VOLUME I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Greenville County

Honorable Robin B. Stilwell, Circuit Court Judge

JAMES ALLEN JOHNSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-000600

APPENDIX

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA, PLAINTIFF, -VS- JAMES JOHNSON, DEFENDANT.	2011-GS-23-07262 JUNE 3, 2013 TRANSCRIPT OF RECORD

B E F O R E:

THE HONORABLE G. EDWARD WELMAKER, JUDGE

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

KRIS HODGE, ESQUIRE
ATTORNEY FOR THE STATE

DOROTHY MANIGAULT, ESQUIRE
ATTORNEY FOR THE DEFENDANT

DANETTE P. HANKS
CIRCUIT COURT REPORTER

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Juror #	Name	Race	Sex	Strikes Court	Strikes Plaintiff	Strikes Def.	Accept
184	Wilson, Amanda E	W	F				x
164	Theus, Zakary A	W	M				x
191	Ford, Benjamin J	W	M				x
81	Hudak, Justin D	W	M				x
138	Prince, Angela L	W	F				x
5	Addison, Jaylon L	W	M			x	
103	Livsey, Thomas A	W	M			x	
49	Ellisor, Christopher M	W	M			x	
30	Burket, Cody A	W	M		x		
154	Sloan, Megan H	W	F			x	
82	Hunnicutt, Melissa H	W	F			x	
53	Evitt, Dwight L	W	M				x
57	Foster, Brooke S	W	F			x	
42	Davis, Spencer A	W	M			x	
51	Ernst, Quinn N	W	F				x
175	Vaughan, Denise L	W	F				x
158	Solesbee, Phillips P	W	M				x
7	Anderson, Monica M	W	F			x	
165	Thomas, Anton F	B	M				x
92	Jordan, Audrey G	W	F			x	
2	Adams, Doris M	W	F			x	
123	Navarre, Kellon	W	M		x		
169	Tillman, Patrick E	W	M				x
86	Izaguirre, Angela E	W	F				x
117	Milner, Stephanie R	W	F				x
28	Bryson, Evan D	W	M		x		

107	Lynn, Casey J	W	M				x

June 3, 2013

(WHEREUPON, State Exhibit Numbers 1 through 22 were marked for identification.)

(WHEREUPON, court convened with all parties present and the following proceedings were had.)

THE COURT: All right. I gather we're ready to proceed on the case of *State v. James Allen Johnson*?

MS. HODGE: That's correct, Your Honor.

THE COURT: The State's ready?

MS. HODGE: Yes, sir.

THE COURT: Ms. Manigault, you're ready?

MS. MANIGAULT: Yes, Your Honor. We have some motions before the jury's sworn.

THE COURT: All right. Let's go on and select our jury first so we can get them out. Do you have an estimate of how long you believe the motions may take? I'm just -- when we get our jury qualified, I didn't know when to tell them to come back. I know they want me to do some pleas, too, in a little bit. Is it an hour's worth or an hour and a half or more than that?

MS. MANIGAULT: Maybe an hour and a half, Your Honor.

THE COURT: I'll try to factor that in when we get our jury selected. How long do you think the case will take to try? How many alternates do we need?

MS. HODGE: I believe we should get two alternates, Your Honor. I think we're going to go to probably Wednesday.

THE COURT: Two alternates?

MS. MANIGAULT: I agree, Your Honor.

THE COURT: Strikes, ten and five?

MS. HODGE: Your Honor, I was looking that up and I believe it's only five and five. I don't see homicide by child abuse listed as a ten strike, defense ten strike. Murder is, but not homicide by child abuse.

MS. MANIGAULT: Your Honor, we would argue for the ten, because homicide by child abuse is a murder according to ---

THE COURT: It's not designated by the statute, is it?

MS. MANIGAULT: It's not. It's the same as others, a charge of murder.

THE COURT: Is there a list of witnesses that the Defense has that's not on the State's list? Let me make sure I've got the pronunciation right on these witnesses. It would be Deputy Kevin Azzara or Azzara?

MS. HODGE: Azzara, I believe, Azzara.

THE COURT: Azzara. Vandermosten. Would that be right, Vandermosten?

MS. HODGE: Yes, Captain Vandermosten.

THE COURT: All right. Let's have our jury come up. What's the State's position on the ten strikes for the Defendant?

MS. HODGE: We would object to that, Your Honor. We think that it should be as the statute allows. There's specific intent, specific crimes listed out, and that was specifically not one of them. So we would argue for the five and five strikes

THE COURT: I guess kidnaping doesn't have ten either, does it?

MS. HODGE: Kidnaping? I'll have to look at my list. But I think there are only about ten crimes listed that actually allow for that.

THE COURT: I'm trying to think of an offense that carries life that doesn't have ten strikes. Is there any other crime that would carry a life sentence that would not allow ten strikes?

MS. HODGE: That's not on here? No, burglary first allows for ten strikes; and then murder. There are random others that they picked, you know, forgery gets ten strikes. There must have been some legislative intent in picking those. I'm not sure what it was, but ...

THE COURT: Yeah. Breach of trust, also.

MS. HODGE: Right. Breach of trust, grand larceny. I guess the LWOC offenses are life without ten

strikes, enhanced drug charges, property offenses.

MS. MANIGAULT: Your Honor, have you made a decision?

THE COURT: I'll let you know before we start striking.

MS. MANIGAULT: Okay.

THE COURT: I just don't know how to skirt around the law.

MS. HODGE: I don't think you should.

(WHEREUPON, the jury panel entered the open court at approximately 11:27 A.M.)

THE COURT: Thank you for being patient with us, ladies and gentlemen. We're now ready to select a jury for the trial in the first case we have this week. I have an indictment that states that James Allen Johnson did here, in Greenville County, on or about May 25th, 2011, cause the death of a child, initials NDS, who was under the age of eleven, while committing child abuse or neglect, and the death occurred under circumstances manifesting extreme indifference to human life, this in violation of the Code of Laws of South Carolina.

Mr. Johnson, he's entered a plea of not guilty to this charge. By entering that plea of not guilty, that places the burden on the State of South Carolina to prove his guilt beyond a reasonable doubt.

You've been qualified to serve as a juror this week. I need to ask you some additional questions to determine your eligibility to serve on this particular case. I'm going to judge the law; I'm going to decide what the law is. We need to find twelve fair and impartial jurors to decide what the facts are. The State of South Carolina and Mr. Johnson both desire to have fair and impartial jurors. They deserve to have fair and impartial jurors.

First of all, ladies and gentlemen, is there any member of the jury panel familiar with the facts in this case, either from media reports, from hearing about it in the neighborhood, the coffee shop? If you have any prior knowledge from whatever source about this particular alleged incident, would you please stand?

(No response.)

THE COURT: Is there any member of the jury panel related by blood or marriage to Mr. James Allen Johnson? If so, would you please stand?

(No response.)

THE COURT: Is there any member of the jury panel have a close business or a social, a personal relationship with Mr. James Allen Johnson? If so, would you please stand?

(No response.)

THE COURT: Thank you, there is no response.

Several witnesses may be called upon to testify in this case, ladies and gentlemen. Not all of them may be called upon, but I need to read you a list of these names. And if you would just listen carefully, and after I read these names, I'll have some additional questions to ask you. Among the potential witnesses would be from the Lake Cunningham Fire Department, Phillip Reynolds, Matt Horne; EMS officials, Alex Kay, James Clardy, Cory Trotter. From the Greenville County Sheriff's Office, Carl Mathias, Kevin Azzara, Jennings Autrey, Devin Hoover, Chris Miller, Jimmy Wilson, Ryan Reid. Also a potential witness would be Douglas Smith, Mandy Burnette, Alex Johnson, Rhonda Barbary, Dr. Robert Seigler, Dr. Mary Fran Croswell, Dr. Michael Ward, Tina Rollins, Crystal Inman, Donald Smith, Georgia Ann Sprouce, Renee Buford, Captain Vandermosten of the Greenville County Detention Center, Dr. Alicia Hall, Dr. Richard Frierson. Those are among the potential witnesses, ladies and gentlemen. Is there any member of the jury panel related by blood or marriage to any of these potential witnesses? If so, would you please stand?

(No response.)

THE COURT: Is there any member of the jury panel have a close business or a social, a personal relationship with any of these potential witnesses? If so, would you please stand? Yes, sir, which witness do you know?

THE JUROR: I don't know if it's the same person, but you named Jimmy Wilson and I do work with a Jimmy Wilson at Caterpillar.

THE COURT: This is a deputy Jimmy Wilson from the sheriff's office.

THE JUROR: Well, he does work -- he works part-time someplace else, so I don't know.

THE COURT: Okay. And it might be him. Well, what's your name, please, sir?

THE JUROR: Thomas Livsey.

THE COURT: All right. If that were to be the same Mr. Jimmy Wilson and he came in and testified and you worked with him, would that affect your ability to be a fair juror? In other words, you hear his testimony, would you give it greater weight than any other testimony?

THE JUROR: No, sir.

THE COURT: You could balance it with all the other evidence that you hear?

THE JUROR: Yes, sir.

THE COURT: And make a decision on all the evidence and the law that I give you?

THE JUROR: Yes, sir.

THE COURT: All right. Thank you, sir. You may be seated.

Is there any member of the jury panel expressed or

formed an opinion in any way about the facts in this case? If so, would you please stand?

(No response.)

THE COURT: Is there any member of the jury panel aware of any bias or prejudice that would interfere with your ability to be a fair juror if you were called upon to serve? If so, would you please stand?

Yes, sir, you believe you could not be a fair juror in this case?

THE JUROR: No, I do not believe so.

THE COURT: Well, all right, sir. I'll talk with you privately in just a moment about that. Thank you for sharing that. I'll follow up on that in just a moment. If you would still respond to other questions that I have for you.

Is there any member of the jury panel or a member of your immediate family involved in law enforcement in any way? If so, would you please stand?

Yes, sir, your name, please?

THE JUROR: Michael Rostin.

THE COURT: And you have a relative in law enforcement?

THE JUROR: My father was in law enforcement with the City of Charleston for thirty years.

THE COURT: Retired?

THE JUROR: No, sir, he currently is an investigator for Berkeley County.

THE COURT: Okay. If you'd remain standing just a moment.

Yes, ma'am, your name, please.

THE JUROR: I do have a cousin that work at the detention center.

THE COURT: In Greenville County?

THE JUROR: Yes, sir.

THE COURT: The fact that you have a cousin in the detention center and you have a father in Charleston, Berkeley area -- yes, ma'am, your name, please?

THE JUROR: Doris Adams, Doris Mobley.

THE COURT: And what relative do you have in law enforcement?

THE JUROR: My husband's uncle is an officer in Greenville County, so ...

THE COURT: All right. Each of you have relatives, some in Greenville County, some in the low country. The fact that you have a relative in law enforcement, not listed as a witness in this case, would that interfere with your ability to be a fair juror? In other words, there's going to be testimony presented, there might be documents and other tangible evidence. The fact that you have this relative in law enforcement, is that

going affect your ability to be a fair juror? If you believe it would, I need you to please remain standing. If you feel you could be fair to both sides and render a verdict on all the evidence and the law that I give you, then I'm going to ask if you would be seated. If you feel you could be a fair juror. Let the record reflect that all the jurors have been seated.

Is there any member of the jury panel a contributing member of any organization whose primary concern is that of the promotion of law enforcement or victims' rights, such as the Sheriff's Association, MADD or SADD or PARR, CAVE, any such organization? If you're a contributing member, would you please stand?

(No response.)

THE COURT: Thank you, there is no response.

Is there any member of the jury panel who has ever been accused of, arrested or charged with any abuse against a child or neglect of a child? Or is there any member of the jury panel who has ever been the victim of abuse against a child or neglect of a child? If you or a member of your immediate family has ever been accused or ever been the victim of that, would you please stand? Anyone else?

All right. If I could, if you could come forward and let me talk with you with the court reporter here and the attorneys. And, sir, if you would come forward as well.

I'll be glad to talk with you if you'd just wait right there at the bench for a moment and I'll talk with this young lady. What's your name?

THE JUROR: Doris Adams. Doris Mobley.

THE COURT: Okay.

THE JUROR: I was sexually abused when I was little.

THE COURT: Do you believe that would affect your ability in this case?

THE JUROR: I don't think so.

THE COURT: I guess the allegations is that a child was killed. Do you think you could be fair?

THE JUROR: I don't think it would affect ---

THE COURT: Do you have any hesitancy at all? When you say I don't think, do you know or do you believe ---

THE JUROR: I believe I would be -- everything would be fine. I don't think I'd be partial.

THE COURT: You could be fair to Mr. Johnson and you could be fair to the State?

THE JUROR: Uh-huh (affirmative).

THE COURT: Thank you very much.

MS. MANIGAULT: May we have her juror number, please?

THE JUROR: 2.

THE COURT: Thank you, ma'am. Return to your seat.

Yes, sir, if you would come forward. Yes, sir, you don't believe you could be a fair juror in this case?

THE JUROR: No, I don't.

THE COURT: And why is that?

THE JUROR: I've recently been injusticed. I've been robbed downtown at knife point and I feel like I'm out for vengeance at this point. The legal system is not working for me, so I feel like I would be impartial to any judgment against the ---

THE COURT: You're Mr. ---

THE JUROR: Lashford, 96.

THE COURT: So you believe you would be a better juror on the civil case?

THE JUROR: No, not really. I'm kind of racially biased towards certain ethnicities, as well.

THE COURT: Against what?

THE JUROR: I'm kind of racially biased against certain ethnicities. I believe certain people are found more guilty more commonly than others.

THE COURT: I'm talking about just to sit on a car wreck or something like that. You couldn't be a juror in that?

THE JUROR: No.

THE COURT: I'm going to excuse you from this trial. But what I'm going to ask you to do, sir, is just observe this trial. So every time when we get a jury selected you'll come and you'll just sit in the back and when this trial is over I'll excuse you for the week, okay?

THE JUROR: I'm kind of getting a little excited here. My heart is kind of racing. I feel a little panicky. I don't really like being in this type situation.

THE COURT: We'll work with you. What kind of work do you do?

THE JUROR: I'm self-employed as fence contractor. And I can't afford to miss anymore days of work, either.

THE COURT: That's your reason?

THE JUROR: No. I feel like I'll ---

THE COURT: Well, you're going to either watch a trial. If you want to step outside now and when you come back in with less people, then you'll be able to watch a trial this week. Okay, sir, you're going to be here in the courtroom.

THE JUROR: I don't feel like I'm really ---

THE COURT: Well, just have a seat. You don't have to answer anymore of my questions, but you're going to fulfill your jury service, okay?

THE JUROR: All right.

THE COURT: Thank you very much. All right. The young lady in the back who had a relative in law enforcement, do you mind standing again?

THE JUROR: (Stands).

THE COURT: I didn't get your name; what was your name, please?

THE JUROR: Hicks, Sonia Hicks.

THE COURT: All right. Thank you very much.

At this time, I'm going to ask the attorneys, if you would, please stand and introduce yourself to the jury.

Ms. Hodge.

MS. HODGE: My name is Kris Hodge and I'm a Prosecutor with the Thirteenth Circuit Solicitor's Office. And at my table is my investigator, Melissa Bishop. She also works for the Solicitor's Office.

THE COURT: Ms. Manigault.

MS. MANIGAULT: Thank you, Your Honor. My name is Dorothy Manigault. I'm an attorney in Greenville County and this is my client, James Allen Johnson.

THE COURT: Is there any member of the jury panel related by blood or marriage to either of these attorneys or members of their staff or offices? If so, would you please stand?

(No response.)

THE COURT: Is there a member of the jury panel

who has a close business or a social, a personal relationship with either of these attorneys? If so, would you please stand?

(No response.)

THE COURT: Is there a member of the jury panel who has ever been involved in any litigation in which either of these attorneys represented you or represented the opposing side? If so, would you please stand?

(No response.)

THE COURT: Thank you, there is no response.

Ladies and gentlemen, as I've stated before, but it bears repeating, the State of South Carolina is in this courtroom today, Mr. Johnson is in this courtroom today, seeking fair and impartial jurors to hear this case to make a determination of what the facts are under the law that I give you and the facts and the evidence that's presented in this case. They deserve to have fair jurors under our Constitution of South Carolina. Is there any member of the jury panel aware of any reason whatsoever that you believe in this particular case you could not be fair to both the State of South Carolina and to the Defendant, Mr. Johnson, and render that verdict that would speak the truth under the law and the evidence. If for any reason you believe you could not be a fair juror, would you please stand?

(No response.)

THE COURT: Thank you, there's no response.
Any other questions, from the State?
MS. HODGE: Nothing from the State, Your Honor.
THE COURT: From the Defense?
MS. MANIGAULT: Nothing from the Defense, Your Honor.
THE COURT: All right. Let's empanel a jury. Strikes will be five for the State and ten for the Defendant.
THE CLERK: When I call out your number and your name, could you please stand up, bring your things with you, turn around and face out towards the audience.
Juror number 184, Amanda Wilson. What says the State?
MS. HODGE: Please present the juror.
THE CLERK: What says the Defense?
MS. MANIGAULT: Please swear Ms. Wilson.
THE CLERK: I'm sorry?
MS. MANIGAULT: Please seat Ms. Wilson.
THE CLERK: Ms. Wilson, take your things and go have a seat in the jury box, please.
Juror number 164, Zakary Theus. What says the State?
MS. HODGE: Please present the juror.
THE COURT: What says the Defense?
MS. MANIGAULT: Please seat the juror.
THE COURT: If you'd please have a seat in the

jury box. Thank you.

Juror 191, Benjamin Ford. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please seat the juror.

THE CLERK: Please have a seat in the jury box.

Juror number 81, Justin Hudak. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defense?

MS. MANIGAULT: Please seat the juror.

THE CLERK: Juror number 138, Angela Prince. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please seat the juror.

THE CLERK: Please have a seat in the jury box.

Juror number 5, Jaylon Addison. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse the juror.

THE CLERK: You're excused.

Juror number 103, Thomas Livsey. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse the juror from this

case.

THE CLERK: You're excused.

Juror number 49, Christopher Ellisor.

MS. MANIGAULT: Number 109?

THE CLERK: 49.

MS. MANIGAULT: 49.

THE CLERK: What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse the juror from this case.

THE CLERK: Thank you.

Juror number 30, Cody A. Burket. What says the State?

MS. HODGE: Please excuse this juror.

THE CLERK: You may have a seat.

Juror number 154, Megan Sloan. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse the juror from this case.

THE CLERK: You may have a seat.

Juror number 82, Melissa Hunnicutt. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse the juror from this case.

THE CLERK: Juror number 53, Dwight Evitt. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please swear the juror.

THE CLERK: You may have a seat in the jury box.

Juror number 57, Brooke Foster. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse the juror.

THE CLERK: Juror number 42, Spencer Davis. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse the juror.

THE CLERK: Juror number 51, Quinn Ernst. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please seat the juror.

THE CLERK: You may have a seat in the jury box.

Juror number 175, Denise Vaughan. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please seat the juror.

THE CLERK: You may have a seat in the jury box.

Juror number 158, Phillip Solesbee. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please seat the juror.

THE CLERK: You may have a seat in the jury box.

Juror number 7, Monica Anderson. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse the juror.

THE CLERK: You may have a seat.

Juror number 165, Anton Thomas. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please seat the juror.

THE CLERK: You may have a seat in the jury box.

Juror number 92, Audrey Jordan. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse the juror.

THE CLERK: Juror number 2, Doris Adams. What

says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please excuse Ms. Adams.

THE CLERK: Juror number 123, Kellon Navarre. What says the State?

MS. HODGE: Please excuse this juror.

THE CLERK: Juror 169, Patrick Tillman. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please seat the juror.

THE CLERK: You may have a seat in the jury box. Juror number 86, Angela Izaguirre. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please swear the juror.

THE CLERK: You may have a seat in the jury box.

THE COURT: All right. Madam Clerk, let's select two alternates.

THE CLERK: Juror number 117, Stephanie Milner.

MS. HODGE: I'm sorry. What number was that again?

THE CLERK: 117. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please seat the juror.

THE CLERK: Juror number 28, Evan Bryson. What says the State?

MS. HODGE: Please excuse this juror.

THE CLERK: You may have a seat.

Juror number 107, Casey Lynn. What says the State?

MS. HODGE: Please present the juror.

THE CLERK: What says the Defendant?

MS. MANIGAULT: Please seat the juror.

THE CLERK: You may have a seat.

THE COURT: Are there any matters we need to take care of from either side as far as selection of the jury in this case? From the State?

MS. HODGE: Not from the State, Your Honor.

THE COURT: From the Defense?

MS. MANIGAULT: Nothing from the Defense, Your Honor.

THE COURT: Ladies and gentlemen, I'll let you go back down to the jury assembly room. There'll be further instructions for you there as to when you need to call back or either check back in. Thank you very much for your patience with us today. You're excused at this time.

If you'll just wait a minute, I'll talk to you.

(WHEREUPON, the jury panel exited the open court at approximately 12:05 P.M.)

THE COURT: Ladies and gentlemen, you've seen the process by which you were selected. These attorneys feel like you're -- and the parties feel like you're the best group to hear this case, to be the judges of the facts in this case. I look forward to working with you. I know that you're here at a great inconvenience. I'm going to do everything in my power to use your time efficiently so that when we're not actually in the trial of the case then you will be or need your presence -- we'll be in the trial of the case, but sometimes we won't need your presence here. I'll try to accommodate you as best I can. I'm going to be judging the law in the case. I'm going to determine what the law is. You're going to be judging the facts in the case. You may have some apprehension about where you are today. You correctly answered your jury summons to be here. You went through the -- watched the movie and went through the process and listened to my questions. Now, all of a sudden, you find yourself sitting in a jury box may be thinking to yourself, well, goodness, what am I doing here? He just told me I'm going to be the judge of the facts. I'm not a judge. I've never taken a business law course; I've never had any experience whatsoever. Never been to the courthouse before in my whole life. And now I'm

sitting in a jury box.

Let me assure you, ladies and gentlemen, you bring into this courtroom every skill you're going to need to be a judge of the facts. Because what you bring into this courtroom is the good common sense with which you've been blessed, the everyday experiences that you enjoy in the workforce, and social activities in the home. And that's what you're going to need to utilize to be the fact finders. You're going to be looking at the credibility and believability of witnesses who testify. You're going to be observing as the trial takes place, what's taking place both from testimony and otherwise. I'm confident that you have every skill you're going to need to be the judges of the facts and that you'll do the job that you've been called to do, I have every confidence. I'm honored to have a chance to work with you. I'll instruct you what the law of this case is at the conclusion. When all the facts or all the evidence has been presented, I'll tell you what the law is applicable to those facts. Part of my job, also, is to conduct the trial of the case, to decide when we take breaks and the administration of the trial itself. We'll take periodic breaks. Normally, we'll try to start about nine o'clock in the morning. We'll take a morning break, break for lunch. Have a break in the afternoon and hopefully, stop at five, sometimes five-thirty, depending

on how a witness is testifying. If at any time you feel like you need a break and I haven't called for a break, please let me know, get my attention somehow because if you're uncomfortable in any way, that's not going to be a good sign for you to be a good listener. That's what you're going to be called upon to do, to listen carefully as the testimony is given, as the questions are posed, as the answers are given. So you let me know if you need to take a break. And if you can't get my attention, you've already had a chance, I'm sure, to meet these bailiffs, Ms. Fryer to your right, over there, Mr. Fuller in the back of the courthouse and Ms. Pierce is going to be assisting them too. Any of those bailiffs will certainly assist you. Seated directly in front of me is Ms. Danette Hanks. She's the court reporter. She's taking down everything that's going to be said during the course of the trial. She'll be keeping a record, marking any exhibits that may be introduced, keeping up with those, along with Ms. Janine Shamey from the Clerk's office. She's the one who called your name earlier. Either of those will certainly assist you in any way that they can, as well. David Brown is the young man seated beside me, a recent law school graduate, admitted to the South Carolina Bar. He's a valuable asset for me as my law clerk. You may see him not always sitting up here. He may be moving back and forth, taking care of

matters back in the office that need attention. So any of these folks will certainly be of assistance to you.

Trials take place in stages. The lawyers normally start out by making an opening statement to you, give you an overview of what they would expect you to be alerted to during the trial. After that, there'll be the exchange of evidence, testimony and examination and cross-examination, then the lawyers will have a chance to address you in a closing statement, then I'll instruct you on the law. Until that happens, you shouldn't be discussing the case with each other or with anyone else. We're going to take a lunch break soon and you may decide to have lunch with one of your fellow jurors, to get to know the juror. You may have a business associate, family member, run home to get a bite to eat. You're obviously going to have curious loved ones, hey, did you get picked? What's the case about. Wanting to have all that information. You certainly can tell your family and friends that you've been selected for a jury. But it would be improper for you to talk about what you've heard or what the case is about or what I called out on the case. You can certainly tell them it's a case involving the allegation of a homicide by child abuse, but you shouldn't get into any details of what the case is. People often want to give you advice or give you information or, let me tell you what I know about that.

In this selection, you've made a commitment already to these parties that you're going to make a decision on what takes place here in the courtroom, not from some extraneous source. So please bear in mind that if you're out and about in a restaurant or you overhear someone talking about the case, a witness or whatever, you take the initiative and move to a different booth or a table to avoid any influence whatsoever that you may have. As far as your family and friends, you're going to have a chance to share your experience with them when the case is concluded. When it's over and done with you can share all of that. But while the case is in progress is not the time to do that. That would be against the commitment that you have made to be the fair and impartial jurors that you have said you would be. We're in a process now and we want to maintain the purity of that process. So you refrain from any extraneous information. If there were to be any newspaper articles or news media, your family can record anything on TV that you feel like you've got to see or on the radio, any newspaper, they can clip it or save it for you. Just make sure that you refrain from any activity outside this courtroom, from reading anything or listening to anything; and as I say, at the coffee shop or otherwise. You fulfill the commitment that you're making to these parties to be fair and impartial throughout the trial.

We're in a highly information age now, a lot of information on the internet, archives and otherwise. It would be improper for you to do any kind of independent research. The Chief Justice of our Supreme Court has issued an order that's applicable to all jurors, such as you who have been empaneled to serve as a jury. The Chief Justice has instructed us as Trial Judges to forward that order on to you. Any social media or any kind of research at the library or archives would be improper and against the order of the Court, the Supreme Court of South Carolina, for you to do any of that. That would be against the commitment you made, against your oath to do any kind of Facebooking or other social media or do any kind of research. I'm confident these attorneys are going to present everything that you need to be able to make a good sound decision about the facts in this case. And it would be highly improper for you to go outside of that in any way to try to do any kind of independent research. It would not perfect and maintain that purity of the process we're in. Both the State and the Defendant, they are entitled to fair jurors, to a fair trial, and I'm going to make sure I do my part. I'm confident you'll do your part to fulfil the commitment you've made.

Sometimes as we come and go, you may be in the hallway this afternoon, coming in or in the morning, you may be in

the elevator and either of these attorneys may seem to avoid you, high-hat you in some way and walk the other way. Please don't hold that against the attorneys or their clients. That's their training. They want to make sure that there's no appearance of any impropriety. They're going to be doing their part to maintain the purity of the process. And even though it might be an innocent conversation that you're having about the weather or a sports event or anything else, they don't want to give any appearance that they're improperly talking to a juror. So if they seem to walk the other way or not make eye contact with you, you shouldn't -- they're friendly by nature, I can assure you. They just want to make sure there's no appearance of any impropriety whatsoever.

I told you that we're fulfilling different roles as judges. You're going to judge what the facts are and I'm going to judge what the law is. Sometimes in the course of a trial an objection may be made by one lawyer or the other. It might be to a question, it might be to an exhibit or some other matter. Frequently, I can rule on that objection by saying overruled or sustained and we move on to the next question. Sometimes -- for scheduling or a legal issue may come up and I'll have the lawyers approach me here at the bench. We can whisper and get that resolved. Sometimes, just in the course of a trial,

there's different stages at which legal matters come up or there may be a legal matter that comes up unexpected. When those take place, my job is to rule on those legal matters and I want to make the best decision I possibly can as a Judge of the law. That may necessitate me hearing testimony that wouldn't even be properly offered before you, the jury. I may have to research some law books or hear some argument of counsel. When I have those legal decisions to make, often it's necessary that I make those outside of your presence. And you'll be back in your jury room, wondering what's happening out here. I'll be trying to do my job as the law giver to make the best decision I can. I hope you understand we're not hiding things from you. It's just that that's my role to do that. It's very similar to you as the judge of the facts. When all the evidence is in and I've instructed you on the law, you're going to be back in your jury room deciding what the facts are. And even though I'm a judge like you are, I'm not going to be back there with you deciding the facts because that's not my prerogative. That's yours and yours alone to determine what the facts are, just as it's mine to determine what the law is.

You may have noticed that we have selected more than twelve jurors. We have two alternates. We select alternates in a case that during the course of the trial

there may be some emergency that comes up or -- hopefully, it wouldn't happen, but one of you become ill. We have those alternates to step into the shoes of whichever the first twelve of you that may have that problem. And we wouldn't have to start the trial again, go over the entire process. They're every bit as much a part of the jury as anyone else. They're going to be listening in case that were to occur, that either of them have to fulfill the role of the original juror.

You've committed to do justice to both the State of South Carolina and to Mr. Johnson. It makes me proud that you've accepted that responsibility, ladies and gentlemen, made that high commitment. The lawyers instructed me beforehand that we do have some legal matters that we're going to need to take care of. There's some other trials on the docket that I understand that I need to hear some matters in those, that hopefully will help resolve them so that you won't have as much work to do later in the week to clear the docket. So I'm going to have some other matters that I need to take care of. Normally, you won't get this long for lunch, but I'm going to ask if you would, if you'll be back at two forty-five. Again, I try to do the best I can estimating time, but from what some of the other lawyers and these lawyers have told me as to things I've got to get accomplished, and hopefully, when we can start

trial then, we'll be able to go without any interruptions with other matters. So if you'll be back at two forty-five. We'll be handling some matters here and try to catch a bite to eat as well.

I remind you again not to discuss the case and don't let anyone discuss it with you. I look forward to getting ready to start at two forty-five today. If you'll go with Ms. Fryer now, she'll show you where you'll be operating from the jury room. And also where you are to report back.

You're excused at this time. Everyone else please remain seated while the jury departs.

(WHEREUPON, the jury exited the open court at approximately 12:22 P.M.)

THE COURT: All right. Let's take about a five-minute break and then we'll hear whatever matters we need to take care of from there.

(WHEREUPON, the court stood at recess for a short break.)

THE COURT: All right. Ms. Manigault, you said you had some motions.

MS. MANIGAULT: Yes, sir. Your Honor, we would -- the defense would renew their motion that was filed under *Brady* and Rule 5 on the record today. My client was under the impression that his statement to law enforcement was recorded. We have inquired regarding that matter and

the State informs us that there is no recording. So we need to make the -- continuing the Brady and Rule 5 motion on the record, particularly regarding the recording of my client's conversation with police officers.

THE COURT: Did they tell you it was recorded, or did he just believe it was being recorded?

MS. MANIGAULT: It was his impression that it was being recorded.

THE COURT: But you don't have a recording?

MS. HODGE: No, Your Honor.

THE COURT: All right. Your motion is noted.

MS. MANIGAULT: Yes, sir. And, Your Honor, he wanted me to renew his motion to relieve me as counsel. We've had that hearing before Judge Jefferson about two weeks ago and she denied that motion. He wants me renew that motion for me to be relieved as counsel.

THE COURT: You want to represent yourself, Mr. Johnson?

THE DEFENDANT: No, sir.

THE COURT: All right. That motion is denied.

MS. MANIGAULT: Thank you, Your Honor.

Your Honor, the third motion is a motion for continuance. We received discover on several days last week. On the 29th, we received a copy of the CD of jail calls that we have not been able to finish or complete

reviewing with the Defendant. We received several supplemental reports on 5/15, 17. And we also received a copy of a CD of photos from Dr. Ward on 5/30/13. However, I can state to that copy of the CD from Dr. Ward that we received on the 30th, we had reviewed -- we have received all pictures except the last three.

THE COURT: So what you got on the 29th was three pictures and Dr. Ward's CD?

MS. MANIGAULT: That was on the 30th.

THE COURT: 30th, okay.

MS. MANIGAULT: The CD from Dr. Ward, pictures of the deceased. On the 29th we got a copy of a CD of jail calls. I don't know that the State will use it; however, I need to review it with my client. So we're making the motion for continuance on that basis. However, if the Court denies the motion for continuance on that basis and if -- I do believe that if we are finished by five o'clock each day, then I can go to the jail and continue to try to view the disk with the Defendant.

THE COURT: Okay. Are the jail calls going to be used in the State's case in chief?

MS. HODGE: No, sir.

THE COURT: Do you know how long the CD is or is there a transcript of them or anything?

MS. HODGE: No, Your Honor. We didn't make a

transcript of them. They can only put a certain amount of calls in a time period on the CD. I, myself, have not listened to all the calls. I think there are four that might be potentially used in some reply or rebuttal, depending on what the defense intends, but I have no idea what they would intend to do.

THE COURT: Certainly, none of that would be presented today?

MS. HODGE: No, sir.

THE COURT: So you'd have a chance to go over that, Ms. Manigault. So your motion to continue the case would be denied. But if you find something on those that I need to revisit that, then I'll be glad to. I'll give you a chance to -- whatever time you need during the trial, if you need to review that, we'll take that, but I deny your motion for continuance at this time.

MS. MANIGAULT: Thank you, Your Honor. The remaining two motions are *Jackson v. Denno*. And, of course, we have a competency hearing that we need to also do. Dr. Frierson is here.

THE COURT: All right. Where do we stand on the competency matter? Has he been evaluated?

MS. MANIGAULT: He has been evaluated, Your Honor. We have a copy of the report and Dr. Frierson is here.

THE COURT: This was through the State? The evaluation was through the State?

MS. HODGE: Yes.

MS. MANIGAULT: Yes, sir. And we would like to have his testimony as part of the record.

THE COURT: How many witnesses will there be in the *Jackson Denno* hearing?

MS. HODGE: Your Honor, there will be three officers.

THE COURT: Well, if Dr. Frierson is here, then we can go ahead and take that one first and then we can move on to the *Jackson Denno*.

MS. HODGE: Yes, sir.

THE COURT: All right. Do you want to call a witness, Ms. Manigault, or -- in other words, the report shows competency; is that right?

MS. HODGE: Yes, Your Honor.

MS. MANIGAULT: Yes, Your Honor.

THE COURT: You just want to amplify his report by some testimony?

MS. MANIGAULT: Yes, sir.

THE COURT: If either of you want to call him, I'll be glad to hear his testimony.

MS. HODGE: I believe it's a defense motion. The Defendant is presumed competent under the law and, also,

there is a competency finding.

THE COURT: A report, right?

MS. HODGE: Yes, sir.

THE COURT: I'll be glad for you to supplement it, Ms. Manigault.

MS. MANIGAULT: Thank you, Your Honor. I call Dr. Frierson.

THE CLERK: Place your left hand on the bible and raise your right.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I so affirm.

THE CLERK: Have a seat. Please state your name for the record.

THE WITNESS: I'm Richard Lesesne Frierson.

DR. RICHARD FRIERSON,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. MANIGAULT:

Q. Dr. Frierson, how are you employed and where?

A. I'm employed by the University of South Carolina School of Medicine. I am professor of Psychiatry. I also provide contractual work on the part of the University to the Department of Mental Health where I conduct competency and criminal responsibility evaluations that are court

ordered.
Q. All right. And have you conducted criminal evaluations before -- ever, before seeing James Allen Johnson?
A. Yes.
Q. And how many competency evaluations have you conducted?
A. I would be estimating; fifteen hundred.
Q. And how long you been doing this?
A. Since 1993.
Q. Al right. And you have testified in Court before?
A. Yes.
Q. And you've been qualified to do evaluations?
A. Yes.
Q. Did you conduct an evaluation on James Allen Johnson on September 11, 2012?
A. Yes.
Q. And what was your finding for Mr. Johnson during that evaluation?
A. Finding concerning?
Q. Concerning his condition to stand trial?
A. Okay. Yes, he was evaluated on September 11th with someone from the Department of Disabilities and Special Needs and we opined that Mr. Johnson is currently competent to stand trail.

Q. And did you have an opportunity to review any of his previous mental health counseling or records?
A. I did. We looked at his prior contacts with the Greenville Mental Health Center, as well as some records from the detention center where he is on medications for depression. And we looked at school records.
Q. And at the time of your evaluation, was he on medication at that time?
A. Yes.
Q. And what kind of medication was he on?
A. He was taking two medicines to treat a condition called major depression, Celexa or Citalopram; it's an antidepressant medication. And also another medication called Trazodone, which is also an antidepressant medication that's usually used to help people sleep.
Q. Okay. How was his response to you in evaluating him or your questioning him? Was he cooperative, was he vague, was he un-attentive?
A. He was very cooperative. Every occasion that I've seen him, he appeared to try to give the best effort to assist with the evaluation.
Q. In your evaluation, did he appear to understand the questions you were asking him?
A. Yes.
Q. And to you, was he giving appropriate answers for

those kinds of questions?
A. Yes.
Q. Did he give you any information on his background or history, family history?
A. Yes. But we also had spoken with his mother who provided a social history about his childhood, those sorts of things. But that was augmented with his self-report.
Q. And I think somewhere it's noted in the report that he may be borderline mental retardation?
A. Actually, I believe he has intellectual disability or mental retardation; not borderline, I think. All of his prior measured IQs from his school years are below seventy, which is a requirement for mental retardation. He has had concurrent deficits in his adaptive functioning; his ability to function like a normal person would. And has been receiving disability for this since childhood. So his ability to hold competitive employment and those sorts of things, it's impaired by his intellectual functioning.
Q. And his intellectual impairment, would that hamper him from knowing right from wrong?
A. Not in and of itself, no.
Q. So would there be anything that you discovered in his social history, family history, combined with an intellectual impairment, hamper him from understanding right from wrong?

A. Well, I did not conduct a criminal responsibility evaluation because I was not asked to by the Court. But from a hypothetical situation, a hypothetical manner, I don't believe that his intellectual functioning is so impaired as that he would not know it's wrong to have killed somebody or to have abused a child resulting in death.

Q. So you believe that he has an understanding, in your discussion, of the process that we're going through?

A. He has a basic understanding of courtroom procedures, the roles of the court officers, the solicitor, the judge, the jury, your role. He understands the potential outcome. He understands that he is looking at a significant amount of prison time if he is convicted. He understands some issues related to admissibility of his statements. He was able to give me rational reasons why he believes, particularly his second statement, should not be admitted into evidence, and wishes for you to fight for that, which is actually more sophisticated than I would expect, given his prior measured IQ.

Q. And have you had a chance to evaluate or interview Mr. Johnson since September 11, 2012?

A. I saw him briefly today.

Q. And as a result of that interview, have you changed your finding?

A. No. No, I have not. The findings are the same. His depression is a little bit better, better treated, than when I saw him in November because they increased his medication at some point since November. But he, in my opinion, remains competent to stand trial.

Q. All right. Thank you.

CROSS-EXAMINATION

BY MS. HODGE:

Q. Dr. Frierson, I think you listed in your report under Axis II, that he's mild intellectual disability. That's the lowest grade, if you will? There's mild, moderate, severe ---

A. And profound.

Q. --- and profound?

A. Yeah. That's the -- like it says, the mildest form of mental retardation. But he does -- he would be considered, in the older terminology, as having mental retardation. We now say intellectual disability pursuant to statute changes. And actually now in DSM V, we're going to be saying intellectual disability.

Q. But you were able to communicate with him, carry on conversation in specific to courtroom process, procedure?

A. Yes.

Q. Did he have to be redirected multiple times or anything broken down to bite-sized bits or was it fairly

fluid?

A. Well, I knew going into the evaluation his intellectual background, and so I, accordingly, phrased my questions with very simple terms that he could understand. But he understands -- I mean, you know, very complicated words he might miss. But, for example, he was able to use words like prosecute. When I asked what's the job of the solicitor, to prosecute, and define that. That's pretty surprising given his intellectual functioning. But I think he's capable of understanding.

Q. And people with mild intellectual disability, they can be self-sufficient in ways? They can possibly live on their own?

A. Well, there has to be some deficits in adaptive functioning. In other words, there's certain things that people with mild intellectual disability cannot do that a normal person can; that's by definition. For example, he has been told when he tried to work, he's been fired because he was too slow. So he has a disability that prevents him from maintaining competitive employment. I mean, he might be able to go pick up trash somewhere, but he's not going to be able to support himself with work.

Q. Right.

A. And so that is a deficit. Now, can he dress himself, wash clothes, do some cooking? Yes. He needs assistance

in managing his money. That's something he cannot do.
Q. Okay. And you did not administer any IQ tests during this evaluation? You were basing your findings on previous IQ tests?
A. Yes. He's had numerous IQ tests done as a childhood -- during his childhood. And I relied on those.
Q. Did you know how far he went in school and if he did -- and you mentioned working. Did he tell you that he'd worked anywhere or done anything like that?
A. Yes. If you'll bear with me. He attempted to work cleaning trailers at a welding shop. And that's where he was fired because he was told his work was too slow. He left school, according to him, in the eleventh grade. However, the last IEP we were provided from the Greenville County School District was from 1998. He would have been fourteen around that time. And I don't believe it was eleventh grade. It doesn't really -- these records are very confusing and I spent a lot of time looking at them, but this was from a middle school.
Q. And that's what you were provided. So do you know or do you have reason to believe there's nothing else out there or you're just not ---
A. I have reason to believe there's nothing else out there.
Q. Okay.

A. I don't -- you know, a lot of times special education records are not kept for long periods of time. He said eleventh grade. His mother also said he quit in the eleventh grade, when he turned seventeen.

Q. Had he been involved with law enforcement before? Was that something -- did y'all discuss that or did that come up in the evaluation, that he had any prior brushes with the law or any incarcerations or juvenile incarcerations?

A. Yes. I mean, he's had prior arrests, certainly.

Q. Prior?

A. Arrests.

Q. Okay.

A. For assault and battery in 2010; for petit larceny in 2007; for public disorderly conduct and possession of drug paraphernalia in 2005.

Q. So prior involvement in the judicial system?

A. Yes.

Q. Thank you.

MS. HODGE: That's all I have.

THE COURT: Any redirect?

MS. MANIGAULT: None, Your Honor.

THE COURT: Thank you, Dr. Frierson. You may step down.

Does either side believe they might need him later? Is he under subpoena to be here for the trial?

MS. HODGE: He's under subpoena to here for the trial, but I'd ask that he be excused for the day.

THE COURT: Anything else either of you need from him, you think?

MS. MANIGAULT: No, sir.

THE COURT: Thank you. You may be excused.

All right. Anything else on this issue?

MS. MANIGAULT: Nothing else on this issue, Your Honor.

THE COURT: I'll try to review that report before I issue -- if we could move to the *Jackson versus Denno* now?

MS. HODGE: Yes, sir. Your Honor, there were -- according to the reports, there were four statements made by the Defendant. I have one verbal statement at the time of the incident when the first responding officers arrived on the scene. That would be Deputy Mathias.

THE COURT: Come around and be sworn, please, sir.

THE CLERK: Place your left hand on the bible and raise your right.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I swear.

THE CLERK: Have a seat. Please state your name

for the record.

THE WITNESS: My name is Carl Mathias.

CARL MATHIAS,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Deputy Mathias, are you the resource officer at Blue Ridge High School?

A. Yes, ma'am.

Q. And is that high school close in location to [redacted] Fews Chapel Road.

A. It's 2151 Fews Chapel Road, yes, ma'am, it is.

Q. And did you hear over the radio a call, an emergency call, a 9-1-1 call for a pediatric child choking on May 25th, 2011?

A. Yes, ma'am.

Q. And did you respond to that call?

A. Yes, ma'am.

Q. And what capacity were you responding?

A. As a first responder. I was making sure that the child was safe, if I needed to aid any first aid and to secure the scene if there was a crime committed.

Q. And that was not your normal duty as the resource officer?

A. No, ma'am.

Q. It's just you were close, and they ---
A. I was walking down the hall going out to my patrol car, heard the call over the radio. Since it was so close, and I didn't know if EMS was there, I felt it was my responsibility to make sure that that child was okay.
Q. And when you -- did you arrive at the residence shortly thereafter?
A. Yes, ma'am.
Q. And what did you do on arrival?
A. When I arrived I saw the EMT fastly walking down the driveway with the child in his hand. And the child appeared to be lifeless. And I met -- there were several people out in the yard at the time and I met the mother of the child. And the mother basically said that, you know, she wanted to go to the hospital. I said, well, let's go back inside because there's going to be a uniform patrol deputy that's going to be on scene and he's going to be leading this investigation. So we went inside. And this young -- this gentleman was in the living room at the time. And I asked the mother what happened? And she said, well, my daughter was drinking tea and she choked and she couldn't breathe. I didn't ask this gentleman any questions. He just said, I don't know what happened. I was in the bathroom. And I don't remember if he said he was shaving or using the bathroom. And I said, well, where

did she throw up? And the mother showed me the spot on the rug. And I got down to smell the spot that they said the child threw up in. And I didn't smell sourness or anything like that. And I thought that was rather suspicious.

Q. At this time, were you there to make any arrests or take anyone into custody?

A. No, ma'am.

Q. And did you question the Defendant specifically or was that just the only spontaneous statement he made?

A. I didn't even ask, I didn't even ask the Defendant a question. He just verbally gave that response after I asked the mom what had happened.

Q. So he spoke to you freely, voluntarily?

A. Yes, ma'am.

Q. You were dressed in uniform?

A. Yes, ma'am.

Q. Knowing you were a police officer?

A. Yes, ma'am.

Q. Did he say anything else to you while you were at the house, any other statement?

A. No, not that I recall.

Q. Okay. And did you take him into custody or her into custody after these statements were made?

A. No, ma'am.

MS. HODGE: And that would be all of my questions

as to this witness.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. And you had no further contact with Mr. Johnson after that initial contact on May 25th at the house?

A. No, ma'am.

Q. And you said he when -- he said, I don't know what happened, I was in the bathroom?

A. That's right.

Q. And that's it?

A. That's right.

MS. MANIGAULT: No further questions?

MS. HODGE: Thank you. You can step down.

THE COURT: You may step down.

MS. HODGE: The State would call investigator Autrey.

THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I swear.

THE CLERK: Come forward and have a seat and state your name for the record, please.

THE WITNESS: Jennings Autrey.

JENNINGS AUTREY,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Investigator Autrey, were you assisting Investigator, well now, Sergeant Chris Miller in the investigation of the death of [redacted]?

A. I was.

Q. And did you have occasion to respond to Greenville Memorial Hospital on May 25th, 2011?

A. I did.

Q. And what were you responding there for?

A. At the request of then Sergeant Jones, he asked me to respond due to the situation regarding [redacted] and that there was some questions. I needed to respond basically to obtain her medical condition at that time. And I responded to the CAT Scan area.

Q. And at some point while you were at the hospital, were you asked to find the child's mother and the child's mother's boyfriend or ---

A. Well, what happened, I walked with the doctor, as well as [redacted] and the nursing staff there, up to the PICU Unit. And then once I was there, the family showed up while I was waiting for additional investigators to arrive. And at that time, the Defendant, along with I believe one of the friends of the victim, the victim's mom had arrived and they waited in a separate waiting area and I spoke with

the victim's mother.
Q. And at this point, were you there to arrest either the mother or the Defendant or anyone involved in this case?
A. No, ma'am.
Q. And when you -- did you ask to speak to the Defendant during this time?
A. I did. I was there to obtain their personal information. Then I spoke with him and asked him to tell me what happened.
Q. At that time was he free to tell you he didn't want to talk?
A. Absolutely, yes, ma'am.
Q. Were you -- did you identify yourself as a law enforcement officer?
A. I did and I was wearing a gun and badge, as well.
Q. And did he agree to speak to you freely and voluntarily?
A. He did.
Q. And what did he tell you at that point?
A. He said that he was using the restroom, he was in the bathroom and he heard the victim's mother call for help and told him to call 9-1-1. So he said he jumped up and ran to the living room area and he called 9-1-1.
Q. Did he state that he didn't know anything else or see anything else, something to that effect?

A. Correct. Correct. He said that he did not see anything except for the victim lying on the floor and then the mother doing CPR.

Q. So he denied any knowledge of how the child came to be in the hospital?

A. Correct. Yes, ma'am.

Q. At that time, did you then make any arrest of them or take custody of them?

A. I did not.

Q. Did you write that statement, have him write that statement or did you write it?

A. I did not. It was completely verbal.

Q. And did you put it in a report?

A. I did. Yes, I did. It was in a supplemental.

Q. Thank you. As to the first statement that you talked to the Defendant verbally at the hospital. Did you also then -- were you also involved in a written statement taken from the Defendant on June the 2nd, 2011?

A. I was.

Q. And tell me, was he in custody at that time?

A. When we first initially spoke with him, no, ma'am, he was not. And then once we continued that at some point he was.

Q. All right. So he had not been arrested?

A. He had not.

Q. He was not in custody, initially?
A. Had not.
Q. And where was this statement taken from?
A. It took place at the LEC, Law Enforcement Center, in the CID Division, homicide office.
Q. And do you know how the Defendant got to the CID?
A. I believe he was driven there by two other deputies from the sheriff's office.
Q. And were you present when he arrived?
A. I don't believe so. I believe they already had him there; we responded, he was already there.
Q. And who was with you?
A. Investigator Miller. I'm sorry.
Q. That's all right. And once you and Investigator Miller located him at the LEC, who did most of the talking?
A. Investigator Miller.
Q. Okay. So you're just there as a witness?
A. I was there as a witness, yes, ma'am.
Q. Okay. And while you were witnessing this interview at the beginning, the Defendant was not in custody?
A. He was not.
Q. He was not handcuffed?
A. He was not.
Q. Was he free to say, I want to go. I don't want to talk to y'all?

A. Yes, ma'am.
Q. Was there an arrest warrant in hand at this point?
A. No, ma'am.
Q. And was he advised of his *Miranda* rights at this point?
A. At that point, no, ma'am.
Q. And what did he say -- well, let me back up one question. Did he speak freely and voluntarily ---
A. He did.
Q. --- with Investigator Miller?
A. He did, yes, ma'am.
Q. All right. And what did he tell Investigator Miller at this point?
A. Again, he started out about how he -- in the bathroom. Again, the victim's mother yelled at him that Victim, the victim, was not breathing and that he needed to call 9-1-1. He went on to say he had never seen the mother be mean to the victim or her sibling. When the topic of the victim's biological father came up, he hinted that he did not like him because he didn't want to be involved with the victim's life. And then as it went on, we talked to Ann. And he said that Ann had questions about calling 9-1-1 because there was possibly some illegal substances in the residence and she was scared that the kids -- the children would be taken away.

Q. There was what in the residence?
A. There may have possibly been marijuana. I said illegal substance. But marijuana.
Q. Oh, illegal substance, marijuana?
A. Yeah.
Q. Okay.
A. She was afraid the kids would be taken away. And then he said that he called 9-1-1 and the victim's mother was just sitting there crying. And that's ...
Q. All right. And how was his demeanor while he was relaying this information?
A. At that time he was calm. Again, just talking at that time.
Q. All right. And was somebody writing this down? Were you taking notes?
A. At that time, no, when that happened.
Q. Okay. What happened to make things change? Did something happen?
A. Well, once he started talking, he continued talking about how he wanted the child to have help, he wanted to have help, wanted peace. Then went back to the incident location again, as far as the incident that had happened. And he said that he never hurt [redacted], the victim, that he knows of. He swore he never beat the girls, [redacted] and her sibling. He said he was not being truthful about

something. He said that he picked up [redacted], the victim, and saw that she was not breathing. He thought she was sleeping. He wanted to be with her. He wanted everyone to leave so he could have her. He then said accidents happen. He said he wishes that she never went away. He then made the statement that he threw a toy across the room and hit her in the head and she started screaming. He said that he picked her up and tried to calm her down. And that's when he said he covered her mouth until she quit crying. He then said that Ann was in the bed, that he made up the tea story because he was scared.

Q. And did things change at this point in time?

A. They did. At that point in time, once he had made that statement, he was read and explained his *Miranda* rights and asked if he wished to have the statement documented. He then did sign that Waiver of Rights form and provided a sworn statement.

Q. And were you present during the Waiver of Rights form?

A. I was.

(WHEREUPON, Court Exhibit Number 1 marked for identification.)

Q. I'm going to show you what's been marked Court's Exhibit Number 1. Is this a copy of the Waiver of Rights form the Defendant was advised of and then signed?

A. It is.

Q. And are you listed on this form as a witness?
A. I am.
Q. All right. Can you please tell the Court what rights the Defendant was advised of at this time?
A. His *Miranda* rights, do you want me to read them now?
Q. Yes, please. Tell me what you told him.
A. It says, before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in Court. You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning. If you have no money to pay a lawyer's fee, the court will appoint one to represent you without cost if you wish. If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering any time until you talk to a lawyer. The next section is the Waiver of Rights. It says, I've read the statement of my rights and I understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand, though, what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me. And coercion is circled because Investigator Miller explained it to him. And it was circled so -- and

then initialed underneath it stating that Mr. Johnson understood what coercion meant.

Q. All right. And did Mr. Johnson initial actually each line of what his rights were?

A. He did.

Q. Did you or Investigator Miller ask him to read any of these back to you or were they read to him?

A. I believe they were read to him. I don't recall having him read them back.

Q. Okay. And what were his initials -- what purpose are they for?

A. Basically saying that he understood what his rights were, understanding each line, whether he read them out loud or whether he read them to himself, but initialing that he understood what they were.

Q. And did he ask any questions about, what does this all mean, or I'm confused or state anything of that nature?

A. No, ma'am.

Q. Did he actually, by initialing, tell you that he did understand what was going on and what his rights were?

A. Yes, ma'am.

Q. Did he sign the paper also acknowledging what his rights were?

A. He did.

Q. Did he do this freely and voluntarily?

A. Yes, ma'am.
Q. Did anybody threaten him, force him, pressure him in anyway to waive his rights?
A. No, ma'am.
Q. Was anything promised to him to get him to waive his rights?
A. No, ma'am.
Q. Any mention of working out a bond or plea offer or anything like that?
A. No, ma'am.
Q. Anything like, give you something to eat, something to drink, cigarettes, anything like that?
A. No, ma'am.
Q. All right. Was anything withheld from him, such as a bathroom break, or food or water, anything like that?
A. No, ma'am.
Q. In your opinion, did he freely, voluntarily, knowingly, intelligently waive his rights?
A. Yes, ma'am.
Q. And did he then freely and voluntarily continue to speak to Investigator Miller?
A. He did.
Q. And at that point what was his -- has his emotional state charged?
A. It did a little bit. He was a little more emotional.

I think at some point he may have started crying a little bit. So it did.

Q. And what did he go on to say after that?

A. I'll read his statement.

Q. Okay.

A. Basically, those additional particulars on the statement, he provides his date of birth and his Social Security Number. And he says, I understand all the questions that Investigator Miller has asked me and I'm giving this statement freely and voluntarily. I'm giving Investigator J. Autrey permission to type my statement for me. I am not under the influence of any drugs or alcohol. I swear that I never beat them. I played with them all the time. There is something that I haven't been truthful about. I picked her up and I saw that she was not breathing. I thought she was just asleep. I thought she was asleep. I was trying to get her back. I just wanted to be with her, the baby. The rest could leave if they would just let me have her. I've been there for her if I knew what I was doing. I was in the bathroom, but -- and then he paused -- so I tried to be a daddy. I tried to correct them when they were wrong so they would not turn out like my sorry family. I tried to take care of her. No matter what happens, I'm going to be the bad one and then she can have her daughter back. Accidents happen. I

hadn't been on my medication in a while at all. I wish she had never went away. I threw a toy across the room and it hit her. It hit her in the forehead where there are all the bruises. It was that day. If I didn't know she didn't have a chance, I never would have thrown that toy. That's what happened. I never would hurt a kid. I've helped raise them. I don't deserve to live. I never should have picked up that toy. That was the day before. I don't know how those bruises got there. She started screaming. I was just trying to calm her down. I kissed on her at first and held her. She kept crying and screaming. I hadn't been on my medication. People are going to hurt me. Ann and CO's. I covered Victim s mouth until she quit crying. Ann was in the bed when this happened. I then went and told Ann that Victim was not breathing. Ann came in the living room and I told her there was a glass of tea there and I guess Victim drank it. I told Ann about the tea because I was scared. I love them and I always will. I'm sorry for the problems. I'm sorry for God creating me. I'm sorry for all this. I've never been this kind of person. Please forgive me in time.

Q. And on this statement that was typed by you ---

A. Uh-huh (affirmative).

Q. --- did you print out a copy for him?

A. I did.

Q. And did someone read the statement to him or was he given the statement to read to himself.
A. It was read aloud and then he had a copy to follow along.
Q. All right. And did he initial after -- or at the beginning and the end of each paragraph?
A. He did.
Q. So there are at least one seventeen or eighteen of his initials on this page?
A. Yes.
Q. All right. And then did he sign this statement at the bottom as well?
A. He did.
Q. Was he given the opportunity to make any corrections or changes?
A. Yes.
Q. Did he choose to do that?
A. No.
Q. Now, did he ever tell you or Investigator Miller that he couldn't read?
A. No, ma'am.
Q. Did you talk about anything about his educational background or anything like that?
A. At the beginning of the statement it says, I have a twelfth grade education and I can read and write. And that

comes standard on every form, the education level is left blank. So we ask them how far have you gone in school and he told us the twelfth grade.

Q. And while he was giving his statement, and he and Investigator Miller were talking, did you have any concerns that he did not know what he was saying or what he was doing?

A. No, ma'am.

Q. In this statement he mentions something about not being on his medication. Did anyone ask what that was or what that was in reference to?

A. No, ma'am.

Q. Did he appear to be under the influence of any type of illegal substances?

A. No, ma'am.

Q. So in your opinion, he was speaking, communicating well?

A. Yes, ma'am.

Q. He was able to keep his thoughts congruent with what the questions were?

A. Yes, ma'am.

Q. He wasn't going off on tangents of irrelevant things?

A. No, ma'am.

Q. And after he made that statement, was he then arrested?

A. He was, yes, ma'am.
Q. So he was not free to leave after he signed this statement?
A. That is correct.
Q. Thank you. Please answer any of Ms. Manigault's questions.
A. Yes, ma'am.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. Did you ask him any questions about any of his statements that he made to you after it was made? For instance, no matter what happens, I'm going to be the bad one. Then she can get her daughter back?
A. No, ma'am, I did not.
Q. Did you ask him to explain what that meant?
A. I did not, no, ma'am.
Q. And while you were sitting there, did anybody else ask him to explain?
A. Not that I recall, no, ma'am.
Q. And I believe you said that he was already positioned in the room when you got there?
A. He was at the office. I don't remember if he was sitting in the exact chair that he sat through the whole process, but he was already there.
Q. Okay. Did you have an opportunity to observe him walk

about, during this ---

A. He was sitting, he was sitting in a chair with no restraints.

Q. Your testimony is that he did not appear to be intoxicated. Did he smell of liquor or drugs?

A. No, ma'am.

Q. Was his eyes dilated? Was his speech slurred?

A. No, ma'am.

Q. Okay. So he talked very clearly to you. You could understand?

A. Yes, ma'am.

Q. Was he asked anything that's not on this statement? Did you ask him whether he was on drugs, legal or illegal?

A. Correct. As far as what goes on here, it says as far as the -- are you under the influence of any drugs. And he said he was not.

Q. Okay. That was asked of him. He wasn't told to read it; right?

A. Correct, correct. Yeah.

Q. How long is this interview on June -- I believe this is the June 2nd interview. How long did that interview last?

A. I don't remember the exact time. I know it was -- the waiver was signed, it was ten-o-two. Hour and a half, two hours maybe.

Q. Hour and a half, two hours?
A. Yeah. Again, that's a guess or an estimate.
Q. That's fine. And did he ever ask to go to the restroom?
A. I don't recall.
Q. Was he ever taken to the restroom?
A. I think he was. But again, without knowing, I don't want to say yes or no.
Q. Did he ask for a cigarette break or ---
A. I don't believe so.
Q. Did he ask for water?
A. I don't remember if he asked or not. It was available if he needed, so ...
Q. Did he ask for food or anything?
A. No, ma'am.
Q. All right. He was developed as a suspect when? Do you know?
A. That, I do not know. No, ma'am. I won't go into that.
Q. And when you interviewed him on June 2nd, was he a suspect at that point?
A. He was a possible suspect at that time.
Q. Possible suspect, okay. And I believe you said that you did not give a *Miranda* warning until after he'd made an admission to you to ---

A. Well, again, once he made that admission the interview was stopped and *Miranda* was then read to him and explained to him. And then he again gave the second account.

Q. Okay. So *Miranda* was given after he said, accidents happen and he threw a toy across the room?

A. I believe that's correct.

Q. And hit her in the head, you said?

A. I believe that's correct.

Q. Did he ever ask you for an attorney? Tell you that he needed to talk with an attorney?

A. No, ma'am.

Q. Did you ever leave the room at all during the process of this interview on June 2nd with the Defendant?

A. No, ma'am.

Q. Okay. So you stayed in the room the entire time?

A. I did, yes, ma'am.

Q. And you never heard him say that he needed an attorney, he wanted to talk to an attorney?

A. No, ma'am.

Q. All right. Did you observe him slouching in the chair or leaning over on the desk with his head down or anything like that?

A. I believe he would lean over occasionally and put his elbows on his knees. I don't remember any slouching or lying on the desk or anything like that.

Q. Okay. So he was not trying to recline as if he was trying to overcome a condition or anything like that?
A. I don't believe so, no, ma'am.
Q. And I believe you said you read the statement out aloud or somebody did?
A. Uh-huh (affirmative).
Q. And he was given a copy to read along with you?
A. Correct. And then he initialed at the beginning and end of each paragraph.
Q. And even before he signed the statement, did he ask for an attorney or state he wanted to speak to an attorney?
A. No, ma'am.
Q. Did anybody jump up and hit the desk or beat the desk and threaten him in the room?
A. No, ma'am.
Q. How large is the interview room?
A. It has six desks in it so you're probably talking fifteen by twenty, maybe. It's a pretty good sized room.
Q. And you said that in your observation he was speaking and communicating well in response to the questions?
A. Yes, ma'am.
Q. And he related to the questions and answered them appropriately?
A. Yes, ma'am. Yes, ma'am.
Q. And I think you said you had no concerns that he

didn't understand what was going on?

A. No, ma'am.

Q. Thank you.

MS. HODGE: Thank you. You can step down.

And the State would call Sergeant Miller.

THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat and state your name for the record.

THE WITNESS: Christopher Miller.

CHRISTOPHER MILLER,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Investigator Miller, were you the lead detective -- or excuse me -- investigator in a homicide by child abuse case involving [redacted] Victim [redacted]?

A. I was.

Q. And on May the 25th of 2011, did you respond initially to the scene?

A. I did.

Q. Which was [redacted] Fews Chapel Road?

A. Yes, that's correct.

Q. And was the Defendant or anyone present at the scene when you arrived there?
A. No. I was advised that they had went to the hospital.
Q. Did you stay and then process the scene and go on to the hospital as well?
A. I did.
Q. Once at the hospital, did you make contact with the Defendant, Mr. Johnson?
A. I did eventually.
Q. Did some other things before that?
A. Right.
Q. Okay. And was he at the hospital in the waiting area?
A. He was.
Q. Did he agree to talk to you that night?
A. Yes. I asked him if he would come with me back to the office and he agreed to ride with me and I took him back to my office.
Q. At this point did you identify yourself as an investigator, officer?
A. I did. And, of course, I was wearing my badge and a gun.
Q. And explain to him what you wanted to talk about, the condition of the child?
A. Yes.
Q. And that you'd been informed that only he and the

mother had been at home when this child went unresponsive?
A. That's correct.
Q. Along with a two and a half year old?
A. With the other sibling, yes.
Q. Okay. And did he agree to come with you to the law enforcement center?
A. He did.
Q. Did he have any qualms or questions or ask you if he had to go or, anything like that?
A. No, I went and advised him that he was not in custody and that he did not have to go with me, but this was just, you know, part of my investigation. That I needed to talk to everyone that was there at the house.
Q. And had you already talked to the mother before speaking to him?
A. Yes, because she was there when I walked into the pediatric ICU unit. She was one -- other than the investigator, she was one of the first people that I encountered. He was not in that area at the time.
Q. And did he freely and voluntarily go with you in your car to the law enforcement center?
A. He did.
Q. Did he appear to understand what all was going on and where you were going?
A. Sure.

Q. Were y'all having any kind of small talk or anything beforehand or ...

A. Not a lot.

Q. A fairly quiet ride?

A. Yeah. It was just -- I didn't talk about the case. I just made small talk.

Q. Okay. And that was fine; y'all were able to have some kind of communication during the ride over?

A. Yes.

Q. Did you feel it necessary to advise him of any *Miranda* rights at this point?

A. No, because at this point in time I had no idea what had happened. I mean, just other than there was a child on life support.

Q. All right. So he was not in custody?

A. No, ma'am.

Q. He wasn't in anyway handcuffed or bound or anything like that?

A. No, ma'am.

Q. He was free to tell you, no, I don't want to come with you?

A. Yes. He did not have to -- I advised him that he did not have to go.

Q. And he also was not going to be arrested or placed in custody as a result of this interview or conversation?

A. That's correct.
Q. And where did you go once you got to the law enforcement center?
A. We went back to my desk in the homicide section of the investigations office.
Q. And what happened then?
A. I asked him to have a seat at my desk and then we began to talk. And I asked him to give me a little background about his and Ann, the mother's, relationship, and he told me that. And then I asked him, you know, tell me the days events of this day. And then after he verbally gave me his account of that day and what led up to Victim becoming unconscious, at that point, then I asked him could I take a written statement and he agreed.
Q. All right. And so as he's talking to you, in your opinion, is he telling you about the events of the day and his relationship and that history freely and voluntarily, knowingly, intelligently?
A. Yes. He's just sitting -- it's a casual conversation. He's sitting in a chair. I always offer people water, coffee. You need to go to the bathroom or anything, you know, to make them comfortable.
Q. And then this two-page written statement dated -- to be honest, I don't think it actually has a date on it. But this two-page written statement would have been the one you

had prepared after speaking to him?
A. Yes, this is it.
Q. Okay. And during this time did he give you any background about his education or things like that?
A. Yes. I always start my statements out with, I refer to additional particulars and I'll state them to you. Then I always ask birth days, Social Security, where they were born, where they grew up, where they went to school. If they're under the influence of any type of drugs or alcohol. If they're aware of what they're saying. And that they have given permission for me to type their statement.
Q. All right. And did he state he was under the influence of drugs or alcohol?
A. He said he was not.
Q. Did you have any concerns that he may be under the influence of drugs or alcohol?
A. I did not smell any alcohol beverages or did not detect any, you know, behavior that would be indicative of being on drugs, or any dilated pupils or anything like that.
Q. All right. And then did he talk about some kind of schooling?
A. He did. Said that he had went to Berea High School.
Q. All right.

A. But graduated from R&E in Columbia.
Q. Okay. And do you ask him on this one, does this one have the date -- the thing about how they went in school? That one's different?
A. Yeah. That one's different.
Q. Okay. That's a suspect statement and this is a witness statement?
A. Yes, that's correct.
Q. Okay. So he's being treated as a witness at this point?
A. As a witness, yes.
Q. All right. And it's a two-page typed statement?
A. Correct.
Q. Okay. And did you read the statement back to him after you had finished typing it?
A. I do. My procedure is to print a copy and let the Defendant or the witness, whatever type statement it is, let them look at it. And if there's any corrections that need to be made as I'm reading it and they're reading at the same time, they can let me know. And then I give them, usually a red pen to circle any mistakes that -- maybe typos or something that I've done. And he agreed to the statement.
Q. Okay. He didn't make any corrections or do anything? And did he sign this statement?

A. He did.
Q. Acknowledging that that was what he had said and the basis of y'all's conversation?
A. That's correct.
Q. At this point did you feel any need to place him in custody or arrest him?
A. No. Because at that time it was still -- it was too early in the investigation to know exactly what had happened to the child.
Q. All right. And was he free to leave the law enforcement center?
A. Yes. In fact, I offered to give him a ride back to the hospital, which he took me up on.
Q. Okay. So you drove him back to the hospital?
A. And dropped him off at the front.
Q. All right. Do you know about how long you guys spent talking on this instance?
A. Probably talking, it was probably about an hour and a half, two hours, somewhere in there.
Q. Okay.
A. With the ride and everything.
Q. Right. Okay. Did you then speak to him again anytime during your investigation before June the 2nd of 2011?
A. No, I did not.
Q. And on June 2nd of 2011, did you ask someone to locate

him so you could talk to him again?
A. I did. I asked Deputy Jimmy Wilson who was cross-training with us in the homicide unit at that time, and Investigator Wayne Campbell, who was also a homicide investigator, I asked them if they would try to locate Mr. Johnson, as we'd been given a possible address by Ann, the baby's mother. And that was [redacted] Pine Log Ford Road, Lot Number [redacted], and that's where they found him.
Q. All right. At this point, was he free to tell Deputy Wilson and Investigator Campbell that he didn't want to come and talk, and he didn't want a ride to the LEC, anything like that?
A. Yes. He was advised again that we were still conducting our investigation and we had some further questions we would like to ask.
Q. And did he freely and voluntarily come down to the LEC to talk to you again?
A. He did. He was not placed in handcuffs. He was not given *Miranda* rights. He was just advised that it was just another questioning, basically is all it was.
Q. All right. And do you have a recollection of what time this might have been when you start speaking to Mr. Johnson?
A. It was probably some time right before ten o'clock. When we got back to the office he was with Investigator

Campbell and Deputy Wilson when I walked back into the investigations office. And he was not in custody. He was not bound to a chair. They were really just sitting around casually talking when I walked in.

Q. And going into this meeting or this interview, did you have intentions of arresting him at that point when you walked into this conversation?

A. No, ma'am.

Q. Did you have a warrant already secured?

A. No.

Q. And did you engage Mr. Johnson again in conversation about this incident?

A. I did. And, again, I took him back to my desk and had him sit in the same chair, not restrained, just a casual conversation is the way it started out.

Q. And was Investigator Autrey in the room as well?

A. He was.

Q. All right. And how about Investigator Campbell, did he stay?

A. No, Investigator Campbell left. I believe he had another call he had to go to or something. He had to leave.

Q. Okay. And did Deputy Wilson stay?

A. He did.

Q. All right. So the four of y'all are in one room?

A. Yes. And the reason Deputy Wilson stayed, again, as I said, he was cross-training, so basically I was training him.

Q. All right. And tell us what happens at this point?

A. I advised him that we had spoken with Ann earlier and that I just wanted to reiterate what he had told me in his previous statement, that he was the one -- or that Ann was the one in the room with the child when the child started choking and that he was in the bathroom. And that's the way the conversation started out. I advised him that we had since received information that he was the one in the den area with the child, and that the mom was the one that was out of the room. And he first denied it, but then as the conversation -- well, I asked him at that point in time, after we'd been there a little while, did he need a break? Did he need anything to drink, water, anything to eat? And he said, no. But he did want to go to the bathroom. So I took him to the bathroom or I escorted him there. And then we came back, sat down and started talking to him again. And I told him that there was things that just didn't make sense, that I, you know, I needed the truth to come out. And at that point in time, he dropped his head and said he was not a bad person. And then he started talking about that he'd got angry with [redacted] and he threw a toy and hit [redacted] in the head with it and that

she began crying. And that he was afraid it was going to wake Ann up and that he held her and he kissed her and tried to get her to be quiet, but she wouldn't. So he said that he held his hands over her nose and mouth to make her be quiet, and then she became unresponsive. Well, at that point in time, I ceased the interview. And I told him, I said, we can't -- I need to read you your rights. And then at that point in time I typed up a *Miranda* waiver form, which is the Sheriff's Office standard form. And I read the -- I went through the form with him and made sure that he understood.

Q. All right. So Court's Exhibit Number 1 is a copy of the Waiver of Rights Form that you went over with him?

A. That's correct.

Q. Okay. And can you tell the Court what rights you advised him of?

A. Yes. Before we ask you any questions, you must understand your rights. And what I do is I read that sentence and I make sure that they understand each sentence. Well, not read it. I don't just read the whole thing and then ask them do they understand it. I read a sentence at a time to make sure that they understand it. And then I have them initial it. And then I read the next sentence; you have the right to remain silent. To make sure he understood it, he initialed it. Anything you say

can be used against you in court. Made sure he understood it, initialed it. You have the right to talk to a lawyer for advice before we ask you any questions. And have him with you during questioning. He initiated it. If you have no money to pay a lawyer's fee, the court will appoint one to represent you without cost if you wish. He initialed that sentence. If you decide to answer questions now without a lawyer present, you still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer. Made sure he understood that and he initialed it. And then I told him, I said, well if you wish to talk to me without a lawyer present, I have to read you this bottom portion of this form. I said, do you want an attorney at this time? And he advised me, no. So I read, I have read this statement of my rights and I understand what my rights are. I'm willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me. And I always stop and go back and explain what coercion means. I advised him of that it's basically trickery. No one's going to trick you into any self-incrimination or saying anything that can be used against you. And made sure that he understood that, and then he

initialed it.

Q. And he also signs it?

A. And then he signed.

Q. Okay. And you signed it as well?

A. That's correct.

Q. And it took about ten minutes to go through these rights with him?

A. Yes.

Q. And after you advised him of those rights, did he -- well, let's go back. Did he freely and voluntarily waive those rights?

A. He did.

Q. And did he, in your opinion, understand what his rights were and that he had a right to have an attorney or to stop talking?

A. Absolutely. He understood.

Q. And did you in any way force him, threaten him, do anything to scare him into waiving his rights and talking further?

A. No. I talked very calmly with him during the whole process.

Q. And did you make him any kind of promises, any types of, I'll make a leniency request for you or a bond request, anything like that to get him to waive his rights and tell you more?

A. No, ma'am.
Q. Withhold anything from him that he may have asked for? Water, bathroom, cigarette, food?
A. No. I provided the bathroom and offered him drink and food. He refused.
Q. So in your opinion, he freely, voluntarily, knowingly, intelligently waived his rights to talk to you?
A. Yes, ma'am.
Q. All right. And then did he continue talking freely and voluntarily?
A. He did.
Q. And you made mention that you talked to him really nicely. Are there different investigative or interrogative techniques used by police officers?
A. There are. There's sympathy, you know, you understand, you know, sometimes as he said, that accidents happen. And I told him I know that sometimes accidents happen. And that we do things sometimes that we don't intend to happen. Sometimes we lose our temper. And then, you know, sometimes we just -- you know, I explained that I have kids and, you know, that I know what it's like to have a kid that's crying that just will not stop. And, you know, and that I understood where he was -- why he was so frustrated.
Q. And so that was the tactic that you took. You never

had to do the bad cop routine, I guess, is what I'm getting at?

A. No. No one in the office that night had to use that tactic.

Q. All right. And then did he go on to give you his -- the written statement, which was the one-page statement dated -- is this one dated? I'm not sure it's dated. No, this one. This one-page statement?

A. Yes.

Q. All right. And I believe you heard Investigator Autrey just read that statement into the record. Was that accurate?

A. That was accurate.

Q. Okay. After he gave the statement, was he given a copy of it to take with him to have?

A. He was given a copy and then I did the same procedure as I did with the previous statement. I gave him a copy and I read it and had him read along as I was reading it aloud to him.

Q. Okay. And at this point, during this statement, did you have any concerns that he was under the influence of drugs or alcohol or not knowing what he was doing at this time because of that?

A. No.

Q. You made mention in here about not being on

medication. Did you stop and ask him what medication are you talking about, anything like that?

A. No.

Q. And you were able to communicate with him pretty clearly, fairly coherently?

A. Yes. And as he had the statement in front of him, I'm reading and then as I'm reading each line to him, I had him initial it, you know that he ---

Q. Each paragraph?

A. Each paragraph.

Q. And he never asked to have an attorney or to stop questioning?

A. No, ma'am.

Q. Once you concluded the statement, did you then obtain an arrest warrant for him?

A. I did.

Q. Did he continue to make some spontaneous statements to you during the arrest process?

A. He did.

Q. What were those statements?

A. During the arrest procedure, he stated that he wished that God had never created him, that he did not deserve to live. And I asked him if he was suicidal and he stated that he would never kill himself, but he knew that someone in jail would kill him because of what he had done. He

said that he did not want people to be mean to him or not like him because he was not a bad person. He was scared that -- because I guess he's heard that, you know, and ---

Q. Rumored in jail?

A. Yeah. You know, if they found out that it had to do with a baby that, you know, someone would try to harm him.

Q. And because of that, did he make a special request of you that he be kept in isolation?

A. Yes, he did and I asked the jail to do that.

Q. So these statements are pertaining to his now admission to committing this crime?

A. That's correct.

Q. And his fears of what's going to happen to him after admitting to committing this crime?

A. Yes, ma'am.

Q. Were there any other statements -- any other time you spoke to the Defendant or any other statements that we have not discussed today?

A. No, ma'am.

Q. Okay. Thank you. Please answer any of Ms. Manigault's questions.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. Sergeant Miller, when was the death of the child ruled a homicide?

A. It was ruled June the 2nd, is what I was advised by the -- I got a call from the coroner's office.
Q. All right. So you were advised that it was a homicide before you had him picked up? Before you had James Allen Johnson picked up?
A. Yes.
Q. You knew that the coroner had made the decision, this was a homicide?
A. Right.
Q. Now, when you first encountered him, did you see him walking into the area or did you observe him walking at all on June 2nd before you began your interview?
A. He was, like I said, he was already there with two other deputies and they were just sitting around casually, just talking when I arrived.
Q. Did you say that you moved to your desk, that he moved -- did he ever walk towards your desk or ...
A. Yeah, they were in the area where the white collar units work, which is a big open area.
Q. Yeah.
A. And like I said, they were sitting around in their chairs and so I took him back to my office where my computer's at.
Q. All right. And did you observe James Allen Johnson stumbling or hesitating in his stride when he was walking

back to your office?
A. No, ma'am.
Q. Did he appear to not be steady on his feet or anything like that?
A. No. He appeared fine to me.
Q. So when you began your interview process, did you notice that he may have been dropping off into sleep or not being -- paying attention to you or what you were saying?
A. No, ma'am.
Q. Did he ever rest his head on the desk or act like he didn't feel well or was maybe ---
A. I'm sorry. I didn't to cut you off. The only point was when he began the confession, he dropped his head and told me he was not a bad person. And that was the only time that I noticed -- and then he did it after that, but not prior to that.
Q. But dropping his head while sitting in the chair, but not necessarily laying his head on your desk?
A. No, ma'am.
Q. Okay. So when you observed him initially on May 25th at the hospital and had some short conversation with him, and then you observed again on June the 2nd at your office, was there any change in his behavior or did he seem ---
A. He seemed more calm.
Q. More calm on which day?

A. June the 2nd.
Q. On June 2nd?
A. Than he was on May the 25th.
Q. All right. So you noticed on May 25th that he was maybe not as calm as he was on June 2nd?
A. That's correct.
Q. All right. And you said you didn't smell no alcohol?
A. No, ma'am.
Q. Okay. And did he ask to go to the restroom or did you advise him that he could go or ...
A. No, I always ask everyone to make sure that they're taken care of and that they're comfortable.
Q. And he asked to go to the restroom after the interview had started and y'all took a break?
A. No, the interview had already started and then I -- we'd been talking for about forty-five minutes to an hour and then when he refused food, drink, I said, well, do you want to go to the bathroom? And then he said he did.
Q. Okay. When he came back from the bathroom, did his behavior change or his speech pattern change or anything different?
A. No, ma'am.
Q. All right. So when you had him brought in, you said that your investigation was continuing. So at that time, was he a suspect?

A. He was a person of interest, just like the mother, Ann, was.
Q. Okay. And a person of interest is different from a suspect?
A. That's correct.
Q. Now, you testified that you gave a *Miranda* warning after James Johnson said that he had hit the child in the head with a toy?
A. Yes. Well, then he went into, you know, about she was crying and that he put his hands over her face to keep her quiet or try to make her be quiet. At that point in time, I knew it was time to end -- to read him his rights. It was time to end the interview and read him his rights.
Q. Okay. But before that you proceeded like you did on the previous interview, that you were just talking to him as a witness?
A. As a witness.
Q. But you had talked to Ann, Georgia Ann Sprouce, several times prior to June the 2nd, correct?
A. Yes, ma'am.
Q. And she had changed her statement several times and she had now changed her statement to say that James Johnson was -- may be the perpetrator in this child's death?
A. She changed the statement that he was the one in the room with the child instead of her. But at that time, I

still want to know who's telling the truth.
Q. So at that time, you still didn't know who was telling the truth?
A. Yes. I mean, I'm still conducting my investigation to try to determine exactly what happened.
Q. And I believe you said that, one point of -- that you started your conversation was you wanted to know from him who was in the room?
A. Yes.
Q. At what point. And did he ever tell you that he wanted an attorney?
A. No, ma'am.
Q. Did he ever act like to you that he could not -- was not reading along with you or could not understand anything you were saying?
A. No. I made sure that he understood. That's why I had him initial each paragraph and then each sentence on the *Miranda* Warning.
Q. All right. So before he went to the restroom, he did not ask for an attorney?
A. No, ma'am.
Q. And when he came back from the restroom and you started giving him his *Miranda,* he did not want an attorney?
A. No, ma'am.

Q. And you made sure he understood that and he initiated it?
A. Yes, ma'am.
Q. Did you ask him what he meant by, no matter what happens I'm going to be the bad one, then she can have her daughter back. Did you ask him what that meant?
A. No.
Q. To explain that to you?
A. I didn't.
Q. And I believe you testified earlier -- I couldn't hear some of the testimony because the Solicitor wasn't up here at the mike -- but I believe you testified earlier that you asked him specifically about drugs or alcohol when you read this top part of the statement to him, ---
A. Yes.
Q. --- was he on any drugs or alcohol?
A. That's just a standard procedure that I do with all statements.
Q. Okay. But you asked him that verbally?
A. Yes.
Q. You didn't just let him read it?
A. No, ma'am.
Q. Okay. And his response to you that he was not on any drugs or alcohol?
A. That's correct.

Q. Whether prescription or otherwise?

A. That's correct.

MS. MANIGAULT: No further questions.

THE COURT: Any redirect.

MS. HODGE: No, sir.

THE COURT: All right. Thank you. You may step down, officer.

MS. HODGE: That would be all the Defendant's statements the State would intend to introduce.

THE COURT: Anything from the Defense?

MS. MANIGAULT: Yes, Your Honor. We call James Johnson.

THE CLERK: Put your left hand on the bible and raise your right.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes, I do.

THE CLERK: Have a seat and state your full name for the record.

THE WITNESS: My name is James Johnson. James Allen Johnson

JAMES ALLEN JOHNSON,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. MANIGAULT:

Q. Okay. Speak a little louder or sit close to the mike. And, Mr. Johnson, you've heard the testimony of Sergeant Chris Miller. Do you remember talking to Sergeant Miller?
A. The first time I remember. And I remember a little bit in the other one, but I don't really remember the whole thing.
Q. Okay. Do you remember when you met him at the hospital and that they took -- they took a statement from you. Do you remember that?
A. Yeah, I remember that.
Q. All right. Do you remember talking with him on June the 2nd?
A. Not the whole thing, no.
Q. Not the whole time. Do you remember any officers -- how did you get to the law enforcement center?
A. Two deputies come to the house and told me I had to go with them.
Q. Okay. Now, whose house were you at, at that point?
A. I was at Josh's house.
Q. Who is Josh?
A. My brother's neighbor.
Q. Okay. And who else was at the house when the officers came to get you?
A. Josh's friends and his mother and step-father.
Q. Okay. Now, what kind of condition were you in when

they came to get you?
A. Me and Josh was in the room smoking -- I was smoking a little bit of reefer, and I had some Xanaxes. I was taking them that day. I'd already been passed out for several hours. I woke up and I took me a couple more, because Josh come in and said, I'm going to smoke a bowl. So I was going to smoke a bowl with him. And his deputies came and I told them, hold on a minute because I had to go back in there. I still had the reefer in my pocket. I went back in there and gave it -- and give it to Josh.
Q. And did you have anything else in your pocket?
A. I had a few Xanaxes left.
Q. And how many Xanaxes would you say that you'd taken that day?
A. I'd say I probably took about ten.
Q. Okay. That was before the deputies came to get you?
A. I took three more when I went to the bathroom.
Q. When you went to the bathroom where?
A. While he was interrogating me.
Q. Okay. While you were at the detention center talking to ---
A. Yes.
Q. --- Investigator Miller at that time ---
A. Yes, ma'am.
Q. --- when you went to the bathroom, you took three

Xanax pills?

A. Yes, ma'am.

Q. Now, could you understand what the investigator was saying to you, Investigator Chris Miller, this gentleman? On June 2nd did you understand that when he went over these rights forms, the *Miranda*? He read you your rights. Do you remember that?

A. Not really. I can't -- I don't really -- I remember everything from the first statement, but I don't really remember that much on the second one.

Q. Why don't you remember from the second one?

A. I remember him getting up saying, if she got back with him, I don't know why you're still defending her, stuff like that. And all we're trying to do is find out what happened. That's about all. I don't remember much more after that.

Q. Okay. Now, let me show you this rights form that is dated June the 2nd, 2011. And it has your name at the top of it. Can you read that? Is that your name, James Johnson?

A. Yes, ma'am.

Q. Now, there's seven paragraphs where your initials appear on the side. Is that your initial? Did you initial that?

A. Yes, ma'am.

Q. This is your writing?
A. Yes, ma'am.
Q. Do you remember doing that?
A. No.
Q. Okay. On the bottom of the page it says, sign. There's a word circled, coercion. Is that your initial there?
A. Coercion?
Q. The word is coercion. Did you initial under that word? Is that your initials?
A. That ain't my initials because it's not JAJ.
Q. So you didn't put your initial right there under the word coercion?
A. I can't remember, ma'am, to be honest with you.
Q. Okay. On the line that says sign, there's a name, James Johnson written. Did you write that?
A. It looks like my handwriting.
Q. Okay. Do you remember doing that?
A. No, ma'am, I don't.
Q. All right. Do you remember another officer being in the room, Officer Autrey, along with Investigator Chris Miller?
A. The one that was sitting up here, the skinny guy?
Q. Yes.
A. I remember him sitting beside a camera.

Q. Beside a camera?
A. Yes, ma'am.
Q. Okay. Were you under the impression that your interview was being recorded?
A. I thought it was.
Q. Now, I'm going to show you the statement that they have said was written on June 2nd, okay? That's a statement and it has eighteen places where your initials appear. Did you put those initials there?
A. Looks like my handwriting.
Q. On every spot? Look at every spot and tell me whether you put it there?
A. Yeah, that looks like my handwriting.
Q. Okay. And at the bottom it has a place for signature. And there's a name written James Johnson. Did you sign that?
A. That's my handwriting.
Q. Okay. So did you read this statement? Was this read to you?
A. I can't remember if it was. Alls I know is that's my handwriting; that's the way I write.
Q. Okay. Do you remember the officer telling you that you have the right to talk to a lawyer?
A. No, I don't remember.
Q. That you didn't have to talk with him. You had a

right to talk to a lawyer?
A. I can't remember that.
Q. Did you ever ask him for a lawyer?
A. I can't remember that either.
Q. Okay. You remember him telling you that if you didn't have money for a lawyer, that he would make sure that one was appointed for you; do you remember that?
A. (Negative nod.)
Q. Do you remember them saying to you anything you say can be used against you in court?
A. No, I don't remember that. I remember everything from the first statement that I made at his office, when he come to the hospital. But I can't remember nothing after that -- the house that day.
Q. All right. The first statement you made was on May 25th, 2011 from the hospital; is that correct?
A. Yes, ma'am. I had been up for several days, couldn't sleep. So I'd been trying -- I'd been taking Benadryl and Benadryl, all kind of stuff trying to sleep. But I'd been worried about [redacted], that people was telling me she's getting better, but I hear from other people that she's not.
Q. Okay.
A. So I couldn't sleep.
Q. All right. On May 25th, were you taking Xanax on that

day?
A. No, ma'am, I wasn't.
Q. Were you smoking marijuana on that day?
A. Not then I wasn't.
Q. During that day, wasn't there some ---
A. Earlier that day we was all smoking weed.
Q. We was all smoking weed. Okay. That was at the house where the incident happened to [redacted]?
A. Yes, ma'am.
Q. Okay. But you're saying that you took a bunch of Xanax and smoked weed on June 2nd. So is that a reason for you not remembering that you signed -- gave a statement?
A. Yes, ma'am. I got my check June 1st and I blowed my money on stuff -- I was trying to sleep and stuff. I couldn't take it. My mama come over to my brother's house and alls I was doing was crying and stuff. I couldn't sleep.
Q. Okay. Let me ask you this. There is a part on this statement that you said it looks like you signed it. It says, no matter what happens I'm going to be the bad one. Then she can have her daughter back. What did that mean?
A. That means everybody -- and nobody ever had really liked me that much no way. I mean, I don't think any of -- anybody in her -- her friends or anybody really liked me because I was younger. I don't know. I don't understand

it. I don't think they liked me.
Q. All right. Now, you're telling the Court today that you had taken ten Xanax and smoking marijuana ---
A. Yes, ma'am.
Q. --- on June 2nd before the officers picked you up and you went to the detention center?
A. Yes, ma'am.
Q. All right. Now, the officer has testified that he asked you specifically were you on any drugs or medication or have you drank any alcohol? And you told him, no.
A. I was scared that I would get in more trouble if I told him I was on any drugs or anything.
Q. Okay. So there's a part on here that says that you threw a toy and hit [redacted] in the head. Do you remember telling him that?
A. No, ma'am.
Q. Do you remember telling him that she started crying and she started screaming and you tried to calm her down; you remember that?
A. No, ma'am, I don't remember it.
Q. You don't remember telling him she kept crying and screaming so that you covered her mouth until she quit crying?
A. No, ma'am.
Q. You don't remember any of that?

A. From what y'all have told me, that's it.
Q. All right. Do you remember telling the officer a story that she got choked on tea?
A. I remember that story.
Q. And that that story was told to the officer on May 25th, 2011?
A. Yes, ma'am.
Q. Okay. So why would you tell the officer, I'm sorry for the problems. Or did you tell them that?
A. I don't remember telling them that.
Q. Do you remember telling them, I'm sorry God created me?
A. No, ma'am.
Q. Do you remember telling them I don't deserve to live?
A. I don't remember none of that.
Q. So the statement that was read, that you don't remember making this statement?
A. I was happy with Ann. I was wanting to marry her. I was going to try to help her get her divorce so I could marry her and try to help her raise her kids.
Q. All right. Thank you.

CROSS-EXAMINATION

BY MS. HODGE:

Q. Mr. Johnson, when the police came to get you from Josh's house after y'all had been smoking reefer and doing

Xanax, you knew you had some left in your pocket; is that right?

A. (Affirmative nod.)

Q. Okay. And so you made the decision you shouldn't take that to the police station, that would be bad?

A. I had a couple of the Xanaxes. I ain't take the weed with me because I knew I couldn't get rid of it.

Q. Okay. So you knew that that -- it wouldn't be a smart move to take the weed to take the police station, that would be bad?

A. Yes, ma'am.

Q. But you could probably get away with taking the Xanax; is that ---

A. (Affirmative nod.)

Q. Okay. All right. And you're saying that your statement to the police, your first statement, you remember all of that and that statement is what you're saying happened in this case?

A. Yes, ma'am.

Q. Okay. So you're saying that you -- do you remember talking to the firefighters when they came to the house and everything, too?

A. I remember I got out -- I was in the bathroom. I come in there. She was not breathing. Ann hollered at me saying she's not breathing. I grabbed the cell phone and

she says, I don't know if we should call the police. We can revive her ourselves. Because we got reefer in this house. I don't want them to take my kids. I said, no, we need to call the police because something may be bad wrong that we can't fix ourselves. That's what I told her.

Q. Okay. And that's what you say you told the police, that first statement. And you remember all of that?

A. Yes, ma'am.

Q. Saying all of that? Okay. But you don't remember what was said when you were with Investigator Miller the second time?

A. No, ma'am.

Q. That's your testimony? Okay. All right. Now, there were some things you said to Investigator Miller before this *Miranda* waiver. Do you remember those things? Things about, again, stating you let the kids watch TV and you went into the bathroom and Ann was hollering while you were in the bathroom. Do you remember those statements?

A. I don't remember the second statement. About the only thing I remember is them coming to pick me up and telling me I had to come down here. I asked them if my brother could bring me because I was getting ready to go -- my brother was standing out in his yard and I was trying to -- I was going to ask him if he could take me. And they told me, no, you've got to go with us. So I said, hold on a

minute. And I went back in ---

Q. And you went and got rid of the reefer ---

A. Yeah.

Q. --- and you came back an went with them?

A. Yeah.

Q. All right. But I guess my questions is, do you remember anything that you said to Investigator Miller after you left Josh's house, any of those statements that you made?

A. I remember riding down the road talking about how it's cloudy. That's about it. And when I got there, I can't remember much more after that.

Q. Okay. And then there was some mention of Investigator Miller telling you that Ann got back with somebody?

A. Yeah, I remember that. That was right, that was during my -- I was telling my statement again, my first statement again. And he said, why you keep taking up for her? She's done got back with him.

Q. Okay. So you remember that part of it?

A. Yeah.

Q. Okay.

A. And then I went to the bathroom.

Q. And then you went to the bathroom. And how long were you in the bathroom?

A. Probably about five minutes.

Q. All right. And when you got out of the bathroom, then you came back into the office area with Investigator Miller, is that right when things started happening?
A. I started, started feeling really calm. Real, real, real calm. And now I -- and then I just can't remember what was said there. I couldn't remember it when I woke up in the jail. I couldn't remember why I was there.
Q. You're saying your memory left you as soon you walked out of the bathroom and went in the room with Investigator Miller ---
A. I don't remember nothing from that -- from when I went in there.
Q. Okay.
A. I don't remember it.
Q. Thank you.
THE COURT: Any redirect?
MS. MANIGAULT: No, Your Honor.
THE COURT: All right. Thank you, sir. You may step down. Any other witnesses from the Defendant?
MS. MANIGAULT: Your Honor, just a short witness. His brother Alex who observed him an hour before he was arrested.
THE COURT: That'll be your last witness?
MS. MANIGAULT: Yes, sir.
THE COURT: All right. Bring him in

THE CLERK: Place your left hand on the bible and raise your right.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE CLERK: Please have a seat. State your full name for the record.

THE WITNESS: My name is Alex Lee Johnson.

ALEX LEE JOHNSON,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. MANIGAULT:

Q. All right. Mr. Johnson, how old are you?

A. Thirty.

Q. Where do you live?

A. I live at [redacted] Pine Log Ford Road, Lot Number [redacted].

Q. And how are you related to James Allen Johnson?

A. Younger brother. He's my younger brother.

Q. All right. On June 2nd, did you see your brother?

A. Yes.

Q. And whose house was he at when you saw him?

A. June the 2nd, that morning, I seen him, him and two girls. I think it was [redacted] and another girl too, that morning they come over to my neighbor's house.

Q. Who's your neighbor?

A. Josh.
Q. Josh what?
A. His last name is Tony. I mean, her husband's name Tony and Sherry Stanton.
Q. Okay. And when you saw your brother at Josh's house, what was he doing?
A. Him and Ann was over there and then I think that girl that they was staying with come and picked them up later on in a green Honda.
Q. Okay. What was he doing at Josh's house, anything?
A. I don't know. They was in the house. I wasn't over there. I wasn't over there.
Q. All right. Did you see your brother before he got taken to ---
A. He come over to my house later on that evening, he was heavily intoxicated. I told him he couldn't come over -- come into my house right then. I told him to go the neighbor's house and sleep it off.
Q. Okay. You keep mumbling and dropping off. He came over to your house?
A. Yeah, he come over to my house about a hour before the police come and got him.
Q. Okay. And what was his condition?
A. He was heavily intoxicated. He was staggering around, falling around everywhere. Fell off my porch and

everything.
Q. Okay. Did you smell alcohol or anything on him?
A. I can't recall if I smelled alcohol, but I know he was intoxicated.
Q. Okay. So did you know what he was taking? Did you see him take anything?
A. I knowed for a fact he does drugs, illegal drugs, smokes marijuana. I knowed that. So that's what I figured he was doing.
Q. So you know for a fact he was smoking marijuana. Did you know anything about the Xanax?
A. I know that he takes Xanaxes sometimes, from time-to-time. I didn't know for a fact if he had any on him, but I know he had -- that he smoked marijuana and stuff.
Q. Okay. So you said it was about an hour before the police came to pick him up from the neighbor's house ---
A. Yeah.
Q. --- he was heavily intoxicated?
A. Yes.
Q. All right. Thanks. Have a seat.
THE COURT: Have a seat. She's got cross-examination.

CROSS-EXAMINATION

BY MS. HODGE:

Q. It'll be quick. You won't have to stay too long.

A. All right.
Q. But that was one hour before the police came; is that correct?
A. Yes.
Q. Okay. And how much time did you spend around him, just enough to see him stagger and stumble?
A. I'd say I was out in the yard with him for a little bit and then I told him I had to go. And he went to the neighbor's.
Q. He went over to Josh's?
A. Yes.
Q. So you were not at Josh's ---
A. No, I wasn't at Josh's.
Q. --- when the police showed up?
A. No.
Q. Or any of that?
A. All I know, he called me when the Investigator -- when he was down there at the Investigator Office.
Q. When he was down at the Investigator's Office, he called you from ---
A. His cell phone. While they was arresting him, they let him make a phone call on his phone.
Q. Okay.
A. He called me and told me he was being arrested.
Q. Okay.

A. And I said -- I asked him why was he down there at the police department? Because by law he was supposed to have his -- what do you call that? Legal guardian present during questioning.

Q. How old is he?

A. He's only twenty-something. But he is not allowed to live by hisself or nothing.

Q. Okay. All right. But he called you from there and so he was able to tell you that he'd gotten arrested and tell you that he'd given a statement and that kind of stuff when they questioned him?

A. No. He told me he was being arrested. He didn't know why. That's all he told me. And then the investigator got on the phone and said he'd been arrested.

Q. All right. Did he tell you he gave a statement or he talked to them or anything like that?

A. No. The investigator didn't tell me nothing.

Q. Okay. How about your brother? Did he tell you anything about ---

A. No.

Q. But he just told you that he was being arrested?

A. Yes.

Q. All right. And you understood that?

A. Yeah. I knowed -- when he told me he was being arrested the investigator said, he's got to get off the

phone; he's being arrested.

Q. Okay. All right. Thank you.

THE COURT: All right.

MS. MANIGAULT: We have no other witnesses, Your Honor.

THE COURT: All right. Anything in reply from the State?

MS. HODGE: No, Your Honor.

THE COURT: All right. Let's take a belated lunch break. And if we can let's try to be back about five till, and that'll be about twenty-five minutes for a quick bite to eat and we'll be ready for them about three. I'll weigh my notes and look over the report from Dr. Frierson and be ready to start back then. Be back at five minutes till three.

(WHEREUPON, the court stood at recess for a lunch break.)

THE COURT: All right. I've reviewed my notes and looked at the evidence on the *Jackson versus Denno* hearing. Obviously, at this stage, it's based upon a preponderance of the evidence. And weighing all the testimony, what I've heard, I find the statement was freely and voluntarily given, all the statements. And they will be admissible. Of course, I'll instruct the jury that they make the ultimate decision as to the value of any

statements that are given. But I believe that weighing all the evidence I've heard that they were freely and voluntarily made by Mr. Johnson in the course of the investigation by the officers.

I have also had a chance to review my notes from Dr. Frierson and reviewed his report in its entirety and read it during our short lunch break. I believe his testimony was totally consistent with what he said in his evaluation of nearly a year ago. And I believe there is no evidence that the Defendant's not competent to stand trial in this case. So I'll endorse the testimony and the statement made by Dr. Frierson.

All right. Any other matters we need to take care of before our jury comes in?

MS. HODGE: Not from the State, Your Honor. We do have a 9-1-1 call as our first witness. I just wanted to make sure my tape was working.

THE COURT: All right. Do you want to do a trial run before we bring them out.

MS. HODGE: Yeah. That'll be great. It always messes up when they come out.

THE COURT: How long is it?

MS. HODGE: I think it's about six and a half minutes.

THE COURT: Okay. Well, make sure it starts.

We're not going to ---

MS. HODGE: Right. No, no, exactly. If I can just get it started. Thank you.

THE COURT: All right. Okay. If our jury's ready, you can have them come in.

(WHEREUPON, the jury entered the open court at approximately 3:05 P.M.)

THE COURT: Thank you very much, ladies and gentlemen. We're now ready to proceed with the trial of the case. The attorneys are going to make their opening statement to you. I need to inform you that what the lawyers have to say to you in their opening statement, what they'll say to you later in their closing statement is not evidence. The evidence is going to come from testimony from the witness stand, from exhibits and other documents that may be introduced. While this is not evidence, I urge you to listen carefully as each of these attorneys address you. I'm confident that each of them can give you a valuable insight to help you as the case develops, to be alert to evidentiary matters or others that may proceed during the course of this trial.

Before they make their opening statements, I'm going to have our clerk administer an oath to you. I hope you'll listen carefully as this oath is given to you. It's a time-honored oath. It's been in existence since well

before the foundation of our country where jurors such as yourselves have taken the oath to try a case in the court system of our country and our State of South Carolina. So as the oath is administered, I urge you to weigh the words carefully. I'm sure you'll fulfill that oath. After the oath is administered then the opening statements will begin.

You may swear the jury, madam clerk.

THE CLERK: Rise, please. Raise your right hand. The correct response to the oath is, I will.

You shall well and truly try the case 2011-GS-23-7262, State versus James Allen Johnson, indicted for homicide by child abuse, and a true verdict render according to the law and the evidence, so help you God.

(WHEREUPON, the jury was duly sworn.)

THE COURT: Solicitor, you may address the jury in your opening statement.

MS. HODGE: Thank you, Your Honor. May it please the Court. Ms. Manigault.

OPENING STATEMENT

BY MS. HODGE:

Ladies and gentlemen, you've been selected on a case that's going to talk about two things that people don't like to talk about. The first is death. It's sad. It's upsetting. We just don't want to talk about it. The

second is guilt. Guilt being the acceptance of responsibility for one's bad acts. We don't like to talk about that either. When it comes to death, we make up more pleasant sounding terms, euphemisms. Aunt Suzie did not die; she passed away. She's not buried; she's laid to rest. She's not in a hole in the ground; she's in a memorial garden. We try to make it more palatable.

Same thing goes for guilt. Nobody wants to talk about their dirty, ugly deeds and they want to make it sound better. They want to say, oh, that was an accident. I didn't mean to do that. I made some really poor choices. I just made a mistake. Finally, they want to shift blame. It wasn't me; it was her. I didn't do that, but if I did it was because they made me or I was on drugs or alcohol or some other reason, so it's not my fault.

This case is about death. It's about the death of a twenty-month old little baby girl. And it is about guilt. It is about the Defendant's wrong, evil acts that caused the death of this child. This child was vulnerable and defenseless, waiting for somebody to take care of it basically. And the Defendant acted intentionally and maliciously, knowing full and well you don't hit kids, you don't punch kids, you don't throw things at kids, you don't beat kids, and you certainly don't suffocate them to death.

The evidence is going to show that the Defendant,

James Allen Johnson, did those things and that he caused the death of [redacted]. The evidence will show that the Defendant met [redacted]'s mother, Ann Sprouce, Georgia Ann Sprouce, but she goes by Ann. They met in early 2011 and that they -- within a day or two of meeting each other, he moved into her apartment. She also had her two little daughters living with her. She had an older daughter who was two and a half; her name is [redacted]. And then she had [redacted] who was about eighteen months old. And the evidence will show that after some short period of time of them living together, being boyfriend/girlfriend, the mother, Ann, would leave the girls with him. She would go off and do various things, leaving him alone to take care of these girls.

The evidence is going to show that around May of 2011, some three, four months later, they moved from that apartment into a friend's house, a woman named Crystal Inman. And that while at that house, again, the mother continued to go off and leave the little girls with him alone, sometimes one, sometimes both. And that about a week before [redacted]'s death, there were some real suspicious bruises popping up on her face and head. The evidence will show that the mother did ask the Defendant, what's going on with that because after I leave, when I come back home, she's got these bruises. What's going on?

And the evidence will show that he came up with a lot of good excuses, that, oh, this little girl just falls a lot. She falls and falls. It's not his fault. It's her own fault. And then her sister, that two and a half year old, boy she really -- she hits her with stuff. She hit her with these beads. Yeah, that's what caused all that. So, again, somebody else's fault. Or she fell off a step because there's no lock on the door at this house. The homeowner's fault. Lots of blame shifting.

The evidence will show that unfortunately the mom didn't really do much with that information. In her heart of hearts, I think she knew that he was abusing the little girl and she just didn't really change anything about that. She accepted what he gave her and she continued leaving the girl in his care and custody until May 25th, 2011, when the worst thing that could possibly happen, happened. He killed her.

The evidence will show that on that day, around three-twenty in the afternoon, 9-1-1 received a call about a child choking. And that within five minutes or so, they're on scene attempting to administer CPR and help. But the EMS workers and firemen will tell you when we got the there, the story of a child choking was not the case. They came into an already dead, unresponsive, pulseless, colorless child that had multiple bruising about her head

and face and on her body. And they will tell you that they attempted CPR, immediately scooping her up, taking her to the hospital. And that, you know, they did a great job. They were able to get a pulse back on this child but it was too late. She was kept on life support and she stayed that way for about two days. When they finally took her off life support, she was declared brain dead and died.

Now, during this time period, you've got about forty hours, forty-five hours, police, social workers, doctors, nurses, everyone's questioning the two people that had care of this little girl; the mother and the Defendant. And the EMS and firemen will tell you initially the Defendant started off separating himself. I was in the bathroom. I don't know how she got this way. And the mother will say, because she will testify and you will hear from her, oh, she choked on some tea, got sick, threw up and there she is. Every medical person that came in contact with that child knew that was not true. And then there were all the bruises. How were those being explained? Not very well. Through this time the mother and the Defendant, once they reached the hospital where they child was, separated ways. And I think the mother knew at that point the Defendant had done something, but she just wasn't sure what and she continued to maintain that, oh, I guess the child choked on tea. Choked on tea. First, she stated, I was there with

him and the child choked on tea. Then her story morphed. Well, I was really washing dishes and he was in the room with the little girl and I heard her choking, and then she went unconscious. To finally, after the child was laid to rest, like that euphemism, died, dead, after the mom had been at the mortuary, she finally decided it was time to come clean, to stop covering for him and to accept her responsibility in this piece. Because she knew that the child was being abused, she continued to let the child be in his care. And she was scared and she didn't say at first. But the fact is, she wasn't even in the room. She was asleep in a back bedroom, again, giving him full care of this child. And she was right. But she had been wrong, she was getting ready to accept some consequences for that and she was charged with homicide by child abuse, aiding and abetting. And she is not on trial today. She pled guilty to that charge. She will be here to testify, to tell you why she said the things she said, and what happened that day.

You will also hear medical evidence that's going to come from the hospital. We have child abuse specialists here in Greenville. You will hear from Dr. Mary Fran Croswell. She will talk about all the multiple injuries that this child had, how they were non-accidental, highly suspicious. And then, also, you will hear from the

forensic pathologist who did the autopsy. And he's going to tell you this child had over twenty bruises on her head and body, and you're talking a body about this big. And that she died from suffocation. Hand over mouth and nose for an extended period of time causing her to have lack of oxygen to the brain, traumatic brain injury, which caused the swelling, shut down the central nervous system, put her in cardiac arrest.

One key piece of evidence you'll hear from the medical examiner and one thing that's common in child abuse cases where suffocation or smothering happens, is there is a torn frenulum in this little girl. And the frenulum is the little piece of skin between your top lip and your jaw. You also have one on the bottom. But the medical examiner will tell you that's very key in his analysis of the manner of death because that was pressure, extreme pressure placed over the mouth, with someone struggling against it, Victim, and it tearing.

At the conclusion of the evidence the State feels convinced that you will be able to find the Defendant guilty of the charge of homicide by child abuse. I'm going to apologize to you now because you're going to hear some things and you're going to see some things that are not pleasant. The truth about death and guilt, it's not pretty. It's ugly. And it's a little disturbing. But the

State's not going to rename it, not going to re-characterize the guilt, not going to give a euphemism for anything or accept an excuse for anything. And you, the jury, will be able to go back to your jury room and render a verdict that speaks the truth in this case, which is the truth of guilty. Thank you.

THE COURT: Ms. Manigault you may address the jury in your opening statement.

MS. MANIGAULT: Thank you, Your Honor, may it please the Court. Ms. Hodge.

OPENING STATEMENT

BY MS. MANIGAULT:

Ladies and gentlemen, again, my name is Dorothy Manigault. The Court has given you general information about the procedure and process in a jury trial. And the Judge has already told you that he is -- you are the trier of the facts and he's the Judge of the law. And one legal premise that our system operates on is that a person is presumed innocent until proven guilty with evidence presented by the State of South Carolina in the County of Greenville, the Solicitor's Office, this case, Ms. Hodge. Witnesses come in to testify. The presumption of innocence remains with an individual. All the evidence has to be heard. The Judge has to charge the law in the case to apply to the facts and the charge. And then he sends the

jury to the jury room with the evidence and you begin your deliberation. That is the point when twelve jurors reach a decision or an agreement one way or the other, for guilty or not guilty. The presumption of innocence remains throughout the entire trial. You'll hear the testimony of various witnesses. You cannot and should not make a conclusion until -- a decision until the entire trial is concluded, until the Judge has given you the law and until he has sent you to the jury room to deliberate.

The Solicitor mentioned something about shifting blame. Well, anyone trying to lessen their involvement in a charge, yes, they're going to be shifting blame. And you may hear that from some of the State's own witnesses. So the premise we want you to operate under is presumption of innocence, reasonable doubt, the weight of the evidence. The Judge will charge you on everything that you've heard and ultimately tell you that the decision is yours as twelve people to come to a verdict, an agreement. And he will tell you at the end that that agreement must be unanimous. So the Defense is asking you to please listen very carefully to all the witnesses and we think that you will make an appropriate decision at the end of the trial. Thank you.

THE COURT: The State may call its first witness.

MS. HODGE: Thank you, Your Honor. The State

calls Renee Buford.

THE CLERK: Raise your right hand.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I will

THE CLERK: Please have a seat and then state your full name for the record.

THE WITNESS: Rhonda Renee Buford.

RENEE BUFORD,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Ms. Buford, who are you employed by?

A. Greenville County Sheriff's Office.

Q. And how long have you been with them?

A. Eighteen years.

Q. And what are your duties with the Sheriff's Office?

A. I do 9-1-1 research and quality assurance for all of our calls, radios and any incoming audio into our room.

Q. And so you were then working in that same capacity back May 25th, 2011?

A. Yes, I was.

Q. And can you give us a brief overview of what happens when a person calls into 9-1-1?

A. If a person calls 9-1-1 on a 9-1-1 line, it

immediately starts recording prior to the dispatcher picking up. All of our calls are recorded simultaneously and automatically. Everything that comes into our dispatch center is recorded.

Q. And where does the call go from there? As you say, it came in on a 9-1-1 line. What's the difference of the different lines?

A. We have 9-1-1 lines and then we have what we call seven-digit lines, which is your -- you know, you would have to dial seven digits to get into the dispatch center. We consider those our non-emergency lines. Those are recorded. On the seven-digit, they start recording at the time our dispatcher picks up. But our 9-1-1 starts recording after the person hits the last 1. It immediately starts recording at that time. And then all of the calls are recorded and maintained on a recorder.

Q. And is that -- the upkeep of that equipment part of your job responsibility and duties?

A. Yes, it is.

Q. And was the sheriff's office recording 9-1-1 calls back in May 25th, 2011?

A. Yes, we were.

Q. There was a CD in here? I'm showing you State's Number 1. There was a CD in this case.

A. Okay.

Q. Did you just come to Court a few moments ago and listen to a copy of what was in State's Number 1?
A. Yes, I did.
Q. Okay. And what is that or what was inside of here?
A. It was a CDR. The disk in here and it had the case number on it, along with my initials where I listened to it and the date, today's date where I viewed it and verified it corresponded with our CAD report of the incident itself.
Q. So is it a copy of the 9-1-1 call that was placed on the date of this incident that we're here about?
A. Yes.
Q. All right. And the case number being 2011-74615?
A. Yes, it was.
Q. Okay. And were there any alterations or deletions or anything amended in that recording?
A. No, there was not.
Q. So it's a true and accurate copy?
A. Yes, ma'am.

MS. HODGE: At this time, we'd move to admit State's Number 1 into evidence.

THE COURT: Any objection?

MS. MANIGAULT: None, Your Honor.

THE COURT: Without objection State's Exhibit Number 1 is admitted and may be published to the jury.

(WHEREUPON, State Exhibit Number 1 was admitted into

evidence.)

MS. HODGE: Thank you, Your Honor.

Q. And one other question, Ms. Buford. When does the recording end? What happens to make the recorded call end?

A. Both parties hang up. If one party hangs up then it continues to record. If the incoming call hangs up first, our dispatcher, if they do not hang up, of course, it's just the dispatcher being recorded. But if our dispatcher hangs up, it continues to record the outside line until that side of it is disconnected.

MS. HODGE: At this time we'd like to publish the 9-1-1 call.

(WHEREUPON, State Exhibit Number 1 was published for the jury.)

Q. Is that the only 9-1-1 call that came in under this case number to your knowledge?

A. Yes, ma'am.

Q. Thank you. Answer any of Ms. Manigault's questions.

MS. MANIGAULT: I don't have any questions, Your Honor.

THE COURT: All right. Thank you. You may step down.

MS. HODGE: May she be excused, Your Honor?

THE COURT: Without objection ---

MS. MANIGAULT: No objection.

THE COURT: --- this witness may be excused.

MS. HODGE: The State calls Phillip Reynolds.

THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat and then state your name for the record.

THE WITNESS: Phillip Bradley Reynolds.

PHILLIP REYNOLDS,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Mr. Reynolds, who do you work for?

A. Lake Cunningham Fire Department.

Q. All right. And I'm just going to make sure you keep your voice up. If you need to move the mike you can. But we want to make sure this gentleman back here in the very back and everyone can hear you back here, all right?

A. Yes, ma'am.

Q. Thank you. How long have you been with Lake Cunningham Fire Department?

A. Five years.

Q. And is that your full-time job?

A. Yes, ma'am.

Q. So what are your duties and responsibilities there?
A. We run medical, fire and any type of rescue operations in our district.
Q. Where are you located?
A. Greer, South Carolina, along Highway 101.
Q. And would [redacted] Fews Chapel Road be in your jurisdiction or district?
A. Yes, ma'am.
Q. Tell me what type of training or certifications you have for firefighting and emergency response?
A. We go through an extensive fire academy down in Columbia or around the area. And it's about three hundred hours basic firefighting techniques and things. We also have our first responder. At the time, I was an EMT and that was another three hundred and something hours of classroom and practical work as well.
Q. All right. Did you have an occasion to respond to service on May 25th, 2011 on [redacted] Fews Chapel Road?
A. Yes, ma'am.
Q. And why were you responding there?
A. We were dispatched to a choking call.
Q. What time did that call come in?
A. At three twenty-two is when we were dispatched.
Q. Is that afternoon or evening?
A. I'm sorry. Evening.

Q. In daylight?
A. Yes, ma'am.
Q. Okay. Not three twenty-two in the morning or anything?
A. P.M.
Q. P.M., okay. And what time did you guys get there?
A. Three twenty-six P.M., within ---
Q. So approximately four minutes, five minutes?
A. Three, yeah, four minutes.
Q. Who was with you that day?
A. Our driver was engineer Jerry Bonham and a fellow firefighter, Matt Horne.
Q. And were y'all driving the fire truck or something else?
A. Yes, ma'am, we were in our Engine two, Station two, near Blue Ridge High School.
Q. And who was there when you arrived?
A. There was a car up the driveway with three other children inside the vehicle and there was a woman -- I'm not sure exactly who she was -- in the driveway, near the car at the time we arrived on scene.
Q. And what did you do when you got there?
A. I got out and proceeded up the driveway while Matt Horne retrieved the equipment out of the truck. As I approached, she rounded the back corner and I saw the front

door, so I initially went to the front door to try to enter the house, which was locked. As I knocked on the door, one of the children in the car stated for me to use the back door, that's how to get into the house. So I ran back down the steps and rounded the corner, into the house. And I kind of had to find my way around, because at that time there was nobody kind of leading me. She had already went in the house in front of me. And once I entered the room, I saw the child laying on the floor.

Q. All right. Were there any other people in the room with the child?

A. Yes. I noticed the mother was doing -- she was on the phone and was doing chest compressions with the heel of her palm. And the Defendant was doing mouth-to-mouth rescue breathing on the child.

Q. Let me show you a couple of photographs. I'm going to show you what's been marked as State's Number 2, Number 3, and Number 4, and ask you if you recognize those pictures?

A. Yes, ma'am.

Q. Okay. What are those pictures of?

A. That's the -- what we refer to as the AB-corner. The A-side of the house is towards the road, and the B-side is directly to the left of the house. So that would be a picture of the AB-corner.

Q. And that's Number 2?

A. And this is the living room in which we entered and found the child in the floor.
Q. Okay. That would be State's Number 3 and State's Number 4?
A. Yes, ma'am.
Q. And are these true and accurate depictions of the house and the room that you entered?
A. Yes, ma'am.
MS. HODGE: At this point we would move to admit State's 2, 3, and 4.
THE COURT: Any objection?
MS. MANIGAULT: No objection, Your Honor.
THE COURT: Without objection, Exhibits 2 through 4 admitted and may be published.
(WHEREUPON, State Exhibit Numbers 2, 3 and 4 were admitted into evidence.
MS. HODGE: Thank you, Your Honor.
Q. This is State's Number 2. I think this is working. If you will, tell us where your truck -- if you can see or if you need to move down, that's fine, too. Just make sure you keep your voice up if you want to get down from the seat. But where did the fire truck pull up or where did you get out and then where did you go?
A. The road -- Fews Chapel Road actually ran more -- I guess it would be down here. I mean, way down here. You

have to go up the driveway a good probably -- I'm not even good at guesstimations. So, I mean, it was -- you have to go up the driveway, which was over here. And it ran down to the main road, which then was way down here. I would guesstimate two hundred foot, I mean, three hundred foot maybe. I'm not real good with guesstimations, so ...

Q. Okay. Which door did you attempt to go in first?

A. I attempted to go up the steps. The car would have been back here. And there was kind of like another little driveway back here. And then you've got this little pad here. And when I first came up, I saw the woman, she kind of rounded this back corner. But typically, when we try to go to a house, we take the first door that we come to. And that was -- I proceeded up the steps and tried to open the door, which was locked. So then I kind of turned around. And when I turned around, there was a child here. And he told me to use the back door. So that's when I came down, back and went to the back.

Q. And the layout of this house, can you give me a description and what ...

A. When I entered the back of the house, it's kind of vague. I know I entered in, I believe the -- it was this front room is where the child was. But I know I came up and went around a couple of corners and ended up finding her on my own.

Q. Okay. But there are several doors and different doorways ---

A. Yes, ma'am.

Q. --- kind of chopped up?

A. Yes, ma'am.

Q. Okay. And I'm going to put up State's Number 3. And I know there's a little bit of glare on here, but can you show us who was where and ...

A. The mother was over here and the Defendant was here. And the child's head was here and body was here. She was laying on her back. And then that's all I saw in the room at that time.

Q. All right. Now, it looks awfully bright in that room. Was it that bright?

A. No, ma'am. It was -- there was a ceiling fan or a light somewhere back here that we tried to get turned on but it -- we couldn't get it to turn on, so ...

Q. All right. And what did you do? Once you went in and found the child, what did you do next?

A. When I first walked through the door, we try to form a general impression of what's going on with the child, with anybody. I noticed they were already performing CPR, so that was kind of, you know, I needed to make it quick and in a hurry what I was going to do. When I got to her, I went ahead and did a simple assessment. And when I

performed it I noticed that, you know, she had multiple bruises on her body and in the forehead area. And then after that, I started noticing the patient's -- the color. She was losing color in the arms and chest and she was pale colored. Her eyes were unresponsive to the light. I looked and listened for a rise and fall of the chest just by doing -- I put my ear down to her mouth. As I did a head tilt, where I put my hand to her forehead and tilt with two fingers on the chin to open up her airway to see if I could hear or feel any air and there was none. At that time, I checked her right brachial, which is in her arm. And then I checked her femoral artery in her leg. And then after that, I checked her carotid to find no pulse. And so at that point, I deemed her in cardiac arrest and notified dispatch.

Q. And had your partner come into the residence at that point?

A. Matt had came in at that time and I told him that she was in cardiac arrest. He initialized chest compressions with the palm of the hand while we were setting up the BVM, or bag valve mask to begin breathing for the patient.

Q. You stated that you immediately noticed the bruising on the head. Did you document what it was that you saw?

A. Yes, ma'am. The bruises ranged from, as far as on the head and body, the biggest ones I noticed were the multiple

bruises on the face and forehead. They ranged from the size of a pencil head to quarter-sizes plus. The two main ones, one was in the center of the forehead and was similar to the size of a half-dollar. And it was basically about the center of the forehead here. The other one was over the left eye and it was a little bit smaller but larger than a quarter from what I could tell. But they were flesh colored. There was hardly any color to them at all.

Q. Do you recall if the child had any clothing on at this time?

A. The only thing the child had on was a diaper.

Q. Did you know if this was a boy or a girl or anything like that at this point?

A. I did not. I mean, no, ma'am.

Q. Did you know a name or anything?

A. I asked and they told me her name was [redacted], at the time.

Q. And what -- did you ask any questions of the adults in the room?

A. After they had got the bag valve mask assembled, I started breathing for the patient. Matt then was doing compressions and I was doing the breathing for the child. And as that happened, the Defendant stated, you can't go to the bathroom without watching your kids anymore. He stated that the patient took a drink, choked and then vomiting

occurred and then Victim went unresponsive. Closely, after that time, the mother came in and asked if the child was going to be okay. And, you know, we've been instructed to just kind of stay away from that aspect of the things in a case like this.

Q. So the Defendant is the one that made the statements about how she came to be the way she was?

A. Yes, ma'am.

Q. All right. And then did he stick around and stay in the room or what happened?

A. After that he -- I never saw him in the room again. The mother either. After we came in and started chest compressions and breathing for the child, that was the last I seen of them.

Q. What can you tell us about their demeanor? First, let's start with the Defendant and then go to the mother?

A. The Defendant was -- seemed to be a little fidgety at the time. And then after everything kind of happened, you know, I saw him walk by me. I thought he would still be in the room, but then when I got up to leave, he was gone. I mean, we were only there for minutes, it seemed like. So -- and then the mother -- cases before that I've had, she's been more -- I've had mothers before with pediatrics to be clearly upset, and neither one at the time seemed to be upset.

Q. Was it unusual to you how they were responding?
A. It was a flag.
Q. So what did you actually do for the child?
A. It's hard to tell right here, but there were some towels laying in the living room area. I took those and folded them and them under the child. A child, unlike an adult, has a harder time maintaining their airway when you do a head tilt chin lift. You have to have something underneath the back just to kind of raise their back up because their head's larger. You know, it's larger in proportion to their body. So I folded the towels and set them there. And I realized that that wasn't enough to stabilize her airway. So there were some unused diapers over here and I just took a couple more of those and placed them under there and it made her airway just kind of fall open to where it would stabilize on its own. At that time, the airway was secured as far as that goes. And I started to breath for the child. Matt was doing compressions. And we got through maybe one round of two and thirty and the paramedics walked in.
Q. And when you and/or Matt were giving the air -- were doing the breathing, were you able to get air in?
A. Yes, ma'am. We had adequate rise and fall of the chest. And I was able to move that and -- yes, ma'am.
Q. So did that signify anything to you about the airway?

A. After we were setting this up and before we started breathing, with the choking, the first thing you want to do before you start breathing for the child is to assess the airway. When he said that she choked on a piece of ice or the tea, I figured that I needed to go ahead and check for that just to make sure if there was any vomiting that occurred, like happened, that it was clear of that airway. When I checked it, I saw no traces of vomit or any type of residual.

Q. Now, did he say that there was ice or were you assuming that from ---

A. I'm sorry. I assumed that.

Q. Okay. He did not say anything about ice?

A. I figured if it was iced tea, you know, there might be a piece of ice or something like that, you know.

Q. Because liquid generally would not occlude an airway? Unless you're in a pool or something like that?

A. Correct.

Q. All right. Did you notice any spillage or any ice or anything around the child?

A. No, ma'am. The only thing I noticed, and you can't even really see it here, there's like a spot somewhere over in this area, but it was nowhere near the child. And I mean it could -- I mean, I'm guessing that's where they said she vomited. But, I mean, it was too far away from

the child for me to even really -- I was more focused on her at the time.

Q. Okay. Your main focus is giving care?

A. Correct.

Q. Not investigating what happened?

A. Correct.

Q. All right. So EMS arrives and what happens then?

A. As we were finishing up that first round of compressions and breathing for the child, the transport unit got there with the QRV at about the same time. And Paramedic Kay asked if the child was in cardiac arrest. And, you know, I confirmed that she was in cardiac arrest to him. And he stated, let's get the baby out of here. You know, let's go, you know, as quick as we can. So that's when I, you know, I picked her up, cradled her head in my arm, you know, to try to just support her back. And I tried to continue to do compressions as we went out the door, even though we weren't breathing for the child. We weren't wanting to try to stick around and, you know, bring a stretcher in, all that other stuff. So I just figured I'll stabilize her with my hands and my forearm, do compressions as well as I can, get her in the back of the ambulance where they can start better care for her. And at that ---

Q. And as you -- go ahead.

A. No, go ahead.
Q. As you did that, did you see the Defendant or the mother come back around?
A. No, ma'am. We went out the back door the way we came in and I never saw them.
Q. And what did you do after you put the child in the ambulance?
A. Well, we went to the ambulance and I laid the child down and turned over care to the medics. They stated that they needed to driver her to the hospital. And I volunteered to drive them to the hospital. So I jumped in the driver's seat and ...
Q. Did y'all head out?
A. Headed out.
Q. Straightaway?
A. Yes, ma'am.
Q. All right. Had any police officers arrived by the time you were taking the child to the ambulance?
A. When we were leaving the resource officer from Blue Ridge High School, which is not even two minutes down the road from the residence, he was there and I briefly noticed him. And I think there was another patrol car there as we were leaving. And I'm not sure who that was.
Q. Did you speak to any police officers to tell them what was going on?

A. No, ma'am. I mean, we were really what they would call load and go. You just grab the patient and pretty much get them to the hospital as fast as you can.

Q. Let's talk about CPR techniques. You mentioned that you observed the mother doing the heel to chest compression?

A. Yes, ma'am.

Q. All right. And is that also the technique that you guys used?

A. Yes, ma'am.

Q. And while you're doing CPR, you're also manipulating a little bit of the face and head?

A. Correct.

Q. Any of the CPR techniques that you used, would they have left any bruising or marking on this child?

A. No, ma'am.

Q. How about anything on the face or forehead?

A. No, ma'am.

Q. And what about her nose or mouth area?

A. No, ma'am.

Q. What about her back or her sides?

A. I actually never even checked her back. I mean, I put my arm underneath her back, but, no, ma'am.

Q. And there is another -- there is another type of CPR, but that was not the kind, the two-handed approach, y'all

---

A. The two-handed method is for an infant and that's basically when -- if you can imagine just wrapping your hands around the back of the child and then your two -- both of your thumbs on top of the child's sternum. But this child was one. She was more what we would classify as a pediatric instead of an infant.

Q. And which hospital did you guys go to?

A. Greer Memorial Hospital.

Q. So the closest facility?

A. That was the closest facility and they just told me to drive there, so ...

Q. You were just told to drive?

A. Yeah, I was just told to drive.

Q. You were just going where you were told?

A. Yes, ma'am.

Q. You were not providing any more care now. You were the drive; is that right?

A. That's correct.

Q. Okay. And once y'all got to the hospital, did that end your involvement in this case?

A. Yes, ma'am.

Q. Thank you. Please answer any of Ms. Manigault's questions.

THE COURT: You may cross-examine the witness.

MS. MANIGAULT: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. You testified that a woman walked into the house in front of you?

A. Yes, ma'am.

Q. Was that woman in the room while you were working on the child? Do you know where she went?

A. No, ma'am. When I passed her in the house after I got inside the house, but it was not the mother. I know that. The mother was on the phone when I entered into the room and I wasn't real sure who she was.

Q. And you stated that when you started working on the child, that the mother and Mr. James Johnson stepped aside?

A. Yes, ma'am.

Q. And you believe that they left the room because he walked past you?

A. Yes, ma'am. When he walked -- we were there for approximately four or five minutes working on the child. And when we first got there and started our initial impression and started our CPR and everything, he walked by us. And within the four minutes of that occurring, when I grabbed the baby up and left, he was no longer in the room. So ...

Q. Okay. And the mother wasn't in the room either?

A. No, ma'am.
Q. Now, did you ask any questions to Mr. Johnson?
A. No, ma'am. The information he gave me voluntarily.
Q. Voluntary statement. And did the mother ever say anything to you about what happened to the child?
A. No. She just asked me if the child was going to be okay.
Q. Now, you stated that when you went into the room, your first general impressions were -- your observation was the mother was doing heel compressions on the chest and ---
A. Correct. She was using the palm ---
Q. Palm?
A. Palm ---
Q. Palm.
A. --- heel technique where you use the palm of the hand.
Q. Okay. The palm of the hand. And Mr. Johnson was doing mouth-to-mouth?
A. Yes, ma'am, that's correct.
Q. All right. Thank you.

MS. HODGE: I have no further questions.

THE COURT: All right. Thank you. You may step down.

MS. HODGE: May he be excused, Your Honor?

THE COURT: Any objection?

MS. MANIGAULT: No objection.

THE COURT: Without objection this witness may be excused. Thank you, sir.

MS. HODGE: The State calls Matt Horne.

THE COURT: This witness may be excused.

MS. HODGE: The State calls Phillip Reynolds.

THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat and then state your full name for the record.

THE WITNESS: Matthew Horne.

MATT HORNE,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Mr. Horne, who do you work for?

A. Lake Cunningham Fire Department.

Q. How long have you been with them?

A. This November will be four years.

Q. And is that your full-time job?

A. Yes, ma'am, it is.

Q. Are you also in the military?

A. Yes, ma'am. I'm in the South Carolina National Guard as a firefighter also.

Q. And what type of training and certifications do you have for your job?

A. I have right at three hundred hours of initial training in fire first response, and motor vehicle accidents through the South Carolina Fire Academy, various leadership classes and aircraft rescue firefighting within the military. And I'm a first responder.

Q. So were you employed in that same capacity back on May 25th, 2011?

A. Yes, ma'am, I was.

Q. And did you have an occasion to respond to [redacted] Fews Chapel Road?

A. Yes, ma'am, I did.

Q. And were you with firefighter Phillip Reynolds at the same time?

A. Yes, ma'am, I was.

Q. Did y'all ride in the same truck?

A. Yes, ma'am, we did.

Q. Tell us what you did and what you observed when you arrived at this location?

A. Upon our initial arrival, we parked at the road. We normally do that so that EMS can get their vehicles up in the driveway if possible. I let Phillip go ahead, started going to the house to start patient care and I'll grab the medical bags, the oxygen and the suction device, which is

standard procedures on any cardiac arrest type call. And with it being a choking, we assume the worst. That's why I grabbed all the materials. I started up the driveway. And noticed who I later found out was the mother. And she was asking me if she'd be able to ride to the hospital with the child. I told her we'd worry about that when EMS got here. But more than likely it would be no problem. She'd just have to ride in the front. I proceeded in the house at the front door, which is unlocked at this time. I seen Firefighter Reynolds inside. I asked him, I said, do you have a cardiac arrest? He said, yes. At that time, I began helping him with the CPR by doing chest compressions.

Q. When you entered the room and found Firefighter Reynolds, did you see the Defendant in the room?

A. I do not recall seeing him, no, ma'am.

Q. And is that photograph behind you, State's Number 3, is that the room that you entered?

A. Yes, ma'am.

Q. Was there a door that went straight into that room?

A. Yes, ma'am. I would say it was more back up this way. It goes back out onto the front porch.

Q. Okay. If you need that.

A. All right.

Q. And you were bringing in the equipment?

A. Yes, ma'am.

Q. And where did you see the child to be and Firefighter Reynolds?

A. Firefighter Reynolds and the child was down along this area, like he said. The towels was initially somewhere in this area. And then he'd done moved one of the towels over to the child to elevate the child, to open the airway up more, as I had got in there. And then I proceeded to hand him the unused diapers because he said he needed more elevation. And it was right there by where all of this stuff was lying.

Q. Okay. And what did you notice about the child when you got in there?

A. The first thing I noticed was all the bruising. I mean, it was very apparent that it was nothing that had just happened. There was some, like Firefighter Reynolds just said, there was some large bruising that you could tell that may have been there for a while. There was some very faint bruising that was slightly smaller at the time, that looked like it may be fresh. It hadn't started coloring over yet. I'm not really sure what was going on. I seen the child was completely naked, minus a diaper, which I found kind of strange. And we couldn't figure out really at the time what the choking had came from. So I kind of tried to look around as I was doing my chest compressions to see if I could see anything that maybe

looked out of the ordinary. At the time, I really didn't see anything that seemed out of the ordinary.

Q. Anything around where the child was lying that gave you any clues as to what she might have been choking on anything like that?

A. No, ma'am. I mean the only thing I seen was these two cups right here as a possibility. But, I mean, from where I was sitting doing the chest compressions, the cups did not look wet, like having moisture on them where maybe ice had kind of melted over time, and the cups had condensation on it. I didn't see anything like that so I really didn't pay the cups no attention.

Q. Were you able to ask either the mother or the Defendant what happened or ---

A. No, ma'am. I only remember seeing the mother or who I thought was the mother -- it may have been the other female -- whenever I was coming up the driveway. Other than that, I didn't see anybody until after the incident was over.

Q. All right. And so what was your part in the resuscitation efforts?

A. I was considered secondary care giver. I was doing the chest compressions on the child, while my partner, Firefighter Reynolds, was doing the bag valve mask, providing the oxygen to the lungs.

Q. And about how long do you think y'all were there?

A. I'd say somewhere between three to five minutes before EMS's arrival.

Q. Is your firehouse located closer than where EMS would be coming from?

A. Yes, ma'am. In relation to this incident -- we have a station right behind Blue Ridge High School. And this residence is two to three minutes from our station. And we was in the station at the time.

Q. So you guys made it there before EMS. That wasn't surprising that you made it before EMS?

A. No, ma'am.

Q. All right. Well, once they get on scene, what happens?

A. The EMS got on scene. One of the paramedics was driving what we consider a chase truck, which is a quick response vehicle, it's just an F-150 with all the stuff that's on the ambulance, minus the stretcher. And that paramedic asked us if we had a cardiac arrest, once again. We advised him, yes, we do. At this time, he told us, well, let's take the patient and go because his transport truck was also pulling into the driveway at the same time. We loaded the patient into the back of the truck and then one of the paramedics said, is there anybody else going with us. I looked around because I was on the outside. Firefighter Reynolds was securing the patient to the

stretcher. I told him, I don't see anybody. They said, let's go. Firefighter Reynolds climbed out of the ambulance and I proceeded to back them out of the driveway and they went to the hospital.

Q. Okay. And when you said you were asking if anybody else was going to go, were you referring to other EMS workers or were you referring to the people at the house?

A. Any other family members or anybody else at the residence.

Q. So nobody was coming up to the ambulance trying to get in, or ---

A. No, ma'am, which is completely untypical of any call we go on. I mean, I've been on calls with grown people have their spouse die and they're trying to go, fighting us to get in the truck instead of it being nobody around.

Q. Did you see any children when you were coming in? Did you notice that?

A. When I started going up the driveway, there was a green Nissan Pathfinder had three smaller children in it. I'd say the oldest one maybe being seven is what it looked like to me. And there was a female out there with that car and the children. But I don't know who the children were or who the lady was with the car.

Q. Was there any small child in the room with the patient at the time you entered?

A. No, ma'am, there was not at the time.
Q. And after loading the patient into the ambulance were any police officers arriving?
A. I know the police officers got there. As far as time lapse, I don't remember if they got there before the ambulance left or after they left. I do recall them being there, though.
Q. And what was your part once the child was placed in the ambulance? What were your duties after that?
A. Pretty much my responsibility was just to go back inside the residence, clean up all of our supplies, get all of our stuff restocked on the truck in case we got another call.
Q. And so you did go back inside the residence?
A. Yes, ma'am. I went back in to retrieve our medical bag, our oxygen cylinder, any other supplies we may have left laying around, got that stuff up. And then the EMS chase truck that showed up, I drove his truck back to our Station Two, because he rode in on the ambulance with the other two paramedics.
Q. Now, let's talk about the CPR techniques again and these bruises that you observed on the child. Is there, in your opinion, any way you or Firefighter Reynolds placed any of the bruises about the child's head or face while doing CPR?

A. No, ma'am.
Q. How about anything on the chest or sides or back of the child?
A. No, ma'am.
Q. How about anything inside of the child's mouth? Would y'all have done any type of injury trying to do CPR?
A. No, ma'am.
Q. And once you drove that truck, chase truck, back to y'all's firehouse, was that the end of your involvement in this case?
A. Yes, ma'am, it was.
Q. And when you were back inside the house cleaning things up, was any adult in the room with you or talking to you, asking you questions or anything like that?
A. I remember speaking with one of the adults. Honestly, I can't recall if it was inside the house or not. That's when I found out that the child had supposedly choked on some tea. And I looked in the cup with one of the officers and we seen no ice. In one of the cups, I can't tell you honestly which one of these two it was in this picture, but we was told the blue cup beside the chair, and both of those beside the chair are blue. Neither one of them had any kind of ice in it. And one of them did have a little bit of tea in it. But there was nowhere where you could see that any had been spilled or anything of that nature.

Q. Well, did you see any vomit, spit up, anything like that in the area?

A. I did not, no, ma'am.

Q. All right. Thank you. Answer any of Ms. Manigault's questions, please?

A. Yes, ma'am.

MS. MANIGAULT: I don't have any questions, Your Honor.

THE COURT: Thank you. You may step down. Any objection to this witness being excused?

MS. MANIGAULT: None.

THE COURT: All right. Thank you, sir. You may be excused.

MS. HODGE: The State would call Alex Kay.

THE CLERK: Mr. Kay, would you put your left hand on the bible and raise your right.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat and state your full name for the record.

THE WITNESS: Joseph Alexander Kay.

ALEX KAY,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. I'm going to bring this up here in case you need it during your questions, Mr. Kay.

A. Okay.

Q. Who do you work for?

A. Greenville County EMS.

Q. And how long have you been with them?

A. Twelve years.

Q. And is that your full-time job?

A. Yes.

Q. What types of training do you have to be a full-time EMT?

A. I am a National Registered Paramedic through the International Registry of Emergency Medical Technicians. I'm a South Carolina Paramedic. I have advanced cardiac life support, pediatric cardiac life support, pre-hospital trauma life support. I'm a basic life support instructor, so I'm a CPR instructor. Neonatal resuscitation, pediatric emergency preparedness. I could probably go on for another five minutes, but I think justifies it.

Q. That probably covers it for now.

A. Yeah.

Q. Thank you. And so were you employed in the same capacity back on May 25th, 2011?

A. Yes.

Q. Had all those trainings and certifications at that time?
A. Yes.
Q. All right. And were you called to respond to [redacted] Fews Chapel Road?
A. I was.
Q. And how did that call come in?
A. It came in as a choking. I was on the quick response vehicle, which is the chase vehicle that he referred to previously. It has all the equipment that an ambulance has on it, with the exception of it doesn't have the capability to transport. Generally, they're put in outlying areas to first respond and get a paramedic on scene quicker than an ambulance could maybe respond. They're strategically placed throughout the county to minimize the response times.
Q. All right. And is this location off Fews Chapel Road, is that in Greenville County?
A. Yes, ma'am.
Q. Okay. And what time did the call come to you guys?
A. We received the call at fifteen twenty, which is three-twenty in the afternoon.
Q. And what time did you get on the scene?
A. I arrived on scene at fifteen twenty-nine, which would be three twenty-nine, approximately eight minutes after I

was dispatched. I came from Gowansville Fire Department, which is located on Highway 14, so it's a little bit further, a little bit further away than Lake Cunningham Fire Department, but it was the -- still, initially, I was the closest paramedic to the scene.

Q. And who else was coming with the truck?

A. The ambulance crew was James Clardy, paramedic James Clardy and paramedic Cory Trotter. And I believe they were responding from Greer that day. So it's almost in the middle from where we were responding to where they were responding. It was basically like we were meeting in the middle, Fews Chapel Road is.

Q. And what were each of y'all's duties or responsibilities on this call?

A. I was the first response, so I was the first paramedic on scene. Generally, I go in and assess the patient and render aid and care until the ambulance arrives on scene. And then at that point, I'll turn over care or, in this case, I continued care and rode to the hospital.

Q. So tell us what happened and what you saw when you got to the residence?

A. While en route, it was dispatched, like I said, as a choking. As I was turning on Fews Chapel Road, it was updated to a cardiac arrest. At that pont, the fire department had arrived on scene and radioed in that it was

a confirmed cardiac arrest. I pulled up. When I arrived, I could actually pull in the driveway because I was in a light duty pickup truck that has a camper shell on it. So it's not as bulky as a fire truck or even an ambulance for that matter. I could pull closer and get my equipment out. Since there's only of me to carry the equipment, I try to get as close as I can to get the most equipment in without having to make more than one trip.

Q. I'm just putting up State's Number 2.

A. Sure.

Q. Is that -- where did you pull up to?

A. I pulled up -- I was -- there's a, like he said, there was a driveway here. The driveway kind of -- Fews Chapel Road would run back towards this way. The driveway was a good two hundred yards. I pulled up as close as I could to this -- maybe it's like a concrete slab area. I pulled up as close as I could.

Q. What did you see when you pulled up, anything?

A. When I got out there were several people had gathered over here. There were probably three or four people. I asked where to go. Nobody seemed to respond. I ask again, nobody -- I think one of them may have pointed towards the door. Obviously, I knew it was through the door. I entered through the door. There were several -- it was almost like a maze inside that house. It was very dark.

There's a lot of trees, as you can see, covering it so it was very shadowed. And I basically found the fire department myself.

Q. Okay. So these people outside were not saying, hey, come here?

A. No. No.

Q. And were they adults, children or were there ---

A. All I saw was adults and they were smoking cigarettes. And I mean the only reason I remember that is became I have asthma and triggers my asthma sometimes, so ...

Q. Okay. Did you see any children outside when you ---

A. I did not see any children.

Q. Okay. And where did you proceed to, which set of steps or door?

A. I proceeded in the front way here. And like I said, it was like a maze going through there. And I heard one of the fireman state, we're back here. I entered -- when I entered the room, I noticed it was dark. There was no lighting hardly in there. The only thing that was -- this is not an accurate depiction of the lighting. I think you know there's some light that was coming in through the room. They had said they tried to turn the lamp on but it didn't work. But from what I could tell, and I asked, is this a cardiac arrest. He said, yes. So I confirmed cardiac arrest on the radio so the incoming unit would know

what to prepare for. I mean, I could hear their sirens in the background so I knew they were close. And at that point, they were doing good adequate CPR, doing chest compressions. They already had a bag valve mask out and was doing the BVM and doing -- giving supplemental oxygen. And I checked real quick to make sure that was adequate, there was good airflow. They were getting good ventilation and they were doing it adequately, the chest compressions correctly. And at that point, I made the decision to go ahead and start towards the ambulance. Because you can't really do a good assessment in the dark. There's just no way.

Q. And did you notice anything? Did you actually take a look over the child itself or was it not ---

A. I did. I glanced. The child was laying here. The firemen were on either side doing -- rendering aid. I took a quick look around. What I could see, I didn't really make mental note of anything. I think he said that he noticed the drinks. I didn't even notice any of that. And I really didn't get much of a back story until the fire department said, they said that she choked on tea. And at that point, it was ---

Q. Did that line up with what you were ---

A. It didn't.

Q. The cardiac arrest and what you were seeing?

A. No, no, it did not.
Q. And do you remember about -- did you actually check the pulse on the child?
A. I did. I did a quick check. I did a pulse check and at that point there was no pulse, but they were doing adequate CPR. And like I said, I made the ultimate decision to go ahead and start towards the truck.
Q. Did you actually touch the body of the child?
A. I did.
Q. And was she clothed, didn't have any clothes on?
A. The only thing she had on was a diaper. She was pale, from what I could tell from the dark. It was, like I said, dark. But she was pale and she was also, what we call diaphoretic, which is wet. Kind of -- she wasn't warm. She was cool to the touch. Actually, I pulled my glove back to get -- because sometimes the gloves will kind of hinder you from getting a good sense. I pulled my glove back from the palm of my hand and just touched it to her body and she was cool to the touch.
Q. And did any of those adults that were outside ever make it in that you're aware of?
A. I never saw anybody inside.
Q. Did you ever actually talk to any of them?
A. I did not.
Q. How about, how would you characterize their demeanor

or what you saw?

A. I've been on several cardiac arrests over the past twelve years. I've been on several pediatric cardiac arrests. And this, it threw up a flag because there wasn't as much of emotion as there usually is. There's usually a lot of people. It's chaos. I mean, it wasn't. It seemed -- it didn't seem that way. Everybody was nonchalant about it for the most part. I had to get -- I had to find my own way in the house, if that tells you anything. Nobody made an effort to even take me in the house, so ...

Q. All right. So you make that ultimate call, we need to get up and get out?

A. I did, yes.

Q. And then what happened?

A. As I was -- as we were coming out, we met Paramedic Clardy and Paramedic Trotter as they were coming in. And I said, I just motioned just, let's just go to the truck. Because that takes you to your environment. That's my environment. That's my office. There's better lighting. All the equipment's there. And we decided to go ahead and initiate transport at that point. And when we got in the light, we could -- and we were doing adequate chest compressions in the ambulance, we could get a better feel and better assessment of what was going on.

Q. Okay. So who got into the ambulance?

A. Myself, Paramedic Clardy and Paramedic Trotter were in the back. Firefighter Reynolds had taken -- and he was carrying her. He put the child on the stretcher. And at that point he said, do you need a driver? I said, absolutely. Head towards Greer. So we started to head towards Greer.

Q. And what did y'all do -- well, let me backup. Anybody try to get in the ambulance?

A. No.

Q. Did y'all give opportunity for somebody to ride in there?

A. Somebody, and I believe it was Paramedic Clardy said, is anybody riding? Nobody said anything. Usually, there's people trying to get in the ambulance, in the back before we even take off, but that wasn't the case. Both doors were open, the side door and the back door because they had -- Paramedic Clardy had entered through the side door and I had entered through the back door. So all the doors were accessible to the ambulance, to the back of the ambulance, but nobody -- I mean, there wasn't anybody that was trying to fight her way in or fight his way in.

Q. Tell us what happened as you're leaving the scene and heading to the hospital?

A. Made the decision to go to Greer because it was the closest facility. And in a case like this, you want the

closest facility where definitive care, a physician ultimately to take over. Greer was the closest. And as we were doing chest compressions and starting, I guess, to circulate blood, bruises started popping up all over this child. I mean, all over the face. They were more defined in the face. The forehead was very noticeable. On the side of the cheek, there were obvious, obvious bruises. Bruises on the legs. We even turned her over on her back and noticed on her back that there were obvious bruises in different stages of healing. They were different colors, so ...

Q. All right. And would there be any reason for any of your CPR techniques to have caused any of those injuries to the child's head or face?

A. No. No, not that quick. Not at all, but not that quick. The chest compressions that were being done were being done by one hand, and they were being done with the palm. And with a child, especially a twenty month old, you have to be careful. And you want it to recoil, because you want the heart to squeeze, you want that blood to squeeze and circulate the blood. So you have to actually get a feel for the depth of what you're doing to make sure you're doing it adequately and that's what we're train for and that's what we're trained on. We're train extensively on that.

Q. Did you intubate this child?
A. I did not, no.
Q. Okay. Did another paramedic?
A. Paramedic Clardy did, and I was watching over. Paramedic Clardy was the primary care giver, but me being there first, I had taken an -- just kind of an overview of the call. And there's always one person that kind of looks at all different aspects of it to make sure you're not missing anything. While other paramedics are doing procedures, you're kind of making sure that you're not missing anything. And that's basically what my job was, my role was. I was a secondary provider, but I was making sure nothing was being missed.
Q. And so you did observe Paramedic Clardy intubate the child?
A. He did. He intubated the child correctly and did the correct procedure, in the correct manner, the correct depth. I mean, everything was, everything was textbook.
Q. And could intubating the child have caused a tear in the child's frenulum?
A. There was not enough force. There was not -- he didn't apply enough force to do that, no.
Q. How about the -- now, did you administer any meds or give an IV to the child?
A. I did. I put what's called a intraosseous infusion,

which is a needle -- there's a needle that goes actually directly in the bone, especially in infants and smaller children, it's the best way and it's the easiest access for an IV, to give medicine and fluid. I did -- I actually did the intraosseous infusion and did it aseptic technique, cleaned it and did the appropriate technique. It had good flow. We were able to give medicine and fluid through it and we gave medicine.

Q. And did she ever regain a pulse?

A. As we were pulling into Greer, we were pulling off of South Buncombe onto the property of Greer Hospital and we noticed on the monitor there was some complexes, which means there's some electrical activity in the heart. We checked the pulse and there was a pulse that correlated with the monitor. So at that point, we had return of spontaneous circulation, which means that the child was actually circulating blood and had a pulse. So we had a pulse. We notified dispatch that we had a pulse. But we briefly talked about staying in Greer. And in the best interest of the child at that time, that was the best choice, is to get her in the ER so they could stabilize her and, if needed, ship her to the children's hospital. But we elected to stay in Greer.

Q. Was she able to keep that heartbeat on her own or was there continued compressions and treatment?

A. We did -- we were bagging her with the BVM and we did compressions for maybe another minute, just to kind of help jumpstart the heart after we noticed that there was a pulse. That's our protocol to do CPR for another two minutes to make sure that it's still adequate. And it was.

Q. And by that time had y'all made it to the hospital?

A. We were back in the, in the bay at Greer.

Q. And at the hospital do you transfer care then over to the physicians?

A. We did. We took her into the room at Greer. One of the larger rooms. There were physicians in there, there were respiratory therapists, nurses. And at that point we -- Paramedic Clardy gave a full and detailed report of the events and we turned over care.

Q. And did that end your involvement in this case?

A. We stayed for -- to clean up the truck for a few minutes. At that time, they had called the helicopter to actually come and transport the patient down to Greenville Memorial. And we stayed and actually stayed and helped them load the patient onto the helicopter. And that was the end of my involvement, yes.

Q. Thank you. Answer any of Ms. Manigault's questions, please.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. When you arrived at the home, the firefighters were the people doing the CPR and the chest compressions?
A. That is correct.
Q. So you did not witness the mother or James Johnson do anything?
A. No, I did not.
Q. All right. Thank you.
MS. HODGE: That's all I have.
THE COURT: Thank you, sir. You may step down.
MS. HODGE: May he be excused, Your Honor?
MS. MANIGAULT: No objection.
THE COURT: Without objection the witness may be excused.
Ladies and gentlemen, let's take a short break now. I'll let you go back to your jury room. I'll remind you again, don't discuss the case. We'll take a little more testimony this afternoon and try to leave in the next hour or so at least. You may retired back to your jury room.
Everyone else, please remain seated.
(WHEREUPON, the jury exited the open court at approximately 4:26 P.M.)
THE COURT: Solicitor, how many more witnesses did you intend to call or how many short ones or long ones? I was just trying to work our schedule out.
MS. HODGE: I mean, I have three that could go

today that are fairly short, that are probably as short or a little bit shorter than what we've had.

THE COURT: Okay. Maybe we can get those three. Dealing with EMS?

MS. HODGE: One more EMS, then two police officers that are pretty short.

THE COURT: All right. We'll try to get that much in today. Let's take a short break.

(WHEREUPON, the court stood at recess for a short break.)

THE COURT: All right. Are you ready to proceed?

MS. HODGE: Yes, sir.

THE COURT: Have our jury come in if they're ready.

(WHEREUPON, the jury entered the open court at approximately 4:42 P.M.)

THE COURT: All right, Solicitor, you may call your next witness.

MS. HODGE: Thank you, Your Honor. The State calls James Clardy.

THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I will.

THE CLERK: Please have a seat and then state

your full name for the record.

THE WITNESS: James P. Clardy.

JAMES CLARDY,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Mr. Clardy, who do you work for?

A. I work for Greenville County EMS.

Q. How long have you been with them?

A. I've been with EMS for six years.

Q. And do you have any previous law enforcement experience before that?

A. I do. I also have approximately thirteen years as a firefighter and almost five years as a police officer in Texas.

Q. And were you employed as just EMS -- was it just EMS back on May 25th, 2011?

A. Yes, ma'am. Greenville County EMS was my full-time job at that time.

Q. And did you also respond to the call at [redacted] Fews Chapel Road?

A. I did.

Q. And what time did you get to the residence?

A. I believe our on-scene time was fifteen thirty-one or three thirty-one P.M.

Q. Who were you with?
A. I was with -- Cory Trotter was my partner that day.
Q. And were y'all driving an ambulance?
A. We were driving the transport truck, the ambulance that day.
Q. And when you arrived at thirteen thirty-one, or excuse me, at three thirty-one, what did you see on arrival? What were you doing?
A. I was driving the ambulance. We had -- en route we had gotten the call as a choking call. We have on-board computers in the truck, which gives us detailed information. As our dispatch gets information, they place that information in the computer. We got the information there's a child choking. And then we were updated somewhere during the transport that the child was choking on tea, I believe is what the information said. Somewhere shortly after that, as we're approaching Fews Chapel off of Highway 14, we got updated information that said it was a cardiac arrest, which was kind of surprising to me that it went from a choking on tea to a cardiac arrest. That's not normal for -- most of the time, if somebody chokes on a liquid, the airway clears up. You know, it doesn't normally lead to a cardiac arrest. As we approached Fews Chappel, I noticed a fire truck sitting on the roadway. The QRV or the quick response vehicle in the driveway. We

tried to get as close as we could. Kind of didn't now at the time if we could make it up the driveway, if it was wide enough, so we gave it a shot and pulled up right next to the QRV.

Q. And did you notice people outside at the time that you pulled up?

A. I only noticed one person outside. I noticed at the time an unidentified white male, who became known to me later as the Defendant, was standing in the driveway smoking a cigarette and speaking on a cell phone. We immediately -- we exited the vehicle, grabbed what would have been a minimal amount of equipment for the ambulance crew. Being that the QRV was on scene already, we knew that he would have equipment already. I believe we grabbed a heart monitor. I was unsure of whether the QRV would have a heart monitor or just a regular AED. So we grabbed the heart monitor and I immediately went towards the residence. Noticed two doors, one towards the back side of the residence and one towards the front. Did not know which to go in. A lot of times, it's very confusing for us to know. Some people use the front door. Some people use the back door as the primary egress or entrance out of the residence. As I passed the white male that was smoking the cigarette, his back was to the residence. And I asked him, I said, where are we going? I got a very flippant, hand in

the air, with kind of four fingers extended, not giving me like a specific direction, just a flippant motion towards the house, which frustrated me. We were dealing with a twenty-month-old in cardiac arrest and I wanted to get in the house pretty quickly. I noticed the backdoor was open, or at least there was -- I can't remember if there was a screen, but I remember seeing that the back door looked more open than the front door, so I went to the back door.

Q. And were you able to actually get inside of the house or into the room where the patient was?

A. I did not make it into the room where the patient was. I believe I made it through a kitchen area. The residence was pretty dark. It was kind of hard to tell, you know, not being familiar with the residence, kind of didn't know where we were going. There was nobody there inside to direct us. A lot of times when we walk into a house, especially if there's multiple family members on scene or if there's multiple cars in their driveway, a lot of people stage people throughout a house to let us know kind of -- as if I walk into the kitchen there's one person who directs me through what would be a dining room or directs me further to a patient. There was nobody there to direct us. I heard Alex Kay's voice and started walking towards there and heard him say, let's just go to the truck. Let's get her in the truck. I moved myself out of the way for

the fireman who was carrying the child and performing CPR as he was walking, and for Alex, for Paramedic Kay to walk by me, and then I proceeded behind them, out of the residence.

Q. Did you ever see the mother of the child? To your knowledge, did you see her when you came up or when you went in the house?

A. I did not. I did not see any females present that I recall seeing. Definitely didn't see anybody that I would have identified as a mother. At the time, I didn't really note that anybody appeared to be a parent at all, because nobody seemed very concerned. You know, I recall seeing some other people standing in a driveway that were kind of further away from where I walked by. And then the unidentified white male, later identified as the Defendant, was standing there. But nobody made any -- there was nobody that I could directly say, well, there's a parent. They're the one running, yelling, screaming, crying.

Q. Did you actually administer care to the patient, to the little girl?

A. I did. We placed the patient in the back of the ambulance. One of the firefighters got in the back of the ambulance carrying the patient. I entered the ambulance from the side door. They entered through the back door. We removed the seatbelts off the stretcher, laid the

patient in a supine position on the stretcher and immediately continued care via bag valve mask for ventilations and CPR, one-handed CPR.

Q. Did you notice anything about the child and how she presented?

A. I positioned myself in the back of the ambulance, in what's called the captain's chair, which is the chair that -- or the seat that sits directly at the head of a stretcher. What I did note, as soon as I sat down and made contact and looked at the patient, made an overall assessment, was some very large bruises in various stages of healing on the face. Some bruises on the torso. Several bruises on the legs and arms. The bruising on the face was, in my experience, not very consistent with a -- there are bruises that are consistent when children fall down. And there are bruises that, you know, on children's knees and stuff that I would think would be normal for a twenty-month old, that, you know, could possibly learning how to walk, could have fallen down. But the bruises on the forehead were very inconsistent with the normal bruises that a twenty-month old to me would have sustained. And they were in various stages of healing. There were some red bruises, some yellowing bruises, just different color bruises along the head.

Q. Was the child clothed or have anything on?

A. No. The child was stripped down to simply a diaper.
Q. Did anyone attempt to get in the ambulance as you were getting in or as y'all were leaving?
A. No, which I also found very odd that -- you know, normally, even on adult patients, a lot of times people -- especially, you know, on pediatric patients, parents especially come to the back of the truck and want to ride in the back. And nobody came to the back of the truck. We closed both back doors. The side door had been closed, I believe, by one of the firefighters. And I opened the back door up or I opened the side door up, stuck my head out, looked at the firefighter and I said, is anybody riding with us? And the firefighter, to my recollection looked around and said, I don't guess. We closed the door and I said we're out. We're leaving.
Q. And then did you -- as you said, you were in the captain's chair, were you doing some type CPR things to the child?
A. At the time I was providing bag valve ventilations and preparing to intubate the patient. We had supplemental oxygen hooked up. Paramedic Trotter was performing CPR, performing compressions. Paramedic Kay was kind of performing a support role, preparing to get the IO, intraosseous IV, set up and getting intubation equipment ready so that we could intubate the patient, secure the

airway.
Q. And when you intubate, do you make sure the airway is clear, there's nothing blocking it or lodged in there?
A. We do. I would look -- to perform intubation, you make visual, you know, you visualize the vocal cords, so you're looking all the way down the airway into the vocal cord area. And we had what's called Magill forceps set up. Being that it had been a choking, we were prepared to clear an airway had there been an obstruction. Everybody had already said -- the firefighters and Paramedic Kay had already said that we had good ventilations, that there was chest rise and fall. There did not appear to be any type of obstruction in the airway, but we were prepared to deal with an obstruction. When we did the laryngoscopy and looked directly into the vocal cords, there was nothing, nothing present. The child had a clear airway.
Q. When you're intubating, do you use any amount of force or pressure on the top of the mouth or the top lip that you could have caused any injury the frenulum?
A. No. During intubation, all the -- the only part of manipulation is you use the laryngoscope blade to move the tongue out of the way of the way of the airway, and to open the airway, manipulating the lower mandible or the lower jaw.
Q. And were you successful in intubating?

A. We were. The first time we were successful in intubating the patient. We had good clear lung sounds. We had an increase in the SPO2 or oxygen saturation. And at some point during the transport, it was quite a -- it was rough ride from Fews Chapel to Greer. The roads are -- you know, the roads aren't the greatest in the world and with a firefighter driving sometimes, especially with a twenty-month old in the back, the drive can get kind of rough. At some point we did not see as much chest rise and fall. The oxygen saturation had started to drop. We immediately assessed the airway and noted that the tube had become dislodged, or probably pulled up past the vocal cords. At that time, we extubated, removed the ET tube or the endotracheal tube, continued the BVM ventilations, and then attempted one other time to intubate the child and noted some edema or some swelling in the throat. And noted that with the BVM we still had good chest rise and fall and we were getting pretty close to Greer. So we just decided at that point just to continue with the BVM ventilations, which was maintaining the airway for the child at that time.

Q. And you guys made it to Greer and transferred custody of [redacted] over to the doctors there?

A. We did. We noted some organized electrical complexes on the monitor when we started going in. And anytime that

happens it's one of those things where you start feeling for a pulse. You see what happens on the monitor and then you want to start feeling for a pulse. Felt a pulse. Had a very slow pulse at that time. So as we were pulling onto the Greer campus, we continued CPR until we transferred care over to the nurses and doctors at the facility.

Q. And I'm guessing you guys left before anybody that would have been at the house. So there was no family members or adults or anyone for this child at the hospital when you arrived?

A. No. And we were at the hospital for some time. Anytime there's a child involved, you kind of take a personal -- you know, it brings a personal feel to us. Most of us have children. So we weren't in any real big hurry to leave and just get back into service and go run another call. You kind of wanted to see what the outcome was. Knowing that they were calling the helicopter and knowing that we'd got a pulse back, it's very common to lose a pulse again very rapidly after gaining one back. So we kind of wanted to see the outcome. We were there long enough for the helicopter to respond, the hospital staff to stabilize the child, continue care and then we assisted in transferring the patient from the ER out to the helicopter pad and the helicopter. And no family was present at that time that I saw.

Q. And did that end your involvement with Victim?
A. At that time that ended our involvement.
Q. Thank you. Answer any of Ms. Manigault's questions, please?
MS. MANIGAULT: I don't have any questions, Your Honor.
THE COURT: All right. Thank you. You may step down. Any objection to this witness being excused?
MS. MANIGAULT: None.
THE COURT: Officer Clardy, you may be excused.
MS. HODGE: The State calls Deputy Carl Mathias.
THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?
THE WITNESS: I swear.
THE CLERK: Please have a seat and state your full name for the record.
THE WITNESS: Carl Mathias.

CARL MATHIAS,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Deputy Mathias, who do you work for?
A. I work for the Greenville County Sheriff's Office?
Q. How long have you been with Greenville County

Sheriff's Office?

A. Thirteen years.

Q. What are your primary duties for the Sheriff's Office?

A. I'm the school resource officer at Blue Ridge High School?

Q. And what duties does that entail?

A. I work from eight A.M. to four P.M., make sure that the kids at Blue Ridge High School are safe.

Q. All right. Do you have -- is there more than one resource officer or just you?

A. Just me.

Q. And is that high school located near [redacted] Fews Chapel Road?

A. The address is 2151 Fews Chapel Road.

Q. For the high school?

A. Yes, ma'am.

Q. Okay. So just down the road?

A. Yes, ma'am.

Q. And were you working at school on May 25th, 2011?

A. Yes, ma'am.

Q. And did you have a reason or an occasion to respond to [redacted] Fews Chapel Road?

A. Yes, ma'am. We got a call. I was walking towards my car in the back hallway of Blue Ridge, about fifteen twenty-three, almost three thirty, that there was an

unconscious child at that address. So I felt that I needed to go there if no one else is -- if I can get their first to give the child first aid. So I arrived at about three thirty-one.

Q. All right. And when you arrived, what did you see and what did you do?

A. When I pulled up into the long driveway, I saw a firefighter carrying out a -- what appeared to be a lifeless child. And the firefighter looked at me, like, you know, this is not good. And so I saw some people out there. But I made contact with the mother. And she said to me, can I go to the hospital? I said, no, we're just going to wait until uniformed patrol gets here. And I'd made sure that I had to secure the scene if there was a crime. So I said, wait until uniform patrol gets there and then we'll make that decision then.

Q, All right. And you saw some other people outside as well; is that ---

A. Yes, ma'am. I saw, I believe, an elderly woman. I saw a child, a younger child. But I was more focused on the mother.

Q. Did you see the Defendant at the residence?

A. No, ma'am.

Q. What did you do then?

A. We walked inside and then I saw the Defendant sitting

on the sofa in the living room. And, you know, I asked the mother what happened. And she said, well, my daughter was drinking tea and she started choking and she threw up. And I thought that was kind of odd. I didn't say anything to the Defendant. I looked over at him, and the Defendant just said, I don't know what happened. I was in the bathroom. I don't remember if he was using the bathroom. He was kind of -- he was a little arrogant. So I asked them, I said, well, where did she throw up at? And there was a little spot on the rug.

Q. Let me show you, I'm going to put State's Number 4 -- and there's a laser pointer right there for you. If you can see -- I know this isn't the best. But if you can recall or see in the picture, point out. So where were mom and ---

A. They were sitting right here and there was a cup right there. And I can't remember if it was -- where it was, but it was on this rug, there was a wet spot there. And after they said it's that wet spot there, I kneeled down to smell it to see if I could smell anything sour. Because when a child or anybody throws up it always smells, you know, like a sour smell to it. And I didn't smell anything that was sour. And I thought that was really, really odd that a child would choke and become unconscious by drinking tea. And then if that was throw-up, it just didn't, it just

didn't add up.

Q. And when the mother was telling you about the child choking on the tea, was the Defendant present in the room at that time?

A. Yes, ma'am.

Q. So he heard what she was saying?

A. Yes, ma'am.

Q. And he distanced himself from her?

A. It seemed like that. When he told me -- when I asked her what had happened and I didn't ask him what happened, it appeared to me that he was trying to separate himself from the incident by saying, oh, I don't know what happened. I was in the bathroom. So I thought that was rather strange and suspicious.

Q. That was not in response to a question you had asked him. That was a spontaneous statement?

A. Yes. Yes.

Q. And how about their demeanor, how would you describe it?

A. They weren't emotional. For what happened to their child, they weren't emotional at all. They were just wondering when they could go to the hospital. That was their big question. And I told them that when the uniform patrol got there, he would make that decision, whether or not they could go to the hospital.

Q. Were you there in any type of investigative capacity or were you trying to get statements or what was your role?
A. No, no. I was there just to give aid to the child if the child needed aid, as well as if there was a crime scene, I would secure it.
Q. Did a uniform officer then show up while you were there?
A. Yes, ma'am. Deputy Azzara showed up a few minutes after I got there. And I walked near the door where we walked in and I briefed him of basically what I thought happened.
Q. And did you get a good look at the child, other than I know you said it was lifeless. But did you get to see any -- up close?
A. I didn't see anything, no. No.
Q. And was Deputy Azzara going to be the lead officer on the scene?
A. He was the lead, yes, ma'am. He would be the one to determine whether or not there would be a crime and secure it and contact CID.
Q. Did you notice -- when you said outside, did you see a child?
A. I think it was a younger child.
Q. Did you attempt to talk to anybody else outside?
A. No, ma'am. No, ma'am.

Q. And did you stay around even after Deputy Azzara showed up?
A. I stayed until Deputy Azzara made the determination whether or not to allow the family to go to the hospital, and then I left.
Q. Okay. Thank you. Please answer any of Ms. Manigault's questions.
MS. MANIGAULT: Thank you.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. You said you arrived at around three-thirty P.M.?
A. Yes, ma'am.
Q. Three thirty-one?
A. Yes, ma'am.
Q. And when you made it inside the house, the child ---
A. Was already gone.
Q. Was already gone?
A. Yes, ma'am.
Q. All right. But you did see the child being transported by the firefighter to the ambulance?
A. I saw the firefighter carry the child -- he was already out of the house and carrying -- actually walking rather fast to the ambulance.
Q. All right. And you say you saw people outside. Do you happen to recall about how many you saw outside?

A. I'm guessing four maybe.
Q. Okay. Or where they were standing?
A. Right where the mother was. It was close to the mother.
Q. Close to the mother. Was she close to the house or near the ambulance?
A. She was probably about fifty feet away from the house.
Q. And did the mother approach you, start a conversation or you went to her?
A. She approached me and asked me when she could go to the hospital.
Q. All right. And that's when you told her that she could not go?
A. Correct.
Q. And when you went inside, you saw James Johnson sitting on the couch?
A. Yes.
Q. All right. And did he make any indication to you that he wanted to go to the hospital too?
A. No.
Q. You testified they were wondering when they could go to the hospital. Who's the they?
A. I'm saying the mother. The mother was the one that was -- the vocal person of trying to go to the hospital.
Q. Okay. So your earlier testimony was not the correct?

It was just the mother?
A. As best as I can recall.
Q. Okay. And you said that you did not ask Mr. Johnson any questions, but he volunteered a statement to you that he was in the bathroom?
A. Yes, ma'am.
Q. And that he didn't now what happened?
A. Correct.
Q. And did he say anything else to you after that?
A. I can't recall.
Q. Okay. Thank you.

MS. HODGE: No further questions.

THE COURT: All right. Thank you. You may step down, Officer Mathias.

MS. HODGE: And may he be excused?

MS. MANIGAULT: No objection.

THE COURT: Without objection this witness may be excused.

MS. HODGE: Thank you. The State calls Deputy Azzara.

THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat and then state

your full name for the record.

THE WITNESS: Kevin James Azzara.

KEVIN AZZARA,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Deputy Azzara, who do you work for?

A. I work for the Greenville County Sheriff's Office.

Q. How long have you been with the sheriff's office?

A. I've been with the sheriff's office five years.

Q. What are your duties with the sheriff's office?

A. Presently, I'm assigned as an investigator with vice and narcotics. I investigate methamphetamine laboratories.

Q. And back on May 25th, 2011, what were your duties with the sheriff's office?

A. At that time, I was in the uniform patrol division. Our primary duties are to respond to calls for service.

Q. Were you working first shift, second shift?

A. We were on day shift.

Q. Day shift, all right. And what area of Greenville?

A. That day, I was working in the Taylors area. We refer to it B-area number two.

Q. And did you receive a call for service at [redacted] Fews Chapel Road?

A. I did.
Q. What was that call in reference to?
A. The call was in reference to a medical assist of a child choking.
Q. Did the call come straight to the sheriff's office or was it routed to the sheriff's office?
A. Generally, what happens is they go -- a medical call will go to EMS first and then will be sent to us as well.
Q. And do you know what time you received the call for service?
A. We believe the call for the sheriff's office came in a three twenty-three in the afternoon.
Q. And so it was for medical assistance. Did you have any more information than that?
A. Just that there was a child choking.
Q. And what time did you end up arriving at Fews Chapel Road?
A. I arrived at three forty-four.
Q. And was there any ambulance or fire trucks there when you arrived?
A. To the best of my recollection when I arrived, I remember seeing a fire truck. The ambulance had already let. And Deputy Mathias was on scene still.
Q. All right. Did you notice any other people, civilians outside?

A. There were some people milling around. I remember seeing some children there. It was kind of a frantic, everybody rushing to their cars trying to get to the hospital.

Q. All right. And there was a car that they were trying to get in to leave?

A. I recall there being a vehicle there at that time.

Q. And how about the Defendant, do you recall seeing the Defendant when you were there?

A. I did. After I spoke to Deputy Mathias about what was going on, he brought me inside the house and put me in contact with the child's mother and the Defendant, who at the time, I asked them what happened. They said they were in the living room and the child walked over to the table where there was a glass of tea, took a drink of tea, started choking, threw up and then that's when they called 9-1-1 and began CPR.

Q. All right. And who was doing the talking mostly?

A. The mother.

Q. And what was her name?

A. Georgia Ann Sprouce, I believe.

Q. Okay. And was the Defendant, Mr. Johnson, was he saying anything to you at that time?

A. He didn't say too much. About the only thing he said -- I remember him saying was that are we going to be in

trouble. I told him, well, if everything is like you said, the child just choked on something that's out of your control and that's what happened, then, no, of course, you're not going to be in trouble.

Q. How about the mom, did she say anything else to you, other than relaying the story about tea?

A. That's what she told me. She was very concerned about wanting to go to the hospital. Being that the child had already left and there was no reason to hold them there at that time, I said, why don't you go to the hospital and be with your child and make sure everything's okay there. And generally, what our practice is, if a medical call comes in and the victim has already left the scene via ambulance to the hospital, if there's a further investigation to be done, we would go to the hospital and do it there, if there was a problem with the situation.

Q. So you were doing kind of a cursory, initial view, but you didn't get a chance to actually see this child?

A. Right. I never saw the child. I never even got a chance to talk to the people who rendered aid to the child, because they had already left by the time I had arrived on scene.

Q. So you had limited knowledge about her medical condition?

A. Correct.

Q. And for a uniform patrol officer, that would not be a case that you would then further investigate? It would be something that you pass on to ---

A. No, I called and I briefed my sergeant and at that point he said, well, stay there. And he was going to send CID out. I don't know if he had talked to the people at the hospital or not and gotten further information at that point.

Q. How long do you think that you were at the house speaking to the Defendant and to Ms. Sprouce?

A. Maybe about five, ten minutes, just enough to get the version of events of what happened and say, okay, go ahead and go to the hospital and see how their kid's doing.

Q. And did they leave as soon as you said they could go?

A. Yes.

Q. All right. And did someone from CID show up to the house?

A. Yes.

Q. Okay. Who was that?

A. That was Investigator Miller.

Q. And did anyone else come to the house while you were there?

A. I believe the coroner came eventually and a forensics person came. I'm not sure who that was.

Q. Does the coroner generally come on child or pediatric

calls?
A. At that point, we thought we might have something serious after speaking with the people at the hospital, learning that there was other issues going on. So I believe they just erred on the side of caution and sent somebody out there to document the scene.
Q. Okay. But when you were speaking to the mother and the Defendant, you had not spoken to medical personnel, firefighters, EMS, nobody?
A. No.
Q. So you really were kind of in the dark about ---
A. Right. As I said, it was a hectic scene, as you can imagine with something happening to a child. And I can't, you know, blame the paramedics or firefighters for wanting to get them -- get out of the scene and get to the hospital as quickly as possible.
Q. Once Investigator Miller showed up on the scene, did that scene transfer over to him?
A. Correct.
Q. And someone you said from forensics showed up while you were there too?
A. Yeah. I believe that was Lendway, I want to say. Yeah. Sergeant Lendway.
Q. And is that somebody that you called to come out to the scene or is this something that Investigator Miller is

now in charge of ---

A. I'm fairly sure it was Investigator Miller who called him.

Q. And did you keep the house secure after the Defendant and the mother left?

A. Yes.

Q. Any other adults or children come into the house that you're aware of?

A. Not to my knowledge.

Q. Did you speak to any other witnesses in the case?

A. No.

Q. Did you ever talk to the Defendant or the mother again with regard to this case?

A. No.

Q. So that ended your involvement?

A. Yes.

Q. Thank you. Answer any of Ms. Manigault's questions.

A. Yes, ma'am.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. Deputy, you stated that when you went into the house, the mother was talking to you and the Defendant was present?

A. Yes.

Q. But all the comments or statements came from the

mother?
A. Correct.
Q. And you testified that she said they were in the living room area and saw the child drink the tea?
A. Yes.
Q. Did she tell you who the they were? Was she talking about herself and somebody else?
A. I was assuming she was talking about her and the Defendant, since they were the only two standing there.
Q. Okay. So they were the only two there and they said they both were in the living room area when they saw the child -- when she saw the child drink the tea and choke?
A. Correct.
Q. You stated that you released them after about five or ten minutes to go to the hospital?
A. Yes.
Q. All right. Thank you.
THE COURT: Any redirect?
MS. HODGE: No, Your Honor.
THE COURT: All right. Thank you, Officer. You may step down.
THE COURT: Ladies and gentlemen, we've perhaps reached a good time to break for the evening. I don't know how long the next witness may take, but this will be a good time to end our case for today. We have more testimony

obviously to be heard. There might be more exhibits to be offered. I don't know that, but either way I remind you again that you shouldn't be discussing the case, forming any impressions about the case, doing any kind of research about the case. Not listening to any news coverage about the case. The high commitment you've made, ladies and gentlemen, needs to be observed and that's for the commitment that you're going to make a factual decision about this case from what happens in this courtroom and not from extraneous matters that you may hear about. Let your family know that I've instructed you, you're not to talk with them about it or if you're out with some friends tonight. Again, you'll certainly be able to share your experience with those, but while this case is in progress is not the time to do that. I'm sure you'll fulfill the commitment that you've made to both the State and to Mr. Johnson concerning that.

We'll be ready to start back at nine o'clock in the morning. I have some more matters I need to take care of this afternoon. So this will be a good time for you to leave. If you will be back in your jury room at nine o'clock in the morning, we'll be ready to proceed then. Have a good evening, ladies and gentlemen.

Everyone else, please remain seated.

(WHEREUPON, the jury exited the open court at

approximately 5:18 P.M.)

THE COURT: All right. We will be at ease until nine o'clock in the morning.

MS. HODGE: Thank you, Your Honor.

(WHEREUPON, the court stood at recess in this case for the day.)

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THE COURT: There are no matters we take care of before we start the trial?

MS. HODGE: I don't believe so, Your Honor.

THE COURT: All right.

MS. MANIGAULT: No, Your Honor.

THE COURT: Please bear in mind, too, the clock's not working. I think some of the jurors have already noticed that, looking at it.

(WHEREUPON, the jury entered the open court at approximately 9:18 A.M.)

THE COURT: All right. Ladies and gentlemen, we're now ready to start with the trial of the case. Solicitor, you may call your next witness.

MS. HODGE: Thank you, Your Honor. The State calls Crystal Inman.

THE CLERK: You may come forward and put your left hand on the bible and raise your right.

Do you solemnly swear or affirm to tell the truth, the

whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE CLERK: Thank you. Please have a seat. And then please state your name for the record.

THE WITNESS: Crystal Marie Inman.

CRYSTAL INMAN,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Ms. Inman, tell us a little bit about yourself. How old are you?

A. Twenty-eight.

Q. Are you married?

A. Yes.

Q. And who's your husband?

A. Mark Inman.

Q. Do you have any children?

A. Yes, three.

Q. Okay. And I'm going to need you to speak up just a little more and into the mike, okay?

A. Okay. Yes. I have three children.

Q. All right. How old are they?

A. Twelve, nine and five.

Q. Boys, girls?

A. Two boys and one girl.

Q. And are they in school today?
A. No.
Q. They're out of school already?
A. Yes, half-days so they didn't go today.
Q. Okay. But all of them are school-aged, I guess? They're all in ---
A. All of them but my little girl. She don't start until next year.
Q. Do you work currently?
A. No, ma'am.
Q. You stay at home with the kids?
A. Yes, ma'am.
Q. And have you worked before?
A. Yes.
Q. What kind of jobs have you done before?
A. Dunkin Donuts, mostly fast food.
Q. Okay. Have you lived in Greenville most of your life?
A. Yes, ma'am.
Q. And do you know the Defendant, Mr. Johnson?
A. Yes, ma'am.
Q. Tell us how you know him?
A. The first time I met him was at my friend Denise's house. And that was about two and a half, three years ago.
Q. Did you go to school with him or anything?
A. No, ma'am.

Q. And is Denise related to Ann Sprouce?
A. Yes, ma'am, that's her sister.
Q. Okay. Do you know Ann?
A. Yes.
Q. Were you and Ann friends growing up?
A. Childhood friends, yes, ma'am.
Q. And how long have you known her?
A. Ever since I was like nine years old. We was childhood friends forever.
Q. All right. Back in May of 2011, where were you living at the time?
A. [redacted] Fews Chapel Road.
Q. Was that a house y'all were renting or leasing or were y'all buying it?
A. Yes, ma'am, we was renting it.
Q. Who all lived in that house when you first got there?
A. Me and my husband and my three kids.
Q. At some point did the Defendant ever come and stay with you at that house?
A. Yes, ma'am.
Q. Tell us how that came to be?
A. Ann was living in an apartment on a White Horse Road and her power had got turned off. And she asked me if they could come stay and I told her, yeah.
Q. Had you been keeping up with Ann? I mean, as y'all

grew up, did y'all keep in touch?

A. For a while we didn't speak for three or four years. And then when she got out of the Serenity House, when she got her apartment, I got back in touch with her.

Q. Had she gone up to North Carolina or something during some of that time?

A. Yes. That's when she was with [redacted] s daddy.

Q. Okay. And did she have her children with her when she came to stay with you on Fews Chapel Road?

A. Yes, ma'am.

Q. Which children did she have?

A. [redacted] and [redacted].

Q. Do you know how old [redacted] and [redacted] were at the time?

A. [redacted] was one and [redacted] was two.

Q. So little?

A. Yes, ma'am.

Q. All right. And your daughter was how old at that point?

A. Three.

Q. Were they close? Did they play together?

A. Oh, yes, especially her and [redacted]. They were really close.

Q. Okay. I'm going to show you a few pictures and see if you can tell us what these are pictures of. I'm showing

you what's been marked State's Number 5 through State's 22. If you would just look at them as a group for me and then we'll go specifics with some questions.

A. (Reviews State's Exhibits 5 through 22).

Q. So what are these pictures of, just in general?

A. Pictures of the house and the living room and the bedrooms that we slept in and the bathrooms, and just outside of the house.

Q. An overview of the house?

A. Yes, ma'am.

Q. And is this how the house looked and the inside of the house looked on May 25th of 2011?

A. Yes, ma'am.

Q. So it's true and accurate depictions of that house?

A. Yes, ma'am.

MS. HODGE: At this point, we would move to admit State's 5 through 22.

THE COURT: Any objection?

MS. MANIGAULT: No objection, Your Honor. We've reviewed them.

THE COURT: All right. Without objection Exhibits 5 through 22 are admitted into evidence and may be published to the jury.

(WHEREUPON, State Exhibit Numbers 5 through 22 were admitted into evidence.)

MS. HODGE: Thank you, Your Honor.

Q. Crystal, I'm just going to put a few of them up there. Actually, they'll come up behind you on this.

MS. HODGE: And I'm going to see if we can turn off that one light, see if they'll show up a little better, Madam Bailiff. That's a little bit better. Y'all think that's a little bit better?

Q. All right. And what is this picture of? This is State's Number 5, Crystal?

A. It's the picture of the outside of my house and the driveway.

Q. All right. And where would you normally park your car?

A. Normally, I would park in both spaces. But normally, most of the time, I would park up -- you go behind where these vehicles is sitting, near the back porch.

Q. Okay. And I'm going to let you -- this little dot you can use to help you out. Just when you turn away, make sure you speak loud enough. So let me show you State's Number 6. What is that?

A. This was the back of the house. This is the section I was talking about that I usually park right here. In this section right here, near the back door.

Q. Okay. Would you pull up on the grass or gravel or whatever that was?

A. Yes, ma'am.
Q. Is that the door that y'all would normally go into?
A. Yes, ma'am.
Q. All right. Does this house have a lot of doors?
A. Yes, bunches.
Q. All right. Showing you State's Number 7. And what is that showing?
A. When you went in the door, also, that we used all of the time, that is what I fixed up as a playroom. It had a TV and a futon where they would go play their games.
Q. Okay. And is that the futon?
A. Yes, ma'am.
Q. Okay. And I'm showing you State's Number 8. And is that the same room and the TV over there?
A. Yes, ma'am. That's the same room and then the laundry room right beside it.
Q. All right. And showing you State's Number 9. Where is this picture taken from? Are you standing in that room we just looked at?
A. Yes, ma'am. Looking straight out of that door, you would go into the kitchen.
Q. Okay. And what is this over here on the side?
A. It is the steps that took you down to the basement.
Q. Okay. Was that door normally open like that?
A. No, ma'am. It was usually closed and locked. We had

a deadbolt at the top of the door because they was young children.

Q. Okay. Are the steps pretty steep?

A. Yes, ma'am.

Q. And what's underneath there or down there?

A. When you first go down, it's like -- just like one little bitty room. And then it turns to your right. There's a door right there and then it was like a big -- looked like you could use for a living room with a big fireplace and all that.

Q. Okay. Did anybody stay down there or live down there?

A. No, ma'am.

Q. And I'm going to go back a couple of pictures to Number 6. Is there a door that goes into that downstairs room?

A. Yes, ma'am.

Q. Is that the door right there?

A. Yes. Right there.

Q. All right. And State's Number 10. Is this the other side of the kitchen?

A. Yes, ma'am.

Q. Okay. And are there -- is there something right beyond this little table right here, this microwave table?

A. Yeah. That's the door that takes you into the living room.

Q. And I'm going to show you State's Number 11. Oops, that one's sideways. What was this?
A. That was mine and my husband's room.
Q. And I see a bunch of blankets and stuff on your bed. What were those for?
A. Most of the time, all three of my children still to this day will sleep on the couch or make a pallet in the floor. They ain't never really been the type to sleep in their own room. So that was from the pallets that they had slept in.
Q. And where would they put their -- make their pallets in that house?
A. In the living room.
Q. All right. And showing you State's Number 12. Which room was that?
A. That was the master bathroom in my bedroom.
Q. Did Ann or the Defendant or would the girls ever use your bathroom?
A. Hardly ever. I recall the girls taking a bath a few times in there, but other than that they would use the other bathroom.
Q. There was another bathroom?
A. Yes, ma'am.
Q. Okay. And State's Number 13, this is still part of -- or you tell me.

A. Yeah. That's still part of my restroom, the master bathroom.
Q. All right. And let me show you State's Number 14. What is this showing?
A. That would be if you was coming out of my bedroom door and it would take you straight down the hallway into the other two bedrooms and the bathroom.
Q. Okay. And where in your home were the Defendant and the girls and Ann staying?
A. You go straight down that hallway into the two back bedrooms and that's where they was staying.
Q. All right. I'm showing you State's 15. What was that?
A. That was the other restroom I was talking about, in the hallway.
Q. Okay. Is it -- I'm showing you back on 14. Is it straight ahead or off to the side?
A. To your right where the door's at.
Q. Okay. So that was in this bathroom, State's 15. Okay. And I'm going to show you State's Number 16. What was that?
A. That was the same restroom in the hallway.
Q. All right. And the restroom that primarily Ann and the Defendant would use?
A. Yes. Yes, ma'am.

Q. All right. And State's Number 17.
A. And that was one of the bedrooms. That was the bedroom Ann and the Defendant stayed in.
Q. All right. And there's a bunch of stuff on the floor and around in here. What kind of stuff is that?
A. Crayons, toys and stuff that they had been playing with earlier that day.
Q. All right. And who would be playing with that stuff?
A. Minor 1 and Minor 3.
Q. And Minor 3 is your daughter?
A. Yes, ma'am.
Q. All right. And showing you State's Number 18.
A. That is the same bedroom that Ann and the Defendant stayed in.
Q. Okay. And then I'll show you State's Number 19?
A. This was the bedroom that Victim and Minor 1 stayed in.
Q. Okay. Was that room connected to the room that is shown in State's Number 17?
A. Yes, ma'am.
Q. Okay. Where was that bedroom that the girls stayed in, the little girls.
A. Right there when you step up through the door. You had to go through that room to get to the room where the girls stayed.

Q. Okay. So there's a little step right here?
A. Yes, ma'am. It's step ups.
Q. Okay. And is this whole thing carpeted down here though?
A. Yes, ma'am.
Q. All right. And was the room that they -- 19, was this the room that their girls, Ann's girls, stayed in?
A. Yes, ma'am.
Q. Okay. Was that room also carpeted?
A. Yes.
Q. And then I'm showing you State's Number 20?
A. That was the living room.
Q. Okay. Where would this picture be taken from?
A. Standing in the door at the kitchen.
Q. Is that where the room you're talking about son's also and daughter would make the pallets and sleep on?
A. Yes, ma'am.
Q. Okay. And how about State's 21?
A. That is also the living room. But in that view you would be standing near the window, taking a picture towards the kitchen.
Q. Okay. Did this room have a door also that went from the outside into this room?
A. No.
Q. So you would have to enter through the kitchen ---

A. Yes, ma'am.
Q. --- was the only way you could get into this room. Okay. So everybody had their own places to be and stay when they were living with you?
A. Yes, ma'am.
Q. Was the intention that they were going to actually live with you or what was the arrangement originally?
A. No, ma'am. They was just going to stay for a little while. She said she was either going to try to get their power turned back on at the apartment or the Defendant got a check or they was going to try to get a place to live when he got his check.
Q. Okay. So this was a temporary arrangement?
A. Yes, ma'am.
Q. Okay. Now, back in May of 2011, were you working at the time?
A. Yes, ma'am. I was working at Dunkin Donuts in Travelers Rest.
Q. Did you work everyday or how did that go?
A. I would work every day but two days a week. I would get two days a week off.
Q. Would you go early morning or evening or during the day?
A. I was early. I had to be there at like four o'clock in the morning most of the time.

Q. All right. How about your husband, did he work during this time?
A. Yes, ma'am. He worked at Hawkin's Towing.
Q. And does he still work for them?
A. Yes, ma'am.
Q. Now, how about Ann, did she work at all during this time?
A. No, ma'am.
Q. Or how about the Defendant, did he have a job or go to work during this time?
A. No, ma'am.
Q. What would -- tell us what your normal type day was when Ann and the Defendant were staying with you during this couple week period?
A. We'd get up and get my kids ready. My husband would take them to school. I would go to my mom's. My grandmother lives with my mom. She takes care of her. So I stayed at my mom's house a lot, helping them out, taking them to the doctor or to the grocery store. And I would stay there until almost time to get my boys. Then I would leave and go get in the school line and then come home and cook and clean.
Q. That was kind of the basic routine?
A. Uh-huh (affirmative). Yes, ma'am.
Q. And what about Ann and the Defendant, what would they

be doing, do you know, while you were gone?
A. No, ma'am.
Q. Did they have a car, either of them?
A. No, ma'am.
Q. So would they be staying around your house mostly?
A. Yes.
Q. Did you observe Ann and the Defendant with the girls?
A. Yes.
Q. Did you see anything initially that gave you any concern with either Ann or with the Defendant, with her girls?
A. At the time, no, ma'am.
Q. In your opinion, did it appear that Ann or the Defendant treated one or the other girls better or differently than the other?
A. Yes, ma'am. I thought that Parker favored Minor 1 a little more over than Victim because him and Victim a's father ---

MS. MANIGAULT: Your Honor, I object to anything -- conclusions that she's drawn.

THE COURT: All right. I sustain the objection. She can certainly talk about her observations, but ...

MS. HODGE: All right.

Q. Did you notice -- and who is Parker? First of all, who is Parker?

A. Him, right there.
Q. Okay. That's what you call him?
A. Yes, ma'am. I know him by Parker. That's what I've always called him.
Q. You've never called him James or Allen or anything like that?
A. No, ma'am.
Q. Okay. So when you just said Parker, I just wanted to make sure who we were talking about. And you observed Parker being -- treating [redacted] more favorably?
A. Yes, ma'am.
Q. Was there anything specific that you saw him do?
A. He would just baby her a lot more and pay more attention to her than he would [redacted].
Q. Okay. At this time, were the girls, [redacted] and [redacted] -- was that her nickname as well? [redacted]'s nickname?
A. That's what I've always -- that's what I always called her, [redacted], yes, ma'am.
Q. Were these girls still in diapers at the time?
A. Yes, ma'am.
Q. All right. Both of them?
A. Yes.
Q. Now, about [redacted], was she able to walk during this time?
A. Yes, ma'am.

Q. And how about was she able to eat and drink on her own?
A. Yes, ma'am.
Q. Did she appear to be a normal, healthy one-year-old?
A. Yes.
Q. Typical?
A. Uh-huh (affirmative).
Q. Okay. Did you ever see Ann hit either of the girls?
A. I've seen her discipline them and like put them in a corner, but other than hitting them, no, ma'am.
Q. Spanking them or ---
A. Maybe a pop on the hand and put in a corner, you know, that's all I've ever seen Ann do.
Q. All right. And how about the Defendant, did you ever see him hit either of the girls?
A. Really, the same for the Defendant. I seen him discipline them and put them in the corner and just pop them on the hand.
Q. So there was nothing that you saw personally happen that gave you concern or thought you needed to report or talk about or anything like that?
A. No. No, ma'am.
Q. During the time that Ann and the Defendant and the girls were staying with you, would there be a time or times that Ann would go with you somewhere? Y'all would go do

random things?

A. Yes, ma'am. A couple of times she rode with me to my mom's house and she would leave the girls there with the Defendant.

Q. Okay. Do you have any idea how many times that was?

A. I recall maybe three at the most. Most of the time, I would go by myself to my mom's and they would stay at home because, of course, when I pick kids up there wouldn't be enough room for everybody to ride.

Q. And when you and Ann returned from one of the times that y'all had been gone, did you ever notice anything unusual or suspicious regarding [redacted]?

A. I noticed a bruise on her forehead that looked like a beaded bruise across her head, yes, ma'am.

Q. Did you ask or inquire about that?

A. Yes, ma'am. I did ask the Defendant and he said that Ann's daughter [redacted] had hit [redacted] in the head with a beaded bracelet -- I mean, necklace. And at the time it seemed like that's what happened because ---

MS. MANIGAULT: Your Honor, I object to any conclusion she's drawn.

THE COURT: I sustain the objection.

Q. Okay. And that's what he told you?

A. Yes, ma'am.

Q. [redacted] had hit her with the beaded necklace?

A. Yes, ma'am.
Q. Was there a beaded necklace in the house?
A. Yes, ma'am.
Q. Okay. What kind of beaded necklace was it?
A. It was like a -- I don't know what they call a Mardi Gras.
Q. Mardi Gras, the plastic?
A. A lot of beads around it. Yes, ma'am.
Q. Okay. And did you ever personally see [redacted] hit [redacted] with a beaded necklace?
A. No, ma'am.
Q. Did you see -- and how -- can you give us a time frame about when that bruising happened in relationship to when [redacted] died?
A. Two and a half, three weeks after that.
Q. And how about any other bruising on [redacted]. Did you see anything else that gave you cause for concern?
A. Yes. A week maybe after that, I had seen a bruise between her eyes on her head.
Q. And did you ask anyone about that?
A. Yes, ma'am. And they said that she fell on ---
MS. MANIGAULT: Your Honor, I object. There's no establishment that the Defendant was present or said anything.
THE COURT: I sustain the objection.

Q. Who did you ask and who answered your question?
A. I asked the Defendant and he said that she had fell off the step-down in the back bedroom.
Q. Okay. And is that the step-down that we were showing in State's Number 17? Is this what he was referring to?
A. Yes, ma'am.
Q. Okay. And do you know how long before [redacted] died that you saw that bruise in the middle of her head?
A. I don't recall. It was maybe a week or so before that.
Q. Did you think that you needed to tell anyone about those couple of instances?
A. No, ma'am.
Q. Did you take it for what it was worth?
A. Yes, ma'am.
Q. For what you were told?
A. Yes, ma'am.
Q. Did you ever see [redacted] fall down that little step back there?
A. No, ma'am.
Q. Were you ever told by the Defendant that she had fallen down outside, on some steps outside?
A. No, ma'am.
Q. Were you ever told that she fell down outside on the pavers leading up to the steps?

A. No, ma'am.
Q. Were you ever told anything else by the Defendant about how she got her injuries?
A. No, ma'am.
Q. Okay. So let's go to talk about May the 25th of 2011. Tell the jury what you were doing that day, what you recall about that day?
A. My husband had got up and got my kids ready for school. Me and the Defendant and kids got up around nine. We fed the girls breakfast. And we -- I was going to Mauldin to get a child support check for my oldest son and I asked Ann if she wanted to ride with me, and she said, yeah. So she went with me. And that was me and my daughter and her two girls. The Defendant did ride with us too, but we had dropped him off at a friend's house named Josh in Travelers Rest. Went to Mauldin. And then after I left Mauldin we come straight back, got the Defendant and went home.
Q. Do you have any idea about what time you got home?
A. It was twelve-thirty or so, around -- sometime about twelve-thirty.
Q. And what happened when you got back to the house?
A. Me and my daughter eat a sandwich and eat some lunch and stuff and used the restroom and then I left to go get my boys from school.

Q. And what school were they going to?
A. Heritage Elementary in Travelers Rest.
Q. So what time did you normally have to leave to go get them?
A. Between one-fifteen or one-thirty because it was so far from the house down to go get them, so I always left early to get in the school line early.
Q. And when you left to go get them, did you take anybody with you? Ann or the girls or the Defendant?
A. My daughter, Minor 3. That's the only one that went with me.
Q. So who was left at the house when you went to go pick your boys up?
A. Ann, the Defendant, and the two girls.
Q. Do you know or recall what they were doing when you left?
A. I don't recall.
Q. Would the girls -- did you know the girls to take naps or anything?
A. Yes, ma'am.
Q. Were they still doing that?
A. Uh-huh (affirmative).
Q. Did you know or remember if they ate with you and your daughter lunch or anything like that?
A. I don't recall really.

Q. When you were with Victim that day, how was she?
A. She was fine. She was acting normal. I mean, she was happy, laughing, playing. She was perfectly fine when she was with me.
Q. So did you go pick up your boys from school?
A. Yes, ma'am.
Q. And where did you go after that?
A. I picked them up. I go pick one of my friends up, too, during the day to pick her little girl up. And we picked my children up and her little girl. And I took my friend back home and then I went home.
Q. Do you have any idea what time it was when you got back home?
A. Between three and three thirty.
Q. And what happened when you got home?
A. I pulled up in the driveway and Ann come running outside saying that Victim had got choked on tea.

MS. MANIGAULT: Your Honor, I object to anything ---

THE COURT: I -- wait just a moment.

MS. MANIGAULT: I object to anything that Ann or anybody told her when the Defendant was not present.

THE COURT: All right. I'll sustain.

Q. Don't tell us what Ann said to you but what did you do?

A. I had went in the house and seen Victim laying in the floor. And her lips was already turning blue then. And I had seen throw-up beside her. And the Defendant was in there, bent over her doing CPR. And Ann was on the phone with 9-1-1.

Q. And when you got there, they were already on the phone with 9-1-1?

A. Yes, ma'am.

Q. And where was she? Where was Victim

A. She was in the living room.

Q. Okay. I'm going to put up State's Number 20. Where did you see Victim and the Defendant when you came in?

A. Right there.

Q. And you said you noticed the throw up. Where was that?

A. Like right beside her, in this area.

Q. Was it a lot? Did you notice a lot, a large amount or a small?

A. It was a small amount.

Q. Do you remember what Victim happened to be wearing that day?

A. I think it was just a diaper when I returned back home.

Q. Had she had clothes on earlier in the day when y'all had gone down to Mauldin?

A. Yes, ma'am. She had like a top dress thing on with a green bow.

(WHEREUPON, State Exhibit Number 23 was marked for identification.)

Q. Let me show you State's Number 23. What is this a picture of?

A. This is a picture of the dress that [redacted] had on earlier that day.

Q. All right.

MS. HODGE: At this time we'd move to admit State's Number 23 into evidence.

MS. MANIGAULT: No objection, Your Honor, we've reviewed it.

THE COURT: All right. Without objection, Exhibit 23 is admitted and may be published.

(WHEREUPON, State Exhibit Number 23 was admitted into evidence.)

MS. HODGE: Thank you, Your Honor.

Q. This is the top that you recall her wearing earlier in the day; is that correct?

A. Yes, ma'am.

Q. And I don't know if you can see it from there. I'm going to take it down off the projector and show it to you. Do you know -- when you saw her, when you left her earlier in the day, did it have any of this around it, this stain

type thing on it?
A. I don't recall.
Q. All right. So once you come into the room and see what's going on, what do you do?
A. I run outside to call my mother to come and pick my kids up.
Q. Well, tell me about that. Had your children come into the house with you?
A. No, ma'am. They stayed in the car.
Q. And did you tell them to stay in the car or ---
A. Yes, ma'am.
Q. Did you know that something was going on?
A. Yes, I did when I pulled up and she had come running out.
Q. Okay. Now, [redacted], do you remember seeing [redacted] at the house?
A. No, ma'am. I don't recall seeing her when I went in.
Q. When do you recall seeing her?
A. After I had called my mother I had went down to the basement. Because like I said, my kids was in the car. So I went to the basement, opened the basement door in the bottom and my kids got out and we was down there. And I do recall [redacted] being down there, but I just can't remember how she got down there.
Q. What was your mental state at this time?

A. I was all to pieces. I was hysterical, just didn't know what to do.

Q. And did your mom live close by?

A. Yes, ma'am.

Q. And, I'm sorry. Did you say why you had called her?

A. Yes, ma'am. To come pick up the kids.

Q. And where was she going to take the kids?

A. Back to her house.

Q. When you were there down in the basement, did the police or ambulance or fire trucks, anything, show up?

A. Yes, ma'am. I remember the fire truck showing up first and then the ambulance.

Q. Had your mom come to get the kids at this point or not yet?

A. Yes, ma'am.

Q. Did she take them away, right away?

A. No, ma'am. She stayed maybe ten or fifteen minutes.

Q. Did she bring any other adult with her or was she by herself?

A. It was her and her next door neighbor, Kelly.

Q. Okay. And where did she and Kelly and you mostly stay during this time?

A. In the basement.

Q. Would you have gone outside at all?

A. I don't recall going outside.

Q. All right. What happened while you were down in the basement?

A. Ann had come down to the basement, standing there. She wasn't really saying much, wasn't really crying. And I remember looking at her, telling her that she needed to be upstairs with her child. And I recall the Defendant being down there too, but he mostly just stayed by hisself to the side, like outside the basement door.

Q. Did he appear to be upset?

A. Not really.

Q. Did you ask Ann anything about what happened?

A. Yes, ma'am. And then that's when she told me that ---

Q. You don't have to tell me what she said, but the same thing she said as she came out?

A. Yes, ma'am.

Q. And did you ask the Defendant about what had happened?

A. No.

Q. Tell us then what you saw happen next?

A. I remember them carrying [redacted] out and my mom was still there at the time. And she was very upset when she seen them carry [redacted] out.

Q. And would you children have seen that too or possibly seen that?

A. Yes, ma'am, possibly.

Q. What about [redacted]?

A. Possibly. I don't really recall, but she might have.
Q. She was around the same area with your kids?
A. Yes, ma'am.
Q. Down in the basement area?
A. Yes.
Q. All right. So what happened then after they took Nay Nay to the ambulance?
A. The police was there by the time and they spoke with me briefly and spoke with Ann and the Defendant. And I remember them telling her that she couldn't get in the ambulance so we had to wait there for a little while. And then when the police told her that it was fine to go, I took them to the hospital.
Q. Had [redacted] and your children gone with your mom by that time?
A. Yes, ma'am.
Q. So tell us about going to the hospital?
A. We got in the car and we was going to Greer Memorial. There was really nothing going on in the car. Nobody was really talking or anything.
Q. There was no discussion about what had happened or anything like that?
A. No, ma'am.
Q. How about emotions, was there anything -- anybody upset or ---

A. Yes, ma'am. Ann was crying.
Q. How about the Defendant?
A. I don't recall.
Q. Were they talking to each other?
A. No, ma'am.
Q. Did you ask anymore questions in the car?
A. No, ma'am.
Q. Which hospital did y'all go to?
A. Greer.
Q. And how long did y'all -- or what happened at Greer?
A. We got there and we was there maybe ten or fifteen minutes and then they had informed us that they was transferring her to Greenville Memorial.
Q. Did you also drive them to Greenville Memorial?
A. Yes, ma'am.
Q. And in the car was there any type conversation going on?
A. No, ma'am.
Q. Nothing between you and Ann?
A. No, ma'am.
Q. Nothing between the Defendant and Ann?
A. No, ma'am.
Q. And do you have any idea what time you may have gotten to Greenville Memorial?
A. I don't recall right now.

Q. What happened when you got to the hospital?
A. We went in and I went to the waiting room and as soon as we got there, I remember the police already being there. They took Ann back and talked to her, and then shortly after they spoke with me and the Defendant. Me and him was out in the big waiting room.
Q. Did they speak to y'all together or separately?
A. Separately.
Q. And at that point did you give a written statement of any kind or was it just oral, just talking?
A. It was just talking.
Q. And did you see the Defendant speaking to police officers at that time?
A. Yes.
Q. Were you and the Defendant talking to each other or hanging out at all during this time in the waiting area?
A. No, ma'am.
Q. Any reason why not?
A. No. He was following me around, trying to talk to me, but I really didn't say much to him. And I recall the Defendant walking around talking about how [redacted] would always just fall and fall, all the time.
Q. He was saying that she would just fall and fall, all the time?
A. Yes, ma'am.

Q. Did you ever see Ann again that night?
A. No, ma'am.
Q. She stayed back in the smaller, I guess, waiting area?
A. Yes, ma'am.
Q. That's where [Victim] was?
A. Yes.
Q. Did you get to go back and see [Victim] that night?
A. No, ma'am.
Q. Did the Defendant stay in the waiting area during that time that night?
A. Yes.
Q. Did you leave the hospital at some point?
A. Yes, ma'am.
Q. Do you have any idea what time it was?
A. I'm not sure.
Q. Where did you go? What did you do?
A. I left and went to my mom's to pick the kids up. I remember when I got there [Minor 1] was kind of upset, asking for her Mom and crying and didn't, you know -- acted like she didn't want to go to sleep. So I called Ann's sister, Marie, to see if she would come and get [Minor 1]. And at that time she told me to ---

MS. MANIGAULT: Your Honor, I object to anything that anybody said.

MS. HODGE: Your Honor, this is not for the truth

of the matter asserted. This is why the grandmother got the child. It's a sequence of events.

THE COURT: All right. I'll allow the answer to this question.

A. Okay. And Marie had told me then to take Minor 1 to her grandmother Tina at the hospital.

Q. And do you have any idea what time you're talking now?

A. Ten-thirty, eleven o'clock. It was pretty late.

Q. And so what did you do as a result of talking to Marie?

A. I just got there and Tina and her husband was there and I give her Minor 1. We really didn't speak long and then we left.

Q. Okay. And was the Defendant still there when you got there with Minor 1?

A. Yes.

Q. Did you talk to him or did he try to talk to you?

A. No, I did not speak with him. But when me and my husband was going towards the car, he was following us, asking us if we could give him a ride. And my husband said, no, and we left and went home.

Q. Did you ever see the Defendant again after that?

A. No.

Q. Is that the last communication you had with him?

A. Yes, ma'am.

Q. Now, he had been staying in your house. Did he ever come and get his stuff from your house?
A. No.
Q. Was he allowed to come back to your house?
A. If he wanted to come get his stuff, yes, ma'am.
Q. Okay. Was he allowed to come back and stay at your house?
A. No, ma'am.
Q. How about Ann, was she allowed to come back and stay at your house?
A. No, ma'am.
Q. Did you let her come get her stuff?
A. Yes, ma'am.
Q. Did you talk to Ann much after this?
A. Not much. I went back to the hospital the day they took Victim off of the machine. But I really didn't speak with her much. She was with Victim's daddy, Mark. And Mark had asked me if Ann could come back to the house and stay and I told him, no. And he said, well, can she come get her stuff? And I told him yes.
Q. Was this pretty upsetting for you?
A. Yes, ma'am.
Q. Now, the person that you say you call Parker, James Johnson, is he present in the courtroom today?
A. Yes, ma'am.

Q. Okay. And can you identify him for the jury?
A. Yes, ma'am. He's sitting right there.
Q. Sitting at the Defense table?
A. Yes, ma'am.
Q. In the purple shirt?
A. Yes, ma'am.
Q. Thank you. Please answer any of Ms. Manigault's questions.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. Ms. Inman, were you aware that Ann told Parker not to go back to your house?
A. No, ma'am.
Q. Now, at the -- when the ambulance came, you were there?
A. Yes, ma'am.
Q. And you were there when the fire responders came?
A. Yes, ma'am.
Q. So you got back to the house before they got there?
A. Yes, ma'am.
Q. And you stated that you heard the police tell Ann that she could not go in the ambulance?
A. Yes, ma'am.
Q. She had to wait there?
A. Yes.

Q. Now, you said you were down in the basement. Was the basement door that was seen in one of the State's Exhibit, was that unlocked and open?
A. Yes, ma'am.
Q. Okay. And did you come into the house through the basement door?
A. No.
Q. All right. You came into the house through the back door?
A. Yes, ma'am.
Q. And how many steps up? How many steps at the back door?
A. Three.
Q. Three. And how many steps -- is there a front entrance?
A. Yes.
Q. Okay. And when you entered that front entrance, how many steps is that?
A. In the front, maybe seven.
Q. Seven. And that front door, when you open into the house, what room would you step into?
A. Through the front, you would step into the kitchen.
Q. You would step into the kitchen?
A. Yes, ma'am.
Q. And when you go in the back door, what room would you

step into?

A. The game room where the futon and stuff was at.

Q. All right. And the game room with the futon and a picture showed the laundry room?

A. Yes.

Q. How far was the kitchen from that room?

A. You turn right, go through the door and it takes you straight into the kitchen.

Q. So the front door from the back door is like halfway through the house?

A. Yes.

Q. Now, you said that when you entered you saw -- when you went into the living room area after you had gotten into the house, you saw Ann and, you called him Parker ---

A. Yes, ma'am.

Q. --- into the living area? They were in the living area?

A. Yes, ma'am.

Q. They were in the area where [redacted], that's what you called the baby.

A. Yes, ma'am.

Q. And [redacted] was lying on the floor; is that right?

A. Yes, ma'am.

Q. And who was doing CPR?

A. The Defendant.

Q. Okay. Did you observe how he was doing? Did he have his hands closed, open, one hand, two hands?
A. I don't -- because when I see it, I was just so upset, that's when I run outside.
Q. Okay. And you testified that there was some throw-up next to Victim. How large would you say the throw-up spot was? Was it the size of a grapefruit or the size of an orange?
A. It was about this big on the carpet.
Q. About a little bigger than a grapefruit?
A. Yes, ma'am.
Q. Okay. And you are pretty sure that was throw-up?
A. Yes, ma'am.
Q. And when you entered the living, Parker was doing CPR. And what was Ann doing?
A. She was standing beside him on the phone with 9-1-1 trying to direct him to what to do.
Q. All right. And how long did you stay to observe that? Minutes, seconds?
A. Just a few seconds.
Q. A few seconds?
A. Yes, ma'am.
Q. And when you left the room you went where?
A. I went outside in the front yard to call my mother.
Q. Were there any other adults outside in the front yard

when you went out there?

A. No, ma'am.

Q. Now, you said Ann came down to the basement. Did she come down to the basement while the fire responders and/or EMS was still there?

A. Yes, ma'am.

Q. And do you recall how long she stayed down in the basement?

A. Probably five or ten minutes.

Q. Okay. And I believe you testified that Parker came down to the basement also?

A. Yes, ma'am.

Q. How long did he stay in the basement?

A. I really don't recall.

Q. You don't recall. All right. When Ann came to the basement, how was she acting?

A. She was barely crying. I mean, she wasn't all upset like I would have been if that would have been my child laying there.

Q. And you said you told Ann to go back upstairs with her child?

A. Yes, ma'am.

Q. And when you told her that, did she go back upstairs?

A. Yes, ma'am.

Q. I believe you said you saw the fire responder carry

Victim out?

A. Yes, ma'am.

Q. Were you still in the basement or were you outside at that point?

A. I was standing at the basement door.

Q. Okay. So did he come through the back door or the front?

A. The back door.

Q. So the fire responder came out the back door?

A. Yes, ma'am.

Q. All right. You said that there was no conservation in the car on your way to Greenville Hospital?

A. No, ma'am.

Q. All right.

MS. MANIGAULT: No further questions, Your Honor.

THE COURT: Any redirect?

MS. HODGE: No, sir.

THE COURT: Thank you. You may step down, Ms. Inman.

MS. HODGE: May she be excused, Your Honor?

THE COURT: Any objection?

MS. MANIGAULT: None, Your Honor.

THE COURT: All right. Without objection the witness may be excused from the subpoena.

MS. HODGE: The State calls Doug Smith.

THE CLERK: Come forward and put your left hand on the bible and raise your right.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE CLERK: Please have a seat and state your full name for the record.

THE WITNESS: Douglas Smith.

DOUGLAS SMITH,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Mr. Smith, were you previously employed with the forensic division of the Department of Public Safety back in May of 2011?

A. Yes.

Q. And how long were you a forensic officer?

A. Just a little under eight years.

Q. Okay. What were your duties with forensics?

A. Typically, locate, collect and preserve physical evidence related to a crime scene.

Q. Okay. I'm going to ask you to speak up or push that microphone up just a little bit. I'm having a hard time hearing you.

A. Is that better?

Q. Much better. Thank you. All right. And so were you called to take some photographs in this case that we're here on today, the State versus James Johnson?

A. Yes.

Q. All right. And what were you asked to do?

A. Just document through digital still images any visible injures to the Defendant. I'm sorry, to the victim.

Q. To the victim? All right. And who was the victim, do you remember?

A. [redacted] was the name I was provided.

Q. Where did you go?

A. Greenville Memorial Hospital, PEDS Unit, that's PEDS ICU.

Q. Do you know what time you arrived there?

A. About seven o'clock P.M.

Q. And tell us what you did while you were there?

A. I spoke briefly with an investigator Hoover. He requested just digital still images of the victim. I obtained a consent to photograph from who I was advised was the victim's mother. I went in and secured as many digital images I possibly could. They were still -- the victim was on a respirator and was still being attended to by a nurse. So I tried to be as least obtrusive as possible.

Q. Would a nurse or a doctor have assisted you in being able to take these pictures?

A. Typically, yes, they do. But due to the age and the nature of this, being on a respirator, we didn't move the baby at all. I took pictures around what they were doing.

Q. All right. Let me show you ...

MS. HODGE: I'm sorry. I haven't had these marked yet.

(WHEREUPON, State Exhibit Numbers 24 through 33 were marked for identification.)

Q. All right. I show you what's been marked State's Number 24 through 33. If you can identify those as a group for me, just in general what those are.

A. These would be digital still images that I obtained on May 25th, 2011 from Greenville Memorial, Room Number 5619.

Q. And the child is [redacted]?

A. Yes.

Q. Are these true and accurate representations of how she looked at that date and time?

A. Yes.

MS. HODGE: At this time we'd move to admit State's 24 through 33.

THE COURT: Any objection?

MS. MANIGAULT: Yes, sir. Brief sidebar?

THE COURT: Yes, ma'am.

(WHEREUPON, Ms. Hodge and Ms. Manigault approached the bar.)

MS. HODGE: Your Honor, after our discussion at sidebar the State moves to admit States Number 28, 29, 30, 31, 32, and 33.

THE COURT: Did you want Exhibit 24?

MS. HODGE: Oh, I'm sorry.

THE COURT: That's all right.

MS. HODGE: 24. That's the room number.

MS. MANIGAULT: Okay.

MS. HODGE: And Number 24.

THE COURT: Any objection to those exhibits?

MS. MANIGAULT: No objection, Your Honor. At the sidebar, I objected to the pictures and the Court has addressed that issue.

THE COURT: All right. Those have been excluded?

MS. MANIGAULT: Yes, sir.

THE COURT: All right. You may proceed.

Exhibits 28 through 33 and Exhibit 24 admitted.

MS. HODGE: Yes, sir.

(WHEREUPON, State Exhibit Number 24 and State Exhibit Numbers 28 through 33 were admitted into evidence.)

Q. I'm showing, Mr. Smith, what's been marked as State's Number 4 [verbatim]. What is the significance of that picture?

A. That would be the room number of the PEDS ICU Unit.

Q. Is that ---

A. That is the room number in which I was called to respond to.
Q. And I show you State's Number 28. What's the significance of this photograph?
A. To show the bruising to the forehead and the bridge and the eyes, the bridge of the nose and the eyes.
Q. I'm showing you State's Number 29.
A. To elaborate on the bruising to the forehead. It's a little bit of swelling to the forehead, the bridge of the nose, around the eyes as well.
Q. And is there something here?
A. Yeah. Additional bruising on the chest.
Q. Was your job to do overall pictures as much as you could without moving ---
A. Correct. Take overall pictures, take closeup pictures with and without scale, which is just a little L-ruler to show the size of the bruise. You take a closeup of a bruise, it could be this big. If you don't put a scale next to it, it could look this big. You get the best representation you possibly can of the sheer size of it. In this case you take overall pictures on top, all sides and to scale as many of the injuries as you possibly can.
Q. I'm showing you State's Number 30. What's the significance on this picture?
A. Light bruising on the right flank of the victim.

Q. And is that here?
A. Yes. The right flank would be the side of the rib cage.
Q. Is there anything down here?
A. Redness to the sides of the legs.
Q. State's Number 31?
A. Additional bruising to the opposite side on the left flank, a little bit lower than the right side.
Q. State's Number 32?
A. That would be redness on the outside of the right knee.
Q. And State's Number 33?
A. That was redness that I was advised potentially could be from fire ant bites to the back side of the left leg, just right around the back side of the thigh.
Q. Did you remove the child's diaper at all ---
A. No, I did not.
Q. --- to take any photographs?
A. No, I did not.
Q. Or take any pictures of the back?
A. No.
Q. How about on the inside of the child's mouth?
A. No.
Q. Were you able to photograph any ---
A. No. With the respirator on, no pictures were taken.

The only extremities that were moved were the legs. We did not want to interfere with the respirator at all.

Q. Was that the only duty you were asked to perform in this case?

A. Yes.

Q. Thank you. Please answer any defense questions.

MS. MANIGAULT: I don't have any, Your Honor. Thank you.

THE COURT: Thank you. You may step down.

THE WITNESS: Thank you.

MS. HODGE: May he be excused, Your Honor.

MS. MANIGAULT: No objection.

THE COURT: Without objection. Thank you. You may be excused.

MS. HODGE: The State would call Tina Rollins.

THE CLERK: Put your left hand -- raise your right.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE CLERK: Would you please have a seat and state your full name for the record.

THE WITNESS: Tina Ann Rollins.

TINA ROLLINS,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Ms. Rollins, tell us a little bit about yourself. How old are you?

A. I'm fifty-one.

Q. And are you currently married?

A. No, ma'am. I live with my boyfriend.

Q. And how long have you been with your boyfriend?

A. Seven years.

Q. Do you have any children?

A. I have five girls.

Q. And what are their ages and names?

A. Ann is 32; Marie is 31; Denise is 26; Heather is 20; and Minor 6 is 15.

Q. And how about grandchildren?

A. I have three grandchildren.

Q. And what are their names?

A. I have one that we call him little Minor 2; he's seven. And then I have Minor 1, she'll be five in July. And then I had Victim.

Q. And were all those children your daughter Ann's children?

A. Yes, ma'am.

Q. And Ann is Ann Sprouce; is that correct?

A. Yes, ma'am.

Q. What was her maiden name?
A. Sprouce.
Q. That's her name. Did she get married?
A. Yes. She married Mark Carter.
Q. But she didn't take his last name?
A. No, she kept Sprouce.
Q. She kept Sprouce, okay. And are you currently working anywhere?
A. No, ma'am. I'm disabled.
Q. Do you take care of [redacted]?
A. Yes, ma'am.
Q. And what kind of work have you done in the past?
A. I've worked as a nursing assistant. I was head bookkeeper for Winn Dixie. And my last job, I was assistant manager for Walmart.
Q. And when did you become disabled?
A. In 2006 or '07.
Q. Not that long ago?
A. No, ma'am.
Q. All right. Do you know the Defendant in this case?
A. Yes, ma'am.
Q. And how do you know him?
A. I had met him through my daughter Ann. I had seen him at her apartment.
Q. Did you know what kind of relationship they had? Was

it friends or more than friends?

A. She had told me they were boyfriend and girlfriend.

Q. Do you know about when they may have started dating?

A. I believe it was somewhere around 2011.

Q. All right. In the beginning, middle, end, do you have any idea?

A. I'm going to say the beginning or maybe the last of December. I'm not sure about the date.

Q. How long did they date?

A. Not that -- up until that happened.

Q. Until [redacted] died?

A. Yes, ma'am.

Q. Now, how many times do you think you met the Defendant?

A. Maybe a handful. I would just go over there to pick up the children and I would leave. Usually, I didn't stay.

Q. And where would you go and pick the children up? Where was this?

A. Her apartment on Whitehorse Road.

Q. Whitehorse Road?

A. Yes, ma'am.

Q. All right. I'm going to ask you to make sure you speak up too. You may want to get into that microphone a little bit. And you said you'd pick up the children. Was that something you normally did?

A. Yeah. I picked up [redacted] really more than I'd pick up [redacted]. But I did go over there and pick them -- would pick the children up from the home.

Q. And what would you do with them?

A. That was something I had always done.

Q. Okay. Helping out Ann?

A. Uh-huh (affirmative).

Q. Would you take them to spend the night with you or just ---

A. Usually, she spent the weekends with me.

Q. So mostly [redacted] or [redacted] and [redacted]?

A. I'd pick up [redacted] some, but it was mostly [redacted] that would always want to go. She'd be jumping up and down, want to go with grandma.

Q. Okay. And did you ever do any visiting in the home with Ann and the Defendant?

A. No, not really. I wouldn't stay no longer than five or ten minutes, mainly just picking up and dropping off.

Q. All right. Whenever you would get [redacted], did you ever notice any unusual bruises or anything that gave you cause for concern?

A. No. I had picked up [redacted] one time and I had asked my daughter, because she had a bruise on her, and she said that she ---

MS. MANIGAULT: Your Honor, I object to any

discussion about ---

THE COURT: Sustain the objection.

Q. You observed a bruise on [redacted], is what you're saying?

A. Uh-huh (affirmative).

Q. And you did ask Ann about it?

A. Yeah. Parker was there, too, at the time.

Q. Okay. Without saying what they told you, after you talked with them, did you feel the need to call anybody or report any ---

A. No. What she had said seemed pretty logical if you knew [redacted].

Q. Okay. All right. Something that didn't raise a red flag to you?

A. No.

Q. But how about [redacted], anything on [redacted]?

A. No. The last time I took [redacted] home I asked where [redacted] was and they said she was sleeping. So I didn't bother her.

Q. When was the last time you saw [redacted] before she died?

A. The weekend of Easter.

Q. And was Easter in April that year?

A. Yes, ma'am.

Q. So would it be fair to say a month, six weeks,

something like that before she died?
A. Yes, ma'am.
Q. At some point did Ann move from that apartment on Whitehorse Road?
A. Yes, ma'am, she did. I later learned that she had moved in with Crystal.
Q. Were you keeping in touch with Ann on a regular basis?
A. I was up until the Defendant moved in. And then her phone got turned off and she didn't have a way to call me.
Q. And did you -- other than Easter, after Easter, did you ever go over or go visit?
A. No, ma'am, because shortly after that is when they let the apartment.
Q. Did you have any idea when they left the apartment at the time they left, where they had gone?
A. No, ma'am, I did not.
Q. And you were out of contact with Ann during this time?
A. Yes, ma'am.
Q. Did you know Crystal?
A. Yes, ma'am. I've known her and her family for all my life, really.
Q. Did you know where Crystal lived at that time?
A. No, ma'am.
Q. Do you recall May the 25th, 2011?
A. Yes, ma'am.

Q. Tell me what you recall about that day?
A. I was standing in my kitchen getting ready to cook dinner and my daughter Marie called and she told me that [redacted] had choked on tea and I needed to go to the hospital.
Q. Do you remember what time of day that was?
A. It had to have been between four-thirty and a quarter till five because my boyfriend always got home about five-thirty and I always had dinner ready when he walked in the door.
Q. Okay. Were you in the midst of getting dinner ready?
A. Yes, ma'am. I had the potatoes going and the pork chops ready to go in the pan.
Q. And what did you do when you got that call?
A. I immediately shut everything off.
Q. Did you ask anything of your daughter Marie about [redacted] or was it just that comment ---
A. I think it was just that conversation. Best I can recall, it was just that conversation about [redacted] and we ended it because she was getting to the hospital herself.
Q. And what happened then?
A. Joe came home and we left and went to the hospital.
Q. And tell me what happened when you got there?
A. When I got there, we was in the waiting room and the Defendant was in there. And my ex-husband, Ann's father,

her uncle, her aunt, Marie was there. They was just all kind of sitting around wondering, you know, what happened. And we was going over this story with Ann choking -- you know, saying the baby choked on tea. And they wouldn't let me go back because they were still talking to Ann. And when I first got there, they were still talking to Crystal and ---

Q. Did you ever try and ask the Defendant what happened?

A. I never spoke to him.

Q. Did he ever come up to you to try to talk to you ---

A. No, ma'am.

Q. --- or explain anything or ---

A. No, ma'am.

Q. --- console?

A. No, ma'am.

Q. And when you got there, Ann was not out in the waiting area so you couldn't talk to her?

A. No. Uh-uh (negative).

Q. And you were not allowed to go see [redacted]; is that what you're saying?

A. No, ma'am. They wouldn't let anybody go back at that time.

Q. All right. Where was [redacted]?

A. [redacted], I was told, was at -- Crystal had said after she got done talking with the detective that Crystal's

mother had her. So I didn't have to worry about her because she was with her mother.

Q. Okay. She with Crystal's mom?

A. Yes, ma'am.

Q. All right. Now, at some point did you get Minor 1 that night?

A. Yes, ma'am. Crystal had called and said -- had called my daughter Marie and said that she couldn't do anything with Minor 1, she was crying. And she thought it would be best if she just brought her to her. And Marie had to work the next morning so I told them to bring her to me.

Q. And where were you when you -- when you said, bring her to me, where were you?

A. I was at the hospital.

Q. Okay. And what time did -- or did you eventually get to -- get custody of Minor 1 or get a hold of Minor 1 that night?

A. Yes, ma'am. Crystal brought her to me. It was late. Like she said, it was about ten thirty, eleven o'clock or so before I got Minor 1.

Q. And when you got her, what did you do?

A. I held her real close. And we left the hospital eventually and took her home.

Q. And was she awake, asleep, how was she?

A. She was still awake but she was groggy. You could

tell she was tired. She was dirty. You could tell she'd been outside playing.

Q. And did she got to sleep in the car?

A. Yes. She went to sleep on the way home.

Q. Eleven o'clock, is that late for a two and a half year old?

A. Oh, yeah. That's late for me.

Q. So tell me about getting her home. What did you do when you got home?

A. When I got her home, I washed her off because it was so late, I just -- I didn't want to give her a bath. So I, like she was groggy anyway. And I just washed her off and we went -- I laid down with her.

Q. Where did she sleep that night?

A. She slept with me.

Q. And is there a reason that she slept with you?

A. She was crying. She said Victim was sick. She asked for her mother.

MS. MANIGAULT: Your Honor, I'm going to object to anything the child has said. There was no established that my client was present during this conversation.

MS. HODGE: Your Honor, we may need to take a -- I wanted to be heard on a legal argument.

THE COURT: All right. Ladies and gentlemen, we'll take a legal matter up now. It might be time for a

break for you anyhow. I'm going to ask you to go back to your jury room. Let me remind you again while you're back there, you shouldn't be discussing the case.

Sometimes when you're back in the jury room you may find that you need something from the clerk's office, from the bailiffs, later, a legal question. I'm going to appoint Mr. Thomas as the foreperson of the jury. Sometimes when matters come up, someone may need to call and check on a child, whatever it may be, the foreperson will just be the liaison with the Court, the one to contact the bailiff and write out whatever the need is. It may be a cup of coffee or a thermostat adjustment, whatever, I don't know what it is. But whatever the juror needs, then that foreperson will just write out the need, give it to the bailiffs and we'll try to take care of that need. Ultimately, what the foreperson will do will be the one who will facilitate the discussion when the case is concluded and all the evidence is in and I've instructed you on the law, then the foreperson will be the one who will make sure every juror has his and her say into the view of the facts and on behalf of the jury, write out the verdict form. So we've already designated seats for the two alternates so they know where they're going to be sitting. The foreperson will occupy the seat on the front row closest to the witness stand here. So the rest of you, as you come

and go, you may want to sit on the front row, the back row, the left side or the right side. That's certainly all right. We'll take care of this matter. You take a short break. We'll hopefully call you back in just a few moments. You may retire to your jury room.

(WHEREUPON, the jury exited the open court at approximately 10:31 A.M.)

THE COURT: All right. I gather from the last question the State intends to elicit some testimony from Minor 1 ?

MS. HODGE: That's correct, Your Honor.

THE COURT: What is it?

MS. HODGE: The State would intend to ask Ms. Rollins about a statement that Minor 1 made. The State contends that this is excited utterance, exception to hearsay. There is a case, South Carolina versus -- or the *State versus Sims*. And I apologize, I don't have a copy of the case but I can give your clerk a cite. It's 348 SC 16. It's a Supreme Court case from 2002. And, Your Honor, as the Court obviously knows, the basis for this hearsay exception is that a person is under the stress of a startling event, that the statements that they make are a result of non-reflection, not having the opportunity to sit and think through and deduce and they're less likely to be fabrications. So they do have that trustworthiness, that

indicia of reliability.

In this case the child is two and a half years old. I submit to the Court and, again, based on *State versus Sims* that she didn't have the development ability, cognitive abilities to be creating, deducing and fabricating things. That she was making statements that were spontaneous, that were due to her being under the stress of this traumatic event. Courts have held that even though significant lapses in time occur between the event and the statement, that does not throw the statement out just because of length of time. There are cases -- not South Carolina, but I do have numerous cases from other states where Courts have looked at even days later a child's statement being admissible as an excited utterance.

Your Honor, there's nothing I can imagine more traumatic than a child, who the evidence shows, was in the room at the time of this incident occurring, watching her baby sister be hit, be suffocated, be struggling against that, then to spontaneous vomit and die, then to have mom and boyfriend panicking, to have firemen, EMS, policemen, to then be swooped away to a non-relative, to a friend's house and then to only be able to really feel comfortable enough to disclose when she's finally in the presence of the trusted caretaker, who the grandmother and Minor 1 obviously had a very close bond. So it's the State's

contention it's her statement, which we had not actually gotten to the statement that I was expecting the witness to talk about, which that -- so I can give you the context of that statement.

THE COURT: Well, why don't you make a proffer now.

MS. HODGE: Yes, sir.

THE COURT: If you'll just ask the questions and then we'll get the answer.

MS. HODGE: Yes, sir.

Q. Ms. Rollins, after you put Minor 1 to bed, I believe you've already stated in your testimony that she was crying and you were sleeping with her. The next morning, what happened when you woke up?

A. My daughter Minor 6 had got on the bus to go on to school. And I told her we would pick her up from school on our way to the hospital and stuff, because I had to take Minor 1 back to the Julie Valentine Center. And I was -- got -- Minor 1 had got up and she was eating breakfast and I was going through my daily -- trying to go through my daily routine best I could. And I went to give Minor 1 a bath and after the bath, I'm standing there drying her off and Minor 1 says to me, Victim choked on tea. She does her hands in the motion of drinking tea. And she says, tea all over Victim. And then she says, Parker did this,

covered her nose and mouth. And then she said, boom, boom, boom. I immediately got her dressed. We went and picked up my daughter. I never said a word. I have never said a word to anybody, other than the detectives at the hospital, of what that child said to me, and the lady over at the Julie Valentine Center.

Q. Were you asking [redacted] what happened?

A. We were not discussing nothing, except what we were doing that day. I told her we were going to pick up [redacted] from school. And I was explaining to her that we were going by the hospital to check on [redacted]. And we were going back to the Julie Valentine Center. But I didn't tell her Julie Valentine Center. What I told her was we were going to see Nicole. She had took up with a lady named Nicole from over there.

Q. Okay. So this was not a questioning or interrogating or ---

A. I never questioned the child, no, ma'am.

Q. It's a statement that she made to you. And this was the next morning after she had been through this event during the day, at the other lady's house at night, practically asleep when you got her, but upset. And then this is the next morning, the first opportunity that she's awake and y'all are actually communicating?

A. Yes, ma'am.

Q. And did you attempt to ask her any more questions after ---

A. No, ma'am. I didn't ask her because I really didn't want to know the answers.

MS. HODGE: Thank you, Your Honor. That would be what we would intend to elicit from this witness.

THE COURT: Are there any examination you want to make of this witness just as to these statements?

MS. MANIGAULT: No, sir.

THE COURT: Obviously, I'll allow you to cross-examine?

MS. MANIGAULT: I have an argument though.

THE COURT: Be glad to hear from you, Ms. Manigault.

MS. MANIGAULT: May it please the Court, Your Honor. The excited utterance exception, I do not believe that this statement would fit into that. And the reason being that the incident happening to [redacted] happened around three P.M. or maybe four on May 25th, 2011. And that the testimony of Ms. Rollins says that she did not talk to her about the events. That's what she offers to the Court. And [redacted] [verbatim] gives this alleged utterance to her the following morning on the 26th, while she's preparing her and has told her that they're going to the hospital.

Your Honor, the issue is this, is that the child is two and a half years old. They took the child to the Valentine Center for an interview twice. The two and a half year old, Minor 1, never confirmed anything that was testified here today. The interviewer asked Minor 1 what is boom, boom, boom. She did not respond, did not answer the question. She was not -- it is my opinion that she cannot qualify as a witness to know the difference between right and wrong. She does not talk that well. In the interview, you have to struggle to understand what she's saying. So the fact that grandmother is saying she said, boom, boom, boom. She said, Victim choked on tea. She said Parker then held her nose. The child never said any of that in the Valentine Center interview. And her name is not on the witness list so I'm assuming that they didn't plan to call her. I'm also assuming that they didn't plan to try to introduce that Valentine -- Julie Valentine Center interview, because we're going to object to that on various reasons. So, Your Honor, I don't believe that this fits within the excited utterance exception.

THE COURT: Was her scheduled appointment at Julie Valentine that morning relating to this or some other incident?

MS. HODGE: Actually, I think Ms. Rollins is a little bit confused on the timing. She made this

statement, this utterance in the morning following the event. When Ms. Rollins went to the hospital, like she was planning, she told the police at the hospital what the child had told her. At that point, they made an appointment to send her. So the utterance was first. Then they set up an official interview for the child, which those are not -- she's a witness to a case, those are not admissible under the statute anyway. They were an attempt to learn more information. So those appointments were after the statement was made. But I do believe that it does fall under the excited utterance exception.

And as I said, there are many, many other cases in other states that have elongated time periods. *State versus Sims* said approximately twelve hours had elapsed in this case, and explained that even statements after extended periods of time can be considered excited utterance as long as they're made under continuing stress. The court pointed out stress from a startling event lasting a longer amount of time than would be likely to occur if the child had been an adult. And then they cited a Utah case in the South Carolina case, *State versus Cude*, C-U-D-E, excitement generally last longer in children and fabrication is less likely. The South Carolina Court went on to say that because of the child's age and the severity of the event, the court determined those factors in favor

of the State. And the statement was admitted as an excited utterance.

MS. MANIGAULT: Your Honor, may I make a comment? Your question was, was she taken to the Julie Valentine Center as it related to this case to try to get some more information about what she said. The answer is yes.

THE COURT: All right. I thought I heard the testimony that during the bath ---

MS. MANIGAULT: Yes, sir.

THE COURT: --- they already had a scheduled appointment at Julie Valentine and that was what confused me. But that was not the case.

All right. Let's take a short break and I'll make a decision. Ms. Rollins, you can step down while we take a break. You're not to discuss your testimony with anyone while we're taking the break. We'll take about a ten-minute break and we'll be ready to proceed.

(WHEREUPON, the court stood at recess for a short break.)

THE COURT: Okay. I have reviewed the case you cited, Solicitor, as well as some other cases, *State v. Washington, Latimer,* and others. Weighing the factors of whether the statement is related and was under stress and whether it was caused by the stress, I find, weighing the equities and certainly in light of *Crawford* and its

prodigy, I believe the statement should not be allowed in this case. In light of the other factors that may have been in play in this with the time lag of hearing other people's conversations going back and forth, I'm not sure under the totality of circumstances this would be credible as required under the law. So I will not allow the statement to be in under the Rules of Evidence 803(2).

Anything else?

Ms. Rollins, you may come back around. I want to remind you, you're still under oath.

MS. HODGE: So that she's clear on your ruling, Your Honor, ---

THE COURT: Right.

MS. HODGE: I'm just going to make sure she's clear on your ruling.

THE COURT: All right. If our jury's ready you can have them come back in.

(WHEREUPON, the jury entered the open court at approximately 11:21 A.M.)

THE COURT: All right. Solicitor, you may continue your examination of the witness.

MS. HODGE: Thank you, Your Honor.

Q. Ms. Rollins, I think when we broke you were stating that you had given a bath to [redacted] that next morning?

A. Yes, ma'am.

Q. And don't say anything that Minor 1 said, but you and Minor 1 had a conversation?
A. Yes, ma'am.
Q. Did you attempt in anyway to question Minor 1 about anything?
A. No, ma'am.
Q. And after you gave her a bath, what did y'all do?
A. We left and went and picked up my daughter at school and proceeded on to the hospital.
Q. And tell me about what happened when you got to the hospital?
A. I got to go back to see the baby.
Q. Was that the first time you had gotten to see her?
A. No, ma'am. The detectives had came and got me the night on the 25th and let me go back for just a moment.
Q. All right. So when you went to the hospital the next day, on the 26th, you got to go back there?
A. Yes, ma'am.
Q. And was anybody else back there when you went?
A. Ann and Mark was back there. Victim s daddy.
Q. And who is Mark?
A. Victim 's daddy.
Q. Okay. And were there police officers still around and at the hospital during this time?
A. Yes, ma'am. Detective Chris Miller and Detective

Autrey, I believe that's his name, they were both still there.

Q. Okay. Did they -- either one of them attempt to speak to you about this case?

A. I spoke them.

Q. You spoke to them?

A. Yes, ma'am.

Q. All right. And, again, without saying anything [redacted] said, did you approach them about something that was said to you by [redacted]?

A. Yes, ma'am, I did.

Q. Okay. And you gave them that information?

A. Yes, ma'am. I gave them a statement?

Q. All right. And was that a written a statement?

A. I believe, yes, ma'am, it was.

Q. Okay. And where was that taken?

A. It was taken in the hospital in one of the little rooms that they had set up there, I guess for questioning and stuff.

Q. All right. And as a result of talking to police and telling them what you did, did you have to do anything after you left the hospital that day?

A. Yes, ma'am. We took [redacted] to see -- over to the Julie Valentine Center.

Q. And that was at the request of a police officer?

A. Yes, ma'am.
Q. And did anybody go with you over there?
A. Me, Minor 1, Minor 6 and Joe, all went, because I was not able to drive.
Q. Okay. And were you able to be with Minor 1 while she was over there or was that separate?
A. No, ma'am. It was totally separate. They wouldn't allow me to go back and hear anything that she said.
Q. Okay. And about how long did y'all stay there?
A. We was there a good bit because they broke for lunch and I don't know what time it was. I don't recall the times. But I do remember Joe went out and got us some lunch.
Q. Now, during this time, did you actually have custody of Minor 1, had you been given ---
A. Not at that time, I did not. They had just give me like, I guess like what you call temporary custody.
Q. Okay. DSS was involved?
A. Yes, ma'am. DSS was involved.
Q. So there was an official transfer of temporary custody of Minor 1 to you?
A. Yes, ma'am.
Q. Okay. And then after finishing up at Julie Valentine Center that day, did you have to go back again with Minor 1?

A. Yes, ma'am. We went back several -- on several different occasions.

Q. Did you ever get to speak to Ann or get any information -- without telling me what she said, did you ever question Ann about what happened to [redacted]? What did you say? You can tell me what you said.

A. The very first night on the 25th when it happened and the detectives let me go back momentarily, my daughter met me at the door of [redacted]'s room. I did not give that child a motherly hug. I hugged her. Do you want me to say what I actually said?

Q. Sure?

A. I said, what the hell happened? Because I knew they were lying.

MS. MANIGAULT: Your Honor, I'm going to object.

THE COURT: I sustain the objection as to the ---

Q. You were not being a supportive ---

A. No, ma'am, I was not.

Q. --- mom.

A. No, ma'am.

Q. You were angry?

A. Yes, ma'am, I was.

Q. That is the first time you had seen Ann since Easter?

A. Yes.

Q. Or had you seen Ann before?

A. No, I hadn't seen her after that because that's when she moved to Crystal's and I didn't see her.

Q. Now, did [Minor 1] eventually come into your full custody?

A. Yes, ma'am, she did.

Q. All right. During the time that [Victim] was still in the hospital -- well, tell me this. When did [Victim] die?

A. They took her off life support on the 27th.

Q. And during that time was Ann still out and about?

A. Yes, ma'am.

Q. Where was she staying? Did you know where she was staying then?

A. After they took [Victim] off life support, Ann was to stay with her aunt, Joyce Sprouce.

Q. Did you see Ann anymore after that?

A. She came to the house two or three times with Mark Gore. He brought her there to see [Minor 1] because she had to have supervised visitation. She could not be left alone with [Minor 1].

Q. And then at some point did Ann get arrested?

A. Yes, ma'am.

Q. Okay. And do you know where she was when she got arrested?

A. She was at Candy's. Her friend Candy's house.

Q. Is that in Greenville or ---

A. Well, at the time, I thought it was in Travelers Rest, but it was actually somewhere toward Greenwood, Laurens.

Q. And did you ever see the Defendant again after that brief time in the hospital the first night?

A. No, ma'am.

Q. Did he ever come to you or try to talk to you or anything like that after all this incident?

A. No, ma'am.

Q. Thank you. Please answer any of Ms. Manigault's questions.

THE COURT: You may cross-examine the witness.

MS. MANIGAULT: Your Honor, I don't have any questions. Thank you.

THE COURT: All right. Thank you, ma'am. You may step down.

MS. HODGE: May she be excused from her subpoena?

THE COURT: Any objection.

MS. MANIGAULT: None.

THE COURT: Without objection, the witness may be excused.

MS. HODGE: Thank you, Your Honor. The State would call Georgia Ann Sprouce.

THE CLERK: Place your left hand on the bible and raise your right.

Do you solemnly swear or affirm to tell the truth, the

whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes, ma'am.

THE CLERK: Okay. Come forward and have a seat and then state your full name for the record.

THE WITNESS: Georgia Ann Sprouce.

GEORGIA ANN SPROUCE,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Ms. Sprouce, tell us a little bit about yourself. How old are you?

A. I'm thirty-two.

Q. All right. And are you currently living at the detention center?

A. Yes, ma'am.

Q. And are you in there on charges resulting from this case?

A. Yes, ma'am.

Q. Homicide by child abuse, aiding and abetting and accessory after the fact?

A. Yes, ma'am.

Q. Are you currently legally married?

A. Yes, ma'am.

Q. To who?

A. Mark Carter.

Q. All right. And have you been separated from him?
A. Yes, ma'am. We've been separated now for about a good two, three years.
Q. Okay. And do you have any children?
A. Yes, ma'am.
Q. Tell me who your children are?
A. I have three children. The deceased, which is Victim Victim. She would have been three years old this year. My oldest daughter is four. Her name is Minor 1. And my son, Minor 2, who is eight.
Q. All right. And Minor 1, that's your child with your husband that you're still legally married to, Mark Carter?
A. Yes, ma'am.
Q. Okay. And where is your son? Where does he live?
A. He lives in Hendersonville with his grandparents.
Q. Is his dad from up there?
A. Yes, ma'am.
Q. Did you ever marry his dad?
A. No, ma'am.
Q. Did you ever -- you were still married to Minor 1 's dad, so you did not marry Victim 's dad?
A. No, ma'am.
Q. All right. Where did you grow up?
A. I grew up in Blue Ridge. It's outside of Greer. It's

a small town. I went to school there at elementary school and continued to go to school at Blue Ridge Middle.

Q. And did you go to high school?

A. No, ma'am.

Q. Why didn't you go to high school?

A. Oh, by the time I had finished eighth grade in middle school, I was already to the point where I was on drugs and I was having to maintain taking care of my other two sisters, which was a little hard. And so the drugs took over my capability of even going to school.

Q. All right. Who are your parents?

A. My parents is Tina Rollins and my dad is Thomas Sprouce.

Q. How about -- you said you would take care of your two sisters. Are you the oldest?

A. Yes, ma'am.

Q. Who are your sisters?

A. Marie Sprouce and Denise Sprouce.

Q. And how much younger than you are they?

A. Me and Marie's about maybe a year apart. Me and Denise, she was born in '86. So I'd say she was -- we're probably about maybe seven years apart.

Q. And did your parents divorce?

A. Yes, ma'am.

Q. And who did y'all live with?

A. We lived with my father and his mother and my aunt.
Q. And were you a primary caretaker once your parents divorced?
A. My grandma and my aunt took care of us up until I was thirteen years old. And my grandma passed away. So, therefore, it left me with me and my daddy and my other two sisters. And sometimes, you know, my aunt would help what she could. But she was working third shift so there wasn't much she could do. And the rest of the time, you know, I was left to either clothe them, bathe them, you know, whatever just that had to be done. Cooked, washed their clothes.
Q. So you dropped out of school?
A. Yes, ma'am.
Q. Okay. And how old were you when you stopped going to school?
A. I was sixteen years old when I dropped out of school.
Q. Did you take up working somewhere?
A. No, not at that time I did not.
Q. Did you just live in the home still?
A. Yes, I did until I met this guy. He was twenty-nine. I moved in with him, and continued to live there with him, I guess, for about a year and a half. And after that, I moved back in with my daddy to where I stayed there, I guess, for about another year and a half with my dad. And

moved in with my mother.

Q. Have you ever worked anywhere in your life?

A. Yes, ma'am. I've worked at Arby's and Gaddy's. I've worked at Sonapress. I've worked at Spinx. I've worked at numerous places.

Q. Tell me about meeting your son's father as far as, you know, when in your life was this or how old were you when you had your first child, your son?

A. When I first had my son, I was twenty-four.

Q. And were you living in Greenville then?

A. No, ma'am. I was living in North Carolina, Hendersonville.

Q. And how about when you had [redacted], how old were you and where were you at that point?

A. I had [redacted] four years after I had my son. So about 2008, I would think. I was living in North Carolina still.

Q. And is that when you and [redacted]'s dad got married?

A. Yes, ma'am.

Q. Is he from up there?

A. Yes, ma'am.

Q. What about [redacted], tell us about when -- how old you were, where you were, when you had her?

A. I was living down here. I had moved to North Carolina for probably a good nine months. And then I moved back

from up there to back down here. And I was living with my sister Denise and her husband whenever I gave birth to [redacted].

Q. Now, when you gave birth to [redacted], was there DSS involvement?

A. Yes, ma'am.

Q. And tell us about that?

A. DSS got involved because [redacted] tested positive for marijuana. And so they automatically stepped in and took [redacted] from me, straight from the hospital. And about a week later I went to court and was -- had to have [redacted] took from me. October the 14th is whenever I got accepted into Serenity Place and I done that whole nine months.

Q. Okay. Well, let's back up a little bit, okay? So the reason DSS came in and took [redacted] and [redacted] was because [redacted] tested positive for marijuana?

A. Uh-huh (affirmative).

Q. Were you smoking marijuana while you were pregnant?

A. Yes, ma'am.

Q. And that's how she tested positive?

A. Yes, ma'am.

Q. And you were the sole caretaker or custodian of [redacted] at that time, too?

A. Yes, ma'am.

Q. And DSS took custody of her as well at that time.

What were you required to do by DSS?

A. I was required to go to Serenity Place, finish Serenity Place, which I did. I graduated in nine months.

Q. Well, tell us what Serenity Place is. Some people might not know what that is.

A. It's a place for mothers and for kids that are young. But it's basically for mothers who are on drugs. And ---

Q. I'm sorry. So Serenity Place is a drug rehab place?

A. Yes, ma'am.

Q. And it allows you to have your children, as well, there?

A. Yes, ma'am.

Q. Do you live there?

A. Yes. You live there until your time's up. It's, you know, like I said, a six to nine-month program. After you finish, they help you get into housing, they give you Section 8. You attend NA meetings.

Q. Okay. During this time you stayed cleaned? You weren't doing any drugs?

A. Yes, ma'am.

Q. Is it a strict program?

A. Yes, ma'am.

Q. Do they drug test you a lot?

A. Yes.

Q. Okay. I'm going to step back a minute. When DSS

became involved and took the girls, was there ever an indication that you were being physically abusive to the girls?

A. No, ma'am.

Q. It was because of the drugs?

A. It was -- every time that I've had my kids took, it's been because of drugs. It's never been because of physical abuse, nothing.

Q. And during this time does a DSS caseworker or a treatment worker, somebody keep up with you while you're in Serenity Place?

A. Yes, ma'am. Each time that I've had a DSS case, it has been -- I've had it open for two years each time I've had one. And each two years that I've had my DSS cases, I have cleaned off, you know, all my years with them of not no physical abuse, no bruises, no -- barely even a cut or a scrape.

Q. So it's more you having a problem with drugs, not being able to take proper care or supervision or protection of your kids?

A. Yes, ma'am.

Q. Okay. And when DSS is involved they meet with you and they look at your kids; is that right?

A. Yes, ma'am, they do. They meet with you once a month, if not twice a month. It just depends on how, you know,

how involved they are with you. My caseworker or Victim's case met with me at least twice a month, if not three times a month.

Q. And at the same time you were living inside of a facility, a treatment facility?

A. Yes, ma'am.

Q. And where are your children when you're in the facility? What are they doing?

A. While you're doing -- attending group therapy and things like that, they are at a daycare, which is inside the facility. So you know where they're at at all times. If, you know, if a kid goes to crying and you think it's yours, you're more than welcome to get up and go check on that kid.

Q. So it's located actually where you would be?

A. Yes, ma'am.

Q. Okay. Now, you said you graduated from there?

A. Yes, ma'am, I did.

Q. So what do you have to do to graduate?

A. In order to graduate you have to attend so many NA meetings because one weekend we get, you know, a choice to go home. The next weekend we get a choice to go to an NA meeting or stay there. I went to every NA meeting I could possibly go to. That was my major thing. I loved my NA meetings. They were -- they kept me clean. They kept me

from snapping, you know. They kept me from having too much stress, because I had a lot of stress just because, you know, I had an apartment when I got out.

Q. All right. Well, let's start there. Let's talk about when you graduated? When did you graduate? Do you remember the day, the year?

A. Graduated 2010.

Q. Do you remember what month in 2010?

A. The beginning of June, I believe.

Q. Okay. While you were in Serenity Place, did your mom come over and see you?

A. Yes, ma'am.

Q. Okay. So you were on good terms with your family?

A. Uh-huh (affirmative).

Q. And then when you graduated in June, Junish, 2010, where did you move to?

A. I moved to Gressett Landing Apartments on Whitehorse Road.

Q. Okay. And was that through the help of Serenity Place?

A. Yes, ma'am. I got Section 8 through Serenity Place.

Q. Okay. So that's government type housing?

A. Yes, ma'am.

Q. All right. And who moved into the apartment with you when you first graduated?

A. First it was just me and my two kids.
Q. Okay. And [redacted] and [redacted]?
A. Yes, ma'am.
Q. All right. And so how old were they at that time?
A. [redacted] was about a year and a half old. [redacted] was about ten months.
Q. All right. At some point while you were in your apartment, did you meet the Defendant?
A. Yes, ma'am.
Q. All right. Tell us about that?
A. I met the Defendant through my sister Denise. I had gotten a telephone call from her one night and she stated that the Defendant had ---

MS. MANIGAULT: Your Honor, we object to anything her sister said.

THE COURT: Sustain the objection.

Q. So you met him through your sister Denise?
A. Yes, ma'am.
Q. You and Denise had some phone conversation?
A. Yes, ma'am.
Q. And as a result of that phone conversation did you meet the Defendant in person?
A. Yes, ma'am.
Q. Okay.
A. The very next day I met the Defendant in person.

Q. Okay. Where did you meet him?
A. I met him at my sister's and her boyfriend's house.
Q. And tell us what happened from meeting him?
A. I met him there. Me and my friend, Tasha, we left from there, took him back to my apartment. Me and Tasha had planned on taking him back home the next day and we did not.
Q. Okay. At this point would you say y'all were boyfriend/girlfriend, or what was the relationship?
A. At this point, yeah.
Q. Okay. So within about a day of meeting him, he stayed at your apartment and just continued to stay?
A. Yes, ma'am.
Q. And who was Tasha?
A. Tasha is a friend of mine that I met at Serenity Place. She did not graduate, but she wanted to continue to go to NA meetings and she needed a place to stay and I told her that she could come and stay with me. And me and her continued to do our NA meetings together. We chaired some NA meetings together. And then that's when I met the co-defendant and I went downhill.
Q. Now, before meeting him, had you been dabbling in some drugs?
A. Yes, ma'am, I had.
Q. But you were still attempting to go to these meetings?

A. Yes, ma'am.
Q. So how long do you think you stayed clean once you got out of Serenity Place?
A. Once I got out of Serenity Place, I stayed a year clean and then I relapsed.
Q. And so tell us -- now, did you know any of -- did you know the Defendant before you ever met him?
A. No, ma'am. No, ma'am.
Q. So just meeting him ---
A. Yes, ma'am.
Q. --- did y'all hit it off kind of off-the-bat?
A. Yes, ma'am.
Q. And the girls were living with you and he was now staying with you, too?
A. Yes, ma'am.
Q. Okay. Were you holding down a job anywhere at this point?
A. No, ma'am.
Q. And how about him, was he working anywhere?
A. No, ma'am.
Q. So how were you guys -- well, did you have a car?
A. No, ma'am.
Q. How were you guys living?
A. I was getting FI, which is family independence. I was also getting child support from Victim 's daddy and

s daddy. And I had -- you know, my Section 8 paid for my rent. My light bill, I got like a twenty-nine dollar check every month to cover what part of it I couldn't cover.

Q. And how about the Defendant, how was he supporting himself or contributing to the house?

A. As far as I knew, he had a disability check.

Q. Now, when -- how long did you and the Defendant and the girls live in that apartment on Whitehorse Road?

A. We lived there for about two months, I would say.

Q. During the time that he started living with you, were there times that you would ever leave him alone with the girls while you went and did something?

A. Yes, ma'am.

Q. How often do you think that would happen?

A. I left him one time with the kids because I had went to a funeral with a friend of mine. And I had left the kids there with him for about a week.

Q. And when you came back from that did you have any worries or suspicions about ---

A. No, ma'am.

Q. --- or anything happening to her?

A. No, ma'am.

Q. Okay. And after that time that you left him with the kids, did you then continue to leave and do things?

A. Yes, ma'am.
Q. All right. What kind of things would you go and do?
A. After I left my apartment and moved in with Crystal, there were times I would leave one of the kids, if not both of the kids with him, and go with Crystal to pick up her kids from school.
Q. All right. And tell me -- so you guys left the apartment at some point?
A. Yes, ma'am.
Q. And why did you leave the apartment and where did you go?
A. Parker and my neighbor, I guess you would say, had gotten into a physical altercation due to the fact of Parker slapping my daughter in the back.
Q. And what did you do from that point? Did you decide to move or ---
A. From that point, we had decided to stay, but then Crystal showed up and I didn't -- you know, she had offered us to come stay with her. And I was not sure because, you know, what had happened. I was really, you know, scared from that point on to even be in the apartment complex. So I left and moved in with Krystal and her husband Mark Inman.
Q. All right. Who all was living at their house at that time?

A. At the time it was me, Crystal, the co-defendant and Mark Inman and Crystal's four kids -- three kids, I mean, and my two kids.

Q. Okay. So was the house big enough for everybody to have a place to stay?

A. Yes, ma'am.

Q. Was it your intention to stay in there or to stay at her house forever?

A. No, it was my intentions to get a trailer that her dad had -- you know, that was in behind her dad. And her dad had said something about it being empty. So we were going to try to rent it. And we had went and talked to her dad about it. And her dad had, you know, said that he would talk to the landlord about it and let us know.

Q. So this was just kind of a temporary resting spot?

A. Yes, ma'am.

Q. But you ended up staying there for how long?

A. We wound up staying there for two months.

Q. And while you were staying there -- I think you just answered this question, but there were times that you would go off with Crystal to pick up the kids from school or whatnot and leave the Defendant with your girls?

A. Yes, ma'am.

Q. Was there any time while y'all were at Crystal's that you came back from leaving him with the kids that you

noticed anything on Victim that gave you any cause for concern?

A. Yes, ma'am. There was a bruise on her forehead that looked like she had been hit with something. And I asked him, you know, what happened. And every time I would ask him what happened, he would repeatedly tell me that either she fell or one of the other kids had hit her.

Q. Was there specifically one on the side of her head that you noticed?

A. Yes, ma'am.

Q. Do you remember asking the Defendant about where that came from?

A. Yes, ma'am. And supposedly, it came from a beaded necklace, a Mardi Gras necklace.

Q. Okay. And who did he supposedly say did that?

A. He said that Minor 1 did that.

Q. When you were with your children, did you ever see Minor 1 hit Victim with a beaded necklace in the head?

A. No.

Q. Now, they were children. Would they get in arguments?

A. Oh, yeah. I mean, children do. Yeah, they all the time tried to take each other's toy, but ...

Q. But did you ever see anything like beating on the head or anything like that of Victim by Minor 1?

A. No.

Q. Okay. What about by any of Crystal's kids?
A. No.
Q. Was there another time that you had come home after leaving the Defendant with Victim that she had something more in the middle of her head?
A. Yes, ma'am.
Q. Okay. And did you ask about it?
A. (Witness crying).
Q. Would you like some water?
A. Yes, please.
Q. Okay. So did you ask about a bruise that you saw in the middle of her forehead?
A. Yes, ma'am. And he said that she supposedly fell down trying to come out of the bedroom.
Q. Did he ever at any time tell you that she had fallen down outside?
A. Yeah. There was one occasion where she had fell down the steps and hit the stepping stone.
Q. Did you see that happen?
A. No, ma'am.
Q. Did you see a mark on her?
A. Yes, ma'am.
Q. And was that -- who told you that she fell down out there?
A. He did.

Q. Okay. You weren't with her when that happened?
A. No, ma'am, I was not with her.
Q. How close in time to [redacted]'s death did these injuries start showing up?
A. Within a week's time.
Q. When he would tell you that she fell or [redacted] hit her, what did you do about that?
A. I kind of brushed it off because, you know, nine times out of ten, yeah, she is clumsy. So I figured that she did fall.
Q. What about the thing with the beaded necklace, did you really believe that?
A. In a way, no, I didn't.
Q. After these several bruises on her head started appearing, was there another time that you would have left him to take the care of the girls or left him alone?
A. Yes, ma'am.
Q. Before we get there, tell me about [redacted]. Was she still in diapers?
A. Yes, ma'am.
Q. And was [redacted] still in diapers?
A. Yes.
Q. Were you trying to potty train her at that point?
A. She had started learning from Crystal's little girl. She would, you know, want to sit on the toilet.

Q. And can you tell me if Victim was able to eat food on her own?
A. Yes, ma'am.
Q. Was she eating solid food, not just baby food?
A. Yes, ma'am.
Q. And how about, was she able to drink out of a cup or a sippy cup?
A. She was able to drink out of a sippy cup. And then sometimes she would try to drink out of the big cup.
Q. All right. She wasn't on the bottle or anything anymore?
A. No.
Q. Was she walking at this time?
A. Yes, ma'am.
Q. Was she able to get around pretty good?
A. Yes.
Q. Did she have any serious health problems or any type of special needs?
A. No. The only thing was that she was born with a heart murmur. That was it. But she was cleared from her cardiologist.
Q. All right. And had she been cleared from her cardiologist for a long time?
A. Yes, ma'am. She was cleared from him right before we left Serenity Place

Q. All right. So otherwise she was just a normal, average one-year-old little girl?
A. Yes, ma'am.
Q. Now, was the Defendant ever allowed to discipline the girls?
A. He was to a certain extent. But the one thing I did not allow was him standing them in the corner and making them stand on their tippy toes. When he would do that, I would make them get out of the corner.
Q. Okay. So that was the discipline that you were aware of?
A. Yes.
Q. And did you ever personally witness him hit Victim ?
A. I witnessed it once. When we were at a neighbor's house where he violently popped her on her hand.
Q. Did you ever see him hit her in the head or face?
A. No, ma'am.
Q. What about in the back or the bottom?
A. No.
Q. And when you disciplined her, what would you do?
A. I popped her on her hand or I barely popped her on her butt, but that was it.
Q. Would this be over the diapers or under the diapers?
A. It would be over the diaper.
Q. Did you ever hit her in the face?

A. No, ma'am.
Q. Or in the body?
A. No, ma'am.
Q. Did you ever pinch her ears or do anything like that?
A. No.
Q. Did you observe the Defendant to treat one of your daughters better than the other daughter?
A. Yes, ma'am.
Q. And which ---
A. He would always treat Minor 1 better than he did Victim. Minor 1 was his pick over Victim. When Victim would go to crawl up in the chair with me and him, he would push her away. He never wanted her to come close.
Q. Did that bother you?
A. Yeah.
Q. When Victim died and they took her to the hospital, did she have some bites on her, do you know?
A. Yes, ma'am. They were from ant bites where she had sit on that ant hill outside of Crystal's house.
Q. Now, were you out there and saw that happen?
A. No, ma'am.
Q. Okay. Who had her when the ant bites happened?
A. He did.
Q. Where would you have been?
A. I was in the house at that time.

Q. And how did you know she had ant bites?
A. He come in saying that she had sat on an ant hill. And, you know, he started telling me to take her diaper off because he had believed that some had crawled up in her diaper. So I took her diaper off and made sure that there wasn't none up in, you know, her private areas, and there was not.
Q. How long before she died did that happen?
A. I want to say three or four days.
Q. Is this in the same time frame that you're seeing some of these random bruises popping up as well?
A. Yes, ma'am.
Q. Let's talk about May 25th, 2011. I want you to tell me what you remember getting up from that morning and we'll go forward.
A. I got up that morning around nine o'clock. Crystal had to go to Mauldin to pick up her oldest boy, Minor 4 child support money from his father. We left, I would say, probably around nine-thirty, ten o'clock that morning. We dropped ---
Q. Who is we, tell me about who all ---
A. Me and Crystal. It was me, Crystal, my two girls, her little girl, Minor 3, the co-defendant and it was her uncle. We had dropped her uncle off at his daughter's house. And then we dropped the Defendant off at his friend's house.

And then me, Crystal, my two kids and her daughter left and wet to Mauldin to pick up her son's child support.

Q. And what did you do after that?

A. After that, when we came back, we stopped by the Defendant's friend's house and picked him up from there and went back to Crystal's. And when we got back to Crystal's house, I fed [redacted] and [redacted] a peanut butter sandwich and Crystal fed [redacted] a peanut butter sandwich. Crystal had asked me to go with her that day to pick up [redacted] and [redacted], and I told her no, because I was too high and I was tired.

Q. Okay. And so what happened next?

A. So after [redacted] and [redacted] eat, I laid them down to take a nap because they were both fussy from the long car ride all day. So I laid them down and I had told, you know, him that I was going to lay down. I laid down. He laid in the bed beside me, got up when the girls got up and took them into the living room. [redacted] was the first one awake. And she always banged on the door when she woke up, so that's how we knew she was up. So he got her and [redacted] and I started to get up and he told me, no, to continue to sleep that he would watch them. So I continued to sleep and let him watch them. I can remember [redacted] coming into the room and trying to wake me up. And I wouldn't get up, because normally when she come in there to

wake me up, it was, you know, just to be woke up. And, like I said, I was high and I was tired. So I just kind of, you know, nudged her off. About maybe thirty minutes after she came in to wake me up, he come in to wake me up and tell me that my little girl wasn't breathing.

Q. Did you wake right up?

A. Yes, ma'am.

Q. So what did you do when he said that?

A. When he told me that she wasn't breathing, I jumped up off the bed and took off running into the living room to where she was at. By the time I reached the living room, she was already turning purple around the lips.

Q. Was she -- where was she?

A. She was laying in the living room floor on Crystal's rug.

Q. Do you remember if she had any clothes on at that time?

A. No, ma'am, I don't remember.

Q. Do you remember taking -- did she have clothes on when she laid down for a nap?

A. Yes, ma'am.

(WHEREUPON, State Exhibit Numbers 34 and 35 were marked for identification.)

Q. Ms. Sprouce, do you remember -- I'm showing you State's Number 34 and 35. Do you remember if she was

wearing either of those items of clothing?

A. Uh-uh (negative).

Q. You don't recall? And were those -- would that have been her top, with the little green bow around it?

A. No.

Q. You don't remember? Okay. All right. And do you recall if those shorts were her shorts?

A. Yeah.

Q. Those were her shorts?

A. Uh-huh (affirmative.)

Q. Okay. Do you remember her shorts being on over her diaper?

A. No, ma'am.

Q. Did you remove anything of her clothing when you walked in there?

A. No, ma'am.

Q. So tell us what -- what did you do when you got in there?

A. When I got in there, I proceeded to give her CPR because she was not breathing.

Q. Was she making any kind of sounds?

A. No.

Q. What was the Defendant doing?

A. Nothing. Not a thing.

Q. Did you think that you needed to call for help at some

point?
A. Yes, ma'am.
Q. And how did that -- tell me about that. How did that happen?
A. I had asked him to call 9-1-1 and he had called 9-1-1 the first time. We got disconnected the first time. And the second time, before we went to call 9-1-1, he said, no, because he had to hide the pot.
Q. Okay. Was there some pot in the house?
A. Yes, ma'am.
Q. And whose pot was it?
A. It was Crystal's.
Q. Okay. Had you been smoking that pot?
A. Yes, ma'am.
Q. Had the Defendant been smoking it that day, too?
A. Yes, ma'am.
Q. So he said he needed to clean it up. Did you see him do anything?
A. No.
Q. Where was it normally kept?
A. It was normally kept in Crystal's living room in a night stand drawer.
Q. And did you see him move anything from that night stand drawer?
A. I was busy giving Victim mouth-to-mouth. I wasn't

even paying him no attention.
Q. Did she have anything on her face or anything on her as far as any kind of throw-up or any kind of brown stuff?
A. No. When I started to give her mouth-to-mouth, I heard a noise. When I heard that noise, I rolled her over on her back to pat her on her back. A little bit came up on my pants and on the rug. I thought since that had come up she was going to breathe.
Q. Did the Defendant tell you how she got to be that way?
A. Yes, ma'am.
Q. What did he say?
A. He told me that she choked on tea.
Q. Did you ask a lot of questions at this point?
A. At this point I asked him how did she, you know, how did she get like that? He said that she choked on tea. At that point, I did not care. I was just wanting her to breathe.
Q. When you said you were doing CPR, what were you doing?
A. Mouth-to-mouth and chest compressions.
Q. Had you been taught that at Serenity Place or somewhere else?
A. I had been taught that previous to having my son, who was premature. And I had to learn that through having him.
Q. And how -- what kind of compressions were you doing on her chest?

A. Kind of like this right here.
Q. With your fingertips in the middle?
A. Yeah.
Q. Were you trying to breathe into her mouth too?
A. Yes, ma'am.
Q. Did you notice the bruising and stuff on her face and head at that time?
A. (No verbal response.)
Q. Did you ever open her mouth or see any injury inside her mouth?
A. No, ma'am.
Q. How did you do the mouth-to-mouth?
A. I just opened up her mouth, you know, to where I could fit my mouth over her mouth long enough for me to get air into her lungs.
Q. And what was -- I guess what was the Defendant doing while you were doing that?
A. The Defendant was trying to scream over the top of the 9-1-1 operator to where I could not hear her. I asked him several times to shut the F up. And he would not shut up. He just continued to holler over the top of her that we had already did that. We had already did that.
Q. Okay. So at some point you were able ---
A. Yes, ma'am.
Q. Somebody called back to 9-1-1?

A. Yes, ma'am.
Q. And who talked to the 9-1-1 operator?
A. I did.
Q. Was it on the speaker phone or was it ---
A. Yes, ma'am.
Q. So the Defendant could hear what they were saying and what you were saying?
A. Yes, ma'am.
Q. And was there -- before you got on the phone with 9-1-1 was there some discussion of what to tell them?
A. Yes, ma'am.
Q. Okay. Tell me about that.
A. He had told me to tell them that she choked on tea or else I would be thought of as a bad mother.
Q. Did you believe that?
A. Yes, ma'am.
Q. And why did you believe that?
A. Because I was stupid, for one. For two, I was scared. I had never been in trouble before. So I didn't know anything about this. I didn't ...
Q. As you were doing CPR, what's happening? Is [redacted] doing anything?
A. No.
Q. How about [redacted], where's [redacted]?
A. [redacted] s standing over the top of me, looking at me.

Q. Did the ambulance or a fire truck or somebody finally show up?
A. Yes.
Q. Were you trying to do CPR the whole time until they showed up?
A. Yes, ma'am.
Q. What did you do once they showed up?
A. Once they showed up, I allowed him to take over.
Q. What did the Defendant do?
A. I don't even remember.
Q. Did you and he have any more conversations after that?
A. No, ma'am.
Q. Did they take [redacted] in the ambulance?
A. They took [redacted] straight to Greer hospital me where me, Crystal and the Defendant had met with them at Greer Hospital. That gave me a chance to tell her bye as they airlifted her to Greenville.
Q. Well, let's back up just a little bit, all right? Once the firemen and the ambulance people get there and they're trying to help [redacted], are you having any conversations with the Defendant?
A. No, ma'am.
Q. Are you asking him anymore questions about how she got that way?
A. No, ma'am.

Q. Are you telling the ambulance or the firemen what he told you?
A. Yes, ma'am.
Q. About how she got that way?
A. Yes, ma'am.
Q. At some point did you tell them that he was actually in the bathroom?
A. Yes, ma'am.
Q. Well, why did you say that?
A. Because at one point, he did leave and go into the bathroom.
Q. One point before they got there?
A. Yes, ma'am.
Q. And once they took Victim, were you allowed to leave the house?
A. No, ma'am, I was not.
Q. Did you have to talk to some police officers?
A. Yes, ma'am.
Q. Did you tell them the same story that he told you?
A. Yes, ma'am.
Q. But you were stating that you, in fact, were in the room?
A. Yes, ma'am.
Q. Okay. Why were you saying that?
A. Because I was scared. I mean, I had another little

girl that was standing there watching everything and I was terrified.

Q. In the car ride to the hospital, who all's going to the hospital?

A. Me, Crystal and the Defendant.

Q. Are y'all having any conversation in the car?

A. No, ma'am.

Q. Did you try to ask him anymore questions about what happened?

A. No, ma'am.

Q. Did he try to tell you anything else?

A. No, ma'am.

Q. And you guys go to Greer?

A. Yes, ma'am.

Q. And you don't stay at Greer very long?

A. No, ma'am. We stayed there for probably five or ten minutes.

Q. And then she got transferred; is that correct?

A. Yes, ma'am. She got transferred to Greenville.

Q. Were there any police officers at the Greer Hospital that were trying to ask any questions or talk to you?

A. No, ma'am.

Q. When you go to Greenville, how do you get to Greenville Hospital?

A. Crystal.

Q. How about in the car, what's going on in the car?
A. Nothing. I'm not talking to nobody but Crystal.
Q. Okay. And what are y'all talking about?
A. Just that I wish I had been there.
Q. Is he trying to talk to you; are you trying to talk to him?
A. He tried to talk to me, I believe, on one other occasion before we got to the hospital or he tried to touch me on my shoulder. And I told him not to touch me and I was not talking to him.
Q. So when you get to the hospital, tell us what happens?
A. When we get to the hospital they automatically separate me and him both. They put me into a little room, I guess, which they would call the family conference room. And while they worked on [redacted] and, you know, got her situated in her room, I was not able to see my daughter until after I gave a statement.
Q. Do you remember who you talked to at the hospital?
A. No.
Q. But it was a police officer?
A. I do not remember anybody other than Chris Miller and Detective Jennings.
Q. And Detective Jennings, did you talk to him and give him a statement or was it investigator Miller?
A. I gave Investigator Miller one. And if I'm not

mistaken, I believe I did give Jennings one. I can't remember. There were so many that day.

Q. Were a lot of people asking you what happened?

A. Yes, ma'am.

Q. Doctors asking what happened?

A. Doctors, DSS workers, police, investigators.

Q. And did you maintain this story about seeing her choke on tea?

A. Yes, ma'am, I did.

Q. And at some point did you start to change that story?

A. Yes, ma'am, I did.

Q. Tell us about that?

A. The second day, I changed my story to being in the kitchen when it happened. The last day that I was questioned, I finally told that I was not in the room when it happened, that I was actually asleep when it happened.

Q. Why did you change your story and say you were in the kitchen when it happened?

A. I can't even answer that because I don't even know myself. I guess I was just scared that they would somehow find out the truth. And ...

Q. And what was the truth?

A. The truth was that I was laying in the bed asleep when all of this happened?

Q. That you'd basically sloughed your kids off for him to

watch?
A. Yes, ma'am.
Q. And that Victim had some suspicious bruises before in his care?
A. Yes, ma'am.
Q. Was any of that going through your head at the time?
A. At the time, a lot of things were going through my head. A lot.
Q. You thought it'd be best to say you were actually right there?
A. Yeah.
Q. And what made you finally tell the truth about being asleep?
A. Finally, the day that I told the truth was the day that Detective Miller and Detective Jennings picked me up from the mortuary.
Q. From where?
A. The mortuary.
Q. The mortuary. Did that play into why you told them about being asleep?
A. Yes, ma'am.
Q. And was that the truth?
A. Yes, ma'am.
Q. How did you feel after you told them that?
A. I felt like a weight had been lifted, like I had just

finally told the truth and that she was finally free to go and be in heaven.

Q. Now, Ann, you have plead homicide by child abuse, aiding and abetting; is that correct?

A. Yes, ma'am.

Q. And that's what you were charged with; is that correct?

A. Yes, ma'am.

Q. You were also charged with accessory after the fact and that case hasn't been disposed of yet; is that correct?

A. Yes, ma'am.

Q. And you have been promised nothing in regard to any type sentence that you would receive?

A. Nothing at all. Nothing at all.

Q. And you could possibly get anywhere from ten to twenty years; is that right?

A. Yes, ma'am, it is.

Q. Has the State -- anyone with my office promised you any type of sentence?

A. No, ma'am.

Q. Ann, did you put your hand over Victim 's mouth and suffocate her?

A. No, ma'am, I didn't.

Q. Did you hit her in the head or the face?

A. No, ma'am.

Q. Did you ever hit her about the body?
A. No.
Q. Pinch her ears?
A. No.
Q. Grab her ribs?
A. No, ma'am.
Q. Leave bruises on her upper buttocks or back?
A. No, ma'am.
Q. Now, is the person that you left in charge of Victim that day while you were sleeping on May 25th, is he present in Court today?
A. Yes, ma'am.
Q. And is that the person you know as Parker?
A. Yes, ma'am.
Q. James Allen Johnson?
A. Yes, ma'am.
Q. And identify him for the jury, please?
A. (Indicating.)
Q. The man sitting at the Defense table with the purple shirt?
A. Yes, ma'am.
Q. Have you and Mr. Johnson had any communication after?
A. No, ma'am.
Q. Even after that very first ---
A. No.

Q. --- car ride or anything?
A. No, ma'am.
Q. Thank you. Answer any of Ms. Manigault's questions, please.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. Ms. Sprouce, wasn't there a finding made against you by Family Court on September the 18th, 2009 for physical neglect and physical abuse of your two children?
A. No, ma'am. That was only for drug use.
Q. The finding was, if I presented the court order, you would dispute the court order?
A. Yes, ma'am.
Q. All right. And was there a finding made on March 20, 2012 for physical abuse of [redacted], substantial risk for [redacted] and central registry for child abuse?
A. No, ma'am. That was just drug related.
Q. That finding was not made against you?
A. No, ma'am.
Q. All right. On March 20, 2012 did you arrived from the detention center in a police car with James Allen Johnson to Family Court?
A. Yes. We rode in the van together, yes, ma'am.
Q. So you did have contact with him, other than what you told the Solicitor?

A. She knows about that, too.
Q. Okay. But you just you didn't have any further contact with him?
A. Well, I meant, other than riding in the van, yes, ma'am.
Q. Did y'all have a conversation while you were riding in the van?
A. He told me that he was sorry for what he did.
Q. And you told him that you were in this situation because of him ---
A. No, ma'am.
Q. --- or because of yourself?
A. No, ma'am.
Q. You didn't tell him that it was your fault, what happened to the baby?
A. No, ma'am.
Q. All right. On the 25th of May you said that you were too high and tired. What were you high from?
A. Marijuana.
Q. Okay. Where did you get the marijuana from?
A. My friend.
Q. Who's your friend?
A. Crystal.
Q. What's her last name?
A. Inman.

Q. And that's where you were staying?
A. Yes, ma'am.
Q. All right. And so how much marijuana had y'all smoked that day?
A. We had been smoking -- probably five bowls.
Q. What's that?
A. Like a pipe, weed pipe.
Q. Oh, okay. And so you smoked five different times?
A. Uh-huh (affirmative).
Q. Did you take anything else? Did you take any pills or anything?
A. No, ma'am.
Q. Any other kind of drugs?
A. No, ma'am.
Q. Okay. And when you talked with the police officers on the 25th, you told them that you hadn't had any drugs; isn't that correct?
A. No.
Q. You told investigator Miller, you told Officer Autrey that you had not done any drugs?
A. Not that I can remember.
Q. You didn't tell them that?
A. Not that I can remember.
Q. Okay. Now, when you gave a statement on the 25th, you told Officer -- Investigator Miller and Sergeant T.W. Jones

that you were in the room when Victim choked on tea; is that right?

A. Yes, ma'am.

Q. You were in the room with Victim by yourself. Is that what you told them?

A. No, ma'am. I did not tell them I was in there by myself.

Q. Who else was in there?

A. I told them the co-defendant was in there as well.

Q. Who?

A. The Defendant.

Q. Okay. On your statement dated May 25th, you told them that the Defendant was in the room?

A. From my understanding, yes, ma'am.

Q. Okay. And at any point did you tell them that you had been in the kitchen. This is your first statement. Did you tell them that you were in the kitchen that day?

A. No, the first statement I did not. That was the second statement.

Q. Okay. The next statement you told them that you were -- the first statement you said you were in the living room with Victim when she choked on tea?

A. Yes, ma'am.

Q. And you tried to raise her arms up; is that right?

A. Yes, ma'am.

Q. The next time you talked to them, you told them that you were in the kitchen?
A. Yes, ma'am.
Q. And the next time you talked to them, you told them that you were in the bedroom ---
A. Yes, ma'am.
Q. --- sleeping? So you've changed your statements about three or four times talking to the investigators; is that correct?
A. Yes, ma'am, I did.
Q. All right. I'm going to show you a statement that's dated May 25th. It has a signature that says Ann Sprouce, to see whether that's your signature?
A. Yes, ma'am, it is.
Q. Okay. Would you take just a couple of moments to review that statement.
A. (Reviews document.)
Q. And this was the statement that you gave on that day?
A. Yes, ma'am.
Q. Did they review your statement with you before you signed it?
A. Not that I can remember.
Q. They didn't review your statement. So you signed it without reading it or it being read to you?
A. I can't remember.

Q. Okay. All right. In your statement you said that Crystal went to take her uncle to pay a water bill at about eleven clock. That was in here; right?
A. Yes, ma'am.
Q. And said, after we dropped her uncle off at his daughter's house, we dropped James off at his friend Josh's; is that right?
A. Yes, ma'am.
Q. You went to Mauldin; is that right?
A. Yes, ma'am.
Q. All right. So all of that part of the first part of the day is true?
A. Yes, ma'am.
Q. Okay. So when were y'all smoking the marijuana, where in here?
A. We had been up all day smoking marijuana, ma'am.
Q. Okay. So you were smoking marijuana before eleven o'clock in the morning?
A. Yes, ma'am.
Q. And had you smoked marijuana the previous day, evening?
A. Yes, ma'am.
Q. Okay. And Crystal Inman was smoking marijuana with you?
A. Yes, ma'am.

Q. All right. You said, then we went home and fed the kids a peanut butter sandwich. We laid them down to take a nap. That's the two girls?

A. Yes, ma'am.

Q. Your daughters?

A. Yes, ma'am.

Q. When they got up around three or three-thirty, they were in the living room playing. Who was that?

A. My two girls.

Q. [redacted] and [redacted]?

A. Yes, ma'am.

Q. All right. And you said, [redacted] walked over to the coffee table and grabbed my tea. Was that in your statement?

A. Yes, ma'am.

Q. That's what you told the officers?

A. (Affirmative nod.)

Q. This is on May 25th?

A. (Affirmative nod.)

Q. She opened her mouth and turned the plastic cup up and started drinking. Is that in your statement?

A. Yes, ma'am.

Q. That's what you told them?

A. (Affirmative nod.)

Q. Then she got choked and set the cup on the table.

That's what you told them; right?
A. (Affirmative nod.)
Q. All right. The cup was pink and plastic. And then you talk about one of the officers picked the cup up when they arrived. It says, I raised her arms up and she kept choking. That's what you said; is that right?
A. (Affirmative nod.)
Q. I need a yes or a no?
A. Yes.
Q. All right. And then you talk about how you were taught to do CPR, that you raised her arm and patted her on the back; is that right?
A. (Affirmative nod.)
Q. Is that a yes or a no?
A. Yes, ma'am.
Q. You said she threw up some of the tea and some phlegm came out?
A. Yes, ma'am.
Q. I let her stay on my arm a minute and I realized she wasn't breathing. That's what you said?
A. (Affirmative nod.)
Q. Then I laid her on the floor. I was trying to give her CPR. That's what you said; is that right?
A. Yes, ma'am.
Q. I yelled for James. Is this James?

A. Yes, ma'am.
Q. Who was on the toilet when I realized she wasn't breathing. That's what you told the officers in this statement?
A. Yes, ma'am.
Q. He came in there and brought the phone. So in this statement, you told the police that James, Parker, was in the bathroom?
A. Yes, ma'am.
Q. And you had to yell for him to come in the room; is that right?
A. Yes, ma'am.
Q. He dialed 9-1-1. That's what you said in this first statement?
A. The first time that we called 9-1-1, yes, ma'am, he was the one that dialed 9-1-1.
Q. Okay. And you talked to the lady and she was telling you how to do CPR. But before you called 9-1-1, you were already doing CPR; is that correct?
A. Yes, ma'am.
Q. And what was James doing?
A. To my recollection, I don't even know.
Q. Okay. So he wasn't doing -- helping you with CPR?
A. No, ma'am.
Q. Okay. Did he help you with CPR when you got on the

phone with the 9-1-1 operator?
A. Yes, ma'am.
Q. So he was helping you at that point?
A. Yes.
Q. Okay. Did you have to tell him what to do and how to do it?
A. Yes, ma'am.
Q. All right. And you said, I was giving her chest compressions, mouth-to-mouth. So you had to manipulate her mouth to open it; correct?
A. Yes, ma'am.
Q. And the chest compressions were done how?
A. With my fingertips.
Q. Use that book to show me, that Bible right there, to show me how you did the fingertip compression?
A. Like this. (Demonstrating.)
Q. Hold it up so the jury can see how you did it.
A. (Witness complied.)
Q. Okay. In one of these statements you said that you hit her in the back several times?
A. Yes, ma'am. I do remember that.
Q. Okay. And you hit her as hard as you could?
A. No, ma'am.
Q. Okay. What were you doing hitting her in the back?
A. I was trying -- because when she started choking up

the stuff I would just barely hit her so that way she could get whatever was in there up.

Q. Okay. Was she standing, laying in your arms or what?

A. I had her laying over my arm, yes, ma'am.

Q. Okay. All right. Then you said she was gasping for air. You just testified that she was -- you came in the room and she was doing that?

A. Yeah. When I came into the room, she was blue.

Q. Okay. But in this statement, you said she was gasping for air; is that right?

A. Okay. When I gave her CPR, that's whenever she started sounding like she was going to throw something up, so I hit her on the -- patted her on the back to see if I could get it to come up. At that time, when I couldn't get it to come up, and I laid her back down on the floor, it sounded like she was trying to gasp for air, like the last breath that she took.

Q. Okay. Did you tell the lady on the 9-1-1 tape that?

A. No, ma'am, I did not.

Q. Okay. You said you then turned her on her side. I continued to do CPR until the ambulance got there and they took over. James and I switched back and forth doing CPR as we were on the phone with EMS; correct?

A. Yes, ma'am.

Q. All right. And you told them that [redacted] fell down

the steps, the front steps of the house that Sunday?

A. Yes, ma'am. That's what he had told me.

Q. And that's what you told the officers? This is your statement.

A. Uh-huh (affirmative).

Q. And you told them that she hit her head on a cement block?

A. Yes, ma'am.

Q. And she had a bruise over -- on her forehead and on the eye from that fall?

A. Yes, ma'am.

Q. And you talk about the necklace. You told them on Tuesday [redacted] hit her with a toy car on both sides of her forehead?

A. That I don't remember.

Q. Did you get to see your statement?

A. Yes, ma'am.

Q. You saw it in here?

A. Yes, ma'am.

Q. And you signed this statement, right?

A. (No verbal response.)

Q. So you told them that [redacted] had hit her with a toy car on both sides of her forehead? They were in the playroom and by the time I got there, she had hit her twice. You don't remember saying that?

A. No, ma'am, I don't.
Q. Then you talk about Victim having bite marks on her left arm and some fire ant bites. Did you see how she got the bite marks, other than the fire ant bite marks?
A. No, ma'am, I did not.
Q. All right. Did she have some other bite marks on her body?
A. Not that I knew of, no, ma'am.
Q. She didn't have any bite marks on her upper shoulder, the back part?
A. Not that I knew of, no, ma'am.
Q. You didn't ever bite her ---
A. No, ma'am.
Q. --- trying to teach her a lesson about biting ---
A. No, ma'am.
Q. --- Minor 1 ?
A. No, ma'am.
Q. You never did that?
A. Nope.
Q. All right. Now, you have testified to the Court that you noticed bruises about a week before May 25th?
A. Yes, ma'am.
Q. Okay. So would that include the time that you related to them that she fell down the front steps?
A. Yes, ma'am.

Q. I think you also stated that you didn't beat your children, you didn't spank them?
A. No, ma'am, I did not say I didn't spank them.
Q. Okay. What did you say?
A. I said that I popped her on the diaper and I popped them on the hand.
Q. On the hand?
A. Yes, ma'am.
Q. All right. And did you use the corner or time out?
A. Yes, ma'am. They were use to time out.
Q. I believe you said your oldest child, who is [redacted], is eight year olds, lives in North Carolina with his grandparents?
A. Yes, ma'am.
Q. And who has custody of [redacted] at this point?
A. At this point my mother does.
Q. And that's Ms. Tina Rollins?
A. Yes, ma'am.
Q. You met James Johnson through your sister Denise; is that right?
A. Yes, ma'am.
Q. And you met him one day and you took him home immediately with you that day?
A. Yes, ma'am.
Q. And he stayed with you from that day forward?

A. Yes, ma'am.
Q. And you considered -- I think you told the Solicitor that you considered yourself boyfriend and girlfriend after the first day?
A. Yes, ma'am.
Q. All right. Do you recall telling the police that you had stated you were clean, that you hadn't done any drugs that day or, you know, for a while since because you were clean and you were still going to NA meetings?
A. No, ma'am, I do not recall that.
Q. You don't recall that?
A. I remember telling them that I had been a year clean and then I relapsed. Yes, ma'am, I did.
Q. Okay. That was during the second or third interview, because it wasn't the first one?
A. It was the second or third one. I can't recall.
Q. Okay. So you had told them that you were clean and then you had to come back and tell them that you had lied to them because you had done drugs that day?
A. Yes, ma'am.
Q. And had done drugs previously?
A. (Affirmative nod.)
Q. You had lived with Crystal Inman, you say, about two months?
A. Yes, ma'am.

Q. All right. Now, you stated that you noticed bruises showing up on [redacted] on her head and face. You don't recall telling them that [redacted] hit her with the two toy trucks on both sides?

A. No, ma'am. I don't recall.

Q. But you noticed bruises on [redacted], but you still left her to be taken care of by James Johnson?

A. Yes, ma'am. Because every time I asked him he said that either she fell or one of the kids had hit her.

Q. Okay. How many times did you violently pop [redacted] or [redacted] on their hands?

A. I never violently popped them on their hands.

Q. Okay. Did you violently pop them on the backside ---

A. No, ma'am, I did not.

Q. --- on the diaper?

A. No, ma'am.

Q. So you're telling the Court and this jury that the bruises on her does not come from you at all?

A. No, ma'am.

Q. Do you remember telling Investigator Miller that [redacted] would sit in Parker's lap, but wouldn't sit there for a long period of time. He would kiss on her. Do you remember saying that?

A. No, ma'am.

Q. When your mother Tina Rollins picked up [redacted], did

she always take [redacted] with her?
A. No, ma'am.
Q. Okay. Was she showing favoritism to [redacted]?
A. No, ma'am. She just couldn't handle both of them at one time.
Q. Well, how long was she picking up [redacted] by herself?
A. [redacted] and [redacted] both got the same amount of time with my mother.
Q. Okay. Do you remember telling one of the officers, either Autry or Miller, that you were outside with [redacted] when she got the ant bites?
A. No, ma'am, I do not recall that one.
Q. You don't recall that. But in that same statement you did say that you were the one that removed the diaper and cleaned the ants off?
A. Yes, ma'am.
Q. Okay. Weren't you the person that suggested not calling 9-1-1 right away so you could clear up the marijuana?
A. No, ma'am, I was not.
Q. Weren't you afraid that DSS would take your kids again?
A. No. The only reason why I was afraid that they would take them again is because of what had happened, not because of the marijuana.

Q. Okay. But the first time they took your kids was because of marijuana; is that right?
A. Yes, ma'am.
Q. And the second time was because of marijuana, according to your statement?
A. Yes, ma'am.
Q. So when were you at the mortuary, you said -- was that June 2nd?
A. Yes, ma'am.
Q. And so the officers picked you up at the mortuary and took you to the hospital or to the detention center?
A. No, they brought me down here to the detention center.
Q. And that's when you gave them the statement -- the portion of the statement that you testified to today?
A. Yes, ma'am.
Q. And in that statement you're saying that you were asleep?
A. Yes, ma'am.
Q. In the bedroom?
A. Yes, ma'am.
Q. And James, Parker, is the one that came in the room to wake you up?
A. Yes, ma'am.
Q. All right. Do you recall telling the officers at any time that the two -- one of the girls had come to the door

and knocked on the door to wake you up?
A. I had told them that I remembered [Minor 1] coming in to the room and trying to wake me up. Yes, ma'am.
Q. Okay. You do remember telling them that?
A. Yes, ma'am.
Q. Now, you're saying that you had -- about thirty minutes after [Minor 1] had tried to wake you up, that's when Parker came in; is that what you're saying?
A. That is my time recollection. I mean, I didn't have a clock so ...
Q. Okay. So how long had you been sleeping?
A. I can't really say. There was not no clock so I can't really tell.
Q. Okay. But you insist today that you were sleeping?
A. Yes, ma'am.
Q. Did you ever tell the officers, as you testified today, that the Defendant had laid down in the bed beside you?
A. Yes, ma'am.
Q. Okay. And when you got into the room, according to today's testimony, [Victim] had on no clothing?
A. None.
Q. But when you gave the first statement, she had on clothing?
A. That I do not recall.

Q. When you gave any of the previous three or four statements, was there any testimony that [Victim] was standing in front of the Defendant?
A. There was one occasion, yes, ma'am.
Q. Okay. There was one occasion when you said that?
A. Yes, ma'am.
Q. All right. And she was standing close to him or not close?
A. Not close.
Q. Okay. And who did you ride with when you went to the Greer Hospital?
A. I rode with Crystal Inman.
Q. Okay. And ---
A. And the Defendant.
Q. And did Crystal Inman then take you to the Greenville Hospital?
A. Yes, ma'am.
Q. All right. Today you're saying that you told the police in the first three or four statements those stories about the baby choking on ice because you were stupid?
A. Yes, ma'am, and because I was scared.
Q. You were scared?
A. Yes, ma'am.
Q. And that you just didn't know about anything. So I don't understand why you would tell them that if it's not

the truth?
A. Because I did not know what had happened until they had done the autopsy and then I was informed on what had happened.
Q. So you were trying to cover for yourself?
A. I don't understand what you're ---
Q. You were trying to cover any involvement that you had?
A. I had no involvement in that.
Q. Okay. These are your children?
A. Yes, ma'am.
Q. And wouldn't it have been much better if you'd told the officer, Investigator Miller or Autrey, that you just didn't know what happened from the very beginning?
A. Yes, ma'am.
Q. Okay. So you just lied the whole -- three days ---
A. Yes, ma'am.
Q. --- while your daughter's lying in the hospital you're lying?
A. Yes.
Q. So you were more concerned about yourself than ---
A. No, ma'am.
Q. --- about your daughter?
A. I was scared for my other child.
Q. You were concerned for your other child?
A. Yes, ma'am.

Q. What does that mean?
A. I was scared of losing her altogether. I was scared that DSS would step in and take her and I would never see her again.
Q. But you'd been involved with DSS at least three different times; is that correct?
A. Yes, ma'am.
Q. DSS in North Carolina for your son, [redacted]? DSS in South Carolina twice for your two girls?
A. (Affirmative nod.)
Q. But I believe you said that y'all -- when you went to the Greenville Hospital that you and Parker or James Johnson was immediately separated into different rooms?
A. Yes, ma'am.
Q. And out of the four stories that you told the police officers, the one that you're attesting to is the one you're telling today?
A. Yes, ma'am.
Q. Thank you.

THE COURT: Any redirect?

MS. HODGE: Yes, sir.

REDIRECT EXAMINATION

BY MS. HODGE:

Q. Ann, you talked to firemen and EMS on the 25th; is that right?

A. Yes, ma'am.
Q. And then you had to talk to police when you got to the hospital; is that correct?
A. Yes, ma'am.
Q. And you're trying to be as cooperative as possible; is that right?
A. Yes, ma'am.
Q. Are you scared about what's going on?
A. Yes, ma'am.
Q. What could potentially happen to you and to [redacted]?
A. Yes, ma'am.
Q. And so you're talking and you're telling them this story about the tea?
A. Yes, ma'am.
Q. And then the whole while [redacted]'s still in the hospital and being treated and on life support?
A. Yes, ma'am.
Q. And then the next day the officers want to talk to you again. And you're still trying to be cooperative; is that right?
A. Yeah.
Q. And you're telling them a lot of things?
A. There was a lot of things going through my head at that time. But I couldn't not get them to stop so I could just ---

Q. They weren't letting up on you, were they?
A. No.
Q. They wanted to know because this just wasn't making sense; is that right?
A. Yes, ma'am.
Q. So they were coming to you constantly wanting to know, are you sure about this? What about this?
A. Yes, ma'am.
Q. Would that be fair to say? And you kept talking?
A. Yes, ma'am.
Q. And you kept telling your story and it kept growing?
A. Yes, ma'am.
Q. And then Ms. Manigault asked you some things and you said, I don't remember that. I don't remember that. Could there be things that you said that at that point that were lies that you just don't remember?
A. There could be. Possibly, yes, ma'am.
Q. And so the second day they're back on you wanting to know what happened?
A. Yes, ma'am.
Q. At this point you start talking about that, yes, in fact, you had used again?
A. Yes, ma'am.
Q. Now, it would have been bad had they showed up and known you had been using right away with this incident with

Victim; is that right?
A. Yes, ma'am.
Q. That would look bad for you?
A. Yes, ma'am.
Q. That probably would have got Minor 1 taken?
A. Yes, ma'am.
Q. So they're still on you, they're still talking, you're still trying to be cooperative?
A. Yes.
Q. And you're starting to tell some truth now?
A. Yes, ma'am.
Q. Starting to let your guard down some?
A. Yes, ma'am.
Q. And then by the third day, which is the 27th now, you're talking to Investigator Miller again?
A. Yes, ma'am.
Q. And you start removing yourself a little bit from knowing what's going on?
A. Yes, ma'am.
Q. Is he pressing you with medical information? Telling you these things aren't making sense?
A. He started telling me that some stuff didn't add up to prove my story. And the more he told me that, the more I started letting my guard down and started to tell the truth. Yes, ma'am.

Q. And then [redacted] was pronounced dead?
A. Yes.
Q. And had to be buried or go to the mortuary? And they came in and actually got you from the mortuary?
A. Yes, ma'am, they did.
Q. What was burning in you to tell them at that time?
A. I wanted to tell the truth. I wanted to quit dragging, not myself, but her through the mud. I mean, it was bad enough that I had lost her, but I was letting something take a hold of me that shouldn't have. And I should have started being honest from the get-go and I know that.
Q. Now, let's talk about this van ride. I think we established once you and the Defendant kind of got out of the car at that hospital that first day, no more talking?
A. No more talking
Q. No more getting together?
A. No more getting together until ---
Q. Well, now you were in a van that you had no control over what van you were in?
A. No, ma'am, sure did not.
Q. And going to Family Court?
A. Yes, ma'am.
Q. For your hearing in regard to [redacted]?
A. Yes, ma'am.

Q. And that was some time over the last year? In the last year?
A. Yes, ma'am.
Q. Did you have any idea who else would be in that van?
A. No, ma'am, I did not.
Q. Had there been any communications about trying to get in the same car to ride to court together?
A. No, ma'am, there was not.
Q. And in that van ride did you speak to the Defendant?
A. No, ma'am, I did not.
Q. Did he speak to you?
A. He kept taunting me with telling everybody in the back van that he was sitting with, I guess, all guys, because that's, you know ---
Q. They kept you separate, the girls from the guys?
A. Yeah. They kept us separate from the guys. And he kept telling them how good our sex life was and how good I was in bed and how I was the best he had ever had. And things ---
Q. And all these things you could hear?
A. Yeah. Yes, ma'am.
Q. And then did he say something to you about [redacted]?
A. He told me on the way back when it was just me and him in the van, he had told me that he was sorry for what he had did. That he did not mean to and kept on with dumb

stuff like, you know, he was sorry and that he hoped I would forgive him and so on and so on.

Q. And what was the -- was -- the court case about [redacted]'s custody?

A. It was about [redacted]'s custody and a little bit about ---

Q. [redacted]'s death?

A. Yes, ma'am.

Q. All right. And he's not the biological dad of [redacted]?

A. No, ma'am.

Q. Who is the biological dad?

A. The biological dad of [redacted] is Mark Gore.

Q. And did the Defendant like Mark Gore?

A. No, ma'am.

Q. Did they have some issues with each other?

A. Yes, ma'am.

Q. And that is a result -- he didn't know Mark Gore until he met you?

A. Yes, ma'am.

Q. And knew that Mark was [redacted]'s daddy?

A. Yes, ma'am.

Q. And he and Mark didn't get along?

A. No, ma'am.

Q. And you never told in any of your statements that

Victim choked on a piece of ice, did you?

A. No, ma'am.

Q. You told tea?

A. Tea.

MS. MANIGAULT: Your Honor, I object. This is going further than ---

MS. HODGE: I believe Ms. Manigault asked about the ice.

THE COURT: Overruled.

MS. MANIGAULT: No, I did not.

MS. HODGE: I'm sorry.

Q. Ms. Manigault gave you a statement that you said the child choked on ice?

A. Yes, ma'am.

Q. Is that true? Did you ever say ice?

A. No, ma'am.

Q. It was always tea?

A. Tea.

Q. And tea was something that y'all drank?

A. Yes, ma'am.

Q. Thank you, Ms. Sprouce.

A. You're welcome.

THE COURT: Thank you, ma'am. You may step down.

THE WITNESS: Thank you.

THE COURT: Mr. Foreman, ladies and gentlemen,

this would be a good time for us to take a lunch break. I'll ask, again, remind you while you're out for lunch, out and about, not to discuss the case. Don't let anyone discuss the case with you. The case is still in progress. Of course, there's more testimony to be heard. Have a good lunch and if you'll be back at two fifteen, we'll be ready to start at that time.

Everyone else, please remain seated while the jury departs.

(WHEREUPON, the jury exited the open court at approximately 12:55 P.M.)

THE COURT: All right. We'll be at ease until two fifteen.

(WHEREUPON, the court stood at recess for a lunch break.)

THE COURT: Are you ready to proceed Solicitor?

MS. HODGE: Yes, sir.

THE COURT: All right. If our jury's ready have them come in, Ms. Fryer.

(WHEREUPON, the jury entered the open court at approximately 2:26 P.M.)

THE COURT: Solicitor, you may call your next witness.

MS. HODGE: Thank you, Your Honor. The State calls Dr. Croswell.

THE CLERK: Come forward and put your left hand on the bible and raise your right.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat and state your full name for the record.

THE WITNESS: My name is Mary Fran Ratchford Croswell.

MARY FRAN CROSWELL, MD,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Dr. Croswell, what kind of a physician are you?

A. I am a child abuse pediatrician.

Q. And where are you currently employed?

A. I'm employed by the Greenville Health System.

Q. How long have you been with them?

A. I have been employed there since 2006.

Q. Please tell us about your educational background?

A. I received my undergraduate degree from Wake Forest University. I received my medical degree from University of Louisville.

Q. And what type of specific medical training or pediatric training do you have?

A. I did a pediatric residency at the Greenville Health System. And then have done further studies in the field of child abuse.

Q. All right. And are you board certified in pediatrics?

A. Yes, I am.

Q. Is there a sub-section of that for child abuse pediatrics?

A. I'm double board certified in general pediatrics and child abuse pediatrics.

Q. And approximately how many patients do you believe that you've examined or treated in your career?

A. Several thousand.

Q. And in your specialized field of child abuse pediatrics, does that deal with physical abuse and sexual abuse also or just one or the other?

A. It deals with all sorts of child maltreatment.

Q. Does that include neglect as well?

A. It does.

Q. And how many years have you been practicing in the specialty of child abuse pediatrics?

A. Six years.

Q. And how many physical abuse exams do you think you've conducted on children over those years?

A. I would estimate about sixty physical abuse examinations a year for the past six years; so over three

hundred.

Q. Are you part of the hospital system that's also called their forensic pediatric area?

A. I am employed within the division of forensic pediatrics child abuse and neglect.

Q. All right. And what does that division do? What's its main purpose?

A. We are consulted on any cases where there is concern of some form of child maltreatment, physical abuse, sexual abuse or physical neglect.

Q. And are you called in to examine people that come into the ER or to doctors' offices? What does it entail?

A. We have both an inpatient and outpatient role. When a child is admitted to the hospital with injuries concerning for physical abuse, we are consulted to help determine the work-up that's needed to assess for non-accidental trauma versus some other form or a medical condition that would mimic child abuse. In the outpatient setting, we receive referrals from law enforcement, Department of Social Services, other physicians, for concerns that we can do in the outpatient setting at the Julie Valentine Center.

Q. So do you conduct some of your work or your exams at the Julie Valentine Center?

A. Correct. All of my outpatient assessments are done at the Julie Valentine Center.

Q. And that's a contract basis with the hospital system?
A. Correct.
Q. Okay. And when you're called in for concerns of possible child abuse, what percentage of those cases do you actually say, this is child abuse, this is not?
A. So, you know, all of the cases that are referred to me are suspected child abuse cases. And only about sixty-five percent of those cases do I say that it's indicated for abuse. Approximately twenty-five percent of those it's indeterminate, being that you can't tell based on the physical exam or the evaluation that I have done alone. And then about ten percent attribute to some other medical condition that can mimic abuse.
Q. And so if any child presents to the hospital system in Greenville County, you and/or who else would be in charge of coming to assess that?
A. I have one partner, Dr. Nancy Henderson, and we take turns being on call. And so it would be one of the two of us.
Q. Have you taught any seminars or conferences related to child physical abuse or sexual abuse or maltreatment?
A. Yes, I have. I've spoken at both local and state-wide conferences on child abuse.
Q. And are you a member of any associations that deal with child abuse?

A. Yes, I am.
Q. What are those?
A. I am a member of the American Academy of Pediatrics Section on Child Abuse. I'm a member of the American Professional Society on the Abuse of Children. I'm a member of the Helfer Society, which is a honorary society for child abuse pediatricians. I am a member of a state-wide network of child abuse providers called the South Carolina Child Advocacy Medical Response System.
Q. All right. And have you ever been qualified in Court as an expert in the area of pediatrics or child abuse pediatrics?
A. Yes. I have been qualified as both.
Q. And how many times?
A. I would estimate twenty-five times.
Q. In what courts?
A. In both Family and Criminal Courts in South Carolina.
Q. Thank you.
MS. HODGE: At this time, Your Honor, the State would move to admit Dr. Croswell as an expert in pediatrics with a specialty in child abuse pediatrics.
THE COURT: Any voir dire of this witness or any objection?
MS. MANIGAULT: None, Your Honor. No objections.
THE COURT: Thank you. Ladies and gentlemen, let

me just explain to you briefly. Normally a person who comes and testifies in court, they can't give their opinion. They can testify to what they saw or heard or smelled or other matters that they observed. But there is an exception to that rule when someone, because of their qualification or by education or experience or otherwise, is permitted to give an opinion in that field of expertise and to give the reason for that opinion. The fact that a witness is qualified as an expert and can give an opinion, that doesn't mean that you must accept the opinion as evidence. Like all other evidence, you treat it and use it the way that you see fit.

You may proceed, Solicitor.

MS. HODGE: thank you, Your Honor.

Q. Dr. Croswell, were you called to examine a child named [redacted] back on May 26th, 2011?

A. Yes, I was.

Q. All right. And how old was this child?

A. She was twenty months old at the time.

Q. What was the purpose of your examination?

A. There were concerns for non-accidental trauma based on her presentation to the hospital. So I was consulted to help evaluate for any injuries and to guide the medical assessment for non-accidental trauma.

Q. Non-accidental trauma. And where was she when you

conducted your examination?
A. She was a patient in the pediatric intensive care unit at the Children's Hospital of the Greenville Health System.
Q. And what was her condition at that time?
A. She was critical.
Q. Had you been given a little bit of background information from the physicians in regard to how she presented and what the treatment plan was already?
A. Yes. I had received a phone call from one of the pediatric residents who helped manage her care while she was in the PICU. And they had advised me of their concerns and her current status at the time.
Q. So what was your first step in this case?
A. Anytime I receive a consult, I try to review any available information that I have leading up to the presentation to the hospital. So I reviewed the ER visit, had reviewed the laboratory studies that had already been done, the radiologic studies that had already been done, and any observations by any other medical team members.
Q. Do you attempt to get a history also from the care giver?
A. Yes. So after reviewing all records I speak to the care giver. In this particular case, it was her mother, father and her maternal grandmother.
Q. And who was the mother?

A. I don't have the names. I just have mother.
Q. Would Georgia Ann Sprouce be possible?
A. That would be possible.
Q. Okay. And do you have a name for the dad that you spoke to?
A. No, I do not.
Q. But it was biological dad?
A. It was biological dad.
Q. And the grandmother was paternal or maternal?
A. Maternal.
Q. The mother's mother. All right. Tell me what you did next?
A. So after -- from the care givers I take an extensive medical history to include their past medical history, any medical condition she may have had, any previous hospitalizations or surgeries. I take a detailed developmental history, family history and social history prior to doing my physical examination.
Q. Tell us about the past medical history that you took into consideration from [redacted]?
A. So her mother described that after [redacted] had been born that physicians in the newborn nursery had heard a heart murmur. And she had a -- and she was evaluated further by a cardiologist. Based on that information, I was able to review the medical records from that time and

she had had a slow heart rate in the newborn nursery and they had done an extensive work up, which was negative for any cardiac or heart condition. She had followed up with a cardiologist when she was three weeks old and released from the care of cardiology at that time.

Q. Did she have any other significant medical history that you found important to check into?

A. No.

Q. How about developmental history?

A. They described her as a normal toddler. She was able -- she was walking independently and was trying to run. There were no concerns from a developmental standpoint.

Q. All right. How about did you know if she was eating, drinking, doing those types of basic activities?

A. Yes. They had described her eating a peanut butter sandwich and a pop tart earlier in the day, drinking from a sippy cup, as well.

Q. And then did you obtain a family history?

A. Yes, I did.

Q. And what did you learn about that?

A. There was no family member that was diagnosed with any specific bleeding disorder, but mother did describe that she bruised easily and had heavy menstrual cycles and had been diagnosed with borderline anemia previously.

Q. And that was as to the mother, not the child?

A. To the mother, correct.
Q. And how about the child, was there any testing or further examinations conducted to see if the child had any type of bleeding disorder or bruised easily?
A. Yes. Based on -- the child had some initial laboratory studies due to the bruising that she presented with, to look for any underlying bleeding disorder. Because of the history that mom provided, I recommended additional tests to look for a not uncommon medical condition that can cause easy bruising, that is a genetic condition. And so those laboratory studies were ordered based on that history.
Q. And what was the result of that?
A. Those were normal.
Q. She was normal. So she did not have some special disorder that made her bruise easy?
A. Correct.
Q. And then I believe you said you obtained a social history?
A. Yes.
Q. Okay. And what was that and why is that important?
A. A social history is just trying to understand a little bit about the child's living conditions and her living environment to assess for risk factors, assess for other children in the home that could potentially be at risk.

Q. Was there anything of significance that you found in your social history?
A. That they had currently been -- they had been living in their current residence just for a couple of weeks. There had been prior involvement with Department of Social Services. There had been -- Victim had tested positive for marijuana when she was born and was in foster care for a few weeks to a month after she was born. The police had been involved the previous week with the family due to one of the children being found -- the two-year-old sister being found walking outside the home alone. They denied any other law enforcement involvement with the family.
Q. So what was your next step after you obtained the pertinent information from the care givers and medical records?
A. At that point, I did a physical examination on Victim.
Q. What did your physical exam consist of? What exactly is it that you are able to do?
A. It is a head-to-toe physical exam looking at all pats of her body.
Q. Did she have some life support equipment, a ventilator or things, hooked up to her?
A. Yes, she did.
Q. Were you able to remove any of that stuff?

A. No, I was not.
Q. So tell us what you did? And, actually, let me bring this up. This might assist you and the jury.
(WHEREUPON, State Exhibit Number 36 was marked for identification.)
Q. I'm showing you State's Number 36. Do you recognize this?
A. Yes, I do.
Q. Okay. What is that?
A. It is a body diagram with the skin findings that I documented during my physical exam on [redacted].
Q. Okay. And is this a copy of your original?
A. Yes, it is.
Q. All right. Is this a true and accurate copy?
A. Yes, it is.
MS. HODGE: At this time, we would move to admit State's Number 36.
MS. MANIGAULT: Your Honor, there's no objection. We have reviewed it.
THE COURT: All right. Without objection Exhibit 36 is admitted and may be published to the jury.
(WHEREUPON, State Exhibit Number 36 was admitted into evidence.)
MS. HODGE: Thank you, Your Honor.
Q. All right. Dr. Croswell, I'm going to put this up

here. Is the laser pointer still up there? Do you see -- yes, right underneath your file I think there's a laser pointer.

A. Okay.

MS. HODGE: If you could hit one of those lights and see if we can get just a little ... Thank you.

Q. And I'll move it as need be.

A. Okay.

Q. So if you would go through your physical examination and then point to anything on State's 36 that assists.

A. So just kind of general, overall assessment. The patient was intubated, which means she had a breathing tube in her mouth. She was unresponsive to stimuli, which implies severe neurologic injury. On her head and neck examination, her pupils, which are the black part of the eye, were fixed and dilated, which means -- again, indicates neurologic injury. The sclera, which are the white parts of the eye, were clear and white. Using a basic ophthalmoscope, which is a piece of equipment to look in the backs of the eyes, I was not able to appreciate any hemorrhages or bleeding in the backs of the eyes at that time. Her ears, the internal part of the ears were normal. On the left ear, which I guess is going to be right here, she had a one and a half centimeter by point six centimeter bruise along the medial part of the lateral ear. So the

medial part would be the inside of the ear facing the skull. And she also had visible, you know, bruise on the external portion of the ear. I was not able to examine her mouth because she was intubated and had these pieces of tape on either side keeping the tube in place. Didn't want to disrupt that. Her neck appeared normal. Her heart was beating regularly with no murmur appreciated, which is just additional heart sounds. Her lungs were clear. Her stomach, up here, normal. Her genital area also appeared normal. Her extremities, she was able -- I was able to move them through the full range of motion passively. And then the skin. So I will start on the forehead up here. There were five bruises. The first was a two by two centimeter bruise on the right forehead. And then there were three very small bruises in a linear pattern right there. And then on this lateral -- left lateral part of her forehead, she had a one and a half by one centimeter bruise. Above the nose in between the eyebrows there was a two by one point seven five centimeter red/purple bruise. In the left infraorbital space, which is the space below the eye, there was a one and a half by point five centimeter bruise. And then -- excuse me. I think that was the left. And then the right she also had a bruise in that space that was two and a half centimeter by point five centimeter. As well as one small one lateral to that that

measured one centimeter. And then this tape that I pointed to earlier was covering some of her skin. So I was unable to visualize the skin under those areas. Underneath the right tape, there was a bruise that extended below there for about point five centimeters. In her right upper quadrant of her abdomen, she had a point five by point seven centimeter bruise. And then on her right flank here, she had a two by point seven five centimeter bruise. On her left arm right here -- excuse me. This is the one I -- right here she had an oval shaped bruise with central clearing, consistent with a bite mark, which measured three and a half centimeters by two centimeters. On the back here, she had a cluster of four circular bruises measuring from point five to one point five centimeters in diameter. On her buttocks, on her left buttock here, there was a six centimeter by point five centimeter purple bruise and there was a one centimeter by one and a half centimeter bruise underneath that. On her -- the backs of her thighs there were multiple small red papules or bumps, and that was indicated by these little dots here. And then we have this one and a half by point five centimeter purple bruise on the left ear. On the left interior upper arm here there was a one and a half centimeter bruise. And on the -- I think we need to go up to see the top photos.

Q. Okay.

A. On the chest wall -- I'm sorry. Let's see. On the chest wall, I think those have already been described. On the right lower leg, there were extensive areas down here of ecchymotic bruises, which just means large bruises. Those were around the site of an intraosseous line, which is something that the hospital would have put into her to try to gain access for fluids in an emergency situation.

(WHEREUPON, State Exhibit Numbers 37, 38 and 39 were marked for identification.)

Q. Let me show you what's previously been admitted as State's 28, 29, 30, 31, 32 and 33. Is that how you recall [redacted] looking when you did your examination?

A. Yes.

Q. I show you State's Number 37, 38 and 39. Tell us what State's 37 and 38 are showing; 37 and 38?

A. 37 is showing a red bruise on her right ear, on the part that's exposed on the outside. On the Exhibit Number 38, it appears that this is the back part of the ear of the left ear.

Q. Okay. Right ear, left ear?

A. Uh-huh (affirmative). Correct.

Q. And did you observe those injuries when you were doing your examination?

A. Yes.

Q. And then State's Number 39, what is that showing?

A. It shows her buttocks with the red bumps that are consistent with the ant bites, as well as a bruise over her buttocks.

Q. And the diaper has been taken off to take that photograph or pulled down?

A. Correct. Yes.

Q. And are these true and accurate representations of the injuries you saw on her?

A. Yes, they are.

MS. HODGE: At this time, we'd move to admit 37, 38 and 39.

THE COURT: Any objection?

MS. MANIGAULT: No objection, Your Honor. We've reviewed them.

THE COURT: Without objection 37, 38 and 39 are admitted and may be published.

(WHEREUPON, State Exhibit Numbers 37, 38 and 39 were admitted into evidence.)

MS. HODGE: Thank you, Your Honor.

Q. I'm going to show you State's Number 37, which, again, not the best glare in here. But which ear is that and where is the injury?

A. This is the bruises noted on the right ear. And, again, it's hard to see in the overhead projection. But this kind of darker area that's represented on the screen

appeared to be a bruise during the examination.
Q. All right. And then State's Number 38?
A. To orient you, this is the tape from the breathing tube. So her mouth is up here. This is her left ear that is now folded forwards. And, again, you can see this area that is a bruise.
Q. What did these ear bruises signify to you?
A. When considering bruising in children, there are certain sites and locations of bruising that we know are commonly associated with accidental injury. So, commonly on children you see bruises on the fronts of their lower legs. In toddlers, you can see bruising commonly on the forehead because of the nature of their daily activity. Bruising on the ear is very atypical for accidental injury, and always raises red flags for an abusive injury. So these two bruises in particular were very concerning to me.
Q. And I'm going to show you State's Number 39. What's the injury there? And what significance does that have to you?
A. So, again, this is -- to orient you, the legs and the feet are going up that direction. Her trunk is bent at the hip. And so these are her buttocks and this is her right buttock. And in this area right here, there was a linear, kind of oval shaped bruise over the buttock area. Again, the buttocks typically are -- they're soft tissue, they're

fatty tissue and typically can absorb a lot of force without leaving any signs of injuries. So bruising on the buttocks is uncommonly seen in accidental injury, but much more commonly seen in an inflicted injury.

Q. Let's continue on this same route with State's Number 28. What injuries -- are there any specific, not the totality here, but specific injuries that again are red flags for you for non-accidental trauma?

A. When evaluating for non-accidental trauma, you know, we look at bruises in isolation. We look at bruises collectively. So, you know, in total she has numerous bruises of her face. Taking them in isolation, as I mentioned before, we've done studies on well children and we know that well children in normal everyday play can sustain bruising to the forehead. It's the other soft tissue areas of the face that are less commonly associated with accidental bruising. So bruising over the cheeks, over the nasal bridge were of more concern for non-accidental trauma.

Q. And how about to the State's Number 30 to the side here, is that usual, unusual?

A. So this appeared -- so this is her head, her arm and this is her right side. There were a series of bruises -- not connection, but kind of in a patterned appearance that were concerning for a hand print or fingertip print

injuries.
Q. Is that common in non-accidental trauma cases?
A. Yes.
Q. And how about State's Number 31? Can you see that?
A. Again, these were bruises over her abdomen or her stomach. Abdominal bruising, again, is not characteristically associated with accidental injuries. Most common bruises that occur in accidental injures are over a boney prominence. In the stomach, there's -- it's very difficult to get that compression of the vessels to the point that they actually break and bleed causing a bruise in this area. So bruising over the abdomen is of significant concern for inflicted trauma unless there's known accidental trauma to have been able to cause that injury.
Q. Were you given sufficient previous history to explain all these various bruises?
A. The only bruises -- the explanations that were provided were for the forehead bruises. I was told that the child had fallen going up some stairs a week prior.
Q. So none of these other on the body, abdomen, other facial ones?
A. There was no mechanism provided to explain that bruising.
Q. Did you make a diagnosis of the child at this point as

far as -- I'm guessing your diagnosis is whether to indicate for abuse or non-abuse. Is that ...

A. Well, at this point in time we were still gathering a lot of information. And so I had heightened concern for the possibility of non-accidental trauma due to the number and location of her bruises and wanted further assessment into any possible medical explanation that may explain it, specifically the studies that were referred to previously.

Q. The blood disorder studies?

A. Right.

Q. All right. And were you -- I think you've already answered this, but were you able to do an examination internally of her mouth?

A. No, I was not.

Q. And if you had been able to do that and if you would have learned that upper frenulum had been torn, would that also weigh into your findings or your impressions?

A. It would have added further support to the possibility of non-accidental trauma.

Q. And what does that signify to you, a torn frenulum?

A. It implies some type of blunt force trauma to the mouth, either from a punch or from some type of forceful application, suffocation type of injury.

Q. Now, is -- it's been talked about, this child's prognosis. What was the child's prognosis at this point?

A. It was very poor.
Q. And was she able to live off of any of the machines?
A. No, she was not.
Q. In your history did you get any information that possibly another child inflicted any of these injuries on her?
A. Yes, I did. The mother had said that some of the bruising on the forehead was due to the two-year-old sister hitting her with some beads on her forehead.
Q. In your opinion, could a two-year-old have used plastic beads to inflict these linear bruises that we're showing here in State's 29?
A. I think it would be very atypical and unusual for it to be caused by a two-year-old.
Q. Did you have a total count or number of bruises; were you able to come up with that?
A. There were approximately twenty-eight bruises that I counted on her body.
Q. And what were your recommendations at the conclusion of this, your initial exam?
A. Based on some information provided to me by the maternal grandmother about something her two-year-old sibling had said, I recommended that the two-year-old sibling have a forensic interview to provide further history.

Q. I'm going to stop you right there. What does that mean? What is a forensic interview and what does that ---
A. A forensic interview is a way that children can be interviewed by law enforcement in a very child-friendly way and in a child-friendly location at the child advocacy center. It's to gather as much information and details as age appropriately as a child can provide about a situation that they may have observed.
Q. So you made a recommendation to law enforcement that the sister be interviewed at the Julie Valentine Center, the child advocacy center?
A. Correct.
Q. Okay. I'm sorry. Go ahead with your next one.
A. I made recommendations on the specific blood test for von Willebrand's antigen and ristocetin cofactor, which is the labs to assess for the bleeding disorder. And then recommended a hair strand drug test due to the previous history of drug abuse in the family.
Q. Once you made those recommendations, what was your next step in this case?
A. I returned the following day to reevaluate the child. And at that point, she had already been declared brain dead. So I did not do a further physical examination on her. Did make some recommendations on having law enforcement assess the types of cardiopulmonary

resuscitation efforts that were given to see if any of those could account for any of the bruising, which would be atypical if done correctly. But just wanted to make sure that we had considered all possibilities.

Q. All right. And if firefighters and EMS providers had done CPR as they were supposed to, would you have seen -- or would you expect to have seen any forehead bruising?

A. I would not expect to see.

Q. A torn frenulum?

A. Would not expect to see.

Q. Bruising about the torso, the abdomen, the flanks?

A. Would be very atypical.

Q. Did you have another part in this case, a small part in this case?

A. Yes, I did. The two-year-old sibling did have a forensic interview. And based on some concerns of law enforcement, I did do a medical assessment on the two-year-old sibling as well.

Q. Okay. And did that end your involvement in this case?

A. Yes, it did.

Q. Thank you. Please answer any of Ms. Manigault's questions.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. Dr. Croswell, I know you said that if CPR was

administered correctly there would not be any bruising?

A. Correct.

Q. And were you informed that the mother had done CPR as well as EMS and the firefighters?

A. Correct. I was.

Q. You noted that there were twenty-eight bruises on the body?

A. Correct.

Q. From your assessment for concerns, was it your conclusions that all twenty-eight bruisings was caused by non-accidental injury?

A. No, I could not make that conclusion.

Q. All right. Thank you.

REDIRECT EXAMINATION

BY MS. HODGE:

Q. Dr. Croswell, did the mother -- did you ask the mother how she performed CPR?

A. Yes, I did.

Q. And what did she tell you or show you?

A. She -- from my medical report I quote. She demonstrated how she gave CPR using her fingertips and pushing in the patient's right upper quadrant below the costal margin, which is below the rib cage, still in the stomach area. Once in contact with the 9-1-1 operator she was told to use the heel of her hand over the patient's

sternum, which is the breast bone here. She said she gave rescue breaths and that she and James would switch off performing CPR in the same manner.

Q. Any of the injuries that you noted on [redacted] give you cause for concern that mom may have put them there doing her CPR efforts?

A. I think there was the one bruise that was located in the right upper quadrant that I think could be related to CPR administered inappropriately due to the force application in that area.

Q. Just that one?

A. Just that one.

Q. Thank you.

THE COURT: All right. Thank you, Doctor. You may step down. Any objection to the witness being excused?

MS. MANIGAULT: None, Your Honor.

MS. HODGE: No, sir.

THE COURT: All right. Thank you. You may be excused.

MS. HODGE: The State calls Investigator Jennings Autrey.

THE CLERK: Raise your right hand.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat and then state your full name for the record.

THE WITNESS: Jennings Autrey.

JENNINGS AUTREY,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Investigator Autrey, who do you work for?

A. The Greenville County Sheriff's Office.

Q. And how long have you been with them?

A. Six years.

Q. What are your primary duties today with the sheriff's office?

A. Currently, I'm a sergeant with the administrative services division. I'm over the public affairs office as a sergeant, as well as our accreditation process.

Q. And what other duties or responsibilities did you have with the sheriff's office prior to that?

A. I was a white collar investigator at the time.

Q. Okay. And how did you have an occasion to become involved in a homicide by child abuse case?

A. I showed an interest in working with Investigator Miller and I was on call that week so Sergeant Jones asked me to respond to the hospital on this day.

Q. To assist Investigator Miller?

A. That's correct.
Q. And when did you get the call and what did you do?
A. It was shortly -- right around the time I was getting off of work. I think it was probably between four and four thirty. Sergeant Jones called me and ask me to respond to the CAT Scan area of Greenville Memorial Hospital due to a twenty-month-old being transported there. My job there was to determine, I guess a little bit, the -- oh, the medical condition of her at that point in time.
Q. Was it questionable what her medical condition was up until then?
A. It was, yes, ma'am.
Q. And who was this child that you were ---
A. It was [redacted] Victim [redacted].
Q. Tell us what happened when you got to the hospital?
A. Once I arrived and met with Dr. Seigler and the nursing staff there in the CAT Scan area, some tests were conducted. We then walked with [redacted] Victim [redacted] -- she was on a stretcher -- up to the PICU unit, the PEDS, and that's when I was awaiting for additional investigators to respond that the mother and the defendant and one of the friends ---
Q. And I'm going to ask you to keep your voice up.
A. Okay. I apologize.
Q. You kind of dropped off towards the end of that.
A. Sorry about that.

Q. Thank you. So when you got there, the mother, Defendant and other family members were not there yet?
A. Correct. Correct.
Q. All right. And was that part of your task also to locate them or ...
A. Well, again, my primary goal was there to determine the medical condition and to report to Investigator Miller. And while I was waiting on them to arrive, they came walking down the hallway. So at that point in time the Defendant and the friend, I believe it was Crystal, were asked to wait in the waiting area. And then I was able to speak briefly and gather some preliminary information from the mother.
Q. Okay. Was that Ann Sprouce?
A. It was, yes, ma'am.
Q. And was the male the Defendant, James Johnson?
A. Yes. He was there as well. He and Crystal were asked to wait in the waiting area.
Q. Okay. And did you take a statement from the mother at this point?
A. There was no written statement. It was basically a gathering of preliminary information. Her asking, hey, what happened? And she gave me a brief synopsis of what happened and why they were at the hospital.
Q. And based on what she told you, what did you do next?

A. I then spoke with Investigator Hoover who had arrived at that time. And I then also informed Investigator Miller of what had happened at that point.

Q. And what was the child's condition? What were you being told at that time?

A. She was on a breathing machine and she was laying in a hospital bed.

Q. Did they think that she might recover or no?

A. At that time, no, ma'am.

Q. All right. So after speaking to Ms. Sprouce, did she stay back in the area, away from where the Defendant and Crystal were?

A. Yes, ma'am. I believe so, yes, ma'am.

Q. And is anybody allowed to go back in the PICU Unit?

A. At that time, no one was allowed to go back there. I think immediate family, and that's hospital rules, so that's ---

Q. That wasn't because of the police?

A. No, correct.

Q. That was just the hospital's policy?

A. Correct. I believe so, yes, ma'am.

Q. And there's a larger waiting area?

A. Yes, ma'am.

Q. And that's where the Defendant and Crystal were?

A. Yes, ma'am.

Q. All right. So what did you do after speaking to the mother?
A. Well, I then spoke with the Defendant and gathered some information from him. And then I asked him again to explain to me what happened and again why they were there.
Q. All right. At this point was the mother or the Defendant, were they even considered as suspects in this case?
A. No, ma'am. This was just very early on in the stage of the investigation and we were trying to figure out what was going on.
Q. And was the Defendant free to tell you he didn't want to talk to you or he didn't have anything to say?
A. Yes, ma'am. Absolutely.
Q. Did he understand that you were a law enforcement officer?
A. Yes, ma'am, he did. I was wearing a gun and badge, so, yes, ma'am.
Q. Did you identify yourself also as with the sheriff's office?
A. I did. I did. Uh-huh (affirmative).
Q. All right. And were you able to communicate with him, talk to him?
A. Absolutely. Yes, ma'am.
Q. So he knowingly, freely, voluntarily spoke to you?

A. Yes, ma'am. He did.
Q. What did he tell you at this point about what happened to the child?
A. At that time he said that he was in the restroom when he heard Ann, the mother, holler for him to call 9-1-1. So he said he jumped up and ran to the living room and did as she had asked. He said that he did not see anything except for [redacted], the victim, lying on the floor. And Ann, the mother, doing CPR.
Q. So he told you he was in the bathroom and he didn't see anything?
A. Correct.
Q. All right. What was his demeanor while he was talking to you?
A. He didn't show a whole lot of emotion. At that time, he was relatively calm and so he would carry on a conversation.
Q. And you were able to talk intelligently to him?
A. Absolutely. Yes, ma'am.
Q. Didn't have a problem communicating?
A. No.
Q. He understood what you were asking about?
A. Yes, ma'am.
Q. And you ---
A. He seemed to, yes, ma'am.

Q. Okay. And you understood what he was telling you about the scenario?
A. Yes, ma'am.
Q. And once you finished talking to him, was he free to go?
A. Yes, ma'am, he was.
Q. And do you know where he went?
A. That, I do not know. I don't know where he went to.
Q. All right. Did you take a written statement at this time or was this just oral?
A. No, ma'am. That was all verbal.
Q. What did you do next?
A. I then -- I spoke with Crystal and asked her what she knew of the incident. She said that she was not home at the time. She went to go pick her children up from school. And when she arrived back home Ann came out and told her that the victim was not breathing. And then EMS showed up and they went to the hospital.
Q. Okay. And did you take a written statement from her?
A. I did not.
Q. Was she considered a suspect or anything at this point?
A. Again, it was a preliminary investigation so we were just trying to figured out what was going on.
Q. But she was not in the home at the time that it

happened according to her?
A. Correct.
Q. All right. And did you talk to any other people that could potentially be witnesses?
A. While I was at the hospital I received two phone calls or the hospital received two phone calls at the desk area there where the nurses gather in the PICU. One was from --
-
Q. Without saying what they said, just who did you get the calls from?
A. One was from, her name was Mary Sutherland, said someone who was well acquainted with Victim's family. And then a Phillip Reynolds with Lake Cunningham Fire Department, I believe, and he responded to the scene.
Q. You spoke with both of them ---
A. Both of them by telephone. By telephone.
Q. Did either one of those need to come and talk to you to give you a statement?
A. At that time, no. I took their information to where if we needed to speak with them later to gather more information we could do so.
Q. And how about anyone else? Did you talk to anyone else at the hospital that night?
A. I spoke with Ann's sister and the mother in the waiting room and they provided me with their phone numbers

in the event we needed to speak with them as well.

Q. So you're pretty much doing preliminary work right now?

A. Correct, yes, ma'am.

Q. Okay. And then you report all of your findings back to Investigator Miller?

A. Investigator Miller. Yes, ma'am, that's correct.

Q. And did that end your involvement on that day, May 25th?

A. It did, yes, ma'am.

Q. So tell us, what was your next step in this case?

A. The next step was May 26th, 2011 about three-thirty, I responded back to the hospital at the request of Investigator Miller, where I made my way to the PEDS Unit again, critical care to where some of the Victim's family were gathered at that time.

Q. And what did you do while you were there?

A. While I was standing there talking with Investigator Miller and another investigator, Ms. Sprouce came up to us, Georgia Ann Sprouce, and said that she needed to talk with Investigator Miller. And then she motioned for all of us to accompany them to a little small family waiting area.

Q. Was the Defendant at the hospital that day?

A. No, he was not. No, ma'am.

Q. And did you and Investigator Miller go and speak to

Ms. Sprouce at that time?
A. We did, yes, ma'am.
Q. And was this a statement, like a formal statement, or what was this?
A. Again, we asked -- she said she wanted to talk to us so we went in there. And it was audio recorded, the conversation that we had at that time. And, again, it was just telling us the events of what had happened.
Q. At this point, was it different from what she had she had said to you ---
A. It was.
Q. --- earlier?
A. It was. It was a little bit.
Q. And how had it changed?
A. I believe initially when I spoke with her the first day, she had said that -- I think she was -- hang on one second. I think she said that she was with Victim in the living room area. And the second time we spoke with her, she said that she was in the kitchen area when this happened.
Q. And after -- how long did that statement go on? How long did she talk to y'all?
A. Maybe between thirty minutes and an hour. I'm not real sure as far as how long that took place.
Q. And was she considered a suspect at this point or ---

A. No, ma'am.
Q. --- was she still free to go.
A. She was free to leave. Yes, ma'am. She was free to leave at any time.
Q. Talking to y'all freely and voluntarily?
A. Correct.
Q. What else did you do in this case that day.
A. After that, I spoke with [redacted]'s grandmother, Tina Rollins.
Q. All right. And were you instructed to talk to her about something or did you just see her and want to get a statement from her?
A. I don't remember exactly how I came about talking to her. I know she was at the hospital and it may have been something Investigator Miller had asked me to do. Again, because I was trying to help him out with this case.
Q. Okay. Keep your voice up for me.
A. All right.
Q. So you took a statement from ---
A. Tina ---
Q. --- the grandmother?
A. Yes. Tina Rollins, correct.
Q. All right. Was anybody else present when you were talking to her?
A. I don't believe so. I think it was just she and I and

then we went to a smaller room and she spoke with me there.
Q. And after talking to her, did you advise Investigator Miller what she had told you in her statement?
A. I did. I did.
Q. And then was there anyone else that you talked to on that day?
A. I also spoke with Mark Gore, who is Victim 's biological father.
Q. And did he place himself there at the time?
A. No, he had said he was not at the incident location, no, ma'am.
Q. Okay. Was he involved frequently in the child's life or do you know?
A. I don't know. I'll have to go back and look at this and see. I don't believe he was.
Q. The child did not live with him?
A. Correct. Correct.
Q. All right. After speaking with Mr. Gore, the child's dad, what else, if anything, did you do on May 26th?
A. After I spoke with both those individuals, both interviews were recorded and I provided that information to Investigator Miller and that was all I did on the 26th.
Q. Okay. And what was your next step in this case?
A. The next day on the 27th, I responded to the Julie Valentine Center. I think it was Investigator Miller who

had told me that a forensic interview was going to be done with Minor I and so that was my job for that day. And that was about eleven thirty that morning.

Q. All right. And how old was Minor I at the time, do you know?

A. I believe she was about two. Two, two and a half, somewhere around there.

Q. And what was your purpose in going to Julie Valentine Center. Were you actually going to speak to the child?

A. No, I was not. I was just going to, I guess, just be a witness and view on a monitor separate from where they were actually doing the interview.

Q. Is that a -- if you know, is that a common practice with children, victims or witnesses, to have them interviewed at Julie Valentine Center?

A. Yes, ma'am.

Q. So you or Investigator Miller would not typically try to talk to a two and a half year old?

A. No.

Q. A two year old?

A. No.

Q. And did you stay and observe the whole interview?

A. I did. I did.

Q. And at the conclusion of that, what, if anything, did you do?

A. At the conclusion of the interview, I believe Ms. Rollins and one of the nurses took [redacted] to the bathroom. And, again, additional bruising on [redacted] was brought up.

MS. MANIGAULT: Your Honor, ---

Q. Don't say anything about that.

A. I'm sorry. My apologizes.

MS. MANIGAULT: --- I'm going to object to that testimony.

THE COURT: I sustain the objection.

MS. MANIGAULT: May we sidebar?

THE COURT: Yes.

(WHEREUPON, Ms. Hodge and Ms. Manigault approached the bar.)

Q. Investigator Autrey, after you finished up over at Julie Valentine, what was your next step in this case?

A. The next step again is report the findings from that day's events to Investigator Miller.

Q. And did that conclude your work on this case on that date? I think you're talking about May the 27th now?

A. That's correct, yes, ma'am.

Q. Okay. When was the next time that you assisted on this case?

A. Would have been June 2nd.

Q. And what did you do on June 2nd?

A. Myself and Investigator Miller and another deputy responded to the actual incident location and met with Crystal Inman where a statement was obtained from her.

Q. Okay. And that was a formal statement at this time?

A. Correct.

Q. You had previously spoken to her orally but now you're doing a written statement?

A. Correct.

Q. And once that statement was obtained, what did you do?

A. We then located the mother, Georgia Ann Sprouce, and she was located at, I think it was Wood Mortuary in Greer. And we met with her and ask her if she'd be willing to come to the law enforcement center and speak with us and she voluntarily came with us.

Q. Was she free to tell you she didn't want to come? She could have said no?

A. She was.

Q. All right. She was not under arrest or anything?

A. She was not. She was not.

Q. At this time was she considered a suspect?

A. No, ma'am. Again, there were still some parts of the story that didn't add up and we were trying to, again, obtain further information.

Q. All right. And did she come ride with you to ---

A. She did.

Q. --- the law enforcement center?
A. She did.
Q. And then did she speak freely, voluntarily to you and Investigator Miller?
A. She did.
Q. Was there anyone else in the room with her when she was talking to y'all?
A. There was -- at the law enforcement center there was myself, Investigator Miller and then Deputy Jimmy Wilson who was cross-training at that time.
Q. And at this point did she give another statement?
A. She did.
Q. Did her statement change from her previous two statements?
A. It did. It did.
Q. And at this time, what had changed?
A. She then said that she was actually sleeping in the bedroom and then the Defendant came and woke her up and said that the victim was not breathing.
Q. What was her -- how was she acting? What was her demeanor during this time?
A. She was calm at first. And then as she began to give the account she became more emotional, several outburst of crying. And then she was very emotional.
Q. Did she get confronted with the possibility or the

thought that she might be the person that did this or was it still left very open?

A. It was still open. Again, saying that basically some of the, I guess, the facts or the accounts not adding up. And she was being told that you need to tell us the truth of what happened.

Q. Just pressing her for whatever the truth is?

A. Correct. The truth, yes, ma'am.

Q. Was she placed under arrest after that interview?

A. She was not. She was actually taken back to the mortuary by myself and Investigator Miller.

Q. Now, what y'all's next step?

A. We'd been told that the Defendant had been located by an Investigator and Deputy Wilson and that he was willing to come speak with us at the law enforcement center. So myself and Investigator Miller responded back to the law enforcement center to speak with him.

Q. And do you have any idea what time of day we're talking about now?

A. I'm not sure. It's getting towards the late afternoon, evening time by that point.

Q. All right. Did you personally go to the residence to locate the Defendant?

A. I did not.

Q. Did you transport the Defendant?

A. I did not.
Q. Did you and Investigator Miller just go to the law enforcement center?
A. We did. We met them there and he was already there.
Q. The Defendant was already there?
A. The Defendant, yes, and the other deputies were already there.
Q. Okay. And was he at that time under arrest?
A. No, he was not.
Q. Was he going to be placed under arrest?
A. No, he was not.
Q. Had a warrant been secured for him?
A. No, ma'am.
Q. So was he free to say, hey, I don't want to go, or I don't want to talk to y'all?
A. Yes, ma'am.
Q. Y'all couldn't have done anything about that?
A. No.
Q. And when you encountered him at the law enforcement center, did he appear to understand who y'all were and where he was?
A. Yes. Yes, he did.
Q. Understand what you wanted to talk to him about?
A. Yes, ma'am.
Q. Okay. Who was taking the lead during discussions with

the Defendant at this point in time?

A. Investigator Miller.

Q. So you're basically a witness?

A. I'm there as a witness, yes, ma'am.

Q. And in your opinion was the Defendant there freely and voluntarily?

A. Yes, ma'am.

Q. Did he ever ask to leave?

A. No, ma'am.

Q. Did he ever say I don't want talk. I want to go?

A. No, ma'am.

Q. And was he able to communicate with Investigator Miller as well?

A. Yes, he was.

Q. Able to talk to each other?

A. Yes, ma'am.

Q. Did he answer questions presented to him directly?

A. He did.

Q. And they were in response to what was asked?

A. Yes, they were.

Q. Did he appear to you to be under the influence of any drugs or alcohol?

A. He did not.

Q. As part of your law enforcement background, do you typically come into contact -- or have you come into

contact with people who are under the influence of drugs or alcohol?

A. Yes, ma'am.

Q. All right. And did he appear to have any of those symptoms or signs?

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

Q. All right. Did he freely, voluntarily, knowingly agree to talk to y'all?

A. Yes, ma'am.

Q. So what happened? What did he start saying?

A. We started talking as far as -- kind of going back to the incident as far as on May 25th. Talked about how they got up that morning. And then as the day progressed, they said they ate lunch, fixed them some lunch and then they were in the room watching television. And then he said while he was in the bathroom, the victim's mother, Ann, yelled at him and said that the victim was not breathing and that he needed to call 9-1-1.

Q. And that was essentially the same story or close to the same story you had previously heard?

A. Correct.

Q. All right. And so he was maintaining that at first?

A. Yes. At first.

Q. And what happened next?

A. He started talking about how he had never seen the

mother be mean to the children. The topic of the biological father of [redacted] came up. He had said that he didn't like him very much because he didn't want to be part of his daughter's life. He said they had argued about calling 9-1-1 regarding the possible marijuana being in the house. And he said that he then said, hey, we're going to call 9-1-1. Then he started talking about how he wanted the child to have help, to have help and peace.

Q. Did things start changing at that point?

A. They did. They did. His demeanor changed a little bit and he became a little more emotional, kind of -- he wasn't crying or anything, but he's -- I want to say he was a little more serious. Kind of was sitting, had his elbows on his knees and was talking to us.

Q. All right. And at this ---

MS. MANIGAULT: Excuse me, Your Honor.

THE COURT: Yes, ma'am.

MS. MANIGAULT: I would take this opportunity at this point to renew my objection ---

THE COURT: All right. Your objection is noted for the record.

MS. MANIGAULT: Thank you.

Q. Prior to him saying about he wanted the child to have peace, had he maintained or said anything that Ann somehow inflicted any of these injuries on this child? Did he ever

tell y'all that?

A. Again, as I said, he argued with her about calling 9-1-1. He said that the marijuana was in the ashtrays and Ann didn't want to call 9-1-1 because she was afraid the children were going to be taken away.

Q. I guess my question is, did he ever tell you or did you ever hear him telling Investigator Miller, Ann put those bruises on that child or Ann caused that child to be unconscious?

A. Uh-uh (negative). No.

Q. Anything specifically pointing to Ann's conduct ---

A. Not that I recall.

Q. --- causing anything?

A. Not that I recall, no, ma'am.

Q. All right. And I'm sorry.

A. No, go ahead.

Q. And so when things start changing what happens? What does he say?

A. He then said that he never hurt the victim that he knows of. He swore that he never beat the girls. He would play with them a lot. Then he said he wasn't being truthful about something. He said he picked the victim up and saw that she was not breathing and thought she was just sleeping. He said that he wanted to be with her and he wanted everyone to leave so he could have her. Then he

said, accidents happen. He said he wishes that she had never went away. He then made a statement that he threw a toy across the room and hit the victim in the head and she started crying. The Defendant said that he then picked her up, tried to calm her down. And he covered her mouth until she quit crying. He then said that Ann was in the bed, so he made up the tea story because he was scared.

Q. What happened with this interview at that point?

A. At that point in time, Investigator Miller stopped the interview. Parker was then read and explained his *Miranda* rights and asked if he wished to have his statement documented. He did sign that Waiver of Rights and then he did provide us with a sworn, written statement.

(WHEREUPON, State Exhibit Numbers 40 and 41 were marked for identification.)

Q. I'm going to show you what's been marked as State's Number 40. What is that?

A. It says, Your Rights at the top. It says Waiver of Rights at the bottom. So it's explaining the rights, then it's the Waiver of Rights if he chooses to speak with investigators or law enforcement.

Q. Okay. And whose Waiver of Rights Statement is this?

A. It says James Allen Johnson, the Defendant.

Q. And were you present when the Waiver of Rights was brought out ---

A. I was.
Q. --- and he was informed of that?
A. I was.
Q. And tell us what exactly he was informed of, what rights?
A. It says before we ask you any questions, you must understand your rights. You have the right to remain silent. Anything you say can be used against you in court. You have the right to talk to a lawyer for advice before we ask you any questions, to have him with you during questioning. If you have no money to pay a lawyer's fee, the court will appoint one to represent you without cost if you wish. If you decide to answer questions now without a lawyer present, you will still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.
Q. And how -- did he appear to understand what his rights were?
A. He did. And he actually initialed before each sentence.
Q. Were you, again, just observing this?
A. Yes.
Q. Were you reading him the rights at all?
A. No, ma'am.
Q. Who was doing that?

A. Investigator Miller was reading it.
Q. And during this, did Investigator Miller stop after every line and ask him to initial if he understood?
A. I don't recall exactly the process as far as if it was done, I believe it was, to where he would pause and say, hey, do you understand? And he would say, yes. And I don't know if the initials took place then or if it took at the end, but there was a pause as far as, do you understand what's being read?
Q. And was there any discussion about his educational background or any schooling or work or anything like that?
A. After the rights were done, then as far as on the statement there is a section discussing the education level.
Q. And after he initialed that he understood what his rights were, did he then go on, on that form to waive his rights?
A. He did.
Q. And what does that part state?
A. It says, I have read this statement of my rights and understand what my rights are. I am willing to make a statement and answer questions. I do not want a lawyer at this time. I understand and know what I am doing. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Q. And is coercion circled on there?
A. It is. And it is also initialed.
Q. Do you know why that was circled?
A. It was described to him and explained to him as far as what coercion meant, by Investigator Miller. And then if he understood it, then he initialed it.
Q. And did he sign that form acknowledging he wanted to waive his rights?
A. He did.
Q. And about how long did it take for Investigator Miller to go over his rights with him?
A. About ten minutes.
Q. And did he freely and voluntarily sign that form?
A. He did.
Q. Did he get promised anything if he would sign that form, such as a low bond or just anything, a recommendation to the solicitor?
A. No, ma'am.
Q. Was he threatened in any way that he'd better waive those rights and talk?
A. No. No, ma'am.
Q. Was he -- was anything withheld from him that he may have requested, such as food, water, bathroom break, cigarettes?
A. No, ma'am. Nothing. Nothing.

Q. And did he then again freely, knowingly, voluntarily say he wanted to give up those rights and continue talking?
A. Yes, ma'am, he did.
Q. And did he continue talking?
A. He did.
Q. And was this part of the conversation then taken down, written down?
A. It was. It was typed and he again gave permission for me to type it while Investigator Miller spoke with him.
Q. Okay. And on State's Number 40, is this the original Waiver of Rights Form?
A. I believe so, yes, ma'am.
Q. Okay. Is there any alterations, deletion, admission that you're aware of on here?
A. No, ma'am.
Q. Okay.

MS. HODGE: At this point we would move to admit State's Number 40 into evidence.

MS. MANIGAULT: Subject to my previous objections in the *Jackson Denno* Hearing.

THE COURT: All right. Subject to objection, Exhibit 40 is admitted.

MS. MANIGAULT: Thank you.

(WHEREUPON, State Exhibit Number 40 was admitted into evidence.)

Q. And I'm going to show you State's Number 41.
A. Uh-huh (affirmative).
Q. All right. And tell me what this is. Just in general what is it?
A. It is a Suspect Statement Form.
Q. Okay. Is that different from a Witness Statement Form?
A. It is.
Q. And what does the Suspect Statement Form have on the top of it?
A. It says, basically it says, I, James Allen Johnson, do hereby give freely and voluntarily this statement to Investigator C.T. Miller and Investigator J. Autrey, who have identified themselves to me to be deputies of the Greenville County Sheriff's Office, Greenville, South Carolina. I've been advised I do not have to make this or any other statement and that I -- and that what I say can be used against me in a court of law. I've been advised that I have the right to counsel with an attorney of my choice, that if I am financially unable to obtain an attorney, the court will appoint an attorney to represent me. I've not been threatened or promised any reward to make this statement.
Q. And was that top portion of the statement read to him as well before taking the statement?

A. Yes.
Q. When going over his Waiver of Rights Form, did he ever ask to have an attorney?
A. No, ma'am.
Q. Did he ever say, I think I better stop. I think I want a lawyer?
A. No, ma'am.
Q. Anything even remotely close to that?
A. No, ma'am.
Q. Okay. Just kept talking?
A. Yes, ma'am.
Q. All right. And how was his demeanor at this point?
A. Again, still he was -- I mean, he was alert. He was talking to us again. It's not a whole, whole lot of emotion. Again, just kind of sitting there, leaning forward a little bit on his knees -- elbows on his knees, talking to us.
Q. All right. And what did he go on to tell you after he agreed to keep talking and after he waived his rights?
A. His statement is, it starts out as additional particulars on Statement E. It says, my date of birth is [redacted]84. It has his Social Security Number. I understand all the questions that Investigator Miller has asked me. And I'm giving this statement free and voluntary and I'm giving Investigator J. Autrey permission to type my

statement for me. I am not under the influence of any drugs or alcohol. I swear that I never beat them. I played with them all the time. There's something that I haven't been truthful about. I picked her up and I saw that she was not breathing. I thought she was just asleep. I thought she was asleep. I was trying to get her back. I just wanted to be with her, the baby. The rest could leave if they would just let me have her. I've been there for her if I knew what I was doing. I was in the bathroom but -- and pauses -- I tried to be a daddy. I tried to correct them when they were wrong so they wouldn't turn out like my sorry family. I tried to take care of her. No matter what happens, I'm going to be the bad one, then she can have her daughter back. Accidents happen. There was a pause. I haven't been on medication in a while at all. I wish she hadn't never went away. I threw a toy across the room and it hit her. It hit her in the forehead where there are all the bruises. It was that day. If I didn't know she didn't have a chance, I never would have thrown that toy. That's what happened. I never would hurt a kid. I've helped raise them. I don't deserve to live. I never should have picked up that toy. That was the day before. I don't know how those bruises got there. She started screaming. I was just trying to calm her down. I kissed on her at first and held her. She kept crying and screaming. I hadn't been on

my medication. People are going to hurt me. Ann and CO's. I covered Victim's mouth until she quit crying. Ann was in the bed when this happened. I then went and told Ann that Victim was not breathing. Ann came in the living room and I told her that there was a glass of tea there and I guess Victim drank it. I told Ann about the tea because I was scared. I love them and always will. I'm sorry for the problems. I'm sorry for God creating me. I'm sorry for all of this. I've never been this kind of person before. Please forgive me in time.

Q. And did he have an opportunity to -- are you typing exactly the words he's saying?

A. Yes. As he's talking, I'm typing away; that's correct.

Q. And did you print this statement out for him to review?

A. I did.

Q. And was the statement gone over with him once it was printed out?

A. It was. And then he initialed the beginning and end of each paragraph showing that no changes were added to the beginning, no changes were added at the end, that that's what he said.

Q. All right. And he didn't make any corrections about anything?

A. No, ma'am.
Q. All right. And did he sign the statement?
A. He did.
Q. And did you and Investigator Miller also sign the statement?
A. We did.
Q. And what are you signing, in what capacity are you signing?
A. I'm signing as a witness saying that I was there as this statement was taken and that it is true.
Q. All right. Was he provided a copy of that statement also?
A. He was.
Q. In there I believe he made a comment that he hadn't been on his medication in a while, or medication in a while. Do you know what medicine he was talking about?
A. I had no idea.
Q. Was there something about his mental condition that gave you cause for concern?
A. No, ma'am, not at all.
Q. Able to communicate and talk to him?
A. He was able to communicate with us. I mean, yes, ma'am. He sat there and conversed.
Q. Okay. About how long did this statement process last?
A. I figure maybe an hour, hour and a half. I don't

recall exactly. I think it was about an hour, hour and a half.

Q. And was his mental state, physical condition, mental condition, the same as it was when you had talked to him, I guess, almost a week before this, when you talked to him at the hospital?

A. It was, yes, ma'am. He was a little more emotional, but as far as being able to carry on a conversation, tell us what happened, it was the same.

Q. All right. Once the Defendant gave his statement, was he free to leave?

A. No, ma'am. He was not.

Q. All right. What happened then?

A. Investigator Miller responded to the judge's office and obtained an arrest warrant. The Defendant was then served with that warrant and then walked over to the detention center.

Q. And were you the person that actually served the warrant on him?

A. Yes. Yes, I was.

Q. And so once he got to the law enforcement center that night and gave his statement, that was it?

A. That's correct.

Q. He was under arrest?

A. Correct.

Q. And he was booked ---
A. Yes.
Q. --- into the detention center?
A. Correct.
Q. And did that end your involvement in this case?
A. It did. It did.
Q. Let me do one housekeeping matter. The Defendant's statement, State's Number 41, is this the original statement by the Defendant?
A. Yes, it is.
Q. All right. Do you know if there's any alterations or additions or deletions from this one?
A. To my knowledge, no, there's not.

MS. HODGE: At this time we would move to admit State's Number 41.

THE COURT: Subject to the objection.

MS. MANIGAULT: Thank you.

(WHEREUPON, State Exhibit Number 41 was admitted into evidence.)

MS. HODGE: Thank you.

Q. Thank you, Investigator. Please answer any of Ms. Manigault's questions.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. I believe you said that you picked up -- you met with

the Defendant at the LEC in ---

A. Correct.

Q. --- late afternoon?

A. I don't remember exactly what time it was. Towards the evening. So, yes, ma'am.

Q. Was the evening -- do you still have a copy of the rights form before you?

A. I do. I do.

Q. The time on it says twenty-two-oh-two.

A. Correct.

Q. What does that mean?

A. That's ten-oh-two.

Q. Ten-oh-two?

A. Correct.

Q. So at that point, how long had you been with the Defendant? That's ten-oh-two P.M.?

A. Correct. Yes, ma'am. Yes, ma'am. I don't recall how long we had been there at that point. I mean, you're looking at maybe an hour, hour and a half maybe.

Q. Maybe an hour?

A. Hour, hour and a half. I'm not real sure because I don't recall what time we got there.

Q. So you'd been there an hour, hour and a half before the rights form was read to him?

A. I believe so. Yes, ma'am.

Q. I believe your testimony regarding Ann Sprouce, you said you had talked to her maybe twice?
A. I believe that's correct.
Q. On the 25th and then on June 2nd.
A. I believe I talked to her the 25th, gathered that initial information ---
Q. Right.
A. --- and then she wanted to speak with all of us on the 26th, so I responded back about three thirty on that day. So that's twice. And then we spoke with June 2nd. So three.
Q. Okay. So three times?
A. Correct.
Q. However, the first time she was saying that James Johnson was in the bathroom?
A. I believe so. That's correct.
Q. And she was in the room with the two girls?
A. Correct.
Q. The second time she was saying that she was in the kitchen?
A. Correct.
Q. And James was in the room with the two girls?
A. I believe so. That's correct.
Q. And the third time she was saying that she was in the bed?

A. Correct.
Q. And that James was in the room with the two girls?
A. Correct.
Q. Now, the first two times you spoke with her was at the hospital?
A. Yes, ma'am.
Q. And then the last time was at LEC?
A. Correct.
Q. Law Enforcement Center?
A. Yes, ma'am.
Q. All right. When you spoke with James Johnson, did you speak with him on the 25th, the first day the child was ---
A. Yes, ma'am. Gathering that preliminary information; yes, ma'am.
Q. All right. And at that point, he told you that he was in the bathroom ---
A. I believe so.
Q. --- and Ann was in the room with the girls?
A. I believe that's what he said. (Reviews notes.) Yeah. That's correct.
Q. All right. Was it your initial interview on the 25th with the Defendant or was it the interview on June 2nd when you observed the Defendant talking with Investigator Miller, that he told you that there was an argument about calling 9-1-1 before the marijuana was moved?

A. Let me see. (Reviews notes.) It was on the 2nd.
Q. It was June 2nd?
A. I believe so, yes, ma'am. Yes.
Q. So Mr. Johnson's information to you was that he wanted to call 9-1-1 but Ann Sprouce wanted to wait because of the marijuana?
A. Correct.
Q. All right. So in the LEC -- law enforcement interview on June 2nd ---
A. Uh-huh(affirmative).
Q. --- along with Investigator Miller ---
A. Uh-huh (affirmative).
Q. --- does the Defendant in anyway appear to be sleepy or was he slurring his words?
A. No, ma'am.
Q. Did you smell any alcohol about his person?
A. I did not smell any alcoholic beverage or anything coming from his person, no, ma'am.
Q. Did his eyes appear to be dilated?
A. No, ma'am.
Q. Within this one hour to hour and a half or a little more, did he ask to go to the restroom?
A. I don't believe he asked. I think Investigator Miller actually offered, gave him the opportunity to go.
Q. So Mr. Johnson actually took a break at the suggestion

of Investigator Miller?

A. I believe that's how it occurred.

Q. And he went to the bathroom?

A. Yes, ma'am.

Q. And do you recall how long he stayed in the bathroom?

A. I don't. But Investigator Miller was with him when he went.

Q. All right. The area where you were questioning him or where he was being questioned, and you were typing ---

A. Yes, ma'am.

Q. --- how large is that area?

A. It's the homicide office. There's six investigators that work back there, so you've got an eighteen feet wide by about maybe eighteen, nineteen, twenty feet long.

Q. Okay.

A. So a pretty decent area.

Q. And while you were in that area, it was you, Investigator Miller, Wilson and James Johnson?

A. I believe that's correct. Yes, ma'am. The four of us.

Q. In the immediate are for questioning?

A. Yes, the four of us.

Q. When you met with James Johnson at the law enforcement center, was he then a suspect?

A. He was a person of interest, maybe a possible suspect.

But, again, he did not have to come speak with us. He was free to leave at that time.

Q. He was a person of interest or maybe a possible suspect?

A. Yes, ma'am. Again, there is ---

Q. All right. And did you ---

A. --- determine what was happening.

Q. Excuse me?

A. We were still trying to figure out what was going on.

Q. All right. And did you give him his *Miranda* warnings or the rights when you started your interview with him?

A. The initial part, no, ma'am.

Q. So as you testified earlier, it was about an hour, hour and a half before his *Miranda* rights were read to him?

A. I believe so, yes, ma'am.

Q. And when I say Miranda rights or your rights, you're talking about the right to remain silent?

A. Correct.

Q. Whatever you say can be used against you in court?

A. Uh-huh (affirmative).

Q. You have the right to a lawyer. If you can't afford a lawyer, one will be appointed.

A. Uh-huh (affirmative).

Q. If you decide that you want a lawyer during the questioning, you can stop at any time? So you never did

read those rights to him -- or you didn't read the rights to him in the beginning?

A. Correct.

Q. All right. And so after you talked with him an hour and a half, then the rights were read?

A. Correct.

Q. All right. Did -- I may have asked you this, but did James Johnson ask for an attorney?

A. No, ma'am.

Q. All right. Did he ever indicate to you that he didn't want to talk to you anymore?

A. No, ma'am.

Q. You said he communicated?

A. Uh-huh (affirmative).

Q. Was he giving answer appropriate to the questions asked?

A. Yes, ma'am.

Q. And you said he made the statement to you, accidents happen?

A. Yes, ma'am.

Q. Did you ask him for an explanation of that statement?

A. I did not, no, ma'am.

Q. I believe you read in the statement that you said he initialed and signed ---

A. Uh-huh (affirmative).

Q. --- one of the paragraphs started out with, I was in the bathroom, but -- and then you said there was a pause. Did you ask him about that statement? The part about, I was in the bathroom?

A. I did not. No, ma'am, I didn't.

Q. And I believe you already answered the Solicitor, when he talked about medication you didn't ask him about the medication he was supposed to be on or off?

A. No, ma'am, I did not. I did not, no, ma'am.

Q. All right. You said his emotional state changed. He became a little more emotional with some questionings?

A. Correct. Yes.

Q. Did you have any concerns at all about James Johnson's demeanor or appearance when you were talking to him?

A. No, ma'am.

Q. And the Solicitor asked you did his questioning or answering remain the same as from May 25th to June the 2nd?

A. Right.

Q. His demeanor to you was about the same?

A. Yes, ma'am, it was.

Q. On May 25th had Ann Sprouce or the Defendant tell you that they had been smoking marijuana that day?

A. I don't believe so. I don't recall at all.

Q. Did Ann Sprouce or the Defendant tell you they were smoking marijuana the day before?

A. I don't recall. I don't think so.
Q. So there was no mention of drug uses by either Ann Sprouce or James Johnson?
A. No, not that I remember.
Q. And I believe you said that your interview with Ann Sprouce was taped, audio?
A. The one I believe is the 26th, maybe.
Q. On the 26th?
A. It was the second day I was at the hospital.
Q. Okay. 26th?
A. Yeah. I believe that's the one I'd spoken of.
Q. And was her on June 2nd taped?
A. Let me see. I don't recall off the top of my head on that one.
Q. Did you tape anybody else's interview?
A. Yes, ma'am. It was Tina Rollins, I believe. And then Mark Gore because I was in there by myself doing -- speaking with them.
Q. Okay. And when James Johnson was being interviewed on June the 2nd, was his interview taped?
A. No, ma'am.
Q. All right. Thank you.

THE COURT: Any redirect?

MS. HODGE: Yes, sir.

REDIRECT EXAMINATION

BY MS. HODGE:

Q. The only change in demeanor or emotion that you saw in the Defendant was when he started confessing what he had done?

A. Yes, ma'am, leaned forward.

Q. He became more solemn, solemner?

A. Yeah, solemn. A little more emotional. He may have cried. I don't know. Because he was kind of leaning forward.

Q. I'm ---

A. And he may have -- he just leaned forward, kind of started just talking to us, putting his knees on his elbows and he began talking.

Q. All right. And the audio taping of the discussion with Ann at the hospital ---

A. Uh-huh (affirmative).

Q. --- when she said, y'all come here.

A. Right.

Q. Is that something that you did?

A. Yes.

Q. Did she know you were doing that?

A. I don't remember if she did or not. I don't think so. I believe it was in my shirt pocket. But it was something that we just kind of did.

Q. Was that a thing that y'all planned to do or did you

think, I think I should do this?

A. No, ma'am. I just went ahead and just started recording it ---

Q. So that was your choice on your own to do that?

A. Yes.

Q. And you audio taped the two other statements of Tina Rollins and Mark Gore because you were by yourself?

A. Yes. Correct. Correct.

Q. Now, the interview with Ann at the LEC, Investigator Miller was in charge of that interview?

A. Yes, ma'am.

Q. When y'all got her from the mortuary?

A. Yes.

Q. Did he tell you or advise you to tape or not tape?

A. I don't recall. I don't believe so. I'll look back through here and see because I don't recall off the top of my head on that one. I don't believe so.

Q. And there were you present and Deputy Wilson was present ---

A. Correct.

Q. --- as well as Investigator Miller?

A. That's correct.

Q. So the three of y'all?

A. Yes.

Q. All right. And the same thing for the Defendant's

statement on June 2nd, there were three of y'all present?
A. There were three of us, correct.
Q. All right. Thank you.
MS. HODGE: That's all from this witness.
THE COURT: Thank you. You may step down.
Mr. Foreman, ladies and gentlemen, let's take a break. If you'll go back to your jury room. I remind you again not to discuss the case. We'll take a short break and be ready to proceed with the next witness in just a few moments.
I'd ask that everyone else please remain seated while the jury departs.
(WHEREUPON, the jury exited the open court at approximately 3:56 P.M.)
THE COURT: All right. Let's take a short break.
(WHEREUPON, the court stood at recess for a short break.)
THE COURT: All right. If our jury's ready have them come in.
(WHEREUPON, the jury entered the open court at approximately 4:22 P.M.)
THE COURT: The State may call its next witness.
MS. HODGE: Thank you, Your Honor. The State calls Investigator Chris Miller.
THE CLERK: Raise your right hand.

Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat and state your full name.

THE WITNESS: Christopher Todd Miller.

CHRISTOPHER TODD MILLER,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. I'm sorry. Sergeant Miller, who do you work for?

A. Greenville County Sheriff's Office.

Q. How long have you been with them?

A. I've been with the Sheriff's Office since 1999, but I have a total of eighteen years of law enforcement experience.

Q. And what are your current duties or responsibilities with the Sheriff's Office?

A. I'm a supervisor in the criminal investigations division. My job is to supervise employees, assess their investigation, assign investigations, approve their reports. I also keep up with their time cards, inspections, evaluations, just general supervisory duties.

Q. What areas are you over?

A. I'm over auto theft and juvenile investigations and

also the victim witness advocates.

Q. Before you were promoted to this capacity, what did you do?

A. I was a homicide investigator for seven years.

Q. And was that with the sheriff's office?

A. Yes. All with the sheriff's office.

Q. And what kind of training or educational background do you have for a homicide investigation and now further on to being sergeant?

A. I've been to the University of Louisville homicide school. I've been to the University of Tennessee for a DNA and evidence recognition. Also blood spatter analysis. I've been to the -- I've been to Fox Valley Technical College in St. Louis, Missouri, for child murder investigations. And, also, I've been to numerous supervisor schools and leadership schools.

Q. Back on May the 25th, 2011, were you assigned to the case involving [redacted] Victim ?

A. Yes, I was the on-call homicide investigator. There's six of us and we rotate every six weeks, so I was on call that week.

Q. And what time did you receive a call to become involved in this case?

A. It was around four twenty P.M., four thirty P.M., in the afternoon.

Q. And what were you told at that time?
A. I was told that there was an unconscious child that was twenty months old and that the preliminary investigation was that she had choked on some tea.
Q. Were you updated as to what her condition was or her prognosis at that point?
A. That she was unresponsive and that she had been taken to the Greer Memorial Hospital by an ambulance.
Q. And what did you do?
A. I then, of course, responded. And at that time I was advised that the coroner's office was already there at the scene, so that prompted me to contact one of the investigators in homicide and ask them to obtain a search warrant. Because I was also advised that the parents or the mother and the people there at the residence were no longer there. So there was only a deputy on the scene. So I asked Investigator Bailey to obtain a search warrant so I could investigate the scene.
Q. All right. And what time do you believe you got to the scene?
A. It was probably about a twenty, twenty-five minute drive from the law enforcement center all the way out there to Fews Chapel Road.
Q. And what did you do? What did you observe when you got there?

A. When I got there, Coroner Cain was there. She was outside in the driveway and she came up to me and briefed me as to what was going on. And that the child had now been airlifted to Greenville Memorial Hospital. There was also a uniform patrol deputy car there, which was Deputy Azzara.

Q. Would a coroner come out to a scene of a child choking normally?

A. No. That, you know, prompted a little bit of suspicion on my part, just the fact that she was there, which she said that due to the fact that the child was ---

MS. MANIGAULT: Your Honor, we object to anything that the coroner said because ---

THE COURT: Sustained.

Q. Do coroners normally show up on your crime scenes unless there's a dead person or a soon-to-be dead person?

A. No. Only in those circumstances.

Q. Okay. And did you then speak to Deputy Azzara?

A. I did.

Q. Okay. Did you get a little bit of background information?

A. Yes. He went into the fact that he had spoken with the boyfriend, which was Mr. Johnson, and he had spoken with Georgia Ann Sprouce, who he identified as the mother, and said that they had told him that she had -- Victim

Victim, the victim, had choked on tea. And then I asked him why he let the mother and father or the mother and boyfriend go. Because our protocol would be to secure that scene and to separate any witnesses and then call for an investigator.

Q. So in your opinion, that was not a good call on his part?

A. That was not a good call at all.

Q. To let them leave and be together?

A. No. That is not our protocol.

Q. All right. After speaking to him and learning that information, what did you do?

A. At that point in time, I contacted our dispatchers to have a forensics technician respond to process the scene for me.

Q. And do you and forensics work together processing a scene?

A. Yes. What we will do is I'll wait for forensics and if the coroner's office is not there, I'll -- all three agencies walk through at the same time. So the coroner, forensics people and then myself will walk through the scene all at one time so we can all make sure that we don't disturb anything. You know, as little as possible. Because you don't want too many people going into a crime scene.

Q. Walking through your crime scene?
A. Right.
Q. All right. And who responded from forensics?
A. That would have been Sergeant Lendway, who was Lieutenant Lendway at this time.
Q. All right. And what did you guys do as you walked through?
A. As we're walking -- we do initial walk-through just, you know, looking to see a review of the house and then I'll, you know, point out things of interest and then Sergeant Lendway at the time would point out some things that he saw. And then he would begin -- after that, he would start taking digital images of the house.
Q. All right. Did you have a lot of information to go on as to where your scene was, where the actual crime scene may have been?
A. I had no idea because there was no one there but Deputy Azzara and Coroner Cain.
Q. And I think -- you've obviously sat through the case and you've seen some of the State's pictures that were introduced through Ms. Inman of the incident location, the house; is that correct?
A. That's correct.
Q. Okay. And those pictures were taken by now Lieutenant Lendway?

A. Yes, ma'am.
Q. All right. I'm going to show you just a few additionals, State's Number 34 through 46. And what are these pictures showing? How are they different from what's been presented already?
A. These are children's clothing.
Q. All right. That's State's Number 34?
A. Uh-huh (affirmative).
Q. And then State's Number -- and do they have something signifying that law enforcement's now become involved?
A. Yes. These are placards that forensics use to identify evidence.
Q. Okay.
A. And this also is an article of children's clothing.
Q. All right. And then State's Number 35?
A. Yes. Yes.
Q. That's State's Number 35.
A. Uh-huh (affirmative).
Q. All right. And then let's see, 42, 43, 44, 45, 46.
A. This is the living room and these are the placards, which is State's 35, right here, which is an article of clothing. And then there's another article of clothing. And then "A" is where the suspected vomit was located.
Q. Okay. So you were informed that there was some possible vomiting?

A. Well, actually, Sergeant Lendway or Lieutenant Lendway and I found that ourselves.

Q. And documented that?

A. Documented that.

Q. Okay. And 43 showing that a little closer?

A. Yes.

Q. And then 44 is showing -- what's that?

A. That is a towel. It looks like it was folded up and placed there, beside a diaper.

Q. Okay. And then 45?

A. These are three different -- there's two plastic cups and a glass on the end table.

Q. Were you informed anything about the significance of that or were you just guessing that that might be involved?

A. We were told that tea was involved and so we felt it necessary to document that.

Q. Okay. And then State's 46?

A. It's just an overview of those cups, which they're empty.

Q. Did you notice any areas on the carpet that you could attribute to any type of drink being spilled or any ice being on the floor or anything like that?

A. No. The only liquid spot was that one that I did find there on the rug.

Q. All right. And are these photographs true and

accurate representations of how the scene looked once the placards were added?

A. That's correct.

MS. HODGE: At this point we would move to admit 34 through 46.

THE COURT: Any objection?

MS. HODGE: 34 and 35. Okay. We must have skipped some numbers. Oh, we did. Okay. Sorry. 42, 43, 44, 45, 46.

THE COURT: 42 through 46?

MS. MANIGAULT: Yes, sir.

THE COURT: And 34 and 35?

MS. MANIGAULT: Yes, sir. We reviewed that.

THE COURT: Without objection.

MS. MANIGAULT: Without objection.

THE COURT: They are admitted and may be published.

MS. HODGE: Thank you.

(WHEREUPON, State Exhibit Numbers 34 and 35 were admitted into evidence.)

(WHEREUPON, State Exhibit Numbers 42, 43, 44, 45 and 46 were marked and admitted into evidence.)

Q. Let me show you State's Number 35 and then we'll go to 34. State's 35. Can you see that?

MS. HODGE: Can you turn that one light off

again, Madam Bailiff.

Q. And what did you identify that to be?

A. That is an article of children's clothing. The best I can see. It's kind of a bad view of it.

Q. Right. With all this technology, that's what it looks like on the screen. Okay. And then State's Number 34, which was the item that was significant to you in that one?

A. That was an article of children's clothing that also had a suspected liquid on it.

Q. Okay. And did State's 35 or item G listed here, did that have some suspected fluid or something on it?

A. It did.

Q. And were those items collected?

A. They were collected by Lieutenant Lendway.

Q. Okay. All right. So as I'm opening this up, tell us -- about how long did you stay on the scene there?

A. I arrived at probably right around five o'clock, somewhere in that time, because I left at four thirty and the traffic was bad. So I left at -- I made a note that I left at six fifty-eight P.M. So, I would have been there about an hour and a half.

Q. Were there any other items of potential evidence that you were able to find or anything else of interest in the residence when you and Lendway were walking around?

A. Just the most significant were the clothing and the

cups, to our limited knowledge of what had taken place. And then I also had the diaper collected, which is a typical thing we do with babies and young children. Sometimes you can do testing on the contents and find out if there's some type of substance present that may have killed the child.

Q. Did that ever happen? Did you ever have the diaper tested for anything?

A. No, I had no reason to.

Q. And that would be something that you would do towards the end of your investigation, as far as requesting certain tests be done on certain items?

A. That's correct.

(WHEREUPON, State Exhibit Number 47 was marked for identification.)

Q. I'm showing you what's been marked as State's Number 47. Is this the item that was portrayed in photograph G?

A. Yes, it is.

Q. Okay. And is it in substantially the same condition as when it was collected?

A. It is.

Q. Photographed?

A. Uh-huh (affirmative).

Q. Okay. Is there some type of substance on the left sleeve?

A. There's still a brown tint to it.
Q. Okay. And did you ever ask for anything on this to be tested or looked at?
A. No, I did not.
Q. Was there anything, in your opinion during your investigation, that led you to believe you needed to test anything on this?
A. No, I did not.
Q. And did it have that brownish substance when it was collected?
A. Yes.
Q. Okay.

MS. HODGE: We would move to admit State's Number 47.

MS. MANIGAULT: No objection, Your Honor.

THE COURT: Without objection, Exhibit 47 is admitted, and may be shown to the jury.

(WHEREUPON, State Exhibit Number 47 was admitted into evidence.)

(WHEREUPON, State Exhibit Number 48 was marked for identification.)

Q. State's Number 34 is on the projector, on the overhead. And I'm going to show you what's been marked as State's Number 48. Are these the little -- the bottoms depicted in that picture.

A. That was of the bottoms. Yes, ma'am.
Q. And did they have those brown-type stains on them when you saw them?
A. They did, and they still contain them.
Q. Okay. And these are in the same condition as when they were collected, substantially?
A. That's correct.

MS. HODGE: We would move to admit State's Number 48.

MS. MANIGAULT: No objection, Your Honor.

THE COURT: Without objection. It may be shown to the jury.

(WHEREUPON, State Exhibit Number 48 was admitted into evidence.)

Q. Once you finished up at the incident location, where did you go, what did you do?
A. Well, I had also asked for additional investigators to assist me since I was in Greer and the victim had been transported to the Greenville Memorial Hospital. So Investigator Devin Hoover was on call as a backup to me. So I called him and asked him to respond to the Greenville Memorial Hospital. And then I called Sergeant Jones, who was our Sergeant in homicide at the time, and asked him -- or advised him of what was going on. And then he, in turn, asked Investigator Autrey, now Sergeant Autrey, to respond

to the hospital, as well.

Q. All right. And did they locate the mother and boyfriend and/or any witnesses at the hospital?

A. Yes.

Q. Okay.

A. And they were reporting back to me while I was on scene.

Q. While you were on scene?

A. Yes.

Q. And then you'd go on to the hospital yourself?

A. Right.

Q. And who did you speak to or what did you do when you were at the hospital?

A. When I first arrived at the hospital, I passed the family in the waiting area and I observed some, who I assumed were family members. And then I also spoke with Sergeant Jones just briefly, who was taking a statement from Georgia Ann Sprouce at the time. And then I spoke with Investigator Hoover and Investigator Autrey.

Q. All right. And Sergeant Jones was talking to the mother, Ann Sprouce. Was she separated, away from other people?

A. They were separated. There was a small, what they call family waiting room there in the Pediatrics ICU, you know, right there close to the room. And it's a fairly

small room with a computer in it and a few chairs. That's where he was at, taking her statement.

Q. Did you sit in or observe or have anything to do with that statement?

A. I went in there briefly after going into the room and looking at [redacted].

Q. So you actually did a look-over of the child yourself?

A. I did. And I spoke with doctors and I looked at [redacted], and then I went into the family room area and spoke to Sergeant Jones. And then I spoke with Ms. Sprouce because Sergeant Jones had wanted me to read over the statement they had taken so far to see if there was anything from the scene that he was not being advised of.

Q. So you had some information that he didn't have and he was wanting you to come in and make sure everything was answered to the best of the ability at that point?

A. That's correct.

Q. And was Ms. Sprouce free to leave or to not talk to you at this point in time?

A. Yes. She was not in custody.

Q. Was she a suspect of anything at the time?

A. No, this is just preliminary investigation at this point.

Q. All right. And based on what she said in her statement as far as who may have been at the home when the

child came to be in this condition, what did you do?
A. At that point I went to locate the boyfriend, who I was told was Mr. Johnson. And I was able to locate him. And then I told him that I would like to speak to him. And would he be willing to talk to me and give me a statement, because we were conducting our preliminary investigation and that we have to talk to everybody that's involved or, you know, all family members, anyone who was there.
Q. All right. Was he free to tell you he did not want to come or he did not want to talk to you?
A. Yeah. I advised him that he didn't have to, but it would be very helpful in the investigation and I identified myself. I was wearing my badge and gun and also handed him one of my cards.
Q. And did he agree to come and talk to you?
A. He did.
Q And did he appear to understand who you were and what you wanted to talk about?
A. Yes. And I advised him that I could give him a ride and he agreed to ride with me.
Q. So he rode in your car. Is it a police car or an unmarked car?
A. I have an unmarked Impala that just looks like a normal car.
Q. Did he have to be handcuffed or anything like this at

this point or to ride with you or anything like that?
A. No. He was not in custody.
Q. Were you treating him as a suspect or as a witness at this point?
A. He was a witness.
Q. So did he then come to the law enforcement center with you freely and voluntarily?
A. Yes, ma'am.
Q. Did he appear to be under the influence of any drugs or alcohol while you were talking to him?
A. No. He appeared fine on the way there. We didn't talk about the case on the way there. We just made small talk. And then I took him up to my office and had him sit down at a chair at my desk and -- where we just casually sat and talked.
Q. Did you feel the need to advise him of any *Miranda* rights or anything like that at this time?
A. No. The only time that that would apply is when they're in custody, and he was not in custody.
Q. Was he free to tell you that he wanted to go, he was finished talking, that kind of stuff?
A. Yes.
Q. All right. Did he ever say anything like that during this evening or this conversation?
A. No. He stayed and spoke with me and then gave me a

written statement.

Q. How long do you think you and Mr. Johnson spoke on May the 25th?

A. We left the hospital somewhere around nine P.M. And I returned him to Greenville Memorial Hospital and let him out in the front about ten thirty, I believe it was.

Q. So you were with him for about an hour and a half. You were able to, again, talk to him, have a free-flow exchange of information?

A. Yes.

Q. He was understanding the questions you were presenting?

A. Yes. He understood.

Q. And you understood what he was saying back to you?

A. Correct.

Q. And then he gave you ---

(WHEREUPON, State Exhibit Number 49 was marked for identification.)

Q. I want to show you what's been marked as State's Number 49. Do you recognize that?

A. I do.

Q. Okay.

A. That is his original statement that he gave to me on the 25th of May, 2011.

Q. All right. And are there any alterations, deletions

or any amendments to that?

A. No, there are not.

Q. It's substantially in the same condition as when you took it from him on the 25th?

A. It's in the exact condition, other than the sticker.

Q. Other than the State's evidence sticker on there. Okay.

MS. HODGE: And at this point, we would move to admit State's Number 49 into evidence.

THE COURT: Any objection?

MS. MANIGAULT: No objection, Your Honor.

THE COURT: All right. Without objection, Exhibit 49 is admitted into evidence and may be published.

MS. HODGE: Thank you, Your Honor.

(WHEREUPON, State Exhibit Number 49 was admitted into evidence.)

Q. So what was Mr. Johnson telling you about this incident back on May the 25th?

A. Well, I started asking about the day's events, you know, what time he got up in the morning, what he did. He advised me that he got up about six A.M. like every morning, turned on the cartoons for the kids. Went into the kitchen, made a pot of tea. Fed the kids. Changed their diapers, took them outside to play. And then we put them down for a nap. And he said on this day that he put

them down for a nap and the older sibling, Minor 1, got up before Victim did. And then they were watching TV and then he had to go into the bathroom. And he said while he was in the bathroom that Ann hollered and said that Victim Victim, which is Victim, was not breathing. And he said he came out and found Victim unresponsive and Ann doing CPR.

Q. Okay. Did he actually say that there were other people still at the house in this statement?

A. Just Minor 1 and Ann and Victim.

Q. Okay. I would direct you to the middle of the -- are you reading from his statement or from your supplemental?

A. I'm reading from the statement.

Q. Okay.

A. I'm just skipping around on it.

Q. Okay. Well, why don't you go ahead and read it as it is, word-for-word?

A. Okay. Today I got up at six A.M. like we do every morning. I cut on the cartoons for the kids. I went in the kitchen and made a pot of tea. I fixed the kids some peanut butter and jelly sandwiches. After that, I changed their diapers again and then took them outside to play. I put Victim, Victim down on the ground by the sand. And while I was getting Minor 1, Victim got into an ant pile. I brought the kids back inside the house and wiped off the ants and Ann changed Victim s diaper. I then laid both of

them down in separate rooms. Minor 1 always hits on Victim Victim and takes stuff from her, keeping her up. I did not let them go outside anymore. When Victim woke up, I made some chicken patties and I gave Victim some of the chicken. Minor 1 stayed asleep until about one thirty. Minor 1 got up and I played with both of them and Crystal's daughter Minor 3. She is three and a half years old. I let them watch more TV and I went into the bathroom. Ann hollered at me while I was in the bathroom saying that Victim was not breathing. I went into the living room and I saw Victim in the floor on her back. Ann was trying to do CPR. Ann told me to help her by holding her head up. I was calling the ambulance as she was doing it, telling them how to get there and trying to help Ann at the same time. I didn't know what else to do but call the ambulance. I also tried to do CPR on Victim and Ann was telling me how to do it. When I gave her breaths, the tea came back up and the ambulance and police arrived and took over. Ann said that Victim choked on the tea and after that, she went unconscious.

Q. All right. So he didn't tell you anything about going to his friend Josh's house in this statement, on this day?

A. No.

Q. In his sequence of events of the incident. He didn't tell you anything about Crystal and Minor 3 actually being

gone when this incident occurred?

A. No, he did not.

Q. Okay. He, in fact, places Keylie at the residence and he's allegedly taking care of her at the same time?

A. That's correct.

Q. He didn't tell you anything about anybody smoking any marijuana or doing anything like that?

A. No, he did not.

Q. All right. And then in the next paragraph, what does he go on to say?

A. Since we have been living with Crystal, which is Crystal Inman, Minor 1 has gotten meaner and will not mind. She sticks her tongue out and won't do what she's supposed to do. I don't believe in punishing kids. I believe that you should talk to them and maybe put them in the corner. Minor 1 and Minor 3 were fighting two days ago and Victim got in the middle. And Victim hit her head on the corner of the door and then fell down the drop-off to the next room, right on her face. The bruises did not pop up until the next morning. Ann and I have sat Minor 3 down and told her not to be mean to Victim, but she's not our kid, so there ain't much I can do. Minor 1 is mean to Nay Nay also. The kids have these Mardi Gras beads and Minor 1 hit Victim with it. It was broken and pink with little round balls. Minor 1 hit her head -- hit her in

the forehead with it and we took it away, hoping that she would not find it again, but she did. We got it back and Ann threw it away. Ann got anything like the beads and necklaces and threw them away so they will not hurt each other anymore. Victim has fell on some rocks in the back yard before, too. Victim also ate a sucker today, about an hour before this happened. I am trying to think of anything else.

Q. So in this paragraph, he's saying that Minor 1 and/or Minor 3 hit Victim?

A. Yes.

Q. Accounting for these bruises on the head. Are you asking him specifically about where all these bruises came from?

A. Yes.

Q. Okay. So he's attributing them to other children?

A. That's correct.

Q. And then he's also attributing them to the child falling at various time?

A. Yes. That's correct.

Q. Okay. Did he ever say when you asked about the bruises that Ann put them there herself?

A. No, never.

Q. All right. How about the next paragraph.

A. The next paragraph says, I tried my best to save my

future daughter and I can't handle losing something that I love so much. I told Ann that it was our fault, what happened to [redacted], because cups were made for kitchens and not the living room. There was some heart-shaped toys in the floor, like a heart-shaped bracelet at one time. I don't know if she choked on that or not. I was in the bathroom when this happened and I wish I could have been there -- had been in there at the time to save her. [redacted] is a fussy baby and so is [redacted]. [redacted] is fussier than [redacted]. [redacted] will clean up her toys, but [redacted] will be over there whining. [redacted] fusses about wanting a drink or a toy but not her diaper because we have it changed before she has to cry. Sometimes Ann will pop [redacted] on the hand if she will not mind. I have hit [redacted] on the hand when she will not go to sleep, but that is all that we will do to them.

Q. All right. And so he's offering up some other explanation here about the choking with some other bead or something?

A. Yes.

Q. And then he talks about [redacted] being fussy. Is that something that was asked or is that something that was volunteered?

A. That's something I asked him about.

Q. Okay. And he said that she was fussy, and [redacted],

as well?
A. Yes.
Q. Why is that something that you ask about in cases like this?
A. With child death investigation and possible abuse, a lot of times a fussy child, the fact that they are fussy is the reason for their abuse. People lose their minds, they lose control.
Q. Lose their temper, get irritated?
A. Lose their temper, yes.
Q. And then on to the next paragraph.
A. The only thing I can remember was last Friday the cops came to the door saying that [redacted] had been outside and running around. I was in the bathroom shaving and did not know that she had gotten out. I was looking for [redacted] before the cops got there. I think she unlocked the bottom lock on the door. [redacted] was still napping at the time. The cops came in and checked the house for food and stuff. They told me that it better not happen again, letting the kids get outside without an adult.
Q. So on this incident he's describing -- he's also in the bathroom when ---
A. He's in the bathroom again.
Q. All right. And then the final paragraph or -- yes, final paragraph?

A. I did not do anything to cause Victim to go unconscious today. I did not hit her or shake her or cause what happened to her. I was in the bathroom when Ann told me that Victim was not breathing. Ann is a good mother and she would not do anything to hurt her either. I would kill anyone that tried to hurt Ann's kids. I was hollering and screaming at EMS because they were saying that they could not understand what I was saying. This statement is true and I understand that if I do not tell the truth to you, I could be criminally charged. I swear to God that I'm not hiding anything from you and I plan on building a swing set and taking care of my babies. End of statement.

Q. Now, these were not his children?

A. No.

Q. These were Ann's kids, not his babies?

A. That's correct.

Q. Okay. And he indicates in here again that Ann did not do anything?

A. Yes, he did.

Q. Okay. So once you typed that statement out, he had a chance to read over it, make any corrections he wanted to?

A. Yes. I print a copy for the witness or defendant, whoever I take a statement from. I print a copy for them and also print a copy for myself and I will read it and let them read as I'm reading. And let them make any

corrections. I usually will give them a red pen and tell them to circle any typos or anything that they see that they didn't tell me, you know. Whatever changes they want to make, I let them make that change. So it will be their statement.

Q. And once you concluded that process, did you, I think you mentioned you drove him back to the hospital?

A. I did.

Q. At that point, was he a suspect or had you intentions of arresting him at this point?

A. No, I did not.

Q. Are you still gathering information for your investigation?

A. Still in the gathering stage.

Q. All right. So what was your next step?

A. My next step was -- I was still on call at this time, so I had other calls to answer. And so I -- on the 27th of May, I went back to the hospital and I met with Ann again, and also Coroner Cain and Investigator Laura Jones, who was in homicide at the time, also were there. And we spoke to Ann Sprouce again and I typed a statement on the hospital computer, which was inside the family waiting room.

Q. All right. And during this conversation did some of her story change?

A. Yes. And I talked to her first, before typing the

statement, and that was the reason for typing the statement was because her story was changing. And it went from her being in the room when Victim started choking to now she was in the kitchen. And that Mr. Johnson was in the living room with the children when Victim started choking.

Q. At this point was she becoming a suspect? Were you getting concerned about her?

A. I was definitely starting to get concerned. She was becoming a person of interest at that time.

Q. And how about the Defendant?

A. The Defendant, I had not talked to him again until June the 2nd.

Q. All right. So you talked to him on the first night, but the rest of the time you're speaking to Ann; for the other times you were talking to a witness on the case, it was Ann?

A. That's correct.

Q. And she gave you three or four statements?

A. She gave the first statement, she gave the recorded statement to Investigator Autrey, and then she gave this written statement. On the 27th, there was three different statements from Ann.

Q. All right. When was the child pronounced dead?

A. On the 27th.

Q. Was this statement that you are talking about, typing

up Ann's statement, was that before or after the child had been pronounced dead?

A. That was before.

Q. And do you know what time it was that they ended up taking the child off life support.

A. I'll have to refer back to my report right quick.

Q. Was it about eleven in the morning?

A. It was, because I got there first thing. It was like eight thirty, nine o'clock is when I first got to the hospital.

Q. Had you been apprised of what was happening medically with her as far as where this case was likely to end up or what kind of was going to be the end result?

A. Yes. I knew when I went to the hospital on the 27th that Victim was going to be taken off life support.

Q. All right. And once she was taken off life support -- do you have to request or is an autopsy automatically done on any child that's deceased?

A. Any child that's deceased. Anybody that is young. I mean, you know, even age thirty-five, they would conduct an autopsy on them.

Q. All right. Okay. And do you know when the autopsy was scheduled for?

A. It was scheduled for the next day on the 28th.

Q. All right. Do you attend autopsies?

A. I do. Especially in cases such as this.
Q. Did you attend this one?
A. I did.
Q. And when you're at the autopsy -- Dr. Michael Ward performed this autopsy?
A. He did.
Q. Are you able to ask him questions and get his opinion and start to form a little more evidence in your case?
A. Yes. He will talk to us as he's actually conducting an autopsy. He will show us his findings as he's actually doing the autopsy.
Q. So helpful for you to know where to go from that point?
A. And sometimes we even assist as we're standing there, to do things to help. So ...
Q. All right. So once you had learned of the autopsy results, what did you do?
A. Once I learned of the autopsy results, I ---
Q. Well, let me back up. Did he rule this case a homicide?
A. His preliminary findings were that it was a homicide. And that [redacted] died from suffocation.
Q. Okay. So now that you have that medical information, what was your next step?
A. My next step was to continue with the investigation

and to try to determine, through all the statements that were taken, exactly, you know, what is going on. My -- excuse me for just a second. On June the 2nd is when I asked Investigator Autrey and also Deputy Wilson, who was cross-training with me. I was training him in homicide. I asked them to go with me to Crystal Inman's house. Since she'd been talked to the first night, I felt it was important since it was her house that we get a statement from her, see if she had any additional information.

Q. All right. And is that what you did?

A. Yes.

Q. The three of y'all went there?

A. We did. And I actually took the written statement.

Q. And took a written statement from her. Okay. And I don't know if it's your voice as well or the microphone, but it's dropping off just a tiny bit ---

A. Sorry.

Q. --- at the end. That's okay. And I know we're getting tired, ears and mouths. So you took a statement from Crystal. You talked to her and you got a written statement?

A. Yes.

Q. And at that point, did she direct you to -- well, was Ann at her house? Was Ann still living at her house?

A. No, not at that time. She said she had asked her to

leave.

Q. All right. How about the Defendant, was he still at Crystal's house?

A. No, he was asked to leave, as well.

Q. And there were no arrest warrants or anything out for Ann or the Defendant at this time?

A. No, there were not.

Q. And did you attempt to locate Ann then and take another statement from her?

A. Yes. Because right after we interviewed Ms. Inman is, I believe, when I got a call from Coroner Cain advising me that Dr. Ward had ---

MS. MANIGAULT: Your Honor, I'm going to object to anything that the coroner or Dr. Ward said or anybody else.

THE COURT: I sustain the objection.

Q. You got a call from Coroner Cain and based on the information you obtained from her, what did you do?

A. Then we began to look for Georgia Ann Sprouce again.

Q. All right. And does the coroner also get the autopsy results?

A. Yes.

Q. Okay. Is that part of a separate investigation that they kind of conduct like a parallel investigation; is that accurate?

A. That's correct.
Q. Okay. So they're apprised of certain things the same as you are?
A. Yes.
Q. And do y'all share information periodically?
A. Yeah, we always do.
Q. So after you talked to Coroner Cain, you decided you'd speak to Ann again; is that correct?
A. That's correct.
Q. Okay. And did you do that?
A. Yes. We began looking for her. Went to a location where we were told she was staying with a relative. We were advised that she was at the Woods Mortuary in Greer, so that's where we responded to and found her there.
Q. Was anybody with her at the time?
A. The biological father, Mark Gore, was there.
Q. And did you ask her to come speak to you at the LEC?
A. I did. And she agreed to come voluntarily. She was told again, you know, there was no arrest warrants. It was just we needed to continue with the investigation and that we needed some more information.
Q. And tell us about what happened at that point?
A. At that point, we gave her a ride in my vehicle again. And it was Investigator Autrey, Deputy Wilson and myself and we went back to the law enforcement center and used

Sergeant Jones' office to conduct the interview. And we talked to her again and I advised her of the results from the autopsy. And told her I was -- you know, some of this is just not making sense. We need the truth. And that's when she changed her statement again.

Q. All right. What was her demeanor during this interview?

A. She was very -- she was crying, upset. She was -- seemed to be more truthful than the other interviews.

Q. And did she finally tell you the truth or what she said was the truth?

A. What she said was the truth was that she was asleep and that she had been smoking marijuana and that she -- the reason she didn't tell us that she was asleep when she awakened by Mr. Johnson saying that Mr. Victim was not breathing, was because of her prior dealings with DSS and that she didn't want to lose her child. And that she was just scared.

Q. Did you press her and ask her if she was, in fact, the person that had injured, put all these bruises and/or killed Victim?

A. Absolutely. I pressed her pretty hard.

Q. And how did she respond?

A. She responded by -- she was crying, you know, begging and pleading with me, you know, to believe her, that she

would never hurt her child and that ---

MS. MANIGAULT: Your Honor, I object to anything that he's saying that Ann Sprouce has said. She's testified already.

THE COURT: I sustain the objection.

Q. So as a result of your speaking to her, pressing her, did you, in fact, charge her that night?

A. No, I did not.

Q. When she gave you this third version of her events, being asleep, what did you want to do at that point?

A. At that point, I felt that it was necessary to talk to Mr. Johnson again.

Q. And you had not talked to him since the first night; is that correct?

A. That's correct.

Q. Okay. All right. And so how did things end with Ann; was she free to go?

A. Yes, she was. In fact, we gave her a ride back to the mortuary.

Q. And was there something, you know, we'll be in touch or how do you leave that?

A. I did. I told her that I would be back in touch, that we were going to speak to Mr. Johnson again.

Q. All right. And what did you do at that point?

A. At that point I asked Deputy Wilson and Investigator

Wynn Campbell, who is also a homicide investigator, to go to the location where we were told we could possibly find Mr. Johnson, and that's where they found him.

Q. And where was that, do you know?

A. That was on Pine Log Ford Road, I believe. [redacted] Pine Log Ford Road, Lot Number [redacted]. And that's in Greenville County.

Q. Okay. So you were not personally involved in getting him to the law enforcement center?

A. No, ma'am.

Q. Okay. Investigator Campbell and Deputy Wilson?

A. Yes.

Q. And they went to that residence, is that your understanding?

A. That's correct.

Q. And when did you finally meet up with the Defendant or see him in person?

A. After we dropped Ms. Sprouce off at the mortuary, we drove back to the law enforcement center and Investigator Campbell and Deputy Wilson were already there with Mr. Johnson.

Q. Was Mr. Johnson in custody at this point?

A. No. They were sitting around in the chair -- we have -- investigators have chairs like those and they were just sitting in the chairs, sitting around talking when I walked

in.

Q. And did you introduce yourself again?

A. I did.

Q. Did he recognize you?

A. He knew who I was.

Q. Remembered talking to you from before?

A. I believe so.

Q. All right. And in your opinion was he there talking to you freely and voluntarily?

A. Yes, he was advised that it was just, again, we needed more information.

Q. Were you able to communicate with him well on this night?

A. Yes.

Q. All right. Do you have any idea what time it was that we're talking now?

A. It was probably somewhere around eight, eight thirty. Because it was in the later -- it was in the evening and it wasn't quite dark yet, but it was starting to get dark.

Q. Okay. Have any problem understanding him or him understanding you ---

A. No.

Q. --- as far as questions and answers went?

A. No.

Q. Did you have to repeat yourself a bunch of times?

A. Not at all.
Q. Did you have to redirect any of your questioning?
A. No, ma'am.
Q. And were his answers in response to what you were asking?
A. Yes. They were clear and concise.
Q. Did he appear to be under the influence of any drugs or alcohol while you were talking to him this time?
A. No, I didn't notice the smell of an alcoholic beverage emanating from his body or dilated pupils that would be consistent with someone using drugs. I didn't notice any of that, bloodshot eyes or any of that.
Q. Slurred speech?
A. No slurred speech.
Q. Unsteady on his feet, anything like that? Did you have an opportunity to see him stand or walk?
A. Yes. Because where they were originally at was in the area where all the white collar crime investigators are. And that's the big open area of the criminal investigations division. My office was actually in the back and we had to go all the way to the back of the office and through a door. So he was able to walk just fine.
Q. And did he ever tell you, no, I don't think so. I think I want to go or I don't think I have anything else to say, anything like that?

A. Never.
Q. Never wanted to terminate the interview or stop talking?
A. Not at all.
Q. And so in your opinion, he was talking to you freely, voluntarily ---
A. Yes.
Q. --- knowingly?
A. He's not handcuffed. He's not strapped to a chair or anything. He's just sitting there and we're talking casually.
Q. Was he in the same state of mind, frame of mind, as he was when you met with him back on May 25th?
A. Yes.
Q. Any marked differences between that first interview you had with him for about an hour and a half and then this interview?
A. He seemed a little less nervous than -- to me, than he did the first time.
Q. A little bit more calm than he did the first time?
A. More calm. Yes.
Q. Okay. All right. And so what were y'all talking about? Tell us what you said and what he said?
A. Well, I advised him that we needed to go back over what he had told me the first time and the events of the

day. And then I advised him that we had spoken with Ann again and that there were some things we needed to clear up. And some things, again, weren't adding up. And he maintained his story that he had nothing to do with Victim choking and he was in the bathroom. And the same story about, you know, Ann was in the room with her when this happened. She hollered for him. And we also talked a little bit about the victim's father, Mark Gore. I asked him about his relationship with him. And he said he didn't like Mark Gore. He talked about since they'd lived with Crystal Inman, that he felt that Georgia Ann had not been as affectionate as she had been in the past. And he felt, you know, like he wasn't getting the attention that he needed. And so we continued to talk and it was pretty much the same conversation. And we probably talked about an hour. And the way I do things, when I'm interviewing somebody, it's always trying to make them comfortable. Ask them, do they need any water, do they need coffee, do they need anything to eat. We're provided a credit card in the homicide unit so if we need to buy food for someone, we will, you know. He refused anything to drink; he refused food. So I said, well, you know, would you like to go to the bathroom and he said he would. So I took him to the bathroom. And that's the upstairs -- I took him to the upstairs employee bathroom because the only public restroom

is downstairs and it's a long walk, so I just took him to the employee bathroom.

Q. All right. Do you have to have a key card or something to get in that one?

A. No, but it's -- the only -- you can't just let the public go in there. You have to go in there with them. We don't let anyone ---

Q. That's your policy?

A. That's our policy.

Q. Okay. So did you enter into the man's bathroom with him?

A. I did.

Q. All right. And are there urinals or stalls or what?

A. There's two urinals and one stall and he used one of the urinals.

Q. And did you observe him the whole time in the bathroom?

A. I was in there with him. I didn't, you know, sit there and stare. I was in there with him. And I could observe his movements.

Q. Okay. All right. And did he do anything unusual in the bathroom that gave you cause for concern?

A. No.

Q. And after using the bathroom, did y'all go back to the interview room or to the area, your office?

A. We went back to my office, yes.
Q. All right. And what happened at this point?
A. Went back to my desk, and I'd started talking to him about being truthful. And was he being truthful about being in the room with the victim when she went unconscious. And, you know, I advised him of my findings earlier in the day after talking with Ann. And that is when Mr. Johnson started bending over in his chair and just did like that -- just did like that, and just, you know, it was like he was just -- I could tell he was sad. He was sobbing a little bit. And he says that accidents happen sometimes. And I told him that I understood. And I was trying to be ---
Q. Can you speak in the microphone?
A. Yeah. I'm sorry. But I was -- he told me that accidents happen sometimes. And I told him that I know accidents happen sometimes. And I was being sympathetic with him. I said, you know, sometimes things do happen that, you know, we may not mean to happen, you know. Tell me what you're talking about. And after pausing Mr. Johnson stated that he got angry at Victim and that he threw a toy across the room and hit her in the head with it. And he said that he tried to make her stop crying and that she wouldn't. And that he was afraid he was going to wake Ann up or she was going to wake Ann up so he held his

hand over the victim's mouth until she stopped crying. And that's when he said that she stopped breathing. And I got him to demonstrate what he was talking about.

Q. At that point, you got him to demonstrate?

A. Yes.

Q. And what did he show you?

A. And then he showed me that he held his hands over her nose and mouth and then I said, okay, that --- at that point in time, I stopped the interview. And that's when I knew -- at that point in time, he became in custody and that's when I read him his -- when I printed up the *Miranda* Warning Form and then I read him his rights.

Q. All right. And I believe that was already admitted into evidence, State's Number 40. Tell us how you advised him of his rights? What's your normal procedure?

A. My normal procedure is once I print out the form, even though I know their name, I ask them their name, their first, middle and last name, their date of birth and their Social Security Number. And there's not a place for that so I write it in there. I document the date and the time and the case number, and when I start. And I started this rights advisement at ten-oh-two, which the form says twenty-two-oh-two, which that's military time for ten-oh-two, P.M. And I have it where -- he was sitting like right here at my desk. And I had it here, letting him read as I

was reading it to him. And then I go over each sentence. Before we ask you any questions, you must understand your rights. I made sure that he understood that. Then I had him put his initials in. And then I read the next sentence, doing the same until we get to the bottom of where it's his choice whether to waive his rights to talk or not. And then I explain to him that if he wants to talk to me without an attorney present, that I must read this bottom portion to him. And then if he wishes to talk, that that would be at the time he would sign the form. So the bottom portion of this form reads, I have read this statement of my rights and I understand what my rights are. I'm willing to make a statement and answer questions. I do not want an attorney at this time. I understand what my rights -- I understand and know what I'm doing. No pressure or threats have been made to me and no coercion of any kind has been used against me. And I circle coercion, because some people don't know what that word means, and I advise them that that means there's no trickery, there's no, you know, we're not going to get them to self-incriminate themselves by using some kind of, you know, dirty tactics or whatever you want to call it. And make sure they understand that. And then I had him initial it.

Q. Okay. And so did he initial each line saying he understood the rights that you'd advised him of?

A. He did.
Q. And then he signed the form saying that he wanted to talk to you knowing that he didn't have to?
A. Yes.
Q. And knowing that he could have a lawyer if he wanted to?
A. Yes.
Q. Did he ever ask you at any time to stop talking?
A. No.
Q. I don't want to talk anymore, I'm done?
A. No.
Q. After you advised him of his rights, he never asked to stop?
A. No, he did not.
Q. Okay. How about did he ask to have an attorney present?
A. He never asked for an attorney.
Q. Did he give any kind of even just, equivocal, maybe I should have a lawyer or what do you think, anything like that?
A. No, ma'am.
Q. No mention of that?
A. No mention at all.
Q. And he wanted to talk to you freely and voluntarily?
A. He did.

Q. And did the conversation continue as it had been for the previous hour and a half?
A. It did.
Q. And at that point did you ask him to go back over a portion of the story or how did that go?
A. I did. We began a suspect defendant's statement at this time. And he was read his rights again, which is at the top portion. I believe Investigator Autrey read it. I believe it's up here. We went over that again. And asked him again, you know, was he doing this, you know, not under the influence of any drugs or alcohol. He said he was not. He gave permission for Investigator Autrey to type his statement. And that he was giving it to us freely. And then he began talking about -- would you like me to read it?
Q. I think it's already read into evidence.
A. Okay.
Q. So I don't know that we need to necessarily ---
A. But he began through the day and then got to the part where he admitted to holding his hands over Victim 's mouth until she stopped breathing.
Q. Okay. Did you ever ask him or did you go back to the first statement and ever say, man, you told me these things at first. And now you're telling me this. Did you ever go like comparison?

A. Not at this point.
Q. Or you just are asking him to tell you?
A. I'm asking him to give us a truthful statement this time.
Q. Okay. All right. And once he gave that statement, finished typing it up, he had an opportunity to read over it? You went over it with him?
A. Went over each sentence, had him initial at the beginning and ending of each paragraph, knowing that he understood before I had him sign it.
Q. And did he make any changes or corrections to that?
A. He did not.
Q. And during this time, is he still alert, talking to you, y'all are able to communicate?
A. Yes.
Q. Anything change about his mental state or affect from that point forward?
A. He was upset.
Q. Was he more upset, saying ---
A. He was more upset. Like I said, he'd been sobbing and appeared to be remorseful.
Q. And at that point did you take him into custody right there?
A. He was in custody at that point.
Q. Right. He was not free to leave?

A. He was not free to leave.
Q. All right.
A. He wasn't handcuffed, but he was not free to leave.
Q. All right. Did you obtain a warrant for his arrest?
A. Yes. I walked over to the night magistrate and obtained a warrant for his arrest.
Q. All right. And did you then serve it on him?
A. Yes. Actually, Investigator Autrey did.
Q. And when you do that, they do come into your physical custody; is that right?
A. Yes. He was handcuffed at that point in time and then taken over to the detention center.
Q. All right. The detention center located next to the law enforcement center offices?
A. Yes. It's a walk from my office.
Q. Okay. Was he making any statements to you during the arrest process and/or the booking process?
A. He did. He continued to say things during the rest of the procedures, about wishing that God had never created him, that he did not deserve to live. I asked him if he was suicidal and he stated that he would never kill himself, but he knew that someone in jail will kill him because of what he'd done. He said that he did not want people to be mean to him or not to like him because he was not a bad person.

Q. As far as him being placed in any certain location in the detention center upon booking, did he ask you for some specific place?
A. He did. He asked to be placed in isolation, which I advised the detention center that he should be watched for possible suicidal thoughts.
Q. All right. But why did he ask to be put in isolation?
A. Well, he again was afraid that people would find out what he was there for and he was afraid they might hurt him.
Q. So he was asking for a little protection?
A. Yes.
Q. Once you booked him into the detention center, did that end your involvement on this date with your investigation?
A. It did on this date.
Q. And what was the next step?
A. The next step was to deal with Georgia Ann Sprouce, which I obtained a warrant for her on June the 7th for homicide by child abuse, aiding and abetting, and also for after the fact.
Q. Accessory after?
A. Accessory after the fact.
Q. And did you personally serve those warrants or were you present when the warrants were served on her?

A. Deputy Hawkins from the -- Craig Hawkins from the warrant division, he actually located Ms. Sprouce and served the warrants on her.

Q. And when was she arrested?

A. On June the 8th of 2011.

Q. So about five days later?

A. That's correct.

Q. Did you ever attempt to interview her again after she was arrested?

A. I did not.

Q. And once she was arrested, did that end your investigation in this case?

A. It did.

Q. Thank you. Let me make sure all my exhibits are moved in.

MS. HODGE: Madam Court Reporter, am I ---

MADAM COURT REPORTER: You've got them all.

MS. HODGE: Okay.

Q. Please answer any of Ms. Manigault's questions.

A. Yes, ma'am.

THE COURT: You may cross-examine the witness.

MS. MANIGAULT: Thank you, Your Honor.

CROSS-EXAMINATION

BY MS. MANIGAULT:

Q. Sergeant Miller, you did a -- what you call a report

on your June 2nd interview with James Johnson?

A. Yes, ma'am.

Q. And do you have a copy of your report up there?

A. I do. Let me locate it. I have two from June the 2nd.

Q. You got it?

A. Yes, ma'am.

Q. I want to ask you to look at page two, the last paragraph and then read over to page three, the first paragraph in that page. Just review it to yourself.

A. I have two from June the 2nd. One was where we went and talked to Ms. Sprouce. And then the other one is where we went and located Mr. Johnson.

Q. Okay. This is what I'm talking about with Mr. Johnson. It says James Johnson. Have you got that one?

A. Okay, yeah. I've got that one right here.

Q. Okay. If you would review the last paragraph on page two and the first paragraph on page three to yourself.

A. (Reviewing document.) Okay.

Q. Okay. And then actually go back to page two and review the paragraph before that starts with, I then asked, which would be the second paragraph on that page.

A. Okay.

Q. All right. Did James Johnson tell you on June 2nd that Ann was biting both children?

A. Yes, he did.
Q. All right. And so the response to the question did she cause any of the marks on the children that you answered no, would that be an accurate answer?
A. I had no evidence at that time that the child had been bitten.
Q. Okay. This is on June 2nd. And you went to the autopsy?
A. I went to the autopsy, yes, I did.
Q. And was there any mention of bites on the child's shoulders, back or any part -- teeth marks?
A. Not that I recall. There could have been, but not that I recall.
Q. All right. But Mr. Johnson did tell you about that on June 2nd?
A. Yes, ma'am.
Q. All right. And up in the first paragraph, the last four lines, please start with Ann said.
A. Yes.
Q. Have you read those four lines?
A. Hold on just one second. Yes.
Q. Okay. And Mr. Johnson did tell you that he had forgotten to tell you that they had dropped him off at his friend's house that same day?
A. Yes, he told me that in this statement.

Q. Okay. That he'd forgotten that in the first statement?

A. Yes, ma'am.

Q. Now, was there anywhere in the statement -- you just testified that Mr. Johnson got up and -- well, strike that. You testified that Mr. Johnson demonstrated by holding his hand over his nose and mouth?

A. No, not over his. He just showed me how he had his hands.

Q. Okay. What were you talking about then?

A. He showed me that he had his hands over Victim a's nose and mouth like this.

Q. Okay. And in your report does it say where she was lying down or standing up or sitting in his lap or anything like that?

A. It just says that he picked her up and tried to make her stop crying.

Q. Okay. So you don't put necessarily everything in your report that you testify to?

A. Not always.

Q. All right. Now, I believe you testified that you talked to both Ms. Sprouce and Mr. Johnson on the 25th at the hospital, when you arrived?

A. No, I did not talk -- well, yes, eventually I went and found him and took him to my office.

Q. And that statement is in that you read to the court's hearing. And he was a witness, victim, suspect, what was he on the 25th?

A. The 25th he was just a witness.

Q. All right. When you talked to him on June 2nd, what was he at that point? Was he a suspect?

A. He was a person of interest, just as Ms. Sprouce was.

Q. Okay. Now, on June 2nd when -- you talked to Ms. Sprouce first that day; correct?

A. Correct.

Q. And then you talked to him, to Mr. Johnson?

A. Correct.

Q. All right. And were you giving him information that Ms. Sprouce had told you during that interview?

A. Eventually.

Q. Okay. And when did the coroner rule that the death was homicide, what date?

A. That was June the 2nd.

Q. June 2nd?

A. Yes.

Q. Well, your previous testimony said May 28th, when the autopsy was done?

A. That was preliminary. He'll do a preliminary but then he'll -- when Dr. Ward does his report, it becomes final, he does his final report.

Q. Okay. So he did a preliminary finding that the case was a homicide?
A. Correct.
Q. All right. And you knew that, the preliminary finding because attended the autopsy?
A. I knew it was a preliminary finding. But I -- there's other things they have to do before they can give a final ---
Q. I understand that. But you knew it was a preliminary finding, is the question?
A. Correct.
Q. All right. Then you picked up Mr. Johnson as a person of interest, not a suspect?
A. Correct.
Q. All right. And you talked to him about an hour, hour and a half; correct?
A. Yes.
Q. All right. You said that you picked him up and you started talking to him maybe eight or eight thirty at the law enforcement center?
A. Yes. Investigator Campbell and Deputy Wilson picked him up on Pine Log Ford Road and then I came to the office and that's when I met with him.
Q. Okay. Your initial contact was between eight and eight thirty?

A. Yes, ma'am.
Q. All right. And I don't know the State's Exhibit, but the exhibit where the State has entered for -- rights form. This says June the 2nd. That's the rights form that you used for James Johnson?
A. Yes, ma'am.
Q. And the time listed on that is twenty-two-oh-two. What does that mean?
A. That is ten-oh-two P.M.
Q. Okay. So you -- so that verifies you had talked to him between an hour and two hours before you advised him of his rights?
A. That's correct.
Q. Now, at what point did you offer to take Mr. Johnson -- allow him to use the restroom?
A. We're probably been talking about an hour, hour and a half.
Q. And I think you testified that you accompanied him into the men's room?
A. That's correct.
Q. When you came back from the men's room, you took him back to your office; correct?
A. Yes, ma'am.
Q. What's the size of your office space?
A. There's six investigators that were in that office.

It has its own door. There's six hutches that we use for desk so if you can imagine that. It's not a very large room, but we were the only officers there at the time.

Q. So when you testified that you walked him back to your office, you're talking about you walked him back to an area of that space?

A. Yes, ma'am.

Q. Okay. So it was not a separate room?

A. It is its own -- well, it's -- it has a door that separates it from the rest of the investigations division.

Q. Okay. So that room still holds six people?

A. Yes.

Q. Okay. Got you. Thank you. And when you went back in to talk with him, he gave you additional information and you stopped the interview?

A. That's correct.

Q. And you were telling the Court that is the point where he became a suspect?

A. That is the point where I knew he was in custody.

Q. Okay. And you testified earlier on the May 25th day he went voluntarily?

A. Yes, ma'am.

Q. Came voluntarily with you. Was there any indication on June 2nd that he did not come voluntarily with you -- to you with the other officers?

A. No. Their statements to me were that he came free and voluntarily and they advised him that he did not have to come.

Q. Okay. Now, did you notice -- was there any indication that Mr. Johnson was taking anything, drugs, legal or illegal?

A. No, as I stated before I didn't notice anything.

Q. And you've already testified that you smelled no alcohol?

A. That's correct.

Q. You testified that he was calmer than he was on May 25th? Is that accurate or am I wrong?

A. Yes. At first, he was. He was more calm.

Q. He was calmer. But did Mr. Johnson ask you for an attorney?

A. No, ma'am.

Q. He never stopped you during the two and a half hours to tell you that he needed -- he wanted an attorney?

A. No, ma'am.

Q. All right. I believe you testified that after you had given him his rights, he continued to want to talk with you?

A. Yes, ma'am.

Q. And he continued to talk with you for how long after that?

A. Probably another hour or so. It took that long to type the statement.

Q. All right. So that makes it about three and a half hours?

A. Yes.

Q. And he never asked to go to the restroom or something to drink until you invited him to go?

A. No, he did not. That's just standard procedure that I always follow.

Q. Right. I understand that. Now, on State's Exhibit Number -- I think it's 41.

A. Yes, ma'am.

Q. On 41, you took a statement and he says -- the third paragraph says, I was in the bathroom, but --- did you ask him -- did you try to have him clarify what he was saying by I was in the bathroom?

A. I believe he told me that he was using the bathroom.

Q. Okay.

A. When he said he was in the bathroom.

Q. All right. The next statement down says, accidents happen. Did you ask him to explain that?

A. That's when I told him, I said -- again, I said, I know accidents happen. And then that's when we asked him to tell us what he's speaking of. And that's when he began to tell us again about what he meant by it.

Q. Okay. And in here it says, I would never hurt a kid. The next line. The one line.
A. Yes.
Q. All right. At that time, were you aware of how long the parties were together -- had been together?
A. I knew they'd only been together a short time.
Q. Okay. There is a line, circled coercion on the rights form, which was number 40. Did you circle that or did Mr. Johnson circle that?
A. I circled it, pointed out that word.
Q. And why did you circle that?
A. So I make sure that everyone understands what coercion means.
Q. Okay. And why would you have to explain to anyone about trickery. Do the police try to trick somebody ---
A. No. I want them to know that that's not what I'm about. I explain to them that I will not try to trick them into anything, that I just want their version of what happened and their statement.

MS. MANIGAULT: No further questions, Your Honor.

THE COURT: Any redirect?

MS. HODGE: No, Your Honor.

THE COURT: All right. Thank you, officer. You may step down.

Mr. Foreman, ladies and gentlemen, I think you've

worked enough today. We're going to take an evening break. I remind you again the importance of maintaining the purity of the process. I don't know if there's going to be any news coverage or folks wanting to talk to you about this case. Remember while the case is in progress, you're not to be influenced. You're not to listen to any news or read any newspapers. Let your family or loved ones retain any of that that you might thing would be of interest, but you're going to make a decision on what you hear inside this room, not on the airwaves or through any other source. That's the commitment you've made to these parties. I know you'll fulfil that commitment.

Let's be ready to start back at nine o'clock in the morning. Everyone be here and we'll be ready to proceed with our next witness. I hope you have a good evening. See you back tomorrow.

(WHEREUPON, the jury exited the open court at approximately 5:43 P.M.)

THE COURT: All right. We'll be at ease until nine o'clock in the morning.

(WHEREUPON, the court stood at recess in this case for the day.)

June 5, 2013

THE COURT: Is everybody ready to proceed?

MS. HODGE: Yes, sir.

MS. MANIGAULT: Yes, sir.

THE COURT: If our jury's ready you can have them come in.

(WHEREUPON, the jury entered the open court at approximately 9:08 A.M.)

THE COURT: Good morning, ladies and gentlemen. We are now ready to proceed with the trial of the case.

Solicitor, you may call your next witness.

MS. HODGE: Thank you, Your Honor. The State calls Dr. Michael Ward.

THE CLERK: Do you solemnly swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Please have a seat. State your name for the record.

THE WITNESS: Michael Eugene Ward.

MICHAEL EUGENE WARD, M.D.,

BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY MS. HODGE:

Q. Dr. Ward, what's your profession?

A. I'm a physician and a forensic pathologist and I'm employed as the Chief Medical Examiner for Greenville County.

Q. All right. And can you give us your educational background and prior work history?

A. I received my Bachelor's Degree in Biology from the University of Alabama. I have a Master's Degree in Forensic Science from the University of Alabama in Birmingham. I received my Medical Degree from the University of South Alabama in Mobile. I did a four-year Anatomic Pathology Residency at the Medical University of South Carolina in Charleston. And a one-year Fellowship in Forensic Pathology at the University of New Mexico in Albuquerque. I'm Board Certified by the American Board of Pathology in both Anatomic and Forensic Pathology. I worked two years as an Associate Medical Investigator in Albuquerque following my Fellowship. And I've been here in Greenville as the Chief Medical Examiner for eighteen years.

Q. What are your primary duties as Chief Medical Examiner?

A. My responsibilities are to investigate deaths that occur in Greenville County to determine cause and manner of death.

Q. And how do you go about doing that?

A. Using medical background, we generally do what we call an autopsy, which is a detailed physical examination performed on someone who has passed away. Following the

autopsy and gathering that information, along with historical information, we determine the cause of death. And through investigation, the manner of death.

Q. How many autopsies do you think you've performed in your career?

A. Well over five thousand.

Q. Have you been qualified in courts of law here in South Carolina or any other States in regard to forensic pathology?

A. Yes, I have.

Q. And approximately how many times have you been qualified as an expert?

A. Over a hundred times.

Q. All right.

MS. HODGE: At this time, we would move to admit Dr. Ward as an expert in forensic pathology.

THE COURT: Any voir dire or any objection?

MS. MANIGAULT: None, Your Honor.

THE COURT: All right. Without objection, he'll be treated as an expert in forensic pathology.

MS. HODGE: Thank you, Your Honor.

THE COURT: You may proceed.

MS. HODGE: Thank you, Your Honor.

Q. Dr. Ward, did you conduct an autopsy on May the 28th, 2011?

A. Yes, I did.
Q. And who was the victim in that case?
A. The autopsy was performed on [redacted].
Q. And how old was [redacted]?
A. She was twenty months of age at the time of autopsy.
Q. Tell the jury what your normal process in conducting an autopsy and then we'll go specific to [redacted].
A. The normal process is to perform an external examination, which is to look at the body as it's received in the autopsy facility, document any findings that are present on the outside of the body that may represent natural disease, congenital abnormality in the case of a child like this or any trauma. We diagram that on paper, as well as photographically. After the external examination, we perform an internal examination, which is basically a dissection of the head, thorax and abdomen. And in this case, the back. Again, looking for any natural disease that may be present, but mostly to document any injuries that are present on the inside of the body that may correspond to injuries on the outer surface of the body.
Q. And those -- the findings from those two types of exams, the external and the internal, play into your determination of what the cause and manner of death is for the child?

A. That is correct.
Q. And did you prepare a diagram in the case involving [redacted] Victim ?
A. I did.
Q. Do you have it with you?
A. I do. There is a diagram that is four views, front back, right and left side. And then there is a diagram that is four views of the head, so front, back, left and right sides.
Q. All right. And these are the originals that you made during the autopsy or near in time to the autopsy?
A. Yes, they are.
Q. Any alterations, deletions, admissions from these pages since you've conducted the autopsy?
A. No, ma'am.
(WHEREUPON, State Exhibit Numbers 50 and 51 were marked for identification.)
Q. And State's Number 51 is the diagram of the body and State's Number 50 is the diagram of the head?
A. That is correct.
MS. HODGE: At this time, we moved to admit State's 50 and 51.
THE COURT: Any objection?
MS. MANIGAULT: None, Your Honor.
THE COURT: Without objection, Exhibits 50 and 51

are admitted and may be published.

(WHEREUPON, State Exhibit Numbers 50 and 51 were admitted into evidence.)

MS. HODGE: Thank you.

Q. Okay. So now walk us through, please, Dr. Ward, what you did in regard to [redacted]. And if you would like to tell me which diagram I should put up first, that would ...

A. I would begin with the head diagram.

Q. Head diagram, State's Number 50.

MS. HODGE: Madam Bailiff, can you turn off one little light, please? Thank you.

A. State's Exhibit 50 is a diagram showing four views of the head. On the diagram is documented various injuries that were present on [redacted]. Beginning on the right side of her face, there are two separate, yet distinct areas of bruising overlying the zygomatic part of the cheekbone here on the right side. A bruise here and a bruise here. On the left side are two separate areas of bruising within the region of the left temple. On the forehead, on the right side of the forehead was a patterned injury consisting of a bruise with a skip space, a bruise with a skip space. Here, which was one point four inches in length and here, which was one inch in length. This is an area of pattern bruising looking like -- it looked like a beaded pattern,

if you will, such that the object that caused this was circular, then a skip, circular and a skip. Much like a beaded necklace, if you would. On the central forehead, just above the bridge of the nose, is a almost one inch in length contusion, and a separate contusion is present right in the middle of the forehead. Here at the inner portion of the left eye is a bruise that extends from here down beneath the left eyelid, one inch in length. And it's a little bit difficult to see; there's a bruise, just above the right lip on the skin portion above the lip. And then also a bruise involving the lip portion of the very central portion of the lip. What is not diagramed is on the inside of the mouth. On the mucosa or the inner surface of the lip, where if I press my lip against my teeth, that part would impact my teeth, there was an area of bruising involving the central portion of the lip, just below this area, but in an area that would correspond to the underlying two front teeth. Also present on the inside of the mouth involving the upper lip is an anatomical structure we call the frenulum. And the frenulum is this little piece of tissue that attaches the lip to the upper gum. It's in the very midline of your lip. The frenulum on Victim of the upper portion of her lip was torn. So the tissue was torn and there was a small amount of hemorrhage within the mucosa of the inside of her mouth.

After the external examination is performed and documented and photograph, then we proceed to the internal examination. Would you like to go there?

Q. Let me stop you as far as speaking about the bruising of the lip and the torn frenulum. Do you also take photographs during your autopsy?

A. Yes, I do.

Q. And do you take photographs of everything you do or -- as far as the entire autopsy procedure or just certain pertinent parts?

A. On children, specifically, we photograph the total body surface, so front, back, left and right sides. And then we focus in on any injuries that we may find. So all of these injuries would have been separately documented, as were the injuries to the inside of the mouth.

(WHEREUPON, State Exhibit Number 52 was marked for identification.)

Q. I'm showing you what's been marked State's Number 52. What is that a photograph of?

A. It's a photograph of [redacted]. It has her distinct and unique autopsy number A-11-212. And it is a photograph of the upper inside of the upper lip showing the contusion or the bruising of the mucosa and the torn frenulum.

Q. And that's a true and accurate representation of how she looked at the time you took this photo?

A. It is.

MS. HODGE: We would move to admit State's Number 52?

MS. MANIGAULT: There's no objection, Your Honor.

THE COURT: Without objection. It may be admitted and published.

(WHEREUPON, State Exhibit Number 52 was admitted into evidence.)

Q. If you'll just tell us again which portions of her mouth we're talking about and what ---

A. So for orientation, here are the eyes. This is a tag that we use to demonstrate her autopsy number, the nose. And this is the oral cavity. This is the upper lip, which has been everted so that we're now looking at the inside of the upper lip. Here are the two maxillary incisors or the two front teeth. Here's an area of hemorrhage or bleeding into the mucosa of the upper lip. And you can see that this would correspond directly with the teeth beneath. And right here is the frenulum. And this frenulum, although it doesn't show it very well in a black and white photograph, this frenulum is torn and there's hemorrhage right there within the mucosa of the mouth within the region of the frenulum.

Q. Would that tearing of the frenulum cause bleeding inside the mouth?

A. Both this one and the tearing of the frenulum would cause bleeding, yes.
Q. What does the tearing of the frenulum signify to you during your autopsy?
A. That there was pressure placed against the upper lip, basically covering the mouth, with pressure placed here, causing bruising of the lip and then an upward displacement of that pressure as this tissue is moved upward, tearing the frenulum. So basically, pressure over the mouth. Not just downward pressure, but pressure that ends up also moving -- exerting itself upward, causing that tissue to shift upward and to tear.
Q. Does it take a certain amount of force to do that?
A. Yes, it would. It would certainly take a fair amount of pressure, holding the mouth closed, over the mouth and then shifting or shoving the upper lip upward.
Q. And is that an injury that you have seen in your experience with any type of CPR, resuscitation techniques?
A. Not with CPR, no, ma'am.
Q. All right. Let's go back to your -- I guess, did you finish with State's Number 50, the head diagram? Have we completed that?
A. That's all the external diagrams. There's a description of the internal injuries if you're ready to do that.

Q. Sure.
A. As part of the autopsy, not only do we do the external examination, but we also perform an internal examination. A performance of the internal examination of the head basically involves an incision to the posterior portion of the scalp here, with reflection of the skin forward. So basically, we end up looking at the undersurface of the scalp. When we looked at the undersurface of Victim's scalp, within this region here and along the front, there was a continuation of this beaded type injury that were not visible externally but were visible internally. So there were five separate and distinct patterned contusions of the undersurface of the skin, much like these that were present in this direction here, on the undersurface of the scalp.
Q. Did Victim have hair covering the top of her scalp?
A. Yes, she did.
Q. Did you take photographs of the injuries underlying the scalp?
A. Yes, we did.
(WHEREUPON, State Exhibit Numbers 53 and 54 were marked for identification.)
Q. I show you State's Number 53 first. What is that?
A. State's Exhibit 53 is a photograph of the right side of Victim's head, with her hair slightly pulled up, showing the previously described contusions of the right

forehead.
Q. And then what is State's Number 54?
A. State's Exhibit 54 is a photograph of the undersurface of the scalp, the frontal scalp, showing the multiple beaded injuries to the scalp itself.
Q. And are these true and accurate representations of how she looked at the time of autopsy, aside from the fact that they're black and white like the other photographs?
A. They are, yes.
MS. HODGE: At this time, we'd move to admit State's 53 and 54.
THE COURT: Any objection?
MS. MANIGAULT: None, Your Honor.
THE COURT: Without objection. It may be published.
(WHEREUPON, State Exhibit Numbers 53 and 54 were admitted into evidence.)
Q. State's Number 53. This is -- go ahead.
A. I'm sorry. This is a photograph of the right side of the head of Victim. Again, her unique autopsy number. Her right eye, eyebrow, and basically the hairline here. An area of bruising here. And, again, you don't represent -- it's not represented well in this photograph, but there was a beaded type pattern of injury through this region here. But, again, there's a lack of injury that we see up

within the hairline that will be demonstrated on the reflection of the scalp.

Q. And I'm showing you State's 54?

MS. HODGE: What's with this glare here? Let me try turning out one more light, Madam Bailiff.

Q. Okay. Well, I'll walk around and show the jury, if you want to just ---

A. For orientation, this is the top of the head with the scalp removed. This is the junction of the scalp with the underlying skull.

Q. Right.

A. And this is the scalp that has been reflected forward. So this is the scalp edge. And beneath the scalp now is the nose and the eyes. And what you'll see when it's demonstrated to you, is that going through the scalp here are at least five separate and distinct areas of contusion in a beaded-like pattern, where there's a bruise, skip space, bruise, skip space, bruise. Again, traversing across the scalp in this fashion.

MS. HODGE: Madam Bailiff, if you would turn on the lights, I'm just going to pass the exhibit.

Q. If you would, please, continue on Dr. Ward?

A. The next step in this process would be to remove the skull cap, basically the bones that cover the skull, in an effort to view and retrieve the brain. There was no trauma

to the -- what we call the calvarium, or to the skull. And once we looked at the underlying brain there was a swelling of the brain, which is called cerebral edema. The brain's response to any type of injury is to become swollen. Victim 's brain was swollen such that instead of having the normal pattern of gyri and sulci, which are prominent places and -- are hills and valleys, if you will, across the surface of the brain, hers were all flat because it had swollen so much that it had forced her brain stem down into the foramen magnum, which is called herniation. So basically Victim 's brain responded to injury in such a way that it eventually forced her brain down into the canal where her spinal cord goes. We were able to demonstrate that. There was no other trauma to the brain, there was no contusion, there was no blood around the brain. So this was best described as an anoxic brain injury, which basically means her brain went without oxygen for a period of time such that it subsequently became damaged, swollen, and died.

Q. And what would cause -- what are some causes of that?

A. The most likely cause of that, given the injuries that we have to the mouth region, is that she was suffocated. That an object, most likely a hand, was placed over the mouth and nose, obstructing the airway, unable to breathe, lack of oxygen, subsequent brain injury. Anoxic brain

injuries, the brain is not getting enough oxygen and it swells and dies.

Q. Is there any certain length of time it takes for that to occur?

A. Minutes. So this airway would have to be occluded for at least a minute. We can -- adults can hold their breath for a fairly long period of time. Children need more oxygen than adults do so they can't do that as long. But it would require at least a minute to two minutes of obstruction of her airway prior to development of some sort of cardiac arrhythmia, which would result also in loss of oxygen to the brain.

Q. And the brain swelling you said, pressing down on the brain stem, is that what sets cardiac arrest in motion or how does that happen?

A. The cardiac arrest also occurs from lack of oxygen to the brain. The brain has certain centers that control our level of functioning, that control our arousal, our interaction with society. But it also controls other areas like breathing and heart rate. When those areas are damaged because of lack of oxygen, then the central nervous system control of your heart rate is lost and you can develop a rhythm that no longer appropriately functions. There was establishment of that cardiac rhythm back by resuscitative personnel such that when she got to the

hospital she had a cardiac rhythm, but she did not have brain functioning. She was brain dead.

Q. Okay. And what was the next thing you did in the autopsy after examining the brain?

A. After looking at the region of the head, we progressed down to the thorax and abdomen and the upper and lower extremities, which is demonstrated in the following diagram.

Q. I'm putting up State's 51.

MS. HODGE: We may need that one light off.

Q. And I can move it, Dr. Ward, if I need to move it, left to right?

A. That's fine. State's Exhibit 51, again is the body diagram of [redacted]. It shows certain pertinent details, has her height and weight, eye color and things of that nature. But it also shows injuries to the thorax and abdomen and the extremities. The first one is an area of bruising to the central portion of the chest, just to the right of midline. There's an area of patterned bruising to the right back near the side. One, two, three, four separate contusions. There's an area of contusion to the right buttock, to the back of the right leg, to the back of the left hand, and to the left side here, and the left side here. Three separate areas of bruising. There's a very interesting area of bruising to the left upper arm, which

are two opposing semicircular bruises, here -- sorry, my hands are shaking -- here and here. These patterned -- and basically, what we do is we look for injuries that a twenty-month-old child may very likely have. And then we look for injuries that children should not have and generally do not have. And injuries that are present in what looks like a pattern. And this looks like a pattern injury here of one, two, three, four. And a pattern injury to the left side, one, two three, which would be very consistent with fingertips, as they grasp the side of the child. These fingers leaving bruising in the skin of the child. We dissected the thorax and abdomen, looking at the lungs, the heart and the organs of the abdomen. There was no trauma to the underlying visceral organs. There was no trauma to the heart or the lungs. There was no direct trauma to the brain. Again, indicating that this death was that of suffocation, lack of oxygen to the brain, caused by obstruction of her airway, not from blunt trauma.

Q. Now, people pick up their children a lot like this?

A. They do.

Q. So would you -- is that something you normally see or does it take more force or pressure to leave those fingertip type bruises?

A. This is not in the normal course of an event. This is picking a child up, grasping it, squeezing them very hard

to leave distinct bruises in this fashion.
Q. And you commented on the interesting two semicircular bruises on the arm, on the back of the arm. What are those consistent with?
A. They are most consistent with a bite mark, where someone has -- I'm having difficulty with the -- has bit or bitted -- bit the back of her arm.
Q. And could you determine whether that would be adult-sized, child-sized; is there a way to tell?
A. The width between this point and this point is more narrow than we would expect to see with an adult. And it's more consistent with a child.
Q. At the top, I think you said there were particulars about her size and her height and weight. How big was Victim ? How tall and how much did she weigh?
A. She was twenty-three inches in length and weighed twenty-nine pounds.
Q. So about two feet?
A. Correct.
Q. Is that about average size?
A. I think -- it was, yes.
Q. Okay. And tell us what your next step was then?
A. Well, following this is the dissection of the visceral organs. We take sections of tissue, submit them for microscopic examination, which is done several days after