muscles is evident. No fractures or hemorrhages into the cartilaginous structures are seen. The hyoid bone is intact. The epiglottis is without edema. No foreign obstructive material is seen in the glottis or vocal cords. No neoplasia is evident. The thyroid is grossly unremarkable.

RESPIRATORY TRACT. The respiratory tract is patent throughout. No foreign material or trauma is evident.

LUNGS: The right lung weighs 91 grams. The left lung weighs 67.4 grams. Edema and congestion of the lungs are observed which is somewhat more severe on the right than the left side. No consolidation or pneumonia is evident. No tumors or trauma is seen.

GI TRACT: The GI tract is studied from the esophagus to the anus. The stomach is filled with scant mucoid material without evidence of curdled milk. The upper small bowel is opened and no milk material is detected. Ulcers and erosion are not present. No perforation is seen. No trauma is evident. No neoplasia or congenital abnormality is identified.

APPENDIX: The appendix is present.

LIVER: The liver weighs 2335 grams. The liver is homogenous throughout and is reddish brown. The gallbladder is present. Small yellow granular lithiasis are seen within the gallbladder. These are of less than a millimeter in maximum dimension. Trauma is not evident.

Patient [REDACTED]

Autopsy #: OA-09-0000166

Page 6 of 9

Chart Print Date/ Time: 09/10/09 9:45 AM

Patient Name: [REDACTED]
SSN: [REDACTED]
MR#: [REDACTED]
Birth: [REDACTED] Age: 5 months Sex: Female
Chart Copy to: Brett H. Woodard, M.D.
Chart CC to:

Client: 00721
Oconee County Coroner-721
PO Box 771
Walhalla SC 29681

Postmortem Report

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SPLEEN: The spleen weighs 18.8 grams. The spleen is present without congestion. No capsular trauma or tearing is seen.

ADRENALS: The adrenals are present without hemorrhage, neoplasia, hyperplasia or trauma.

URINARY TRACT: The urinary tract is patent throughout.

KIDNEYS: The right kidney weighs 25.3 grams. The left kidney weighs 24.3 grams. The capsular surface of the kidneys is not irregularly scarred. Lithiasis are not present. Trauma is not evident.

BLADDER: The bladder is present without trauma or neoplasia. Urine is not present in the bladder. A urinary catheter is in place.

REPRODUCTIVE TRACT: Juvenile female reproductive organs are present without abnormality.

MUSCULOSKELETAL SYSTEM: (SEE EVIDENCE OF INJURY). Muscular development appears normal for age.

IMMUNOLOGIC SYSTEM: The thymus is 20.7 grams. No hemorrhages or abnormalities are seen. Lymph nodes appear appropriate.

SCALP: (SEE EVIDENCE OF INJURY)

CRANIUM: (SEE EVIDENCE OF INJURY)

BRAIN: BRAIN: The brain is sectioned through the sagittal plane. Vascular congestion in the white matter and into the deep basal ganglion are evident. Focal areas of subcortical congestions are noted. Severe edema with necrosis of the brain is evident and herniation through the tentorium and tonsillar tissues of the cerebellum is evident. Tissue necrosis is detected within the right occipital lobe.

EYE: Sections through the right eye demonstrate possible small hemorrhages in the optic nerve dura. Gross large hemorrhages are not observed within the retina of the right eye.

SPECIAL STUDIES:

Blood is saved for toxicology and DNA.
Tissue is saved for histomorphology.
Photographs are made.
Xray of bones.

Patient [REDACTED]
Autopsy #: OA-09-0000166

Page 7 of 9
Chart Print Date/ Time: 09/10/09 9:45 AM

Patient Name [REDACTED]
SSN: [REDACTED]
MR#: [REDACTED]
Birth [REDACTED] e: 5 months Sex: Female
Chart Copy to: Brett H. Woodard, M.D.
Chart CC to:

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Oconee County Coroner-721
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Walhalla SC 29691

Postmortem Report

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Microscopic Description:

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THYMUS - Good cortical medullary differentiation is observed. No severe involutionary changes are evident.

LUNG - Normal bronchial and alveolar tissues are seen. Some vascular congestion and atelectasis are evident. Bronchi show normal cartilage. Focal areas of atelectasis show early intra-alveolar inflammation with neutrophils and neutrophils are seen in adjacent bronchi. Edema fluid is detected.

LIVER - Hepatic parenchyma appears to be intact. Normal portal areas with normal appearing bile ducts are detected. Some central and sinusoidal congestion is present. No portal inflammation or lobular hepatitis is evident. No extramedullary hematopoiesis is detected and no viral cytopathic effect is present.

PANCREAS - The pancreas is intact with normal acinar and islet cells.

SPLEEN - Normal red and white pulp is seen. No significant hyperplasia is evident. No viral cytopathic effect is noted. No infarction is present.

KIDNEY - Normal glomeruli and tubules are seen. No neoplasia or congenital abnormality is detected.
ADRENAL GLAND - Normal cortex and medulla are seen. No tumors are present.

EPIGLOTTIS - No epiglottitis or epiglottal inflammation is seen. No interstitial edema or eosinophilia is evident.

THYROID - Normal thyroid structure is evident. No congenital abnormality or tumor is present.

EYES - Hemorrhages into the retina are observed which are primarily in the outer retinal layer. Focally a dural hemorrhage is identified within the optic nerve sheath.

DURA - A subdural hematoma is observed. No fibrous tissue or vascular ingrowth is detected. No adherence to the dura is noted.

CENTRAL NERVOUS SYSTEM - Extensive vascular congestion is observed with paravascular edema being evident. Interstitial edema of the brain is noted. Punctate hemorrhages into the choroid plexus are noted. Some subarachnoid hemorrhage is detected and edema is diffusely seen. The cerebellum shows normal germative layers. No gliosis or fibrosis is present.

Patient [REDACTED]
Autopsy #: OA-09-0000166

Page 8 of 9
Chart Print Date/ Time: 09/10/09 9:45 AM

Patient Name: [REDACTED]

SSN: [REDACTED]

MR#: [REDACTED]

Birth: [REDACTED] Age: 5 months Sex: Female

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RIGHT SKULL - Decalcified sections of skull demonstrate intraparenchymal hemorrhage within the marrow cavity but no evidence of fracture or fracture repair of the cortical layer.

- A1- left eye
- A2- left eye
- A3- right eye
- A4- subdural hematoma
- A5- subdural hematoma
- A6- deep basal ganglion
- A7- subcortical hemorrhage
- A8- white matter hemorrhage
- A9- cerebral streak hemorrhages
- A10- cerebellum
- A11- skin. 6 representative sections.
- A12- heart to include left ventricle, right ventricle, and interventricular septum. 3 representative sections.
- A13- thymus, pancreas, and spleen. 3 representative sections.
- A14- liver and gallbladder. 3 representative sections.
- A15- kidney and adrenal gland. 3 representative sections.
- A16- epiglottis and thyroid. 2 representative sections.
- A17-A18- lung. 5 representative sections.
- A19- representative sections of cranium after decalcification.

Patient [REDACTED]

Autopsy #: OA-09-0000166

Page 9 of 9

Chart Print Date/ Time: 09/10/09 9:45 AM

Exhibit 30

GREENVILLE MEMORIAL HOSPITAL
GMH RADIOLOGY
GREENVILLE, SC

Patient Name: [REDACTED]
JOB: [REDACTED]
SEX: Female
Reason for Exam: PROBABLE NAT

Medical Record#: 970818198
Pt. NS/Room: 08PI / 5613
Corp. Act. No:
Patient Type: Inpatient

Account: 08010694331
Ordering MD: MIRANDA L., WORSTER, MD
701 GROVE RD
GREENVILLE, SC 29605

RX495800-SKELETAL SURVEY INFANT 08/17/2009 06:00AM EXAM#: 10816812

IMPRESSION:

THERE IS AN ACUTE RIB FRACTURE INVOLVING THE FIRST RIB ON THE RIGHT AND
THERE IS A CLASSIC METAPHYSEAL LESION INVOLVING THE PROXIMAL RIGHT TIBIA,
AND THEN POSSIBLY A CML INVOLVING THE DISTAL RIGHT FEMUR MEDIALY.
FINDINGS ARE DIAGNOSTIC OF INFANT ABUSE.

RESULT:

[REDACTED]

SKELETAL SURVEY ON 8/17/09

PROCEDURE: Infant skeletal survey was done almost according to
outline protocol. The study was done portably. We obtained an AP chest
film, bilateral oblique rib detail films, an AP film of the pelvis, AP and
lateral skull films, a lateral film of the cervical spine, a lateral film
of the thoracic and lumbosacral spine, AP films of each humerus, AP films
of each forearm, PA films of each hand, AP films of each femur, AP films
of each tibia and AP films of each foot.

then obtained a couple of chest films with a little different degree of
collimation of the x-ray tube and I obtained AP and lateral views of the
right knee.

FINDINGS: There is a right central line which is appropriately
positioned. The endotracheal tube is appropriately positioned, as is the
G tube. There is a small pigtail-type chest tube related to the left
chest. There is no pneumothorax. There may be a little haziness in the
lungs. The heart is normal in size. There is a paucity of bowel gas in the
abdomen with a little dilatation of several bowel loops noted centrally.
There is a catheter in the bladder and a rectal temperature probe. The AP
chest film and the bilateral oblique rib detail films show a reasonably

GREENVILLE MEMORIAL HOSPITAL
GMH RADIOLOGY
GREENVILLE, SC

Patient Name: [REDACTED]
DOB: [REDACTED]
SEX: Female
Reason for Exam: PROBABLE NAT

Medical Record#: 970818198
Pt. NS/Room: 08PI / 5613
Corp. Act. No:
Patient Type: Inpatient

Account: 08010694331
Ordering MD: MIRANDA L., WORSTER, MD
01 GROVE RD
GREENVILLE, SC 29605

X495800-SKELETAL SURVEY INFANT 08/17/2009 06:00AM EXAM#: 10816812

IMPRESSION:

HERE IS AN ACUTE RIB FRACTURE INVOLVING THE FIRST RIB ON THE RIGHT AND
THERE IS A CLASSIC METAPHYSEAL LESION INVOLVING THE PROXIMAL RIGHT TIBIA,
AND THEN POSSIBLY A CML INVOLVING THE DISTAL RIGHT FEMUR MEDIALY.
FINDINGS ARE DIAGNOSTIC OF INFANT ABUSE.

RESULT:

SKELETAL SURVEY ON 8/17/09

PROCEDURE: Infant skeletal survey was done almost according to
routine protocol. The study was done portably. We obtained an AP chest
film, bilateral oblique rib detail films, an AP film of the pelvis, AP and
lateral skull films, a lateral film of the cervical spine, a lateral film
of the thoracic and lumbosacral spine, AP films of each humerus, AP films
of each forearm, PA films of each hand, AP films of each femur, AP films
of each tibia and AP films of each foot.

I then obtained a couple of chest films with a little different degree of
collimation of the x-ray tube and I obtained AP and lateral views of the
right knee.

FINDINGS: There is a right central line which is appropriately
positioned. The endotracheal tube is appropriately positioned, as is the
nasal tube. There is a small pigtail-type chest tube related to the left
chest. There is no pneumothorax. There may be a little haziness in the
lungs. The heart is normal in size. There is a paucity of bowel gas in the
abdomen with a little dilatation of several bowel loops noted centrally.
There is a catheter in the bladder and a rectal temperature probe. The AP
chest film and the bilateral oblique rib detail films show a reasonably

atient: [REDACTED] MRN: 970818198 Acct: 08010694331

ubtle fracture of the first right rib anterolaterally. At the end of the study on the chest x-ray, with a little different degree of tube angulation, the fracture is much more obvious on film #25.

earlier films also raised the possibility of a little metaphyseal fracture involving the medial aspect of the proximal right tibia. The follow-up films I got are helpful here as these show a lucency related to the medial and posterior aspect of the proximal right tibial metaphysis. Findings are consistent with a classic metaphyseal lesion. On film #24, there is even the suggestion that there is a little CML involving the distal left femur medially, although I can't be 100% sure about this. There is also an IV related to the left side of the scalp.

he fracture of the first rib on the right and the classic metaphyseal lesion involving the proximal right tibia medially together (or even individually) are diagnostic of infant abuse. Fractures of the first rib in abuse are uncommon and require massive indirect forces. The age of the rib fracture is less than 10-14 days, as there is no callus formation. I cannot really date the fracture of the proximal right tibia. Again, there is probably a CML involving the distal right femoral metaphysis medially.

TRANSCRIPTIONIST: AULEEN, COWAN

TRANSCRIBE TIME/DATE: 8/17/2009 2:44:00 PM

READ BY: MICHAEL THOMASON, MD,

SIGNED BY: ELECTRONIC SIGNATURE / THOMASON, MD, MICHAEL - 8/17/2009

:57:07 PM

Exhibit 31

OCONEE MEDICAL CENTER

298 MEMORIAL DRIVE SENECA, SC 29672 (864)885-7101
EMERGENCY DEPARTMENT RECORD

PATIENT NAME: [REDACTED]

DATE & TIME OF ED REG. 08/16/2009 23:25PM
CHART NUM: 0922800145

DATE & TIME OF EP EXAM: / /

AGE: 6M

RACE:

SEX: F

PATIENT DOB: [REDACTED]

DATE OF ADDENDUM:

ADDENDUM TO PREVIOUSLY DICTATED ED RECORD:

Please see Dr. Barden's dictation for full H&P.

Placement of chest tube in left chest.

The patient's chest x-ray had ET tube to be in good position. However, it showed a left-sided pneumothorax with significant volume also on the left.

The patient was developing a tension pneumothorax with a dramatic decline in her pulse oximetry, increasing trouble Ambu-bagging. The left side of the chest was cleaned and draped in a sterile manner. Betadine used as antiseptic. A pigtail catheter was placed in the left chest wall in the fifth intercostal space using Seldinger technique. As soon as the needle was inserted into the chest wall, was able to aspirate out air with ease. This improved the patient's respiratory status. The pigtail catheter was placed into the chest without difficulty. There was no blood return, only air return. It was sutured into place without complications. Vaseline gauze and dressing were applied over the insertion point. Was then placed to continuous suction and water seal suction. The patient tolerated the procedure well.

As soon as the chest tube was inserted and the air was removed, her pulse oximetry went from the 60s to 100% in a very short period of time. Her Ambu-bagging then became easier and she was able to maintain her pulse oximetry.

When post procedure chest x-ray was done, showed the chest pigtail catheter to be in good position. Showed lung re-inflated, ET tube to be in good position.

I felt this is a true tension pneumothorax secondary to the rapid response once the chest tube was inserted. Please see Dr. Barden's full dictation for the remainder of the H&P. This portion of the dictation is for chest tube insertion only.

DICTATED BY: CROMER, M.D., GREG

AUTHENTICATED BY: JOHANNES, PATRICK M.D.

PREVIOUSLY AUTHENTICATED BY: JOHANNES, PATRICK M.D.

TRANSCRIBED BY: LAWLESSS

08/17/2009 07:14:44(ET)

08/18/2009 03:33:58(ET)

08/18/2009 03:33:54(ET)

08/17/2009 07:29:26 (CT)

ADDENDUM

page 1

OCONEE MEDICAL CENTER
298 MEMORIAL DRIVE SENECA, SC 29672 (864)885-7101
EMERGENCY DEPARTMENT RECORD

PATIENT NAME [REDACTED]

DATE & TIME OF ED REG: 08/16/2009 23:25PM
CHART NUM C922800145

DATE & TIME OF EP EXAM: / /

AGE 6M

RACE:

SEX: F

PATIENT DOB: [REDACTED]

DATE OF ADDENDUM:

ADDENDUM TO PREVIOUSLY DICTATED ED RECORD:

Please note that 2-1/2 hours of critical care time was used in the management of this patient.

DICTATED BY: BARDEN, M.D., KATHRYN
AUTHENTICATED BY: JOHANNES, PATRICK M.D.
TRANSCRIBED BY: GILLILANDB

08/17/2009 05:08:29(ET)
08/18/2009 03:33:52(ET)
08/17/2009 05:53:18 (CT)

ADDENDUM

page 1

Exhibit 32

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
GREENVILLE MEMORIAL HOSPITAL
MEDICAL RECORD

NAME: BRIGHT, [REDACTED]
PATIENT MR#: 000-970-81-8198

Patient Location: 08P15613AM
Billing NO: 080010694331

DATE OF ADMISSION: 08/17/2009
DATE OF CONSULTATION: 08/17/2009

HISTORY OF PRESENT ILLNESS: This is a 5-1/2-month-old, white female that was transferred to Greenville Memorial Hospital early this morning from Oconee County Emergency Room after being brought in by EMS. Information is provided by the admitting resident, Dr. Miranda Worster and Detective Sargent Ted Roundy of Seneca Police. The parents are not available here at the hospital secondary to the high concern of nonaccidental trauma.

By history, the patient had a fever to 101 two days prior to admission. On the day of admission, the patient was playful in her usual state of good health. Father of the patient was with the child most of the day. Mother left for work approximately 2:30 in the afternoon. Father bathed the child. Father then took a shower himself. He told law enforcement that after taking a shower he partially lost grip of the baby, but that she was never dropped. Father reports that she was fussy for a short time, but then fed normally and was put down for a nap. Father reports to law enforcement that he then laid down with the patient together. Mother returned home from work at approximately 5:30 and found father and baby who seemed to be doing okay. Mother continued to check in on father and baby periodically throughout the night. Mother continued to be on the computer. I am unsure why the infant was not awoken up to be fed during that time.

By history, the father awoke around 11:00 and noticed that the infant's heart rate was decreased. Mother called 911 and father began chest compressions on the infant as instructed by EMS and 911. The patient was intubated in the field and on arrival to Oconee Emergency Room, the patient was bradycardic with fixed and dilated pupils. Temperature apparently was 89 degrees with no response to pain. Heart rate then increased and chest compressions were stopped. The patient was bagged until arrival at Greenville Memorial Hospital.

GREENVILLE HOSPITAL SYSTEM UNIVERSITY MEDICAL CENTER
GREENVILLE MEMORIAL HOSPITAL
MEDICAL RECORD

NAME [REDACTED]
PATIENT MR#: 000-970-81-8198

Patient Location: 08P15613AM
Billing NO: 080010694331

DATE OF ADMISSION: 08/17/2009
DATE OF CONSULTATION: 08/17/2009

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By history, the father awoke around 11:00 and noticed that the infant's heart rate was decreased. Mother called 911 and father began chest compressions on the infant as instructed by EMS and 911. The patient was intubated in the field and on arrival to Oconee Emergency Room, the patient was bradycardic with fixed and dilated pupils. Temperature apparently was 89 degrees with no response to pain. Heart rate then increased and chest compressions were stopped. The patient was bagged until arrival at Greenville Memorial Hospital.

CONSULTATION
Page 1 of 4

CHART COPY

Appendix 974

Exhibit 33

Dr. Michael Parrino, M.D. ♦ Dr. Carey Molin Gully, M.D.

em, RN, FNP

Name [REDACTED] Relationship(s) to Pt [REDACTED] Age 4m Date 6-29-09
Hist [REDACTED] Allergies [REDACTED]
Medications [REDACTED] Scripts written for refill requests [REDACTED]
Concerns ↑ T x 12° ↑ fussiness x 1 wk 100°
Temp 98.6° Height 26 1/2" = 79% Weight 13 # 12 oz = 50% Head 16 1/4" = 65% Wt. for Length 15%

Breastfeeding min q 3-4 hrs
Formula Aliment / 5 oz q 3-4 hrs

Well Water Yes No if yes call in
POLY-VI-FLOR 0.26mg with IRON
WIC Yes No
□ write script if required

Problems with:

Appetite Yes No
Spitting occasional Yes No
Constipation Yes No
Sleep Yes No

Hearing:

Responds to sounds Yes No

Vision:

Regards face Yes No

Developmental:

Squeals and laughs Yes No

Tracks 180° Yes No

Brings hands together Yes No

Head erect when sitting Yes No

Rolls front to back Yes No

Tylenol if receiving shots given refused

Problem List Changes Yes No
If yes □ chart updated

Physical Exam

√ = normal X = abnormal

- ☒ General
- ☒ Head
- ☒ Fontanel
- ☒ Neck
- ☒ Eyes
- ☒ Ears
- ☒ Nose
- ☒ Mouth/Throat
- ☒ Lungs
- ☒ Heart
- ☒ Abdomen
- ☒ Femoral Pulses
- ☒ Genitalia
- ☒ Spine
- ☒ Extremities
- ☒ Hips
- ☒ Skin
- ☒ Neuro

Notes:

Teething

Safety:

- Car Seat, Face Backwards ✓
- Smoke Free ✓
- Smoke Detectors ✓
- Hot Water <120° ✓
- No Bottle Propping ✓
- Bath Safety ✓
- No Walkers ✓
- Fall Prevention ✓

Health:

- Solids, avoid honey ✓
- Sponge Bathe ✓
- Fever, teething ✓
- Coping with crying ✓
- Introducing solids ✓

Social:

- Support for parents ✓
- Household members ✓

Impression:

well

Plan:

- Anticipatory Guidance
- Poly-Vi-Sol w iron- 1 dropper daily OR □ Poly-Vi-Flor (well water)
- Immunizations □ Pentacel □ Prevnar □ Rotavirus or □ UTD

RTC in 2 months and/or

Signed [Signature]

3/20/09

4 Months

Appendix 976 Be

Dr. Michael Parrino, M.D. ♦ Dr. Carey Molin Gully, M.D.
Deem, RN, FNP

Name [REDACTED] Age 4m Date 6-29-09
History [REDACTED] Relationship(s) to Pt Son Allergies 0
Medications 0 ☐ Scripts written for refill requests
Concerns ↑ T x 12°, ↑ fussiness x 1wk 100°
Temp 98.8° R Height 26 1/4" = 79% Weight 13 # 12 oz = 50% Head 16 1/4" = 55% Wt. for Length 15 %

Breastfeeding min q 3-4 hrs
Formula Aliment 15 oz q 3-4 hrs

Well Water Yes No if yes call in
☐ POLY-VI-FLOR 0.25mg with IRON
WIC Yes No
☐ write script if required

Problems with:

Appetite Yes No
Spitting occasional Yes No
Constipation Yes No
Sleep Yes No

Hearing:

Responds to sounds Yes No

Vision: Yes No

Regards face Yes No

Developmental:

Squeals and laughs Yes No

Tracks 180° Yes No

Brings hands together Yes No

Head erect when sitting Yes No

Rolls front to back Yes No

Tylenol if receiving shots given refused

Problem List Changes Yes No
If yes ☐ chart updated

Physical Exam

✓ = normal X = abnormal

- ☒ General
- ☒ Head
- ☒ Fontanel
- ☒ Neck
- ☒ Eyes
- ☒ Ears
- ☒ Nose
- ☒ Mouth/Throat
- ☒ Lungs
- ☒ Heart
- ☒ Abdomen
- ☒ Femoral Pulses
- ☒ Genitalia
- ☒ Spine
- ☒ Extremities
- ☒ Hips
- ☒ Skin
- ☒ Neuro

Teething

Notes:

Safety:

- Car Seat, Face Backwards ✓
- Smoke Free ✓
- Smoke Detectors ✓
- Hot Water <120° ✓
- No Bottle Propping ✓
- Bath Safety ✓
- No Walkers ✓
- Fall Prevention ✓

Health:

- Solids, avoid honey ✓
- Sponge Bathe ✓
- Fever, teething ✓
- Coping with crying ✓
- Introducing solids ✓

Social:

- Support for parents ✓
- Household members

Impression: well

Plan:

- ☐ Anticipatory Guidance
- ☐ Poly-Vi-Sol w iron- 1 dropper daily OR ☐ Poly-Vi-Flor (well water)
- ☐ Immunizations ☐ Pentacel ☐ Prevnar ☐ Rotavirus or ☐ UTD

Parrino

RTC in 2 months and/or

Signed [Signature]

3/20/09

4 Months

Appendix 970 Be

Exhibit 34

Verizon Wireless

Explanation Form

SWITCH	DATE	TIME	DIR	MDN	CALLED #	CPN	SZR
This is the switch that the call is hitting off of	This is the date of the call.	This is the start time of the call.	MO=Outbound Call	This is your target #.	If the call was an outgoing call, then the # your target called will appear in this column	This is the calling party #	This is the duration of the call in seconds
			MT=Incoming Call		If the call was an incoming call, then your target will appear in this column	If the call was outgoing, then your target # will appear in this column	
			MF=Incoming call to voicemail- in rare cases it could be mobile forwarding			If the call was an incoming call, then the # that dialed your target will appear here	
			MM=Mobile to Mobile call				
			LL, CN, TR all pertain to routing information and will not be relevant to your investigation.				

NOTES:

When the #s in the MDN column, CALLED # column and the CPN # column are all different, then you are looking at a routing #. The Routing # will appear in the CALLED # column.
(All three numbers are different)

If you see your target # in the MDN column, the CALLED # column and the CPN # column, then you are looking at your target checking his/her voicemail. (All three numbers are the same)

Codes:

- *86 is voicemail retrieval
- #225 is checking account balance
- #646 is checking minutes
- #777 is data/web services
- #738 is prepaid voicemail retrieval
- #729 is adding minutes for prepaid
- *67 is used to block the mobile #
- *82 is used to unblock the mobile #

SWITCH	Call Date	Call Time	DIR	MDN	Called #	CPN	SZR
Greenville2	8/21/2009	22:25:42	MM	8647842369	(1864) 421-7807	(864) 784-2369	925
Greenville2	8/21/2009	22:01:46	MF	8647842369	(1864) 784-2369	(864) 784-2369	67
Greenville2	8/21/2009	22:01:46	MO	8647842369	(1864) 784-2369	(864) 784-2369	67
Greenville2	8/21/2009	21:59:43	MF	8647842369	(864) 784-2369	(864) 421-7807	78
Greenville2	8/21/2009	21:14:42	MT	8647842369	(864) 784-2369	(864) 973-4745	206
Greenville2	8/21/2009	21:13:27	MT	8647842369	(864) 784-2369	(864) 973-4745	39
Greenville2	8/21/2009	20:50:15	MT	8647842369	(864) 784-2369	(864) 247-3162	50
Greenville2	8/21/2009	20:43:33	MF	8647842369	(864) 784-2369	(864) 280-6770	34
Greenville2	8/21/2009	20:42:20	MM	8647842369	784-2369	(864) 710-5217	279
Greenville2	8/21/2009	20:03:18	MO	8647842369	882-3037	(864) 784-2369	24
Greenville2	8/21/2009	20:00:36	MF	8647842369	(864) 784-2369	(864) 421-7807	33
Greenville2	8/21/2009	18:39:41	MM	8647842369	(1864) 784-2369	(864) 784-5159	55
Greenville2	8/21/2009	16:51:51	MM	8647842369	(864) 784-2369	(864) 421-7807	852
Greenville2	8/21/2009	15:51:00	MT	8647842369	(864) 784-2369	(864) 903-7771	117
Greenville2	8/21/2009	15:35:54	MF	8647842369	(864) 784-2369	(864) 903-7771	80
Greenville2	8/21/2009	14:32:13	MM	8647842369	(864) 784-2369	(619) 993-1038	25
Greenville2	8/21/2009	14:22:26	MF	8647842369	(864) 784-2369	(864) 421-7807	28
Greenville2	8/21/2009	14:20:22	MO	8647842369	(1619) 993-1038	(864) 784-2369	29
Greenville2	8/21/2009	14:17:21	MT	8647842369	(864) 784-2369	(864) 882-3037	111
Greenville2	8/21/2009	14:02:23	MO	8647842369	(619) 993-1038	(864) 784-2369	36
Greenville2	8/21/2009	14:00:05	MO	8647842369	882-3037	(864) 784-2369	126
Greenville2	8/21/2009	13:46:14	MM	8647842369	(864) 784-2369	(864) 421-7807	88
Greenville2	8/21/2009	13:22:09	MM	8647842369	(864) 784-2369	(864) 723-6328	529
Greenville2	8/21/2009	13:11:19	MT	8647842369	(864) 784-2369	(864) 376-6206	7
Greenville2	8/21/2009	12:33:59	MF	8647842369	(864) 784-2369	(864) 280-3754	65
Greenville2	8/21/2009	12:10:40	MT	8647842369	(864) 784-2369	(864) 247-3162	35
Greenville2	8/21/2009	11:21:27	MO	8647842369	(1864) 247-3162	(864) 784-2369	290
Greenville2	8/21/2009	11:18:13	MF	8647842369	(864) 784-2369	(864) 247-3162	27
Greenville2	8/21/2009	11:15:36	MM	8647842369	(864) 784-2369	(864) 421-7307	231
Greenville2	8/21/2009	10:54:33	MO	8647842369	(1864) 247-3162	(864) 784-2369	407
Greenville2	8/21/2009	10:42:31	MM	8647842369	(1864) 421-7807	(864) 784-2369	640
Greenville2	8/21/2009	10:33:18	MO	8647842369	903-7771	(864) 784-2369	37
Greenville2	8/21/2009	10:15:51	MT	8647842369	(864) 784-2369	(864) 638-4107	553
Greenville2	8/21/2009	10:06:27	MF	8647842369	(1864) 784-2369	(864) 784-2369	108
Greenville2	8/21/2009	10:06:27	MO	8647842369	(1864) 784-2369	(864) 784-2369	108
Greenville2	8/21/2009	10:06:44	MO	8647842369	(1864) 784-2369	(864) 784-2369	11
Greenville2	8/21/2009	10:06:44	MF	8647842369	(1864) 784-2369	(864) 784-2369	11
Greenville2	8/21/2009	10:04:05	MF	8647842369	(1864) 784-2369	(864) 784-2369	93
Greenville2	8/21/2009	10:04:05	MO	8647842369	(1864) 784-2369	(864) 784-2369	93
Greenville2	8/21/2009	10:02:49	MF	8647842369	(864) 784-2369	(864) 903-7771	14
Greenville2	8/21/2009	9:58:45	MF	8647842369	(864) 784-2369	(864) 638-4107	128
Greenville2	8/21/2009	9:57:02	MF	8647842369	(864) 784-2369	(864) 638-4107	60
Greenville2	8/21/2009	9:56:15	MF	8647842369	(864) 784-2369	(864) 638-4107	39
Greenville2	8/21/2009	9:48:09	MF	8647842369	(864) 784-2369	(864) 421-7807	30
Greenville2	8/21/2009	9:34:43	MT	8647842369	(864) 784-2369	(864) 903-7771	35
Greenville2	8/21/2009	9:33:58	MO	8647842369	903-7771	(864) 784-2369	41
Greenville2	8/21/2009	9:27:16	MO	8647842369	882-3037	(864) 784-2369	28
Greenville2	8/21/2009	8:50:41	MO	8647842369	(1864) 903-7771	(864) 784-2369	99
Greenville2	8/21/2009	8:46:24	MO	8647842369	(1864) 903-7771	(864) 784-2369	61
Greenville2	8/21/2009	8:18:24	MF	8647842369	(864) 784-2369	(864) 903-7771	28
Greenville2	8/21/2009	7:58:22	MF	8647842369	(864) 784-2369	(864) 903-7771	102

SWTCH	Call Date	Call Time	DIR	MDN	Called #	CPN	SZR
Greenville2	8/20/2009	23:22:17	MM	8647842369	(864) 784-2369	(864) 421-7807	406
Greenville2	8/20/2009	22:47:14	MF	8647842369	(1864) 784-2369	(864) 784-5159	13
Greenville2	8/20/2009	21:17:42	MO	8647842369	(1866) 785-6963	(864) 784-2369	639
Greenville2	8/20/2009	21:15:49	MO	8647842369	(1866) 785-6963	(864) 784-2369	69
Greenville2	8/20/2009	21:12:47	MO	8647842369	(1866) 785-6963	(864) 784-2369	90
Greenville2	8/20/2009	21:10:40	MT	8647842369	(864) 784-2369	(864) 882-3037	44
Greenville2	8/20/2009	21:04:09	MO	8647842369	(1866) 785-6963	(864) 784-2369	108
Greenville2	8/20/2009	20:51:33	MF	8647842369	(864) 784-2369	(864) 324-9057	20
Greenville2	8/20/2009	20:33:30	MT	8647842369	(864) 784-2369	(864) 247-3162	19
Greenville2	8/20/2009	20:23:40	MO	8647842369	(1864) 247-3162	(864) 784-2369	32
Greenville2	8/20/2009	20:22:04	MT	8647842369	(864) 784-2369	(864) 617-9148	87
Greenville2	8/20/2009	19:54:14	MO	8647842369	(1800) 844-9591	(864) 784-2369	627
Greenville2	8/20/2009	19:47:24	MF	8647842369	(864) 784-2369	(864) 710-8345	12
Greenville2	8/20/2009	19:01:38	MT	8647842369	(864) 784-2369	(864) 882-3037	94
Greenville2	8/20/2009	18:43:32	MO	8647842369	882-3037	(864) 784-2369	72
Greenville2	8/20/2009	18:21:33	MF	8647842369	(864) 784-2369	(864) 903-7771	96
Greenville2	8/20/2009	17:05:01	MF	8647842369	(1864) 784-2369	(864) 784-5159	35
Greenville2	8/20/2009	16:47:04	MF	8647842369	(864) 784-2369	(864) 280-3754	68
Greenville2	8/20/2009	16:45:44	MT	8647842369	(864) 784-2369	(864) 638-2930	234
Greenville2	8/20/2009	16:20:08	MF	8647842369	(864) 784-2369	(864) 247-3162	12
Greenville2	8/20/2009	16:15:55	MT	8647842369	(864) 784-2369	(864) 280-0630	101
Greenville2	8/20/2009	15:50:17	MO	8647842369	(1864) 506-6866	(864) 784-2369	536
Greenville2	8/20/2009	15:19:01	MT	8647842369	(864) 784-2369	(864) 638-8440	239
Greenville2	8/20/2009	15:13:19	MO	8647842369	(1864) 247-3162	(864) 784-2369	47
Greenville2	8/20/2009	15:08:33	MM	8647842369	(864) 784-2369	(864) 710-8345	277
Greenville2	8/20/2009	14:58:37	MM	8647842369	(1864) 784-5159	(864) 784-2369	95
Greenville2	8/20/2009	14:57:34	MO	8647842369	(1864) 247-3162	(864) 784-2369	7
Greenville2	8/20/2009	14:54:18	MO	8647842369	903-9173	(864) 784-2369	105
Greenville2	8/20/2009	14:50:54	MO	8647842369	903-9173	(864) 784-2369	70
Greenville2	8/20/2009	14:49:35	MO	8647842369	638-2930	(864) 784-2369	74
Greenville2	8/20/2009	14:49:04	MO	8647842369	903-9173	(864) 784-2369	27
Greenville2	8/20/2009	14:47:44	MO	8647842369	638-2930	(864) 784-2369	39
Greenville2	8/20/2009	14:32:38	MT	8647842369	(864) 784-2369	(864) 247-3162	428
Greenville2	8/20/2009	13:49:37	MT	8647842369	(864) 784-2369	(864) 505-6866	429
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Greenville2	8/20/2009	12:01:48	MT	8647842369	(864) 784-2369	(864) 247-3162	245
Greenville2	8/20/2009	11:41:52	MO	8647842369	(1864) 247-3162	(864) 784-2369	218
Greenville2	8/20/2009	11:13:50	MO	8647842369	(1864) 247-3162	(864) 784-2369	22
Greenville2	8/20/2009	11:13:37	MF	8647842369	(1864) 784-2369	(864) 784-2369	6
Greenville2	8/20/2009	11:13:37	MO	8647842369	(1864) 784-2369	(864) 784-2369	6
Greenville2	8/20/2009	10:59:04	MT	8647842369	(864) 784-2369	(864) 882-3037	39
Greenville2	8/20/2009	10:50:59	MO	8647842369	(1864) 280-0630	(864) 784-2369	36
Greenville2	8/20/2009	10:45:06	MF	8647842369	(864) 784-2369	(864) 280-0630	29
Greenville2	8/20/2009	10:43:38	MT	8647842369	(864) 784-2369	(864) 280-3754	425
Greenville2	8/20/2009	10:32:21	MT	8647842369	(864) 784-2369	(864) 280-0630	51
Greenville2	8/20/2009	7:20:52	MM	8647842369	(1864) 704-9415	(864) 784-2369	12
Greenville2	8/19/2009	22:47:48	MT	8647842369	(864) 784-2369	(864) 247-3162	109
Greenville2	8/19/2009	22:30:14	MF	8647842369	(1864) 784-2369	(864) 784-2369	33
Greenville2	8/19/2009	22:30:14	MO	8647842369	(1864) 784-2369	(864) 784-2369	33
Greenville2	8/19/2009	18:50:10	MF	8647842369	(864) 784-2369	(864) 944-9445	3
Greenville2	8/19/2009	17:35:26	MF	8647842369	(864) 784-2369	(864) 247-3162	4

SWITCH	Call Date	Call Time	DIR	MDN	Called #	CPN	SZR
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Greenville2	8/19/2009	14:49:56	MF	8647842369	(864) 784-2369	(864) 723-7620	4
Greenville2	8/19/2009	13:49:21	MF	8647842369	(864) 784-2369	(864) 723-7620	29
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Greenville2	8/19/2009	10:22:15	MT	8647842369	(864) 784-2369	(864) 638-4407	262
Greenville2	8/19/2009	9:19:29	MO	8647842369	(864) 718-1087	(864) 784-2369	68
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Greenville2	8/19/2009	8:37:49	MT	8647842369	(864) 784-2369	(864) 723-7620	52
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Greenville2	8/19/2009	8:35:42	MF	8647842369	(864) 784-2369	(864) 723-7620	113
Greenville2	8/19/2009	8:05:08	MM	8647842369	(1864) 704-9415	(864) 784-2369	11
Greenville2	8/19/2009	7:58:36	MF	8647842369	(1864) 784-2369	(864) 784-2369	40
Greenville2	8/19/2009	7:58:36	MO	8647842369	(1864) 784-2369	(864) 784-2369	40
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Greenville2	8/18/2009	23:58:45	MT	8647842369	(864) 784-2369	(864) 723-7620	735
Greenville2	8/18/2009	23:58:21	MF	8647842369	(1864) 784-2369	(864) 784-2369	134
Greenville2	8/18/2009	23:58:21	MO	8647842369	(1864) 784-2369	(864) 784-2369	124
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Greenville2	8/18/2009	23:26:40	MF	8647842369	(864) 784-2369	(864) 882-3037	78
Greenville2	8/18/2009	23:23:19	MF	8647842369	(864) 784-2369	(864) 882-3037	77
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Greenville2	8/18/2009	18:14:53	MF	8647842369	(864) 784-2369	(619) 993-1038	33
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Greenville2	8/18/2009	16:34:06	MT	8647842369	(864) 784-2369	(864) 723-7620	78
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Greenville2	8/18/2009	16:25:19	MM	8647842369	(864) 784-2369	(864) 710-8345	17
Greenville2	8/18/2009	16:24:58	MM	8647842369	(864) 784-2369	(864) 710-8345	21
Greenville2	8/18/2009	16:24:25	MT	8647842369	(864) 784-2369	(864) 557-8588	53

SWITCH	Call Date	Call Time	DIR	MDN	Called #	CPN	SZR
Greenville2	8/17/2009	20:20:37	MO	8647842369	(1864) 784-2369	(864) 784-2369	47
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Greenville2	8/17/2009	13:47:12	MF	8647842369	(864) 784-2369	(864) 723-7620	25
Greenville2	8/17/2009	13:39:56	MF	8647842369	(864) 784-2369	(864) 723-7620	28
Greenville2	8/17/2009	13:02:33	MO	8647842369	(864) 885-2296	(864) 784-2369	62
Greenville2	8/17/2009	13:01:52	MF	8647842369	(864) 784-2369	(864) 885-2296	27
Greenville2	8/17/2009	12:42:04	MT	8647842369	(864) 784-2369	(864) 903-7415	157
Greenville2	8/17/2009	12:41:45	MO	8647842369	(1864) 784-2369	(864) 784-2369	140
Greenville2	8/17/2009	12:41:45	MF	8647842369	(1864) 784-2369	(864) 784-2369	140
Greenville2	8/17/2009	12:39:33	MF	8647842369	(864) 784-2369	(864) 903-7415	89
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Greenville2	8/17/2009	11:28:16	MO	8647842369	(1864) 723-7620	(864) 784-2369	18
Greenville2	8/17/2009	11:17:26	MO	8647842369	(1864) 723-7620	(864) 784-2369	189
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Greenville2	8/17/2009	11:06:37	MF	8647842369	(864) 784-2369	(864) 723-7620	33
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Greenville2	8/17/2009	9:19:31	MO	8647842369	(1864) 723-7620	(864) 784-2369	99
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Greenville2	8/17/2009	9:07:02	MO	8647842369	882-3557	(864) 784-2369	32
Greenville2	8/17/2009	7:31:01	MT	8647842369	(864) 784-2369	(864) 723-7620	96
Greenville2	8/17/2009	5:58:18	MM	8647842369	(1864) 704-9415	(864) 784-2369	193
Greenville2	8/17/2009	5:57:28	MM	8647842369	(864) 784-2369	(864) 704-9415	30
Greenville2	8/17/2009	5:56:54	MF	8647842369	(864) 784-2369	(864) 704-9415	32
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SWITCH	Call Date	Call Time	DIR	MDN	Called #	CPN	SZR
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Greenville2	8/17/2009	2:34:13	MF	8647842369	(864) 784-2369	(619) 993-1038	33
Greenville2	8/17/2009	0:11:07	MO	8647842369	(1864) 506-6866	(864) 784-2369	132
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Greenville2	8/16/2009	23:04:47	MF	8647842369	(864) 784-2369	(864) 557-8588	20
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Greenville2	8/16/2009	22:34:07	MT	8647842369	(864) 784-2369	(864) 882-3037	168
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Greenville2	8/16/2009	20:32:24	MO	8647842369	(1864) 882-3037	(864) 784-2369	19
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Greenville2	8/16/2009	15:44:03	MF	8647842369	(1864) 784-2369	(864) 784-2369	36
Greenville2	8/16/2009	15:35:07	MF	8647842369	(864) 784-2369	(864) 882-3037	78
Greenville2	8/16/2009	14:38:26	MO	8647842369	(1864) 882-3037	(864) 784-2369	134
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Greenville2	8/16/2009	14:14:33	MO	8647842369	(1864) 882-3037	(864) 784-2369	27
Greenville2	8/16/2009	13:30:48	MF	8647842369	(864) 784-2369	(864) 557-8588	40
Greenville2	8/16/2009	13:30:13	MO	8647842369	(1864) 557-8588	(864) 784-2369	11

Exhibit 35

OCONEE MEDICAL CENTER
298 MEMORIAL DRIVE SENECA, SC 29672 (864)885-7101
EMERGENCY DEPARTMENT RECORD

PATIENT NAME: HINTON, MATTHEW T
MEDICAL RECORD NUM: 250811137

DATE & TIME OF ED REG: 06/16/2009 19:48PM
CHART NUM: 0916700366

DATE & TIME OF BP EXAM: 06/16/2009
AGE: 22Y RACE: SEX: M

PATIENT DOB [REDACTED]

HISTORY

CHIEF COMPLAINT(S):
Hand injury.

HISTORY OF PRESENT ILLNESS:

Patient is a 22-year-old male who hit another individual with a closed fist 4 days ago, presents now with pain over the fourth and fifth metacarpal bones. He denies any other musculoskeletal injury.

REVIEW OF SYSTEMS:

All systems are negative.

PAST MEDICAL, FAMILY, AND/OR SOCIAL HISTORY:

PAST MEDICAL HISTORY: Negative.

CURRENT MEDICATIONS: None.

ALLERGIES: No known drug allergies.

SOCIAL HISTORY: Noncontributory.

EXAMINATION OF ORGAN SYSTEMS / BODY AREAS

Blood pressure 144/87. Pulse is 93. Respirations 18. Temperature 98.4.

Patient alert and oriented x3. Is in no acute distress.

HEENT EXAM: Unremarkable.

LUNGS: Clear.

HEART: Regular.

ABDOMEN: Soft. Nondistended. Nontender.

Minimal soft tissue swelling without deformity to the fourth and fifth metacarpal bones. Skin is intact. No evidence of a fight bite.

MEDICAL DECISION MAKING

COURSE IN THE ED WITH INTERPRETATION / REVIEW OF DIAGNOSTIC STUDIES:

Sent to radiology for a right hand x-ray. Patient has a nondisplaced fracture to the base of the fifth metatarsal.

He is placed in an ulnar gutter splint. Discharged home in good and stable condition.

OCONEE MEDICAL CENTER
298 MEMORIAL DRIVE SENECA, SC 29672 (864)885-7101
EMERGENCY DEPARTMENT RECORD

PATIENT NAME: HINTON, MATTHEW T
MEDICAL RECORD NUM: 250811137

DATE & TIME OF ED REG: 06/16/2009 19:48PM
CHART NUM: 0916700366

IMPRESSION(S)/DIAGNOSES:

Fracture base fifth metatarsal of the right hand.

DISPOSITION:

This patient presented to Dr. Bill Chiles, MD attending.

Dictated by: WECHTER, PA-C, MICHAEL
Authenticated by: WORTHINGTON, JOHN M.D.
Transcribed by: HARPERC

06/16/2009 21:31:59 (ET)
06/17/2009 23:27:51 (ET)
06/17/2009 17:39:35 (CT)

OCONEE MEDICAL CENTER
RADIOLOGY DEPARTMENT
298 MEMORIAL DR
Seneca, SC 29672
(864) 885-7198

Page :1

HINTON MATTHEW TAYLOR

Age 22Y Sex M
Phone (864) 864-0406

ORD: WECHTER, MICHAEL

Unit Number 000222879
P/T ER Rm No. DIS
Acct. # A0916700366
Chck-In Dt/Tm 06/16/09 1956

ADM: NONE, NONE

Chk-in #	Order	Exam
1035519	0001	7313

XR HAND MIN 3 VIEWS*R
Ord Diag: 959.9-INJURY-SITE NOS

RIGHT HAND, THREE VIEWS:

INDICATION: Injury.

FINDINGS: There is a transverse fracture through the base of the fifth metacarpal bone with mild dorsal displacement of the distal component and overlying soft tissue swelling. No dislocation is observed.

IMPRESSION: Fracture of the base of the fifth metacarpal bone.

Transcriptionist- SHERRI CASE
Read By- BLAKE POLEYNARD
Released By- BLAKE POLEYNARD
Released Date Time- 06/17/09 1350

FINAL DUPLICATE
Released 06/17/09 1350

OCONEE MEDICAL CENTER
298 MEMORIAL DRIVE SENECA, SC 29672 (864)885-7101
EMERGENCY DEPARTMENT RECORD

PATIENT NAME: HINTON, MATTHEW T
MEDICAL RECORD NUM: 250811137

DATE & TIME OF ED REG: 06/17/2009 22:42PM
CHART NUM: 0916800416

DATE & TIME OF EP EXAM: 06/17/2009 22:42PM
AGE: 22Y RACE: SEX: M

PATIENT DOB: [REDACTED]

HISTORY

CHIEF COMPLAINT(S):
HISTORY OF PRESENT ILLNESS:

This is a 22-year-old male who apparently was rafting and had 10 to 12 beers today. He began hyperventilating, laughing and having changes in affect and was fighting friends, EMS and the police officers as well. The patient was chased twice and then became unresponsive. His pupils were pinpoint. Per EMS he maintained adequate oxygenation throughout this incident. The patient's girlfriend states that he has no drug history. He was on a raft and had some beers. He "just snapped and starting fighting everybody around him". His glucose level was 126.

REVIEW OF SYSTEMS:

Positive for agitation, alcohol, combativeness, labile emotion and being tasered by the police. All other review of systems are negative.

PAST MEDICAL, FAMILY, AND/OR SOCIAL HISTORY:

He has no known allergies.

No current medications.

No past medical history.

He has had a tonsillectomy, wisdom tooth extraction and a cyst removed from his left foot.

His tetanus is current.

EXAMINATION OF ORGAN SYSTEMS / BODY AREAS

Vitals at the time of contact include a blood pressure of 156/80, pulse 150, respiratory rate 35. Saturation is 100% on room air. He weighs 230 pounds. He has had 5 prior visits to the emergency room for headache pain, back pain, testicular pain, abscess pain and pain to his right hand with a fractured metacarpal base after hitting a brick wall the previous night. At that incident the patient said that he hit a brick wall with his hand. He was discharged with no narcotics or other possible mood altering drugs.

On entry into the room this is a 22-year-old male who is agitated, then laughing and is also angry. He is nonsensical. On evaluation he was on a backboard and held down since he had fought the law enforcement officials and the EMS personnel as well. The patient keeps stating that the shoulder straps and head blocks are covering him up. It is very hard to get him to focus and answer questions. His pupils are

OCONEE MEDICAL CENTER

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PATIENT NAME: HINTON, MATTHEW T
MEDICAL RECORD NUM: 250811137

DATE & TIME OF ED REG: 06/17/2009 22:42PM
CHART NUM: 0916800416

approximately 3 mm. He smells of alcohol and appears to be intoxicated and possibly some other substances.

His extraocular muscles are intact.

His tympanic membranes are clear bilaterally. There is no bulging or erythema.

His oropharynx shows no signs of trauma. His jaw articulates well.

His trachea is midline. There is no JVD.

His lungs are clear to auscultation anteriorly and posteriorly. No wheezes, rales or rhonchi.

Cardiovascular System: Tachycardic but a regular rhythm. He has some bruising on his sternum.

Abdomen is soft, nontender and nondistended. Bowel sounds are positive. No rebound, guarding or rigidity.

His upper extremities are normal to inspection. I see no abrasions or contusions. He has 2+ symmetrical radial pulses. He moves his lower extremities spontaneously and to command. He has no clubbing, cyanosis or edema. He has 2+ dorsalis pedis pulses. He moves his limbs spontaneously.

Back is normal to inspection. There are no abrasions, penetrations and contusions.

He has multiple tattoos on his body.

Skin is warm to the touch.

His cranial nerve exam could not be done because of his participation.

Skin: On exam he has three pinpoint wounds on his chest consistent with a taser strike.

MEDICAL DECISION MAKING

COURSE IN THE ED WITH INTERPRETATION / REVIEW OF DIAGNOSTIC STUDIES:

The patient received 1.5 mg of Ativan. He became more cooperative and talkative with family members in the room. I will check an alcohol level on the patient, a CBC and a BMP.

A portable chest x-ray will be done.

His EKG shows sinus tachycardia with a ventricular rate of 108 as discussed.

On his chest x-ray I see no signs of an infiltrate, fractures or other acute cardiopulmonary disease. He has some generous bowel gas. Again the study is of a limited quality because the patient is on the backboard and is restrained for the staff's safety.

Labs at this time show a WBC count of 7, hemoglobin 15.6, hematocrit 43, platelet count 259. Sodium 139, potassium 3.6, chloride 104, bicarbonate 22. BUN 12. Creatinine 1.1. Glucose 98. His initial drug screen is negative at this time. His alcohol level is 138. I will discharge the patient.

OCONEE MEDICAL CENTER
298 MEMORIAL DRIVE SENECA, SC 29672 (864)885-7101
EMERGENCY DEPARTMENT RECORD

PATIENT NAME: HINTON, MATTHEW T
MEDICAL RECORD NUM: 250811137

DATE & TIME OF ED REG: 06/17/2009 22:42PM
CHART NUM: 0916800416

IMPRESSION(S)/DIAGNOSES:

Acute alcohol intoxication.

DISPOSITION:

He is cooperative with the staff and family members. He is able to sit up and participate in some of his self-care. He has been strongly advised that this is his second alcohol related incident in less than 36 hours and that he will need to refrain from this as this would guarantee a dismal future with possible loss of his family, son and his civil liberties as well. Verbal understanding was expressed by the patient and his family.

Dictated by: MATHEN, M.D., ROSHAN K
Authenticated by: JOHANNES, PATRICK M.D.
Transcribed by: TRAMMELLT

06/18/2009 00:26:42(ET)
06/20/2009 07:21:01(ET)
06/18/2009 16:59:45 (CT)

Pat Name: HINTON, MATTHEW TAYLOR
Unit #/Acct #: 000222879/A0916800416
Loc: ER 06/18/09
Phys-Service: MATHEW, ROSHAN K - EMERGENCY

Page: 2

In: 06/17/09 2342
Out: 06/18/09 0004 | DRUG SCREEN (URINE - EMERGENCY) | Spec: Urine
Coll Time: 06/17/09 2300----- Techs: V9262 T6802
Order Phys: MATHEW, ROSHAN K
[A0916800416/2372041]

Result Name	*STAT*STAT*STAT* Result	Reference Range
Cocaine{COC}:	Negative	Negative
Phencyclidine{PCP}:	Negative	Negative
Cannabinoids{THC}:	Negative	Negative
Benzodiazepines{BZO}:	Negative	Negative
Amphetamine{AMP}:	Negative	Negative
Barbiturates{BAR}:	Negative	Negative
Methadone{MTD}:	Negative	Negative
Opiates{OPI}:	Negative	Negative
Tricyclic Antidepressant-TCA:	Negative	Negative
Drug Screen Comments:		Negative

SCREENING CUT-OFF CONCENTRATIONS: {Minimum Detection Levels}

Cocaine{COC}	300 ng/ml
Phencyclidine{PCP}	25 ng/ml
Cannabinoids{THC}	50 ng/ml
Benzodiazepines{BZO}	300 ng/ml
Amphetamine{AMP}	1000 ng/ml
Barbiturates{BAR}	200 ng/ml
Methadone{MTD}	300 ng/ml
Opiates{OPI}	300 ng/ml
Tricyclic Antidepressants{TCA}	300 ng/ml

DRUG SCREEN DISCLAIMER: ***THIS IS A SCREENING PROCEDURE***

These are unconfirmed results & should not be used for non-medical purposes.

For confirmation of "Positive" screening results are required, please notify the OMH Laboratory at 885-7122 within 24 hours of the original order. Confirmatory testing will be sent to OMH's reference laboratory. Results should be interpreted within the clinical context of the patient, particularly when unconfirmed positive results are used.

HINTON, MATTHEW TAYLOR
000222879/A0916800416
ER 06/18/09 Appendix 992

Pat Name: HINTON, MATTHEW TAYLOR
 Unit #/Acct #: 000222879/A0916800416
 Loc: ER 06/18/09
 Phys-Service: MATHEW, ROSHAN K - EMERGENCY

Page: 3

 In: 06/17/09 2339
 Out: 06/18/09 0017 | ALCOHOL , ETHANOL (MBA) |
 Coll Time: 06/17/09 2325
 Order Phys: MATHEW, ROSHAN K
 Spec: Blood
 Techs: V6370 T6802
 [A0916800416/2372042]

Result Name *STAT*STAT*STAT*
 Result
 Reference Range
 Alcohol{Ethyl}, Medic(mg/dl): 138 H
 Alcohol Comments: < 10

These results should not be used for non-medical purposes

REFERENCE INTERVALS FOR MEDICAL ALCOHOL RESULTS:

Negative <10 mg/dl
 Toxic 50-100 mg/dl
 Depression of CNS >100 mg/dl
 Fatalities reported >400 mg/dl

n: 06/17/09 2339
 ut: 06/17/09 2358
 oll Time: 06/17/09 2325 | CBC (W/ AUTO DIFF) |
 rder Phys: MATHEW, ROSHAN K
 Spec: Blood
 Techs: V6370 T2869
 [A0916800416/2372043]

Result Name	*STAT*STAT*STAT* Result	Reference Range
BC(X(10)3/uL):	7.77	4.8-10.8
BC(X(10)6/uL):	5.18	4.70-6.10
b(g/dl):	15.6	14.0-18.0
t(%):	43.5	42.0-52.0
V(fl):	84.0	80.0-94.0
H(pg):	30.1	28.5-33.5
HC(g/dl):	35.9	33.0-37.0
N-CV(%):	12.5	11.5-15.0
atelets(X(10)3/uL):	259.0	130.0-400.0
%(%):	60.9	45-65
%(%):	32.6	20-45
%(%):	5.3	2-11
%(%):	0.8	0-7
X(10)3/uL):	0.4	0-2
X(10)3/uL):	4.74	2.00-6.66
	2.53	1.51-3.50

(Continued on next page)

HINTON, MATTHEW TAYLOR
 000222879/A0916800416
 ER 06/18/09 Appendix 993

Tue Dec 10, 2013 06:11 PM

Patient Detail Report

Pat Name:

HINTON, MATTHEW TAYLOR

Unit #/Acct #:

000222879/A0916800416

LOC:

ER 06/18/09

Phys-Service:

MATHEW, ROSHAN K - EMERGENCY

Page: 4

In: 06/17/09 2339

Out: 06/17/09 2358

Coll Time: 06/17/09 2325

Order Phys: MATHEW, ROSHAN K

CBC (W/ AUTO DIFF)

Spec: Blood

Techs: V6370 T2869

[A0916800416/2372043]

Result Name

*STAT*STAT*STAT*
Result

Reference Range

(Continued from previous page)

MO(X(10)3/uL):	0.41	
EC(X(10)3/uL):	0.06	0.35-0.96
B. X(10)3/uL):	0.03	0.03-0.64
IG %(%):	0.3 H	0.01-0.06
IG(X(10)3/uL):	0.02 H	0
VRBC(X(10)3/uL):	0.0	0
RDW-SD(fl):	38.2 L	0
IRBC%(/100 WBC):	0.0	39.9-46.3
		0

End of Report - 12/10/13 18:11

HINTON, MATTHEW TAYLOR
000222879/A0916800416
ER 06/18/09

Appendix 994

Exhibit 36

Payroll Report

Current Date: Monday, Aug 17, 2009 - 04:54 PM

Report Dates: Friday, Aug 7, 2009 - Thursday, Aug 20, 2009

SENECA CINEMAS
675 HWY 123 BYPASS
SENECA, S.C. 29679

Employee Number	Name	Pay Rate	Date In	Time In	Date Out	Time Out	Reg Hours	Over- Time	Total	Wages
17254	Bright Ashley									
	Box Office	0.00	08/07/2009	12 15 PM	08/07/2009	05:00 PM	4 75		4 75	0 00 NP
	Box Office	0 00	08/08/2009	12:15 PM	08/08/2009	05 00 PM	4 75		4 75	0 00 NP
	Concessions	0.00	08/09/2009	12:23 PM	08/09/2009	02:19 PM	1 93		1 93	0.00 NP
	Unpaid Break	0.00	08/09/2009	02:19 PM	08/09/2009	03 17 PM				
	Concessions	0 00	08/09/2009	03 17 PM	08/09/2009	05 00 PM	1 72		1 72	0 00 NP
	Box Office	0.00	08/10/2009	12:18 PM	08/10/2009	05:00 PM	4.70		4 70	0 00 NP
	Concessions	0 00	08/11/2009	12:16 PM	08/11/2009	03:24 PM	3 13		3.13	0 00 NP
	Unpaid Break	0 00	08/11/2009	03:24 PM	08/11/2009	03:48 PM				
	Concessions	0.00	08/11/2009	03 48 PM	08/11/2009	04:55 PM	1.12		1 12	0 00 NP
	Box Office	0.00	08/13/2009	12:19 PM	08/13/2009	01:40 PM	1 35		1.35	0.00 NP
	Unpaid Break	0.00	08/13/2009	01:40 PM	08/13/2009	02:29 PM				
	Box Office	0.00	08/13/2009	02 29 PM	08/13/2009	05:00 PM	2 52		2 52	0.00 NP
	Weekly totals 08/07/2009 - 08/13/2009						25.97	0.00	25.97	0.00
	Box Office	0 00	08/15/2009	12:15 PM	08/15/2009	05:00 PM	4.75		4.75	0.00 NP
	Box Office	0.00	08/16/2009	12:16 PM	08/16/2009	05:00 PM	4 75		4 75	0 00 NP
	Weekly totals 08/14/2009 - 08/20/2009						9.50	0.00	9.50	0.00
	Totals ..						35.47	0.00	35.47	0.00
	Report totals						35 47	0.00	35.47	0.00

Exhibit

37

```

08/16/2009 2:04:52 Message TeleService 4098
08/16/2009 2:04:58 Last Cause Code 256
Source Protocol MO Delivery Init. Method Default
Input Port 0 Operation Type new_msg_arrival
Output Protocol SS7 Message Final Status Delivered
Output Port 0 Call Back number 8647842369
Message Source MO AlphaPg Originator COS 1
Message ID 21156992015 Terminating COS 50
Input Label AUX2 Message Dest. Address 204 223.6
Billing ID 0 HLR Address full_digits
Billable true Originator DN 8647842369
Broadcast message false Originator MSID 8647238725
User Data Header Indicator false Terminating DN 8647049415
Priority 0 Message MSID 8647049415
Data Coding 0 Terminating MSID 8643717487
Number Of VM messages Length of text message 13
Message Text
[ Whatcha doin? ]

```

```

Log Written 08/16/2009 2:05:05 Number of attempts 1
Message arrival 08/16/2009 2:04:58 Message TeleService 4098
Final Disposition 08/16/2009 2:05:05 Last Cause Code 256
Source Protocol MO Delivery Init. Method Default
Input Port 0 Operation Type new_msg_arrival
Output Protocol SS7 Message Final Status Delivered
Output Port 0 Call Back number
Message Source AlphaPg Originator COS 50
Message ID 61165992158 Terminating COS 1
Input Label UNDEF Message Dest. Address 204 223.6
Billing ID 0 HLR Address full_digits
Billable false Originator DN 8647049415
Broadcast message false Originator MSID
User Data Header Indicator false Terminating DN 8647842369
Priority 0 Message MSID 8647842369
Data Coding 0 Terminating MSID 8647238725
Number Of VM messages Length of text message 31
Message Text
[ Message to 8647049415 Delivered ]

```

```

Log Written 08/16/2009 14:09:59 Number of attempts 1
Message arrival 08/16/2009 14:09:54 Message TeleService 4098
Final Disposition 08/16/2009 14:09:59 Last Cause Code 256
Source Protocol MO Delivery Init. Method Default
Input Port 0 Operation Type new_msg_arrival
Output Protocol SS7 Message Final Status Delivered
Output Port 0 Call Back number
Message Source MO AlphaPg Originator COS 50
Message ID 62151908490 Terminating COS 1
Input Label AUX2 Message Dest. Address 204.223.6
Billing ID 0 HLR Address full_digits
Billable true Originator DN 8647049415
Broadcast message false Originator MSID 8643717487
User Data Header Indicator false Terminating DN 8647842369
Priority 0 Message MSID 8647842369
Data Coding 0 Terminating MSID 8647238725
Number Of VM messages Length of text message 46
Message Text
[ i dont want ur mom comin over . ... \ns.I C ]

```

```

Log Written 08/16/2009 14:10:03 Number of attempts 1
Message arrival 08/16/2009 14:09:59 Message TeleService 4098
Final Disposition 08/16/2009 14:10:03 Last Cause Code 256
Source Protocol MO Delivery Init. Method Default
Input Port 0 Operation Type new_msg_arrival
Output Protocol SS7 Message Final Status Delivered
Output Port 0 Call Back number
Message Source AlphaPg Originator COS 1
Message ID 22144141835 Terminating COS 50
Input Label UNDEF Message Dest. Address 204 223.6
Billing ID 0 HLR Address full_digits
Billable false Originator DN 8647842369
Broadcast message false Originator MSID
User Data Header Indicator false Terminating DN 8647049415
Priority 0 Message MSID 8647049415
Data Coding 0 Terminating MSID 8643717487
Number Of VM messages Length of text message 31
Message Text
[ Message to 8647842369 Delivered ]

```

```

Log Written 08/16/2009 14:10:54 Number of attempts 1
Message arrival 08/16/2009 14:10:49 Message TeleService 4098
Final Disposition 08/16/2009 14:10:54 Last Cause Code 256
Source Protocol MO Delivery Init. Method Default
Input Port 0 Operation Type new_msg_arrival
Output Protocol SS7 Message Final Status Delivered

```

```

=====
Log Written      08/16/2009 14:14:30 Number of attempts      1
Message arrival  08/16/2009 14:14:24 Message TeleService    4098
Final Disposition 08/16/2009 14:14:30 Last Cause Code      256
Source Protocol  MO Delivery Init. Method    Default
Input Port      0 Operation Type      new_msg_arrival
Output Protocol  SS7 Message Final Status    Delivered
Output Port     0 Call Back number
Message Source   AlphaPg Originator COS      50
Message ID       62151927366 Terminating COS     1
Input Label      UNDEF Message Dest. Address    204.223.6
Billing ID       0 HLR Address      full_digits
Billable        false Originator DN      8647049415
Broadcast message false Originator MSID
User Data Header Indicator false Terminating DN    8647842369
Priority         0 Message MSID      8647842369
Data Coding     0 Terminating MSID    8647238725
Number Of VM messages
Message Text     Length of text message    31
[ Message to 8647049415 Delivered ]
=====

```

```

=====
Log Written      08/16/2009 14:57:45 Number of attempts      1
Message arrival  08/16/2009 14:57:38 Message TeleService    4098
Final Disposition 08/16/2009 14:57:45 Last Cause Code      256
Source Protocol  Smpp Delivery Init. Method    Default
Input Port      2720 Operation Type      new_msg_arrival
Output Protocol  SS7 Message Final Status    Delivered
Output Port     0 Call Back number
Message Source   AlphaPg Originator COS      0
Message ID       22144340630 Terminating COS     50
Input Label      AUX3 Message Dest. Address    204.223.6
Billing ID       9100 HLR Address      full_digits
Billable        true Originator DN      8645575883
Broadcast message false Originator MSID
User Data Header Indicator false Terminating DN    8647049415
Priority         0 Message MSID      8647049415
Data Coding     0 Terminating MSID    8643717487
Number Of VM messages
Message Text     Length of text message    78
'Dont trust a ho, never trust a ho, wont trust because a ho wont trust me' ]
=====

```

```

=====
Log Written      08/16/2009 14:58:52 Number of attempts      1
Message arrival  08/16/2009 14:58:44 Message TeleService    4098
Final Disposition 08/16/2009 14:58:52 Last Cause Code      256
Source Protocol  Smpp Delivery Init. Method    Default
Input Port      2781 Operation Type      new_msg_arrival
Output Protocol  SS7 Message Final Status    Delivered
Output Port     0 Call Back number
Message Source   AlphaPg Originator COS      0
Message ID       22144345218 Terminating COS     50
Input Label      AUX3 Message Dest. Address    204.223.6
Billing ID       9100 HLR Address      full_digits
Billable        true Originator DN      8645575883
Broadcast message false Originator MSID
User Data Header Indicator false Terminating DN    8647049415
Priority         0 Message MSID      8647049415
Data Coding     0 Terminating MSID    8643717487
Number Of VM messages
Message Text     Length of text message    28
[ Words to live by right there ]
=====

```

```

=====
Log Written      08/16/2009 14:59:47 Number of attempts      1
Message arrival  08/16/2009 14:59:46 Message TeleService    4098
Final Disposition 08/16/2009 14:59:47 Last Cause Code      0
Source Protocol  MO Delivery Init. Method    IS41Req
Input Port      0 Operation Type      unknown_method
Output Protocol  smpp Message Final Status    Delivered
Output Port     2776 Call Back number
Message Source   MO AlphaPg Originator COS      50
Message ID       41150107905 Terminating COS     1
Input Label      AUX2 Message Dest. Address
Billing ID       0 HLR Address
Billable        true Originator DN      8647049415
Broadcast message false Originator MSID    8643717487
User Data Header Indicator false Terminating DN    8645575883
Priority         0 Message MSID      8645575883
Data Coding     0 Terminating MSID
Number Of VM messages
Message Text     Length of text message    35
Whit the fuck u talkin bout \nS.I.C )
=====

```

```

=====
Log Written      08/16/2009 15:01:15 Number of attempts      1
Message arrival  08/16/2009 15:01:07 Message TeleService    4098
=====

```

Billable	0	HLR Address	full_digits
Broadcast message	true	Originator DN	8647842369
User Data Header Indicator	false	Originator MSID	8647238725
Priority	false	Terminating DN	8647049415
Data Coding	0	Message MSID	8647049415
Number Of VM messages	0	Terminating MSID	8643717487
Message Text		Length of text message	32

[What's wrong? Has she texted u?]

```
=====
```

Log Written	08/16/2009 14:11:00	Number of attempts	1
Message arrival	08/16/2009 14:10:54	Message TeleService	4098
Final Disposition	08/16/2009 14:11:00	Last Cause Code	256
Source Protocol	MO	Delivery Init. Method	Default
Input Port	0	Operation Type	new_msg_arrival
Output Protocol	SS7	Message Final Status	Delivered
Output Port	0	Call Back number	
Message Source	AlphaPg	Originator COS	50
Message ID	62151912670	Terminating COS	1
Input Label	UNDEF	Message Dest. Address	204 223 6
Billing ID	0	HLR Address	full_digits
Billable	false	Originator DN	8647049415
Broadcast message	false	Originator MSID	
User Data Header Indicator	false	Terminating DN	8647842369
Priority	0	Message MSID	8647842369
Data Coding	0	Terminating MSID	8647238725
Number Of VM messages		Length of text message	31

[Message to 8647049415 Delivered]

```
=====
```

Log Written	08/16/2009 14:12:07	Number of attempts	1
Message arrival	08/16/2009 14:12:01	Message TeleService	4098
Final Disposition	08/16/2009 14:12:07	Last Cause Code	256
Source Protocol	MO	Delivery Init. Method	Default
Input Port	0	Operation Type	new_msg_arrival
Output Protocol	SS7	Message Final Status	Delivered
Output Port	0	Call Back number	
Message Source	MO_AlphaPg	Originator COS	50
Message ID	61166616106	Terminating COS	1
Input Label	AUX2	Message Dest. Address	204 223 6
Billing ID	0	HLR Address	full_digits
Billable	true	Originator DN	8647049415
Broadcast message	false	Originator MSID	8643717487
User Data Header Indicator	false	Terminating DN	8647842369
Priority	0	Message MSID	8647842369
Data Coding	0	Terminating MSID	8647238725
Number Of VM messages		Length of text message	148

[no i just started thinkin bout shit and i dont want her comin over... if she steps foot in this apartment for the next week i will leave \nS I C]

```
=====
```

Log Written	08/16/2009 14:12:11	Number of attempts	1
Message arrival	08/16/2009 14:12:07	Message TeleService	4098
Final Disposition	08/16/2009 14:12:11	Last Cause Code	256
Source Protocol	MO	Delivery Init. Method	Default
Input Port	0	Operation Type	new_msg_arrival
Output Protocol	SS7	Message Final Status	Delivered
Output Port	0	Call Back number	
Message Source	AlphaPg	Originator COS	1
Message ID	21157616080	Terminating COS	50
Input Label	UNDEF	Message Dest. Address	204 223 6
Billing ID	0	HLR Address	full_digits
Billable	false	Originator DN	8647842369
Broadcast message	false	Originator MSID	
User Data Header Indicator	false	Terminating DN	8647049415
Priority	0	Message MSID	8647049415
Data Coding	0	Terminating MSID	8643717487
Number Of VM messages		Length of text message	31

[Message to 8647842369 Delivered]

```
=====
```

Log Written	08/16/2009 14:14:24	Number of attempts	1
Message arrival	08/16/2009 14:14:16	Message TeleService	4098
Final Disposition	08/16/2009 14:14:24	Last Cause Code	256
Source Protocol	MO	Delivery Init. Method	Default
Input Port	0	Operation Type	new_msg_arrival
Output Protocol	SS7	Message Final Status	Delivered
Output Port	0	Call Back number	8647842369
Message Source	MO_AlphaPg	Originator COS	1
Message ID	22144159895	Terminating COS	50
Input Label	AUX2	Message Dest. Address	204.223 6
Billing ID	0	HLR Address	full_digits
Billable	true	Originator DN	8647842369
Broadcast message	false	Originator MSID	8647238725
User Data Header Indicator	false	Terminating DN	8647049415

```

-----
Output Port          SS7 Message Final Status      Delivered
Message Source      AlphaPg Originator COS              0
Message ID          22144355341 Terminating COS          50
Input Label         AUX3 Message Dest. Address      204.223.6
Billing ID          9100 HLR Address          full_digits
Billable            true Originator DN          8645575883
Broadcast message    false Originator MSID
User Data Header Indicator false Terminating DN      8647049415
Priority            0 Message MSID          8647049415
Data Coding          0 Terminating MSID      8643717487
Number Of VM messages Length of text message      35
Message Text
[ Lol the song by J0h13-dont trust me ]
-----

Log Written          08/16/2009 16:41:22 Number of attempts          1
Message arrival      08/16/2009 16:41:17 Message TeleService        4098
Final Disposition    08/16/2009 16:41:22 Last Cause Code          256
Source Protocol      MO Delivery Init. Method      Default
Input Port           0 Operation Type          new_msg_arrival
Output Protocol      SS7 Message Final Status      Delivered
Output Port          0 Call Back number
Message Source       MO_AlphaPg Originator COS              50
Message ID          61166996770 Terminating COS          1
Input Label         AUX2 Message Dest. Address      204.223.6
Billing ID          0 HLR Address          full_digits
Billable            true Originator DN          8647049415
Broadcast message    false Originator MSID      8643717487
User Data Header Indicator false Terminating DN      8647842369
Priority            0 Message MSID          8647842369
Data Coding          0 Terminating MSID      8647238725
Number Of VM messages Length of text message      59
Message Text
[ i cant hold my eyes open so bri and i r layin down \nS I.C ]
-----

Log Written          08/16/2009 16:41:26 Number of attempts          1
Message arrival      08/16/2009 16:41:22 Message TeleService        4098
Final Disposition    08/16/2009 16:41:26 Last Cause Code          256
Source Protocol      MO Delivery Init. Method      Default
Input Port           0 Operation Type          new_msg_arrival
Output Protocol      SS7 Message Final Status      Delivered
Output Port          0 Call Back number
Message Source       AlphaPg Originator COS              1
Message ID          21157993554 Terminating COS          50
Input Label         UNDEF Message Dest. Address      204.223.6
Billing ID          0 HLR Address          full_digits
Billable            false Originator DN          8647842369
Broadcast message    false Originator MSID
User Data Header Indicator false Terminating DN      8647049415
Priority            0 Message MSID          8647049415
Data Coding          0 Terminating MSID      8643717487
Number Of VM messages Length of text message      31
Message Text
[ Message to 8647842369 Delivered ]
-----

Log Written          08/16/2009 16:42:12 Number of attempts          1
Message arrival      08/16/2009 16:42:08 Message TeleService        4098
Final Disposition    08/16/2009 16:42:12 Last Cause Code          256
Source Protocol      MO Delivery Init. Method      Default
Input Port           0 Operation Type          new_msg_arrival
Output Protocol      SS7 Message Final Status      Delivered
Output Port          0 Call Back number      8647842369
Message Source       MO_AlphaPg Originator COS              1
Message ID          22144781062 Terminating COS          50
Input Label         AUX2 Message Dest. Address      204.223.6
Billing ID          0 HLR Address          full_digits
Billable            true Originator DN          8647842369
Broadcast message    false Originator MSID      8647238725
User Data Header Indicator false Terminating DN      8647049415
Priority            0 Message MSID          8647049415
Data Coding          0 Terminating MSID      8643717487
Number Of VM messages Length of text message      55
Message Text
[ Leave the door unlocked please. Where are yall sleeping ]
-----

Log Written          08/16/2009 16:42:18 Number of attempts          1
Message arrival      08/16/2009 16:42:12 Message TeleService        4098
Final Disposition    08/16/2009 16:42:18 Last Cause Code          256
Source Protocol      MO Delivery Init. Method      Default
Input Port           0 Operation Type          new_msg_arrival
Output Protocol      SS7 Message Final Status      Delivered
Output Port          0 Call Back number
Message Source       AlphaPg Originator COS              50
Message ID          62152548549 Terminating COS          1
Input Label         UNDEF Message Dest. Address      204.223.6

```

Exhibit 38

AGENCY I.D.
C0370100

SUPPLEMENTARY REPORT

CASE NUMBER

09001238

NCIC

INQ. ENTD.

☐ ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY
☐ MODIFIED ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY

PAGE 1 OF 2 PAGES

On 08-17-09, I, Sgt. M W Nicholson, Crime Scene Technician responded to 129F Northwoods Drive, Seneca, SC at 0305 hours to execute a Search Warrant. Det. Sgt. Ted Roundy also arrived to execute said Search Warrant. Major P J Normandin, Lt. Robert Tribble and Officer Mark Bolden were also on scene.

As I began to execute the Search Warrant at 0312 hours, Det. Sgt. Ted Roundy left the premises to go to Greenville Hospital where the juvenile victim had been transported. Major Pete Normandin assisted me in executing the Search Warrant.

Upon entering the apartment into the living room area, I noticed a urine smell. I observed a playpen and a bounce seat in the living room. I saw prescription bottles in the living room area prescribed to Ashley Bright. They read as follows:

Walgreen's Pharmacy RX 0220983-10163 Doxycycline Hyclate 100 mg tab filled 06-30-09. Bottle stated quantity as 14. Bottle actually contained 9 orange round pills.

Walgreen's Pharmacy RX 0220984-10163 Benzonatate 100 mg tab filled 06-30-09. Bottle stated quantity as 15. Bottle actually contained 2 yellow gel type pills.

I went into the kitchen and saw dirty pots and pans on the stove. I also saw dirty dishes in the sink, as well as dirty dishes on the counter top. I opened the cabinet drawers in the kitchen and discovered a marijuana smoking pipe. I looked in the food pantry and saw bags containing dirty diapers and various trash along with the food in the pantry.

Across from the kitchen was Bedroom #1. In the hallway just outside of Bedroom #1, I saw a stain on the carpet. I also saw a pair of infant underpants on the floor near the stain.

Upon entering Bedroom #1, I saw a large bag of open dog food in close proximity to an infant basinet. The basinet contained an empty Luvs diaper pack. The basinet mattress pad had a stain on it. There were stains around the top part of the bumper padding as well. I saw a dirty diaper rolled up on the changing table. I saw plastic storage units with drawers that contained baby clothes. I saw a twin size bed against the far right wall. The bed was made. A white contour bed pillow and a white standard bed pillow was at the head of the bed. There was also a blue/white striped bed pillow enclosed in a Mainstay pillow sham.

I noticed the baby monitor was plugged into the electrical outlet. I saw infant clothes hanging in the closet. I saw a green stuffed care bear in the left corner of the room outside of the closet near the window. Upon exiting the room, I saw a sword behind the door propped up against the wall.

As I was going down the hallway, I saw the thermostat on the right wall. I observed the temperature of the apartment to be eighty seven degrees.

I proceeded down the hallway. I could hear a dog barking in Bathroom #1. I opened the door to this bathroom and saw a small black dog. I looked around the bathroom. I saw a towel hanging on the towel bar above the bathtub. I also saw a pink bounce type child's seat inside the bathtub.

I went out of the bathroom into the hallway and opened a door on the right side of the hallway, revealing a room that appeared to be used as a storage room.

I saw another door on the right at the end of the hallway that revealed a small closet. Near this door, I saw a pile of clothes on the floor of the hallway leading to Bedroom #2.

COPY

SUBJECT IDENTIFIED ☐ YES ☒ NO		SUBJECT LOCATED ☐ YES ☒ NO		ACTIVE ☐ UNFOUNDED ☐ ADM. CLOSED		ARRESTED UNDER 18 ☐ ARRESTED 18 AND OVER		EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER					
REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY													
REPORTING OFFICER			DATE		UNIT NUMBER		APPROVING OFFICER			DATE		UNIT NUMBER	
NICHOLSON, M.W.			08/17/2009		322		A. B. Wheeler					1119	
FOLLOW-UP INVESTIGATION						OFFICER ROUNDY, J. ☒ YES ☐ NO							

Appendix 1003

NY I.D.
70100

SUPPLEMENTARY REPORT

09001238

INFO. ENTD.

ORIGINAL REPORT	☒ SUPPLEMENTAL REPORT	☐ ADDITIONAL VICTIMS	☐ ADDITIONAL STOLEN PROPERTY	PAGE <u>2</u> OF <u>2</u> PAGES
COPIES ORIGINAL	☐ CASE STATUS CHANGE	☐ ADDITIONAL OFFENDERS	☐ ADDITIONAL RECOVERED PROPERTY	

Upon entering Bedroom #2, I noticed an unmade mattress along the right side of the room against the right wall. The mattress was bare. I saw pink colored sheets on the floor at the foot of the mattress.

There was a sofa in the room. I saw a dirty diaper rolled up on the back of the sofa. I saw a baby bottle containing what appeared to be formula (1/3) full on the bottom shelf of the TV cart.

I saw a baby crib in the far left corner of the room that had a broken mobile. The hanging part of the mobile was lying inside the crib on the mattress. I noticed two of the mobile animals were missing.

I saw a multicolored fleece type blanket, a pink colored crib blanket bearing a bunny and writing "I love Mommy" on it; and, a pink knitted type blanket inside the crib. I also saw a white baby wash cloth, a pink stuffed bunny; a white stuffed lamb; and a small stuffed bear lying inside the crib.

Upon lifting the unmade mattress that was against the right wall, I discovered a Penway Spiral bound notebook containing a handwritten letter and various writings.

I noticed a baby monitor that was plugged into the electrical outlet just outside of the closet in Bedroom #2. I looked inside the closet and saw baby clothes hanging in the closet, along with various other items.

I went into Bathroom #2, which was very dirty, and saw a large amount of hair on top of the sink counter top.

The apartment in general was untidy and smelled of urine.

I took digital photographs throughout the apartment using the Canon Rebel XT digital camera. These photographs will be entered as evidence at Seneca Police Department.

I took the following items as evidence from the apartment and noted said items on the Return of the Search Warrant:

One (1) pink colored Martha Stewart full size flat bed sheet (Bedroom #2)
One (1) pink colored Martha Stewart full size fitted bed sheet (Bedroom #2)
One (1) crib bumper pad (Bedroom #2)
One (1) white fitted crib sheet (Bedroom #2)
One (1) multi-colored crib fleece blanket (Bedroom #2)
One (1) detached part of mobile (Bedroom #2)
One (1) pink crib blanket (bunny - "I love mommy") (Bedroom #2)
One (1) white wash cloth (Bedroom #2)
One (1) pink knitted blanket (Bedroom #2)
One (1) pink stuffed bunny (Bedroom #2)
One (1) white stuffed lamb (Bedroom #2)
One (1) small green bear (Bedroom #2)
One (1) Penway spiral bound notebook containing handwritten letter and various writings (Bedroom #2)
One (1) baby bottle containing formula (Bedroom #2)
One (1) marijuana smoking pipe (Kitchen)
One (1) pair of striped baby underwear (Hallway)
One (1) diaper (used) (Bedroom #2)

COPY

No other items were taken during the execution of this Search

SUBJECT IDENTIFIED ☐ YES ☒ NO		SUBJECT LOCATED ☐ YES ☒ NO		☐ ACTIVE UNFOUNDED	☐ ADM. CLOSED	☐ ARRESTED UNDER 18	☐ EX-CLEAR UNDER 18
						ARRESTED 18 AND OVER	EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE		1. ☐ OFFENDER DEATH	2. ☐ NO PROSECUTION	3. ☐ EXTRADITION DENIED	4. ☐ VICTIM DECLINES COOPERATION	5. ☐ JUVENILE - NO CUSTODY	
REPORTING OFFICER	DATE	UNIT NUMBER	APPROVING OFFICER			DATE	UNIT NUMBER
ICHOLSON, M.W.	08/17/2009	322	A. B. Wheeler				1119
		FOLLOW-UP INVESTIGATION		OFFICER ROUNDY, T.			
				☒ YES ☐ NO			

Appendix 1004

Exhibit 39

Hi Ashley Sign Out As New Mail Help

Get Windows Live Photo

Yahoo! Mail

YAHOO! MAIL

Search

Web Search

American Girl

She's the 2010
Girl of the YearSTOP
FORN

Mail | Contacts | Calendar | Notepad

What's New? Mobile Mail Options

Check Mail New

Mail Search

Try the new Yahoo! Mail

+ Near Christian
Subsites

Browse | Back to Homepage

Help at Yahoo! Mail

Delete | Reply | Forward | Spam | Move

FW: Watch Instantly History

From: "William Brettin" <ladra@hotmail.com>

To: m00tes091d@yahoo.com

Friday, January 14, 2010 5:51 PM

Folders

Inbox (3569)

Drafts (4)

Sent

Spam (132)

Trash

My Photos

My Attachments

Chat & Mobile Text

I am Offline

My Folders {Add Edit}

Shift

ADVERTISEMENT



> Date: Thu, 14 Jan 2010 14:26:26 -0800

> From: customerservice@netflix.com

> To: ladra@hotmail.com

> Subject: Watch Instantly History

>

> Dear William Brettin,

>

> All of the titles below were watch on William Brettin's account (ladra@hotmail.com) on August 16, 2009. The customer's copy of their rental history is not accurately representing that.

>

> Info reads in this order Date, time watched, title and length of time viewed.

> 8/16/2009 19:15 Law & Order: Special Victims Unit. The Fifth Year "Serendipity" 41:51

> 8/18/2009 18:28 Law & Order: Special Victims Unit. The Fifth Year "Loss" 43:12

> 8/16/2009 17:45 Law & Order: Special Victims Unit. The Fifth Year "Mother" 43:15

> 8/16/2009 17:42 Law & Order: Special Victims Unit. The Fifth Year "Manic" 2:47

> 8/16/2009 17:34 Law & Order: Special Victims Unit. The Fifth Year "Tragedy" 7:35

> 8/16/2009 17:33 Sanctuary Season 1 "The Five" 43:25

> 8/16/2009 17:16 Law & Order: Special Victims Unit. The Second Year "Wrong Is Right" 14:08

> 8/16/2009 16:49 Sanctuary Season 1 "Nublians" 43:21

> 8/16/2009 16:00 Sanctuary Season 1 "Kush" 43:30

> 8/16/2009 15:15 Sanctuary Season 1 "Folding Man" 43:29

> 8/16/2009 15:13 Dark Rising 2 03

>

> Sincerely,

>

> Netflix Customer Support

>

> **Please note that this email address is not actively monitored by Netflix staff, and any replies will not be answered.

>

> If you require assistance, please contact Customer Service at 1 866-716-0414

>

> We can be reached 24 hours a day, 7 days a week

>

Your E-mail and More On the-Go. Get Windows Live Hotmail Free. [Sign Up Now.](#)

Delete | Reply | Forward | Spam | Move

Browse | Back to Homepage

Select Message Encoding

Full Messages

Check Mail New

Mail Search

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FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE 2014 MAR -4 P 11:57

IN THE COURT OF COMMON PLEAS

Matthew Taylor Hinton

SCDC ID: 00345044

Full name and prison number (if any) of Applicant.

v.

State of South Carolina

APPLICATION FOR

POST-CONVICTION RELIEF

2014. 4. 31. 133

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Perry Corectional Institution
2. Name and location of Court which imposed sentence Oconee General Sessions Court
Oconee County, South Carolina
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009GS3701347
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:

- (a) 08/26/2010; 41 years
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty x
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appeal Dismissed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. March 13, 2013
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. 2013-UP-104
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See Attached Complaint
 - (b) _____
 - (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attached Complaint
 - (b) _____
 - (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
 - (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
 - (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____
 - iv. _____
 - (c) the disposition thereof:
 - i. _____

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____

(b) _____

Revised 3/2003

- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? Yes
 - (b) your trial, if any? Yes
 - (c) your sentencing? Yes
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Gordon A. Senerious, 517 McDuffie Street, PO Box 4125, Anderson, SC 29621
 - ii. James H. Price, III, 644 E. Washington Street, Greenville, SC 29601
 - iii. Robert M. Dudek, 1330 Lady Street, Suite 401, Columbia, SC 29201
 - (b) the proceedings at which each such attorney represented you:
 - i. General Sessions Court Oconee County
 - ii. General Sessions Court Oconee County
 - iii. South Carolina Court of Appeals
19. State clearly the relief you seek in filing this application:
Reversal of Conviction
20. Are you now under sentence from any other court that you have not challenged?
No

STATE OF SOUTH CAROLINA

County of Oconee

VERIFICATION

2014 CP 37-133

I, Matthew Taylor Hinton, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Matthew T. Hinton

SWORN to and subscribed before me this 20th
day of February, 2014.

[Signature] (L.S.)
Notary Public

My Commission Expires: 12/9/19

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
2014 MAR -4 P 11:51

APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF

2014. CP 37-133

I, Matthew Taylor Hinton, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Matthew T. Hinton
Applicant

SWORN or affirmed to and subscribed before me this
27th day of February, 2014.

[Signature]
Notary Public

My Commission Expires: 12/9/19

FILED OCONEE, SC
BEVERLY H. WHITEFIELD
CLERK OF COURT
2014 MAR -4 P 11:57

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

2014 MAR -4 P 11:57

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Matthew Taylor Hinton,

Plaintiff/Petitioner,

v.

State of South Carolina,

Defendant/Respondent)

C. A. No.: 2014-CP-37-133

SUMMONS

TO: DEFENDANT IN THE ABOVE CAPTIONED CASE:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.



Robert C. Childs, III, #1218
Attorney for Plaintiff/Petitioner
2100 Poinsett Hwy, Suite D
Greenville, SC 29609
(864) 242-9997
Fax (864) 242-9914

Greenville, South Carolina

Date: 2/27/14

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Matthew Taylor Hinton,
Plaintiff/Petitioner

v.

State of South Carolina,
Defendant/Respondent)

FILED OCONEE, SC
BEVERLY H. WHITFIELD
CLERK OF COURT
IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT
2014 MAR -4 P 11:51

COMPLAINT

2014-CP-37-133

The Petitioner, hereinafter referred to as "Plaintiff", complaining of the Defendant above named, would respectfully show unto the Court as follows:

1. Plaintiff was a citizen and resident of Oconee County, State of South Carolina.
2. Plaintiff is currently confined to Perry Correctional Institution with a sentence of 41 years with no probation or parole.
3. The Plaintiff's release date is projected to be June 22, 2044 for his conviction on March 3, 2011 for murder/ homicide by child abuse, in the Court of General Sessions for the County of Oconee in indictment number 2009-GS-37-01347.
4. The Plaintiff's appeal was dismissed on March 13, 2013.
5. Trial counsel was ineffective and deficient in his investigation and preparation for trial.
6. Trial counsel was ineffective and deficient in failing to request a change in venue due to pre-trial publicity.
7. Trial counsel was ineffective and deficient in failing to excuse Juror Makinson for cause.
8. Trial counsel was ineffective and deficient in failing to excuse Juror Todd for cause.
9. Trial counsel was ineffective and deficient in challenging the strike of Juror Bonilla pursuant to Batson v. Kentucky.
10. Trial counsel was ineffective and deficient in jury selection.

11. Trial counsel was ineffective and deficient in failing to object to prosecutor's injection of her personality into the case during opening statements.
12. Trial counsel was ineffective and deficient in failing to object to the prosecutor's testimony on evidence in opening statements.
13. Trial counsel was ineffective and deficient in failing to adequately introduce his client to the jury in opening statements.
14. Trial counsel was ineffective and deficient in failing to object to the hearsay testimony of the victim's mother that the victim was a "Happy Baby, loved everyone."
15. Trial counsel was ineffective and deficient in failing to object to the testimony of the victim's mother as to her opinion concerning the guilt of the Plaintiff and the impact of the hearsay autopsy report on her opinion.
16. Trial counsel was ineffective and deficient in failing to object to the relevance of the Plaintiff's employment status.
17. Trial counsel was ineffective and deficient in failing to object to the relevance of the victim's mother's family helping the couple's financial condition and the Plaintiff's family not helping with that condition.
18. Trial counsel was ineffective and deficient in failing to object to the hearsay testimony of the victim's mother that "the Plaintiff's family did not know," about the baby.
19. Trial counsel was ineffective and deficient in failing to object to the hearsay testimony of the victim's mother regarding what the Plaintiff's family believed their relationship to be.
20. Trial counsel was ineffective and deficient in cross-examining the victim's mother.
21. Trial counsel was ineffective and deficient in failing to effectively cross-examine the victim's mother about her scenario of the events surrounding the child's death.

22. Trial counsel was ineffective and deficient in failing to thoroughly cross examine the victim's mother about getting up at 11:15 and the victim being fine and not having injuries.
23. Trial counsel was ineffective and deficient in failing to object to the introduction of the Verizon records without a foundation.
24. Trial counsel was ineffective and deficient in failing to object to testimony of Plaintiff texting victim's mother regarding Plaintiff not wanting victim's grandmother to come over without a proper foundation and failing to cross-examine victim's mother on that issue.
25. Trial counsel was ineffective and deficient in failing to dispute the Plaintiff was laying down and that he said "try not to wake us."
26. Trial counsel was ineffective and deficient in failing to object to leading question that Plaintiff's behavior was "odd" on multiple occasions.
27. Trial counsel was ineffective and deficient in failing to object to the validity of the search warrants and allowing all photographs into evidence with objection or foundation.
28. Trial counsel was ineffective and deficient in failing to object to leading questions about child's sleeping behavior.
29. Trial counsel was ineffective and deficient in failing to object to leading questions that the child's breathing was "odd."
30. Trial counsel was ineffective and deficient in failing to adequately review the Netflix account regarding episodes watched.
31. Trial counsel was ineffective and deficient in failing to object to the hearsay "Netflix records indicate that you watched all the shows."

32. Trial counsel was ineffective and deficient in failing to object to leading question regarding victim's breathing.
33. Trial counsel was ineffective and deficient in failing to object to victim's mother's statement saying that the Plaintiff woke up and the child was not breathing.
34. Trial counsel was ineffective and deficient in failing to object to leading questions about CPR on the child.
35. Trial counsel was ineffective and deficient in failing to accurately determine what time EMS arrived.
36. Trial counsel was ineffective and deficient in failing to object to hearsay testimony about what Dr. Gwyn asked them.
37. Trial counsel was ineffective and deficient in failing to object to leading and inflammatory question ("what point did the shower story emerge").
38. Trial counsel was ineffective and deficient in failing to object to the leading question using the term "odd."
39. Trial counsel was ineffective and deficient in failing to object to hearsay testimony of the victim's mother regarding what Dr. Gwyn told her.
40. Trial counsel was ineffective and deficient in failing to object to the interjection of the Plaintiff's criminal record on direct testimony.
41. Trial counsel was ineffective and deficient in failing to object to continued leading questions by the prosecution.
42. Trial counsel was ineffective and deficient in failing to follow up on how victim's mother left for work when there was no mention of her driving and failing to cross-examine her about her lack of a driver's license.

43. Trial counsel was ineffective and deficient in failing to review the cell phone records concerning the 911 call.
44. Trial counsel was ineffective and deficient in failing to follow up on how victim's mother arrived home on the day of the incident.
45. Trial counsel was ineffective and deficient in failing to introduce Ashely's statement into evidence.
46. Trial counsel was ineffective and deficient in failing to properly cross examine Ashley.
47. Trial counsel was ineffective and deficient in failing to object to hearsay and leading question, "Did you investigation reveal that the child had been in Oconee County during the days and hours surrounding 8/16."
48. Trial counsel was ineffective and deficient in failing to object to hearsay regarding information given by medical personal.
49. Appellate counsel was ineffective and deficient in failing to challenge the trial court's ruling allowing investigating officers to testify about what they were told by medical personnel.
50. Trial counsel was ineffective and deficient in failing to object to hearsay testimony regarding a time line of the incident.
51. Trial counsel was ineffective and deficient in failing to object to the hearsay statement by the officer "He was alone with the child."
52. Trial counsel was ineffective and deficient in failing to object to opinion of the officer "Fall, drop or accidental mishap none of those scenarios fit."
53. Trial counsel was ineffective and deficient in failing to object prosecutor's characterization of this statement as to "Story one, story two and story three."

54. Trial counsel was ineffective and deficient in failing to object to hearsay testimony of statements made to officers.
55. Trial counsel was ineffective and deficient in failing to challenge the statements made by Plaintiff to the police.
56. Trial counsel was ineffective and deficient in failing to object to hearsay testimony of the third statement allegedly provided to police.
57. Trial counsel was ineffective and deficient in failing to object to the opinion by officer that what happened day before the incident wasn't relevant.
58. Trial counsel was ineffective and deficient in failing to object to the hearsay testimony by an Officer who testified that the mother-in-law didn't sleep over night before the incident.
59. Trial counsel was ineffective and deficient in failing to object to the hearsay and opinion testimony that the Plaintiff was "fully aware of the severity of her injuries at this point? He was by this time."
60. Trial counsel was ineffective and deficient in failing to object to the continued leading questions that Plaintiff's behavior was "odd."
61. Trial counsel was ineffective and deficient in failing to object to improper bolstering of the basis for Plaintiff's arrest.
62. Trial counsel was ineffective and deficient in failing to properly cross examine the investigating officer.
63. Trial counsel was ineffective and deficient in failing to object to re-direct examination that allowed hearsay to correct mother's "odd" behavior.
64. Trial counsel was ineffective and deficient in failing to object to hearsay that the victim had been moved.

65. Trial counsel was ineffective and deficient in failing to object to hearsay and irrelevant and inflammatory testimony describing to the jury the happiness of the victim.
66. Trial counsel was ineffective and deficient in failing to object to the relevance of the Plaintiff being unemployed and the victim's grandmother helping with the couples bills.
67. Trial counsel was ineffective and deficient in failing to investigate the victim's grandmother's alleged injuries.
68. Trial counsel was ineffective and deficient in failing to review the cell phone records regarding the phone call to the victim's grandmother and not cross-examining Ashley about the alleged phone call.
69. Trial counsel was ineffective and deficient in failing to cross examine Grandmother about what he told the victim's Grandmother about the shower incident.
70. Trial counsel was ineffective and deficient in failing to cross examine Paige Williams concerning the shower incident statement and her statement to the police.
71. Trial counsel was ineffective and deficient in failing to properly investigate and introduce the statements made to DSS and the DSS investigation.
72. Trial counsel was ineffective and deficient in failing to use Paige Williams's statement to police for cross-examination.
73. Trial counsel was ineffective and deficient in failing to object to hearsay concerning the investigation determination.
74. Trial counsel was ineffective and deficient in failing to object to the hearsay statement "I was advised by Hospital Staff that she was brain dead."
75. Trial counsel was ineffective and deficient in failing to object to hearsay regarding the Officer corroborating victim's mother's story.

76. Trial counsel was ineffective and deficient in failing to challenge the probable cause for the two searches.
77. Trial counsel was ineffective and deficient in failing to object to speculation and lack foundation that two people could not get into the nursery room bed.
78. Trial counsel was ineffective and deficient in failing to object to the hearsay of corroborating the time frames given by Mr. Holland.
79. Trial counsel was ineffective and deficient in failing to object to hearsay regarding determining the timing of injuries from the Doctors and the Medical Reports without a proper foundation.
80. Trial counsel was ineffective and deficient in failing to object to testimony concerning the officer's basis for Plaintiff's arrest.
81. Trial counsel was ineffective and deficient in failing to subpoena or call Melinda Nicholson, who collected the wet towel.
82. Trial counsel was ineffective and deficient in failing to object to the investigator opinion and speculative testimony that it was impossible to remove the child from the bed.
83. Trial counsel was ineffective and deficient in failing to object to continued leading of witnesses by the prosecution.
84. Trial counsel was ineffective and deficient in failing to properly interview and investigate Desmond Holland.
85. Trial counsel was ineffective and deficient in failing to properly cross-examine the investigator.
86. Trial counsel was ineffective and deficient in failing to properly question the witness regarding the timing of noise from the apartment.

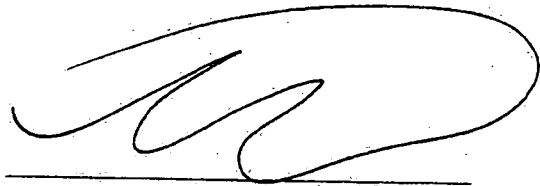
87. Trial counsel was ineffective and deficient in failing to call Desmond Holland's fiancé to the stand.
88. Trial counsel was ineffective and deficient in failing to investigate Desmond Holland's criminal record.
89. Trial counsel was ineffective and deficient in failing to object to Desmond Holland's statement regarding baby's location.
90. Trial counsel was ineffective and deficient in failing to object to Desmond Holland's irrelevant testimony.
91. Trial counsel was ineffective and deficient in failing to object to witness being allowed to render an opinion on child abuse trauma without proper foundation.
92. Trial counsel was ineffective and deficient in failing to properly effectively cross examine the Doctors.
93. Trial counsel was ineffective and deficient in failing to object to prosecution leading, the examining physician "that would be the kind of injury were talking about."
94. Trial counsel was ineffective and deficient in failing to question the doctor about alleged rib bruises.
95. Trial counsel was ineffective and deficient in failing to request or examine the x-rays showing the alleged injuries.
96. Trial counsel was ineffective and deficient in failing to question Dr. Woodard's qualifications.
97. Trial counsel was ineffective and deficient in failing to show the victim's mother was at fault in the injuries to the child.

98. Trial counsel was ineffective and deficient in failing to dispute in Desmond Holland's testimony in cross-examination of the doctors.
99. Trial counsel was ineffective and deficient in failing to question the doctors about the leg injury occurring before the incident and mother's frequent checking of the child.
100. Trial counsel was ineffective and deficient in failing to question the Plaintiff on victim's Mother's scenario of frequently checking on the child.
101. Trial counsel was ineffective and deficient in failing to point out that victim's mother testified she moved the child around and she should have noticed something was wrong with the victim.
102. Trial counsel was ineffective and deficient in failing to cross-examine or question the size, width and length of the fingerprints allegedly detected on the victim.
103. Trial counsel was ineffective and deficient in failing to present proper background information on the Plaintiff to the jury.
104. Trial counsel was ineffective and deficient in failing to challenge victim's mother's testimony.
105. Trial counsel was ineffective and deficient in failing to object to the prosecution's closing statement that "Today is the day to speak up for Ashley.
106. In failing to generally, adequately and reasonably prepare for the trial, prepare the Plaintiff to testify, interview witnesses, and challenge the improper and irrelevant testimony.
107. Counsels for the Plaintiff failed to render adequate assistance and to exercise reasonable professional judgment in making all significant decision in his case.

108. Trial counsel for the Plaintiff failed to interview potential witnesses and make an independent investigation of the facts and circumstances of the case.
109. There is a reasonable probability that, but for counsels errors, the result of the trial would have been different.

WHEREFORE, have fully plead the Plaintiff requests the following;

1. Reasonable discovery according to South Carolina rules of civil procedure.
2. A reversal and remand of the Plaintiff's conviction.
3. Such other and further relief as the court deems just and proper.



Robert C. Childs, III, #1218
Attorney for Plaintiff/Petitioner
2100 Poinsett Hwy, Suite D
Greenville, SC 29609
(864) 242-9997
Fax (864) 242-9914

Greenville, South Carolina

Date: 2/27/14

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	TENTH JUDICIAL CIRCUIT
	)	
Matthew Taylor Hinton,	)	C.A. No. 2014-CP-37-133
S.C.D.C. No. 345044,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	(counsel has been retained)
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed March 14, 2014, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Oconee County. The Applicant was indicted at the December 2009 term of the Court of General Sessions for Oconee County for murder/homicide by child abuse (2009-GS-37-1247). The Applicant was represented by Gordon Senerius, Esq. On February 28, 2011 the State called its case to trial. He was found guilty as indicted. The Honorable Alexander S. Macaulay sentenced him to a term of forty-one (41) years imprisonment.

A notice of appeal was filed on Applicant's behalf. Robert M. Dudek, Esq., of the Office of Appellate Defense perfected the appeal pursuant to Anders v. California¹. The South Carolina Court of Appeals dismissed the appeal in an unpublished opinion. (Op. No. 2013-UP-104, filed on March 13, 2013). The remittitur soon followed.

¹ Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967)

Attached herewith and incorporated herein by reference are the records of the Oconee County Clerk of Court regarding the subject conviction(s), and the transcript from Applicant's trial hearing, Applicant's appellate records, and records from the Dept. of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

In his Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance Counsel,

III.

The Applicant's first claim is an allegation of ineffective assistance of trial counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of

reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

Applicant must specify any claims he intends to raise at the PCR trial. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code '17-27-10 et seq; SCRCP 71.1. All claims should be made well in advance of the PCR hearing. If Applicant has an attorney appointed, the attorney, and not the inmate, is the only one authorized to file amendments. SCRCP Rule 11. Filings by inmates will not be considered at the PCR hearing.

VII.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VIII.

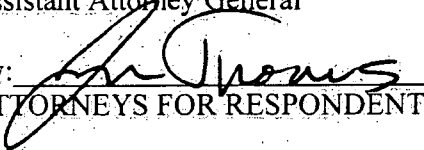
WHEREFORE, having made its Return, the Respondent requests that a hearing be held solely on the claims of ineffective assistance of counsel, federal and state law violations, and the allegations made in amendments submitted by the Applicant.

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

KAREN C. RATIGAN
Assistant Deputy Attorney General

WALT WHITMIRE
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

MATTHEW T. HINTON

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent

IN THE COURT OF COMMON PLEAS
IN THE TENTH CIRCUIT

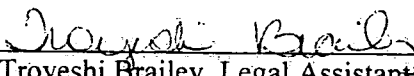
2014-CP-37-133

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Robert C. Childs, III
2100 Poinsett Hwy. Ste E
Greenville, SC 29609

DATED this 2th day of July, 2014


Troyeshi Brailey, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA)

COUNTY OF OCONEE)

Matthew Taylor Hinton,)
Applicant,)

v.)

State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No.: 2014-CP-37-133

**APPLICANT'S
MEMORANDUM OF LAW**

TO: HONORABLE R. LAWTON MCINTOSH PRESIDING JUDGE AND
ASSISTANT ATTORNEY GENERAL J. WALT WHITMAN

This matter was heard on February 9 and February 10, 2015. This Honorable Court requested a limited memorandum of law on the issue of whether or not the trial attorney's failure to object, move for a mistrial and/or request a curative instruction based upon a "Golden Rule" violation by the prosecution at closing arguments mandates a reversal of Applicant's conviction regardless of whether or not prejudice is shown.

In the course of the criminal trial the prosecuting attorney in her closing statement told the jury. "Today is the day to speak for Brianna" (R.p. 391, l.17). There was no objection interposed by Applicant's trial counsel. At hearing trial counsel stated no legitimate reason for not objecting to this statement. The prosecution had the last closing argument.

A solicitor's closing argument must be carefully tailored not to appeal to the personal biases of the jury. Von Dohlen v. State, 360 S.C. 598, 602 S.E.2d 738 (2004), cert. denied, 544 U.S. 943, 125 S.Ct. 1645, 161 L.Ed.2d 511 (2005). The argument must not be calculated to arouse the jurors' passions or prejudices, and its content should stay within the record and reasonable inferences that may be drawn therefrom. Id.

Jurors are sworn to be governed by the evidence, and it is their duty to consider the facts of the case impartially. Id. A Golden Rule argument asking the jurors to place themselves in the victim's shoes tends to completely destroy all sense of impartiality of the jurors, and its effect is to arouse passion and prejudice. Id.

The solicitor's argument in this case indisputably asked jurors to abandon their impartiality and view the evidence from the victim's viewpoint. Therefore, this was a clear violation of the Golden Rule. See State v. Reese, 633 S.E.2d 898, 370 S.C. 31 (S.C., 2006) overruled on other ground by State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (S.C., 2009) ("Who speaks for Teresa Reese?" on closing a Golden Rule violation) and Brown v. State, 680 S.E.2d 909, 383 S.C. 506 (S.C., 2009) (the solicitor's comments "to speak up for the victim" amounted to a "Golden Rule" type argument)

In direct appeals a solicitor's argument is reviewed in the context of the entire record. State v. Copeland, 278 S.C. 572, 300 S.E.2d 63 (1982). The accused has the burden of proving that the argument denied him a fair determination of guilt or innocence. Id. In order to constitute reversible error, it must be shown that the argument so infected the trial with unfairness as to make the resulting conviction a denial of due process. Darden v. Wainwright, 477 U.S. 168, 106 S.Ct. 2464, 91 L.Ed.2d 144 (1986); Donnelly v. DeChristoforo, 416 U.S. 637, 94 S.Ct. 1868, 40 L.Ed.2d 431 (1974).

In Von Dohlen vs. State, supra. Which was a capital case the Supreme Court recognized that it is difficult if not impossible to determine the impact of a Golden Rule violation. However, the Court went on to find the prosecutor's comment about black tennis shoes the victim wore on the day of the murder to "put yourself in Margaret's shoes, size six" was not prejudicial error since Von Dohlen failed to show "There is a

reasonable probability that, but for counsel's error, the result of the trial's penalty phase would have been different. Following Von Dohlen the Supreme Court in Smith vs. State, 654 S.E.2d 523, 375 S.C. 507 (S.C. 2007) followed the "reasonable probability" burden for Golden Rule violations in a non-capital case.

Therefore, the Applicant cannot argue that this clear error alone requires a reversal regardless of whether or not prejudice is found. Indeed, the standard is that this court should view the impropriety of the solicitor's argument in the context of the entire record and whether there is overwhelming evidence of the defendant's guilt. Simmons v. State, 331 S.C. 333, 503 S.E.2d 164 (1998). "Improper comments do not automatically require reversal if they are not prejudicial to the defendant, and the appellant has the burden of proving he did not receive a fair trial because of the alleged improper argument." Humphries v. State, 351 S.C. 362, 373, 570 S.E.2d 160, 166 (2002). "The relevant question is whether the solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." Id.; see State v. Hornsby, 326 S.C. 121, 129, 484 S.E.2d 869, 873 (1997) ("A denial of due process occurs when a defendant in a criminal trial is denied the fundamental fairness essential to the concept of justice.").

However, Applicant submits that the "context of the entire record" review does implicate the cumulative error analysis espoused by State v. McEachern, 399 S.C. 125, 731 S.E.2d 604 (S.C. App., 2012) (finding no cumulative errors but discussing a cumulative error analysis); But see also Walker v. State, 397 S.C. 226, 723 S.E.2d 610 (S.C. App., 2012) (footnote 5, "[W]hether the cumulation of several errors, which by

themselves are not prejudicial, would warrant relief is an unsettled question in South Carolina).

Without waiving or foregoing the numerous other allegations of error in this case and attempting to stay within this Court's requested limited briefing, the Applicant submits that including, but not limited to, trial counsel's failure to review the entire audio tapes of Desmond Holland's interview and subsequent failure to cross exam him on his connection with Ashley Bright, the failure to review the entire audio tapes of Ashley Bright's interview and to cross exam her and the officers on its content, the failure to object to or observe the redaction of Ashley Bright's text response about her mother, allowing the hearsay testimony of the Netflix records that actually did not confirm Ashley Bright's testimony and permitting testimony about the character of the victim in conjunction with the Golden Rule violation all constitute significant errors from the context of the entire record that mandates a reversal of this conviction.

As to this Honorable Court's initial determination that there was overwhelming evidence of guilt, again without waiving or foregoing the numerous allegations of error in this case and attempting to stay within this Court's requested limited briefing, trial counsel testified at the hearing that Applicant's case was a close case that could have gone either way and that it was purely circumstantial case as trial counsel attempted to argue at trial. (R.p. 289, 1.24-p.302, 1.6). "[T]o merely cast suspicion because circumstantial evidence we feel is insufficient for this case to go forward, (R.p.293, 1.2-4).

The present case involves no direct eyewitness testimony observing the infliction of the injuries, no confession by the Applicant and no forensic comparison identifying the

Applicant as the perpetrator. The State's case rested or failed on the credibility of Desmond Holland, the credibility of Ashley Bright, testimony calculated to arouse the sympathy or prejudice of the jury (R.p.68,l.12-7; p.151,l.6-8) and a closing argument calculated to arouse the jurors' passions or prejudices. Therefore, in context of the entire record the Golden Rule violation mandates a reversal.

Robert C. Childs, III, #1218
Attorney for Applicant
2100 Poinsett Hwy, Suite D
Greenville, SC 29609
(864) 242-9997
Fax (864) 242-9914

Greenville, South Carolina
Date: _____

STATE OF SOUTH CAROLINA
COMMON PLEAS COURT, POST CONVICTION RELIEF

The Honorable R. Lawton McIntosh, PCR Judge

Post-Hearing Memoranda of Law

Matthew T. Hinton, ... Applicant,

v.

STATE OF SOUTH CAROLINA, ... Respondent.

Memoranda of Law

WALT WHITMIRE
Assistant Attorney General
S.C. Bar # 100793

Post Office Box 11549
Columbia, S.C. 29211
(803) 734-3737

ATTORNEYS FOR RESPONDENT

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This Court correctly distinguished <u>State v. Reese</u> in reasoning that assignable <u>Strickland</u> error to Attorney Senerius' performance in not objecting to Solicitor Simmons' comments in the State's closing argument would constitute harmless error and not entitle Applicant to PCR relief.	7
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QUESTION PRESENTED

1. Did Solicitor Simmons' comment, at odds with State v. Reese's pronouncement on golden rule violations, constitute per se reversible error had Attorney Senerius objected and/or preserved the objection for direct appeal?

PROCEDURAL HISTORY

At the close of February 2014 PCR hearing, this Court found that Solicitor Simmons' comment, R.p.391, ln.17-24,¹ at issue during the State's closing argument constituted an improper comment under State v. Reese's holding on golden rule violations. However, this Court commented that the present case was distinguishable from State v. Reese as follows: (1) that Applicant's conviction for the offense of homicide by child abuse was supported by overwhelming evidence of guilt;² (2) that the State tried a clean case here as compared to Reese's trial that was fraught with error. At the close of Applicant's PCR hearing, this Court directed undersigned counsel for the State and Applicant's PCR counsel to brief the following issue:

Did Solicitor Simmons' comment, at odds with State v. Reese's pronouncement on golden rule violations, constitute per se reversible error that would have resulted in the reversal of Applicant's conviction³ had Attorney Senerius objected and/or preserved the objection for direct appeal?

ANALYSIS

A.

A purported golden rule violation during a closing argument constitutes harmless error unless the defendant can meet his significant burden to show the comments at issue denied him the due process right to a fair trial.

In a 'golden rule argument,' jurors are urged to place themselves in the position of a party, a victim, or a victim's family member and decide the case from that perspective.⁴ Von

¹ "Today is the day we speak for the victim. I once read that children are our hope for the future. But we are their only hope for their present and their future. Matthew Hinton robbed his daughter of her present, he robbed his daughter of a future, a future that was limitless. He took it all away. Today is the day for justice for the victim and the day of reckoning for Matthew Hinton."

² Compared to Reese's murder conviction where the State's evidence on the requisite element of malice was in dispute and substantially weaker than the evidence in the present case.

³ Either by Judge Macaulay granting a motion for a mistrial or by the Court of Appeals reversing the conviction.

⁴ Although the Reese Court, as a general matter, frowned upon the comments that asked the jury to speak for the victim, arguably Solicitor Simmons' isolated comments at bar did not constitute a violation of the golden rule. Reese concerned a themed argument where the solicitor asked the jury to speak for the victim as to the malice the deceased

Dohlen v. State, 602 S.E.2d 738, 743 (S.C. 2004). The Reese Court looked to this jurisdiction's longstanding framework in determining whether an improper argument warrants the reversal of a conviction:

On appeal, the solicitor's argument will be reviewed in the context of the entire record. State v. Copeland, 278 S.C. 572, 300 S.E.2d 63 (1982). Once the trial judge has allowed the argument to stand, the accused has the burden of proving that the argument denied him a fair determination of guilt or innocence. Id. In order to constitute reversible error, it must be shown that the argument so infected the trial with unfairness as to make the resulting conviction a denial of due process

State v. Reese, 370 S.C. 31, 38, 633 S.E.2d 898, 901-02 (2006) overruled on other grounds by State v. Belcher, 385 S.C. 597, 685 S.E.2d 802 (2009) (emphasis added). The Reese Court cited to the arduous Donnelly v. Christoforo standard where the United States Supreme Court has made clear, that a petitioner is not entitled to relief based upon the closing argument of a prosecutor, unless that argument so infected the trial with unfairness as to make the resulting conviction a denial of due process. Donnelly v. DeChristoforo, 416 U.S. 637, 94 S.Ct. 1868, 40 L.Ed.2d 431 (1974)). The Donnelly standard is very difficult for a defendant to meet. "[I]t is not enough that the remarks were undesirable or even universally condemned." Darden v.

victim suffered. Because, Reese was a pre-State v. Belcher case, the jury had already been instructed that they may infer malice from the use of a deadly weapon; thus, creating a unique and limited circumstance in Reese that resulted in a due process violation. Rather than urging the jury to subjectively analyze a case solely or primarily from the victim's viewpoint" as in Von Dohlen or to ignore their obligation to exercise calm and reasonable judgment, Solicitor Simmons merely argued that the victim was deceased and incapable of speaking for herself. Several cases from other jurisdictions have expressly held that similar remarks do not deprive a defendant of a fundamentally fair trial. *E.g.* Carr v. State, 275 Ga. 185, 186, 563 S.E.2d 850, 852-53 (Ga. 2002) (prosecutor's action of inviting jury to "be the voice" of the victim did not constitute prosecutorial misconduct and did not properly inflame jurors' emotions); Johnson v. State, 187 Ga. App. 803, 804, 371 S.E.2d 419, 421 (Ga. App. 1988) (prosecutor's closing argument, which implored jury to return a guilty verdict for the benefit of the victims and for the community and county did not require trial court's rebuke or counsel nor was it grounds for mistrial); Sanchez v. State, 41 P.3d 531, 535 (Wyo. 2002) (prosecutor's closing argument in murder trial, which told jury it had the opportunity to speak for victim, was not an improper community outrage appeal and did not unfairly prejudice defendant).

○ Wainwright, 477 U.S. 168, 181 (1986).⁵ See also Parker v. Matthews, 132 S.Ct. 2148, 2155 (2012)⁶ ("even if the comment is understood as directing the jury's attention to inappropriate considerations, that would not establish that the Kentucky Supreme Court's rejection of the Darden prosecutorial misconduct claim 'was so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement'"); State v. Brisbon, 323 S.C. 324, 474 S.E.2d 433 (1996) (ruling test of granting

⁵ In the course of rejecting a capital defendant's claim that the state prosecutor's argument entitled him to a new sentencing hearing, the Fourth Circuit Court of Appeals stated in Bates v. Lee, 308 F.3d 411, 422 (4th Cir. 2002), that:

○ we first recognize that prosecutors enjoy considerable latitude in presenting arguments to a jury, Sizemore v. Fletcher, 921 F.2d 667, 670 (6th Cir.1990), because "the adversary system permits the prosecutor to 'prosecute with earnestness and vigor.' " United States v. Young, 470 U.S. 1, 7, 105 S.Ct. 1038, 84 L.Ed.2d 1 (1985) (quoting Berger v. United States, 295 U.S. 78, 88, 55 S.Ct. 629, 79 L.Ed. 1314 (1935)). Committed advocates do not always present antiseptic closing statements, and the jury is entrusted within reason to resolve such heated clashes of competing views. Moreover, the scope of our review is narrow, because "not every trial error or infirmity which might call for application of supervisory powers correspondingly constitutes a 'failure to observe that fundamental fairness essential to the very concept of justice.' " Donnelly v. DeChristoforo, 416 U.S. 637, 642, 94 S.Ct. 1868, 40 L.Ed.2d 431 (1974) (quoting Lisenba v. California, 314 U.S. 219, 236, 62 S.Ct. 280, 86 L.Ed. 166 (1941)). Thus, our review is limited to whether the comments rendered the proceeding so fundamentally unfair as to constitute a denial of due process. Donnelly, 416 U.S. at 643, 94 S.Ct. 1868. This determination requires us to look at "the nature of the comments, the nature and quantum of the evidence before the jury, the arguments of opposing counsel, the judge's charge, and whether the errors were isolated or repeated." Boyd v. French, 147 F.3d 319, 329 (4th Cir.1998) (internal quotation marks omitted).

⁶ Likewise, in State v. Durden, 264 S.C. 86, 212 S.E.2d 587, 590 (1975), the state supreme court set forth examples of permissible closing arguments by prosecutors:

○ So long as he stays within the record and its reasonable inferences, the prosecuting attorney may legitimately appeal to the jury to do their full duty in enforcing the law, or to return the verdict which he conceives it to be their duty to return under the evidence, and it may employ any legitimate means for impressing on them their true responsibility in this respect, as by stating that a failure to enforce the law begets lawlessness. Thus, he may in effect tell them that the people look to them for protection against crime, and may illustrate the effect of their verdict on the community or society generally with respect to obedience to, and for enforcement of, the law; he has the right to dwell on the evil results of crime and to urge a fearless administration of the criminal law; and he may ask for a conviction, or assert the jury's duty to convict. He may argue with reference to any matter which the jurors may properly consider in arriving at their verdict, and may point out as well the matters which they should not consider.

○ (Citation omitted) (emphasis added).

new trial for alleged improper closing argument of counsel is whether defendant was prejudiced to extent that he was denied a fair trial).

Von Dohlen v. State, 360 S.C. 598, 613, 602 S.E.2d 738, 746 (2004) is dispositive where the Court addressed whether a PCR Applicant was entitled to relief as a result of his attorney's failure to object to the solicitor's improper comments that constituted a golden rule violation. The Von Dohlen Court held that "Petitioner has shown error under the Strickland standard. His attorney erred in failing to object to the solicitor's explicit call for jurors to put yourself in Margaret's shoes, size six." Id. (internal quotations omitted). However and importantly, the Von Dohlen Court also held "Petitioner has not shown there is a reasonable probability that, but for counsel's error, the result of the trial's penalty phase would have been different." Id. Therefore, Applicant must meet a substantial burden in proving that Solicitor Simmons' comments violated his due process right to a fair trial and adjudication of guilt. Any possible error attributed to Attorney Senerius' performance in not objecting to the comments does not equate to per se prejudicial error under Strickland's second prong.

Accordingly, Applicant holds the burden to prove that a purported golden rule violation constituted a due process violation in order to warrant PCR relief.

B.

This Court correctly distinguished State v. Reese in reasoning that assignable Strickland error to Attorney Senerius' performance in not objecting to Solicitor Simmons' comments in the State's closing argument would constitute harmless error and not entitle Applicant to PCR relief.

State v. Rice, 375 S.C. 302, 335, 652 S.E.2d 409, 426 (Ct. App. 2007) overruled on other grounds by State v. Byers, 392 S.C. 438, 710 S.E.2d 55 (2011)⁷ is instructive to the issue at bar.

In Rice, the solicitor offered the following comments in the State's closing argument:

[A]n example of demeanor how you can tell when somebody's telling the truth, you saw her when she was telling you, begging for forgiveness for being too much of a coward to do something or to come forward and how she begged forgiveness and said she wanted Hilda to have peace. You saw that. You know that was raw truth. She want Hilda—she wanted to give Hilda peace. Ladies and gentlemen, I would ask you to give Hilda and Bernard justice as well.

Rice, at 335, 652 S.E.2d at 426.

In Judge Ralph King Anderson Jr.'s thorough opinion in Rice, he held: (1) “[a]rguably, the prosecutor’s comment was consistent with his duty, not to convict a defendant, but to see justice done. Viewed from that perspective, the prosecutor merely asked the jury to do the duty that was already required of them; Id. (2) “had the prosecutor’s request had reached that level of impropriety, the trial court’s overall instructions to the jury effectively cured any potential prejudice. The judge stressed the State had the burden of proving Rice guilty beyond a reasonable doubt. He instructed the jury to consider only the competent evidence before them.” Id. State v. Rice was also decided upon the long standing framework that a solicitor’s purported improper comment made in the State’s closing argument is harmless unless the defendant can prove prejudice. Id. at 302, 315, 652 S.E.2d at 415 (emphasis added).

First, Judge Macaulay’s sound instructions to the jury cured the purported error. “An instruction to disregard incompetent evidence is usually deemed to have cured the error.” State v. Reid, 324 S.C. 74, 476 S.E.2d 695 (1996). In the present case, Judge Macaulay instructed the jury on the presumption of innocence, R. p.396, reasonable doubt, R. p.396, on the duty to follow the Court’s instructions and directives on matters of law, R. p.395, and that “you should

⁷ holding that “defendant adequately preserved for appellate review his motion to strike co-conspirator’s hearsay testimony; overruling State v. Rice, 375 S.C. 302, 652 S.E.2d 409 only on that matter.”

not be influenced by opinions or expressions of opinions, if any, which you may have heard on the outside, but you are to decide this case according to the testimony that you have heard from the lips of the sworn witnesses along with the other evidence that may have been introduced. You must not consider as evidence any statement of counsel made during the trial." R. p.402, ln.14-20. See State v. Ard, 332 S.C. 370, 505 S.E.2d 328 (1998) (jurors are presumed to follow the law as instructed to them).

Furthermore, Attorney Senerius gave a compelling closing argument where he made the following comments that would have nullified the potential for a due process violation here. In relevant part, he argued "but nothing that you decide can bring back [the victim]'s life. And sympathy for [Applicant] or for Ashley or for [the victim] is not something that you are supposed to take into consideration when you decide this case." R. p.361, ln. 8-12.

Second, probative evidence will support this Court's finding on subsequent appellate review that overwhelming evidence of Applicant's guilt distinguishes Reese from the present case. See Brown v. State, 383 S.C. 506, 517-18, 680 S.E.2d 909, 915 (2009) (citing Smith v. State, 375 S.C. 507, 654 S.E.2d 523 (2007) (concluding any impropriety in the solicitor's closing argument was not sufficient to grant defendant post-conviction relief where solicitor's improper use of the pronoun "I" was limited, did not recur throughout his argument, there was overwhelming evidence of the defendant's guilt, and the trial judge instructed the jury not to consider counsel's statements as evidence"))).

Presuming that Applicant's version of the facts were in fact true, the State still presented convincing evidence that he committed the offense of homicide by child abuse by manifesting an extreme indifference to human life in neglecting to care for a critically injured child when he failed to act as a responsible parent and further acted to conceal the injuries from others that

could have acted to save the child's life. At trial, Applicant testified to his version of facts as follows: He was bathing the victim in the shower when she escaped his grasp and started to fall. R. p.320. During the victim's descent, Applicant testified he "grabbed her leg, grabbed her on her chest and just jerked up... which caused the victim to hit her head on Applicant's collarbone." R. p.320, ln. 24-25; p. 321, ln. 6-7.

"S.C.Code Ann. § 16-3-85 (Supp.2001) defines the crime as follows: (A) A person is guilty of homicide by child abuse if the person: (1) causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life." State v. Jarrell, 350 S.C. 90, 97, 564 S.E.2d 362, 366 (Ct. App. 2002) (citing S.C.Code § 16-3-85)) (emphasis added). Despite Applicant testifying the incident caused him to experience "shock," the State presented compelling evidence that: (1) Applicant chose not to seek medical intervention; (2) he concealed victim's injuries from others, which thereby prevented the mother, grandmother, and concerned neighbor from having an opportunity to save the child's life; (3) his post-incident conduct created a compelling inference that he knew he had acted in a criminal manner.

First, Applicant closely guarded the child and kept the child's mother and grandmother from discovering her injuries. Applicant sent inflammatory text messages to the child's mother where he demanded that Ashley's mother not visit or enter the apartment on the afternoon of the incident. He even threatened to leave if Ashley's mother entered the apartment. At the close of Ashley's shift, Applicant text messaged her "I can't hold my eyes open so [victim] and I are laying down.... [victim] won't sleep unless I'm holding her, so we're both gonna be in the bed. Please try not to wake us." R. p.77, ln.19-20; ln.23-25 (emphasis added).

Second, Applicant ignored a concerned neighbor's attempts to talk with him. Applicant and Ashley's downstairs neighbor, Desmond Holland, testified⁸ that around 2:45 p.m. on the day of the incident he:

[heard] a boom and it sounded like a T.V. or something falling. That's when I turned around and walked upstairs, because usually they make noise but it wasn't that loud. So I walked upstairs and knocked on the door and nobody came, so I knocked again. I stayed there for about three minutes. All I heard was the dog scratching and the baby whimpering. So by this time I was, like, forget it. And I walked downstairs. I got back downstairs and I didn't even make it past the kitchen again where I heard it again. So this time I went back up there. I was a little aggravated because they didn't come to the door. So I knocked even harder, harder and harder, and this time all you heard was the dog, no baby, no nothing, nobody still came to the door.

R. p.200, ln.10-23 (emphasis added).

Third, Applicant's post-incident conduct established a further inference of his intent to conceal his criminal culpability. Applicant conveniently forgot to disclose the shower incident to the initial physicians that were attempting to save the victim's life. He maintained this forgetful posture in his initial statement to police on the night of the incident. Hours later, Applicant expanded upon his story to Ashley to include the "shower incident" after it became obvious that the victim was critically injured and was perilously close to death. Furthermore, Ashley also testified that Applicant asked her to "take the rap" for future criminal charges concerning the victim's death when Applicant had sole custody of the child. R. p.89. See State v. Crawford, 362 S.C. 627, 636, 608 S.E.2d 886, 891 (Ct. App. 2005) (it is sufficient that circumstances justify an inference that the accused's actions were motivated as a result of his belief that police officers were aware of his wrongdoing and were seeking him for that purpose). Applicant also asked Paige Williams "If the police were gonna make an arrest, when would they make the arrest?" R p.156.

⁸ Holland testified he had no knowledge that the police were conducting a criminal investigation concerning an incident that occurred several days prior in the upstairs apartment when he spoke to police.

Thus, had the medical evidence corroborated Applicant's account, the State presented convincing evidence that still would have cemented his conviction. However, ample probative evidence will support this Court's finding that Applicant's conviction was supported by overwhelming evidence of guilt in light of expert testimonies from the initial emergency room physician, two pediatric neurologists, and the pathologist who all uniformly rejected Applicant's version of the facts.

Dr. Troup testified that the victim's head injuries would not have likely been caused by a fall or accident in the shower. Dr. Troup testified, to a reasonable degree of medical certainty, that the child-victim suffered head trauma within a twenty-four hour period based upon the blood density in the brain, acute progression of edema, swelling, in the brain. R. p.237. Dr. Troup found retinal hemorrhaging and occipital brain hematoma, consistent with severe whiplashesque head trauma consistent with "shaking baby syndrome" R. pp.234-36. Dr. Gwyn testified that scans revealed that the child "had diffuse cerebral edema, swelling of the brain; that she had left-sided subdural blood, retinal hemorrhages. She had a right rib fracture, she had a definite right tibial fracture, and a presumed right distal femur fracture." R. p.253, ln. 12-17. She testified to the extent of shaking baby syndrome and noted retinal hemorrhages are caused by "rotational force" and not blunt force trauma. The pathologist, Dr. Woodard, testified that the child's bruising and rib fractures were consistent with forceful gripping "by a right hand grabbing the left lower back and the thumb being placed against the hip." R.p.274, ln. 12-13. He found that the bruising was inconsistent with an injury caused by C.P.R. and that the fractures were inconsistent to a fall in a bathtub. R.p.275; p.281.

The various medical experts all agreed that the child sustained the fatal constellation of injuries within a twenty-four period when Applicant was the sole custodian of the child. In particular, Dr. Woodard testified:

the head injuries, the internal head injuries and the rib fracture all occurred in a similar time period. The leg injury could have occurred before this time period. But at the time that the head injury was incurred, I don't know if it was before or after the rib fracture occurred. Once the head injury occurred, the child would go unconscious and would proceed from unconsciousness into coma and finally a respiratory failure and death.

R. p.282, ln.24—p.83, ln. 7 (emphasis added). Dr. Woodard testified that the head injury would have occurred eight hours or less from when EMS was contacted around 11 p.m. on the night of the incident. R. p.283.

Because Applicant's version of facts was dispelled by the medical evidence, the jury readily saw Applicant's ill-conceived design to escape culpability for what it really was: a manufactured fabrication. It is telling that an Oconee County jury convicted Applicant in one hour and six minutes despite hearing medical testimony complex to the layperson and despite the experienced defense team's diligent efforts in challenging the State's case. See Dugas v. Coplan, 428 F.3d 317, 335 n.28 (1st Cir. 2005) (The court has looked not only to the strength of inculpatory evidence, but also the brevity of the jury's deliberations).

Similarly, ample probative evidence will support a finding from this Court that Applicant failed to meet his burden to prove that Attorney Senerius rendered ineffective assistance of counsel for failing to object to the Solicitor Simmons' comment at odds with Reese's pronouncement on golden rule violations.

As Applicant failed to meet this burden of proving ineffective assistance of counsel on this issue, ample probative evidence supports the denial and dismissal of the PCR Application with prejudice. See Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) ("The

burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.”). “It would do well for (PCR Counsel) to remember that the people of the State as well as the defendant are entitled to a fair trial.” State v. Stewart, 283 S.C. 104, 110, 320 S.E.2d 447, 451 (1984).

CONCLUSION

For the foregoing reasons, the State submits this Court should deny Applicant’s PCR action.

Respectfully submitted,

WALT WHITMIRE
Assistant Attorney General

By: _____
ATTORNEYS FOR THE STATE

_____, 2015

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF OCONEE	)	TENTH JUDICIAL CIRCUIT
	)	
Matthew Taylor Hinton,	)	C.A. No.: 2014-CP-37-133
S.C.D.C. No.: 345044,	)	
Applicant,	)	
	)	
v.	)	MOTION TO ALTER, AMEND
	)	OR RECONSIDER
State of South Carolina	)	
<u>Respondent.</u>	)	

TO: The Honorable R. Lawton McIntosh and Patrick Schmeckpeper Attorney for the State of South Carolina

YOU WILL PLEASE TAKE NOTICE that the Applicant moves for an Order altering or amending the Court's Order Denying Applicant's application for post-conviction relief received on March 23, 2016. The motion is made pursuant to Rule 59(e) and 60, SCRCP. The Order of the Court is in error and requires alteration, amendment, and/or should be vacated. Specifically, Applicant requests the Court to reconsider the following:

1. The Court's order fails to address trial counsel's failure to inquire about the victim's autopsy. (R.p.69)
2. The Court's order fails to address trial counsel's failure to investigate Ms. Bond's statement. (R.p.70.)
3. The Court's order fails to address trial counsel's failure to review the DSS file. (R.p.76)
4. The finding that "a large number of Applicant's allegations are frivolous and facially defective is not supported by the law or evidence as testimony of merit was raised on each and every allegation not specifically waived on the record.

5. The Court's order fails to address the issue of expungement of the Applicant's prior record.
6. The finding that "Many misapprehend applicable law" is not supported by the law or evidence. In fact, the records shows that all the issues were factual and based upon the applicable law.
7. The finding that some allegations are "too vague for this Court to form a definitive ruling on" is not supported by the law and evidence.
8. The finding that "still others are not supported by credible evidence in the record or were not addressed at the evidentiary hearing" is not supported by the law or evidence in this case.
9. The finding that the "Applicant has used the post-conviction relief forum to attack and second-guess nearly every facet of his attorneys' performance in what this Court can only conclude arises out of a profound misunderstanding of Strickland it relates to the right to effective assistance of counsel" is not only not supported by the law or evidence in this case. These findings are also not supported by specific findings of fact and conclusions of law and are thus are a denial of the Applicant's Due Process Rights.
10. The Court failed to properly address the error of trial counsel concerning the text messages to and from the Applicant and victim's mother (The "Inflammatory Texts" issue). The "unusual text from the Applicant" set forth on Page 4 of the Order (also referenced on Page 9, Page 16 and see also number 31 below) "He did not want my mom coming over, and I didn't understand why" on Page 4 is one of the central errors of this Court's Order. Hearing Counsel clearly raised and argued ineffective

assistance of trial counsel in failing to introduce into evidence the Mother's text response "Even if she is sober" and the State's striking out that response in their submission to the Jury. (R.p.111, 1.3-p.114,1.23; Tr.p.75,1.22-p.77,1.17). The significance of this error is highlighted by the Court's finding relative to overwhelming evidence of guilt on Page 9 of the Order "that Applicant sent inflammatory text messages to the child's mother where he demanded that Ms. Bright's mother not visit." and that he threatened to leave if she entered the apartment. The evidence at the hearing was that this was a critical error on behalf of defense counsel and the trial transcript shows the alleged inflammatory text messages would have been easily refuted by that piece of evidence concerning the mother's response. Further, that error was compounded by asking the Applicant no questions at his trial during direct examination concerning that critical piece of evidence. The Court's Order was also in error on Page 16 of the Order as the injuries to the victim's grandmother were raised at the hearing and concerned the allegation that the Applicant was concerned about the grandmother's consumption of pain killers prescribed as a result of her injury and that was the reason the Mother texted back "Even if she's sober." The Court should have found that failing to object to striking out the mother's response, failing to introduce the mother's response and failing to question the Applicant concerning the mother's response was prejudicial ineffective assistance of trial counsel entitling Applicant to a new trial.

11. The Court's finding on Page 5 of the Order (also Page 42) that "he told me that if I would take the rap for this, that I wouldn't get very much jail time because I have no previous criminal history" (the "Criminal Record" issue), shows the Court's error in

failing to properly address this issue that was clearly raised and argued as ineffective assistance of trial counsel in failing to object to the introduction of the criminal record of the Applicant. The significance of this error is shown by the Court's finding on Page 10 of the Order that Applicant asked the mother to "take the rap" and this was in variance with the previously disclosed statement that mentioned nothing of a criminal record (R.p.62, l.1-23). The Court's Order also has misapprehended Applicant's argument on Page 42 of the Order related to the criminal record of the Applicant. Trial counsel failed to object to the undisclosed alleged statement of the Applicant through Ashley Bright (R.p.163,l.17-166, l.12; Tr.p.89,l.11-23). This clearly stated to the jury that the Defendant had a criminal history and this error was never corrected or address by trial counsel. Furthermore, not only did trial counsel not effectively object to this testimony this was further compounded by trial counsel's failure to argue that such a statement contradicted the Mother's conduct in remaining loyal to the Applicant until she read the autopsy report. The Court should have found that failing to object to the undisclosed statement, allowing the inference of a criminal record to be interjected, failing to seek a curative instruction and failing to ask the Applicant about that statements on direct examination was prejudicial ineffective assistance of trial counsel.

12. The Court's Order erred in failing to find that there was a complete abandonment of the adversarial role of trial counsel in respect to the totality of the Ashley Bright testimony. (The "Ashley Bright" issue). The Court's order fails to address trial counsel's failure to impeach the Mother with Applicant's negative drug screen. (R.p.67), her conduct towards the Applicant following his arrest, her motivation to lie

to the police, her frequent checking of the child whose behavior was normal (See also 19 below and the total failure to meaningfully cross examine Ms. Bright (See also 10 and 11 above).

13. The Desmond Holland (The "Desmond Holland" issue) factual recitation on Page 6 (Also Page 13, Page 17, and Page 40) of the Order highlights another central error by this Court's Order as it was a prominent issue that Holland testified that he didn't know either the Applicant or the Mother when in fact his statement to the authorities was that he and his fiancé knew the Mother from High School. (Tr.p.198,1.19-24). Not only was Holland the central witness for the State but trial counsel never listened to the audio tape of his interview (based upon not knowing it cut off half the way through) and never effectively impeached him to such an extent that it constituted prejudicial ineffective assistance of counsel. This is compounded by the Court's Order on Page 40 of the Order that no evidence was presented on the Desmond Holland timeline. (Tr.p. 178, 1.14-20). The Court should have found that trial counsel's failure to effectively impeach Desmond Holland and to dispute the fact's allegedly corroborated by his "timelines" constituted prejudicial ineffective assistance of counsel and constituted a complete abandonment of the adversarial role of trial counsel.

14. The Court's Order finding that there was overwhelming evidence of guilt is patently erroneous and not supported by the evidence particularly in a purely circumstantial case such as Applicant's.

15. The Court's Order finding on Page 11, last sentence about the right hand grabbing the left lower back..." is significant to the Applicant's contention that the size of his

hands did not match the injuries on the victim and that his hand was injured at the time of the incident. The Court's Order errs in failing to address ineffective assistance of counsel in raising that issue at trial.

16. The Court's Order finding on page 14 that Applicant has not presented any evidence that counsel's interview of the Applicant was, in any way deficient is not supported by the evidence.
17. The Court's Order finding on page 14 that it was legitimate strategy to not go over specific questions with the Applicant in advance of trial testimony to not sound "rehearsed" is not supported by the law or evidence particularly in light of Applicant's statements to trial counsel (R.p.36,1.4-6)
18. The Court's Order general finding on Page 15 that trial counsels testified credibility as to their general theory of the case as well as trial strategy on specific issues is not supported by specific findings of fact, is conclusory and not supported by the evidence.
19. The Court's Order misapprehends the importance of the Netflix account on Page 15 of the Order in that the Netflix account was that of the Mother and that other witnesses testified the Netflix account corroborated her testimony despite the fact that trial counsel stated it was "not a germane issue" and "there was no argument Ms. Bright was not in the home" when the record shows the Netflix account had nothing to do with Ms. Bright being home at the time of the alleged incident but had everything to do with her testimony that she checked on the child after each Netflix episode. Furthermore, the evidence shows that Netflix movies were merely queued for play and did not actually reflect which and for how long the movies were actually

viewed by the Mother. Allowing state's witnesses to testify those records corroborated her testimony was prejudicial ineffective assistance of trial counsel.

20. The Court's Order is in error on Page 16 in finding that the Applicant presented no evidence concerning the failure to investigate and introduce the statements made to DSS. (R.p. 39,1.3-5).
21. The Court's Order is in error in its finding on Page 17 of the Order that Counsel Brittany Senerious testified credibility about her preparation for cross examination on Desmond Holland as the record reflects this witness was critical to the State's case and testified contrary to the statements he made to the police.
22. The Court's Order is in error on Page 18 of the Order in finding Applicant presented no evidence on the record of Desmond Holland.
23. The Court's Order failed to rule on the issue the prosecutor's injection of her personality into the case during the opening statements as reflected on Page 21 and 22 of the Order.
24. The Court's Order erroneously interpreted the argument on Page 23 concerning Mellissa Nicholson since her testimony was shown by the evidence introduced at the hearing as the technician that retrieved the wet towel from the bathroom that would have corroborated the Applicant's testimony about the shower.
25. The Court's Order erroneously construed the issues related to Desmond Holland's fiancé on Page 23 of the Order.
26. The Court's Order was erroneous on Page 24 of the Order that it was reasonable not to pursue third party guilt is not supported by any evidence.

27. The Court's Order's conclusion on Page 25 of the Order that it was not deficient or prejudicial to fail to tell the jury at least some background information about the Applicant was in error.
28. The Court's Order's conclusion on Page 27 of the Order is not supported by the evidence as the record reflect trial counsel never objected to any leading of the witnesses and that the leading questions claiming the Applicant's behavior being odd, characterizing the child's sleeping behavior, characterizing victim's breathing, characterizing CPR, characterizing the Defendant's statements and characterizing of the victims injuries, were material and not mere technical objections if raised. The Court should find that raising few if any objections to leading cannot be considered valid trial strategy.
29. The Court's Order sets forth no basis for finding that a legitimate trial strategy involved not objecting to irrelevant and prejudicial testimony as reflected in page 28 and 29 of the Order.
30. The Court's Order misapprehends the issues related to the testimony that the victim's mother changed her story after reading the autopsy report. The evidence in the record indicates her change in testimony occurred after a meeting with the prosecutor and her attorney. Not only did that testimony impermissible introduce the hearsay evidence of reading the report but put into evidence her opinion as to the guilt of the Applicant. (See also 13 above.)
31. The Court's Order misapprehends the issue relative to the Verizon and Netflix records. Trial counsel agreed to their introduction but testimony was continually introduced that those records corroborated or confirmed the Mother's story without

objection when in fact a close examination of them by trial counsel would have elicited just the opposite, particularly in respect to the reply text of the Mother that was stricken out of the State's introduction. (See also 11 above)

32. The Court's Order is erroneous in finding that statements made by the Mother about what Dr. Gwyn told her were not hearsay.
33. The Court's Order is erroneous in finding on Page 33 of the Order that testimony about "the timeline" was not hearsay.
34. The Court's Order is erroneous in finding on Page 34 of the Order that Officer's Rounder's testimony that the Applicant was the only one alone with the child on the day of the incident was not hearsay.
35. The Court's Order is erroneous in finding on Page 34 that there was a valid reason to not object to the opinion testimony of the investigating officer.
36. The Court's Order is erroneous in finding on Page 34 that the allegation that trial counsel was ineffective in failing to object to testimony of statements made to officers and records of others was too ambiguous when the record shows that trial counsel raised no objections to most of the objectionable testimony presented by the State to the extent that the adversarial role of trial counsel was completely abandoned. The Court also misapprehends the issue relative to Officer Roundy's testimony on Page 35 that the mother-in-law didn't sleep over the night before. Although his statement didn't contain an out of court statement per se, it was based upon hearsay statements to him.
37. The Court's Order misapprehends the statement by Officer Roundy that the Applicant "was fully aware of the severity of her injuries" as solely a hearsay issue on page 36

of the Order as that failure to object was also based upon the statement being opinion, speculation and surmise.

38. The Court was erroneous in finding the complete failure to object to practically any of the State's testimony was a valid trial strategy.

39. The Court's Order is erroneous in stating on Page 37 of the Order that it could find no reference to re-direct examination that allowed hearsay to correct mother's "odd behavior" (Tr.p.130,1.2-10).

40. The Court's Order is erroneous in stating on Page 37 of the Order that it was unable to determine from the record concerning testimony that the victim had been moved. (Tr.p.137, 1.22-25).

41. The Court's Order misapprehends Applicant's argument on Page 46 of its Order in that the Applicant clearly showed that the culmination of ineffective or no cross examination of the State's witness amounted to an abandonment of trial counsel's adversarial role.

42. The Court's Order is erroneous in finding on Page 47 of its Order that Applicant's allegation that counsel was ineffective for failing to cross-examine Paige Williams concerning the shower incident statement and her statement to police is a complete misrepresentation of the record. Trial counsel did not cross examine her about those statements and was thus ineffective. (Tr.p.157-161)

43. The Court's Order was erroneous in finding the "golden rule violation" did not cause prejudice when such violations are presumed to cause prejudice and when trial counsel had no legitimate reason to not object to asking the jury to send a message.

44. The Court's Order should find that based primarily on the "inflammatory text message" issue, "Desmond Holland" issue, the "Ashley Bright" issue, the "Criminal Record" issue and "the golden rule violation" issues that Applicant's conviction was the product of prejudicial ineffective assistance of counsel and should be reversed and his case remanded for a new trial.

45. The Court's Order fails to adequately analyze the cumulative error issues raised by the Applicant and its order should establish findings of fact and conclusions of law as to any error of trial counsel it finds, the prejudice or lack of prejudice of the singular error and the Court's determination as to the prejudice of a combination of those errors, if any.

46. The Applicant requests reconsideration of all other findings contained in the Order that are contradictory with or may conflict with the grounds set forth above.

Wherefore, Applicant requests that the Court reconsider its Order, make the corrections or amendments set forth above and grant Applicant the relief he requests.

I so move,

Robert C. Childs, III, #1218
Attorney for Applicant
2100 Poinsett Hwy, Suite D
Greenville, SC 29609
(864) 242-9997
Fax (864) 242-9914

Greenville, South Carolina
Date: _____

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

Matthew Taylor Hinton, #345044

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE TENTH JUDICIAL CIRCUIT

2014-CP-37-0133

RETURN TO APPLICANT'S
MOTION TO ALTER OR AMEND

In response to Applicant's Motion to Alter or Amend Order Pursuant to Rule 59(e), SCRCF, filed March 30, 2016, Respondent would show this Court:

I.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed March 4, 2014. An evidentiary hearing was convened on February 9 and 10, 2015, at the Oconee County Courthouse. The Applicant was present at the hearing and was represented by Robert C. Childs, III, Esquire. The Respondent was represented by Walt Whitmire, Esquire, of the South Carolina Attorney General's Office. The Court denied relief by an order dated March 16, 2016, and filed March 22, 2016. Applicant subsequently filed a motion asking the Court to reconsider the findings of fact and conclusions of law contained in the order of dismissal.

II.

In his motion, Applicant asks this Court to reconsider its ruling. Respondent submits Applicant's motion to alter or amend should be denied. First, Applicant is not requesting either an alteration or amendment to the Order of Dismissal. Rather, Applicant is asking the Court to reverse its decision and grant post-conviction relief. Such a request is more properly addressed through the appellate process. See Wilder Corp. v. Wilke, 330 S.C. 71, 77, 497 S.E.2d 731, 734

(1998) ("Post-trial motions are not necessary to preserve issues that have been ruled upon at trial; they are used to preserve those that have been raised to the trial court but not yet ruled upon by it").

Additionally, many of the allegations Applicant asserts were not ruled on were not specifically pled¹ in his application or amended application. See S.C. Code § 17-27-50 (2015) ("The application shall . . . specifically set forth the grounds upon which the application is based. . . .") (emphasis added). Respondent submits that this Court's Order of Dismissal contains the required findings of fact and conclusions of law on each remaining allegation as required by S.C. Code Ann. § 17-27-80 (1976) and Rule 52(a), SCRPC; see also McCray v. State, 305 S.C. 329, 408 S.E.2d 241 (1991). Accordingly, the Court properly ruled on all issues presented at the post-conviction relief hearing, and Applicant's motion should be denied.

[Signature follows]

¹ Applicant did not allege, *inter alia*, that counsel was ineffective for failing to inquire about the victim's autopsy, failing to investigate Ms. Bond's statement, or failing to address the expungement of Applicant's prior record.

III.

WHEREFORE, Respondent asks the Court to deny Applicant's motion for reconsideration. Respondent further asks the Court to strike those portions of the motion, including attachments, that attempt to introduce new information that was not timely presented at the evidentiary hearing.

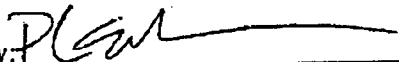
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA VALENZUELA
Senior Assistant Deputy Attorney General

PATRICK L. SCHMECKPEPER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

Apr. 8, 2016

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2014-CP-37-0133

Matthew Taylor Hinton, #345044

State of South Carolina

FILED OCONEE COUNTY, SC
BEVERLY H. WHITFIELD
CLERK OF COURT

PLAINTIFF(S)

DEFENDANT(S)

2016 APR 21 A 11: 07

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

APPLICANT'S MOTION FOR RECONSIDERATION DENIED; DETERMINED WITHOUT HEARING

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

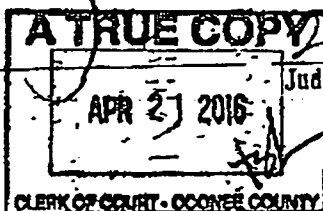
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

SCRCP Form 4C (03/2013)



Judge Code

Date

Page 1

For Clerk of Court Office Use Only

This judgment was entered on the 21st day of Apr, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 21st day of Apr, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Robert C. Childs III

Patrick L. Schmeckpeper

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)
 Beverly H. Whitfield
 CLERK OF COURT

Court Reporter:

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON
PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

SCRCP Form 4C (03/2013)

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