

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable R. Knox McMahon, Circuit Court Judge

 ORIGINAL

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JUL 25 2018

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

HEATHER MARIE LAWSON,

APPELLANT

APPELLATE CASE NO 2017-001715

RECORD ON APPEAL

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1 State of South Carolina) In the Court
2 County of Lexington) Of General Sessions

3 Indictment No.: 2017-GS-32-02364
4

5
6 State of South Carolina,)
Plaintiff.)

7
8 vs.)

Transcript of Record

9
10 Heather Marie Lawson,)
Defendant.)

11
12 August 7-10, 2017
13 Lexington, South Carolina
14

15 B E F O R E:

16 The Honorable R. Knox McMahon, Judge and a jury.
17

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

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20 Robbie McNair, Assistant Solicitor
Attorneys for the State

21 Robert Theo Williams, Esquire
22 Attorney for the Defendant
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24 Brenda J. Sigwald, Circuit Court Reporter
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1 THE COURT: All right. Solicitor, if you would
2 please call your first case for trial.

3 MS. MAYES: Your Honor, this is Indictment Number
4 2017GS3202364. May it please the Court. The State of
5 South Carolina versus Heather Marie Lawson. This
6 indictment is for homicide by child abuse.

7 Your Honor, the State is ready for trial.
8 Ms. Lawson is present in the courtroom represented by
9 counsel.

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

11 Mr. Williams, you represent Heather Marie Lawson?

12 MR. WILLIAMS: I do, Your Honor.

13 THE COURT: And as the solicitor said, Ms. Lawson
14 is present in the courtroom?

15 MR. WILLIAMS: She is, Your Honor.

16 THE COURT: And is Ms. Lawson ready for trial?

17 MR. WILLIAMS: She is, Your Honor.

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

19 **JURY VOIR DIRE**

20 THE COURT: Ladies and gentlemen of the jury panel,
21 if you would please give me your complete and undivided
22 attention. We're -- as you're aware, previously you were
23 qualified to serve as jurors in this Court. We're now
24 going through a procedure whereby we select a trial jury
25 for this particular case. I will ask you certain questions

1 to determine your eligibility and your qualifications to
2 serve as jurors, again in this particular case.

3 The purpose of this procedure is to select a trial
4 jury that will be able to be fair and impartial to both
5 Heather Marie Lawson and the State. As part of that
6 process, I will read or publish to you the indictment. The
7 indictment is the formal charging document by which an
8 individual is placed on notice of charges that have been
9 brought against him or her. The indictment is not
10 evidence. The indictment contains mere allegations that
11 are in no way evidence of the allegations contained
12 therein. I read this indictment to you because of certain
13 questions I must ask you to determine your qualifications.

14 Indictment 2017GS3202364 reads as follows: That
15 Heather Marie Lawson did in Lexington County, South
16 Carolina, on or about 26 June 2016 cause the death of a
17 child who was under the age of 11 years at the time of her
18 death; and that the defendant did cause the death of said
19 child while committing child abuse or neglect; and the
20 death of said child occurred under circumstances
21 manifesting an extreme indifference to human life, such
22 being an act or omission which caused harm to the child's
23 physical health or welfare, to wit, the child's physical
24 abuse including but not limited to blunt force trauma to
25 the head and/or medical neglect of the child; furthermore,

1 that aforesaid child abuse or neglect caused the death of
2 Victim , date of birth, 2015, in
3 violation of Section 16-3-85(a)1 and (b) of the South
4 Carolina Code of Laws, 1976 as amended.

5 That is an indictment for homicide by child abuse.
6 Again this is the formal charging document. It contains
7 mere allegations and is not evidence of any of the
8 allegations contained therein.

9 To begin with, the solicitor's office is
10 represented by Assistant Solicitors Mayes and McNair.

11 If y'all would please stand, introduce yourselves
12 to the jury panel and any other members of the solicitor's
13 office staff that will assist you during the trial of this
14 case.

15 MS. MAYES: May it please the Court?

16 THE COURT: Yes, ma'am.

17 MS. MAYES: My name is Suzanne Mayes. I'm Deputy
18 Solicitor of the 11th Judicial Circuit, which includes
19 Lexington County, Saluda, Edgefield, and McCormick.

20 MR. MCNAIR: Good morning, I'm Robbie McNair, I'm
21 assistant solicitor here in Lexington County.

22 MS. MAYES: Also present in the courtroom are
23 Detective Tracie Barr, she is a sergeant with the major
24 crimes unit in Lexington County.

25 Also present is Detective Adam Creech, with the

1 Lexington County Sheriff's Department Major Crimes Unit.

2 Also present in the courtroom is Investigator Jill
3 Smith, also employed by the 11th Judicial Circuit
4 Solicitor's Office.

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

6 Ms. Lawson is represented by Mr. Theo Williams of
7 the Lexington County Bar.

8 If you would please stand and introduce yourself,
9 Mr. Williams; and your client.

10 MR. WILLIAMS: I'm Theo Williams. I work here in
11 Lexington on the corner of Number 1 and Number 6, right
12 across the street at the firm of Williams, Stitely, and
13 Brink. The Stitely being my law partner, Ben Stitely; the
14 Brink being my wife Lisa Brink; and there's one other
15 lawyer by the name of Lisa Williams who happens to be my
16 daughter.

17 This is my client --

18 Heather, will you stand here.

19 This is my client, the person who's charged with
20 the events. Her name is Heather Lawson.

21 THE COURT: Thank you, thank you, Mr. Williams.

22 Thank you, Ms. Lawson.

23 To begin with, ladies and gentlemen, the attorneys.

24 Is any member of the jury panel related by blood or
25 marriage, personal friends --

1 THE JUROR: I have --

2 THE COURT: If I could finish my question, please.
3 Thank you, though. And I'll get right back to you.

4 Again, is any member of the jury panel related by
5 blood or marriage, close personal friends, have any social,
6 business, professional relationship with any of the
7 attorneys in the matter, either Assistant Solicitor Mayes,
8 Assistant Solicitor McNair, or Mr. Williams? If so, please
9 stand.

10 (Several jurors stood.)

11 THE COURT: All right. And your -- yes, sir, your
12 number, please.

13 THE JUROR: 116.

14 THE COURT: And which of the attorneys?

15 THE JUROR: Right there.

16 THE COURT: Mr. Williams?

17 MR. WILLIAMS: He said the defendant.

18 THE COURT: Excuse me.

19 MR. WILLIAMS: He said the defendant, Your Honor.

20 THE COURT: I didn't ask about the defendant. I
21 asked about the attorneys. But I will give that to you,
22 young man. Thank you. Thank you very much.

23 Yes, your number, please.

24 THE JUROR: 105.

25 THE COURT: 105. And which one of the attorneys?

1 THE JUROR: I'm just neighbors with Robbie McNair.

2 THE COURT: With Mr. McNair. How long have you
3 been a neighbor of Mr. McNair?

4 THE JUROR: About three years, sir.

5 THE COURT: All right. The fact that you are a
6 neighbor of Mr. McNair, can you be a fair and impartial in
7 the trial of this case for both Ms. Lawson and the State?

8 THE JUROR: Yes, sir.

9 THE COURT: Thank you. You may stay with us.
10 Yes, your number, please.

11 THE JUROR: Number 14.

12 THE COURT: 14.

13 THE JUROR: My wife works with the McNair Law Firm.

14 THE COURT: I apologize, I can't quite hear you.

15 THE JUROR: My wife works for the McNair Law Firm
16 in Columbia, downtown. I don't think there's any kin to
17 Mr. McNair or anything.

18 THE COURT: I don't know, either. We can find out.
19 Mr. McNair? Or solicitor?

20 MR. MCNAIR: That's my grandfather, Your Honor; but
21 I don't know his wife.

22 THE COURT: Okay. So the McNair Law Firm, that's
23 your granddaddy?

24 MR. MCNAIR: Yes, sir.

25 THE COURT: All right. McNair is his granddaddy

1 and he says he does not know your wife.

2 THE JUROR: Yes, sir.

3 THE COURT: The fact -- the fact that your wife
4 works at the McNair Law Firm, can you be a fair and
5 impartial juror in the trial of this case for both
6 Ms. Lawson and the State?

7 THE JUROR: Yes, I could.

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

10 Yes, ma'am, your number, please.

11 THE JUROR: 19. My husband used Mr. Williams --

12 THE COURT: I apologize, sometimes I can't hear
13 from the front or from the back. I apologize.

14 THE JUROR: My husband, about 20 years ago, he's
15 deceased now, he used Mr. Williams as an attorney, a long
16 time ago.

17 THE COURT: 20 years ago wasn't that long ago. But
18 be that as it may, the fact that your husband knew
19 Mr. Williams, can you be a fair and impartial juror in the
20 trial of this case for both Ms. Lawson and the State?

21 THE JUROR: Yes.

22 THE COURT: All right. And that was number 19?

23 THE JUROR: Yes, sir.

24 THE COURT: All right. Thank you.

25 MS. MAYES: And, Your Honor, if it may please the

1 Court, I believe she indicated that was how long ago?

2 THE COURT: I thought she said 20 years ago.

3 MS. MAYES: Thank you, Judge.

4 THE COURT: All right. And that question also
5 includes if you've ever been a party to a lawsuit or a
6 witness in a lawsuit where either Mr. Williams was the
7 attorney or one of the assistant solicitors, Mr. McNair or
8 Ms. Mayes was one of the attorneys. If so, please stand.

9 (No one stood.)

10 THE COURT: My next question: Is any member of the
11 jury panel related by blood or marriage, have any social,
12 business, or professional relationship with the named
13 defendant, Heather Marie Lawson?

14 (A juror stood.)

15 THE COURT: Yes, sir, and your number, please?

16 THE JUROR: 116.

17 THE COURT: And what is that friendship or
18 relationship or --

19 THE JUROR: Family.

20 THE COURT: Family. And what degree of kinship.

21 THE JUROR: Cousin.

22 THE COURT: Cousins. First cousins?

23 THE JUROR: First cousins.

24 THE COURT: All right. Given the fact that you're
25 first cousins to Heather Marie Lawson, can you be a fair

1 and impartial juror in the trial of this case for both the
2 State and Ms. Lawson?

3 THE JUROR: No, sir.

4 THE COURT: Thank you, thank you very much. I will
5 excuse you from the trial of this case. You may be seated.

6 Any others?

7 (No one stood.)

8 THE COURT: The named alleged victim in the case is
9 Victim , Victim , DOB 7, November, 2015. Is
10 any member of the jury panel related by blood or marriage
11 or knew Victim ? If so, please stand.

12 (A juror stood.)

13 THE COURT: Thank you, yes, sir, you may remain
14 seated. I have excused you from the trial of this case.
15 Thank you.

16 THE COURT: The indictment alleges homicide by
17 child abuse which occurred on or about 26, June, 2016.
18 Does any member of the jury panel have any knowledge about
19 the facts of the case? If so, please stand.

20 (No one stood.)

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

25 (No one stood.)

1 THE COURT: Has any member of the jury panel heard
2 or know anything about the case from any source whatsoever?
3 Radio? Newspaper? Internet? Hearsay? Any source
4 whatsoever? If so, please stand.

5 (No one stood.)

6 THE COURT: I'm going to call a rather -- I think
7 before I do that, let me ask this question: Has any member
8 of the jury panel or any member of your immediate family
9 ever been a victim of or investigated or charged with an
10 offense involving child abuse or neglect? If so, please
11 stand.

12 (Several jurors stood.)

13 THE COURT: All right. Yes, if y'all would just
14 come to the middle aisle for me, please, those of you
15 standing.

16 (There was a bench conference on the record with
17 the jurors out of the hearing of the jury venire.)

18 THE COURT: All right. Yes.

19 THE BAILIFF: 212, Your Honor.

20 THE COURT: 212. Good morning. Tell me your
21 response to that, please.

22 THE JUROR: I've been a party to --

23 THE COURT REPORTER: Judge, I can't --

24 THE COURT: Step up here a little bit.

25 THE JUROR: I've been a party to or one of the

1 victims of child abuse as a child.

2 THE COURT: You were a victim?

3 THE JUROR: Yes.

4 THE COURT: And can you give me kind of a time
5 frame; if you don't mind?

6 THE JUROR: Yes, I was 11 years old. My stepfather
7 was sexually molesting me and it lead to other things of
8 violence.

9 THE COURT: Given those facts can you be a fair and
10 impartial juror in the trial of this case for both
11 Ms. Lawson and the State?

12 THE JUROR: No, I cannot.

13 THE COURT: And tell me your number again.

14 THE JUROR: 212.

15 THE COURT: All right. Thank you. Thank you,
16 Ms. Washington; is that correct?

17 THE JUROR: Yes.

18 THE COURT: I'm going to set you aside for the
19 trial of this case.

20 THE JUROR: Okay.

21 THE COURT: Please do not say anything to your
22 fellow jurors.

23 THE JUROR: Okay.

24 THE COURT: All right. Thank you.

25 Yes, sir.

1 THE BAILIFF: 216, Your Honor.

2 THE COURT: 216.

3 THE BAILIFF: Yes, sir.

4 THE COURT: All right. And this is Ms. Wiggins?

5 THE JUROR: Yes, sir.

6 THE COURT: And tell me your response to that.

7 THE JUROR: Three years ago in 2014, my late
8 husband was arrested on two counts of criminal sexual
9 conduct with a minor. Suzanne Mayes was his solicitor.
10 Approximately one year after his arrest, he was killed in a
11 tragic accident. I contacted Ms. Mayes's office and sent
12 them a certified letter. I was just looking for some kind
13 of closure. She never responded to me at all.

14 THE COURT: Let's -- go right ahead.

15 THE JUROR: I just -- it's still an open wound even
16 though it's been three years.

17 THE COURT: Let's -- let me ask you some questions.
18 Given the fact that your deceased husband was charged with
19 the offenses of criminal sexual conduct, could you be a
20 fair and impartial juror in the trial of this case for both
21 Ms. Lawson and the State?

22 THE JUROR: I don't know about the State part.

23 THE COURT: And explain that. Explain that to me.
24 You're referring now to Ms. Mayes?

25 THE JUROR: Yes. Because I felt like she should

1 have responded to me. Some way.

2 THE COURT: So --

3 THE JUROR: She knew I was his widow. All I was
4 asking for was five minutes of her time and her office just
5 flat told me that she would not meet with me.

6 THE COURT: So given the fact that Ms. Mayes was
7 one of the prosecutors, can you be a fair and impartial
8 juror in the trial of this case for both Ms. Lawson and the
9 State?

10 THE JUROR: I don't think so.

11 THE COURT: And when you say, I don't think so,
12 that may be semantics. Maybe you've never been on jury
13 duty --

14 THE JUROR: I never have been on a jury before.

15 THE COURT: And, you know, I guess I'm trying to
16 push you into whether is that a yes or a no because, I
17 don't think so -- whatever your response is, is the right
18 response. I mean there's no right or wrong answer. It's
19 just your answer. You know our purpose is to get a fair
20 and impartial jury in the trial of this case with no bias
21 and no prejudice to Ms. Lawson or the State.

22 THE JUROR: All I know is when they said Suzanne
23 Mayes, my heart starting beating real fast. It's still
24 beating real fast. I started breathing really fast and I
25 feel really nervous.

1 THE COURT: Okay.

2 THE JUROR: So, I feel like, you know, I'm a
3 citizen, a resident of this county, have been since 1992
4 and I feel like Ms. Mayes did not do me right. She should
5 have given me five minutes of her time and she did not.

6 THE COURT: All right. Ms. Wiggins, I'm going to
7 set you aside for the trial of this case. Please do not
8 say anything to your fellow jurors. Okay?

9 THE JUROR: So just go back and sit down?

10 THE COURT: Yes, ma'am. Thank you.

11 THE JUROR: Thank you.

12 THE COURT: All right. Number 216 is set aside.
13 Yes, sir.

14 THE BAILIFF: Number 73, Your Honor.

15 THE COURT: 73, thank you. This is Ms. Gates?

16 THE JUROR: Yes, sir.

17 THE COURT: And tell me your response, Ms. Gates.

18 THE JUROR: My niece and her son --

19 THE COURT: And tell me -- can you give me a time
20 frame.

21 THE JUROR: Actually it's -- she had him taken
22 about three times. He's disabled, but she's gotten her act
23 together and she's doing real great, so...

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

1 THE JUROR: Yes, sir.

2 THE COURT: -- Ms. Lawson and the State?

3 THE JUROR: Yes, sir.

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

5 THE JUROR: No, sir.

6 THE COURT: All right. I believe you can stay with
7 us. Do not say anything about that incident to any of your
8 fellow jurors.

9 THE JUROR: Yes, sir.

10 THE COURT: Thank you very much.

11 MR. MAYES: Judge, what was her response? I could
12 not hear that.

13 THE COURT: She -- her response to what?

14 MS. MAYES: I believe she said her niece --

15 MR. MCNAIR: Her niece had her son taken away three
16 times.

17 THE COURT: Three times, that's right. I didn't
18 know her response to can she be fair and impartial and
19 that's what I wasn't tracking.

20 Yes, sir.

21 THE BAILIFF: Juror 202, Your Honor.

22 THE COURT: 202. This is Ms. Tillman?

23 THE JUROR: Yes.

24 THE COURT: All right. Ms. Tillman, speak up just
25 a little bit so my court reporter can hear.

1 THE JUROR: Yes, sir, due to a family situation
2 with being -- finding out that close family, you know, was
3 charged with that and the fact that we had to, as
4 grandparents, well -- which we still have a grand baby, we
5 keep him a lot. We had to go through that as a family. I
6 would ask if you would please excuse me from this case.

7 THE COURT: So you feel like because of your family
8 situation --

9 THE JUROR: Yes.

10 THE COURT: You, knowing yourself best --

11 THE JUROR: Yes, sir.

12 THE COURT: -- could not be a fair and impartial
13 juror in the trial of this case for both parties, for both
14 Ms. Lawson and the State?

15 THE JUROR: Yes, sir, because emotionally it would
16 take a toll.

17 THE COURT: Okay. I'm going to set you aside for
18 the trial of this case, Ms. Tillman. Please do not say
19 anything to your fellow jurors.

20 THE JUROR: Okay.

21 THE COURT: Okay?

22 THE JUROR: Okay. Thank you, sir.

23 THE COURT: Thank you, just go back and have a
24 seat.

25 Yes, sir.

1 THE BAILIFF: Number 9, Your Honor.

2 THE COURT: All right. This is Ms. Bagnall?

3 THE JUROR: Yes, sir.

4 THE COURT: Tell me your situation.

5 THE JUROR: My father was the chief investigator
6 for the attorney general for neglect and abuse of elderly
7 and disabled and my cousin is an investigator for the
8 solicitor's office.

9 THE COURT: All right. Given the fact that you
10 have relatives that serve or served in those positions, can
11 you be a fair and impartial juror in the trial of this case
12 for both Ms. Lawson and the State?

13 THE JUROR: Absolutely.

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

15 THE JUROR: No, sir.

16 THE COURT: All right. I believe you can stay with
17 us. Thank you, Ms. Bagnall.

18 THE BAILIFF: 132, Your Honor.

19 THE COURT: 132. Give me just a second, please.
20 This is Mr. McBride?

21 THE JUROR: Yes, sir.

22 THE COURT: All right. And tell me your situation.

23 THE JUROR: I don't know if it pertains to the
24 question you asked, but about 20 years ago, my brother
25 pleaded guilty to a murder of a child.

1 THE COURT: Okay. And was that in this County?

2 THE JUROR: It was in Orangeburg.

3 THE COURT: Orangeburg County. All right. How old
4 would you have been?

5 THE JUROR: 10 or 11.

6 THE COURT: You recall much about it?

7 THE JUROR: No, sir.

8 THE COURT: Given that fact can you be a fair and
9 impartial juror in the trial of this case for both
10 Ms. Lawson and the State?

11 THE JUROR: Yes, sir.

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

13 THE JUROR: No, sir.

14 THE COURT: I believe you can stay with us. Thank
15 you. Thank you very much.

16 Yes, sir.

17 THE BAILIFF: Number 6, Your Honor.

18 THE COURT: This is Mr. Ashmore?

19 THE JUROR: Yes, sir.

20 THE COURT: All right. And tell me your response.

21 THE JUROR: I'm involved right now -- my son's
22 court ordered to go to LRADAC and mental health; and we
23 just went before Judge Smithdeal in June and we're involved
24 right now with him and DSS trying to get parental custody
25 of my grand kids. And that's an ongoing thing. So I

1 wasn't sure --

2 THE COURT: How long has it been ongoing.

3 THE JUROR: Since July of last year.

4 THE COURT: So you're trying to get custody of your
5 grandchildren.

6 THE JUROR: Yes, sir. He's more or less said we
7 can have temporary custody, but the mother was in jail in
8 Augusta, so she wasn't able to make the Court hearing.

9 THE COURT: Has your son been charged with anything
10 criminal or --

11 THE JUROR: No, sir.

12 THE COURT: -- it's all in family court.

13 THE JUROR: Yes, sir, it's family.

14 THE COURT: And DSS is involved?

15 THE JUROR: And that was because he was off
16 mentally and when they came to the house, he had a sword.
17 So they were worried about the welfare of the kids.

18 THE COURT: Given those facts, can you be a fair
19 and impartial juror in the trial of this case for both
20 Ms. Lawson and the State?

21 THE JUROR: Yes, sir.

22 THE COURT: Any doubt in your mind?

23 THE JUROR: No, sir.

24 THE COURT: Can you set aside whatever may be going
25 on in your family and personal life and decide the case

1 based on the evidence you hear in the courtroom?

2 THE JUROR: I believe so, sir.

3 THE COURT: Any question at all about that?

4 THE JUROR: I don't think so.

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

6 Thank you, thank you very much.

7 Yes, sir.

8 THE BAILIFF: Number 29, Your Honor.

9 THE COURT: This is Ms. Cannon?

10 THE JUROR: Yes, sir.

11 THE COURT: And tell me your response.

12 THE JUROR: Well, I was a victim of child abuse by
13 my mother.

14 THE COURT: And can you give me a time frame.

15 THE JUROR: Well, I'm 46, so I can remember back
16 probably as early as 4 or 5 and then I ended up running
17 away at 15.

18 THE COURT: Given those facts, can you be a fair
19 and impartial juror in the trial of this case for both
20 Ms. Lawson and the State.

21 THE JUROR: I don't know. I don't believe in child
22 abuse. I don't know the facts of the --

23 THE COURT: You said a couple of things, I guess as
24 far as you don't believe in child abuse. I don't think
25 anybody does or should. But you don't know the facts.

1 THE JUROR: Correct.

2 THE COURT: You understand if you were selected as
3 a member of the jury panel, you along with the other 11
4 members would be the judges of the facts in the case and
5 you would make that decision based on the evidence you hear
6 from the witness stand and any physical items of evidence
7 that may be introduced and then the law as I tell you the
8 law is.

9 THE JUROR: Uh-huh.

10 THE COURT: Can you set aside whatever may have
11 happened to you personally and decide the case based on the
12 facts --

13 THE JUROR: Yes, sir.

14 THE COURT: -- as they're presented in this
15 courtroom?

16 THE JUROR: Yes, sir.

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

18 THE JUROR: No doubt.

19 THE COURT: All right. I believe you can stay with
20 us.

21 THE JUROR: Okay.

22 THE COURT: Thank you very much.

23 THE JUROR: Uh-huh.

24 THE COURT: Yes, ma'am.

25 All right. Yes, sir.

1 THE BAILIFF: Number 44; Your Honor.

2 THE COURT: 44. This is Ms. Curtis?

3 THE JUROR: Yes, sir.

4 THE COURT: Tell me your response, please,
5 Ms. Curtis.

6 THE JUROR: Several members of my husband's family
7 were victims of child abuse.

8 THE COURT: Okay. Can you give me a time frame?

9 THE JUROR: 40 or 50 years ago.

10 THE COURT: Okay.

11 THE JUROR: Yeah.

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

15 THE JUROR: Yes, sir.

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

17 THE JUROR: No, sir.

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

19 THE JUROR: Thank you.

20 THE COURT: Any others?

21 (There was no response.)

22 THE COURT: Thank you.

23 MS. MAYES: Judge, Juror Number 180. His record
24 showed that he had an assault on a child which was some
25 kind of military action, but it didn't show a disposition,

1 but he did not come forward in response to this question.

2 THE COURT: Juror Number 180. 180, Mr. Scott.

3 Would you step up here for me, please.

4 Good morning, good morning, Mr. Scott.

5 THE JUROR: Hey.

6 THE COURT: Are you retired military?

7 THE JUROR: Yes.

8 THE COURT: All right. Did you have a charge in
9 the military?

10 THE JUROR: Yes, it been about a minute, yes.

11 THE COURT: And what was that.

12 THE JUROR: It was for domestic violence.

13 THE COURT: Did it involve a child?

14 THE JUROR: Well, the child was there.

15 THE COURT: The child was present.

16 THE JUROR: Uh-huh.

17 THE COURT: It did not involve the child as the
18 victim?

19 THE JUROR: No.

20 THE COURT: How long ago was that? You said it had
21 been a minute.

22 THE JUROR: 30 years.

23 THE COURT: Sir?

24 THE JUROR: 30 years.

25 THE COURT: 30 years. Given those facts, can you

1 be a fair and impartial juror in the trial of this case.

2 THE JUROR: Yeah.

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

4 THE JUROR: Huh-huh.

5 THE COURT: How long were you in the military?

6 THE JUROR: 20 years.

7 THE COURT: And what was your rank.

8 THE JUROR: E-7.

9 THE COURT: E-7? In the army?

10 THE JUROR: Yes, sir.

11 THE COURT: Sargent first class?

12 THE JUROR: Uh-huh.

13 THE COURT: What was your MOS.

14 THE JUROR: Logistics.

15 THE COURT: Logistics. Tell me the number.

16 THE JUROR: 7658.

17 THE COURT: I know you're not going to forget that.

18 The only time you forget it is you're 11 BRAVO, huh?

19 THE JUROR: Yeah.

20 THE COURT: All right. Thank you. I believe you
21 can stay with us.

22 THE JUROR: Thank you.

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

24 (The following was a bench conference out of the
25 hearing of the jury.)

1 THE COURT: Anything further?

2 MS. MAYES: It says assault on child, so I don't
3 think he's being truthful, but...

4 THE COURT: Now, tell me about Ms. Martinez -- what
5 is her name? Sanchez? 178?

6 MR. MCNAIR: Yes, sir, it carried up to a year in
7 prison and five years probation.

8 MS. MAYES: So in California they split their
9 sentences up and you can get a different amount of time for
10 probation than for incarceration, so it carries up to five
11 on probation and up to a year on incarceration.

12 THE COURT: Juror 178, Ms. Sanchez?

13 I'm going to see about her verbal skills.

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

16 THE COURT: I wanted to ask you a little bit more.
17 You were talking about your language skills so to speak.
18 Explain that to me a little bit.

19 THE JUROR: I understand English and I speak
20 Spanish too. But I have a hard time hearing or reading.

21 THE COURT: Okay.

22 THE JUROR: I just have a little problem with
23 reeding. I can read, but I cannot -- I'm not that good.

24 THE COURT: So if you're on a jury panel, if
25 someone's not speaking up, you need for them to speak up?

1 Are you able to hear them? And you understand the English
2 language.

3 THE JUROR: Yeah, I do.

4 THE COURT: And you can read English.

5 THE JUROR: I have a hard time reading, but I can
6 read certain stuff.

7 THE COURT: Okay. Well, if you are selected as a
8 member of the jury panel and there's a witness on the stand
9 and you can't hear, just let the judge know, okay.

10 THE JUROR: All right.

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

12 THE JUROR: I don't have transportation.

13 THE COURT: You see those two fellows over there?
14 I can get you transportation.

15 THE JUROR: That's all right.

16 THE COURT: Okay?

17 THE JUROR: All right.

18 THE COURT: So you don't have transportation daily?

19 THE JUROR: No.

20 THE COURT: What -- just tell me what area of the
21 county you live in.

22 THE JUROR: I live in Leesville.

23 THE COURT: Leesville. That's a great area.

24 THE JUROR: I'm between Gilbert and Leesville.

25 THE COURT: You live around Summit.

1 THE JUROR: Something like that.

2 THE COURT: Something like that?

3 THE JUROR: Yeah.

4 THE COURT: Well, I can get you transportation. Is
5 that okay?

6 THE JUROR: I'll try and get my own. I'll try to
7 get my own.

8 THE COURT: You want me to tell them that?

9 THE JUROR: No.

10 THE COURT: I think you can stay with us. Okay?
11 All right. Thank you.

12 (The Court returned to the bench.)

13 THE COURT: Does any member of the jury panel have
14 a family member who is employed by or involved with law
15 enforcement or the Department of Social Services? If so,
16 please stand.

17 (Jurors stood.)

18 THE COURT: All right. Same as before, is that
19 Juror Number 9? The family members you relayed to us
20 before?

21 THE JUROR: (The juror nodded head.)

22 THE COURT: Any others?

23 THE JUROR: No, sir.

24 THE COURT: All right. Thanks, I believe you may
25 be seated.

1 Let me start on this side. Is that a blue shirt?

2 THE JUROR: Yes, sir, Your Honor.

3 THE COURT: Well, I just call it whatever it is. I
4 can't tell colors. Tell me your number.

5 THE JUROR: Juror 112, Travis Laffin.

6 THE COURT: All right. Family member?

7 THE JUROR: My brother William James is a U.S.
8 Marshall in the Florence area.

9 THE COURT: Okay..

10 THE JUROR: And my ex-wife is Captain Tara Laffin.

11 THE COURT: She's what?

12 THE JUROR: Captain Tara Laffin of the South
13 Carolina Highway Patrol.

14 THE COURT: All right. Given those facts can you
15 be a fair and impartial juror in the trial of this case for
16 both Ms. Lawson and the State?

17 THE JUROR: Most certainly, Your Honor.

18 THE COURT: Sir?

19 THE JUROR: Most certainly, Your Honor.

20 THE COURT: All right. Thank you. Thank you very
21 much. I believe you can stay with us.

22 Yes, sir, your number?

23 THE JUROR: 51.

24 THE COURT: All right.

25 THE JUROR: My brother-in-law works for DSS in the

1 Counties of this state.

2 THE COURT: All right. Given that fact, can you be
3 a fair and impartial juror in the trial of this case for
4 both the State and Ms. Lawson?

5 THE JUROR: Yes, sir.

6 THE COURT: Thank you.

7 Green shirt?

8 THE JUROR: Juror Number 1. My cousin by marriage
9 is a lieutenant with the City of Columbia. And my second
10 cousin is a police officer in Houston, Texas.

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

14 THE JUROR: Yes, sir.

15 THE COURT: Thank you, you may be seated.

16 Yes, sir?

17 THE JUROR: Number 213. My wife works for the
18 Department of Justice.

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

22 THE JUROR: Yes, sir.

23 THE COURT: Thank you, you may be seated.

24 And is this -- I can't hear nor see. Is this
25 Ms. Tillman?

1 THE JUROR: Yes, sir.

2 THE COURT: Hot dog, I get the gold star for that.
3 Didn't I set Ms. Tillman aside?

4 THE CLERK: Yes, sir.

5 THE COURT: I set you aside Ms. Tillman, you may be
6 seated. Thank you.

7 Number?

8 THE JUROR: 189. My son is a SRT and a K-9 deputy
9 for Richland County.

10 THE COURT: Given those facts can you be a fair and
11 impartial juror in the trial of this case for both
12 Ms. Lawson and the State?

13 THE JUROR: Yes, sir.

14 THE COURT: Thank you, you may be seated.
15 I'm trying to remember your number.

16 THE JUROR: Juror 44.

17 THE COURT: Say again?

18 THE JUROR: 44.

19 THE COURT: All right. And your response?

20 THE JUROR: My husband is a captain with Peer
21 Protective Services.

22 THE COURT: Given that fact can you be a fair and
23 impartial juror for both Ms. Lawson and the State?

24 THE JUROR: Yes, sir.

25 THE COURT: Any others? Thank you.

1 I'm going to call, ladies and gentlemen, a rather
2 lengthy list of potential witnesses in the trial of this
3 case. The question, of course, will be is any member of
4 the jury panel related by blood or marriage, have any
5 social, business, professional relationship with any of
6 these parties whose names I call.

7 I would advise if any of the witnesses are present
8 when your names are called if you would please stand and
9 face the jury panel. I would further advise the jury panel
10 that witnesses are not required to be present during this
11 proceeding, therefore, names may be called and no one
12 stands.

13 Again, the question: Does any member of the jury
14 panel have any social, business, professional relationship
15 with any of these potential witnesses whose names I shall
16 call.

17 Nikki Rodgers, she is with the Lexington County
18 Communication 9-1-1 Center; Angela Gunter, also with 9-1-1;
19 and Amy Blease, Blease, B-L-E-A-S-E, also with 9-1-1;
20 Anthony D'Onofrio, O-N-O-F-R-I-O, with the Lexington County
21 Fire Department and Joe Burns, Lexington County Fire
22 Department.

23 The next five names: The first two are with the
24 Lexington County Fire Department, Joe Burns, and Michael
25 Hammer. The next two names with Lexington County EMS,

1 Sergeant Chris Bernard; PFC Brandon Garon, G-A-R-O-N. The
2 fifth name, Detective Adam Creech, Lexington County
3 Sheriff's Department.

4 The next five names, all with the Lexington County
5 Sheriff's Department: Sergeant Traci Barr.

6 Please stand for me Sergeant Barr.

7 Sergeant Barr in the courtroom.

8 Thank you.

9 Lieutenant Scottie Frier; Megan Dabkowski.

10 Yes, your number, please?

11 THE JUROR: 189. I know Scottie Frier from the
12 past.

13 THE COURT: Scottie Frier?

14 THE JUROR: Yes.

15 THE COURT: And what -- tell me the past.

16 THE JUROR: Years ago he coached my son's baseball
17 team.

18 THE COURT: All right. And given that fact, can
19 you be a fair and impartial juror in the trial of this case
20 for both the State and Ms. Lawson?

21 THE JUROR: Yes, sir.

22 THE COURT: Thank you, you may be seated.

23 James Kemfort and Ben Booth.

24 The next five --

25 Yes, your number, please?

1 THE JUROR: Number 1.

2 THE COURT: And your response?

3 THE JUROR: James Kemfort.

4 THE COURT: All right. And how do you know
5 Mr. Kemfort?

6 THE JUROR: He used to work with me for the City of
7 Columbia.

8 THE COURT: And what period of time are we talking
9 about?

10 THE JUROR: It's been better than 10 years.

11 THE COURT: Given that fact can you be a fair and
12 impartial juror in the trial of this case for both
13 Ms. Lawson and the State?

14 THE JUROR: Yes, sir.

15 THE COURT: Thank you, you may be seated.

16 The next five, all with the Lexington County
17 Sheriff's Department: Candy Kyzer; Margaret Beth Holliman;
18 Shelby Derrick; Colby Gallagher; Detective Sandy Black.

19 Again is any member of the jury panel a friend,
20 have any social, business, professional relationship with
21 any of those individuals whose names I have called? If so,
22 please stand.

23 (No one stood.)

24 THE COURT: The next five names: Simone Sammler,
25 RN Lexington Medical Center; April Sykes, with the State

1 Law Enforcement Division; Charlene Mooneyhan, Lexington
2 County Department of Social Services; Kimberly Simpson,
3 Lexington County Coroner's Office; and Richard Tuckus of
4 Lexington.

5 The next five names: Emily Rachelle Gray Tuckus;
6 Monica Wise, Tamir Patel; Keith Sprinkle, CSI Lexington
7 County Sheriff's Department; and Brenda Vancil Snellgrove,
8 Lexington County Sheriff's Department.

9 And this will be the last six names: Dr. Susan
10 Luberoff, Palmetto Health Richland; Michael O'Neil, Dr.
11 Michael O'Neil, Lexington Medical Center; Dr. Janice Ross,
12 Newberry Pathology Associates; Michael Phipps, Lexington
13 County Sheriff's Department; Kelly Bugden, State Law
14 Enforcement Division; and the custodian of the records of
15 the BP Station, Forest Drive location, Columbia. That
16 would just be someone to come in and certify records. I do
17 not know a name on that.

18 So again, is any member of the jury panel related
19 by blood or marriage, close personal friends, have any
20 social, business, professional relationship with any of
21 those individuals whose names I called and/or who stood
22 before you? If so, please stand.

23 Your number please.

24 THE JUROR: Yes, I just want to ask for
25 clarification. Did you say Scottie Frierson?

1 THE COURT: Scottie Frierson, yes, ma'am.

2 THE JUROR: I believe I do know his mother.

3 THE COURT: I know his daddy's name is David. I
4 know his mama, but I can't call her name. So you think you
5 knew Lieutenant Frier's mother?

6 THE JUROR: Right.

7 THE COURT: All right. Given -- can you give me a
8 time frame.

9 THE JUROR: I think I know her now.

10 THE COURT: Okay. Given that fact, can you be a
11 fair and impartial juror in the trial of this case for both
12 Ms. Lawson and the State?

13 THE JUROR: Yes, sir.

14 THE COURT: And did I get your number? I'm sorry.

15 THE JUROR: 59.

16 THE COURT: All right. Thank you. You may be
17 seated.

18 Yes, your number, please.

19 THE JUROR: 173, and I know Nikki Rodgers.

20 THE COURT: Nikki Rodgers. Ms. Rodgers at 9-1-1?

21 THE JUROR: Yes.

22 THE COURT: And tell me a time frame.

23 THE JUROR: I've known her parents for several
24 years; and I see her occasionally socially.

25 THE COURT: Okay. Given that fact can you be a

1 fair and impartial juror in the trial of this case for both
2 Ms. Lawson and the State?

3 THE JUROR: Yes, I can.

4 THE COURT: All right. Thank you, you may be
5 seated.

6 Any others?

7 (No one stood.)

8 THE COURT: Did I miss any names by the way? I
9 have a tendency to do that.

10 MS. MAYES: No, sir, Your Honor. May we approach
11 on another matter?

12 THE COURT: Yes, sir -- yes, ma'am. I don't know
13 where my mind's at. Yes, ma'am.

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

16 THE COURT: All right. Thank you, Solicitor.

17 Thank you, Mr. Williams.

18 Any -- was there another witness list by the way?

19 MR. WILLIAMS: It's up there, Your Honor on your
20 right to the side.

21 THE COURT: All right. Thank you. How did you
22 know that?

23 MR. WILLIAMS: That's where I put it, Your Honor.

24 THE COURT: All right. Ladies and gentlemen, I
25 think a couple of these names have previously been called.

1 Well, I've already called the name Heather Marie Lawson. I
2 did call the name Richard Tuckus, but this says Richard
3 Wade Tuckus. I did call the name Monica Wise. And then
4 Lula Mae Lawson.

5 Is any member of the jury panel related by blood or
6 marriage, have any social, business, professional
7 relationship with those names which I have now called? If
8 so, please stand.

9 (A juror stood.)

10 THE COURT: Yes, sir, and I have set you aside.
11 Thank you, thank you very much.

12 Any others?

13 (No one stood.)

14 THE COURT: Any additional requested voir dire from
15 the defense, Mr. Williams?

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

17 THE COURT: From the State, Solicitor?

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

19 THE COURT: All right. So finally, ladies and
20 gentlemen, I have read the indictment to you concerning an
21 allegation that occurred 26, June, 2016 as to Victim
22 Victim .

23 You've been introduced to Ms. Lawson.

24 You've been introduced at least to the allegations
25 in the indictments, to certain witnesses that were present

1 in the courtroom, and have heard quite a list of potential
2 witnesses in the trial of this case.

3 You know the charges involved in the case. I've
4 asked you questions about your previous knowledge of it
5 from any source whatsoever.

6 I have found people know themselves best. Given
7 these number and types of questions, knowing yourselves
8 best, does any member of the jury panel know any reason
9 whatsoever why you feel like you could not be a fair and
10 impartial juror in the trial of this case for both
11 Ms. Lawson and the State? If so, please stand.

12 If it concerns you, it concerns me. I want to deal
13 with it now and not when you're sitting over here in the
14 jury box as a member of the jury. So if you know of any
15 reason whatsoever why you feel like you could not be a fair
16 and impartial juror in the trial of this case for both the
17 parties, please stand.

18 (A juror stood.)

19 THE COURT: Is this Ms. Tillman?

20 THE JUROR: Yes, sir.

21 THE COURT: All right. Thank you, you may be
22 seated, Ms. Tillman. I have set you aside for the trial of
23 this case. Thank you again, Ms. Tillman.

24 Any others?

25 (No one stood.)

1 THE COURT: All right. I find our panel is
2 qualified.

3 Strikes, Solicitor?

4 MS. MAYES: Five and ten, Your Honor.

5 THE COURT: Mr. Williams?

6 MR. WILLIAMS: I think that's correct, Your Honor,
7 five and ten.

8 THE COURT: All right. Five for the State, ten for
9 the defense.

10 Madame Clerk, would you prepare us a jury?

11 THE CLERK: How many alternates, Your Honor?

12 THE COURT: Alternates?

13 MS. MAYES: We would need two, Your Honor.

14 MR. WILLIAMS: I agree, Your Honor.

15 THE CLERK: Thank you.

16 THE COURT: Thank you, thank you, Madam Clerk.

17 (The clerk was pulling the jury strike list.)

18 **JURY SELECTION**

19 THE CLERK: As I call your name, please bring your
20 personal items with you. Come forward like I told you
21 about earlier, to the box here. Once you get to the center
22 box, turn around and face back out that direction and
23 remain there until I tell you to have a seat in the jury
24 box or to return to your seat in the audience.

25 Proceed, Your Honor?

1 THE COURT: Yes, ma'am, please.

2 THE CLERK: Number 31, Russell Chambers (white
3 male).

4 What say for the State?

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

7 THE CLERK: Return to your seat, please, sir.
8 184, Roberta Sinner (white female).

9 What say for the State?

10 MS. MAYES: Please present the juror.

11 THE CLERK: What say for the defense?

12 MR. WILLIAMS: Please excuse the juror from the
13 trial of this case.

14 THE CLERK: Return to your seat, please, ma'am.
15 Number 2, Myra Adams (black female).

16 What say for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say for the defense?

19 MR. WILLIAMS: Please swear the juror.

20 THE CLERK: Have a seat in the jury box, ma'am.
21 (The juror started returning to her seat.)

22 THE CLERK: No, no, other way.

23 THE BAILIFF: Over this way.

24 THE COURT: That was a good try.

25 THE CLERK: Number 54, Lisa Drury-Brizek (white

1 female).

2 What say for the State?

3 MS. MAYES: Please present the juror.

4 THE CLERK: What say for the defense?

5 MR. WILLIAMS: Swear the juror.

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

7 Number 117, Randolph Learn (white male).

8 What say for the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say for the defense?

11 MR. WILLIAMS: Please swear the juror.

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

13 Number 35, Suzanne Clark (white female).

14 What say for the State?

15 MS. MAYES: Please present the juror.

16 THE CLERK: What say for the defense?

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

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

20 132, Craig McBride (black male).

21 What say for the State?

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

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

25 Number 15, Paul Bessinger (black male).

1 What say for the State?

2 MS. MAYES: Please present the juror.

3 THE CLERK: What say for the defense?

4 MR. WILLIAMS: Please swear the juror.

5 THE CLERK: Have a seat in the jury box, please,
6 sir.

7 Number 11, Agnes Barroll (white female).

8 What say for the State?

9 MS. MAYES: Please present the juror.

10 THE CLERK: What say for the defense?

11 MR. WILLIAMS: Please swear the juror.

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

13 Number 14, James Berry (white male).

14 What say for the State?

15 MS. MAYES: Please present the juror.

16 THE CLERK: What say for the defense?

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

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

20 105, Michael Jones (white male).

21 What say for the State?

22 MS. MAYES: Please present the juror.

23 THE CLERK: What say for the defense?

24 MR. WILLIAMS: Please excuse the juror from the
25 trial of this case.

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

2 110, Brian Kopp. (white male).

3 What say for the State?

4 MS. MAYES: Please present the juror.

5 THE CLERK: What say for the defense?

6 MR. WILLIAMS: Please swear the juror.

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

8 210, Donna Wall. (white female).

9 What say for the State?

10 MS. MAYES: Please present the juror.

11 THE CLERK: What say for the defense?

12 MR. WILLIAMS: Please excuse the juror from the
13 trial of this case.

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

15 Number 1, Kenneth Adams (white male).

16 What say for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say for the defense?

19 MR. WILLIAMS: Please excuse the juror for the
20 trial of this case.

21 THE CLERK: Return to your seat, sir.

22 142, Margaret Mueller (white female).

23 What say for the State?

24 MS. MAYES: Please present the juror.

25 THE CLERK: What say for the defense?

1 MR. WILLIAMS: Please swear the juror.

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

3 41, Stephanie Crosby (white female).

4 What say for the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say for the defense?

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

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

10 Number 9, Elizabeth Bagnall (white female).

11 What say for the State?

12 MS. MAYES: Please present the juror.

13 THE CLERK: What say for the defense?

14 MR. WILLIAMS: Please excuse the juror from the
15 trial of this case.

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

17 186, Adam Smith (white male).

18 What say for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say for the defense?

21 MR. WILLIAMS: Please swear the juror.

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

23 53, Travis Driggers (white male). Back up just a
24 little bit furtherer for me, sir.

25 What say for the State?

1 MS. MAYES: Please present the juror.

2 THE CLERK: What say for the defense?

3 MR. WILLIAMS: Please swear the juror.

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

5 59, Cynthia Edge (white female).

6 What say for the State?

7 MS. MAYES: Please present the juror.

8 THE CLERK: What say for the defense?

9 MR. WILLIAMS: Please excuse the juror from the
10 trial of this case.

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

12 206 Gary Uwanawich (white male).

13 What say for the State?

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

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

17 29, Marchell Cannon (white female).

18 What say for the State?

19 MS. MAYES: Please present the juror.

20 THE CLERK: What say for the defense?

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

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

24 THE COURT: What are the strikes, Madam Clerk?

25 THE CLERK: Strikes, three for the State, ten for

1 the defense.

2 THE COURT: Thank you.

3 THE CLERK: 85, Gregory Gunter (white male.

4 What say for the State?

5 MS. MAYES: Please present the juror.

6 THE CLERK: What say for the defense.

7 MR. WILLIAMS: Please swear the juror.

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

9 88, Dorothy Hart (black female).

10 What say for the State?

11 MS. MAYES: Please present the juror.

12 THE CLERK: What say for the defense?

13 MR. WILLIAMS: Please swear the juror.

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

15 Number 123, Ella Lucas (white female).

16 What say for the State?

17 MS. MAYES: Please present the juror.

18 THE CLERK: What say for the defense?

19 MR. WILLIAMS: Please swear the juror.

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

21 Proceed into the alternates, Your Honor?

22 THE COURT: Yes, ma'am.

23 THE CLERK: Number 166, Manning Reynolds (white

24 male).

25 What say for the State?

1 MS. MAYES: Please present the juror.
2 THE CLERK: What say for the defense?
3 MR. WILLIAMS: Please swear the juror.
4 THE CLERK: Have a seat in the jury box.
5 That's alternate one, Your Honor.
6 51, Lawrence Derrick (white male).
7 What say for the State?
8 MS. MAYES: Please present the juror.
9 THE CLERK: What say for the defense?
10 MR. WILLIAMS: Please excuse the juror from the
11 trial of this case.
12 THE CLERK: Return to your seat, please, sir.
13 34, Christopher Chisholm (black male).
14 What say for the State?
15 MS. MAYES: Please present the juror.
16 THE CLERK: What say for the defense?
17 MR. WILLIAMS: Please swear the juror.
18 THE CLERK: Have a seat in the jury box, sir.
19 That's alternate number two, Your Honor.
20 THE COURT: Thank you.
21 Any motions regarding the jury selection process
22 from the State?
23 MS. MAYES: None from the State, Your Honor.
24 THE COURT: From the defense?
25 MR. WILLIAMS: None, from the defendant, Your

1 Honor.

2 THE COURT: All right. Thank you.

3 Madam Clerk, the remainder of the panel?

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

6 THE COURT: Solicitor, Mr. Williams?

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

9 THE COURT: Ladies and gentlemen of the jury panel,
10 momentarily I'm going -- that were selected for the trial
11 of this case -- momentarily I'm going to release you from
12 your jury service. I would say for the remainder of the
13 morning, but I've taken care of that already; but for the
14 remainder of the afternoon and evening and ask you to
15 report back at 9:30 in the morning.

16 This case is like many others. There are pretrial
17 matters that I must hear before we begin the trial of the
18 case and the taking of testimony in front of the jury.
19 Rather than try to estimate a time, say 2:30, 3:30, 4:30,
20 and then bring you back and hold you captive while I
21 continue to hear those pretrial matters, we'll just start
22 with the jury afresh in the morning and hopefully be able
23 to clear the legal deck, so to speak to get that fresh
24 start.

25 I do need to advise you of certain requirements of

1 you that you must follow throughout your service as jurors
2 in the case. During the trial of this case, you may not
3 discuss this case with others. That includes your family
4 members, fellow jurors, friends, or anyone else. You would
5 not be authorized to discuss the case until you've heard
6 all of the evidence, all of the testimony given by the
7 sworn witnesses under oath from the witness stand, the
8 legal instructions given to you by the Court and then
9 directed by the Court to begin your deliberations with your
10 fellow jurors in your jury room. That's at the conclusion
11 of the case. You may not discuss it whatsoever with anyone
12 during the trial of the case.

13 You may not read, watch, listen to any news reports
14 about the case, should there be any. You may not, of
15 course, use your computer, cellular phone, or any other
16 electronic device with communication capabilities while in
17 attendance at trial or during deliberations. You may, of
18 course, as we go through the trial of the case use them
19 during your lunch breaks and, of course, have access to
20 them, obviously, over the evening hours, but you may not
21 use those devices to obtain or disclose information which
22 is prohibited.

23 Information which is prohibited includes, but is
24 not limited to the following: Information about a party, a
25 witness, an attorney, or a court officer; news accounts

1 about the case, past or present should there have or should
2 there be any; information collected through juror research
3 on any topics raised or testimony offered by any witnesses;
4 or information collected through juror research on any
5 other topic the juror might think would be helpful in
6 deciding the case.

7 You decide the case based on the evidence and
8 testimony presented in the courtroom and you are the judges
9 of the facts and then the law as I tell you the law is.
10 You don't do any independent investigation. You don't do
11 any investigation on the internet or otherwise. You base
12 it on what you hear in the courtroom, your determination of
13 the credibility and the believability of the witnesses.
14 You determine what the facts are. You then apply those
15 facts as you, the jury, have found them to be to the
16 standard of the law as I tell you what the law is and you
17 reach that verdict of guilty or not guilty.

18 I'm going to ask you again to please be back
19 promptly at 9:30 in the morning. Are there any questions?

20 Yes, ma'am?

21 A JUROR: Do we come to this room?

22 THE COURT: And he -- your bailiff will show you --
23 when I release you, you'll go out like this secret back
24 door and he'll show you how to get out and how to come back
25 in the morning.

1 A JUROR: Are we allowed to tell our employer we
2 were picked as a juror on a homicide? Can that be it?

3 THE COURT: Sure. Yes. And if you -- if at any
4 time you need documentation for your employer concerning
5 your jury service, you -- the clerk, Sergeant Major Frick,
6 over there will take care of it for you. And that will be
7 a delightful experience, as a matter of fact. But, yes --
8 that wasn't a joke. You may -- you may, of course, tell
9 your employers what your status is.

10 Tell me your number, please.

11 THE JUROR: 110.

12 THE COURT: And your occupation?

13 THE JUROR: Field Consultant Inspector for storm
14 water systems.

15 THE COURT: And what do you actually --

16 THE JUROR: I work -- I walk around construction
17 sites making sure there's no pollution leaving the site.

18 THE COURT: All right. While we have spoken, I've
19 had an election. All right? So I'm going to appoint you
20 foreperson of this jury panel. All right.

21 And I will give you further instructions about that
22 as we go through and at the conclusion of the case. Thank
23 you, thank you very much for volunteering for that very
24 important position.

25 That was a joke. People get confused when I do and

1 when I don't.

2 All right. Any other questions?

3 (There was no response.)

4 THE COURT: All right. Thank you, thank you very
5 much, I look forward to serving with y'all throughout this
6 trial.

7 If you will show them the way out and I'm going to
8 have another bailiff come out and speak with one of them.

9 (The jury left the courtroom at 12:29 p.m.)

10 THE COURT: All right. Anything before we take --
11 we, not the jury, but we, in this trial, take our luncheon
12 recess, Solicitor?

13 MR. WILLIAMS: Your Honor, I do have two motions I
14 can go ahead and --

15 THE COURT: I've got to go to Gilbert during lunch.
16 Is it all right if we start back at 2:30?

17 MR. WILLIAMS: Absolutely, Your Honor.

18 THE COURT: I've got the -- I've got a commitment
19 in Gilbert that I need to go take care of. And really,
20 actually, when I go the Gilbert, I don't like to leave
21 Gilbert, but I will get back by 2:30. Any objections to
22 that Mr. Williams?

23 MR. WILLIAMS: No, Your Honor.

24 THE COURT: And what is Ms. Lawson's custody
25 status? Is she in custody?

1 MR. WILLIAMS: She is not, Your Honor. And perhaps
2 I could speak to the Court about what her current status
3 is. She is -- she is -- may we approach?

4 THE COURT: No, let's do this. The jury has not
5 yet been sworn. If she is not the custody at this time,
6 I'll address that at the end of the day.

7 MR. WILLIAMS: Thank you, Your Honor.

8 THE COURT: All right. So she can remain out and
9 then I'll address it at the end of the day.

10 (The remaining jury venire were sent home or sent
11 to another courtroom for jury selection.)

12 THE COURT: All right. Anything else?

13 MS. MAYES: Nothing, Your Honor.

14 MR. WILLIAMS: No, sir, Your Honor.

15 THE COURT: I'll see y'all at 2:30.

16 (A recess for lunch was observed.)

17 **PRETRIAL MOTIONS**

18 THE COURT: All right. Are there certain motions,
19 Solicitor? Mr. Williams?

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

21 THE COURT: All right.

22 MS. MAYES: First, Your Honor, we have some verbal
23 statements that were made by the defendant, Heather Lawson,
24 at the hospital. Those verbal statements were made to
25 Detective Adam Creech. And then we have a written

1 statement that was made to Detective Adam Creech and
2 Sergeant Tracie Barr and then two days later there is an
3 additional witness statement that was made to Detective
4 Barr as well. And so we do foresee a Jackson v. Denno for
5 those statements.

6 In addition, Your Honor, I'm going to go ahead and
7 pass up some motions. I think we got them to your clerk
8 earlier today, but one is a motion from the State in
9 support of offering photographic evidence in this case.
10 And then the second would be a motion in limine regarding
11 an unrelated event and we just want to make sure that the
12 defense is not -- pursue any line of inquiry regarding that
13 and that would be a third-party-guilt issue pursuant to
14 Coat and Gregory.

15 So I'll go ahead and pass up those motions.

16 THE COURT: All right.

17 MS. MAYES: And we would be ready to proceed on the
18 issue of Jackson v. Denno whenever the Court is ready.

19 THE COURT: All right. Thank you.

20 All right. You can call your first witness,
21 Solicitor.

22 **JACKSON VERSUS DENNO HEARING**

23 MS. MAYES: The State calls Detective Adam Creech.

24 THE COURT: Come around and be sworn, Detective
25 Creech.

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 ADAM CREECH,

2 having been duly sworn, testified as follows:

3 THE CLERK: Have a seat, sir. Once you're seated,
4 state your full name, spelling your last, please.

5 THE WITNESS: Detective Anthony Adam Creech.
6 Creech is C-R-E-E-C-H.

7 DIRECT EXAMINATION IN CAMERA

8 BY MS. MAYES:

9 Q All right. And Detective Creech, tell us a little
10 bit about yourself. Where are you employed?

11 A I'm employed with the Lexington County Sheriff's
12 Department.

13 Q All right. And what's your current job description
14 there?

15 A I'm a criminal investigator with the major crimes
16 unit, special victim's unit.

17 Q All right. And how long have you been a detective
18 there?

19 A I've been a detective for three years.

20 Q Now, I want to refer you back to June 26, 2016, of
21 last year. Can you tell us whether or not you were working
22 in the capacity of detective on that date?

23 A I was.

24 Q And specifically, how you became aware of an
25 investigation involving the death of a 7-month-old infant

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 by the name of Victim ?

2 A I was contacted by Sergeant Barr by phone. We were
3 the on-call major crime shift for the weekend. It was a
4 Sunday afternoon. She called me to inform me that there
5 was a 7-month-old child that was reported deceased at
6 Lexington Medical Center and she informed me that I would
7 be lead investigator and instructed me to respond to
8 Lexington Medical Center.

9 Q All right. And did you do so?

10 A I did.

11 Q Now, at that point in time, how much information
12 did you actually have about what had occurred?

13 A I knew that the decedent was a 7-month-old female
14 child. I knew that the child's mother's name was Heather
15 and I knew that there was an initial cause of death given
16 by the mother to dispatch that she believed the other two
17 children had caused the child's death.

18 Q All right. And what were the ages of those other
19 two children?

20 A They were one-and-three-years old.

21 Q All right. So just to clarify, when you say she
22 had given that information to dispatch, specifically in
23 what format?

24 A At the time I didn't have access to the actual
25 9-1-1 call. But I was told -- they used the -- I was given

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 the word stomped --

2 Q All right.

3 A -- is what was described to me.

4 Q All right. So just to back up, there was a 9-1-1
5 call.

6 A That's correct.

7 Q And in that 9-1-1 call, an explanation for the
8 injuries was given; is that correct?

9 A That was my understanding at the time, yes.

10 Q And the explanation was that the three-year-old and
11 the one-year-old had stomped the infant?

12 A Yes.

13 Q All right. And so you went to Lexington Medical
14 Center?

15 A That is correct.

16 Q And tell us about your initial contact there with
17 the mother of the child.

18 A So upon my arrival I made contact with Ms. Lawson,
19 who I identified at the hospital as Heather Lawson. I
20 asked her what happened and she told me that she had put
21 Victim who is the 7-month-old child, down for a nap that
22 afternoon and became concerned when she realized Victim
23 was taking a longer than usual nap. Heather then told me
24 that she went to check on Victim and discovered the
25 comforter from her one-year-old daughter June's bed was in

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 Victim crib. Heather then told me she pulled the
2 comforter out and could feel Victim roll around inside the
3 blanket. Heather then said she found Victim face up
4 underneath the blanket, not breathing. She --

5 Q Now, if you could, slow down a little bit.

6 A Okay. Heather then told us that when she put
7 Victim down for her nap the only two items present in the
8 crib were a baby bottle containing approximately eight
9 ounces of formula and a bumblebee toy that played music.
10 Heather said she then went and got the child's father,
11 after which time Lexington County Communications was
12 contacted. A short time later, I asked her -- within
13 several minutes, I asked her to go over the days events for
14 me from the beginning. This time, Heather told me she got
15 home late from work the night before around 11:44 p.m. and
16 she said she woke up around 9 a.m. on June 26th. Heather
17 said Victim and her other two children also were out until
18 around the same time because they'd been at work with her
19 the night before and did not go to bed until very late as a
20 result. Heather told us she fed Victim breakfast that
21 morning which consisted of a small amount of baby food and
22 some formula. And the rest of the day was without incident
23 until she put Victim down for a nap between approximately
24 1:40 p.m. and 2:30 p.m.

25 Q All right. So let me stop you right there.

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 A Okay.

2 Q At this point in time, did you have a cause of
3 death?

4 A I did not.

5 Q All right. And at this point in time did you
6 necessarily know that it was a homicide as opposed to an
7 accidental death caused by a toddler or siblings.

8 A We couldn't rule anything one way or the other at
9 this stage.

10 Q At this point in time, did you know how many people
11 had been in and out of a home that day?

12 A I did not.

13 Q At this point in time did you know who all resided
14 with Heather or may have been visiting the home of Heather
15 Lawson on that day?

16 A I did not.

17 Q All right. So at this point in time how important,
18 if at all, is it for you to develop a timeline and develop
19 basic facts?

20 A It's extremely important in these types of
21 investigations.

22 Q All right. What was the general purpose of your
23 interview and contact with Ms. Lawson at this stage?

24 A At this stage, it's what I would call just a basic
25 fact finding investigation to try to develop any kind of

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 picture of what was going on. As I said, initially all I
2 knew was that her first name was Heather and that we were
3 dealing with a 17 month -- 7-month-old child who was found
4 deceased. There's certainly a number of variables, some of
5 those being timelines, who was in the home, who had access
6 to the home. Who may have seen the child that day.
7 Obviously, testimony from medical experts down the road to
8 inform us of the cause and nature of those injuries in
9 question as well.

10 Q All right. But at this point in time during this
11 initial contact with the caregiver, Ms. Lawson, at the
12 hospital, had you consulted with any medical experts
13 yourself?

14 A I had not.

15 Q All right. So did you question her regarding a
16 timeline of events?

17 A I did.

18 Q And did you question her regarding who all may have
19 had contact with Victim that day?

20 A I did.

21 Q Including the siblings?

22 A I did.

23 Q All right. And the information that you've already
24 provided and read into the record, how is that documented
25 during the course of your interview with Ms. Lawson?

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 A So at the scene I'll take extensive notes and then
2 as soon as possible once an incident is resolved, I then go
3 and I write myself a note on everything that's in my notes
4 makes its way into the supplemental in chronological order.

5 Q Is that the same supplemental report that you're
6 referring to today?

7 A It is.

8 Q And the information that you've previously read
9 into the record, are those statements the statements made
10 by Ms. Lawson at the hospital as you recall them to be?

11 A They are.

12 Q What, if anything, further did Ms. Lawson state
13 verbally in response to your questions regarding a timeline
14 for that day?

15 A So just to back up, she said she had put Victim
16 down for a nap around 1:40 to 2:30 that afternoon. She
17 said she spent the rest of the afternoon doing housework,
18 preparing dinner for the other two children, June and John.
19 She said June was taking a nap when she put Victim down
20 for hers. She said June and John were in and out of the
21 bedroom that afternoon while Victim was sleeping. Heather
22 told me that both children were in the with Victim for
23 approximately 30 mins before she went in and discovered
24 Victim in her pack 'n play with June's blanket. When this
25 happened, Heather described John and June standing silently

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 at the bedroom doorway into the kitchen. She described
2 them as quote, acting the way they would if they knew they
3 were in trouble, end quote. I asked Heather if either of
4 the children said anything and she said no.

5 Heather said she then ran to the house to quote get
6 the father, end quote; after which time she called 9-1-1.

7 Q All right. And just to clarify that, during the
8 course of this conversation with Ms. Lawson, was she able
9 to relate whether the father actually resides there in the
10 home with her?

11 A We would get into that, but she did not explain
12 that to me yet.

13 Q Okay. Please continue.

14 A After she said she ran to the house to get
15 Victim father, Heather said John and June were standing
16 in the same place when she returned to her trailer.
17 Heather told me John was mean toward June and she thought
18 that June in return had been acting mean toward Victim

19 Q And let me stop you right there. John is the
20 toddler who was how old?

21 A The three-year-old sibling.

22 Q And June is the toddler who is how old?

23 A The one-year-old sibling.

24 Heather said she'd come in before on at least one
25 occasion to find June in Victim playpen sitting on top

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 of her. I asked Heather what she'd been doing while
2 Victim napped. And she said she'd been vacuuming, doing
3 laundry, and picking up around the house. I asked Heather
4 who the father was and she told me Victim father was
5 Richard Tuckus who lived at Weaver Drive, Lot
6 Heather went onto explain that she and Richard were
7 together but don't live together. Heather told me that
8 Richard lived in Lot with an ex of his named Rachelle who
9 he also had a one-year-old child with.

10 Heather said Richard lived with Rachelle and his
11 other child because the child had health issues. I
12 commented that this seemed like a very unusual dynamic for
13 a relationship. Heather agreed but said that she and
14 Richard did not have more than normal arguments like more
15 traditional couples. Heather said she and Richard only got
16 to see each other for about 15 minutes a day because of
17 their busy work schedules.

18 Heather told me she and Richard were both store
19 managers at local BP convenient stores. Then Heather told
20 me she worked at the store at 2501 Forest Drive, Columbia,
21 South Carolina. Heather told me she'd been recently
22 promoted to a managerial position, which it was a stress
23 full situation and she'd had to fire several employees
24 without having the ability to staff the store properly with
25 the remaining employees. Heather said manpower issues are

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 what forced her to have to go to work the previous night
2 and take the children with her.

3 I asked Heather about Victim health history and
4 she told me the child had a history of crying, had --

5 Q Okay. Let me stop you right there. Now, in an
6 investigation such as this where a child has sustained
7 injuries and there is a law enforcement involvement, how
8 important, if at all, is it to obtain some type of health
9 history on the child?

10 A It's extremely important.

11 Q Is that a normal question for a caregiver?

12 A Yes, it is.

13 I asked Heather about Victim health history and
14 she told me the child had a history of crying, bowel
15 movement issues, and stomach pains which she'd undergone
16 medical treatment for. Heather also mentioned that the
17 child may have had RSV. Heather also said Victim was
18 crawling and had started to pull up on objects around her.
19 While I was speaking with Heather Coroner Fisher arrived as
20 I was still talking to Heather.

21 Q All right. And you're referring to the coroner,
22 Margaret Fisher?

23 A That is correct.

24 I then sat back and listened initially while
25 Heather related the same events to Coroner Fisher.

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 Q All right. And let me stop you again.

2 A Okay.

3 Q You've been at other scenes involving the death
4 whether a death of a person, whether it was a child or an
5 adult?

6 A That is correct.

7 Q And how common or uncommon is it for a member of
8 the coroner's office to arrive and also obtain facts?

9 A It's standard procedure.

10 Q All right. Regarding factual events for the day
11 and for the deceased person?

12 A Yes.

13 Q Okay. Please continue.

14 A Heather largely told the same story initially
15 although she added that while Victim was napping she
16 thought she had heard a thud coming from the bedroom which
17 sounded like June may have thrown a toy at the wall. I
18 asked how -- Heather if Victim had any known injuries when
19 she put her down for a nap. Heather said Victim had a
20 small injury to the left side of her forehead from when she
21 was pushed over by John the previous Thursday or Friday
22 causing her to hit her head on a toy. This was the first
23 time Heather had mentioned Victim having any injuries.

24 Heather also said that Victim had an incident
25 where she fell out of her playpen on Thursday. Nothing

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 Heather told us appeared to reasonably account for the
2 visible injuries present on Victim head.

3 Q All right. So let me stop you there. Have you had
4 a chance to actually view the body of Victim

5 A I have.

6 Q All right. And where did you observe injuries to
7 Victim

8 A I observed injuries to her forehead, the crown of
9 her head, the back of her head and then the left base of
10 her neck.

11 Q All right. And can you tell us whether or not part
12 of an investigation would be to inquire as to any accidents
13 the child may have sustained?

14 A Absolutely.

15 Q And is that part of what you questioned Ms. Lawson
16 about as her caregiver or one of her caregivers?

17 A It is.

18 Q Please continue.

19 A I asked Heather point-blank what she thought
20 happened to Victim and she said, quote, I think my
21 one-year-old climbed in and accidentally smothered her, end
22 quote. Heather told us the babysitter she normally used
23 was Monica Wise. And she said her grandmother, Debra Hall
24 had seen the children the morning before. Heather said
25 Richard came by her trailer earlier on June 26th as well

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 and Heather said he was only, quote, only there for 15
2 minutes, end quote. He had some pressing matters to deal
3 with, which meant he was unable to stay longer.

4 I asked Heather if Richard saw Victim while they
5 were there. She said he did not. I asked Heather if any
6 other adults were in the home with access to Victim that
7 day and she said there were not. I asked Heather what
8 matters Richard had to leave for. She told me Richard was
9 meeting someone to try to sell an old cell phone and
10 meeting a friend to go for a walk at the dam.

11 Q All right. Do you also question her about her
12 relationship with Richard?

13 A I did.

14 Q And she gave you information in that regard?

15 A She did.

16 Q All right. And then did you also ask her
17 additional questions about her own history, such as whether
18 or not she had sustained or suffered any type of postpartum
19 depression?

20 A I did.

21 Q And what was her response to that?

22 A I asked Heather if she'd been experiencing any post
23 partum depression with Victim and she said she had had
24 postpartum depression with John and June, but she said,
25 quote, I was able to bond properly with Victim when she was

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 born so I haven't had any with her, end quote. She and I
2 also spoke briefly about her prior involvement with the
3 Lexington County Department of Social Services. Talking
4 about DSS appeared to make Heather uneasy, although she
5 told me there had been an active DSS against her earlier in
6 the year.

7 Heather had a hard time explaining what the case
8 was about, who her caseworker was, and what the ultimate
9 disposition of the case was based on. I was able to
10 discern that the incident appeared to involve her sister
11 who appeared to have possibly been reporting -- the
12 reporting party with DSS.

13 Q All right. Now, what can you tell us about
14 Ms. Lawson's demeanor as you were obtaining some basic
15 facts from her about the events of that day.

16 A She appeared to be extremely nervous the entire
17 time I spoke with her. She was grabbing tissue paper from
18 a nearby tissue box and she was shredding it into tiny
19 pieces, which noticeably began to pile up on the floor next
20 to her. This behavior appeared to escalate the longer I
21 spoke with her. She didn't cry the entire time, although
22 there were occasional outbursts of crying and emotion. It
23 was notable that Heather never asked about Victim
24 condition.

25 Q All right. Did at any point in time she appear to

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 have difficulty communicating with you?

2 A She did not.

3 Q At any point in time did she appear to not be able
4 to communicate a response because of any type of emotional
5 condition?

6 A No, she was very clear and lucid the entire time
7 she spoke with me.

8 Q And when you say clear and lucid, what do you mean
9 by that?

10 A Communication wasn't a factor. She appeared to
11 understand me very clearly. I understood her very clearly.
12 She never appeared to have any difficulty articulating
13 herself. Certain -- certainly when she would get upset, it
14 was not so much that it prevented us from talking to one
15 another.

16 Q Based on her responses to your questions, did she
17 appear to be processing those questions and thinking
18 rationally?

19 A She did.

20 Q Now, at this point in time, you have spoken with
21 her about the events of that day. She's been able to give
22 you a timeline. She's explained her thoughts as to what
23 happened to Victim And she's been able to tell you who
24 was in and out of the home that day.

25 What, if any, efforts were made at that point to

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 question her further?

2 A At that point based on what we had, we knew we
3 needed to do a more formal interview with her. Looking at
4 her as a potential suspect in this case now. So the
5 decision was made between me and Sergeant Barr to try to
6 speak with her further at the Lexington County Sheriff's
7 Department.

8 Q Okay. And at this point having developed a
9 timeline, obtained some basic facts, and determined who was
10 with the child that day, where did you make a decision to
11 actually have that interview in which she may be a
12 potential suspect?

13 A We chose the sheriff's department, largely due to
14 the fact that the hospital is not a very controlled
15 environment. There are lots of distractions between
16 chaplains, medical staff, family members, et cetera. And
17 it's just easier to conduct a more proper interview that we
18 could do with her alone.

19 Q Okay. And who spoke with Ms. Lawson specifically
20 about taking part in a more extensive interview at the
21 sheriff's department?

22 A Myself and Sergeant Barr both spoke with her about
23 that.

24 Q All right. And did she appear to understand the
25 request?

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 A She did.

2 Q Did she appear to understand that more information
3 may be needed in regards to what may have happened with
4 Victim that day?

5 A She did.

6 Q And did she agree to speak with you at the
7 sheriff's department?

8 A She did. Her only concern was transportation and
9 we offered to give her a ride that resolved that issue.

10 Q All right. And for purposes of this hearing, let
11 me go ahead and ask you, did you receive information from
12 the officer who would have done the transport as to whether
13 or not she was advised of Miranda at any stage in that
14 process?

15 A I did. Upon my arrival at the sheriff's department
16 I was told that she had been given her Miranda Rights
17 verbally, which she had waived.

18 Q All right. And that would have been -- who
19 actually informed you of that?

20 A Sergeant Barr.

21 Q All right. And what was your understanding of who
22 had actually provided those verbal Miranda Rights to
23 Ms. Lawson?

24 A My understanding was that Sergeant Barr had also
25 given those rights verbally to Ms. Lawson.

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 Q All right. And that would have taken place at what
2 location and what process?

3 A It happened in the car ride from LMC to the
4 sheriff's department.

5 Q All right. And then on arrival at the sheriff's
6 department, what's the next step in the process of actually
7 following up for more information from the defendant
8 Heather Lawson about what may have happened to Victim
9

10 A So then this time Sergeant Barr and I both spoke
11 with Ms. Lawson. We were in Interview Room 3 at the
12 sheriff's department and we went over her rights with her
13 again, this time in writing on the page 1 of our suspect
14 written statement forms.

15 Q All right. Now, you've arrived at the sheriff's
16 department. I believe your testimony was she was
17 transported there by Detective Barr. You mentioned
18 Interview Room 3. Who actually escorts her in there?

19 A I believe we both did it together.

20 Q Okay.

21 A We wouldn't have been far apart.

22 Q Okay.. At any point in time were you or Detective
23 Barr using any type of coercion in order to have her
24 participate in this interview?

25 A No, we were not.

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 Q Was she promised anything in exchange for this
2 interview?

3 A She was not.

4 Q Did she at any point in time ask to not partake in
5 this interview?

6 A She did not.

7 Q Did she appear to understand the purpose of the
8 interview?

9 A She did.

10 Q All right. Do you have with you the actual
11 original statements and Miranda form that you've referred
12 to?

13 A Yes.

14 Q They're present in the courtroom?

15 A (Witness nodded head.)

16 MS. MAYES: Your Honor, if may approach?

17 THE COURT: Yes, ma'am.

18 BY MS. MAYES:

19 Q I'll ask you to take a look at these documents and
20 ask you whether or not you recognize them.

21 A I do recognize these documents.

22 Q Okay. And specifically the first written statement
23 that you referred to that you were a part of as well as the
24 Miranda Rights associated with that written statement?

25 A That is correct.

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 Q How is it that you recognize that?

2 A I recognize it because it's got myself and Sergeant
3 Barr's name on it; but then some of the questions in the
4 question and answer are actually in my handwriting --

5 Q All right.

6 A -- which I recognize.

7 Q All right. And whose handwriting is the content of
8 this statement in?

9 A It's in Ms. Lawson's.

10 Q All right. And whose signature is obtained on each
11 page?

12 A That would be Ms. Lawson's signature.

13 Q All right. And Detective Creech if you could give
14 us the date and time in which this statement began?

15 A We began this statement at 5:41 p.m. on June 26,
16 2016.

17 Q All right.

18 MS. MAYES: Your Honor, at this time we would have
19 this marked as a Court's exhibit.

20 THE COURT: All right. Mr. Williams?

21 MR. WILLIAMS: No objection to that, Your Honor.

22 THE COURT: Court's 1?

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

24 THE COURT: Without objection.

25 (Court's Exhibit 1 was marked for identification.)

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 BY MS. MAYES:

2 Q And Detective Creech, do you have with you a true
3 and accurate copy of that same written statement?

4 A I do.

5 Q Obtained on June 26, 2016?

6 A I do.

7 Q Now what time was the 9-1-1 call received in this
8 case?

9 A It was received right around 5:18, 5:19 p.m.

10 Q All right. So at 5:19 p.m., 9-1-1 is called and
11 then from there Ms. Lawson would have gone to what location
12 after EMS arrived at the scene and transported the infant
13 onto the hospital?

14 A It's my understanding she rode with the -- her
15 daughter, on the ambulance to Lexington Medical Center.

16 Q Okay. And then upon arriving at Lexington Medical
17 Center, Victim -- there would have been some typed of
18 resuscitative efforts made towards Victim

19 A That would be my understanding, yes.

20 Q And then ultimately she was pronounced dead at
21 Lexington Medical Center?

22 A That is correct.

23 Q And then you've testified previously about your
24 involvement with some fact finding questions of Ms. Lawson
25 there at the hospital. So by the time you make it into

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 Interview Room 3 and begin this statement, it is what time?

2 A It is 9:41 p.m.

3 Q Okay. Now, despite that -- that time period, did
4 she at any point in time appear to be overcome with emotion
5 to the point that she could not think rationally?

6 A She did not.

7 Q Did she appear to be able to communicate freely
8 with you throughout this process?

9 A She did.

10 Q All right. I'm going to take you to that
11 statement, that first statement. It is seven pages in
12 length, but at the outset of that questioning there at 9:41
13 p.m., were you present when her Miranda Rights were read?

14 A I was.

15 Q And who was the person actually administering those
16 Miranda Rights?

17 A I honestly don't recall if it was myself or
18 Sergeant Barr who read those to her out loud.

19 Q Okay. Did she appear to understand each right?

20 A She did.

21 Q How, if at all, did she acknowledge her
22 understanding of each right?

23 A It's normal procedure for them to verbally
24 acknowledge and then to just shore that up, near each of
25 the five rights listed in bullet point form, there's a line

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 for someone's initials and Heather put her initials in each
2 of those marks.

3 Q Okay. And in this particular case, I'm going to
4 ask you to start at the beginning where it says I, the
5 undersigned, you've already told us the date of June 16 at
6 9:41 p.m. The location is the sheriff's department, but if
7 you could start at the beginning of I, the undersigned, and
8 proceed from there slowly into the record, what you recall
9 Ms. Lawson being advised of on this date.

10 A I'm sorry could you clarify the question, again.

11 Q Yes. I, the undersigned, Heather Lawson?

12 A Yes. And then, duly informed that I have to right
13 to remain silent, anything I say can and will be used
14 against me in a court of law; I have the right the talk to
15 a lawyer for advice before asked any questions and to have
16 him or her present with me during questioning; if I have no
17 money for lawyer's fees, the Court will appoint one to
18 represent me without cost if I wish; if I decide to answer
19 questions now without a lawyer present, I will still have
20 the right the stop answering questions at any time; I also
21 have the right to stop answering questions at any time
22 until I speak with a lawyer; I've read this statement of my
23 rights and I understand what my rights are. I make the
24 following statement.

25 Q All right. Throughout this time did her speech

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 appear to be okay coherent?

2 A It did.

3 Q Was she able to respond to each question along the
4 way.

5 A She was.

6 Q And the advice of each right?

7 A She was.

8 Q Did she, beyond putting her initials there, did she
9 appear to understand each right?

10 A She did.

11 Q And again, at this stage, was she promised anything
12 in exchange for giving a statement?

13 A She was not.

14 Q Was she coerced in any way --

15 A She was not.

16 Q -- in giving this statement?

17 Did she appear to be under the influence of any
18 type of alcohol or controlled substance?

19 A She did not.

20 Q At any point in time did she request that
21 questioning stop?

22 A She did not.

23 Q Did she ever request an attorney?

24 A She did not.

25 Q Did she proceed with the interview and make a

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 statement?

2 A She did.

3 Q Based on all of your observations did this
4 willingness to talk with you and proceed with the interview
5 appear to be free and voluntary?

6 A It did..

7 Q Whose handwriting is the actual witness statement
8 in that begins: On Thursday Victim fell out of her playpen?

9 A That would be Heather's handwriting.

10 Q Was she given an opportunity to make any
11 corrections along the way?

12 A She was.

13 Q Are there locations in the statement where she
14 does, in fact, make corrections.

15 A There are. There are sections where you can see
16 words were scratched out and she put her initials to
17 acknowledge that that correction was done by her.

18 Q All right. And then moving on through this
19 statement, there are various questions that are posed. Who
20 is posing the questions?

21 A That would be myself and Sergeant Barr.

22 Q All right. So your actually writing the questions
23 out in a formal format?

24 A Yes.

25 Q And who is providing the answers?

Adam Creech - Direct Examination in Camera by Ms. Mayes

1 A Heather would provide the answer to each question.

2 Q Meaning verbally or also in her handwriting?

3 A Typical procedure is for them to verbally provide
4 an answer and then to also write an answer.

5 Q And did she do so?

6 A She did.

7 Q Throughout this seven page statement?

8 A She did.

9 Q And was she given an opportunity to make any
10 changes along the way?

11 A She was.

12 Q And ultimately what was the last question that was
13 posed to her?

14 A The last question was has anyone made threats,
15 promises, or coercions to you for this statement.

16 Q And what was her response to that?

17 A Her response was no.

18 Q And until that final question and the final
19 response, Detective Creech, did Ms. Lawson appear to
20 understand her rights?

21 A She did.

22 Q And did she appear to be clear headed?

23 A She did.

24 Q Did she appear to be rationally thinking?

25 A She did.

Adam Creech - Cross-Examination In Camera by Mr. Williams

1 Q And appropriately responding to all of your
2 communications?

3 A She did.

4 Q Now, following that written statement, can you tell
5 us whether or not Detective Barr also had a opportunity to
6 do a followup interview with Ms. Lawson two days later?

7 A She did.

8 Q All right. And were you present for that?

9 A I was not.

10 Q Based upon all of your observations, Detective
11 Creech, from the time of your first interaction with
12 Ms. Lawson at the hospital until the waiver of her Miranda
13 Rights at 9:41 p.m. at the law enforcement center to the
14 final entry of her seven page statement, based upon those
15 observations, did Ms. Lawson's waiver of those rights and
16 willingness to speak to you appear to be free and
17 voluntary?

18 A It did.

19 MS. MAYES: Nothing further a at this time, Your
20 Honor.

21 THE COURT: Thank you.

22 Mr. Williams?

23 MR. WILLIAMS: Just couple of questions, Your
24 Honor.

25 **CROSS-EXAMINATION IN CAMERA**

Adam Creech - Cross-Examination In Camera by Mr. Williams

1 BY MR. WILLIAMS:

2 Q As I understand it, there was an oral statement
3 which was taken at the hospital and then subsequently she
4 was transported to the jail, which the written statement
5 was given; is that correct?

6 A That's correct.

7 Q In your oral statement -- in the oral statement
8 which my client reportedly gave, was there a recording of
9 this made?

10 A There was not.

11 Q So your reflection of what allegedly she said is
12 based, really just your reflection on what was said?

13 A Yes, and that would be why I would have asked her
14 to go through it several times for accuracy's sake.

15 Q And since you didn't record that, were there any
16 other witnesses present during that oral statement that was
17 given?

18 A The first time Lieutenant Scottie Frier was with
19 me. The second time she repeated it was just me, her, and
20 a chaplain. And then the third time Coroner Margaret
21 Fisher was present.

22 Q All right. At any point in time was she under
23 arrest or was she free to leave or -- she wasn't under
24 arrest?

25 A Absolutely not.

Adam Creech - Cross-Examination In Camera by Mr. Williams

1 Q She could do anything she wanted to do?

2 A Absolutely.

3 Q Were any of her relatives or -- present with her?

4 A They were not.

5 Q So the only individuals -- where was -- where are
6 these oral statements alledgedly made?

7 A We were in a small waiting room that's in the ER at
8 the hospital. It's got a name for it, but I don't what the
9 room's called.

10 Q And just periodically various police officers would
11 come in when you were asking her questions; is that
12 correct?

13 A Once I was in there, nobody really came in and
14 interrupted me from the sheriff's department.

15 Q And the only evidence of recordation would be those
16 notes that you put down in your book; is that right?

17 A That's correct.

18 Q Had she been examined or been treated or been seen
19 by any doctor or anyone at the hospital?

20 A Not to my knowledge.

21 Q And who gave her her Miranda warnings at the
22 hospital?

23 A She was given her Miranda warnings on the way to
24 the sheriff's department --

25 Q So --

Adam Creech - Redirect Examination In Camera by Ms. Mayes

1 A -- after she left the sheriff's department -- I
2 mean -- I'm sorry, left the hospital with Sergeant Barr to
3 go to the sheriff's department.

4 Q And is there a record of the Miranda warnings being
5 given to her in the car while she was with Sergeant Barr
6 going to the sheriff's department?

7 A That would be a question for Sergeant Barr.

8 MR. WILLIAMS: That's all the questions I have,
9 Your Honor.

10 THE COURT: Redirect, Solicitor?

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

12 **REDIRECT EXAMINATION IN CAMERA**

13 **BY MS. MAYES:**

14 Q And just to follow up, Detective Creech. This
15 initial contact with Ms. Lawson at the hospital, was she
16 considered the suspect at that point in time?

17 A She was not because we didn't have enough
18 information to develop suspects at that stage.

19 Q All right. And in any type of death investigation
20 involving a child, can you tell us whether or not it's
21 routine to speak with a caregiver for basic fact finding?

22 A It's absolutely routine.

23 Q Okay. And to determine who had contact with the
24 child that day?

25 A Yes, and develop a timeline of the day's events.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Q And what may have happened to the child?

2 A Yes.

3 MS. MAYES: Nothing further, Your Honor.

4 THE COURT: Recross, Mr. Williams?

5 MR. WILLIAMS: None, Your Honor.

6 THE COURT: Thank you very much, Detective Creech.

7 You may step down..

8 MS. MAYES: The State calls Detective Sergeant
9 Traci Barr.

10 THE COURT: All right. If you would come around
11 and be sworn for us, please.

12 TRACI BARR,
13 having been duly sworn, testified as follows:

14 THE CLERK: Have a seat, once you're seated state
15 your full name, spelling your last.

16 **DIRECT EXAMINATION IN CAMERA**

17 BY MS. MAYES:

18 Q Good afternoon, Sergeant Barr. How long have you
19 been with the investigative unit at the sheriff's
20 department?

21 A I've been employed with the Lexington County
22 Sheriff's Department for nearly 17 years.

23 Q All right.

24 A I believe I need to state my name for the record.

25 Q Okay.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A It's Traci, T-R-A-C-I, Michele, with one L, Barr,
2 B-A-R-R.

3 Q All right. And Sergeant Barr, how long of that
4 period of time, of that 17 years, have you spent actually
5 in -- as a detective or an investigator?

6 A Nearly 15 years.

7 Q All right. Does that include cases involving
8 injuries to children?

9 A Yes, it does.

10 Q And in this particular case on June 26, 2016, how
11 did you initially become involved?

12 A I was the on call supervisor for that weekend for
13 the major crime call out. Lieutenant -- he was a watch
14 commander at the time, Scottie Frier contacted me in
15 reference to a deceased child upon arrival at the hospital.
16 At that point in time it's my responsibility as a major
17 crimes sergeant, I dispatched detectives to various places
18 in order to followup on this investigation.

19 Q All right. What time, if you can tell us by
20 referencing any information you have in front of you,
21 approximately what time would you have arrived at Lexington
22 Medical Center?

23 A I arrived at the Lexington Medical Center after,
24 shortly after 6 p.m. -- 6:45.

25 Q Okay. And what was your initial contact with the

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 defendant, Heather Lawson?

2 A If I can real quick go back to that time where I
3 responded. I believe it was 1641.

4 Q 1641?

5 A 1841, I'm sorry.

6 Q All right. Let's break that down to civilian time.
7 That's going to be 6:41, correct?

8 A If I'm not mistaken, yes.

9 Q All right. Was Ms. Lawson already at the hospital?

10 A She was.

11 Q All right. Can you tell us whether Detective
12 Creech was already at the hospital?

13 A He was.

14 Q Had Detective Creech already began communications
15 with Ms. Lawson as the caretaker or caregiver for Victim

16 A Yes.

17 Q Who do you recall seeing upon your arrival?

18 A Once I arrived to the hospital, I met with
19 Lexington County Patrol, Lieutenant Scottie Frier, the
20 coroner's office, and nursing staff at the ER.

21 Q Okay. And by the time you made contact with
22 Ms. Lawson who do you recall seeing in a room with her when
23 you had initial contact?

24 A I remember seeing the chaplain and Detective Creech
25 and I believe Coroner Fisher, Margaret Fisher.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Q All right. And so those communications that
2 Detective Creech has described have already -- are already
3 underway, correct?

4 A Correct.

5 Q What was your contact with Ms. Lawson? What was
6 the purpose of you making verbal contact with her?

7 A Detective Creech and I knew that we needed to ask
8 her additional questions in a more controlled environment
9 with less interruptions. I met with Heather and gave her
10 the opportunity to discuss this further with us at the
11 sheriff's department. Prior to leaving the hospital, I met
12 with her family April Lawson and Mae Lawson, and advised
13 them that we were en route to the hospital to further
14 discuss this -- and answer questions that we had.

15 Q Okay. You said en route to the hospital, but you
16 mean --

17 A I'm sorry, en route to the sheriff's department,
18 yes.

19 Q All right. So you arrived at 6:41. I believe you
20 stated that you met with other personnel with the sheriff's
21 department?

22 A Correct.

23 Q You met with nursing staff; and then ultimately you
24 went to a room where Ms. Lawson was located with Detective
25 Creech, the coroner, and the chaplain?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A Correct.

2 Q And approximately how long was it after that that
3 you would have approached her about coming to the sheriff's
4 department for an interview.

5 A It was shortly thereafter.

6 Q Okay. And shortly thereafter she's given the
7 option to come to the sheriff's department. What was her
8 response to that?

9 A She agreed to go with us voluntarily.

10 Q Okay. And when you say voluntarily, can you tell
11 us whether she appeared -- what was her state of mind based
12 on your observations?

13 A She was lucid. She was able to articulate her
14 thoughts in a rational manner.

15 Q Okay. Was she able to respond to questions in a
16 way that seemed rational?

17 A Yes.

18 Q She agreed to go to the sheriff's department for
19 followup interview?

20 A Yes. I offered to give her a ride.

21 Q All right. Was anyone else in the vehicle other
22 than yourself and Ms. Lawson?

23 A Just the two of us.

24 Q All right. And what happened upon her entry into
25 your patrol vehicle?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A I advised dispatch that we were going to head to
2 the sheriff's department, I was giving escort and gave out
3 that mileage.

4 Q And what time was that, if you can tell us? And
5 you can refer to any information you may have in your file.

6 A At 9:10 p.m.

7 Q All right. You're actually departing Lexington
8 Medical Center at that time; correct?

9 A Yes.

10 Q All right. Now, what happened upon the two of you
11 getting into your vehicle?

12 A While we were pulling out of the parking lot, I
13 advised Heather of her verbal Miranda Rights, that she
14 didn't have to speak with law enforcement, she could have
15 an attorney present. If she could not afford an attorney
16 one would be appointed to her at no cost to her if she
17 wished. I asked her if she understood these rights and if
18 she would like to speak with us further and she said yes.

19 Q Okay. You say that you advised her of her Miranda
20 Rights -- Miranda Rights verbally --

21 A Yes.

22 Q -- there in the vehicle?

23 A Yes.

24 Q Was she under arrest at this time?

25 A She was not under arrest.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Q Was she in cuffs or any type of control --

2 A No.

3 Q -- mechanisms being used for her?

4 A No. She was in the front seat with me.

5 Q Okay. And again if you could state for the record
6 what she was advised of by you?

7 A Okay. I gave her verbal Miranda and I explained
8 those Miranda Rights as the fact that she was not under
9 arrest, but she did have the right to remain silent,
10 anything she say -- she did say could be used against her
11 in a court of law. She had a right to talk to a lawyer for
12 advice before we ask her any questions or have him or her
13 present with her during questioning. She had a right to
14 stop answering questions at any time.

15 Q Did she appear to understand those rights?

16 A She did.

17 Q Did she agree to continue onto the sheriff's
18 department with you?

19 A She did.

20 Q Okay. And upon arrival at the sheriff's
21 department, again, did -- at any point in time did she
22 request an attorney?

23 A No, she did not.

24 Q Did she ask not to partake in the interview?

25 A No, she did not.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Q Did she ever state an unwillingness to participate
2 in the interview?

3 A She did not.

4 Q Once you and Detective Creech and Ms. Lawson were
5 in an interview room, what occurred?

6 A At this point in time, we used our typical suspect
7 Miranda form, statement form. We advised her of those
8 Miranda Rights.

9 Q All right. So let me ask you this. Do you have a
10 copy of the seven-page-written statement that's previously
11 been marked as Court's Exhibit 1 in this case?

12 A I do.

13 Q All right. And that is the statement that began at
14 9:41 p.m.?

15 A Correct.

16 Q And that is the statement that contains her
17 initials and also a signature and a signature of Detective
18 Creech?

19 A Correct.

20 Q Is your signature also on that --

21 A It is.

22 Q -- at any location?

23 A Yes.

24 Q All right. And were you present for that interview
25 and then the followup written statement that was taken

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 contemporaneously?

2 A Yes, I was.

3 Q At any point in time during the course of this
4 seven-page-written statement did Ms. Lawson request an
5 attorney?

6 A Never.

7 Q Or request that the interview stop?

8 A Not one time.

9 Q Okay. And throughout this process, did she appear
10 to be clear headed?

11 A She did.

12 Q Was she promised anything in exchange for that
13 statement?

14 A She was not.

15 Q Was she coerced in any way?

16 A She was not.

17 Q Based upon all of your observations, did it appear
18 to be freely and voluntarily given?

19 A Yes, it was.

20 Q Did her waiver of any of those Miranda Rights
21 contained there on the written form appear to be freely and
22 voluntarily given?

23 A Yes.

24 Q She appeared to understand those rights?

25 A Yes.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Q Now, following that statement at 9:41 on June 26,
2 2016, what, if any, opportunity did you have to conduct a
3 second interview?

4 A On June 28th, around 10 a.m. Detective Livingston
5 and I followed up an additional interview after autopsy
6 findings were released.

7 Q Now, you say after autopsy findings were released.
8 Let me stop you right there. During this initial interview
9 with Ms. Lawson on June 26, at 9:41 p.m., did you even have
10 a cause of death at that point?

11 A I did not.

12 Q The child had not yet had an autopsy, although she
13 had been pronounced deceased at Lexington Medical Center?

14 A Correct.

15 Q But in between that event and the statement on June
16 28th, you received what information? Well, let me ask it
17 like this: Did she receive an autopsy?

18 A She did.

19 Q Would you have been privy to those results?

20 A Yes.

21 Q At this point in time, did you consider the case to
22 be a homicide.

23 A I did.

24 Q Okay. And for what purpose did you go back for the
25 second interview with Ms. Lawson on June 28?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A We wanted to advise her of the followup autopsy
2 results and we also needed to determine exactly what
3 happened to Victim

4 Q All right. Did you feel that the explanation that
5 you had been provided in the original statement on June 26
6 gave an adequate explanation for the extent of Victim
7 injuries?

8 A No, I did not.

9 Q All right. And can you tell us whether or not
10 that's routine to follow up with an individual?

11 A It is.

12 Q Now, following that statement that was provided on
13 June 26, had she been placed under arrest?

14 A After the interview with Detective Creech, we
15 placed her under arrest at that time.

16 Q All right. On June 26, 20 -- actually it would be
17 the early morning hours.

18 A 26th, yes.

19 Q Okay. Do you know what time that warrant was
20 actually served on her?

21 A I do not.

22 Q Okay. But it would have been after the completion
23 of that seven-page-written statement on June 26th?

24 A Correct.

25 Q Possibly the early morning hours of June 27?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A Correct, yes.

2 Q So at this point in time, she's located where?

3 A She's located at the Lexington County Detention
4 Center.

5 Q All right. Now, when you went back for followup
6 contact with Ms. Lawson, she's now an inmate. She's now
7 been arrested for the death of Victim correct?

8 A Correct.

9 Q Was the charge homicide by child abuse?

10 A Correct.

11 Q What's the process in making contact with her and
12 once again advising her of her rights?

13 A So Detective Livingston and I went to the detention
14 center and escorted her to room -- Interview Room 3 at the
15 sheriff's department. From there, I advised her that her
16 initial Miranda Rights still applied. She clearly
17 understood that; and I then followed up by reading them
18 again from the original statement she had provided to
19 Detective Creech and I.

20 Q Okay. I'm going to stop you right there. On this
21 occasion, did she also put information in writing?

22 A She did.

23 Q I'm going to show you a document and ask you
24 whether or not you recognize it.

25 A Yes. That's the original statement.

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 Q All right. And it consists of how many pages?

2 A Four.

3 Q All right. And whose handwriting is noted
4 throughout this statement?

5 A The questions asked were between Detective
6 Livingston and I; and the answers given were Heather
7 Lawson's writing.

8 Q All right.

9 MS. MAYES: This would be Court's Exhibit 2; Your
10 Honor.

11 MR. WILLIAMS: Without objection.

12 THE COURT: Court's 2 is without objection.

13 (Court's Exhibit Number 2 was marked for
14 identification.)

15 BY MS. MAYES:

16 Q And do you have a copy of that four-page statement
17 dated 6/28/2016?

18 A Yes, I do. Yes.

19 Q Is the copy you have now a true and accurate copy
20 of the original?

21 A It is.

22 Q All right. So looking at that statement, you said
23 she was once again advised of her Miranda Rights?

24 A That's correct.

25 Q How so?

Traci Barr - Direct Examination In Camera by Ms. Mayes

1 A I gave her Miranda Rights from the original
2 statement form that I had with me in the interview. I had
3 the case file present as well.

4 Q And what were those rights that she was advised of?

5 A You have a right to remain silent; anything you say
6 can and will be used against you in a court of law; you
7 have the right to talk to a lawyer for advice before we ask
8 you any questions and have him or her present during
9 questioning; if you have no money for a lawyer's fee, the
10 Court will appoint one to represent you at no cost to you
11 if you wish; if you decide to answer questions now without
12 a lawyer present, you still have the right to stop
13 answering questions at any time; you also have the right to
14 stop answering questions at any time until you talk to a
15 lawyer.

16 I've read these statements of my rights and
17 understand what my rights are and I make the following
18 statement.

19 Q All right. And once again did she appear to
20 understand each of those Miranda Rights?

21 A She did.

22 Q Did she appear to be thinking rationally?

23 A She was.

24 Q And clear headed?

25 A Yes.

Traci Barr - Direct Examination In Camera by Ms. Mayes

- 1 Q Did she agree to speak with you further?
- 2 A She was -- she did.
- 3 Q And waived her Miranda Rights?
- 4 A Yes.
- 5 Q Was she promised anything on this occasion?
- 6 A No, she was not.
- 7 Q Was she coerced in any way on this occasion?
- 8 A No, she was not.
- 9 Q And during the course of this followup interview,
10 did you advise her of the autopsy findings?
- 11 A We did.
- 12 Q And did she attempt to provide a further
13 explanation for the head injuries that were sustained by
14 Victim
- 15 A She did.
- 16 Q All right. And again, each of those questions were
17 given in whose handwriting?
- 18 A The answers given were provided by Heather Lawson.
- 19 Q All right. And is she also given the opportunity
20 to make any changes or additions as she goes?
- 21 A She was.
- 22 Q And what's the final question that was posed?
- 23 A Has anyone else made threats, promises, or
24 coercions to you for this statement.
- 25 Q All right. And what was her response to that?

Traci Barr - Cross-Examination In Camera by Mr. Williams

1 A No.

2 Q Did the entirety of that four-page statement appear
3 to be freely and voluntarily given?

4 A Yes.

5 MS. MAYES: Nothing further of Sergeant Barr at
6 this time, Your Honor.

7 THE COURT: Thank you, Solicitor.

8 Mr. Williams?

9 MR. WILLIAMS: May it please the Court.

10 **CROSS-EXAMINATION IN CAMERA**

11 BY MR. WILLIAMS:

12 Q Sergeant Barr, in the ride from the hospital to the
13 sheriff's department, you were in a -- I assume it was an
14 unmarked vehicle?

15 A Yes, sir.

16 Q And being unmarked, you didn't have any recording
17 devices available?

18 A No, sir.

19 Q Meaning like patrol cars, you'd be able to record
20 everything going on in the car?

21 A Correct.

22 Q So there's no recording of you giving her Miranda
23 warnings?

24 A No, sir.

25 Q So she was sitting next to you when you gave her

Traci Barr - Cross-Examination In Camera by Mr. Williams

1 Miranda warnings going down the road?

2 A Yes, sir.

3 Q When you got to the sheriff's department, you went
4 to -- I think it was Interview Room 3; is that correct?

5 A Correct.

6 Q What is distinctive about Interview Room 3?

7 A It's just one of the rooms closest to the main
8 doorway to investigations.

9 Q Is it the one on the left or the one on the right?

10 A I'm not sure what your question is.

11 Q When you walk in the hallway, is it the first one
12 on the left if you're coming in from the outside? Is it
13 the first one on the left or is it the first one on the
14 right?

15 A We escorted her through investigations.

16 Q Okay.

17 A And at that point, that's the first door you come
18 to in that hallway.

19 Q The reason I ask is because when you -- later in
20 your testimony when you talk about the second interview,
21 you talk about meeting her, or taking her into Interview
22 Room Number 3 again.

23 A Yes.

24 Q And I was curious as to whether there was recording
25 devices available in Interview Room 3 or not?

Traci Barr - Cross-Examination In Camera by Mr. Williams

1 A At the time we had no recording devices available
2 in any interview room.

3 Q Do you have them now in the interview rooms there?

4 A They're in the process, but they're not working,
5 no, sir.

6 Q Okay. Were they installed then but they're not
7 working now?

8 A No, sir, they weren't installed at the time.

9 Q All right. Now, as I understand it, you said that
10 you were informed of the autopsy results prior to the
11 second interview, which is on 6/28?

12 A Correct.

13 Q And you went and got her out of the cell when she
14 was located at the Lexington County Sheriff's Department
15 and brought her down?

16 A Correct.

17 Q Did you notice she was on suicide watch when you
18 went to get her out of the cell?

19 A I don't believe I was ever told that.

20 Q Did you check on how she was housed in the
21 sheriff's department?

22 A I don't remember.

23 Q Do you know whether or not she had been before a
24 judge for a possibility of bond?

25 A Her bond was not until later that afternoon from my

Traci Barr - Cross-Examination In Camera by Mr. Williams

1 understanding.

2 Q Okay. So she had not been before a judge even
3 though she'd been in jail for over 48 hours?

4 A No, sir, she had not been in jail for 48 hours.

5 Q How long had she been in jail?

6 A The interview on the 27th ended at, I believe it
7 was after 1 a.m. and then that following day was --

8 Q I'm sorry I thought the interview began at 6:26 --
9 on 6/26 at 9 something at night, correct?

10 A Correct.

11 Q So she did not appear before a judge on the morning
12 of 6/27, correct?

13 A Correct.

14 Q She did not appear before a judge in the afternoon
15 of 6/27; is that correct?

16 A I'm not certain if she had that bond hearing or
17 not. That's what I'm saying.

18 Q And she didn't have a bond hearing to your
19 knowledge on the morning of 6/28?

20 A I can't say at this time.

21 Q Do you know when she ever had a hearing before a
22 judge to determine whether or not she was going to get
23 bond?

24 A I'm not certain.

25 Q Okay. So did you physically go to get her from the

Traci Barr - Cross-Examination In Camera by Mr. Williams

1 cell where she was located?

2 A We have a booking area where the jail staff go and
3 get them and escort them to the front where we stood and
4 waited for her.

5 Q Okay. And when she came in, you took her to the
6 interview room and then you said that you went over her
7 Miranda warnings again; is that correct?

8 A Correct.

9 Q I note that when you were going over the Miranda
10 warnings, the first time when you and the other officer
11 were together you had a sheet which had information, you
12 had a Miranda warnings, you ticked off her initials and
13 things like that.

14 A Correct.

15 Q Did you have the same sheet of paper available for
16 the second set of -- second statement which she gave on
17 6/28?

18 A That is the Miranda warnings that I referred to as
19 I was speaking with her for that second interview.

20 Q Did she fill out another second sheet noting that
21 she understood these rights and ticked those off?

22 A She put her initials prior to me writing Miranda
23 still applies and was understood and she initialed at the
24 end of that sentence as well.

25 Q Could I see what you're referring to?

Traci Barr - Cross-Examination In Camera by Mr. Williams

1 A Sure.

2 MR. WILLIAMS: May I approach the bench, Your
3 Honor?

4 THE COURT: Yes, sir.

5 (Mr. Williams took a look at a form the witness
6 had.)

7 BY MR. WILLIAMS:

8 Q Now having looked at that, the first written form
9 that you have contains a initial page which has a list of
10 the Miranda warnings?

11 A Correct.

12 Q And she has to initial each and every one to
13 determine whether or not she understands it, doesn't she?

14 A She does.

15 Q And the second Miranda -- the second statement
16 which you gave does not provide that?

17 A Again, I referred to this first initial statement
18 and said you do understand that these Miranda warnings
19 still apply.

20 Q Is there a -- is there a reason why you wouldn't
21 have her just simply fill out the first page to affirm that
22 she understands the Miranda warnings?

23 A It's my common practice not to have repeat first
24 page written statements. Once I write that in there and
25 explain the Miranda warnings.

Traci Barr - Redirect Examination In Camera by Ms. Mayes

1 Q And at the conclusion of these -- of the -- of
2 course, none of this was recorded either, right?

3 A No, sir.

4 Q Do you know whether or not she'd been allowed phone
5 access at this point in time?

6 A I can't say.

7 MR. WILLIAMS: That's all the questions I have,
8 Your Honor.

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

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

12 **REDIRECT EXAMINATION IN CAMERA**

13 **BY MS. MAYES:**

14 Q Now, regarding those Miranda Rights, you indicate
15 that she initialed the portion where she said she
16 understood her Miranda Rights and that does still apply --

17 A Correct.

18 Q -- was she advised of each individual Miranda right
19 once again?

20 A She was.

21 Q How so what document did you use?

22 A I used the initial first page of the original
23 statement form that began on the 26th.

24 Q All right. And again verbally, did she acknowledge
25 to you that she understood those rights.

Traci Barr - Redirect Examination In Camera by Ms. Mayes

1 A She did.

2 Q And wished to proceed with the interview?

3 A Yes.

4 Q Did she ever request that the questioning stop?

5 A No, she did not.

6 Q All right. Now, can you tell us whether or not
7 it's routine for a person with a major charge such as
8 murder or homicide to be placed on suicide watch?

9 A It is sometimes routine, yes.

10 Q And during the course --

11 THE COURT: Now, say that question and answer
12 again. Say that again, Solicitor.

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

14 BY MS. MAYES:

15 Q Whether or not it's routine for a person charged
16 with a major crime such as murder or homicide to be placed
17 on suicide watch.

18 A Typically when they're on suicide watch, they have
19 to dress out in a particular outfit and so once we see
20 that, that lets the officer know that they are under
21 suicide watch. She was in regular -- she wasn't in that
22 outfit.

23 Q All right. Now, during the course of her
24 interviews with you had she ever related that she had had
25 suicidal thoughts in the past?

1 A Yes.

2 Q All right. During the course of this interview,
3 did she ever indicate that she had present or current
4 suicidal thoughts?

5 A No, she did not.

6 Q Throughout this second interview, did she appear to
7 be clear-headed?

8 A Yes.

9 Q She appear to have rational intellect?

10 A Yes.

11 MS. MAYES: Nothing further.

12 MR. WILLIAMS: No questions on recross-examination,
13 Your Honor.

14 THE COURT: Thank you, thank you, Sergeant.

15 All right. Solicitor?

16 MS. MAYES: That's all the witnesses on this matter
17 of the Jackson v. Denno, Your Honor, regarding the verbal
18 statements made to Detective Creech at the hospital and
19 also regarding the written statement dated June 26 and the
20 second written statement dated June 28th.

21 THE COURT: Thank you.

22 All right. Mr. Williams? Any evidence or
23 testimony.

24 MR. WILLIAMS: We have none on this point, Your
25 Honor.

1 THE COURT: All right. Thank you.

2 Solicitor, I'll be glad to hear from you.

3 MS. MAYES: Yes, sir, Your Honor. I'm going to go
4 ahead and pass up two cases, U.S. versus Kristebah
5 (phonetic) and Colorado versus Conelly, which deal with
6 statements, and which there may be some type of underlying
7 emotional or medical condition. Here, Your Honor, there's
8 been no showing of any type of emotional or medical
9 condition that would interfere with her rights to waive her
10 Miranda Rights --

11 THE COURT: Connelly, is Connelly the one where a
12 guy flew out to California and just confessed to some
13 officer that God told him to do it? Is that Connelly?

14 MS. MAYES: Your Honor, I believe Connelly is the
15 one that sets forth the criteria that the mental state must
16 not interfere with rational intellect or free will. And
17 here there's just been no showing that there was any type
18 of condition that would have interfered with her rational
19 intellect.

20 THE COURT: Yeah, that's the one. He flew from
21 Boston. He flew from Boston to Denver and went out there
22 and went up to some officer on the beach and confessed to
23 murder, Connelly. I guess some people have a conscience.

24 Any way, go right away, Solicitor. I didn't mean
25 to interrupt. I can only remember cases sometimes.

1 MS. MAYES: And, Your Honor, as to the verbal
2 statements that were made at the hospital, at that point in
3 time, it's indicated by the testimony of Detective Creech
4 she -- they didn't have enough information yet to even
5 develop a firm suspect. She was a caregiver and was able
6 to give fact finding information that's always going to be
7 necessary and relevant in this type of investigation.
8 What's the child's medical history; what happened; what did
9 she see; what did she know; who's been in and out of the
10 house; and who may have harmed the child.

11 And throughout that time she was freely and
12 voluntarily answering those questions, providing
13 information, and alternative explanations for what may have
14 happened to Victim.

15 So it was only after those initial fact finding
16 questions by Detective Creech that ultimately the decision
17 and determination was made to get a more formal followup
18 interview with her at the sheriff's department. And at
19 that point, upon entry into the vehicle with Detective
20 Barr, she was advised of her Miranda Rights verbally; and
21 she's not under arrest at this time, but if custody has
22 attached, she is appropriately advised of her Miranda
23 Rights, waives them, and agrees to proceed on.

24 Once at the sheriff's department at the outset of
25 that interview at 9:41, she is once again advised of her

1 Miranda Rights and this time waives them in a formal manner
2 there on the Miranda waiver form, acknowledging each right
3 and proceeding on with a seven-page-written statement.

4 From there, Your Honor, she gives the second
5 statement two days later. After once again being advised
6 of her Miranda Rights, each right individually.

7 THE COURT: Thank you, Solicitor.

8 Mr. Williams?

9 MR. WILLIAMS: Your Honor, after consulting with my
10 client, I don't know that we have argument to put on this
11 point.

12 THE COURT: All right. Thank you, thank you,
13 Mr. Williams.

14 Colorado versus Connelly is actually a fascinating
15 case factually. There was an off-duty Denver police
16 officer working in uniform in downtown Denver on 18 August
17 1983 when he was approached by Francis Barry Connelly and
18 without any prompting stated that he had murdered someone
19 and wanted to talk about it. He was then advised by this
20 off duty uniformed Denver police officer of his Miranda
21 warnings. He stated he still wanted to talk about the
22 murder.

23 Officer Anderson understandably bewildered by this
24 confession asked several questions: Had he been drinking,
25 taking drugs. He then called -- the officer called

1 homicide Detective Steven Antuna. Respondent was again
2 advised of his rights and Detective Antuna asked him what
3 is one of the classic questions that in constitutional
4 questioning, quote, What he had on his mind, unquote.
5 Respondent then answered he'd come all the way from Boston
6 to confess to the murder of Mary Ann Junta, the young girl
7 that he had killed in Denver sometime during November of
8 '82, not quite, but almost a year previous.

9 Said he'd come all the way from Boston to confess
10 to that murder. They then took him to police headquarters.
11 The search of records revealed that the body of an
12 unidentified female had been found in April of '83.

13 The respondent openly detailed his story, agreed to
14 take officers to the scene and pointed out the location of
15 the crime and the exact location of the murder.

16 The allegation was his mental state deteriorated
17 overnight and he began hearing voices and that he revealed
18 to a psychiatrist that Connelly was following, quote, the
19 voice of God, unquote. This voice instructed respondent to
20 withdraw money from the bank, to buy an airplane ticket, to
21 fly from Boston to Denver. When respondent arrived from
22 Boston, God's voice became stronger and told respondent
23 either A to confess to the killing or B to commit suicide.
24 Reluctantly, he followed the command of the voice;
25 approached Officer Anderson and confessed.

1 Of course, this case, looking at State versus
2 Washington and State versus Parker, it appears there was no
3 custodial interrogation as far as the verbal statements at
4 the hospital. The officer, as typically occurs, had very
5 limited knowledge at that point. It was investigative.
6 Doesn't know cause of death. Knows of a 9-1-1 call because
7 information was conveyed to him, but does not know the sum
8 -- sum and substance of it.

9 Thereafter -- so as far as the verbal statements, I
10 would find they are admissible and they're not a result of
11 any custodial interrogation.

12 As to the written statement -- it depends on how
13 you look at it, they're either one or two written
14 statements or there's one written statement, the second of
15 which is indicated as a continuing, continued statement
16 from 6/26/16. It appears the first one began on 6/26/16 at
17 2141 hours and lasted until 0125 hours on 6/27/16. Court's
18 Exhibit Number 1, it appears Ms. Lawson indicates the grade
19 she completed at school, that she can read and write. It
20 is initialed. Each and every right, one through five, are
21 initialed by Ms. Lawson on page one of seven.

22 Further, she indicates by initials that she
23 understands her rights. I have read the statement of my
24 rights and I understand what my rights are. Each and every
25 page, again, one through seven, appears to be signed by

1 Ms. Lawson. And as is pointed out, question number -- I
2 don't know the number, I can't read it, has anyone made
3 threats, promises or coercions to you for this statement.
4 Her answer is no. That is individually initialed.

5 Throughout it looks like there are corrections also
6 that are initialed. When you come to Court's Exhibit
7 Number 2, which is the statement that began 6/28/16, 10:30
8 a.m., as Sergeant Barr has indicated it's a continued
9 statement from 6/26/16 incident. Miranda still applies and
10 was understood. That's initialed by Ms. Lawson. Each and
11 every page is initialed and signed by Ms. Lawson.

12 Taking into account the totality of all the
13 circumstances: The place; the nature of the detention; the
14 age, which is indicated; born in May of '94; location; the
15 facts no request for an attorney; no request for -- no
16 promises and such made. Under State versus Roy Lee Parker,
17 I would find it is admissible. It complies with Miranda
18 and it is voluntary under the standard of the preponderance
19 of the evidence.

20 All right. Thank you, Solicitor. Mr. Williams.

21 You have another motion, Solicitor?

22 MS. MAYES: Your Honor, I would just like to add
23 that in addition to the statements there were search
24 warrants conducted at the residence of Ms. Lawson where the
25 infant resided. Photographs were taken as well as some

1 household items and the child's pack 'n play in which
2 Ms. Lawson reported that she was found deceased. The State
3 does plan to introduce items taken pursuant to that search
4 warrant.

5 And also, a phone was seized from Ms. Lawson
6 pursuant or -- to her arrest -- incident to her arrest.
7 And individual search warrants were done for the content of
8 that phone and extraction of that phone which the State
9 also intends to introduce. Mr. Williams has been provided
10 copies of each of these search warrants as well as the
11 contents that were obtained pursuant to the returns on
12 those search warrants, so I don't know if there are any
13 additional motions in that regard.

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

16 MR. WILLIAMS: Your Honor, one of the motions, I
17 guess, that was served on me earlier dealt with the
18 photographic evidence coming in and -- and while I looked
19 at it, I spoke with the solicitor about which -- which
20 photographs that she sought to introduce. Your Honor, in
21 looking at the photographs -- and I assume that she's still
22 of the same opinion that there -- that there's several that
23 are right descriptive of the body.

24 THE COURT: Let me -- I'm not cutting you off,
25 Mr. Williams.

1 MR. WILLIAMS: Yes, sir.

2 THE COURT: But I always preface that by cutting
3 you off, okay?

4 MR. WILLIAMS: Okay.

5 THE COURT: That make sense?

6 MR. WILLIAMS: It does.

7 THE COURT: It shouldn't. I always wait until
8 there's testimony, analyze it under State versus Collins,
9 analyze it under 403. As y'all do. I mean we can't -- we
10 can't really hear that in a vacuum. I'll listen to it at
11 this point. If there's some y'all can agree to, I --
12 obviously, that's fine. But typically, I won't look at
13 those pretrial unless they're going to put up pretrial
14 testimony. I just think it's easier so to speak, to do it
15 that way.

16 MR. WILLIAMS: Yes, sir.

17 THE COURT: That suit you, Solicitor?

18 MS. MAYES: It does, Your Honor.

19 THE COURT: Suit you Mr. Williams?

20 MS. MAYES: And I believe there's probably 60 or 70
21 photographs total, but in reality we're going to use
22 probably less than 12. And then I believe Mr. Williams --
23 which we can most likely reach an agreement on. I believe
24 there's one photograph that Mr. Williams indicates he may
25 object to that deal specifically with the testimony of the

1 forensic pathologist, Dr. Ross, and we would not take that
2 up until probably Wednesday.

3 THE COURT: I learned a new word last week in civil
4 court, Mr. Williams. I think the word's -- what was that
5 word, Brenda, you typed it myop --

6 THE COURT REPORTER: Myopic.

7 THE COURT: Myopic. I didn't know what it was. I
8 think it means if you focused down -- if y'all focus down
9 on what I need to look at -- and I would -- and if you
10 don't, I'll look at 60 or 70 photographs.

11 MR. WILLIAMS: All right, sir.

12 THE COURT: All right. Thank you.

13 How was the word -- how you spell it?

14 THE COURT REPORTER: M-Y-O-P-I-C.

15 THE COURT: Did you already know how to spell it?

16 THE COURT REPORTER: Yes, sir.

17 THE COURT: I knew you would.

18 All right. What's next?

19 MS. MAYES: So, Your Honor. There's also a motion
20 that the State submitted, State's motion in limine
21 regarding, un --

22 THE COURT: Third-party guilt?

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

24 THE COURT: How about that, Mr. Williams?

25 MR. WILLIAMS: Your Honor, that's an interesting

1 concept. I've always found third-party guilt --

2 THE COURT: It is very interesting. Yes, sir. I
3 agree.

4 MR. WILLIAMS: Judge, one of the cases that -- that
5 I was looking at was the U.S. Supreme Court case Holmes
6 versus South Carolina.

7 THE COURT: That was Bobby Holmes?

8 MR. WILLIAMS: It would be --

9 THE COURT: Union County?

10 MR. WILLIAMS: Yes, sir.

11 THE COURT: Yes, sir. That is a fascinating case.

12 MR. WILLIAMS: I guess, Your Honor, the issue I
13 have with -- I don't know how close things can be similar
14 and not be admissible because -- and what she -- what she
15 is going to argue is that in -- I know the Court is not
16 familiar with the facts surrounding the death of an infant.

17 THE COURT: The prior infant?

18 MR. WILLIAMS: Yes.

19 THE COURT: Yes, I read that. And the prior infant
20 by the same father, different mother with -- as a result of
21 sleeping with the adult.

22 MR. WILLIAMS: Your Honor, I believe the other
23 child actually died after this particular child.

24 THE COURT: Okay. After. I've read her brief. I
25 read the solicitor's brief on that.

1 MR. WILLIAMS: Yes, sir. Well, the -- the father
2 of both children -- the father was the last person to see
3 the child as we would argue in this particular case because
4 what occurred on June 26th was the father came over and
5 subsequently left.

6 THE COURT: That's in her confession -- her
7 statement, I should say.

8 MR. WILLIAMS: Her statement.

9 THE COURT: Let me be correct.

10 MR. WILLIAMS: Her statement. It's in her
11 statement that the father came over and they had some sort
12 of sexual encounter and that the father left and in leaving
13 he was the last adult to see this child in the crib. The
14 death certificates actually show that the child -- that
15 this child died from blunt injury, slash, suffocation.

16 The other child, which is the child of the fiance
17 died sometime later in another household from suffocation.
18 Both instances involved the child being in a different bed
19 other than what the father was in, meaning in the first --
20 and I agree it's somewhat speculative because the mother
21 supposedly her fault because she rolled over and the young
22 child suffocated. But there's -- the fact that both
23 children suffocated when the father wasn't there but had
24 been the last person perhaps to have seen this child is
25 such a strange coincidence that perhaps it is -- should be

1 subject to the solicitor's cross-examination whether he was
2 there, whether or not he saw the child, what we saw, what
3 was the condition of the child.

4 Yeah, she should be able to put up evidence saying
5 that it's not directly related, but I don't know that the
6 defendant should be hamstrung in not being able to say
7 anything at all about the fact that there's at least one
8 other child who has died under -- I mean what are the odds?
9 Under those similar circumstances where suffocation was
10 involved, involving the same father.

11 THE COURT: Thank you.

12 MR. WILLIAMS: Thank you, Your Honor.

13 THE COURT: Solicitor?

14 MS. MAYES: Yes, sir, Your Honor, as noted in the
15 State's motion in limine, it's the specific event that the
16 child Harrison Tuckus died on September 29th, 2016, that
17 the State would move to exclude any reference to -- in --
18 that case was thoroughly investigated by law enforcement,
19 as well as the coroner's office and ultimately the
20 certificate of death was rendered which found that it was
21 suffocation from okay sleeping with an adult, that adult
22 being the infant's mother, Emily Gray.

23 The father of the child, Richard Tuckus, although
24 he resided in the home, was not even present in the bedroom
25 and did not have any role whatsoever in that co-sleeping

1 incident. Mr. Williams has been provided with all of these
2 documents. I'm going to go ahead and pass them up at this
3 time for the Court's benefit.

4 Your Honor, we do not object to the fact that the
5 defense can raise the issue that Richard Tuckus had access
6 to Victim on the day of her death. That is absolutely
7 admissible. If he wants to make the argument that because
8 Richard Tuckus came over to the home and had relations with
9 Ms. Lawson during the daytime hours of June 26, that he
10 somehow could have participated in some type of injury
11 towards Victim that is fair game. He was at the house,
12 although the evidence presented by the State throughout
13 this trial will be that Victim death is not consistent
14 with that time frame at all.

15 He left the home before one p.m. and the evidence
16 that's presented during the course of our case is going to
17 be that Victim was alive and well for some time after one
18 p.m. In fact, the statements of Ms. Lawson herself have
19 her placing the child down for a nap between 1:30 p.m. --
20 or 1:40 p.m. and 2:30. And she also states that in the
21 9-1-1 call. And ultimately she does not find the child in
22 its condition and call 9-1-1 until 5:19 p.m.

23 So regardless of that, which is all factual in
24 nature, we fully concede that Richard Tuckus will be a
25 witness in the case. He can certainly be questioned about

1 his contact with Victim that day, what he saw, whether he
2 could have done anything to harm her; but it's the
3 subsequent event involving another child who died
4 accidentally in a death that has been confirmed an
5 accidental death, both as the autopsy, which found no signs
6 of physical trauma, only a death that resulted from an
7 accidental co-sleeping event and this then secondly, the
8 fact that Ms. Gray, the mother of the child had maintained
9 throughout the investigation that she was with the infant.
10 She rolled over on the infant. He found the infant and she
11 called 9-1-1.

12 Your Honor, to go beyond that certainly would be
13 beyond mere speculation, so pursuant to the Gregory
14 analysis and State v Coat and all other case law on this
15 third-party guilt issue, that would be highly prejudicial.
16 It's unrelated, and it does not even amount to mere
17 speculation. That's the State's position, Your Honor.

18 THE COURT: Thank you.

19 MR. WILLIAMS: Nothing, further, Your Honor.

20 THE COURT: Coat's the one where the codefendant
21 had four other assault charges against women and they were
22 trying the stepfather? Is that Coats?

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

24 THE COURT: That's like double first cousins.
25 That's like third-party guilt coupling with prior bad acts

1 under 404(b) trying to say the codefendant committed the
2 others; then 404(b) would get into also being able to point
3 the finger at a codefendant and away from Coats.

4 MS. MAYES: And we also looked up at a 404(b)
5 analysis here, although Mr. Tuckus is merely a witness and
6 not the defendant, so probably not true 404 analysis but
7 even under 404(b), admission would require clear and
8 convincing evidence. And there's nothing here that even
9 remotely rises to the level of clear and convincing
10 evidence of his guilt. In fact, all of the evidence
11 obtained during that investigation is that it was Ms. Gray
12 who, unfortunately, Your Honor, was involved in that
13 accidental death of that infant. So it would not meet
14 clear and convincing evidence or a preponderance of the
15 evidence and the State's position, again, is that it
16 doesn't even arise to the mere speculation level. We're
17 even below that. Because there's no one that can put
18 Richard Tuckus even with that child at the time of that
19 co-sleeping incident.

20 THE COURT: With Ms. Gray's child?

21 MS. MAYES: Yes, sir, Your Honor. And then
22 secondly, under the Gregory analysis, the evidence would
23 have to be inconsistent with her guilt and it also fails in
24 that regard, in that she still remains as the sole
25 caregiver, adult caregiver for Victim between the hours of

1 one and 5:19. And Victim is found deceased, according to
2 her, at 5:19 p.m. The evidence presented by the State's
3 experts will be that those injuries could not have been
4 delivered by a three-year-old or a one-year-old, that they
5 are consistent with an adult fist and the timeline as
6 presented by the State during the course of this trial will
7 be that Ms. Lawson is the only adult present who could have
8 delivered those injuries.

9 That's not to say they can't raise the argument
10 that Richard Tuckus could have committed that crime while
11 he was there. We certainly acknowledge that. It has to be
12 with the unrelated incident involving the accidental death
13 of another child that we move to exclude.

14 THE COURT: Let me make sure I'm tracking this.
15 The incident -- the subsequent incident, Mr. Tuckus was the
16 -- what would Ralph King Anderson say, an ultimate person
17 to be with the child because Ms. Gray was the ultimate
18 person to be with their child when that child succumbed to
19 an accidental death.

20 MR. WILLIAMS: Based on what we know to be the date
21 and time of the death of the child --

22 THE COURT: All I'm doing is finding like it's
23 being sold to me.

24 MR. WILLIAMS: Yes, sir --

25 THE COURT: There's no one charged, no -- no --

1 what I'm being told, that is a -- this wasn't a crime. It
2 was ruled an accident. It's been investigated. Not been
3 reopened.

4 MR. WILLIAMS: Not yet.

5 THE COURT: So if I kind of transfer in the
6 standard, it clearly wouldn't make clear and convincing and
7 it wouldn't be probable cause at this stage to believe that
8 a crime had been committed and someone committed the crime
9 -- or Mr. Tuckus committed the crime that they don't even
10 know is a crime. And therefore, since he was the then
11 ultimate person to see -- adult, adult person to see

12 Victim I clearly agree that you can go into the timeline
13 of the presence of Mr. Tuckus or whoever else was there,
14 John, June, whether a three-year-old, one-year-old or any
15 other adults, there's no question about that in my mind.
16 But from what I've heard thus far, the -- the subsequent
17 act of Ms. Gray and Mr. Tuckus's child from what I'm
18 hearing so far is not admissible.

19 Now, if there comes a time you think that landscape
20 changes, Mr. Williams, you know me well enough, all you
21 have to say is you have a matter of law and I will be glad
22 to hear it outside of the presence --

23 MR. WILLIAMS: All right, sir.

24 THE COURT: -- of the jury, but clearly, like the
25 solicitor said, like you know, the timeline -- well the

1 detective, Detective Creech testified to the importance of
2 a timeline. We all know that; how important that is and
3 who all was present.

4 MR. WILLIAMS: The only thing I was thinking about
5 the timeline, Your Honor, is obviously, that's something
6 which the jury would determine exactly when they think the
7 events occurred. And obviously, you'll hear, there will be
8 testimony that Mr. Tuckus had two keys to the trailer and
9 even though that's the last time that she recalls him being
10 there, he certainly had access to be there even later than
11 that.

12 MS. MAYES: And we don't dispute that that's all
13 proper.

14 THE COURT: Yeah.

15 MR. WILLIAMS: I understand what Your Honor's
16 saying.

17 THE COURT: I think access to a crime scene as far
18 as looking at a suspect or suspects, I think that's
19 important.

20 MR. WILLIAMS: Yes, sir.

21 THE COURT: I mean, I know y'all do. I think that
22 is important. And, you know, her testimony, whether she
23 testifies or not, whatever she testifies to, I saw him at X
24 time, or I don't remember seeing him, or whatever. I don't
25 know. I don't know.

1 MR. WILLIAMS: All right, sir.

2 THE COURT: All right. But if you think that
3 landscape changes, just ask for it to be heard outside of
4 the presence of the jury.

5 Anything further, Solicitor, as far as pretrial?

6 MS. MAYES: No, sir, Your Honor, as stated
7 previously, Mr. Williams does have all of the search
8 warrants, all of the returns and he's aware of the items
9 that we would be offering pursuant to those. My
10 understanding is there is no motion at this time.

11 THE COURT: Mr. Williams?

12 MR. WILLIAMS: I think she's correct, Your Honor.
13 We'll just -- we'll try to simplify it.

14 THE COURT: And tell me -- tell me about --
15 Solicitor, tell me about Ms. Lawson's custody, please.

16 MS. MAYES: Your Honor, she initially was denied
17 bond and then she had bond set by Judge Hayes and was
18 placed on house arrest with --

19 THE COURT: By judge who?

20 MS. MAYES: Hayes.

21 THE COURT: Hayes, okay.

22 MS. MAYES: -- with a GPS monitor. However, Your
23 Honor, given the current state of things, this particular
24 crime does carry life. The State would move at this time
25 to have her taken into custody for the remainder of the

1 week.

2 MR. WILLIAMS: And, Your Honor, she has remained on
3 the GPS monitoring since the date that bond was set. I
4 have a statement from her bonding company --

5 THE COURT: Yes, sir.

6 MR. WILLIAMS: -- which in essence says that she
7 was -- she was let out on bond of \$150,000 on or about
8 December 18th of 2016, so that's a timeline of how long
9 she's actually been out on GPS monitoring. And if I may
10 approach the Court, Your Honor, I would hand Your Honor a
11 copy of the written certificate saying that they can stay
12 on her bond. And she certainly knew, yes, Your Honor, this
13 weekend because we met Friday and went over everything,
14 that she was coming to court today and she showed up bright
15 and early along with her family and -- Your Honor, for the
16 Court's edification, these individuals on the first and
17 second row consists of her family. Mama, grandmama -- on
18 both sides.

19 THE COURT: Thank you, thank you, Mr. Williams.

20 MR. WILLIAMS: Thank you, Your Honor.

21 THE COURT: I'll take it under advisement until the
22 jury's been sworn. They have not yet been sworn.

23 Thank you, Solicitor.

24 Thank you, Mr. Williams.

25 Now, I would advise Ms. Lawson that should you fail

1 to appear at any time until I readdress your bond, for
2 example if you fail to appear at 9:30 in the morning, the
3 case has been called for trial, the trial will go forward
4 in your absence and I would also issue a bench warrant for
5 your arrest. You understand that, Ms. Lawson?

6 THE DEFENDANT: Yes, sir.

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

8 All right. Anything further, Solicitor?

9 MS. MAYES: Nothing further from the State at this
10 time, Your Honor.

11 THE COURT: Thank you, thank you very much. 9:30
12 in the morning? Thank you thank you very much.

13 (Court was in recess for the day.)

14 **TUESDAY, AUGUST 8, 2017**

15 THE COURT: All right. Anything before we bring in
16 our jury from the State, Solicitor?

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

18 THE COURT: Defense?

19 MR. WILLIAMS: Nothing from the defense, Your
20 Honor.

21 (The jury entered the courtroom at 9:51 a.m.)

22 THE COURT: Foreperson is you? You will always
23 maintain this seat right here where this young lady is
24 sitting.

25 (The jurors swapped seats.)

1 THE COURT: Thank you.

2 These are my two alternates?

3 THE BAILIFF: Yes, sir.

4 THE COURT: All right. Thank you. Thank you very
5 much.

6 Good morning, ladies and gentlemen of the jury. I
7 apologize for the delay in getting you out in the
8 courtroom. I assure you it was all my fault. I'll embrace
9 it. I apologize. Your time is very important to me and I
10 will try my best to manage it more efficiently.

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

12 THE CLERK: Yes, sir, Your Honor.

13 Please stand and raise your right hand.

14 (The jury was sworn at 9:53 a.m.)

15 THE CLERK: Be seated, please.

16 **OPENING REMARKS BY THE COURT**

17 THE COURT: Ladies and gentlemen of the jury, the
18 case we're about to try is the case of Heather Marie
19 Lawson, the defendant. What I will now say is intended to
20 serve as an introduction to the trial of this case. These
21 remarks are not an instruction on the law in this case. I
22 will instruct you on the law applicable to this case at the
23 end of the trial and somewhat during the trial before you
24 retire to consider your verdict. This is merely an
25 explanation of the procedure that we will follow in the

1 trial so that you may better understand what may be
2 happening.

3 The defendant is charged by an indictment filed in
4 this court with the crime of homicide by child abuse; the
5 elements of which will be explained to you later. Again,
6 ladies and gentlemen, the indictment is simply the charge,
7 the formal document by which the case is brought before the
8 Court and it is no in any sense evidence of any of the
9 allegations contained therein.

10 The defendant has pled not guilty to the
11 indictment. The State, the party to my front right,
12 therefore, has the burden of proving each of the elements
13 of the indictment beyond a reasonable doubt and it will be
14 your duty, ladies and gentlemen, to decide whether the
15 State has met that burden.

16 Your purpose as jurors is to find and determine the
17 facts. You are the sole judges of the facts of this case.
18 If at any time I make any comment regarding the facts, you
19 must disregard it. You are to determine the facts from the
20 testimony you hear and the other evidence that may be
21 introduced in the court. It is up to you to determine the
22 inferences which you feel may properly be drawn from the
23 evidence. It is especially important that you perform your
24 duty of determining the facts diligently and
25 conscientiously because ordinarily, there is no way to

1 correct an erroneous determination of the facts by a jury.
2 And on the other hand, and with equal emphasis, the same
3 law that makes you the judges of the facts, makes me the
4 judge of the law. The law that is given by the Court is
5 the only law you may consider. You must accept it and
6 follow it even though you may disagree with it. I cannot
7 tell you what the facts are; you cannot disagree with me
8 about what the law is or what the law should be. Your job
9 is to take the law as I give it to you, apply it to the
10 facts as you find them from the testimony of the witnesses
11 and any other evidence that is introduced. After doing
12 that, you will render your verdict, a true and just
13 verdict, under the solemn oath that you have just taken as
14 jurors.

15 Until I advise you to begin your deliberations, you
16 must not discuss this case with anyone, including your
17 fellow jurors, friends, family members, or anyone else.
18 After the case is submitted to you, you must discuss it
19 only in the jury room with your fellow jurors.

20 The attorneys, the parties in this case have been
21 advised that should they see you in the hallway or the
22 like, that they are not to talk with you at all. So if you
23 see anyone involved in the case and they do not even say
24 hello, they're not being unfriendly; they are just
25 following my instructions.

1 Again, during the trial, do not read listen to or
2 watch any news reports about this case, should there be
3 any. This includes anything that may be in the newspapers
4 or on the internet, radio or television. You must not
5 consider anything you may have read or heard about the case
6 outside of the courtroom, whether before or during the
7 trial. It is important that you keep an open mind and not
8 decide any issue in the case until all of the evidence has
9 been presented, the parties have made their closing
10 arguments to you, and I have instructed you on the law in
11 this case; and then directed you to begin your
12 deliberations with your fellow jurors.

13 It is your solemn responsibility to determine the
14 guilt or innocence of the defendant and your verdict must
15 be based solely on the evidence as it is presented to you
16 in this trial and on the law as I instruct you during and
17 at the close of the trial.

18 Now in just a moment, the solicitor will make what
19 is called an opening statement in which the solicitor will
20 explain to you the issues in this case or at least what the
21 solicitor thinks the issues are in the case. Mr. Williams,
22 the attorney for Ms. Lawson, may also make an opening
23 statement although he is not required to do so. A criminal
24 defendant in South Carolina is always presumed to be
25 innocent and has no burden whatsoever to prove herself or

1 himself innocent.

2 What the attorneys tell you during their opening
3 statements is not evidence in the case. What the attorneys
4 tell you in their closing arguments is not evidence in the
5 case. The questioning by the attorneys is not evidence in
6 the case. That's the framework by which the testimony is
7 extracted from the witnesses. The responses of the
8 witnesses is the evidence in the case. That is how it will
9 be presented by the testimony of those sworn witnesses from
10 this witness stand and by any exhibits that may be
11 introduced into evidence.

12 From time to time during the trial, you may hear
13 one of the attorneys say something like, Your Honor, I
14 believe we have a question of law or a matter of law to
15 discuss with you; or, Your Honor, may we approach the
16 bench; or sometime, I, myself, might find it necessary to
17 excuse you from the courtroom for a short while so the
18 attorneys and I can discuss a matter of law. This is not
19 to hide anything from you. The reason for this is because
20 you are the judges of the facts in the case and sometimes,
21 when I am discussing matters of law with the attorneys, it
22 may be necessary for me to make some comment as to the
23 facts in connection with ruling whether or not a particular
24 law applies. I am not supposed to tell you what I think
25 the facts are, so I will excuse you from the courtroom

1 while these discussions take place so that in no way will
2 you be influenced by anything that I might say or do in
3 connection with the facts.

4 In determining what the true facts are in this
5 case, in using your individual and collective good
6 judgement and common sense, you must decide whether or not
7 testimony of witnesses is believable. It will be my
8 responsibility to rule as a matter of law, whether certain
9 testimony is admissible at all or not; in other words,
10 whether it is presented to you as a jury. Once the
11 testimony is admitted, whether or not you believe it, is
12 solely your decision to determine the believability or
13 credibility of the testimony of the witnesses.

14 In deciding whether to believe a witness, you have
15 the right to consider the interest of any witness, the bias
16 of any witness, the prejudice of any witness, the
17 opportunity for the witness to have seen the matters and
18 things about which the witness may testify, the way the
19 witness acts, the demeanor of the witness on the witness
20 stand, if a witness's testimony is corroborated by
21 testimony from other witnesses, or if it is inconsistent
22 with testimony of other witnesses, if a witness's testimony
23 is impeached by prior inconsistent statements or made
24 stronger. You have a right to consider anything in the
25 record that will help you evaluate the testimony of the

1 witnesses. That means it will be your duty to pay close
2 attention to the witnesses, to observe them, to listen to
3 them, to pay close attention to the attorneys and to the
4 Court.

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

12 It will be your added duty, Mr. Foreman, to preside
13 in the jury room and be the jury spokesperson here in
14 court. It will also be your duty to write the verdict, but
15 I will give you further instructions about that at the
16 conclusion of the case.

17 Just a few administrative matters, ladies and
18 gentlemen, if you cannot hear a witness appropriately or
19 see a witness, please get my attention or the attention of
20 one of the fine bailiffs. Of course, we do have a speaker
21 system in here, but it can still be hard to hear sometimes.
22 We will have that witness sit up and speak up.

23 I don't know what may be introduced into evidence,
24 charts, diagrams, photographs, or the like, or nothing as
25 far as exhibits. If a photograph, for example, is

1 introduced, many times it may be displayed on the screen,
2 sometimes it may be handed to our foreperson and passed
3 among members of the jury while you're in the courtroom in
4 your jury box. You may look at those items all you wish.
5 Please keep in mind, if I allow an item into evidence, you
6 will also have that item with you in your jury room at the
7 time of your deliberations. Therefore, just seeing it out
8 here in the courtroom in the jury box will not be the only
9 opportunity you will get to see any items, physical items,
10 of evidence that may be introduced.

11 Also from time to time, you may see me on my
12 computer. I tell you this because a juror in the past
13 complained about me; imagine that. And what I do is legal
14 research: These are very good trial attorneys. I look
15 down that dusty, bumpy, legal trail and see what I think a
16 legal issue may be lurking down there, I do -- I do
17 research on the computer. I don't peat, I don't repeat, I
18 don't know what hashrag is, I'm not on Facebook; I'm
19 faceless. I stay focused on the case. If it annoys you,
20 please -- well, my law clerk does the heavy lifting -- but
21 if it distracts you, anything I say or do, please, please
22 let me know and I will take the appropriate action.

23 So finally, what am I really in charge of; I'm in
24 charge of taking breaks, that's what I'm in charge of and I
25 have a real simple rule. When I want to take a break, we

1 take a break. It works great that way. That's really not
2 my rule; it can be very difficult to stay focused and
3 attentive sitting and listening to every question and
4 listening to every answer and focusing with all your senses
5 on the testimony of witnesses. If at any time, any of you
6 need a break, please raise your hand. If you sit out here
7 too long, your thoughts get to wandering, you're not going
8 to be able to determine what the facts are. I guarantee
9 you if you need a break, you're not the only one in that
10 jury box that needs a break. So at any time, please, don't
11 be shy about that, raise your hand and y'all will take
12 y'all's break and we will take our break.

13 Any objections to anything I've told the jury from
14 the State, Solicitor?

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

16 THE COURT: Defense, Mr. Williams?

17 MR. WILLIAMS: None from the Defendant, Your Honor.

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

19 Again, ladies and gentlemen, if you'll please give
20 the parties your complete and undivided attention. This is
21 an important case. It's important for Heather Lawson and
22 it's important for the State of South Carolina. Please
23 give them your complete and undivided attention. Thank
24 you. Thank you very much.

25 Solicitor, you may address the jury.

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MR. MCNAIR: Thank you, Your Honor, may it please

THE COURT: Yes, sir.

MR. MCNAIR: A mother's hands, something we
y think of as a symbol of love, nurturing, and
But in this case, a mother's hands were used as
nts of evil. Heather Lawson bludgeoned her
onth-old baby to death with her own hands. She beat
atedly in the head with her fists until there was
left. Victim was seven months old. People
er Victim She died of blunt force trauma to the
June 26th, 2016. The only people present in the
the time of her death were Ms. Lawson, her
r-old daughter, June, and her three-year-old son,

According to Ms. Lawson, she found Victim in her play rolled up in June's blanket not breathing 5:15 p.m. that day. And after supposedly finding Victim not breathing, she didn't pick her up and hold her. She didn't attempt CPR, she didn't call 911; she was the man she was infatuated with, Richard Tuckus, her father and Victim's father.

He lived in the same mobile home park a few doors
with another woman named Rachelle, who he had children

1 with. And when Richard didn't answer the phone, she left
2 her one- and three-year-old in the house with her dead baby
3 and ran to Richard. Are those the actions of a mother who
4 just discovered her baby dead? Before she attempted to do
5 anything to save that child's life, she ran to Richard.

6 She didn't just discover that child dead. She knew
7 she was dead, because she had done it. She just knew the
8 time had come where she had to come up with some story and
9 report it. So when she gets to Richard's house, she tells
10 him her two other children, John and June, were in the pack
11 'n play and had a heavy blanket over Victim

12 Rachelle, Richard's girlfriend, who lived with him
13 at the time, called 9-1-1. Richard takes Heather back to
14 her house, instructs her to call 9-1-1 with her phone. She
15 gets on the phone with the 9-1-1 operator and says, I think
16 my other two kids smothered her. She said Victim had a big
17 bruise on her soft spot on her head; I'm sure my other two
18 children jumped on her. She just killed one child and
19 she's now blaming her two other innocent children.

20 The first responders get there, they discover
21 Victim with bruising all over her head, slight rigor
22 mortis had already begun to set in. They attempt all
23 life-saving procedures anyway, they rush her to the
24 hospital, until it becomes painfully obvious she's not
25 coming back.

1 Detective Creech speaks to Ms. Lawson at the
2 hospital to find out more details. She's still trying to
3 spin this story about her one- and three-year-old doing it.
4 She tells Detective Creech that Victim did fine that whole
5 day. She told him that she had laid Victim down for a nap
6 between 1:40 and 2:30 that day, that there was no bruises;
7 she didn't see any bruising on Victim prior to laying her
8 down for the nap. She said when she found Victim she is
9 rolled up in her one-year-old daughter's blanket.

10 Detective Creech asked her point blank, what do you
11 think happened; she says I think my one-year-old smothered
12 her. How unbelievable. My one-year-old got in the pack 'n
13 play and smothered her.

14 Dr. Luberoff, a Forensic Pediatrician, who is an
15 expert in child abuse cases, came to the hospital to see
16 Victim She confirmed the obvious; there is no way a one-
17 or three-year-old could have caused these injuries. The
18 degree of force required and the fact there is bruising all
19 over the head, indicates it was done by an adult and the
20 only adult present in the house during the relevant
21 timeframe that day is Ms. Lawson.

22 At that point, Detective Creech and Detective Barr
23 take Ms. Lawson to the Sheriff's Department and they
24 conduct a second interview. They tell her, we don't
25 believe your story that a one- and three-year-old did this.

1 She then disclosed, Well, the night before when I was
2 working at the gas station, I took Victim with me, she
3 fell out of a box and hit her head on a concrete floor.

4 She then admits that she lied previously to
5 Detective Creech at the hospital and says, Oh, I did see
6 the bruising that morning. Victim was acting lethargic
7 and she vomited after I fed her about 10:00 a.m. that
8 morning. Detective Creech says, Well you saw all that
9 bruising, if she was throwing up, why didn't you take her
10 to the doctor? Her excuse, I was too tired and I didn't
11 want DSS to get involved. That sums up this case in a
12 nutshell. She doesn't care.

13 She then starts changing her timeframe. She
14 initially said I put Victim down for a nap between 1:40
15 and 2:30; she's now saying, Well, I think the last time I
16 saw her was noon. She also says that after Victim fall
17 at the gas station that night, when she's carrying her into
18 the house in her arms, she trips and in her words, dumps
19 Victim into the playpen from 2 to 3 feet away. She said
20 Victim was crying loudly. You know what she did; she
21 admits this, she turned on Family Guy and turned up the
22 volume to drown out the crying like she always does.
23 Absence of love.

24 After that interview at the sheriff's department,
25 Dr. Ross, the Forensic Pathologist, did the autopsy and

1 determined the cause of death to be a homicide by blunt
2 force trauma to the head.

3 They go to talk to Heather one more time to inform
4 her of the autopsy results. She just starts throwing out
5 other stuff to see if it would stick. She says, Well, at
6 the gas station before she fell out the box, I may have hit
7 her head on the door frame. Then after she fell out of the
8 box and I picked her up, I think I hit her head on the door
9 frame again. Then when I was leaving and putting in the
10 car, I hit her head on the door frame of my car. Just
11 trying to see what would stick.

12 The only thing we do know happened was that fall at
13 the gas station because that's on video. She took Victim
14 to work, put her in a cardboard box on the floor of the gas
15 station. Victim pulls up, the box falls over, she
16 initially kind of falls into a padded chair, which kind of
17 breaks her fall, then falls to the floor and hits her head.
18 On video, she appears fine after that fall; you can't see
19 any apparent bruising on her head. Anybody who has kids,
20 has had an incident like that where your child has fallen
21 and hit the floor -- hit their head on the floor. That did
22 not cause her death. Dr. Luberoff will tell you that
23 didn't cause her death nor any other fall Ms. Lawson
24 described.

25 The problem for Ms. Lawson in this case is that no

1 one else was in that house during the relevant timeframe
2 other than her and her two young children. Richard had
3 come by earlier that day around noon to have sex and he
4 left before one o'clock that day. Dr. Ross, the
5 pathologist, will tell you the time of death is well after
6 1:00 p.m. In addition, Heather told law enforcement that
7 no one else even had interaction with Victim that day other
8 than her.

9 She had given multiple stories that I've just told
10 you about. She has never accused Richard of this or
11 pointed the finger at Richard. If you hear something from
12 the defense during this trial that points the finger at
13 Richard, that's going to be the first time that story has
14 ever been told. How convenient now that Richard is married
15 to Rachelle. In a case like this, everybody wants to know
16 why would somebody do something like this; how do you
17 explain that? I don't know, I don't have the words to
18 explain it. We can't dissect her mind to see what she was
19 thinking. All we can do is focus on her words and her
20 actions.

21 She told law enforcement that she never wanted
22 kids, she wasn't a baby person; they messed up her plans
23 for the future. She admitted she was stressed out, she had
24 overdue bills, and she was in a toxic relationship with
25 Richard. You will see during this trial, her life revolved

1 around Richard Tuckus. Like I said, it was her boyfriend,
2 Victim father, lived in the same mobile home park with
3 another woman named Rachelle, who he had children with.

4 She made statements about Richard that obviously
5 she's not happy about that living arrangement; she's
6 jealous of the time he's spending with Rachelle, she wants
7 him to spend more time with she and Victim that's a point of
8 contention, obviously, in their relationship. Then on the
9 day prior to this incident, she texted Richard and says you
10 don't even spend an F'ing hour with me. And on the day
11 Victim died, Richard come over when it was convenient for
12 him to have sex and he left in less than an hour.

13 Then look at her actions after she supposedly found
14 Victim dead like I mentioned. Before she attempted to do
15 anything to save her own child's life, she ran to Richard.
16 Ladies and gentlemen, this case is as simple and straight
17 forth as they come. There are three people in that house
18 when Victim died; a one-year-old, a three-year-old,
19 and Heather Lawson. There's only one reasonable
20 explanation.

21 I'm going to talk about two legal concepts before I
22 sit down. Judge McMahon is going to instruct you on the
23 law in this trial. He is regarded as one of the best
24 judges in the State. He is the authority on the law.

25 But very briefly I want to talk to you about

1 reasonable doubt, because a lot of people have
2 misconceptions about what that means. I heard somebody on
3 the radio the other day say the prosecution did not prove
4 their case beyond a shadow of a doubt. That's not the
5 standard. It does not require us to prove our case beyond
6 all doubt you may have, or any doubt. There are very few
7 things in this world that we can know to an absolute
8 certainty and the law does not require that. All that's
9 required is that you be firmly convinced of this
10 defendant's guilt and if you are, you've taken an oath to
11 find her guilty.

12 The other thing I want to talk to you about is
13 circumstantial evidence. You don't have to have an
14 eyewitness to something or have something on video to prove
15 a case. The best analogy I've heard to describe
16 circumstantial evidence is it's like snow. You go to bed
17 one night and you wake up the next morning and the ground
18 is covered in snow. You don't have to have seen the snow
19 falling that night to know it did in fact snow. You can
20 use your common sense to connect the dots. You can convict
21 somebody based on circumstantial evidence. All we ask is
22 that you use your common sense during this trial. Use it
23 to connect your dots. Use it to separate fact from fiction
24 in determining what the truth is. Use it to determine
25 what's reasonable and what's not and I submit to you,

1 there's only one reasonable verdict in this case. There's
2 only one verdict that's going to speak the truth and
3 there's only one verdict that's going to do justice and
4 that's guilty. Thank you.

5 THE COURT: Thank you. Thank you, Solicitor.
6 Mr. Williams.

7 MR. WILLIAMS: May it please the Court?

8 THE COURT: Yes, sir.

9 MR. WILLIAMS: Mr. Foreman, ladies and gentlemen of
10 the jury, I'm Theo Williams. I talked to you earlier and
11 met you earlier and you've met my client over there,
12 Heather Lawson. That's her family over there behind her.

13 I've heard a lot of things in the opening argument
14 from the State and His Honor told you that when you hear
15 things in opening argument that obviously it's not
16 evidence. It's a framework, it is an argument, something
17 trying to convince you as to how you should think or how
18 you should feel or how you should vote or how you should
19 look at things. And I've learned over the years that --
20 that jurors are very clever individuals. They --
21 regardless of what we as lawyers tell you, you have a
22 tendency to use your common sense and it always amazes me.
23 I've been doing this 41 years and it always amazes me
24 because you jurors will do the right thing. You may not
25 know it now, but you will examine the evidence as His Honor

1 has told you. I know when we were picking jurors to serve
2 on this case, probably many of you were squeamish because
3 you knew what type of case it was and being a homicide case
4 is the most, I guess, emotionally draining, serious case
5 you can be involved in. And I didn't see a lot of happy
6 faces when you were chosen; but you'll note, that as you
7 look around the jury box, you'll see that you have people
8 from all walks of life. And you have older people, you
9 have younger people, you have people from all over the
10 county. Whether you're from Cayce, West Columbia,
11 Batesburg, like I am, or wherever you are; but there's one
12 thing that the legal system knew when it set this procedure
13 up, is that when you're trying to prove that someone is
14 guilty beyond a reasonable doubt, that those twelve
15 individuals and the two alternates are the individuals that
16 you want to look at that -- that evidence or determine what
17 the evidence is and to adjudicate what the truth is in this
18 particular case.

19 I thought about it a little while ago when we were
20 talking or when it was being said something about that my
21 client does not care and something about abusive love. And
22 I thought about the words, particularly since I was dealing
23 with jurors who are probably on a case that they don't want
24 to be on, I thought about responsibility and I thought
25 about how that word is used in the English language to mean

1 two different things sometimes. As a layman or as someone
2 who is not a wordsmith, perhaps maybe we would say that
3 someone is responsible for the death of someone. It's a
4 word that's used often.

5 But when I think of responsible and responsibility,
6 I think of people who see a situation and they take on that
7 situation to see that the job is handled as best they can
8 handle it.

9 And when I look at my client, I see her as a
10 responsible person. You've heard in opening argument about
11 all the bad things that one could ever say about an
12 individual and when I say that, to think that a parent
13 would ever kill a child is a terrible thing to say. But
14 when I look at Heather, I look at a 23-year-old girl. I
15 know I used the word girl, because when you get my age, I
16 have daughters that are older than that, and she's got
17 three children, had three children. She has two left. And
18 she was living in this trailer and you'll see pictures of
19 that and if I could caution you to this, when -- you don't
20 judge somebody's guilt or innocence based on the squalor
21 that they live in or their living conditions. And I know
22 I'm embarrassing her when I say that. You judge that on
23 what that person does, how that person acts. She takes on
24 the responsibility of three children, no child support, no
25 one taking care of these children except her and she gets a

1 job at a convenience store or gas station; she works and it
2 gets to be almost like a manager and she's working 50 hours
3 a week.

4 That's not something to be ashamed of. That's
5 something to be proud of. She's a responsible person
6 taking care -- the question that you always come back to in
7 this type of case is why. You spend all your existence
8 thinking of no one but those three children, which you have
9 to take care of. Why would you -- why would you do
10 anything to that child.

11 You know as a parent, we often think that it's my
12 fault, I must have done something. When your child doesn't
13 do well in school, you say must be my fault; I must not
14 have stayed up late with that child. When your child is
15 sick, it must be my fault because I didn't give the child
16 the vitamins that the child needs. And you do that because
17 you feel like you're responsible and when she came in and
18 she found that child dead and couldn't explain it. Well,
19 it must have been those ruffian children that I have
20 because she didn't know. She didn't know what happened to
21 her child and what was missing in the early part of the --
22 of the -- of the State's argument is talking about Richard
23 Tuckus because indeed, he was the last adult to see this
24 child before the child was found deceased.

25 You'll learn as the case goes on that Richard

1 Tuckus was a maintenance person there, had keys to all of
2 the trailers and what's interesting in the -- and this is
3 how you as jurors determine the facts and determine what
4 you believe, to a certain extent, the only way that anyone
5 could have gotten into the residence where that child was
6 is by using a key. The door knob is broken. So the person
7 has to have a key to get in and get out of the residence.
8 There were three people with keys; there was a babysitter,
9 there was Heather and the maintenance man, who happened to
10 have two keys.

11 And when he came and saw her that day, he possessed
12 two keys. He unlocked -- he let himself in. She didn't
13 let him in. So when you say who has access, who was there
14 when it happened, there is an individual who has something
15 to gain or lose. She -- she took care of that child every
16 day.

17 Now there is a video in this case where the child
18 fell and bumped her head and you can look at that video.
19 She had to take all three children to work because she
20 didn't have a babysitter. She has the other two there and
21 then she has the child sitting in the box playing around,
22 the child falls over and bumps her head, which is something
23 that happens unfortunately. She should have taken better
24 care of that, but that's not the reason why this child is
25 dead now.

1 And what I want you to focus on is when you look at
2 what happened the day before, you look at how she treats
3 that child as she gently picks the child up, calms the
4 child, comforts the child.

5 Now, I'm going to sit down here because I think you
6 hear too much in opening arguments and -- and you know, His
7 Honor has already told you that really what we're saying
8 really is, it's not evidence. I want you to do your job
9 and that is to evaluate the testimony, to look at the
10 evidence. Some of it may be not pretty to look at. I
11 apologize for that. As an attorney, I've had to look at
12 pictures sometimes in the line of work that I do, which
13 bothers me and it will bother you. So I ask that you step
14 aside from your emotions when you look at those pictures
15 and use, I guess the brain which we all possess, or our
16 common sense when you evaluate what you want to determine
17 from those pictures.

18 I really do want to thank you for being on this
19 case. I guess you could have come up with some -- you
20 could find some kind of excuse to get out of this, but you
21 didn't and that's because you're responsible. You took on
22 this responsibility. I took this case on to defend this
23 young lady as a responsible person I hope. She's a
24 responsible -- was a responsible mother; still is a
25 responsible mother. She doesn't -- she doesn't harm her

1 own children.

2 Determine what the facts are in the case and
3 remember that there's a difference between responsible
4 versus guilt. To be guilty as the -- as the solicitor has
5 already told you, they have to prove to you beyond a
6 reasonable doubt the guilt of the person charged. You have
7 to be firmly convinced of that guilt. So you're
8 determining something different from responsible; you're
9 determining guilt or innocence. And you know what, you
10 don't determine guilt versus innocence, you really don't.
11 You really only determine guilt because she's already
12 innocent.

13 So you look at this evidence and see if you're
14 firmly convinced of her guilt and I feel certain that if
15 you use what's inside of you, everything that's inside of
16 you, you'll determine that she's not guilty. We can't
17 prove -- we can't prove that she's innocent because
18 sometime a person's charged with something and they just
19 can't prove their innocence, which is why the State has to
20 prove the guilt of the person charged. She's not sure who
21 harmed her child. She can only guess as to how this child
22 got harmed. She has her own ideas, but that's all we know.
23 Thank you.

24 THE COURT: Thank you, Mr. Williams.

25 Solicitor, you may call your first witness.

Nikki Rodgers - Direct Examination by Ms. Mayes

1 MS. MAYES: The State calls Nikki Rodgers.

2 THE COURT: All right. Ms. Rodgers, if you'd come
3 around and be sworn for us.

4 NIKKI RODGERS,

5 having been duly sworn, testified as follows:

6 THE CLERK: Have a seat, ma'am. Once you're
7 seated, state your full name spelling your last on the
8 record, please.

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

10 **DIRECT EXAMINATION**

11 BY MS. MAYES:

12 Q Good morning, Ms. Rodgers. Tell us a little bit
13 about yourself; where are you employed?

14 A I am employed with Lexington County 9-1-1.

15 Q And in what capacity?

16 A I am the Chief Communications Department Head.

17 Q All right. Now, you said Lexington County 9-1-1,
18 tell us a little bit about the Lexington County 9-1-1
19 Center and what type of services you offer.

20 A Lexington county 9-1-1 is the Consolidated 9-1-1
21 Center for Lexington County and we dispatch all of the EMS,
22 fire, and law enforcement calls for all the jurisdictions
23 in the county except for Cayce, West Columbia Police, and
24 Batesburg Police.

25 Q All right. And can you tell us whether or not you

Nikki Rodgers - Direct Examination by Ms. Mayes

1 cover the area of Weaver Drive in Lexington County?

2 A We do for all fire, EMS, and law enforcement calls.

3 Q All right. So if someone at that location makes a
4 call to 9-1-1, it comes in where?

5 A It comes into the 9-1-1 Center on Ball Park Road.

6 Q All right. Now, as Director, are you also known as
7 the custodian of records?

8 A Yes, ma'am.

9 Q Are calls recorded at the 9-1-1 center?

10 A They are recorded, all lines.

11 Q And once they are recorded, are they maintained in
12 any type of data base for certain periods of time?

13 A They're maintained on the, normal county' -- in the
14 Data Center on the network. And we keep them for 90 days.

15 Q Can you tell us whether or not you have retrieved
16 calls regarding Weaver Drive?

17 A Yes, ma'am.

18 Q And specifically, as to the date of June 26, 2016?

19 A Yes, ma'am, June 26, 2016.

20 Q How many calls were made to the 9-1-1 center on
21 that date regarding Weaver Drive?

22 A Looks like two calls.

23 Q All right. And do you have the date and time, Ms.
24 Rodgers, for that first call?

25 A The first call was on the 26th of June at 1718

Nikki Rodgers - Direct Examination by Ms. Mayes

1 hours --

2 Q All right.

3 A -- which is 5:18 p.m.

4 Q Okay. And so 1718 hours would be 5:18 p.m. And
5 specifically, what address was requested for assistance?

6 A It was Weaver Drive.

7 Q All right. And what is the first name of the
8 caller on that first call?

9 A The first caller is Emily Graves.

10 Q Okay.

11 A G-R-A-V-E-S.

12 Q Okay. First name is Emily?

13 A Correct.

14 Q All right. So the first call at 5:18 p.m. is made
15 by Emily.

16 Now, once you retrieved those calls, can you tell
17 us whether or not you had an opportunity to review that
18 audio recording of the first call?

19 A Yes, ma'am, I have.

20 Q And as custodian of records, can you tell us
21 whether or not that is a true and accurate representation
22 of the call that you retrieved?

23 A Yes, it is.

24 (State's Exhibit Number 1 was marked for
25 identification.)

Nikki Rodgers - Direct Examination by Ms. Mayes

1 BY MS. MAYES:

2 Q I show you this item and ask you whether or not you
3 recognize it?

4 A Yes, ma'am.

5 Q How so?

6 A It has my initials on it.

7 Q All right. And that's regarding that first call
8 there at 5:18 p.m., correct?

9 A Correct.

10 Q Now, what is the time of the second call that you
11 mentioned?

12 A The second call is at 5:18 and 58 seconds.

13 Q All right. So this is 5:18, 18 seconds and what
14 was the exact timing of that first one?

15 A 5:18 and 6 seconds.

16 Q Okay. So just a little bit apart there?

17 A Yes, ma'am.

18 Q And what is the first name of the caller for this
19 second call?

20 A Heather is the second caller.

21 Q All right. Now, once these calls came in, can you
22 tell us whether or not 9-1-1 dispatched EMS or fire or any
23 other type of first responder to that scene at Weaver
24 Drive?

25 A Yes, ma'am, we dispatched the EMS units, then there

Nikki Rodgers - Direct Examination by Ms. Mayes

1 was the Lexington County Sheriff's Department and Lexington
2 County Fire Service.

3 Q All right. And do your records indicate who
4 actually arrived first?

5 A That would be the EMS Unit, Unit 13, which would
6 have arrived at 1725.

7 Q And just to break that down to, a lay person's
8 term, that's going to be 5:25, correct?

9 A Correct, 5:25.

10 Q All right.

11 MS. MAYES: Having identified this recording, Your
12 Honor, the State would offer this CD as State's Exhibit 1
13 for evidence and would request permission to publish.

14 MR. WILLIAMS: Without objection.

15 THE COURT: State's 1 is in evidence without
16 objection.

17 (State's Exhibit Number 1 was entered into
18 evidence.)

19 (The solicitor was trying to play the CD for the
20 jury and experienced technical difficulties.)

21 THE COURT: All right. Ladies and gentlemen, I
22 think what we have is known as technical difficulties.
23 Other than having you sit out here and held captive, I'll
24 let you go to your jury room and be held captive and in
25 your absence, I am sure I will get that operating properly.

Nikki Rodgers - Direct Examination by Ms. Mayes

1 All right. So if you'll please step to your jury room. Do
2 not discuss the case during this brief recess.

3 (The jury left the courtroom at 10:45 a.m.)

4 THE COURT: I'm going to allow Ms. Rodgers to step
5 down.

6 THE WITNESS: Do I leave my papers here?

7 THE COURT: You can leave them.

8 THE WITNESS: Thank you.

9 THE COURT: I'm going to step out. Just let me
10 know when you're ready to go, Solicitor.

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

12 THE COURT: Thank you. I'd be glad to fix it for
13 you, but...

14 (There was a brief recess.)

15 THE COURT: Thank you. Please be seated. Thank
16 you.

17 All right. Anything before we bring in the jury,
18 Solicitor?

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

20 THE COURT: Mr. Williams?

21 MR. WILLIAMS: Nothing from the defendant, Your
22 Honor.

23 (The jury entered the courtroom at 11:09 a.m.)

24 THE COURT: All right. I understand from the
25 bailiff, some members of the jury would like to take notes;

Nikki Rodgers - Direct Examination by Ms. Mayes

1 is that correct, Mr. Foreman?

2 THE FOREPERSON: Yes.

3 THE COURT: Would you hand out the pads and the
4 writing utensils and then I have special instructions to
5 give you concerning that.

6 (Pads and pens provided to the jury by the
7 bailiff.)

8 THE COURT: All right. Mr. Foreman, ladies and
9 gentlemen, you may take notes during the trial of this
10 case. However, please remember that some people are better
11 note takers than others. Jurors notes should not be given
12 any greater weight than the recollection of other jurors.
13 The recollections of individual jurors should be considered
14 as reliable as notes taken by any other juror. I would
15 also advise that when you are taking notes, you may not
16 notice body language, demeanor or the like of a witness,
17 which can be used -- could be used by you in deciding the
18 witness's credibility. Further, anytime, um, I would ask
19 you to please write your jury number on your notes.
20 Anytime you take a break, please leave them upside down on
21 your chairs. They will be there upon your return. During
22 the luncheon recess, they will taken up by the Clerk; also
23 during the overnight recess and secured. You would not be
24 authorized to have your notes with you in the jury room
25 until after I've instructed you on the law during your --

Nikki Rodgers - Cross-Examination by Mr. Williams

1 during your deliberations.

2 So -- and I forgot to tell you this earlier. I
3 have noticed over the course of sitting up here over the
4 years that many jurors are very territorial; They like to
5 sit in the same seat, the same location each and every
6 time. You know, I like it, so I understand it. You may
7 sit in the same seat each and every time; it may be easier
8 because your notes would always be there when you come back
9 from a break. All right. Of course, I always need our
10 foreperson and our alternates in their chairs.

11 Thank you. Thank you very much, ladies and
12 gentlemen.

13 All right. Solicitor, you may continue.

14 MS. MAYES: Yes, sir, Your Honor. The State will
15 resume at this time with the publishing of the 9-1-1 call
16 by Emily.

17 THE COURT: All right.

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

19 MS. MAYES: Nothing further, Ms. Rodgers --

20 At this time, Your Honor.

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

22 Mr. Williams.

23 **CROSS-EXAMINATION**

24 BY MR. WILLIAMS:

25 Q Ms. Rodgers, do you have the -- a recorded second

Angela Gunter - Direct Examination by Ms. Mayes

1 call from to the 9-1-1 also?

2 A We do, yes, sir.

3 Q And that would be the one with Ms. Lawson?

4 A Yes, sir.

5 Q That's all the questions I have.

6 THE COURT: Redirect, Solicitor?

7 MS. MAYES: Nothing further at this time, Your
8 Honor.

9 THE COURT: Thank you. Thank you, Ms. Rodgers.
10 Thank you for being with us today. You may step down and
11 you may be excused.

12 MS. MAYES: The State calls Angela Gunter.

13 ANGELA GUNTER,

14 having been duly sworn testified as follows:

15 THE CLERK: Have a seat please, ma'am. Once you're
16 seated, state your full name spelling your last please.

17 THE WITNESS: Angela Gunter, G-U-N-T-E-R.

18 **DIRECT EXAMINATION**

19 **BY MS. MAYES:**

20 Q All right. And, Ms. Gunter, tell us a little bit
21 about yourself; where are you employed?

22 A Lexington County 9-1-1.

23 Q All right. And specifically in what capacity?

24 A I'm a captain, the shift supervisor captain there.

25 Q And as captain, do you take dispatch calls?

Angela Gunter - Direct Examination by Ms. Mayes

1 A Yes, ma'am.

2 Q All right. Let me refer you back to the date of
3 June 26, 2016 and ask you what, if any, involvement you had
4 in this case regarding a 9-1-1 call and a request for
5 assistance at Weaver Drive?

6 A I took a call from Heather saying that her baby was
7 dead.

8 Q All right. I need you to refer directly to your
9 report. Do you have the report in front of you?

10 A I do. Hang on one second for me though. I have
11 it.

12 Q All right. And again, what time is this call?

13 A Time received 1718:58.

14 Q All right. And, we have there on the board 5:18
15 p.m.; is that correct?

16 A Yes, ma'am.

17 Q That would be it, 5:18 p.m.?

18 A Uh-huh.

19 Q And the 58 would signify what?

20 A The seconds or time --

21 Q Milliseconds?

22 A -- yeah, milliseconds, I'm sorry.

23 Q Okay. And who was the caller in this particular
24 case?

25 A I was speaking to Heather.

Angela Gunter - Direct Examination by Ms. Mayes

1 Q All right. Now, have you had an opportunity to
2 listen to the audio recording of that call?

3 A Yes.

4 Q The call in which it's your voice and the voice of
5 someone who identified themselves as Heather?

6 A Yes, ma'am.

7 Q Currently marked as State's Exhibit 1?

8 A Yes.

9 Q Is the audio recording a fair and accurate
10 representation of that conversation that you had with
11 Heather?

12 A Yes.

13 Q Or the person who identified herself as Heather?

14 A Yes.

15 Q And, did you initial that CD as well as Ms.
16 Rodgers, who we heard from previously?

17 A I did.

18 Q Now, in addition to that have you also had an
19 opportunity to review a court transcript or court
20 reporter's transcript of that 9-1-1 call?

21 A I did.

22 Q And do you have that with you?

23 A I do.

24 Q Specifically, the transcript that is certified by
25 the court reporter, being Computerists, Incorporated?

Angela Gunter - Direct Examination by Ms. Mayes

1 A Yes.

2 Q And having reviewed this transcription of that
3 audio recording, can you tell us whether or not this
4 transcript between yourself as the 9-1-1 caller -- 9-1-1
5 operator and the caller is a fair and accurate
6 representation of that conversation?

7 A Yes, it is.

8 MS. MAYES: Your Honor, at this time, we would mark
9 as State's Exhibit 2, the court reporter's transcript and
10 also request permission to publish our copies?

11 (State's Exhibit Number 2 was marked for
12 identification.)

13 THE COURT: Mr. Williams?

14 MR. WILLIAMS: Your Honor, I was listening to
15 whether or not she was moving it into evidence. She said
16 she was marking it.

17 MS. MAYES: Yes, we would be offering the certified
18 copy as evidence and then we would request permission to
19 use copies of the transcripts as demonstrative aids.

20 MR. WILLIAMS: We have no objection to her placing
21 those into evidence and then publishing.

22 THE COURT: All right. So it's in evidence without
23 objection.

24 (State's Exhibit Number 2 was entered into
25 evidence.)

Angela Gunter - Direct Examination by Ms. Mayes

1 MR. WILLIAMS: It is, Your Honor.

2 THE COURT: Thank you, Mr. Williams. This is
3 State's 2?

4 MS. MAYES: State's Exhibit 2, Your Honor.

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

6 MS. MAYES: Your Honor, I believe there was also no
7 objection to the use of publishing demonstrative aids with
8 our copies?

9 MR. WILLIAMS: We don't object to that.

10 THE COURT: All right.

11 MS. MAYES: If I may approach, Your Honor?

12 THE COURT: Thank you, Solicitor.

13 MS. MAYES: Having identified State's Exhibit 1,
14 Your Honor, at this time the State will publish the audio.

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

16 (The 9-1-1 call was published to the jury.)

17 BY MS. MAYES:

18 Q And Ms. Gunter, did that complete your conversation
19 with the caller who identified herself as Heather?

20 A Yes.

21 Q Nothing further of this witness at this time, Your
22 Honor?

23 THE COURT: Thank you, Solicitor. Mr. Williams?

24 MR. WILLIAMS: May it please the Court?

25 THE COURT: Yes, sir.

Angela Gunter - Cross-Examination by Mr. Williams

CROSS-EXAMINATION

1
2 BY MR. WILLIAMS:

3 Q Ms. Gunter, that was your voice that was talking to
4 Ms. Lawson on the phone; is that correct?

5 A Yes.

6 Q And, we had just heard, I know you were in the
7 courtroom, heard another 9-1-1 call?

8 A Uh-huh (affirmative response).

9 Q That was not you on the phone talking to the other
10 individual who was on the phone, was it?

11 A No, it was not me.

12 Q Were both you and the other individual in the same
13 room at the time that these 9-1-1 calls were coming in?

14 A Yes.

15 Q So I guess the reason I'm really trying to ask you
16 is that I did the calculations and it's like 44 seconds
17 difference between the two calls. At the time that the
18 other person is on the phone, did you signal -- did you
19 signal the other 9-1-1 operator and let her know that you
20 had Ms. Lawson on the phone also?

21 A No, not that I remember doing that, but the -- how
22 it works is it'll pop up and you can add information and
23 stuff in. So you can recognize by looking at the computer?

24 Q So the other individual knew by looking at the
25 computer that you were talking to someone in reference to

Angela Gunter - Cross-Examination by Mr. Williams

1 the same act?

2 A Yes.

3 Q Okay. Because it shows the address?

4 A Uh-huh (affirmative response). No, it'll -- I
5 started typing -- when I took the second call.

6 Q Right?

7 A Our system pops up as a duplicate call, so to make
8 sure it is, I close my original one out and started typing
9 into hers and that's how she recognized that I put speaking
10 to Heather and the call card.

11 Q Okay. So you were typing this information in and
12 that's how we got this designation that it was coming from,
13 what was it, Weaver Drive?

14 A Yes, Weaver Drive.

15 Q All right. So the time which is reflected on these
16 -- this information is the time that you're inserting or is
17 it the time that you pick up?

18 A Yes, it shows when I open a call card up, time,
19 date received, and then it shows where I cleared out the
20 duplicate and then started typing into the other one.

21 Q So it's actually a manual operation in regards to
22 the exact time that it comes in?

23 A What do you mean a manual operation?

24 Q Well, I'm trying to figure out the 44 seconds. So
25 the 44 seconds difference between these two calls, is that

Angela Gunter - Cross-Examination by Mr. Williams

1 something that you type in or is that something that the
2 computer automatically places?

3 A The computer will do it. We don't type in a time;
4 the computer does it.

5 Q All right.

6 A It timestamps everything.

7 Q So -- and the computer knows to do that based on
8 what?

9 A When you open up a call card.

10 Q Okay. And then it realizes that you have a -- a
11 call which is identical to the other call that you're
12 receiving?

13 A By the location.

14 Q By the location?

15 A Uh-huh (affirmative response).

16 Q Which you physically type in, right?

17 A Yes, you have to type the location.

18 Q Because in today's world of cell phones, you don't
19 just pick that up like if it was a landline, y'all might
20 have the ability to have those calls come straight in on a
21 landline, but with cell phones, you could be anywhere and
22 call something in, couldn't you?

23 A You could.

24 Q You could?

25 A You could be anywhere. I mean that's why you get a

Angela Gunter - Redirect Examination by Ms. Mayes

1 location.

2 Q Right. And you get that information from the
3 caller?

4 A Yes, sir.

5 Q That's all the questions I have for her.

6 THE COURT: Redirect, Solicitor?

7 MS. MAYES: Yes, sir, Your Honor, just briefly.

8 REDIRECT EXAMINATION

9 BY MS. MAYES:

10 Q So to clarify, Ms. Gunter, at the time that your
11 call came in with request for assistance at Weaver
12 Drive, there was already another call being dispatched to
13 Weaver Drive?

14 A I'd like to look at something please. I mean as
15 far as the first -- I'm sorry, repeat the question for me
16 again?

17 Q Right. Okay. So at the time you entered your
18 information about Weaver Drive --

19 A Uh-huh (affirmative response).

20 Q -- there's already another request for assistance
21 at Weaver Drive?

22 A Yes.

23 Q Okay. Thank you. Nothing further.

24 THE COURT: Recross?

25 MR. WILLIAMS: No questions on that, Your Honor.

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 THE COURT: Thank you, Ms. Gunter, for being with
2 us today. You may step down and you may be excused.

3 All right. Solicitor?

4 MS. MAYES: The State calls Anthony D'Onofrio.

5 THE COURT: All right. Come around and be sworn
6 for us please.

7 ANTHONY D'ONOFRIO,
8 having been duly sworn, testified as follows:

9 THE CLERK: Have a seat, sir. Once you're seated,
10 state your full name spelling your last for the record
11 please.

12 THE COURT: All right. You need to take up those
13 transcripts, Solicitor.

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

15 THE WITNESS: My name is Anthony D'Onofrio. Last
16 name is spelled D-'-O-N-O-F-R-I-O.

17 **DIRECT EXAMINATION**

18 BY MS. MAYES:

19 Q All right. If you can give us a little bit of
20 information about yourself; where are you currently
21 employed?

22 A I'm currently employed with Lexington County Fire
23 Service?

24 Q All right. And are you a firefighter?

25 A Yes, ma'am.

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 Q How long have you been with the Lexington County
2 Fire Department?

3 A I've been with Lexington County Fire Service for
4 about seven years.

5 Q Now, how is it that as a fireman, as a firefighter,
6 you also respond as a first responder to certain calls for
7 assistance such as medical distress?

8 A We are cross trained in medical response as well.
9 I'm currently certified as a first responder, certified to
10 do CPR and use the AED through the American Heart
11 Association.

12 Q All right. And do you also have access to any
13 dispatched calls for EMS assistance so that you can -- you
14 can respond in your fire truck?

15 A Yes, ma'am, there is something set up through our
16 headquarters. We also work with Lexington County EMS.
17 Certain kinds of EMS calls, they'll require a fire truck to
18 respond as well as some time we can get there quicker than
19 EMS can and we can also help EMS do some of the things that
20 they do on the scene, it's kind of like extra hands to help
21 them out.

22 Q Okay. I'm going to take you to the date of June
23 26, 2016. Can you tell us whether or not you had the
24 opportunity to respond as a first responder there at the
25 scene at Weaver Drive?

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 A Yes, ma'am, we did.

2 Q What can you tell us about the time of your arrival
3 there on the scene; do you have an actual report that goes
4 along with the response of your fire truck?

5 A Yes, ma'am. We were dispatched at 5:19 and we
6 arrived on scene at 5:25.

7 Q You get there at 5:25; and we've had previous
8 testimony that EMS also arrived about 5:25. How many
9 people were on that fire truck with you?

10 A There was myself and two other individuals, two
11 other firefighters.

12 Q Kind of take us through what you do as a first
13 responder when you first arrive at the scene such as this?

14 A If we come upon a, an individual that's in cardiac
15 arrest, we check the vital signs and make sure that if they
16 are or are not breathing. We check their pulse to see if
17 they have any kind of heartbeats and then we'll go into CPR
18 and giving rescue breaths or something like that. We were
19 unable to, at the scene, EMS kind of arrived on the scene
20 within a couple of seconds of us, you know, making initial
21 contact.

22 Q All right. Now you used the term cardiac arrest,
23 but just to kind of break it down for -- in layperson's
24 terms, cardiac arrest means what?

25 A The individual is not breathing and there's no

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 pulse, meaning the heart is not beating to circulate blood
2 throughout the system.

3 Q All right. And did you have an opportunity to
4 actually enter the residence at Weaver Drive?

5 A Yes, ma'am.

6 Q Tell us about that, what you saw upon your arrival?

7 A We arrived on the scene, I was actually the one
8 driving the truck and the house was actually on the
9 driver's side when we parked the truck. I was met in the
10 front yard by a lady who was later identified as the mother
11 of the children. She was visibly upset and she stated to
12 me that, She's dead. I wasn't really able to get any other
13 information out of her. So myself and Firefighter --

14 Q All right. And so just to stop you right there.
15 So it was the mother of the child who was already outside
16 the residence to meet you?

17 A Uh-huh (affirmative response).

18 Q And her -- the only information you got out of her
19 was?

20 A She's dead.

21 Q All right. And did you enter the residence?

22 A Yes, ma'am.

23 Q And what did you see upon arrival or entry into the
24 residence?

25 A I observed the -- I observed the -- the house was

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 kind of in disarray. There was a bunch of toys and stuff
2 scattered throughout the house and then as we entered the
3 door to the right-hand side, there was a pack 'n play and
4 the infant was lying actually on the floor of the house
5 next to the -- next to the pack 'n play.

6 Q All right. Let me show you a photograph and ask
7 you whether or not you recognize it?

8 MS. MAYES: If I may approach, Your Honor?

9 THE COURT: Yes, ma'am.

10 (State's Exhibit Number 3 was marked for
11 identification.)

12 THE WITNESS: Yes, ma'am.

13 BY MS. MAYES:

14 Q Can you tell us whether or not this photograph is a
15 fair and accurate representation of the interior of the
16 residence at Weaver Drive as you recall it?

17 A Yes, ma'am.

18 MS. MAYES: Your Honor, at this time, this would be
19 State's Exhibit 3 for evidence?

20 MR. WILLIAMS: Without objection, Your Honor.

21 THE COURT: State's 3 is in evidence without
22 objection.

23 (State's Exhibit Number 3 was entered into
24 evidence.)

25 BY MS. MAYES:

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 Q Now, you mentioned that you observed the infant on
2 the floor. What was your first step in actually treating
3 that patient?

4 A Our first steps as -- with the fire service, I'm
5 going to make sure to see if the patient is breathing,
6 which she was not; and also checked for a pulse, which
7 there was none.

8 Q All right. Was there any other first responder
9 around Victim until you actually approached her?

10 A Until I approached her, no. No, ma'am.

11 Q So you were the first to approach?

12 A Yes, ma'am.

13 Q And did you observe any signs of life?

14 A No, ma'am. There was, like I said, there was no
15 breathing; there was no pulse, and there was also some
16 lividity around the buttocks region and she was cold to the
17 touch and she had rigor mortis in her extremities, which
18 means extremities were kind of stiff.

19 Q So I'm going to ask you a little bit more about
20 that.

21 A Okay.

22 Q You mentioned the word rigor mortis.

23 A Yes, ma'am.

24 Q Or rigor.

25 A Uh-huh.

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 Q Is that a term that you're familiar with in your
2 training and your certification as a first responder?

3 A Yes, ma'am.

4 Q Have you ever, prior to this date, had the
5 opportunity to respond to a scene where there was a
6 deceased patient?

7 A Yes, ma'am.

8 Q And so when you use that term rigor, where do you
9 recall her having signs of rigor?

10 A Like I said, in her extremities and in legs and her
11 arms.

12 Q All right. So I'm going to move you through.
13 What's your next step after you actually observed no signs
14 of life?

15 A My next step would have been to start CPR, but EMS
16 had arrived on scene and kind of took over patient care so
17 we were unable to do any kind of medical interactions.

18 Q Okay. So you're inside the residence, you're the
19 first to her and EMS actually entered behind you?

20 A Well, right behind me was the firefighter that was
21 on my truck, Joe Burns; and then behind him by a couple of
22 seconds, I'm not exactly sure of the timeframe, but they
23 were pretty much within a couple of minutes behind us in
24 the door.

25 Q And did you remain present until Victim was

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 removed there from the scene, from the living room area?

2 A Yes, ma'am.

3 Q And after you remained present, did you see where
4 she went next?

5 A The EMS crew took her to the back of the ambulance
6 and began their patient care.

7 Q All right. And during the entire time that you
8 were present and tending to Victim did anyone else enter
9 the residence or tamper with any evidence here in the area
10 of the front room?

11 A No, ma'am.

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

13 THE COURT: Yes, ma'am.

14 BY MS. MAYES:

15 Q If you have the laser there, if you could show us
16 by using the laser what we're looking, what you've
17 identified as the pack 'n play and then where you recall
18 seeing Victim ?

19 A This picture looks like it's taken from the front
20 door, you step in the front door and look to your right.
21 There's a table here, this is the pack 'n play and Victim
22 was, on the floor here laying on her back.

23 Q All right. Was anyone else in the residence when
24 you arrived?

25 A Yes, ma'am, there was a gentleman on the phone with

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 our communications, later identified as the father of the
2 child.

3 Q All right. And you said previously that the person
4 you believed to be the mother was outside the residence to
5 meet you upon your arrival?

6 A Yes, ma'am, and they were also, the kids were in
7 the house as well.

8 Q There were other children in the home?

9 A Yes, ma'am.

10 Q Where do you recall them being located?

11 A There was actually like a mattress or something
12 over here on the left-hand side of this picture. They were
13 -- they were kind of running around a little bit on the
14 mattress and then kind of back behind the gentleman that
15 was in the residence.

16 Q All right.. Now you described the vital signs of
17 Victim that she was not breathing and that she did not
18 have a pulse. What else did you notice about her
19 physically in terms of any potential injuries?

20 A I noticed a big bruise on her forehead and she had,
21 like I said, lividity in her buttocks.

22 (State's Exhibit Number 4 was marked for
23 identification.)

24 BY MS. MAYES:

25 Q I'm going to show you a photograph and ask you

Anthony D'Onofrio - Direct Examination by Ms. Mayes

1 whether or not you recognize it?

2 A Yes, ma'am.

3 Q And can you tell us whether or not that's a fair
4 and accurate representation of the bruising that you noted
5 to Victim on that date?

6 A Yes, ma'am.

7 MS. MAYES: Your Honor, this would be State's
8 Exhibit 4 for ID at this point?

9 MR. WILLIAMS: I have no objection to the
10 introduction of that, Your Honor.

11 THE COURT: All right.

12 MR. WILLIAMS: I know she's offering it as ID, but
13 I have not objection if she wants to place that into
14 evidence at this time.

15 THE COURT: All right. Solicitor? May I see it.
16 please.

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

18 THE COURT: Are you offering it into evidence at
19 this time?

20 MS. MAYES: I will at this time, Your Honor, with
21 there being no objection through this witness.

22 THE COURT: All right. State's 4 is in evidence
23 without objection.

24 (State's Exhibit Number 4 was entered into
25 evidence.)

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 BY MS. MAYES:

2 Q Now at this stage as a first responder, you're
3 assisting EMS with the initial assessment. EMS actually
4 takes her onto the truck. Do you have an opportunity to do
5 what would be called a full physical assessment of Victim

6 A No, ma'am.

7 Q But you did note that there was bruising to what
8 areas of the body?

9 A Her forehead.

10 Q And this is the photograph that you have
11 identified?

12 A Yes, ma'am.

13 Q And that's how you recall seeing Victim as she was
14 laying on her back?

15 A Correct.

16 MS. MAYES: Nothing further from this witness at
17 this time, Your Honor.?

18 THE COURT: Thank you, Solicitor. Mr. Williams.

19 MR. WILLIAMS: May it please the Court?

20 **CROSS-EXAMINATION**

21 BY MR. WILLIAMS:

22 Q D'Onofrio?

23 A D'Onofrio.

24 Q D'Onofrio. There were two exhibits, which you were
25 asked to identify and I think the first, State's Exhibit

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 Number 3, which was a picture of the crib.

2 A Yes, sir.

3 Q And -- and you depicted or you said this was the
4 way that you viewed everything when you came in there; is
5 that correct?

6 A Yes, sir.

7 Q Nothing had been moved or nothing was moved while
8 you were there that made this picture look any different
9 than how it looked when you were there?

10 A Correct.

11 Q There appears to be some sort of a pink blanket?

12 A Yes, sir.

13 Q When you came in there, was the pink blanket just
14 as it is now?

15 A I believe so, yes, sir.

16 Q All right. Did you look in the crib to see if
17 there was anything in the crib when you --

18 A No, sir.

19 THE COURT: Is the crib -- I'm sorry to interrupt.
20 The crib and pack 'n play; is that the same thing?

21 MR. WILLIAMS: No, sir.

22 THE COURT: Okay. Thank you.

23 MR. WILLIAMS: I don't believe it is.

24 THE COURT: Well he -- he --

25 MR. WILLIAMS: Is -- well I take that back, Your

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 Honor. I think you're absolutely correct.

2 THE COURT: I don't mean to comment on the fact,
3 but I thought our firefighter here called it a pack 'n
4 play.

5 Mr. D. I can't pronounce Smythe -- Smith.

6 I thought you referred to --

7 MR. WILLIAMS: -- as a pack 'n play.

8 THE COURT: -- a pack 'n play. I was just trying
9 to get in my mind if it's the same thing or not; you can
10 followup on that for me.

11 MR. WILLIAMS: Thank you, Your Honor.

12 THE COURT: Yes, sir.

13 BY MR. WILLIAMS:

14 Q So what I was calling a crib --

15 A Uh-huh (affirmative response).

16 Q -- is what you would call a pack 'n play?

17 A Yes, sir.

18 Q And you would call it a pack 'n play because you
19 can pack it?

20 A Correct.

21 Q And then you can take it wherever you're going for
22 your child to play in it?

23 A Correct.

24 Q Does it have another function besides being known
25 as a pack 'n play?

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 A I believe that you can call it -- well not call it,
2 but you can put a kid to sleep so they can nap in there.

3 Q So it can be treated as a crib?

4 A Correct.

5 Q Now, do you know whether or not if there was a
6 mattress in the pack 'n play or not or did it have a bottom
7 in the bottom of the pack 'n play? Would it help if you
8 held that close up to you?

9 A I didn't get to peek inside the pack 'n play, so
10 I'm not sure, exactly sure what was inside of it. So I
11 can't testify that there was anything or not inside the
12 pack 'n play.

13 MR. WILLIAMS: May I approach the witness, Your
14 Honor?

15 THE COURT: Yes, sir, of course.

16 BY MR. WILLIAMS:

17 Q Looking at State's Exhibit Number 3, in the area
18 where the pack 'n play is --

19 A Uh-huh (affirmative response).

20 Q Does there appear to be something in the pack 'n
21 play that might be --

22 A Yes, sir, it does. It looks like there's something
23 on the very bottom of it on the inside of it.

24 Q Could it possibly be like a thin, I don't know if
25 you'd call it a mattress, but it maybe be a little plastic

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 deal that the child could lay on as opposed to the
2 cardboard, which is normally in the bottom of those things?

3 A I'm not 100 percent sure. From this picture, I
4 can't exactly tell what it is.

5 Q Do you have any children?

6 A Yes, sir.

7 Q All right. Do you have a pack 'n play?

8 A I used to, yes.

9 Q And did your pack 'n play have kind of like a hard
10 -- a hard cardboard with a little hole area where you could
11 just reach through with your hands and pull it straight up
12 so that it folded together?

13 A Yes, sir, that would be underneath kind of like a
14 mini-mattress. It wasn't really a mattress with foam on
15 it, but just some kind of padding, very thin padding.

16 Q And -- and there would be something normally in the
17 pack 'n play which was like a mattress or a cushion?

18 A Correct.

19 Q And the child could sleep on that?

20 A Correct.

21 Q And that's -- is that what you think you see in
22 that pack 'n play?

23 A Again, I'm not 100 percent sure exactly what that
24 is and I can't really -- I didn't visually see it, so I
25 can't really say.

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 Q You weren't concerned about the pack 'n play when
2 you were there?

3 A Correct.

4 Q You were concerned about that baby on the floor?

5 A Yes, sir.

6 MR. WILLIAMS: May I approach, Your Honor?

7 THE COURT: Of course.

8 MR. WILLIAMS: Thank you, sir.

9 BY MR. WILLIAMS:

10 Q You didn't take these pictures, right?

11 A No, sir.

12 Q Somebody else at some later date took these
13 pictures?

14 A Yes, sir.

15 Q Now, referring to State's Exhibit Number 4, which
16 is a picture of the -- of the child, when you said that's
17 how the child appeared, clearly this is not the way the
18 child appeared when you saw the child, is it?

19 A No, sir.

20 Q Because this is -- this is obviously when the child
21 was at the hospital with all these --

22 A I believe those were taken at the hospital, yes,
23 sir.

24 Q All right. Because you didn't see these little --
25 the items that are stuck on the child's chest, those are

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 for -- to use, you called it an AED; is that what you
2 called it?

3 A There is -- I think EMS sticks things on people for
4 the EKG which measures heart rhythm. I believe those are
5 what you're looking at in that picture.

6 Q All right. So these would be to measure heart
7 rhythm and would not actually be used to use the electrical
8 shock to stimulate the child back?

9 A Correct, sir.

10 MR. WILLIAMS: May I approach again, Your Honor?

11 THE COURT: Yes, sir.

12 BY MR. WILLIAMS:

13 Q So when you're talking about those items on the
14 child, they're little rounded plastic items with some sort
15 of metal in the middle of those items?

16 A Yes, sir.

17 Q And you say that's what the EMS uses to check
18 for --

19 A Some kind of heart rhythm.

20 Q And they -- they would check for the heart rhythm
21 on the arm also?

22 A Yes, sir. I'm not exactly sure how that works. We
23 don't -- the fire service doesn't deal with it, but I guess
24 there's certain spots where they can stick them to try to
25 get a rhythm.

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 Q Okay. Does there appear to be a large circular
2 impression on the child's chest in that picture?

3 A Yes, sir.

4 Q Did you view any type of medical instrument when
5 you were there that would have left that impression on the
6 chest?

7 A Not at the time that I observed the child, there
8 was nothing like that on the child itself.

9 Q And when you viewed the child, did the child have
10 the same clothing on?

11 A Yes, sir.

12 Q So -- so the clothing, the little pink -- is it
13 pink?

14 A Yes, sir, I'd say it was pink.

15 Q Okay. Was on it, but -- and you just -- you just
16 pulled that back when you attempted to work on the child;
17 is that right?

18 A Correct.

19 Q What did you actually do in terms of trying to
20 resuscitate the child?

21 A We didn't take any medical interactions. We just
22 checked her breathing and checked her pulse and I observed
23 the lividity around the buttocks area, but other than that,
24 we didn't do anything else because EMS was right behind us
25 and they took over the patient care. They were the ones

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 that did pretty much any kind of medical interaction done
2 for to the child.

3 Q Because they're more specialized than what you are;
4 you're a firefighter?

5 A Correct.

6 Q All right, sir. And the two kids over on the other
7 side -- when you look at the wall, can you -- can you tell
8 me -- the doorway that you came in, would that have been a
9 front door or a back door, or a side door, or what have
10 you?

11 A The way that the house was laid out from the
12 street, it would have been the first door that you
13 approached from the road, so I would assume it was the
14 front door which leads into the living room area. I guess
15 I would normally say it was the front door of the
16 residence.

17 Q So the first room that you went into would have
18 been the same room where the child was located?

19 A Yes, sir.

20 Q And you said living room, did you mean to say that
21 this room was the living room of the trailer?

22 A Yes, I would classify it as the living room of the
23 trailer.

24 Q Was there a sofa in there?

25 A Not that I recall.

Anthony D'Onofrio - Cross-Examination by Mr. Williams

1 Q Was there a TV in there?

2 A Not that I recall.

3 Q Was there anything besides the pack 'n play and
4 mattresses in that particular room?

5 A There was some toys and some clothes and some
6 blankets and that was about it.

7 Q It was a living area?

8 A Correct.

9 Q And did you have to open the door to get inside the
10 -- do you know if there was another way into that trailer?
11 Let me ask you that, did you attempt any other doors to see
12 if you could enter that trailer other than that door?

13 A That was the only door that I observed from the
14 street and we did not leave that room when we went in the
15 residence and then after the kid was taken away by EMS, we
16 walked out the same door that we came in.

17 Q And do you recall whether or not the door locked or
18 whether or not it had to be locked with a key or did you
19 observe the locking and unlocking of the door?

20 A I believe the door was open when we had made
21 entrance. I didn't really mess around with the door
22 itself. So that would be my answer to that question.

23 MR. WILLIAMS: That's all the questions I have,
24 Your Honor.

25 THE COURT: Redirect, Solicitor?

Anthony D'Onofrio - Redirect Examination by Ms. Mayes

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

2 **REDIRECT EXAMINATION**

3 BY MS. MAYES:

4 Q Just to clarify, is your job as a first responder
5 to investigate the crime scene?

6 A No, ma'am.

7 Q Or the pack 'n play?

8 A No, ma'am.

9 Q Or its contents?

10 A No, ma'am.

11 Q And can you tell us whether under those
12 circumstances that you described, the medical emergency,
13 was anyone there at the scene concerned with taking photos
14 of Victim as she was found there?

15 A I do believe the sheriff's office did that
16 afterwards, but no, there was nobody on scene at that time
17 when our service or EMS was there.

18 Q As Victim was being treated?

19 A Correct.

20 Q So any photograph of her would have been later
21 after she was transported from the scene?

22 A Yes, ma'am.

23 Q Nothing further.

24 THE COURT: Recross?

25 MR. WILLIAMS: No questions, Your Honor.

Brandon Garon - Direct Examination by Ms. Mayes

1 THE COURT: Thank you. Thank you, for being with
2 us.

3 THE WITNESS: Yes, sir.

4 THE COURT: Any objections to the officer being
5 excused?

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

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

8 THE COURT: You may be excused.

9 THE WITNESS: Thank you.

10 THE COURT: All right. Solicitor.

11 MS. MAYES: The State calls Brandon Garon.

12 THE COURT: All right. If you'd come around and
13 join us please.

14 BRANDON GARON,

15 having been duly sworn, testified as follows:

16 THE CLERK: Once you're seated, state your full
17 name spelling your last on the record, please.

18 THE WITNESS: My name is Brandon Garon. Last name
19 G-A-R-O-N.

20 **DIRECT EXAMINATION**

21 **BY MS. MAYES:**

22 Q Tell us a little bit about yourself; where are you
23 employed?

24 A I am currently employed at Lexington County as an
25 EMT Basic.

Brandon Garon - Direct Examination by Ms. Mayes

1 Q So tell us a little bit more about becoming an EMT,
2 an emergency medical technician; what type of
3 certifications do you hold?

4 A So to become an emergency medical technician, I
5 initially took at a course at a junior college in
6 California approximately ten years ago. After that course,
7 we take a national test that makes us registered throughout
8 the national -- to be able to work in any state within the
9 -- the country. Two years ago, we moved back to South
10 Carolina and I renewed my national registry and then got
11 licensed here in the State of South Carolina.

12 Q So how long altogether have you worked as an EMT or
13 emergency medical technician?

14 A Approximately nine years.

15 Q Can you tell us whether or not you were working on
16 June 26, 2016?

17 A Yes, ma'am, I was.

18 Q What, if anything, do you recall about responding
19 to the scene at Weaver Drive where you had an infant
20 patient?

21 A I do have my statement here; and I said on June 26,
22 2016, I was working Unit 13 for Lexington County EMS and we
23 were dispatched to Weaver Drive, Stage 14.

24 Q All right. So let me stop you right there. How
25 many people were in your unit, your ambulance with you?

Brandon Garon - Direct Examination by Ms. Mayes

1 A It was just me and my partner.

2 Q All right. And what is the partner's name?

3 A Sergeant Bernard.

4 Q Tell us what you recall about arriving on the
5 scene; who was there first and what you did?

6 A So I write here: Upon arriving on scene, LCFS,
7 which is Lexington County Fire Service, was on scene. One
8 of the firefighters was in the doorway waving down EMS.

9 Q All right. Do you remember if there were any
10 civilians?

11 A Yeah, I did note that there was a middle-age
12 female, who was standing outside the residence that looked
13 visibly upset.

14 Q All right. What was your first contact with the
15 infant patient, Victim ?

16 A My partner, Sergeant Bernard, entered the residence
17 first. I always follow up behind him, and when I started
18 approaching the residence, Sergeant Bernard came out
19 holding the infant in his hands.

20 Q And what was your role in attempting to provide
21 medical intervention?

22 A Sergeant Bernard informed me that the patient was
23 in cardiac arrest and that I was to begin CPR with the
24 patient.

25 Q Now, cardiac arrest means her heart's not beating?

Brandon Garon - Direct Examination by Ms. Mayes

1 A Correct.

2 Q What efforts did you take to try and assist or get
3 her heart beating?

4 A My role in doing that was doing compressions on the
5 infant as well as at times, when Sergeant Bernard was doing
6 other things to assist with ventilations using a BVM, bag
7 valve mouth which assists ventilations.

8 Q All right. Now is CPR different for an infant than
9 it is for an adult?

10 A Yes, ma'am.

11 Q How so?

12 A When we're using it with an adult, you're going to
13 be using two hands. When you're doing an infant, you --
14 when you're using two persons as we were because there were
15 two of us in the back of the truck, you cradle the body
16 with your hands and then your thumbs are placed on the
17 chest and you use your thumbs to do compressions.

18 Q All right. And is that what you did in this case
19 with Victim

20 A Yes, ma'am.

21 Q How long did you continue to provide chest
22 compressions using your thumbs or CPR, infant CPR, for
23 Victim in this case?

24 A All the way up until the point that we arrived at
25 the hospital and transferred care to the staff.

Brandon Garon - Direct Examination by Ms. Mayes

1 Q All right. Now, there has been testimony that you
2 arrived there at the scene at 5:25. Do you have a copy of
3 your report with you?

4 A Yes, ma'am.

5 Q What time did EMS arrive at the hospital?

6 A Arrived at destination 1747.

7 Q You mean 5:47?

8 A That is correct.

9 Q You have arrived at destination; what was the
10 destination?

11 A That would be Lexington County Medical Center.

12 Q And did you continue doing the thumb chest
13 compressions throughout that time?

14 A That is correct.

15 Q Up until the time she was turned over to the care
16 of emergency nurses and doctors?

17 A That is correct.

18 Q At any point in time, did she ever show any signs
19 of life?

20 A No, ma'am.

21 Q Did she ever take a breath?

22 A No, ma'am.

23 Q Did you ever get a pulse or a heartbeat?

24 A No, ma'am.

25 Q What, if anything, did you note during the course

Brandon Garon - Direct Examination by Ms. Mayes

1 of her transport there in the ambulance? What, if
2 anything, did you note about her physical condition?

3 A My main focus was doing CPR. I did try and make a
4 quick rapid assessment and I do note here that there was
5 large ecchymosis, which is bruising on the frontal region
6 of the forehead; so the front. I also noted lividity,
7 which is blood settling in the lower extremities of the
8 body. Continued here, when I was doing compressions, I
9 felt that the core of the body, which is the middle, main
10 part of the body, felt warm. The extremities however, felt
11 cool to the touch and I noticed that the patient's left
12 fist is clinched shut.

13 Q Now, in addition to that, did you observe your
14 partner, the paramedic, Bernard, did you observe him
15 attempt to aid her with an airway?

16 A Yes. Yes, ma'am, I did.

17 Q What's the type of instrument that you observed him
18 attempting to utilize?

19 A Initially they try and do intubation; is what he
20 tried where you insert a tube that goes down into the lungs
21 so that that way you can give adequate respirations. That
22 was the first thing that he wanted to attempt.

23 Q And is that type of medical intervention,
24 intubation, to assist with an airway, is that routine
25 procedure in such a case when you have a patient who is not

Brandon Garon - Direct Examination by Ms. Mayes

1 breathing?

2 A Yes, ma'am.

3 Q Did you observe him try and open her mouth?

4 A Yes, ma'am.

5 Q What did you observe?

6 A He was appearing to have difficulty and he told me
7 that --

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

9 BY MS. MAYES:

10 Q All right. And don't repeat what anyone else has
11 -- has said to you?

12 A Yes, ma'am.

13 Q Did you observe him attempting to open her mouth?

14 A Yes, ma'am.

15 Q That would be the jaw area?

16 A Yes, ma'am.

17 Q In order to insert that tube for intubation?

18 A Yes, ma'am.

19 Q Was he able to open her mouth?

20 A Not that I could see?

21 Q All right. And based upon your observations, how
22 did her jaw appear?

23 A It would be described as clinched.

24 Q Have you worked other cases with patients who are
25 deceased?

Brandon Garon - Direct Examination by Ms. Mayes

1 A Yes, ma'am.

2 Q Can you tell us whether or not that clinched jaw is
3 something that you've seen before?

4 A Yes, ma'am, I have.

5 Q In regards to rigor mortis?

6 A Correct.

7 Q Now, you also mentioned that the core was warm?

8 A Yes, ma'am.

9 Q And is that also noted in your report?

10 A Yes, ma'am, it is.

11 Q And again, when you used the term core, you're
12 referring to what area of the body?

13 A The main area of the body not including
14 extremities; arms, legs.

15 Q The torso area?

16 A Correct.

17 Q You mentioned that you did a rapid assessment.

18 Were you able to, under those circumstances, and reach the
19 hospital, were you able to do a full assessment as you
20 would a patient who may have been living and breathing?

21 A No, ma'am.

22 Q Were you ever able to turn her over and see what
23 was on the back of her or underneath her?

24 A No, ma'am.

25 Q Or even the back of her head?

Brandon Garon - Direct Examination by Ms. Mayes

1 A No, ma'am.

2 Q This photograph is already in evidence, State's
3 Exhibit 4. I'm going to ask you to take a look at that one
4 and then also this photograph and ask you whether or not
5 that's a fair and accurate representation of how you recall
6 Victim on the afternoon of June 26th?

7 A Yes, obviously there's medical treatment that was
8 not applied by me, but everything else, yes.

9 Q All right. Was some of this -- was some of this
10 medical equipment applied by you or your partner in your
11 presence?

12 A Yes, ma'am.

13 Q All right. So I'm going to ask you a little bit
14 more about that. In this photograph, can you tell us if
15 that's a fair and accurate representation of how you recall
16 her and how you recall a certain instrument being used?

17 A Yes.

18 MS. MAYES: Your Honor, this would be State's 5 for
19 evidence?

20 (State's Exhibit Number 5 was marked for
21 identification.)

22 MR. WILLIAMS: Your Honor, if I could see that for
23 just a minute. If she's offering it -- I take that back,
24 Your Honor. I don't think she's gone through all the
25 questions yet that she's going to ask.

Brandon Garon - Direct Examination by Ms. Mayes

1 THE COURT: All right.

2 BY MS. MAYES:

3 Q All right. I'm going to ask you about this
4 particular photograph. You described bruising to Victim

5 A That's correct.

6 Q Do you see that in this particular photograph?

7 A Yes, the marks on her forehead.

8 Q All right. And then you also mentioned that there
9 was certain intervention done by yourself and your partner.
10 What types of medical intervention did you provide en route
11 to the hospital?

12 A I did compressions as stated and then using the bag
13 valve mouth to help -- to try and give breath to the
14 patient.

15 Q All right. What else was done by your partner,
16 Bernard?

17 A My partner, Bernard, would have placed the EKG
18 leads on the patient to see if there was any cardiac
19 rhythm. And then as well, down here we inserted a IO which
20 is -- in order to gain access for patients in cardiac
21 arrest, they drill into the bone and that way they give any
22 type of medications necessary.

23 Q And do you recognize those items present in this
24 photograph?

25 A Yes, ma'am.

Brandon Garon - Direct Examination by Ms. Mayes

1 MS. MAYES: Your Honor, this would be State's
2 Exhibit 5 for evidence.

3 MR. WILLIAMS: Your Honor, I don't think she's laid
4 the proper foundation for the introduction of this
5 photograph yet.

6 THE COURT: Step up here, I'm not tracking.

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

9 THE COURT: Thank you.

10 MR. WILLIAMS: Thank you, Your Honor.

11 THE COURT: Thank you, Solicitor. Solicitor, you
12 may continue.

13 BY MS. MAYES:

14 Q And you recognize some of these devices, medical
15 devices that were used in Victim care on that date --

16 A Yes, ma'am.

17 Q -- Having been placed by your partner in your
18 presence?

19 A Yes, ma'am.

20 MS. MAYES: This would be State's Exhibit 5 for
21 evidence, Your Honor, with 4 already being in evidence?

22 MR. WILLIAMS: Without objection, Your Honor.

23 THE COURT: State's 5 is in evidence without
24 objection.

25 (State's Exhibit Number 5 was entered into

Brandon Garon - Direct Examination by Ms. Mayes

1 evidence.)

2 BY MS. MAYES:

3 Q You mentioned that there were also thumb
4 compressions done by yourself?

5 A Yes, ma'am.

6 Q En route to the hospital?

7 A Yes, ma'am.

8 Q I want you to take a look at these photographs of
9 Victim and ask you whether or not any of those markings
10 would have been caused by your care?

11 A I cannot confirm or deny whether or not the red
12 mark on the chest was from my compressions.

13 Q Okay. I'm going to ask you a little bit more about
14 that. But other than that one marking, are there any other
15 markings or bruising to her head or face area that would
16 have been caused by yourself or your partner in your
17 presence?

18 A As far as markings, no?

19 Q So looking here at State's Exhibit 4, what are
20 these items here?

21 A Those are going to be EKG leads as well.

22 Q They were placed by who?

23 A Those ones, from here it looks like those might be
24 the hospital's. There are other ones that you see in the
25 lower extremities that would be placed by us.

Brandon Garon - Direct Examination by Ms. Mayes

1 Q All right. You recognize these items?

2 A Correct.

3 Q And then you mentioned this location?

4 A Correct.

5 Q Is that the general area in which you would have
6 applied CPR?

7 A Yes, ma'am.

8 Q Using your thumb compressions?

9 A Yes, ma'am.

10 Q Do you know for sure whether your compressions
11 caused that marking or whether it preexisted?

12 A I do not.

13 Q And then looking here, were any of these injuries
14 above the eye and across the forehead caused by yourself or
15 your partner in your presence? Bernard?

16 A No.

17 Q Looking here at State's Exhibit 5. What are we
18 looking at here in this area?

19 A That was the IO I was referring to that Sergeant
20 Bernard placed where he drilled into the bone to place --
21 to get access to give fluids, medications, or anything
22 necessary.

23 Q All right. Now, does that leave a marking or a
24 scar?

25 A It will leave a hole where they drill.

Brandon Garon - Cross-Examination by Mr. Williams

1 Q All right. So anything in this area would have
2 been caused by your partner in your presence -- Bernard,
3 correct?

4 A The drill -- the drill mark would be, the IO would
5 be. As far as any other markings there, I cannot confirm
6 or deny.

7 Q All right. And then looking here at the various
8 items placed on the chest; you recognize those items as
9 well?

10 A Yes, ma'am.

11 Q And you continued those CPR compressions until she
12 was turned over to the care of hospital staff?

13 A That is correct.

14 MS. MAYES: Nothing further of EMS Officer Garon at
15 this time, Your Honor.

16 THE COURT: Thank you. Mr. Williams.

17 MR. WILLIAMS: May it please the Court.

18 **CROSS-EXAMINATION**

19 BY MR. WILLIAMS:

20 Q Officer, the -- the item which is in the middle of
21 the child's chest, which appears to be some sort of replica
22 of some man or boy or something like that, this little
23 white thing?

24 A Yes, sir.

25 Q What is that?

Brandon Garon - Cross-Examination by Mr. Williams

1 A That is what you would use as an EMT or in a
2 hospital setting they put on in order to shock a patient if
3 they are in a rhythm known as either ventricle fibrillation
4 or ventricle tachycardia.

5 Q So that item was not on the child when you had the
6 child?

7 A That is correct.

8 Q Now, in State's Exhibit -- and for the record, that
9 was State's Exhibit Number 5?

10 A Yes, sir.

11 Q On State's Exhibit Number 4, which you were asked
12 about, the mark in the center of the child, you said you
13 didn't know if you had done that or not; couldn't admit or
14 deny?

15 A Correct.

16 Q Then you showed the leads and you remarked that one
17 of the leads, which would be on the shoulder would not have
18 been one that you had placed; is that correct?

19 A Actually the opposite, the red ones you're looking
20 at that you see there would have been the hospital's; the
21 ones on the shoulder, if you look closer they have little,
22 I think they're teddy bears or something, those would be
23 our leads that we placed as well. There's the one on the
24 left leg that you see; those are the ones that my partner
25 placed on the patient.

Brandon Garon - Cross-Examination by Mr. Williams

1 MR. WILLIAMS: May I ask the witness to step down,
2 Your Honor?

3 THE COURT: Yes, you may step down, but please keep
4 your voice up. It shouldn't be too hard for you when
5 you're away from -- move around Mr. Williams, please sir.

6 MR. WILLIAMS: All right, sir.

7 BY MR. WILLIAMS:

8 Q Really what I -- the person I really want to see
9 this is the jury. So if you could just kind of move down
10 the line and show the jury the teddy bears, which you were
11 remarking would be the ones that you placed on the child,
12 that y'all did and show the difference in the leads. Show
13 the ones which the hospital was and tell them how you can
14 tell that they're different because they are different.

15 A Correct. So these ones right here, as you can see
16 they're a different pattern than the hospital uses.

17 MR. WILLIAMS: Show the judge too.

18 THE COURT: Thank you.

19 THE WITNESS: And there's more than likely another
20 one underneath here as well that we cannot see.

21 BY MR. WILLIAMS:

22 Q And the teddy bears are the ones you put on and the
23 3X or 3, I think it says M something?

24 A 3M.

25 Q 3M are the ones that the hospital placed on?

Brandon Garon - Cross-Examination by Mr. Williams

1 A That is correct. My partner would have placed
2 these on.

3 Q Thank you so much.

4 A You're welcome.

5 (The witness returned to the stand.)

6 BY MR. WILLIAMS:

7 Q You were describing that core of the child was warm
8 whereas the extremities, which would be the legs and the
9 arms, were cold; is that correct?

10 A That is correct.

11 Q Did you actually go inside of the trailer or house?

12 A No, sir.

13 Q You did not?

14 A No, sir.

15 Q So it was your partner who physically went inside
16 the house?

17 A Correct.

18 Q So -- and you never went inside the house?

19 A Correct.

20 Q So you have no independent knowledge of how cold
21 the inside of the house was or how warm the inside of the
22 house was?

23 A No, sir.

24 Q All right, sir. Now, your determination of cold
25 versus hot, was that based upon feel?

Brandon Garon - Cross-Examination by Mr. Williams

1 A Yes, sir.

2 Q So there was no attempt by the EMS to determine --
3 I'm not being derogatory -- but you didn't make an attempt
4 to determine what the temperature was of the child?

5 A The exact temperature, no.

6 Q And if there was a temperature taken of the child,
7 it would have been done at the hospital when the child got
8 to the hospital?

9 A Correct.

10 Q Now, when the child was carried out to you, it
11 would have been the partner that carried the child out to
12 you?

13 A Correct.

14 Q And then you placed the child on the stretcher?

15 A My partner did.

16 Q And do you recall whether or not there would have
17 been a blanket upon the child or not?

18 A A blanket, no, sir.

19 Q Would there have been any type of cloth or
20 something on the child to keep the child warm?

21 A No, sir.

22 Q Would there have been anything on top of the child
23 other than the child's shirt, which the child had on?

24 A No, sir.

25 Q Okay. And is that the point in time when you say

Brandon Garon - Cross-Examination by Mr. Williams

1 that it felt warm once you pulled the shirt back, then you
2 felt the child's chest and it felt warm?

3 A When I went to do compressions, that's when I felt
4 it, yes, sir.

5 Q Did you know whether or not anyone else had done
6 any compressions on the child's chest or not?

7 A Not to my knowledge.

8 MR. WILLIAMS: That's all the questions I have,
9 Your Honor.

10 THE COURT: Redirect, Solicitor?

11 MS. MAYES: Nothing further, Your Honor.

12 THE COURT: Thank you. Thank you very much for
13 being with us.

14 THE WITNESS: Thank you, sir.

15 THE COURT: You may be excused.

16 All right. Solicitor.

17 MR. MCNAIR: The State calls Joe Burns.

18 THE COURT: All right. If you'd come around and be
19 sworn for us please.

20 JOSEPH BURNS,

21 having been duly sworn, testified as follows:

22 THE CLERK: Have a seat, sir. Once you're seated,
23 state your full name spelling your last on the record,
24 please.

25 THE WITNESS: Joseph Burns, B-U-R-N-S.

Joseph Burns - Direct Examination by Mr. McNair

DIRECT EXAMINATION

1
2 BY MR. MCNAIR:

3 Q Mr. Burns, where do you work?

4 A Lexington County Fire Service.

5 Q How long have you been there?

6 A Going on three years.

7 Q All right. Now, were you in that position in June
8 of 2016?

9 A Yes, sir.

10 Q And on June 26th of 2016, were you on duty that
11 night?

12 A Yes, sir.

13 Q Who were you working with that night?

14 A Anthony D'norio.

15 Q All right. Were y'all on the same truck?

16 A Yes, sir.

17 Q Now did you respond to Weaver Drive?

18 A Yes, sir.

19 Q What time did y'all get there?

20 A 5:25.

21 Q Was anybody else on the scene when you first
22 arrived?

23 A No, sir, EMS was pulling in right behind us.

24 Q Tell the jury what you did when you first arrived
25 on the scene?

Joseph Burns - Direct Examination by Mr. McNair

1 A When I first got there, I grabbed the AED because
2 it was a medical call; that's typical. We proceeded to the
3 front door and I saw Heather crying hysterically, but we
4 proceeded to go on to the front door and I tried to make
5 identification of the patient at that point.

6 Q All right. So when you first get there, you're
7 referring to Heather Lawson?

8 A Yes, sir.

9 Q She was standing outside of the residence?

10 A Yes, sir.

11 Q Was anybody inside?

12 A Yes, sir, there was two small children and the
13 father and the baby.

14 Q When you say the father, you're referring to
15 Richard Tuckus?

16 A Yes, sir.

17 Q You assumed he was the father of those other two
18 kids?

19 A Yes, sir.

20 Q He was inside the residence with the two other
21 children and Ms. Lawson is standing outside?

22 A Yes, sir.

23 Q All right. And where was the baby?

24 A She was where Anthony had said that it was, just in
25 between the pack 'n play and the front door --

Joseph Burns - Direct Examination by Mr. McNair

1 Q All right.

2 A -- laying on its back.

3 Q And when you walk into the front door, where was
4 that?

5 A To the right.

6 Q Okay. And you've obviously been sitting back
7 there, you've seen these pictures?

8 A Yes, sir.

9 Q Of the baby?

10 A Yes, sir.

11 Q Is that kind of the way the baby appeared when you
12 saw her that day?

13 A Yes, sir.

14 Q Now, did EMS arrive shortly after y'all?

15 A Yes, sir.

16 Q What happened when EMS arrived?

17 A That's when, I don't know the gentleman's name,
18 but --

19 Q The gentleman that just testified?

20 A His partner came into the door and that's when
21 Anthony D'Onofrio handed the baby to -- to him. He took
22 over care and immediately transported from there.

23 Q Okay. And what -- and did you assist EMS?

24 A Yes, I was the one who drove the vehicle, the
25 ambulance in.

Joseph Burns - Direct Examination by Mr. McNair

1 Q Okay. So who was with you inside the ambulance?

2 A Heather.

3 Q Heather Lawson?

4 A Yeah, Heather Lawson.

5 Q Okay. Where was she sitting?

6 A In the passenger seat.

7 Q Now, I guess during the time she is riding with you
8 in the ambulance, did you overhear her make any comments to
9 anybody about what had -- what had happened to her child?

10 A Yeah, I believe she was speaking to her mother.
11 And she said that the babies must have jumped on Victim
12 the infant's head, causing her death.

13 Q You could somewhat hear the voice on the other end
14 of the phone?

15 A Somewhat, yeah.

16 Q And it appeared to be a female?

17 A Yes, sir.

18 Q She made the comment that her other kids must have
19 jumped on her baby?

20 A (The witness nodded head.)

21 Q How long did it take you to get to the hospital?

22 A I'm not sure about the exact time, but, 10 to 15
23 minutes tops.

24 Q All right. And what happened at that point?

25 A Just they have a loading zone for the ambulances,

Joseph Burns - Cross-Examination by Mr. Williams

1 for the patients, and you just you pull up, park, and then
2 I assisted with transporting the infant inside the facility
3 to the ER.

4 Q All right. And other than that, do you have any
5 other involvement in this case?

6 A No, sir.

7 MR. MCNAIR: No further questions, Your Honor.

8 THE COURT: Thank you, Solicitor.

9 Mr. Williams.

10 MR. WILLIAMS: If it please the Court.

11 **CROSS-EXAMINATION**

12 BY MR. WILLIAMS:

13 Q Are you Officer Burns or are you --

14 A Just a firefighter.

15 Q All right. Firefighter Burns?

16 A Yes, sir.

17 Q As I understand it, you and your partner arrived on
18 the fire truck; is that correct?

19 A Yes, sir, on the engine.

20 Q On the engine. And then once you got there, then
21 you took over as a driver for the ambulance; is that
22 correct?

23 A Yes, sir.

24 Q And then obviously your partner would have at
25 sometime had driven the fire truck back?

Joseph Burns - Cross-Examination by Mr. Williams

1 A Yes, sir.

2 Q Now, you never went inside the residence; is that
3 correct, or did you go inside?

4 A I did, yes, sir.

5 Q And I think you've already said that you observed
6 the location of the child in the floor just like --

7 A (The witness nodded head.)

8 THE COURT: Say that out loud for me. Say that out
9 loud, I didn't hear you. Was there an answer?

10 THE WITNESS: Yes, sir.

11 THE COURT: I just didn't hear you.

12 BY MR. WILLIAMS:

13 Q The you were saying that the child looked the same
14 in these photographs as the child looked when you saw her.
15 Obviously the child looked different because you've got all
16 this medical equipment on and all this other stuff on the
17 child?

18 A Right.

19 Q So when you were talking about that, you were
20 talking about the fact that there appeared to be some
21 bruising on the forehead?

22 A Yes, sir.

23 Q You didn't perform any medical treatment on the
24 child, did you?

25 A No, sir.

Joseph Burns - Cross-Examination by Mr. Williams

1 Q You didn't touch the child in any way?

2 A No, sir?

3 Q So you don't know the temperature of the child,
4 whether or not the child's core was warm or not, or whether
5 or not the extremities were cold?

6 A No, sir.

7 Q You don't know how much lividity or rigidity or any
8 type of stiffness the child's body may have exhibited
9 because you didn't touch the child?

10 A Right.

11 Q The only thing you did was you came on the fire
12 truck and then you drove the ambulance so that the two EMT
13 professionals could be in the back and work on the child
14 and you could take the mother to the hospital with them; is
15 that correct?

16 A Yes, sir.

17 Q And what was the mother's condition; what was --
18 how did she act?

19 A Well, she was visibly upset and that's pretty much
20 it. I mean she was -- when we got there, she was upset.

21 So --

22 Q She remained upset?

23 A Correct.

24 Q Did you see Mr. Tuckus?

25 A Yes, sir.

Joseph Burns - Redirect Examination by Mr. McNair

1 Q How did he appear?

2 A I didn't -- I just saw him when I first came in and
3 I went straight to the issue at hand. I didn't really
4 focus much on his behavior.

5 MR. WILLIAMS: That's all I have, Your Honor.

6 THE COURT: Redirect.

7 MR. MCNAIR: Followup, Your Honor.

8 **REDIRECT EXAMINATION**

9 BY MR. MCNAIR:

10 Q Mr. Burns, have you responded to calls involving a
11 child's death before?

12 A No, sir, this is the first.

13 Q Have you responded to calls obviously where
14 somebody's family members had died?

15 A Yes, sir.

16 Q At any point when you were in the residence, did
17 Mr. -- Ms. Lawson ever come inside to her child?

18 A No, sir.

19 Q Is that usual or unusual to you?

20 A It's unusual in most circumstances if there's
21 someone there, a family member. Normally either fire
22 personnel or EMS will direct someone to get them out of the
23 room just because it's painful to watch it sometimes and
24 things like that, so they get them out of the room and --

25 Q In previous calls, do they appear interested in

Joseph Burns - Recross-Examination by Mr. Williams

1 what's happening?

2 MR. WILLIAMS: Objection; leading, Your Honor.

3 THE COURT: Restate the question, Solicitor.

4 BY MR. MCNAIR:

5 Q In other calls that you have responded to where a
6 family member had died, other -- your testimony was other
7 family members are typically wanting to be present?

8 A Yes, sir.

9 MR. MCNAIR: Thank you, Your Honor.

10 THE COURT: Recross?

11 MR. WILLIAMS: Yes, Your Honor.

12 **RECROSS-EXAMINATION**

13 BY MR. WILLIAMS:

14 Q And she was doing the right thing by staying out of
15 the way; you didn't want her there when y'all were working
16 on the child, did you?

17 A My concern was for the patient, the baby.

18 Q Right. And if -- and if someone -- if they're too
19 many people in the room, then that prevents y'all from
20 doing your job; is that correct?

21 A In certain circumstances, yeah, it does.

22 Q And she was the one, as far as you know, that
23 flagged down the ambulance or flagged down the fire truck,
24 right?

25 A I'm not sure. I was inside. I don't know who -- I

Joseph Burns - Recross-Examination by Mr. Williams

1 thought it was Michael Hammer, the other volunteer
2 firefighter, but I'm not sure who flagged down the
3 ambulance, I was inside.

4 Q All right. When you arrived -- who was outside
5 when you arrived?

6 A Heather.

7 Q And did she not flag -- didn't she flag the fire
8 truck down and let you know where to be or -- stand out
9 there to try to get your attention?

10 A We just pulled in and took a right and I mean it
11 was her on the phone crying, so we pretty much assumed that
12 was the location and we found out the address and --

13 Q And she remained in that condition all the way to
14 the hospital?

15 A Yes, sir.

16 Q That's all the questions I have.

17 THE COURT: Thank you. Thank you very much, sir.
18 You may step down and thank you for being with us. I
19 appreciate it.

20 All right. Solicitor, you may call your next
21 witness.

22 MR. MCNAIR: Your Honor, the State calls Megan
23 Dabkowski.

24 THE COURT: Come around and join us please.

25 MEGAN DABKOWSKI,

Megan Dabkowski - Direct Examination by Mr. McNair

1 having been duly sworn, testified as follows:

2 THE CLERK: Have a seat, ma'am. Once you're
3 seated, state your full name spelling your last please.

4 THE WITNESS: My name is Investigator Megan
5 Dabkowski. D-A-B-K-O-W-S-K-I.

6 **DIRECT EXAMINATION**

7 BY MR. MCNAIR:

8 Q Officer Dabkowski, where do you work?

9 A Lexington County Sheriff's Department.

10 Q How long have you been with the sheriff's
11 department?

12 A I have been with the sheriff's department a little
13 over three years.

14 Q What's your current position over there?

15 A I'm an investigator.

16 Q Do you have any other law enforcement experience
17 prior to the sheriff's department?

18 A Prior to coming here to the sheriff's department, I
19 was with Columbia Police Department for a little over four
20 years.

21 Q All right. And what position were you in on June
22 26, 2016?

23 A I was a road deputy so I responded to calls for
24 service.

25 Q All right. Were you on duty that day?

Megan Dabkowski - Direct Examination by Mr. McNair

1 A I was.

2 Q Did you respond to Weaver Drive, Lot

3 A I did.

4 Q All right. And that is in Lexington County,

5 -correct?

6 A It is.

7 Q All right. What was that call in reference to?

8 A A cardiac arrest of a child, which just means that
9 the child's not breathing or there's no pulse. It doesn't
10 necessarily mean cardiac arrest it just means the child's
11 not breathing or the heart's not beating.

12 Q Okay. It doesn't mean the child suffered from a
13 heart attack?

14 A No, it's just -- yeah.

15 Q Okay. A dead child. All right. What time did you
16 arrive on the scene that day?

17 A Based on the CAD System, I arrived on the scene at
18 5:33 p.m.

19 Q 5:33 p.m.?

20 A Uh-huh (affirmative response).

21 Q All right. And were you the first law enforcement
22 personnel on the scene?

23 A One of my other -- one of the other guys I work on
24 shift, he beat me by milliseconds. I pulled in very
25 shortly after him.

Megan Dabkowski - Direct Examination by Mr. McNair

1 Q Okay. So you saw him pulling in as you were
2 pulling in?

3 A Yeah.

4 Q Now who -- who all was on scene when you arrived?

5 A When I arrived on scene, it was -- the fire truck
6 was there, Firefighter D'Onofrio was on scene waiting for
7 us to standby. EMS had already left with the child.

8 Q Okay. And was the mother on scene?

9 A No, she was not.

10 Q All right. So did you have any dealings with the
11 mother?

12 A I did not deal with the mother.

13 Q What was your role once you got on the scene?

14 A Being the -- even though I was right behind and
15 being the second officer on the scene, Deputy Hendrix was
16 getting information from the firemen. I went ahead and set
17 up crime-scene tape because it's standard procedure when we
18 have an incident. We put crime-scene tape to make sure
19 nothing gets contaminated. We also cleared the trailer to
20 make sure there was nobody else inside.

21 Q Okay. So you cleared the trailer to make sure
22 nobody was inside and then you set up crime -- crime --
23 crime-scene tape?

24 A Yes, sir.

25 Q And the purpose of that is what?

Megan Dabkowski - Direct Examination by Mr. McNair

1 A It's just to secure the scene to make sure that we
2 don't have anybody that's not supposed to be there walk on
3 the scene and maybe tamper with anything or mess with
4 anything on scene. It just enables us to, by the time our
5 investigators get there or crime scene gets there that it
6 is in the exact way it was when I arrived on scene.

7 Q Okay. And did you also start a crime-scene log?

8 A I did.

9 Q What's the purpose of that?

10 A It's just to document everybody that was actually
11 on the scene so it documents everything from the EMS who
12 was there, to firefighters, to us as well.

13 Q All right. And were you present on the scene when
14 CSI arrived?

15 A I was.

16 Q And which CSI personnel arrived?

17 A It was CSI Sprinkle.

18 Q All right. And when he arrived had the scene
19 changed in any way from when you first secured it?

20 A It had not.

21 Q It was in the same condition as you found it,
22 correct?

23 A It was.

24 Q Okay. Now, did you have any interaction with
25 anybody other than law enforcement while you were on the

Megan Dabkowski - Direct Examination by Mr. McNair

1 scene?

2 A I did.

3 Q And who did you come in contact with?

4 A I came in contact, which was the father of the
5 child, Richard.

6 Q Where was he?

7 A He -- when I arrived on scene, he was -- he was
8 outside in the -- the way the trailer, mobile home park is,
9 the dirt portion, which is like the main portion that I
10 pulled in on, where everybody kind of pulls in, he was out
11 there and he was pacing. I kept talking to him throughout
12 just trying to keep him calm because he was visibly upset
13 and he appeared to be in shock to me. He would stare off
14 like at the trailer, like he couldn't believe what we all
15 were here for and that this had happened.

16 Q Okay.

17 (State's Exhibit Number 6, Number 7, and Number 8
18 was marked for identification.)

19 BY MR. MCNAIR:

20 Q I'm going to show you photos that have been
21 premarked as State's 6, 7 and 8. Would you take a look at
22 those photos and tell me whether or not those are a fair
23 and accurate representation of the scene as you saw it on
24 June 26, 2016?

25 A They are.

Megan Dabkowski - Direct Examination by Mr. McNair

1 MR. MCNAIR: Your Honor, we'd offer 6 through 8
2 into evidence at this point.

3 MR. WILLIAMS: Without objection, Your Honor.

4 THE COURT: State's 6, 7, 8 is in evidence without
5 objection.

6 (State's Exhibit Number 6, Number 7, and Number 8
7 were entered into evidence.)

8 MR. MCNAIR: Permission to publish, Your Honor?

9 THE COURT: Yes, sir.

10 BY MR. MCNAIR:

11 Q All right. What are we looking at here in State's
12 6?

13 A That's the -- would be the backside of the trailer
14 because all of those cars that you can see in the right far
15 corner, that's going to be where we all parked.

16 Q All right. And you're referring to these cars
17 right in this area?

18 A Yes. Yeah, that's where we were all -- that's like
19 the main driveway coming in.

20 Q All right. And where would the door that y'all
21 entered be?

22 A It's in that corner as well closer to where the
23 cars are right there where the porch is.

24 Q Okay. So right where this porch is is where you
25 entered the residence?

Megan Dabkowski - Direct Examination by Mr. McNair

1 A Yes, sir.

2 Q And this tape that's visible in this picture, is
3 that the crime-scene tape that you put up?

4 A Yes, sir, it is.

5 Q State's 7, what does this picture show?

6 A It's the very front side of the trailer as well as
7 the crime-scene tape that I put up. I just simply remember
8 that one because we try to expand the crime-scene tape to
9 encompass a little more than what we need, so I had
10 actually tied that part of the crime-scene tape to the
11 front of my county marked vehicle.

12 Q Okay. Do you know whose vehicle this is right
13 here?

14 A I believe it was Richard's.

15 Q Okay. Mr. Tuckus. And I guess the -- the door
16 that you just mentioned in the prior photo with the porch,
17 is this --

18 A It's right there on the left side where your finger
19 was, yes, sir.

20 Q All right. And State's 8 is another photo and that
21 again, just a picture of the tape you put around the
22 trailer?

23 A Yes, sir.

24 (State's Exhibit Number 9 was marked for
25 identification.)

Megan Dabkowski - Direct Examination by Mr. McNair

1 BY MR. MCNAIR:

2 Q All right. I'm going to show you State's Exhibit
3 9; do you recognize that?

4 A I do. It's an aerial view of the entire mobile
5 home park.

6 Q All right. And is that the way it appeared on June
7 26th of 2016?

8 A It is.

9 MR. MCNAIR: Your Honor, we'd offer State's 9 into
10 evidence at this point.

11 MR. WILLIAMS: Without objection, Your Honor.

12 THE COURT: State's 9 is in evidence without
13 objection.

14 (State's Exhibit Number 9 was entered into
15 evidence.)

16 BY MR. MCNAIR:

17 Q All right. If you'd just point on here for the
18 Judge where Lot is.

19 A It's right there.

20 Q Okay.

21 MR. MCNAIR: Permission to step down?

22 THE COURT: Yes, you may step down. Keep your
23 voice up when you're away from the mic.

24 THE WITNESS: Yes, sir.

25 (The witness stepped down in front of the jury.)

Megan Dabkowski - Direct Examination by Mr. McNair

1 BY MR. MCNAIR:

2 Q All right. Now on State's 9, can you point out for
3 the jury where Lot is, to be the residence of Heather
4 Lawson?

5 A Lot is right here. This is actually Weaver
6 Drive, so this is the main driveway everybody would have
7 been coming into to go to the scene.

8 Q Okay. And where is the front door on that trailer
9 that you just testified to earlier?

10 A It's right there.

11 Q All right. And did you go inside there?

12 A I did.

13 Q All right. And if you go in that front door, where
14 would the pack 'n play be located?

15 A It would have been to my right.

16 Q Okay. So if you could point out on there where
17 that would be.

18 A So there's the front door, so right to the right
19 would be, right in here.

20 Q Okay. All right. And were you aware of where Mr.
21 Tuckus lived?

22 A I've had, from my understanding, he was -- he lives
23 down in this corner of the trailer park.

24 Q Okay. Thank you, ma'am. You can have a seat.

25 (The witness returned to the witness stand.)

Megan Dabkowski - Cross-Examination by Mr. Williams

1 BY MR. MCNAIR:

2 Q Now, you testified that when you arrived, Mr.
3 Tuckus was not inside the residence at that time?

4 A He was not.

5 Q All right. And you also testified the fire
6 personnel were still on scene?

7 A They were.

8 Q Even though EMS had left?

9 A Yes, sir. Firefighter D'Onofrio was on the scene.

10 Q And you testified that you arrived at 5:33,
11 correct?

12 A Yes, sir.

13 Q All right. Thank you, ma'am. I have no further
14 questions.

15 A Thank you.

16 THE COURT: Thank you, Solicitor.

17 Mr. Williams.

18 MR. WILLIAMS: May it please the Court?

19 **CROSS-EXAMINATION**

20 BY MR. WILLIAMS:

21 Q When you arrived at 5:33, you arrived in close
22 proximity in time to the other Lexington County Sheriff's
23 Department individual?

24 A Yes, sir, we were within milliseconds of each
25 other.

Megan Dabkowski - Cross-Examination by Mr. Williams

1 Q And when you arrived, the -- the fire truck, the
2 two firemen were already there. The fire truck was there;
3 is that correct?

4 A The fire truck was still there, yes, sir.

5 Q And where were the firemen when you arrived?

6 A Right by the front door. They were standing
7 outside right by the front door?

8 Q Because the EMT individuals were already inside; is
9 that correct?

10 A The EMT left prior to my arrival on the scene?

11 Q So the child had already left when you got there?

12 A Yes, sir.

13 Q Now, the picture, which we have looked at, which is
14 State's Exhibit Number 7; is that -- you identified that
15 and you identified Mr. Tuckus's vehicle with the plate
16 LRD677 Chevrolet, you identified that as being Mr. Tuckus's
17 car; is that correct?

18 A I believe so, sir, yes.

19 Q When you say you believe that, what is that based
20 on?

21 A Based on the way it was on the scene because from
22 what I could understand was that Heather's car was the
23 white one in front and that was Mr. Tuckus's.

24 Q All right. And the picture that was actually taken
25 showing both of those vehicles in there was taken by whom?

Megan Dabkowski - Cross-Examination by Mr. Williams

1 A That would have been our crime scene tech who
2 arrived on scene. That was CSI Sprinkle.

3 Q So it was actually taken a little bit later. Mr.
4 Sprinkle, Officer Sprinkle, CSI Sprinkle would have taken
5 that later?

6 A Yes, sir.

7 Q And where was Mr. Tuckus, you say, when you
8 arrived?

9 A When I arrived, he was in the dirt portion, that
10 main road that leads into the trailer park and he was kind
11 of pacing right there.

12 Q And where were the two children that resided in the
13 trailer?

14 A They were not at the trailer. From my
15 understanding, Mr. Tuckus's -- the female he lived with,
16 his other children's mother, had come down and taken the
17 kids up there so they would not be in the way, but they
18 were -- there was nobody in the trailer at the time I
19 arrived on the scene.

20 Q So you say based on your understanding, someone
21 else had come and taken the two children from Mr. Tuckus;
22 he didn't actually leave the scene and go back to his place
23 with the children and then come back to the scene?

24 A Not that I'm aware of.

25 Q All right. But, of course, all you really know is

Megan Dabkowski - Cross-Examination by Mr. Williams

1 that when you got there, Mr. Tuckus was there; is that
2 correct?

3 A He was outside, yes.

4 Q Was anybody outside with him?

5 A Not that I recall.

6 Q So it was just you and Mr. Tuckus?

7 A As well as the other deputy on scene, as well as
8 the firefighters.

9 Q So Mr. Tuckus did not make an effort to go to the
10 hospital to check on his daughter; is that correct?

11 A I know he had been in contact with Heather through
12 the phone and then we also would not have allowed him to
13 leave the scene because that's protocol for us. We had him
14 there on scene, so we would have asked that he wait for the
15 investigators.

16 Q Why would you have asked him to wait for the
17 investigators, but you allowed Ms. Lawson to go to the
18 hospital since she was the mother and he was the father?

19 A Heather left prior to our arrival on scene. The
20 ambulance CAD history shows the ambulance left the scene to
21 go en route to the hospital at 1729 hours, which is 5:29
22 p.m. Deputies did not arrive on scene until 5:33 p.m. So
23 there would have been no way any of us who initially
24 arrived on scene would have had any interaction with her at
25 all.

Megan Dabkowski - Cross-Examination by Mr. Williams

1 Q So you would not have allowed Heather to leave if
2 you had been on scene; is that right?

3 A Probably not, due to the fact that we try to gather
4 all the intel that we can.

5 Q So you were -- okay. The reason Mr. Tuckus
6 remained on scene is because he wasn't allowed to leave the
7 scene?

8 A Yes, sir.

9 Q And how long did Mr. Tuckus remain on the scene?

10 A I couldn't tell you the exact time he left the
11 scene.

12 Q Did you authorize his leaving the scene?

13 A I wouldn't have been the one to authorize it; it
14 would have been one of the lead investigators on scene.

15 Q How long did you remain on the scene?

16 A I was on scene until 12:15 a.m. the next day. I
17 believe they had me on CAD leaving at 12:16 a.m. on 6/27.

18 Q And you don't recall what time Mr. Tuckus was
19 allowed to leave the scene?

20 A I do not.

21 Q Nor who told him he could leave?

22 A It would be one of our investigators because when
23 my job -- my main job at that point is to secure the scene
24 and hold it until investigators arrive. Investigators end
25 up being in control of the scene. So that would be

Megan Dabkowski - Cross-Examination by Mr. Williams

1 something the investigators would have -- would have given
2 him permission to do.

3 Q And he was pacing, acting nervous; is that right?

4 A No, I wouldn't say he was acting nervous. As I
5 said, he was in shock. He was pacing, he was in shock. I
6 did not say he was nervous.

7 Q Did you think that you needed to bring some sort of
8 medical assistance since he was in shock; you used the word
9 shock, are you saying -- was he crying?

10 A No, he was not. He was not crying, but he would
11 just stare at the trailer like he couldn't comprehend what
12 was going on. Like he didn't understand what was going on,
13 couldn't believe what was going on. Again, not everybody
14 cries. Everybody kind of reacts differently.

15 Q That's all the questions I have.

16 THE COURT: Redirect, Solicitor?

17 MR. MCNAIR: Nothing further, Your Honor.

18 THE COURT: Thank you. Thank you for being with us
19 today.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: You may step down. You may be excused.

22 Perhaps now would be a good time to take our
23 luncheon recess, ladies and gentlemen. Please remember my
24 instructions. Do not discuss the case with your fellow
25 jurors, lunch mates, family, friends, or anyone else. Do

1 not read, listen to any news reports about the case, should
2 there be any. Do not do any independent investigation or
3 any investigation on the internet. With that being said,
4 we'll take -- take about an hour and a half. Let's be back
5 at let's say 2:15. Be back promptly at 1415 hours. Did I
6 do my math right? 1415 hours, 2:15.

7 Thank you very much. I hope you all have a
8 pleasant lunch.

9 (The jury left the courtroom at 12:48 p.m.)

10 THE COURT: Did they all leave their pads, Madam
11 Clerk?

12 THE CLERK: I'll check.

13 THE COURT: Check on that for me please?

14 THE CLERK: I'll look.

15 THE COURT: All right. Anything further before we
16 take our luncheon recess, Solicitor?

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

18 THE COURT: Mr. Williams?

19 MR. WILLIAMS: A question in regards to the status
20 of the Defendant.

21 THE COURT: All right. Yes, sir?

22 MR. WILLIAMS: Whether or not he will be allowed to
23 leave, go get lunch and come back.

24 THE COURT: I'll be glad to hear from you, Mr.
25 Williams.

1 MR. WILLIAMS: Your Honor, she -- as presented
2 yesterday, she -- the bonding company has agreed to stay on
3 her bond or remain on her bond. It's \$150,000 bond. She
4 has appeared at any and all role calls. She appeared
5 Monday knowing she was going to trial on the case. She
6 appeared this morning. She -- she has a monitor which
7 remains in effect. She has family, which she has remained
8 in constant -- in the constant presence of throughout this
9 entire time span. So we would suggest to the Court that
10 she is not a threat to not show back up at 2:15.

11 THE COURT: All right. Thank you, Mr. Williams.
12 Based on the nature and circumstances of the offenses
13 charged and the potential penalty against the backdrop of
14 course of the presumption of innocence and the fact that
15 the jury has been sworn, testimony has been taken, she is
16 in custody of the Lexington County Detention Center.

17 All right. Thank you. Thank you very much. 2:15.

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

19 THE CLERK: Your Honor, their pads are over there.

20 THE COURT: Just make sure the doors are locked.

21 THE CLERK: Yes, sir. They lock the doors.

22 (A recess was observed for lunch.)

23 THE COURT: Anything from the State before we bring
24 in our jury?

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

Simone Sammler - Direct Examination by Ms. Mayes

1 THE COURT: Anything from the defense?

2 MR. WILLIAMS: Nothing from the defense, Your
3 Honor.

4 (The jury entered the courtroom at 2:30 p.m.)

5 THE COURT: All right. Welcome back, ladies and
6 gentlemen. I hope y'all had a pleasant lunch.

7 We're continuing the trial of the case by the
8 presentation of evidence and testimony by the State in its
9 case in chief. If you'd please continue to give the
10 parties your complete and undivided attention.

11 Solicitor, you may call your next witness.

12 MS. MAYES: The State calls Simone Sammler.

13 THE COURT: All right. Yes, ma'am, if you'd come
14 around and be sworn for us please.

15 SIMONE SAMMLER,

16 having been duly sworn, testified as follows:

17 THE CLERK: Have a seat right up here, ma'am. Once
18 you're seated, state your full name spelling your last on
19 the record please.

20 THE WITNESS: My name is Simone Sammler.

21 S-A-M-M-L-E-R.

22 **DIRECT EXAMINATION**

23 BY MS. MAYES:

24 Q And, Ms. Sammler, can you give us some information
25 about yourself; where are you currently employed?

Simone Sammler - Direct Examination by Ms. Mayes

1 A I work at Lexington Medical Center in the ER.

2 Q All right. And how long have you been with the
3 emergency room there at Lexington Medical Center?

4 A A total of seven-and-a-half years.

5 Q And what is your actual job description?

6 A I'm an RN.

7 Q And when you say RN, you're referring to?

8 A Registered Nurse.

9 Q And to become an RN what type of certification or
10 licensing is required?

11 A You go to school, nursing school, and you either
12 get an ADN or you get a Bachelor's Degree and then you need
13 to pass the Nursing Board.

14 Q All right. And you have been a member of the
15 Nursing Board or passed that certification with the Nursing
16 Board and that allowed you to work there in the emergency
17 room?

18 A Correct.

19 Q Now, can you tell us whether or not you were
20 working in the capacity of a Registered Nurse on the late
21 evening or afternoon hours of June 26, 2016?

22 A I was.

23 Q And can you tell us whether or not you had
24 involvement with an infant patient by the name of Victim.

25

Simone Sammler - Direct Examination by Ms. Mayes

1 A I did.

2 Q What was your role as a -- as an RN, but what was
3 your role specifically in documenting her medical chart?

4 A I was the recorder.

5 Q And what is meant by that term?

6 A You record what was going on into the medical chart
7 and type it in.

8 Q All right. And can you tell us whether or not
9 that's a routine protocol there in the emergency room when
10 there is a patient who is in critical condition?

11 A That is routine.

12 Q And specifically, when we're talking about the
13 contents of the medical chart, does that include vital
14 statistics?

15 A Yes.

16 Q Such as heartbeat or heart rate and pulse if -- if
17 a patient has one?

18 A Correct.

19 Q Does it also include things such as temperature?

20 A Correct.

21 Q Does it also include any notations you may observe
22 concerning injury?

23 A Correct.

24 Q Now, do you have with you a copy of the medical
25 chart that contains the information that you entered or

Simone Sammler - Direct Examination by Ms. Mayes

1 recorded?

2 A I do.

3 Q All right. And I'm going to start by showing you
4 these 2 exhibits; State's Exhibit 4 and State's Exhibit 5.
5 What, if anything, Nurse Sammler, did you note concerning
6 injuries to Victim ?

7 A I noted that there was bruising to the top of her
8 forehead along with the top of her head and along the
9 backside and over her eye as well. I also noticed the
10 color of her body when she came in.

11 Q Looking here -- looking here at this item placed on
12 the center of the patient. Can you recognize that type of
13 medical device?

14 A It looks similar to what we would use for
15 defibrillation.

16 Q All right. And according to your notes, there was
17 injury to the forehead, but you also noted injury to other
18 parts of the head; is that correct?

19 A Correct.

20 Q Including the top of the head?

21 A Correct.

22 Q And the back of the head?

23 A Correct.

24 Q Which are not shown in this particular photograph?

25 A Correct.

Simone Sammler - Direct Examination by Ms. Mayes

1 Q And then in addition to that, did you also record a
2 body temperature of Victim

3 A I did.

4 Q All right. Looking there at her chart, what did
5 you note as her body temperature?

6 A 98.9 Fahrenheit.

7 Q 98.9 degrees Fahrenheit and does your chart also
8 show the time in which that temperature was entered?

9 A 1808.

10 Q Okay. So 1808 would be 6:08 p.m.?

11 A Correct.

12 Q And then does your record also indicate the method
13 in which that temperature was obtained?

14 A It was obtained rectally.

15 Q Okay. So that's a rectal temperature of 98.9 at
16 6:08 p.m., correct?

17 A Correct.

18 Q Ultimately, Ms. Sammler, was Victim
19 pronounced dead there in the emergency room?

20 A Yes, she was.

21 MS. MAYES: Nothing further of the witness at this
22 time, Your Honor.

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

24 Mr. Williams.

25 MR. WILLIAMS: May it please the Court.

Simone Sammler - Cross-Examination by Mr. Williams

CROSS-EXAMINATION

1
2 BY MR. WILLIAMS:

3 Q Is it -- it's Ms. Sammler, correct?

4 A Correct.

5 Q Ms. Sammler, you were the recorder; did you also, I
6 guess, have hands on with the child that was there at the
7 hospital; were you doing anything to -- to measure the
8 temperature or check the baby out?

9 A No, I was just recording what other people were
10 doing and what vital signs or temperatures were given to
11 me.

12 Q So you didn't -- you didn't actually touch the
13 child and you did nothing to determine if indeed that was
14 the child's temperature at the time?

15 A I was in the room.

16 Q Who checked the temperature of the child?

17 A I'm not real sure. I can't recall.

18 Q Well, if you were -- what do you have that you're
19 reading from that shows that that's what was the
20 temperature of the child?

21 A The medical chart.

22 Q All right. Does it have on the medical chart who
23 was the doctor in the room at the time?

24 A It does.

25 Q And who was the doctor in the room at the time?

Simone Sammler - Cross-Examination by Mr. Williams

1 A It was Dr. O'Neil, Michael O'Neil.

2 Q Michael O'Neil. And does it -- Dr. O'Neil is --
3 would not be the one that would be checking the rectal
4 temperature, would he?

5 A No, that would not be him.

6 Q What other nurses would be in the room at the time?

7 A There could be a lot of nurses in the room and
8 technicians because it is a pediatric case. So we usually
9 have a lot of nurses, a lot of hands on.

10 Q But you don't have any evidence of who actually did
11 the hands on testing of this child to determine what the
12 temperature was?

13 A Not in this chart, no.

14 Q Do you have it somewhere else?

15 A Not as I recall.

16 Q So someone said out loud the temperature of this
17 child is 98.9?

18 A Correct.

19 Q But you don't know who and it's not recorded
20 anywhere who said this figure?

21 A No.

22 Q I know what adult's normal temperature is, but have
23 you received any training in infant care that allows you to
24 be able to testify as to what the normal temperature in an
25 infant that is seven months old would be?

Simone Sammler - Redirect Examination by Ms. Mayes

1 A I have.

2 Q And what is the normal temperature of an infant who
3 is seven months old would be?

4 A It is no different than an adult.

5 Q So it would be 98.6?

6 A Right.

7 Q So you're telling us that this dead baby had a
8 temperature of 98.9 from somebody in the room?

9 A That's what the chart says, yes.

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

12 THE COURT: Redirect, Solicitor?

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

14 **REDIRECT EXAMINATION**

15 BY MS. MAYES:

16 Q And do you also enter other information such as a
17 pulse rate?

18 A Correct.

19 Q And what does it indicate for pulse rate?

20 A She did not have a pulse.

21 Q All right. And what did it indicate for number of
22 breaths per second?

23 A She was not breathing on her own.

24 Q All right. And so that was also entered?

25 A Yes.

Simone Sammler - Recross-Examination by Mr. Williams

1 Q So that information is entered correctly by you and
2 then you also entered the temperature, correct?

3 MR. WILLIAMS: Objection to the form of the
4 question.

5 THE COURT: Restate the question, Solicitor.

6 BY MS. MAYES:

7 Q You were the one who entered the number of breaths
8 per second?

9 A Correct.

10 Q Or per minute. And also the heart rate, if there
11 had been one?

12 A Correct.

13 Q Which in this case, no pulse, no heart rate. And
14 then you were also the person who entered the temperature,
15 correct?

16 A Correct.

17 Q Nothing further.

18 THE COURT: Recross?

19 **RECROSS-EXAMINATION**

20 BY MR. WILLIAMS:

21 Q And who was the person who recorded the pulse of
22 the child and recorded the fact that the child had no
23 breath; who was the actual person who checked this child
24 out for that?

25 A Okay. There's two separate questions.

Simone Sammler - Recross-Examination by Mr. Williams

1 Q Okay. I'll take them. Let me do one.

2 A Okay.

3 Q Who checked the person for her pulse?

4 A That is between the nurses and the doctor.

5 Q Do you know who did it?

6 A The doctor checked and the nurses checked.

7 Q And did -- did both of those individuals say out
8 loud she has no pulse?

9 A Correct and she was also asystole on the monitor.

10 Q Who was the person who checked the breathing?

11 A Same.

12 Q But you don't know who checked the rectal
13 temperature?

14 A No, because rectal temperature is checked after we
15 pronounce them.

16 Q What do you mean after you pronounce them?

17 A Once the time of death is determined, we check a
18 rectal temp; that's our practice. It's not something we
19 would stop CPR for.

20 Q So after you determined the child was dead is when
21 you checked the rectal temperature. You have no idea what
22 it was before?

23 A No.

24 MR. WILLIAMS: That's all the questions I have,
25 Your Honor.

Richard Tuckus - Direct Examination by Mr. McNair

1 THE COURT: Thank you. Thank you very much, Ms.
2 Sammler, for being with us this afternoon.

3 THE WITNESS: Thank you.

4 THE COURT: You may step down and you may be
5 excused. Again, thank you very much.

6 All right. Solicitor, you may call your next
7 witness.

8 MR. MCNAIR: Thank you, Your Honor. The State
9 calls Richard Tuckus.

10 THE COURT: Please come around and be sworn for us
11 please, Mr. Tuckus.

12 RICHARD TUCKUS,
13 having been duly sworn, testified as follows:

14 THE CLERK: Have a seat, sir. Once you're seated,
15 state your full name spelling your last on the record
16 please.

17 THE WITNESS: My name is Richard Tuckus. My last
18 name is T-U-C-K-U-S.

19 **DIRECT EXAMINATION**

20 **BY MR. MCNAIR:**

21 Q Mr. Tuckus, what do you currently do for a living?

22 A Right now I'm a convenience store manager.

23 Q Are you married?

24 A Yes.

25 Q Who are you married to?

Richard Tuckus - Direct Examination by Mr. McNair

1 A Emily Gray.

2 Q All right. Now Emily Tuckus?

3 A Emily Tuckus, yeah.

4 Q Does she go by any other names?

5 A Rachelle.

6 Q You and Rachelle have any kids together?

7 A Yes, we do.

8 Q How many?

9 THE COURT: Speak up for me a little bit please;

10 speak up a little bit.

11 THE WITNESS: Two.

12 BY MR. MCNAIR:

13 Q What are their names?

14 A Nicholas and Jeremiah.

15 Q How old are they?

16 A Four and two.

17 Q All right. Now, do you know Ms. Lawson?

18 A Yes.

19 Q Can you explain to the jury a little bit about how

20 you know her?

21 A Me and Ms. Lawson dated on and off in the past. We

22 met when I worked at Walmart.

23 Q All right. And when did you first start dating Ms.

24 Lawson?

25 A In 2015.

Richard Tuckus - Direct Examination by Mr. McNair

1 Q And where were you living at that time?

2 A I was still living in my house in Lot

3 Q That's that

4 A Weaver Drive.

5 Q Did Ms. Lawson live with you at that time?

6 A She did at the very beginning of the relationship.

7 Q Okay. At some point, did y'all break up?

8 A We broke up in the middle of the year and she moved
9 in Number

10 Q Now; at some point did Ms. Lawson become pregnant
11 with your child?

12 A Yes.

13 Q What was the child's name?

14 A Victim

15 Q And when was Victim born?

16 A Victim was born November 2015.

17 Q At the time Victim was born, were you and Ms.
18 Lawson living together?

19 A We were not.

20 Q She was living in Lot you said?

21 A Yes.

22 Q You were in Lot

23 A Yes.

24 Q Was anybody else living with you in Lot

25 A Ms. Tuckus, Emily Tuckus.

Richard Tuckus - Direct Examination by Mr. McNair

1 Q Okay. She goes my Rachelle?

2 A Yes.

3 Q And did she -- did y'all have kids together at that
4 time?

5 A Yes, we did.

6 Q Caroline and Nicholas?

7 A Yes.

8 Q Did they all still live with you at that residence?

9 A Yes.

10 Q All right. Now, at the time that Victim was born
11 in November, were you and Ms. Lawson still in a
12 relationship?

13 A We were not.

14 Q Y'all had broken up?

15 A We were broke up.

16 Q At some point after that, did y'all get back
17 together?

18 A At the end of December 2015.

19 Q So December of 2015, you got back into a
20 relationship with Ms. Lawson?

21 A Yes.

22 Q But you still lived in Lot -- Lot with
23 Rachelle, correct?

24 A That's correct.

25 Q Now, I guess the obvious question is if you were in

Richard Tuckus - Direct Examination by Mr. McNair

1 a relationship with Ms. Lawson, why were you still living
2 with Rachelle?

3 A I was still living with Rachelle for the simple
4 fact that she was a single mother with both my kids; she
5 wasn't working. I was helping support her. I didn't
6 accept Heather's living conditions either.

7 Q So at that time, you were the sole provider for her
8 and your two children?

9 A Yes.

10 Q And after, I guess, were you and Ms. Lawson still
11 together in June of 2016?

12 A We were.

13 Q At some point, did y'all actually get engaged?

14 A Yes, in February of 2016.

15 Q All right. And you were still living with Rachelle
16 at that point?

17 A Yes.

18 Q How did Ms. Lawson feel about your living
19 arrangements?

20 A She didn't like it, very jealous.

21 Q Is it fair to say that was an issue in your
22 relationship?

23 MR. WILLIAMS: Objection to leading.

24 MR. MCNAIR: I can rephrase it.

25 THE COURT: Just rephrase the question.

Richard Tuckus - Direct Examination by Mr. McNair

1 BY MR. MCNAIR:

2 Q Did Ms. Lawson express to you how she felt about
3 your living arrangement?

4 A She did.

5 Q And what would she say?

6 A She didn't approve of it; she didn't like it
7 because she wanted to know why I wouldn't I live with her.

8 Q Was that a frequent conversation in your
9 relationship?

10 A Yes.

11 Q Were you able, I guess, because you were living
12 with Rachelle and you had two kids with her, were you able
13 to spend much time with Ms. Lawson and Victim

14 A I was not. I worked multiple jobs; I stayed busy.

15 Q And did Ms. Lawson express her feelings about that
16 to you?

17 A She did.

18 Q And what did she say?

19 A That I don't spend enough time with her or Victim

20 Q Was that a point of contention in y'all's
21 relationship?

22 A Yes.

23 Q Was that an issue that frequently came up?

24 A Yes, it did.

25 Q At times, would you go over to Ms. Lawson's trailer

Richard Tuckus - Direct Examination by Mr. McNair

1 for the purpose spending time with Victim

2 A I did.

3 Q And what typically would happen when you did that?

4 A There would be times that I would try to spend time
5 with her, but we would end up in the other room doing
6 something else.

7 Q Such as?

8 A Sex.

9 Q Now, where you working in June of 2016?

10 A I was working for Carolina Convenience. The store
11 was located on Two Notch Road.

12 Q All right. What was your position at that time?

13 A I was the store manager of that store.

14 Q Did -- did Ms. Lawson have a job?

15 A She did.

16 Q Where did she work?

17 A She worked at Carolina Convenience as well. She
18 was the store manager of my old store on Forest Drive.

19 Q What was her position?

20 A She was a store manager.

21 Q Now, who would typically take care of Ms. Lawson's
22 kids while she was at work?

23 A She had a babysitter. The most recent one, Monica
24 Wise.

25 Q Is that someone that you knew or that she knew?

Richard Tuckus - Direct Examination by Mr. McNair

1 A It was someone that I knew, that I trusted.

2 Q So you set Ms. Lawson up with Ms. Wise as a
3 babysitter?

4 A That's correct.

5 Q Now, let's talk about June 25th, 2016. Were you
6 working that night?

7 A I was doing Uber that night.

8 Q Was Ms. Lawson working?

9 A She was at the store, yes.

10 Q All right. Do you know whether or not she was
11 actually scheduled to work that night?

12 A As far as I know, she was not scheduled. She was
13 just short-staffed.

14 Q So -- so when you're short-staffed as a manager,
15 you have to cover for whoever is not available?

16 A Yes, and she didn't have an Assistant Manager at
17 the time, so it was left up to her.

18 Q Did she -- are you aware of whether or not she had
19 child care that night?

20 A I was not aware of that at the time until I asked
21 her why she's working.

22 Q Well, at some point, did you see her that night on
23 the 25th?

24 A I did. I came by the store just before the shift
25 was ending.

Richard Tuckus - Direct Examination by Mr. McNair

- 1 Q Okay. What store was that?
- 2 A On Forest Drive.
- 3 Q Okay. And who was with her at the store?
- 4 A The three children were.
- 5 Q Now, you mentioned three children. You are the
- 6 father of Victim
- 7 A Correct.
- 8 Q Were you the father of the other two?
- 9 A No.
- 10 Q What are their names?
- 11 A J.P. and June.
- 12 Q Does J.P. go by another name?
- 13 A John.
- 14 Q About what time did you go by the store?
- 15 A That had to be somewhere before 11 o'clock p.m.
- 16 that night.
- 17 Q Now, were you there the whole -- I guess when
- 18 Heather, Ms. Lawson, left the store that night?
- 19 A I was there until she left.
- 20 Q During any time, did she ever inform you that
- 21 Victim had fallen?
- 22 A She did not.
- 23 Q Did you see any injuries whatsoever on Victim when
- 24 you went to the store?
- 25 A I did not.

Richard Tuckus - Direct Examination by Mr. McNair

1 Q Did Victim appear fine to you?

2 A Yes, she actually seemed like she was happy.

3 Q And you were with her and her children up until the
4 time she left the store?

5 A Yes.

6 Q Did you watch her get into her vehicle?

7 A Yes, I did.

8 Q Did you watch her -- were you present when she
9 loaded her children into the vehicle?

10 A Yes, I was.

11 Q Did you ever see her hit Victim head on the door
12 frame of her car?

13 A I did not.

14 Q Did you ever see her hit Victim head on the door
15 frame of the gas station?

16 A I did not.

17 Q Did you and Heather leave together that night?

18 A Yeah, but I didn't -- I didn't like -- I didn't go
19 where she went.

20 Q Y'all left at the same time?

21 A We did leave at the same time, yeah.

22 Q You remember approximately what time that would
23 have been?

24 A It had to be somewhere around 11:30 I believe.

25 Q And do you know where Heather was going?

Richard Tuckus - Direct Examination by Mr. McNair

1 A She should have been going home.

2 Q Where did you go?

3 A I was going to continue Ubering for the night, but
4 I ended up going home to.

5 Q All right. And why did you end up going home?

6 A I decided to take her shift the next morning. So I
7 didn't want to stay out until three in the morning, so I
8 went home to get some sleep.

9 Q All right. So she was scheduled to work the next
10 morning?

11 A She was.

12 Q And you made the decision to volunteer to take her
13 shift?

14 A Yes.

15 Q At some point after y'all left the store, did you
16 have a conversation with her?

17 A We did.

18 Q And where did that -- how did that conversation
19 take place?

20 A She wanted me to stay the night at her house.

21 Q Was that a conversation you had in person or was it
22 over the telephone?

23 A It was over the phone.

24 Q And she wanted you to stay the night?

25 A She wanted me to stay the night.

Richard Tuckus - Direct Examination by Mr. McNair

1 Q And what was your response?

2 A I told her I didn't want to, that I was just going
3 to go home and stay at my own house.

4 Q What was her reaction to that?

5 A The same reaction she gave all the time. She
6 wasn't happy.

7 Q The next morning, on the 26th, what time did you go
8 into work?

9 A I went in at six in the morning.

10 Q All right. How long did that shift last?

11 A Up until about 11 o'clock in the morning.

12 Q Prior to leaving the store that morning, did you
13 have a conversation with Ms. Lawson?

14 A Yeah, we spoke a couple of times on different
15 issues at the store.

16 Q On the phone, did she ever mention anything to you
17 about Victim being lethargic or sick?

18 A She did not.

19 Q Did she ever mention anything about Victim having
20 any bruising that morning?

21 A She did not.

22 Q Now, did you make plans to go to her house at some
23 point on the 26th?

24 A I did.

25 Q And did you, in fact, go to her house?

Richard Tuckus - Direct Examination by Mr. McNair

1 A I did.

2 Q That was after you left work?

3 A Yes.

4 Q What time did you get to her house?

5 A I would have gotten there around noon.

6 Q And what was the purpose of your visit?

7 A Just to visit. We -- I was there maybe about 30
8 minutes and we had sex.

9 Q Now, did she let you in the door or did you let
10 yourself in?

11 A She let me in the door. She actually had it
12 unlocked. The door was already unlocked and she warned me
13 about it when I told her I was on the way.

14 Q All right. When you walked in the door, did you
15 see the other kids?

16 A I did.

17 Q Where were they?

18 A They were all in the room asleep.

19 Q All three of them and that's the room when you
20 first walk in?

21 A That's the room when you first walk in. That's the
22 children's bedroom.

23 Q And then where did you and Heather go at that
24 point?

25 A We went to the master which is on the other side of

Richard Tuckus - Direct Examination by Mr. McNair

1 the house.

2 Q And you had sex?

3 A Yes.

4 Q After y'all finished having sex, did y'all discuss
5 anything?

6 A I just told her that I was leaving because I needed
7 to get going. I had to go jogging with my friend, Mark.

8 Q Did she escort you out of the master bedroom?

9 A Yes.

10 Q Where were the kids at that point?

11 A I did notice J.P. was up. He was sitting on the
12 couch in the living room. June was still asleep and

13 Victim was awake.

14 Q All right. Now when you left, was Ms. Lawson with
15 you?

16 A When I left, she walked me all the way outside.

17 Q She walked you all the way to the door?

18 A Yes.

19 Q And you just testified that June was still asleep?

20 A Yes.

21 Q Did you see Victim

22 A I did.

23 Q What was she doing?

24 A She was sitting up in her pack 'n play smiling.

25 Q And how far away is the pack 'n play from the door?

Richard Tuckus - Direct Examination by Mr. McNair

1. A Literally a couple of feet. The room is extremely
2. small.

3. Q Could you see her clear as day?

4. A Yes.

5. Q Did you see any bruises whatsoever on her forehead?

6. A I did not.

7. Q She appear fine?

8. A Yes.

9. Q Did you and Ms. Lawson have any conversation prior
10. to you leaving?

11. A Yeah, she didn't want me to go. She wanted me to
12. stay. She said that I didn't need to go running with Mark.

13. Q Your plans were to go running with your friend,
14. Mark?

15. A Yes.

16. Q And what time were you supposed to meet Mark?

17. A I was supposed to meet him at one o'clock at the
18. dam.

19. Q What time did you leave Ms. Lawson's residence?

20. A I left between 12:40 and 12:45.

21. Q And did you inform her of what your plans were, to
22. go running?

23. A Yes.

24. Q So what did you do after you left?

25. A I went straight home to see my other two children

Richard Tuckus - Direct Examination by Mr. McNair

1 before I left. I became exhausted and was really tired and
2 I decided to go take a nap in the other bedroom.

3 Q So you went to your house?

4 A Yes.

5 Q Where Rachelle was?

6 A Yes.

7 Q And you took a nap?

8 A Yes.

9 Q You didn't go running?

10 A No.

11 Q Now, have you been in Ms. Lawson's trailer multiple
12 times?

13 A That day?

14 Q No, just over the course of your relationship?

15 A Yeah.

16 Q Now, from Ms. Lawson's trailer, are you able to see
17 where your trailer was?

18 A Yes.

19 Q And would you be able to see your vehicle still
20 there?

21 A Yes, she could see my car because I parked behind
22 Rochelle's vehicle.

23 Q I'm going to show you State's 9. Can you point out
24 which trailer was Ms. Lawson's?

25 A This one.

Richard Tuckus - Direct Examination by Mr. McNair

1 Q All right. Can you point out where you live?

2 A This one right here. This is my car.

3 Q Okay. So that's not very far at all, is it?

4 A No.

5 Q After you left her trailer that day, when was the
6 next time you communicated with her?

7 A I had some messages on my phone when I woke up
8 around three and I responded back to the messages.

9 Q What type of messages were they?

10 A They were messages about why didn't I go running.
11 I believe around one we did have some messages; I was
12 asking about toilet paper if she had any. She said they
13 were in her mom's vehicle and she asked me if I wanted to
14 get them and she -- if she wanted to go get it and I said
15 no, I'm fine.

16 Q Okay.

17 A She needed it too though.

18 Q The last message you recall receiving from her was
19 around three?

20 A Yeah.

21 Q And what was the nature of that message?

22 A Why didn't I go running with Mark.

23 Q Okay. Was that a text message or --

24 A That was I believe a Facebook message.

25 Q All right. Well, after that when was the next time

Richard Tuckus - Direct Examination by Mr. McNair

1 you saw Ms. Lawson?

2 A It was a little after five. Someone's beating,
3 shaking hard on the door and crying. So I opened the door
4 and Heather was outside.

5 Q What did she say?

6 A Victim is dead.

7 Q Did you ask her what happened?

8 A Me and Rachelle both asked her what happened. She
9 said that she believed the kids were in the playpen.

10 Q She say anything else?

11 A No, she just told me the kids were in the playpen.

12 Q All right.

13 A And she believes that they had stomped her.

14 Q Do you recall giving a written statement to law
15 enforcement?

16 A Yes.

17 Q You gave that on the day of the incident, correct?

18 A Yes, sir.

19 Q Would it help to refresh your memory as to exactly
20 what she told you?

21 A Sure.

22 (Showing the witness his statement.)

23 BY MR. MCNAIR:

24 Q Just take a second and read over that.

25 A (Reading.)

Richard Tuckus - Direct Examination by Mr. McNair

1 Q Does that refresh your memory?

2 A Yes.

3 Q What exactly did Ms. Lawson tell you?

4 A She said she took the kids out and discovered the
5 blanket was over them -- or over the baby. She took the
6 blanket off and the baby was facing face down.

7 Q Okay. Did you observe her to have her phone with
8 her?

9 A She did have her phone.

10 Q Are you sure about that?

11 A No.

12 Q Do you know whether 9-1-1 had been called yet?

13 A 9-1-1 was not called. I believe I saw the phone in
14 her right hand.

15 Q All right. Well did somebody call 9-1-1 in your
16 presence?

17 A Yes.

18 Q Who was it?

19 A Emily Gray did. Rachelle.

20 Q Rachelle called 9-1-1? All right. What did you do
21 at that point?

22 A When she called 9-1-1, I proceeded to put Heather
23 in my car and drove up the driveway back to the house --
24 back to her house. We both went inside and I asked her
25 again what happened and she said the same thing. I told

Richard Tuckus - Direct Examination by Mr. McNair

1 her to call 9-1-1 immediately.

2 Q So she called 9-1-1 in your presence at her house?

3 A Right.

4 Q What did you do at that point?

5 A I just kind of stood there while she was on the
6 phone with 9-1-1. When she started getting instructions on
7 CPR, she handed me the phone and I tried to do the CPR
8 myself with the operator's instruction.

9 Q Where was Victim when you first got there?

10 A She was still in the pack 'n play.

11 Q Do you remember what position she was in?

12 A She was still face down.

13 Q Did you move Victim at any point?

14 A By instruction of the 9-1-1 operator, I picked her
15 up.

16 Q And where did you put her?

17 A I laid her on the floor as instructed.

18 Q Okay. And would that have been on the floor
19 between the door and the pack 'n play?

20 A Yes.

21 Q Were you going to attempt to do CPR?

22 A Yes.

23 Q Were you on the scene when the first responders got
24 there?

25 A I was.

Richard Tuckus - Direct Examination by Mr. McNair

1 Q At that point, did you go to anymore interaction
2 with Victim

3 A I did not. The first responder came in, picked her
4 up off the floor, and right out the door.

5 (State's Exhibit Number 10 was marked for
6 identification.)

7 BY MR. MCNAIR:

8 Q I'm going to show you what's been marked as State's
9 Exhibit 10. Can you tell me whether or not that is a fair
10 and accurate diagram of Ms. Lawson's trailer?

11 A It is.

12 MR. MCNAIR: Your Honor, we'd offer State's 10 into
13 evidence at this point?

14 MR. WILLIAMS: Without objection, Your Honor.

15 THE COURT: State's 10 is in evidence without
16 objection.

17 (State's Exhibit Number 10 was entered into
18 evidence.)

19 MR. MCNAIR: Permission for the witness to step
20 down, Your Honor?

21 THE COURT: Yes, sir.

22 Keep your voice up for me, Mr. Tuckus, please, sir.

23 THE WITNESS: Yes, sir.

24 THE COURT: Thank you.

25 (The witness stepped down in front of the jury.)

Richard Tuckus - Direct Examination by Mr. McNair

1 BY MR. MCNAIR:

2 Q Stand on this side over here.

3 All right. Can you show the jury where, I guess,
4 the front door of the residence is that you would have
5 entered?

6 A (Pointing.) --

7 THE COURT REPORTER: I can't hear him.

8 BY MR. MCNAIR:

9 Q Speak up..

10 A I'm sorry. This is the front of the entrance right
11 here where I would have entered.

12 Q All right. And where is the pack 'n play where
13 Victim was?

14 A This is the pack 'n play right here.

15 Q All right. And where were the other kids sleeping?

16 A The other two beds were over here in the corners.

17 Q So all the kids were in that first room when you
18 walk in the door?

19 A Yes.

20 Q All right. What is this room?

21 A This is the kitchen.

22 Q All right.

23 A That's the master bedroom.

24 Q Okay. So the master bedroom is where y'all had
25 sex?

Richard Tuckus - Direct Examination by Mr. McNair

1 A Yes.

2 Q When you left you said you saw J.P. in the living
3 room area?

4 A Yes, he was on the couch.

5 Q And June and Victim were still in this room?

6 A Yes.

7 Q Now, if you're in the master bedroom and a child
8 was crying in this room, would you be able to hear that in
9 this room?

10 A Yes.

11 Q The sound carries very well?

12 A Yes.

13 Q It's not a big trailer at all is it?

14 A No, it's the shortest one.

15 Q You may have a seat.

16 (The witness returned to the witness stand.)

17 (State's Exhibit Number 11, Number 12, Number 13,
18 Number 14, Number 15, and Number 16 was marked for
19 identification.)

20 BY MR. MCNAIR:

21 Q I show you what's been premarked as State's 11
22 through 16. Take a second and look at those and tell me
23 whether or not you recognize those.

24 A I do.

25 Q All right. Are all of those photos fair and

Richard Tuckus - Direct Examination by Mr. McNair

1 accurate representations of the way Ms. Lawson's trailer
2 looked on June 26th?

3 A Yes, sir.

4 MR. MCNAIR: Your Honor, we'd offer State's 11
5 through 16 into evidence at this time.

6 MR. WILLIAMS: Without objection, Your Honor.

7 THE COURT: State's 11 through 16 in evidence
8 without objection.

9 (State's Exhibit Number 11, Number 12, Number 13,
10 Number 14, Number 15, and Number 16 were entered into
11 evidence.)

12 BY MR. MCNAIR:

13 Q I show you State's 11, can you tell the jury what
14 that depicts?

15 A That is the front entrance of the -- of the
16 children's bedroom and the front entrance of the house as
17 well.

18 Q All right. That's the door you entered?

19 A Yes, sir.

20 Q State's 12?

21 A That would be the pack 'n play. And the pink bed
22 would be the one J.P. slept on. The bed that's off to the
23 left that you can't see is June's.

24 Q All right. This is the pack 'n play, correct?

25 A That's correct.

Richard Tuckus - Direct Examination by Mr. McNair

1 Q Where would the front door be?

2 A The front door would be to the right off the
3 picture.

4 Q Right here somewhere?

5 A Yes.

6 Q This is the bed you said who slept in?

7 A J.P. did.

8 Q And that's June?

9 A June.

10 Q State's 13?

11 A That is the kitchen area.

12 Q And that is -- the kitchen is just adjacent to the
13 room where the kids were?

14 A Yeah, over to the left is the entrance way to the
15 kid's bedroom.

16 Q This right here is the kid's room?

17 A That's correct.

18 Q State's 14?

19 A That's standing in the kitchen area looking into
20 the living room.

21 Q So the master bedroom would be on --

22 A All the way at the end to the right.

23 Q Okay. State's 15?

24 A The master.

25 Q State's 16?

Richard Tuckus - Cross-Examination by Mr. Williams

1 A The bathroom.

2 Q In the master bedroom?

3 A Right. It's got two entrances; one is in the
4 master and one is in the hallway.

5 Q Okay. Are you aware of whether or not Ms. Lawson
6 had health insurance for Victim

7 A She had medicaid for all the kids and herself.

8 Q Are you aware of whether or not she had benefits
9 that would provide for baby food and formula and things of
10 that nature?

11 A She did.

12 Q One more question. Did you do anything to harm
13 Victim ?

14 A No.

15 Q Thank you.

16 THE COURT: Thank you, Solicitor.

17 Mr. Williams.

18 MR. WILLIAMS: May it please the Court?

19 THE COURT: Yes, sir.

20 **CROSS-EXAMINATION**

21 BY MR. WILLIAMS:

22 Q Mr. Tuckus, I'm going to ask you a couple of
23 questions to make sure I understand. I want you to speak
24 up because I was having a hard time kind of hearing you.

25 A I apologize.

Richard Tuckus - Cross-Examination by Mr. Williams

1 Q You met Heather when?

2 A At the beginning of -- well I met her when I worked
3 at Walmart; that was in 2014.

4 Q All right. You were working at Walmart?

5 A Yeah, for a few months.

6 Q And was Heather working at Walmart?

7 A At the same time, she was.

8 Q So that's where the two of y'all got together?

9 A That's where we met. She was with her ex John
10 Pillsbury?

11 Q And she has two children with her ex, John
12 Pillsbury, right?

13 A That's correct.

14 Q And y'all hit it off, so then y'all moved in
15 together, right?

16 A At the beginning of 2015.

17 Q And y'all moved into together in which location?

18 A She moved in with me in my house.

19 Q Okay.

20 A Lot Number 6.

21 Q So she moved into your house with you?

22 A Right.

23 Q And she remained there until when?

24 A Until the middle of the year, which would have been
25 around July.

Richard Tuckus - Cross-Examination by Mr. Williams

1 Q And why -- and July what?

2 A 2015.

3 Q July of 2015. Why did she move out in July of
4 2015?

5 A I moved my -- at the time, my ex, Rachelle, I had
6 moved her back in with me. She had some complications with
7 a pregnancy that she was in. She was currently pregnant
8 with Caroline.

9 Q All right. Let me -- let me back up here. So you
10 and Heather, who was your girlfriend, were living together
11 in your house and you moved in your ex in your house and
12 she moved out because she didn't like that, right?

13 A She moved out. I kind of told her she had to move
14 into the other house.

15 Q So you threw -- you told her to leave from where
16 she was staying and she had to find another place so that
17 your ex could stay there with you in that location?

18 A Right.

19 Q Because she was having complications with her
20 child. Was this her child with you?

21 A Yes.

22 Q Well, now you said her child with you. When did --
23 when did she become your ex -- had y'all been married?

24 A No, we got married this year.

25 Q So was she pregnant at the time that you moved --

Richard Tuckus - Cross-Examination by Mr. Williams

1 that you left her and then moved Heather into your trailer?

2 A She was pregnant with Caroline.

3 Q So you -- were y'all living together at some point
4 in time?

5 A Me and Rachelle?

6 Q Yes.

7 A Yeah, from 2012.

8 Q So you were living with Rachelle from 2012 until at
9 some point in time, 2015, and then she made you move out;
10 is that right?

11 A No, I stayed there; Rachelle moved out. She went
12 back home to Rock Hill.

13 Q Okay. So you -- so she moved to Rock Hill?

14 A Right.

15 Q And when she moved to Rock Hill --

16 A Heather moved in with me.

17 Q She was pregnant with your child?

18 A Right.

19 Q And did you have another child with her?

20 A Nicholas.

21 Q All right. But that would have been later on,
22 right?

23 A No, Nicholas was the first born; Caroline was the
24 second.

25 Q Okay. So you had two children with her and she

Richard Tuckus - Cross-Examination by Mr. Williams

1 moved out, she went back home to Rock Hill, you met
2 Heather, you moved Heather in, got Heather pregnant, and
3 then sent Heather away while you let your ex move back into
4 your trailer because she was having hard time?

5 A She was having complications and also she didn't
6 have a job. Heather had a full-time job and she could
7 support herself.

8 Q Well, did you have a full-time job?

9 A I did.

10 Q So you can support all the children if you wanted
11 to, couldn't you?

12 A My children I could, yes.

13 Q Okay. Well, so you had those two children with
14 her, then you get Heather pregnant and she has to leave to
15 take care of that child, but you had -- you had another
16 child with a woman by the name of Vera, didn't you?

17 A Yes, I did.

18 Q Now who is Vera?

19 A Vera was a girl that I had dated before me and my
20 second wife split up, before Rachelle.

21 Q Who is your second wife?

22 A Melissa Tuckus or Melissa Harris now.

23 Q All right. All right. Let me take you
24 sequentially back. You got a young lady that you moved in
25 with you in 2015 and you moved Heather out; who was the

Richard Tuckus - Cross-Examination by Mr. Williams

1 lady before this lady that you had two children with?

2 MR. MCNAIR: Judge, I'm going to object to
3 relevance.

4 THE COURT: Overruled.

5 BY MR. WILLIAMS:

6 Q Who was this lady that you -- that you had before
7 this child that was having trouble with her child and --

8 THE COURT: Identify who that is. You've said her
9 name several times.

10 BY MR. WILLIAMS:

11 Q Is it Michelle?

12 THE COURT: Is it Rachelle or Michelle.

13 THE WITNESS: You're thinking of Rachelle, which is
14 Emily.

15 BY MR. WILLIAMS:

16 Q It's Emily?

17 A Yeah, her actual name is Emily; she goes by
18 Rachelle.

19 Q Okay. So I'll call her Rachelle. So you had two
20 children with Rachelle. One of the children she was having
21 trouble, you're talking about --

22 A She was having complications. Caroline wasn't born
23 yet. She was still pregnant with Caroline. Caroline was
24 born July 2015.

25 Q But you had -- had a child with another lady before

Richard Tuckus - Cross-Examination by Mr. Williams

1 that. Would that be Vera?

2 A Yes.

3 Q So now where did Vera live?

4 A Vera lived in Irmo with her husband.

5 Q So Vera is married and she gets pregnant with your
6 child by the name of Vera?

7 A Yes.

8 Q Okay. And when was this?

9 A I want to say Vera got pregnant in -- I'd say
10 around 2012.

11 Q Okay. So Vera gets pregnant in 2012. You never
12 lived with Vera because she was already married to somebody
13 else?

14 A Right.

15 Q So you didn't have to pay child support for that
16 one?

17 A No, I didn't.

18 Q Okay. So then you get Rachelle pregnant with two
19 children. She can't take care of those two children, you
20 move them in with you because you have a job and she
21 doesn't have a job?

22 A That's correct.

23 Q And you said Heather --

24 THE COURT: Step up here for a minute. Step up
25 here a minute.

Richard Tuckus - Cross-Examination by Mr. Williams

1 (There was a bench conference out of the hearing of
2 the jury and the court reporter.)

3 THE COURT: All right. Let's move along, Mr.
4 Williams.

5 BY MR. WILLIAMS:

6 Q Okay. So -- so you had the child by the name of
7 Vera in 2012, you and Rachelle get together and you have
8 two children; you move her in in 2015 and move Heather out,
9 who is pregnant, because she's got a job, correct?

10 A (Witness nodded head.)

11 Q But you now had another child, didn't you? You had
12 a child by the name of Brandon?

13 A That was my first born.

14 Q Okay. Now --

15 THE COURT: When are we talking about. What year
16 we talking about?

17 BY MR. WILLIAMS:

18 Q Yeah, what year was Brandon?

19 A Brandon was born in 2006.

20 THE COURT: That's a little -- that's eleven years
21 old. That's not relevant.

22 BY MR. WILLIAMS:

23 Q Well, you made the comment that -- that Heather was
24 taking care of your child, Victim and that you had problems
25 because -- with her because she wasn't a good housekeeper,

Richard Tuckus - Cross-Examination by Mr. Williams

1 she didn't keep the place clean?

2 A That's correct.

3 Q Did you offer any money to help with the
4 housekeeping, the food for the child?

5 A I offered to help several times and her family
6 offered to help several times. Whenever the help is given,
7 she didn't keep up with it.

8 Q So you -- so you were paying child support for
9 Victim right?

10 A I was not paying child support for Victim

11 Q But you were concerned about Victim you just weren't
12 going to pay any money to support the child or have anybody
13 help her with the child and she was working a job to take
14 care of the child?

15 A Me and Heather had an agreement. As long as I gave
16 her money to help her out every now and then, it was fine.
17 That was the agreement that me and her had verbal.

18 Q What agreement did Victim have?

19 THE COURT: I don't understand that question.

20 BY MR. WILLIAMS:

21 Q What did you do with Victim what -- how did you take
22 care of Victim

23 A I spent time with her when I was actually there at
24 the house when I could. Even if it was one minute or five
25 minutes, I still spent some time with her.

Richard Tuckus - Cross-Examination by Mr. Williams

1 Q And that's what you were saying when you said that
2 you were upset because you came to visit with Victim and she
3 wanted to have sex with you; is that right?

4 A That's correct.

5 Q Okay. So, you are -- you had a job back then as an
6 Uber driver, right?

7 A I did.

8 Q And when did you become an Uber driver?

9 A I became an Uber driver just before the incident of
10 June happened. It was two weeks before that.

11 Q When was the first time that you drove any type of
12 vehicle for Uber?

13 A It was in that month.

14 Q Was it before or after the death of Victim

15 A It was before the death of Victim

16 Q So you hadn't been collecting any money from Uber
17 yet, right?

18 A They paid out every week. So the first -- the
19 first week didn't pay, so the following week.

20 Q Now, at the -- what's the name of the convenience
21 store you work for?

22 A Carolina Convenience.

23 Q And that's the same group of stores that -- that
24 Heather works for, right?

25 A That's correct.

Richard Tuckus - Cross-Examination by Mr. Williams

1 Q Now, is it against policy for the two of y'all to
2 have children together and work for the same store?

3 A There is no set policy about children. There's a
4 set policy about two managers dating or actually me being
5 her supervisor when she was my assistant manager. There
6 was nothing written about children; it's about me being
7 over her and we didn't work together.

8 Q And so did you keep that secret when you were at
9 work in regards to --

10 A We kept it secret.

11 Q So you never told anybody, even though you were her
12 supervisor that, you know, that she had your child and you
13 just didn't let everybody know that?

14 A That's correct.

15 Q Now, when you went to -- to Heather's house that
16 day, you arranged that or she arranged that, how? Did
17 y'all do that over the telephone that you would be there --

18 A We did it -- we did it over the phone and instant
19 messaging.

20 Q And -- and that basically you were coming over to
21 see the child, so that information will be in the messaging
22 that you have. It will say that you're coming over to see
23 the child, right?

24 A We were discussing us seeing each other not the
25 children.

Richard Tuckus - Cross-Examination by Mr. Williams

1 Q So the messaging that -- that -- that you had is
2 really not going to say anything about coming over to see
3 the child, is it?

4 A No, it's talking about me and her seeing each
5 other.

6 Q So which one is a more accurate statement; were you
7 going over to be with her or were you going over to be with
8 the child?

9 A That day I was going over to be with her.

10 Q So why did you say earlier that you were going over
11 there to see the child?

12 A I didn't say that. I said in the past, other times
13 I visited her, I wanted to come see the child.

14 Q But just not on this particular occasion?

15 A That day we were coming to see each other.

16 Q And what was your purpose in going there?

17 A What me and her had talked about before that, just
18 to have sex.

19 Q Now, the door -- there's only one door that you
20 could go in at that trailer, right?

21 A There's one door in the front and there's one door
22 in the rear. The rear door is not accessible.

23 Q So you can't go in the back door, the rear door,
24 you can't go in or out that door?

25 A No, there is no steps.

Richard Tuckus - Cross-Examination by Mr. Williams

1 Q And what is the status of the front door that you
2 can go in?

3 A The front, there was nothing wrong with the front
4 door. There was actually a maintenance guy that put that
5 door on there with a new set of locks.

6 Q Well, had there been a problem that you had to use
7 a dead bolt every time to keep the door firmly secure?

8 A With the previous door, yes, she had to use the
9 dead bolt.

10 Q Let me ask you this: You mentioned a maintenance
11 man?

12 A That's correct.

13 Q Do you have a job at the trailer park?

14 A I'm the property manager.

15 Q So you are the property manager, but you're not the
16 maintenance manager?

17 A No, I'm not.

18 Q And as property manager, do you possess keys to
19 Heather's trailer?

20 A The landlord possessed the keys in a locked
21 facility in the shed.

22 Q Did you have access to the keys to Heather's
23 trailer?

24 A I have access to all the units in the property.

25 Q And did you normally carry those keys on your belt?

Richard Tuckus - Cross-Examination by Mr. Williams

- 1 A No, I did not.
- 2 Q Where did you carry the keys?
- 3 A I left the keys in the shed. If I went over to
- 4 Heather's house, I got the keys out.
- 5 Q So if you went to Heather's house, you got the keys
- 6 out; you didn't go over there and knock on the door and ask
- 7 Heather to come meet you at the door, right?
- 8 A Me and her arranged beforehand every time that I
- 9 would come over; I am coming over or I would send a message
- 10 and say, Hey, I'm coming over.
- 11 Q So you didn't necessarily need her to open up the
- 12 door because you had your own set of keys?
- 13 A I could use the set of keys if I needed to.
- 14 Q And have done it in the past?
- 15 A Pardon?
- 16 Q And have done it in the past?
- 17 A No, I've not done it in the past.
- 18 Q Well, on this particular day when you came over, is
- 19 it your testimony that Heather met you at the door?
- 20 A The door was left unlocked.
- 21 Q So on June the 26th --
- 22 A She was in living room.
- 23 Q She did not meet you at the door then.
- 24 A No, she was in the living room.
- 25 Q So you come in?

Richard Tuckus - Cross-Examination by Mr. Williams

- 1 A Uh-huh (affirmative response).
- 2 Q And you find her in the living room?
- 3 A That's correct.
- 4 Q And the children are all sleeping?
- 5 A That's correct.
- 6 Q And, then you take her from the living room and you
- 7 go into -- into the master bedroom and you have sex with
- 8 her; is that right?
- 9 A That's right.
- 10 Q Now, you indicated that the biggest argument that
- 11 you had with her was that she wanted to see you all the
- 12 time; is that right?
- 13 A Yes.
- 14 Q Do you find it unusual that the person you're
- 15 having sex with and have your child, wants to see you?
- 16 A I guess not, no.
- 17 Q It doesn't sound quite as strange when you say it
- 18 out loud, does it?
- 19 A No.
- 20 Q So when you -- when you have sex with her in the
- 21 master bedroom, had y'all had any discussions about you
- 22 having to pay child support?
- 23 A We had not.
- 24 Q You had not had any discussions with her --
- 25 A Not that day, no.

Richard Tuckus - Cross-Examination by Mr. Williams

1 Q Well, tell me about another day; had you had
2 discussions about having to pay child support another day?

3 A In the past, like I said before, we discussed about
4 if I had the money, if she needed it, I would give it to
5 her.

6 Q Well, did she have comments with you about that she
7 was going to start making you pay child support?

8 A No, she did not.

9 Q How did you feel about the fact that she might make
10 you pay child support for this child?

11 A I wouldn't have had a problem with it.

12 Q But you weren't going to volunteer?

13 A I take care of my children if I need to.

14 Q When is it that you determine you need to take care
15 of the children? When have you shown that you would do
16 that?

17 A If she told me that she needed the help, I would
18 give her the help. I'm not there all day all the time to
19 determine that.

20 Q Okay. So you tell her that you're going to go run
21 the dam and sell a cell phone; is that right?

22 A That's correct.

23 Q But you had no intention of doing that, right?

24 A I had intentions to do that, but I was exhausted.

25 Q When is it --

Richard Tuckus - Cross-Examination by Mr. Williams

1 A I was out until twelve o'clock the night before and
2 then I had to be back at work at six in the morning.

3 Q So when you told her that, you did have the
4 intention to go and meet some guy at the dam and sell him
5 your cell phone; is that right?

6 A I had intentions to run with somebody. The person
7 I was meeting to sell the cell phone was going to meet me
8 at Walmart.

9 Q And when was it that you canceled those plans?

10 A When I got to the house.

11 Q So you went back to the house before you decided to
12 cancel the plans?

13 A Yeah.

14 Q And -- and you made the comment --

15 A And actually -- and to make sure that's clarified,
16 I went back to Lot my own home. That's when I cancelled
17 the plans.

18 Q Okay. So you stated that she could see your
19 trailer?

20 A She can.

21 Q So that she can see that you were not going to the
22 dam or going to sell the cell phone?

23 A That's correct.

24 Q Why -- why is that a point; why didn't you just
25 tell her you weren't going to do it; why tantalize her with

Richard Tuckus - Cross-Examination by Mr. Williams

1 that and just not go out there and let her see your car
2 there?

3 A I didn't feel I had to.

4 Q You made note that she would be able to see that
5 you weren't going to do it, right?

6 A Right.

7 Q Was that more like in your face or something or
8 what was the purpose behind that?

9 A Just me not doing it? I just decided I wanted to
10 go to sleep.

11 Q Okay. So is it your testimony that you never came
12 back into that trailer?

13 A That is correct.

14 Q And the last time you saw your child, Victim she was
15 sitting up laughing?

16 A Smiling.

17 Q Had no bruises on her?

18 A No.

19 Q And then, Heather comes over, she's all upset and
20 she's crying, right?

21 A Right, hysterically.

22 Q And she's talking about, it must have been the kids
23 who done something to her?

24 A That's correct.

25 Q And then we go through this and you go in there and

Richard Tuckus - Cross-Examination by Mr. Williams

1 you hear all of this about whose going to do the CPR. The
2 bottom line is that neither you nor Heather actually
3 performed CPR on this child?

4 A I tried to with the 9-1-1 operator's help, but just
5 as I started the -- the EMS responder walked in the door or
6 the firefighter responder.

7 Q What part of trying to do CPR did you do; what part
8 of the process did you do?

9 A As instructed, I laid her down and then I was told
10 to try and cradle her head. After that is when the guy
11 walked in. So I didn't go any further.

12 Q So when you found the child, where was the child in
13 the trailer; how was the child positioned in the trailer?

14 A She was in her pack 'n play and she was face down.

15 Q So you could see at that point in time if there was
16 any injury on the back of the child's head, couldn't you?

17 A You could.

18 Q Did you tell anybody that there was an injury on
19 the back of the child's head?

20 A I didn't notice it at first until she was turned
21 over.

22 Q So the only thing you saw when you turned her over
23 was the bruising that happened on her face?

24 A I saw the bruising on the front and I saw it over
25 here and then I saw the blood at the bottom areas.

Richard Tuckus - Cross-Examination by Mr. Williams

1 Q The blood?

2 A Yeah, like it looked like her blood or like the
3 blood was cold in her or something, in her body. It was
4 all like red.

5 Q Okay. And at that point, all the people come and
6 they take the child away and you linger around the trailer,
7 right?

8 A Yes, I was asked to stay by one of the officers
9 that was out there.

10 Q And how long did you stay?

11 A I stayed there until I was allowed to leave by one
12 of the detectives that was writing the case.

13 Q Who told you you could leave?

14 A That detective. He told me that once the crime
15 scene officers were done taking pictures of my vehicle, I
16 could leave.

17 Q Do you know who he was?

18 A I don't remember which detective it was.

19 Q How about the other two children that had been in
20 the trailer; how did they -- how did they leave the
21 trailer?

22 A I was asked by another officer to take them out.
23 They questioned me where the mother was and I told them
24 that she went to the hospital. They asked me if there was
25 somewhere they could be and I said I could let them go stay

Richard Tuckus - Cross-Examination by Mr. Williams

1 with Rachelle at my house.

2 Q So how did the children get to your house for
3 Rachelle?

4 A I don't remember how they got there.

5 Q Could you possibly have left the crime scene and
6 taken the children there?

7 A I don't remember.

8 Q Well, you heard the officer say that you weren't
9 supposed to leave?

10 A Right.

11 Q But you don't remember whether or not you took them
12 up there or not?

13 A No, I don't. I don't remember if somebody else
14 came for them or if the officer escorted them up there.

15 Q So when you were allowed to leave, you went and got
16 your car and drove away?

17 A I went back to my house at Lot I got a BP shirt
18 and I had to go and report to work because there was an
19 emergency at the store that night.

20 Q And you drove your car to work that night?

21 A Yes.

22 Q So the tape was not up when you drove your car to
23 work that night?

24 A The tape -- they -- they opened up the tape in
25 front of my car.

Richard Tuckus - Redirect Examination by Mr. McNair

1 Q They let you go?

2 A Yeah.

3 MR. WILLIAMS: That's all the questions I have,
4 Your Honor.

5 THE COURT: Redirect, Solicitor?

6 MR. MCNAIR: Yes, sir, Your Honor.

7 **REDIRECT EXAMINATION**

8 BY MR. MCNAIR:

9 Q You mentioned previously that Ms. Lawson had EBT
10 that provided food for her children?

11 A That's correct.

12 Q You know how much money she received from that?

13 A She got a little over \$400 a month.

14 Q All right. And you never owed any child support or
15 never paid any -- you were never ordered to pay child
16 support?

17 A I was never ordered to pay.

18 Q So Victim was no financial burden to you whatsoever,
19 was she?

20 A No, I mean, like I said, if she needed diapers or
21 something I paid for it if she asked me to.

22 Q If she asked you to help out, you would help out,
23 but otherwise, she was not a financial burden to you?

24 A No.

25 Q As far as the child support, do you know whether or

Richard Tuckus - Redirect Examination by Mr. McNair

1 not her first baby daddy owed child support?

2 A He did.

3 Q All right. What was his name?

4 A His name was John Pillsbury.

5 Q So he owed child support?

6 A He did.

7 Q And that was at the time this incident happened?

8 A Yes, he did.

9 Q Do you remember discussing that with her?

10 A Yes.

11 Q All right. Was she upset about that?

12 A Yeah, she made comments that she wished that he
13 would pay her and stuff, but I didn't know about --

14 Q So she wanted John Pillsbury to pay her child
15 support?

16 A That's correct.

17 Q For John and June?

18 A That's right.

19 Q He asked you about your plans to go running. You
20 worked -- how long did you work the night before on the
21 25th?

22 A Doing Uber, I stopped around midnight.

23 Q And you agreed to work her 6:00 a.m. shift the next
24 morning, correct?

25 A That's correct.

Richard Tuckus - Redirect Examination by Mr. McNair

1 Q So you were tired?

2 A Yeah.

3 Q Plans changed?

4 A Yes.

5 Q When you left the trailer that day, Victim was
6 fine?

7 A Yes, sir.

8 Q And Heather walked you out the door?

9 A Yes, she did.

10 Q No further questions.

11 THE COURT: Recross, Mr. Williams?

12 MR. WILLIAMS: No questions, Your Honor.

13 THE COURT: Excuse me?

14 MR. WILLIAMS: No questions, Your Honor.

15 THE COURT: Thank you. Thank you very much, Mr.

16 Tuckus. You may step down.

17 How long is your next witness, Solicitor.

18 MR. MCNAIR: Not too long, Your Honor.

19 THE COURT: All right. Call your next witness
20 please.

21 MR. MCNAIR: Your Honor, the State calls Emily
22 Tuckus.

23 THE COURT: All right. If you'd come around, Ms.
24 Tuckus.

25 EMILY ROCHELLE TUCKUS,

Emily Rachelle Tuckus - Direct Examination by Mr. McNair

1 having been duly sworn, testified as follows:

2 THE CLERK: Have a seat please, ma'am. Once you're
3 seated, state your full name spelling your last please.

4 THE WITNESS: My name is Emily Rachelle Tuckus.
5 T-U-C-K-U-S.

6 **DIRECT EXAMINATION**

7 BY MR. MCNAIR:

8 Q Ms. Tuckus, you are currently married to Richard;
9 is that correct?

10 A Yes, I am.

11 Q And your real name is Emily, but do you go by the
12 name Rachelle?

13 A I do.

14 Q All right. What was your maiden name?

15 A Gray.

16 Q And were you the one who called 9-1-1 in this case
17 initially?

18 A I did.

19 Q Now, when did you and Richard get married?

20 A We got married in January of 2017.

21 Q And how many kids do y'all have together?

22 A We have two.

23 Q Now, in June of 2016, what was the status of
24 y'all's relationship?

25 A We were co-parents.

Emily Rachelle Tuckus - Direct Examination by Mr. McNair

1 Q Okay. And you were aware of his relationship with
2 Ms. Lawson?

3 A Yes.

4 Q And were you working at that time?

5 A I was working a part-time job, but nothing more
6 than that.

7 Q Was Mr. Tuckus working?

8 A Yes.

9 Q And was he the primary provider for you and your
10 children at that time?

11 A Yes, he was.

12 Q Now, on June 26th, 2016, were you home that day?

13 A I was.

14 Q Were you home all day?

15 A Yes, I was.

16 Q All right. Was Mr. Tuckus home that morning?

17 A He was not. He was at work.

18 Q When was -- when did -- were you aware of where he
19 went after work?

20 A I did not know until he arrived at home where he
21 had been.

22 Q And what time did he arrive home on the 26th?

23 A He got home between 12:45 and 1:00 p.m.

24 Q And what did he do after he got home?

25 A He spent time with our four-year old son, who was

Emily Rachelle Tuckus - Direct Examination by Mr. McNair

1 -- he was three at the time. And then he went to bed. He
2 took a nap.

3 Q And after he got home, did he ever leave the
4 residence again that day?

5 A He didn't.

6 Q You were home all day?

7 A I was home all day.

8 Q And he was with you all day?

9 A Yes, he was in the bedroom. I was in the living
10 room, which is right beside the bedroom. So if he had
11 left, he would have had to pass me.

12 Q Okay. Now at some point, did Ms. Lawson come to
13 y'all's house?

14 A Yes, she did.

15 Q Tell us what happened.

16 A It was about -- probably about 5:10, 5:15, there
17 was banging on the door. I opened it, she was standing
18 there hysterically crying, saying that Victim was dead over
19 and over and over and so Richard and I asked her what
20 happened. She told us that she found J.P. or John, and
21 June in the pack 'n play with Victim And that Victim had a
22 blanket over her. And then that's -- at that point, I
23 called 9-1-1.

24 Q Okay. Do you recall if Ms. Lawson had her phone?

25 A I don't believe she did.

Emily Rachelle Tuckus - Direct Examination by Mr. McNair

1 Q So you called 9-1-1?

2 A Yes.

3 Q And what did -- what did Richard and Ms. Lawson do
4 at that point?

5 A They got in his car and then they went back to her
6 house.

7 Q Did you ever go down to Ms. Lawson's house?

8 A I did not.

9 Q Did you ever see her other two kids?

10 A They were brought to me about 30 minutes to 45
11 minutes later, I think.

12 Q Do you know who brought them to you?

13 A I don't remember...

14 Q So you took custody of her other two kids?

15 A Yes, until about 11:00 p.m. that night.

16 MR. MCNAIR: I beg the Court's indulgence?

17 THE COURT: Yes, sir.

18 BY MR. WILLIAMS:

19 Q June 26th, 2016, your testimony was that Richard
20 arrived home at what time?

21 A Between 12:45 and 1:00 p.m.?

22 Q Once he got home at 12:45 to 1:00 p.m., he never
23 left the house again?

24 A He never left.

25 Q Until Ms. Lawson showed up, correct?

Emily Rachelle Tuckus - Cross-Examination by Mr. Williams

1 A Correct.

2 Q Thank you. No further questions.

3 THE COURT: Thank you, Solicitor.

4 Mr. Williams.

5 MR. WILLIAMS: May it please the Court.

6 CROSS-EXAMINATION

7 BY MR. WILLIAMS:

8 Q Ms. Tuckus, did you ever give a witness statement
9 to law enforcement?

10 A I did not.

11 Q So you would be the main person to corroborate what
12 time your husband got home and nobody with law enforcement
13 ever asked you to corroborate when he got home?

14 A I don't understand.

15 Q No one up until now has ever asked you to write a
16 statement or to verify at what time your husband came home
17 after the death of his child?

18 A That is correct.

19 Q How is that you remember that the child -- that
20 your, and I call -- he's your husband now?

21 A Uh-huh (affirmative response).

22 Q That your husband came home between 12:45 and one
23 o'clock?

24 A Our two year old, well she was one at the time, she
25 was taking a nap, and I happened to look down at my phone

Emily Rachelle Tuckus - Cross-Examination by Mr. Williams

1 at one o'clock, it was a little after one, just to see how
2 long she had been asleep and I know at that point he was
3 already home.

4 Q And you remember that this extended period of time
5 even though you really --

6 A I have a good memory.

7 Q So after you checked on your two year old and he
8 was already in bed asleep; is that right?

9 A She, yes. She had gone down for a nap about an
10 hour before then, so around then.

11 Q So she went to bed about noon, when your husband
12 was over with her?

13 A Yes.

14 Q Then she woke up at one o'clock?

15 A No, she was not awake at that time.

16 Q Oh.

17 A I had checked the time to see how long she had been
18 asleep for.

19 Q And your husband was already home?

20 A He was already home, yes.

21 Q And did you wake up when he came home?

22 A I was never asleep. I was sitting on the couch
23 with our three-year old, Nicholas. We were watching
24 movies.

25 Q Which movies were you watching?

Emily Rachelle Tuckus - Cross-Examination by Mr. Williams

1 A I think a Minion movie.

2 Q Okay. And did you have a conversation with
3 Richard?

4 A Not really, no.

5 Q You didn't ask him --

6 A Sorry. I had basically just asked him how his day
7 went and that was about it.

8 Q And how did he say his day had gone?

9 A He said it was fine, that he was tired from working
10 that day.

11 Q He didn't tell you he was tired from doing
12 something else, did he?

13 A No, he did not.

14 Q You had no idea that he was over there?

15 A I did not, until he told me.

16 Q Did you know he was still having a relationship
17 with -- with her?

18 A I knew they were together, yes. Richard and I were
19 not together at the time. So I knew that he and Heather
20 were together.

21 Q And you didn't have any problems with that?

22 A It's his life. As long as he is there or was there
23 for my children, what he did was his personal life was none
24 of my business.

25 Q And that's the most important thing for you is

Emily Rachelle Tuckus - Cross-Examination by Mr. Williams

1 making sure that your children are taken care of?

2 A Yes.

3 Q That's why you married him this year?

4 A Yes.

5 Q To make sure that he's going to be around and take
6 care of your children?

7 A Not necessarily. I married him because I love him.
8 And yes, he's the father of my children, but if it had not
9 worked out, then that's fine.

10 Q Now, you said you don't know who brought those
11 children of Heather's back to you?

12 A Correct, I don't remember.

13 Q It happened 30 or 45 minutes after all this episode
14 with the phone calls went on?

15 A The episode with the phone calls?

16 Q 9-1-1?

17 A Oh, yes. It was probably 30 to 45 minutes after,
18 yes.

19 Q You have no idea who brought these children to your
20 house?

21 A There were people coming in and out, including DSS
22 We had sheriffs coming in and out, so I don't remember.

23 Q When was the first time you saw Richard after he
24 ran down there?

25 A It was a few hours after.

1 MR. WILLIAMS: That's all the questions I have,
2 Your Honor.

3 MR. MCNAIR: Nothing further, Your Honor.

4 THE COURT: Thank you. Thank you, Ms. Tuckus, you
5 may step down.

6 Let's take about a 15 minutes recess, ladies and
7 gentlemen. Do not discuss the case during this brief
8 recess.. Remember to leave your notes in your chair.

9 (The jury left the courtroom at 3:50 p.m.)

10 THE COURT: All right. We'll take about a 15
11 minutes recess. Thank you.

12 (A recess was observed.)

13 THE COURT: Anything before we bring in the jury,
14 Solicitor?

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

16 MR. WILLIAMS: Nothing from the defendant, Your
17 Honor.

18 (The jury entered the courtroom at 4:07 p.m.)

19 THE COURT: All right. Our jury is back in place.
20 Solicitor, call your next witness.

21 MR. MCNAIR: Thank you, Your Honor. The State
22 calls Tamir Patel.

23 TAMIR PATEL,

24 having been duly sworn, testified as follows:

25 THE CLERK: Be seated please, sir. Once you're

Tamir Patel - Direct Examination by Mr. McNair

1 seated, state your full name spelling your last please.

2 THE WITNESS: My name is Tamir Patel. Last name
3 is Patel, P-A-T-E-L.

4 THE COURT: All right. Solicitor?

5 MR. MCNAIR: Thank you, Your Honor.

6 **DIRECT EXAMINATION**

7 BY MR. MCNAIR:

8 Q Mr. Patel, where are you currently working?

9 A Currently right now I'm self employed. I bought a
10 business in Florence County, South Carolina.

11 Q Where you working back in June of 2016?

12 A I was employed with Carolina Convenience
13 Corporation which owns S-Mark gas stations.

14 Q How many gas stations do they own?

15 A We operated nine gas stations, five Hardees.

16 Q All right. Now, was Richard Tuckus employed by
17 y'all?

18 A Yes, sir.

19 Q What was his position?

20 A Richard Tuckus was the general manager for one of
21 our stores.

22 Q All right. Do you know which store he was the
23 general manager for?

24 A At the time he was at Forest Drive, but we
25 transferred him over to Alpine Road, which is Alpine and

Tamir Patel - Direct Examination by Mr. McNair

1 Two Notch.

2 Q What about Heather Lawson, was she also an employee
3 of y'all's?

4 A Yes, sir. Heather Lawson was the general manager
5 of the store on Forest Drive.

6 Q All right. Now, were you asked by law enforcement
7 to provide surveillance video from the store Ms. Lawson
8 worked on from the night of June 25th, 2016?

9 A Yes, sir.

10 Q All right. And what store is that again?

11 A We call it Store 107, which is the store on Forest
12 Drive, the BP on Forest Drive.

13 Q All right. And was the surveillance system
14 properly working that night?

15 A Yes, sir.

16 Q And did you confirm that the dates and times were
17 working -- were correct?

18 A Yes, sir.

19 Q And you provided law enforcement with, I guess, a
20 pretty lengthy video, correct?

21 A Yes, sir.

22 Q Do you know what -- how many hours that video was?

23 A I want to say it was an extended play, over three
24 to four hours.

25 Q All right. And did that include all camera angles

Tamir Patel - Direct Examination by Mr. McNair

1 at that store?

2 A It only included the camera angles pertaining to
3 the area that -- that was wanted because the system is a
4 DVR system and to burn everything on one CD or USB, you get
5 too much information. So it didn't include like the
6 parking lot, dumpster, or like images of the pumps. That's
7 everything in the interior though.

8 Q Everything of the interior was on the video you
9 provided law enforcement?

10 A Yes.

11 Q And since that time have you had time to watch an
12 abbreviated version of that video, a cut-down version?

13 A Yes, sir.

14 Q All right. And was that consistent with what you
15 provided to law enforcement?

16 A Yes, sir, it was.

17 Q I'm going to show you State's Exhibit Number 21 and
18 ask you whether or not you can identify that?

19 A Yes, sir, I can identify it.

20 Q All right.

21 A It's the video with my initials.

22 Q Okay. And that's the abbreviated version of the
23 video you provided law enforcement?

24 A Yes, sir.

25 MR. MCNAIR: Your Honor, we'd offer State's 21 into

Tamir Patel - Direct Examination by Mr. McNair

1 evidence at this time.

2 MR. WILLIAMS: Without objection, Your Honor.

3 THE COURT: State's 21 is in evidence without
4 objection.

5 (State's Exhibit Number 21 was entered into
6 evidence.)

7 BY MR. WILLIAMS:

8 Q I show you what's been pre-marked as State's 20; do
9 you recognize that?

10 A Yes, sir, that's the layout of the store.

11 Q And that's the layout of the store that you
12 provided video for?

13 A Yes, sir.

14 MR. MCNAIR: Your Honor, we'd offer State's 20 into
15 evidence at this point.

16 MR. WILLIAMS: Without objection, Your Honor.

17 THE COURT: 20 what?

18 MR. WILLIAMS: This is State's 20, I'm sorry.

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

21 (State's Exhibit Number 20 was entered into
22 evidence.)

23 BY MR. WILLIAMS:

24 Q Mr. Patel, would you mind sitting -- stepping down
25 for a second.

Tamir Patel - Direct Examination by Mr. McNair

1 A Sure.

2 Q Stand on this side over here please?

3 A Okay.

4 (The witness stepped down in front of the jury.)

5 BY MR. MCNAIR:

6 Q All right. Can you show the jury where the front
7 doors to this store are?

8 A Yes, sir. This is the front doors right here.

9 Q All right. Can you show the -- explain what the
10 other locations in this diagram are?

11 A Yes, sir, this is actually the front of the store,
12 these are actually the glass doors, that's the front entry.
13 So there are the beer cooler doors. This is the sales area
14 right here. We have a cage so it's always down. So to
15 enter the back foyer, you have to enter this doorway right
16 here, which is a little bit tight on the hallway, so right
17 here is where the entrance to the cooler is to stocking.

18 This is a small hallway where we have access to the
19 office. And over here is the employee bathroom area. And
20 over here is the access to the area for the cashier for the
21 sales for the cigarettes and other items are. Back here is
22 the access from the outside. This is actually a storage
23 area.

24 Q Okay.

25 A Back in the day, way back in the day, this used to

Tamir Patel - Direct Examination by Mr. McNair

1 be a bathroom, but it's locked up and dead bolted and it's
2 full of back stock.

3 Q All right. So this area right here would be where
4 the cash register is?

5 A The cash register and the cigarettes and other
6 items.

7 Q Cigarettes and things of that nature?

8 A Yes, sir.

9 Q All right. And where is the office area?

10 A Located right here.

11 Q All right. And where is the bathroom?

12 A Right here.

13 Q Now does the bathroom in this facility have a
14 changing station for babies or anything like that?

15 A No, sir. Unfortunately, it looks quite large, but
16 you have a water heater, cleaning supplies, sink and then a
17 commode. So you enter and there's a commode right here, a
18 water heater and cleaning supplies and a sink and another
19 commode right there.

20 Q So there wouldn't really be a place to change a
21 baby in the bathroom?

22 A It's a very tight-fitting area.

23 Q All right. So where, I guess if you did have to
24 change a baby, where would you have to change one?

25 A The only place available would be the sales floor.

Tamir Patel - Direct Examination by Mr. McNair

1 Q Okay. That's the only room with enough space?

2 A There wouldn't be enough room here with a desk or
3 even in here. The sales floor or actually the floor of the
4 store itself.

5 Q All right. All right. And the -- the only entry
6 and exit into the store --

7 A Is this way, the only way in and out. That's the
8 only way.

9 Q All right. And what type of doors are those?

10 A They're both -- one's a magnetic swing, but they're
11 both manual swing doors.

12 Q And they're swing doors?

13 A Yes.

14 Q Okay. All right. Have a seat please.

15 THE COURT: You used the phrase back in the day;
16 I'm trying to figure what period of time are you talking
17 about, back in the day?

18 THE WITNESS: I would say that, that it used to be
19 a public restroom, but that was almost like ten or fifteen
20 years ago.

21 THE COURT: Oh, I was talking about the '70s.

22 (Laughter.)

23 THE COURT: That's the area in front of the
24 Providence Hospital, right?

25 THE WITNESS: Yes, sir, it's right in front of it,

Tamir Patel - Direct Examination by Mr. McNair

1 yes, sir, pretty old.

2 THE COURT: It used to be Taste and Bake?

3 THE WITNESS: Yes, sir.

4 THE COURT: Do you remember that?

5 THE WITNESS: No, not really.

6 THE COURT: Thank you very much.

7 All right. Solicitor, you may ask your questions.

8 MR. MCNAIR: Thank you, Your Honor.

9 BY MR. MCNAIR:

10 Q Mr. Patel, let me show you some photos that have
11 been marked State's 22 through 29. Take a moment and look
12 at those.

13 A All right. (Looking.)

14 Q Can you identify those photos?

15 A Yes, sir. They're pictures of -- mainly of the
16 hallway that enters into the employee only area and also
17 the front of the store and the front entrance of the store
18 as well.

19 Q All right. Are they all fair and accurate
20 representations of the way the store where Ms. Lawson
21 worked looked in June of 2016?

22 A Yes, sir.

23 MR. MCNAIR: Your Honor, we'd offer State's 22
24 through 29 into evidence at this point.

25 MR. WILLIAMS: Without objection, Your Honor.

Tamir Patel - Direct Examination by Mr. McNair

1 THE COURT: All right. State's 22-29 into evidence
2 without objection -- through 29.

3 (State's Exhibit Number 22, Number 23, Number 24,
4 Number 25, Number 26, Number 27, Number 28, and Number 29
5 was entered into evidence.

6 BY MR. MCNAIR:

7 Q All right. State's 22, can you explain what this
8 shows?

9 A That's the view of the front of the store from the
10 office.

11 Q All right. And these are -- those are the doors
12 you testified about earlier?

13 A Yes, sir.

14 Q The only way to get into -- in and out of that
15 store?

16 A That's the only way in and out of that store.

17 Q State's 23?

18 A That is access to the employee only area, which is
19 from this -- where the guests enter; and then to the left
20 of the counter to the right of the beer coolers or the soda
21 coolers, and that's how you get to the back area, which it
22 gives you access to the hallway, the office, and other
23 items.

24 Q Okay. State's 24, what does that show?

25 A That's showing the -- the entrance, but from the

Tamir Patel - Direct Examination by Mr. McNair

1 inside of the store looking out towards the pumps.

2 Q State's 25?

3 A That is the view to the office. When you first
4 enter that door in the employee only area, that's the door
5 right there adjacent to it.

6 Q So this is the office area?

7 A Yes, sir.

8 Q State's 29, same thing?

9 A Yes, sir, it's the office area once you're inside
10 the office looking outside the door.

11 Q State's 28?

12 A That's just entering into the -- the -- the
13 employee only area, when you first enter, it shows how
14 small the hallway is and that door is actually the door to
15 the office with it closed.

16 Q This is the door that goes into the office?

17 A Yes, sir, that's the office door.

18 Q 27?

19 A The door straight ahead to you is the -- is the
20 door to the bathroom. The door to the right, right in
21 front is the door to the office.

22 Q Okay. And finally, State's 26?

23 A That's the employee only area door but looking
24 inside the employee only area to the sales floor.

25 Q Okay. To the main area where --

Tamir Patel - Cross-Examination by Mr. Williams

1 A To the main area.

2 Q -- where customers would --

3 A Yes, sir, and you see the front door right there as
4 well.

5 Q Okay. Mr. Patel, that's all the questions I have.
6 Please answer any questions Mr. Williams has. Thank you.

7 A Okay.

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

10 CROSS-EXAMINATION

11 BY MR. WILLIAMS:

12 Q The pictures that you just identified, these --
13 since you did comment on back in the day, are these
14 pictures accurate as to how the convenience store would
15 look in June of 2016?

16 A Yes, sir.

17 Q That's all the questions I have.

18 THE COURT: Redirect?

19 MR. MCNAIR: Nothing further, Your Honor.

20 THE COURT: Thank you. Thank you for being here
21 today, Mr. Patel. You may step down and you may excused.

22 All right. Solicitor?

23 MS. MAYES: The State calls Detective Adam Creech.

24 THE COURT: All right.

25 ADAM CREECH,

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1 having been duly sworn, testified as follows:

2 THE CLERK: Have a seat, sir. Once you're seated,
3 state your full name spelling your last please.

4 THE WITNESS: Detective Anthony Adam Creech.
5 Creech is spelled C-R-E-E-C-H.

6 **DIRECT EXAMINATION**

7 BY MS. MAYES:

8 Q All right. And Detective Creech, tell us a little
9 bit about yourself. Where are you employed and in what
10 capacity?

11 A I'm employed with the Lexington County Sheriff's
12 Department where I've worked for the last eight years as of
13 this month. I've specifically been assigned to our major
14 crime's unit for the last three years and within that unit,
15 I currently work on the special victim's unit.

16 Q All right. Let me take you back a little bit
17 further on that. How long have you actually been a law
18 enforcement officer?

19 A As I mentioned, I've been a law enforcement officer
20 for eight years as of August 24th.

21 Q All right. And tell us a little bit about your
22 background and training that led you to becoming a law
23 enforcement officer.

24 A Actually it's a funny story. Prior to becoming a
25 law enforcement officer, I got a Bachelor's of Science from

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1 USC in Biologic Anthropology and in a different time and
2 place, I was going to go into grad school for Anthropology
3 and stumbled into law enforcement with the one-time
4 interest of working crime scene investigations. And since
5 I got into law enforcement, not as interested in the crime
6 scene investigations than the actual investigation.

7 So I worked for several years to work my way into
8 criminal investigations where since getting in
9 investigations, I've had substantial training in interview
10 techniques in homicide investigations, child abuse
11 investigations, child homicide investigations and numerous
12 related trainings.

13 Q All right. So on this day of June 26th, 2016, I
14 believe you said before that you were a detective within
15 the major crimes unit?

16 A That is correct.

17 Q And specifically, within the major crimes unit, in
18 the special victim's unit?

19 A That is correct, as well.

20 Q And can you tell us whether or not that includes
21 crimes against children?

22 A That does include crimes against children.

23 Q Detective Creech, lead us up to the events in which
24 you were notified of a death investigation involving

25 Victim. ?

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1 A So on June 26th, 2016, it was a Sunday afternoon.
2 I was actually doing some house projects and got a phone
3 call from Sergeant Traci Barr, who was my supervisor at the
4 time. We were the on-call shift, so that meant we had
5 weekend duty. So we were on call 24/7 for any kind of
6 major incident that came out that requested the services of
7 major crimes. I was contacted by Sergeant Barr and
8 notified that there had been a death of seven-month old,
9 who is currently in route to Lexington Medical Center and I
10 was notified that I would be the lead investigator on the
11 case. And I was asked to respond to Lexington Medical
12 Center to see the victim and go ahead and initiate my part
13 of the investigation.

14 Q All right. What was your first action?

15 A My first action when getting to the -- well
16 actually, let me back up. My first action was to contact
17 the dispatcher who took the initial 9-1-1 call and try to
18 get a little bit more background of what had happened. I
19 was originally told that the caller was a woman named
20 Heather and the seven-month old was her daughter -- her
21 child and that there was an initial allegation that the on
22 and the three-year old children in the home may have caused
23 the fatal injuries to the child.

24 Obviously, that's not a whole lot to go on. I
25 called the dispatcher and I spoke with Ms. Gunter, who you

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1 heard from earlier today. She wasn't able to give me a
2 whole lot of information because the call was still kind of
3 fresh and there was a lot going on.

4 So then upon my arrival at Lexington Medical Center
5 I made contact with our watch commander, who is Lieutenant
6 Scottie Frier and I realize I'm talking a little fast, so
7 I'm going to slow down. Lieutenant Frier and I, he
8 directed me to where Victim. was located in ER Room
9 63, where I reviewed her -- her body and Lieutenant Frier
10 kind of walked me through the initial injuries that had
11 been identified. And at that time, he and I conferred that
12 based on a lot of the unknown variables at the time the
13 initial story that the children may have been involved, we
14 didn't know what adults were in the home. We didn't know
15 really the specific circumstances, but certainly the
16 injuries made it appear that it was definitely a suspicious
17 death.

18 So he and I conferred about arranging for the
19 remaining two children that I had been notified were in the
20 home, John and J.P. Pillsbury, would be taken into
21 emergency protective custody, pending the remainder of our
22 investigation.

23 After doing so, he then directed me to where Ms.
24 Lawson was located in a waiting room outside the ER, where
25 I then proceeded to obtain statements from her about,

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1 verbal statements, about the days events.

2 Q All right. Now when you say contact with Ms.
3 Lawson there in the emergency room, were you aware that she
4 had been a caregiver for the children during the day?

5 A It would be assumption that she would have been the
6 caregiver being the mother of the decedent and the one who
7 called 9-1-1. It would be very normal for us in those kind
8 of circumstances to make contact with the parent or
9 guardian and go ahead and start establishing timeline
10 information, medical history, determining who else may or
11 may not have been in the home and had access to the child,
12 and any other relevant facts to help develop a suspect,
13 should it prove to be a suspicious incident, which we were
14 still working to determine.

15 Q All right. So that type of fact-finding
16 information as to who was in the home and who had access to
17 the child, can you tell us whether or not that's routine in
18 such investigations?

19 A That is absolutely routine. The first step in any
20 investigation is just to find who was in -- who was closely
21 associated and ask them what happened.

22 Q All right. And tell us about your initial contact
23 with Ms. Lawson, the defendant in this case.

24 A So when I made contact with Ms. Lawson at the
25 hospital, she was not considered -- we didn't have a

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1 suspect at the time. She was just the closest person who
2 could begin to tell us what may have happened. When I
3 asked her to tell me about what happened, she ultimately
4 told me that she had gone home from work late the night
5 before, about 11:44 p.m.

6 Q And I'm going to ask you to stop right there. I'm
7 going further with that, so I'm going to ask you to slow
8 down a little bit.

9 A Absolutely. So Ms. Lawson told me she had gotten
10 home from work late the night before. She said it had been
11 about 11:44 p.m. She said the next morning, which would be
12 June 26th, the day in question --

13 Q All right. So let me stop you right there. Now
14 where is this conversation with Ms. Lawson taking place?

15 A This is taking place in, for lack of a better
16 description, a family waiting room in the ER.

17 Q And at this point in time, I believe you've already
18 noted that you were able to actually observe Victim

19 A Yes, I had seen Victim prior to speaking with Ms.
20 Lawson.

21 Q And at this point in time, she has been pronounced
22 deceased?

23 A She -- she had been pronounced deceased upon my
24 arrival at the hospital.

25 Q So I'm going to put ER.

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1 Detective Creech, what time was it when you
2 arrived?

3 A I checked that. I don't have an exact time. I had
4 actually reviewed the call card. This is not unusual,
5 because as an investigator, I don't have a mobile computer
6 terminal with GPS tracking. I know I announced myself when
7 I got to the hospital and I would have announced myself
8 that I was clear from the hospital several hours later.

9 But for whatever reason, the dispatcher didn't note
10 my radio track so there's not actually a log of me going to
11 -- coming and going on the call card, if that makes any
12 sense.

13 Q All right. You made contact with Ms. Lawson; who
14 else is present?

15 A I initially spoke to her basically three
16 back-to-back times. I kind of got Ms. Lawson to tell me
17 what had happened. The first time was myself and
18 Lieutenant Scottie Frier.

19 Q All right. And tell us about that, the information
20 that she was able to provide specifically about the day of
21 the event for the date of June 26th, 2016?

22 A So initially, she gave me a very broad story. She
23 said she had put Victim down for a nap that afternoon.
24 She said she became concerned when she realized that
25 Victim was taking a longer nap than usual.

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1 Q So let me stop you right there. She said that she
2 had put Victim down for a nap; did she give you a time for
3 that?

4 A She did not.

5 Q All right. And are you taking notes during the
6 course of this conversation?

7 A Yes, I'd be taking notes.

8 Q And the notes that you took during the course of
9 this conversation with Ms. Lawson, ultimately, did you
10 convert that into a report?

11 A Yes, I would have written my incident report based
12 directly on these notes.

13 Q Please continue.

14 A So Ms. Lawson told me that she had checked on
15 Victim after putting her down for a longer nap than usual.
16 She said that when she went to check on her, she found a
17 comforter in her pack 'n play from her daughter, June's
18 bed. June was her on-year old daughter. She said she
19 pulled the comforter out, she described that she could see
20 Victim rolling around inside the comforter as if she were
21 wrapped up in it. She said that when she finished pulling
22 the comforter out, she found Victim lying face up
23 underneath and not breathing.

24 Q All right. What else did she state?

25 A She said after finding Victim like this, she said

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1 she went to get the child's father, after which time,
2 Lexington County Communication's Center was contacted.

3 Q All right. So went to get the child's father would
4 refer to Richard Tuckus, who lived nearby, but not in the
5 same residence, correct?

6 A That is correct. Initially, she only referred to
7 him as the father, but she would go on to clarify that it
8 was Richard Tuckus and she would explain the complex living
9 arrangements.

10 Q All right. What else did she state?

11 A So Lieutenant Frier left shortly after that. Just
12 standard procedure anytime somebody tells you something,
13 you ask them to repeat it again, to see if they stay
14 consistent, see if they remember anything else, see if you
15 think of anything else that you didn't catch the first
16 time. So I asked her again to go over what had happened
17 and this time she told me that she had gotten home from
18 work the night before at about 11:44 p.m. and she said she
19 had woke up the next morning on June 26th about 9:00 a.m.
20 along with the kids. She said they all slept in because
21 they had gone to work with her the night before.

22 Q All right. She said she woke up around what time
23 that morning?

24 A Around 9:00 a.m.

25 Q Okay.

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1 A She said she fed Victim breakfast, which she said
2 was some baby food and some formula. She described it as
3 being pretty normal. She noted, she described the rest of
4 the day as being pretty uneventful until about between 1:40
5 and 2:30 p.m. she put Victim down for a nap.

6 Q Okay. So at this point, she gave you a time for
7 the nap?

8 A Yes, she was very precise; she said it was between
9 1:40 and 2:30 p.m.

10 Q Okay. She put her down for a nap?

11 A That is correct.

12 Q All right. What else?

13 A While Victim was down for a nap, she said she
14 spent the rest of the afternoon doing housework, which she
15 described as vacuuming, laundry, picking up, bathing the
16 older two children, John and June, and then preparing
17 dinner for John and June.

18 Q All right. What else?

19 A She then went on to describe again how she
20 discovered Victim in the blanket that evening and this
21 time while doing so, she said when she found Victim in the
22 pack 'n play wrapped up in June's blanket, she said -- she
23 described John and June, acting the way they would if they
24 knew they were in trouble. I asked her if either of the
25 children had actually said anything to her and she said

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1 they did not.

2 Q All right. Please continue.

3 A Heather then repeated what she originally told me,
4 that she ran to get the father, who at this time -- around
5 this time she identified as Richard Tuckus. She said that
6 she left John and June standing where they were in the
7 trailer when she ran to Richard's trailer to get him.

8 Q All right. Did she state anything else to you in
9 the emergency room during the course of this conversation?

10 A Not in the course of this conversation, but then
11 she would repeat the story again a few minutes later. This
12 time in the presence of Coroner Margaret Fisher.

13 Q All right. So the coroner also arrived?

14 A Yes, the coroner also arrived kind of in the
15 process of me talking to Heather.

16 Q Okay. And can you tell us whether or not it's
17 routine for the coroner also to ask the general fact
18 finding questions as to what may have happened?

19 A Yes, that would be extremely routine. In an ideal
20 situation, they are always there from the beginning when we
21 -- and we try to do it together, so that we're not having
22 to repeat effort. In this case, we didn't know when they
23 were going to show up, so I went ahead and began my
24 investigation, but then she got there and I was going to
25 sit in while she basically conducted the same fact finding

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1 interview. Just again, to kind of shore up that I had
2 caught everything that I should have caught and to make
3 sure nothing significantly changed or deviated or anything
4 else was -- was otherwise brought to my attention.

5 Q All right. Now, in addition to telling you that
6 she had put Victim down for a nap between 1:40 and 2:30 p.m.,
7 did she ever indicate that Richard had come over at some
8 point that day?

9 A Yes, at this point with the coroner, she did
10 mention that Richard had come over that morning around
11 noon, had been there, she said, about 15 minutes and she
12 didn't really describe the interaction at that point, only
13 that he hadn't been there very long and that he had to
14 leave to deal with some, what she called at the time,
15 pressing matters.

16 Q So her indication is that he had been there for
17 approximately 15 minutes?

18 A That is correct.

19 Q And her statement to you was that that was before
20 she had put Victim down for a nap between 1:40 and 2:30 p.m.?

21 A Yes, that would be consistent with that previous
22 timeline she gave me.

23 Q Did at any point Heather state anything to you
24 about Victim having bruises?

25 A No, and during this particular version of her

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1 story, we asked her if there were any significant bruises
2 on Victim that she had noted that day and she -- she said
3 that Victim appeared fine. I think she talked about a small
4 bruise from getting hit with a toy a few days before, but
5 it sounded like it was nothing related to the injuries that
6 I witnessed in the ER.

7 Q All right. So regarding the extensive
8 discoloration of the forehead and other areas of the head?

9 A That is correct.

10 Q Okay. So no significant bruises were reported and
11 you asked her specifically about that?

12 A I did.

13 Q At any point in time, did additional detectives
14 arrive there at the hospital during the course of your
15 communications with Ms. Lawson?

16 A They did. While I was speaking with Ms. Lawson, I
17 later find out that Sergeant Barr had arrived at the
18 hospital and was conducting a portion of this investigation
19 while I was still interviewing Heather.

20 Q All right. And when you say Sergeant Barr, you're
21 referring to Sergeant Traci Barr, who is present in the
22 courtroom?

23 A That is correct.

24 Q All right. And Sergeant Barr was also, although
25 not part of your conversation, she was also there to speak

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1 with potential witnesses?

2 A That is correct.

3 Q Did that include medical staff?

4 A That is correct.

5 Q Now, based upon your work with law enforcement, who
6 is Dr. Susan Luberoff?

7 A Dr. Susan Luberoff is a forensic pediatrician that
8 we consult with extensively, typically in child abuse
9 investigations and child death investigations. I'd say she
10 is probably one of the -- the leading ---

11 Q All right. So let me -- let me ask you this:
12 During the course of this investigation, do you have
13 knowledge as to whether or not Dr. Susan Luberoff was
14 consulted with there at the hospital?

15 A Yes, I was notified later on after speaking with
16 Ms. Lawson, that Dr. Luberoff had been consulted.

17 Q All right. Do you know which detective made that
18 call to her?

19 A It is my understanding that Sergeant Traci Barr
20 made that phone call to Dr. Luberoff.

21 Q And so ultimately, did Dr. Luberoff arrive there at
22 Lexington Medical Center after Victim had been pronounced
23 deceased?

24 A She did.

25 Q And do you know whether or not she had an

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1 opportunity to examine Victim

2 A She did.

3 Q Ultimately, following your verbal communications
4 with Ms. Lawson, that you've indicated you took notes and
5 converted to your report?

6 A Yes.

7 Q Did you have the opportunity to consult with
8 Detective Barr as well as other members of law enforcement
9 about how to proceed further?

10 A I did. Myself and Sergeant Barr and Lieutenant
11 Frier all discussed the matter.

12 Q At this point in time, do you know whether or not
13 they had had the opportunity to consult with Dr. Luberoff
14 after she examined Victim

15 A They did.

16 Q As a result, what decision was made about how to
17 proceed?

18 A So based on Heather's initial statements that she
19 had given, which didn't really seem to address the severity
20 of the injuries that Victim had, which were significant
21 bruising to her forehead, the top of her head, the crown of
22 her head, and the left base of her head, it just wasn't
23 fitting with this notion that the one and three-year old
24 could have done that. And by her own timeline, she was
25 very insistent that nobody else had access to Victim that

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1 day or had interactions with Victim

2 So obviously if we're going to start developing
3 suspects in this case, we're going to start to look at
4 Heather at this point. So now we needed to move for a more
5 extensive interview and we didn't want to do that at the
6 hospital, because it's not a very controlled environment;
7 lots of people coming and going, lots of interruptions. We
8 asked her if she would be willing to continue speaking with
9 us at the Lexington County Sheriff's Department, which she
10 freely agreed to do. She -- transportation was an issue,
11 but she agreed to ride with Sergeant Barr to the sheriff's
12 department. She didn't have shoes at the time, so we had
13 to scrounge up some shoes from the ER staff that she could
14 have. So we didn't want to walk her out barefooted. But
15 in addition, the sheriff's department just offers us a more
16 controlled environment to be able to resume these kind of
17 interviews without interruption from hospital staff, family
18 members, coroner's office, other personnel who would
19 potentially be in and out.

20 Q And at this point in time, were appropriate
21 measures taken to -- in consideration that she may now be a
22 suspect?

23 A Yes. Upon my arrival at the sheriff's department,
24 she and Sergeant Barr were already there. When we began
25 speaking with Heather formally in one of the interview

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1 rooms at the sheriff's department, she was given a -- a
2 advisement of what we call her Miranda Rights and that was
3 done in writing and she initialed and acknowledged those
4 rights and she did waive them at that time.

5 Q All right. And so if you go back to those initial
6 statements that were made to you in the emergency room,
7 Detective Creech, did you specifically question Heather
8 regarding whether anyone else had interaction with Victim
9 that day?

10 A Let me just glance real quick because I don't want
11 to misstate. (Looking at notes.)

12 Yeah, I specifically wrote toward the end, I said I
13 asked Heather if any other adults were in the home with
14 access to Victim that day and she said there were not. I
15 also asked her point blank what she thought may have
16 happened and her exact quote to me was, I think my one-year
17 old climbed in and accidentally smothered her.

18 Q So now she's stating that the one-year old --

19 A That's correct.

20 Q -- according to her had climbed into the pack 'n
21 play --

22 A Yes.

23 Q -- and smothered Victim

24 Now, you mentioned before that you did have a
25 chance to actually see Victim in the emergency room?

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1 A That is correct.

2 (State's Exhibit Number 17, Number 18, and Number
3 19 was marked for identification.)

4 BY MS. MAYES:

5 Q Let me show you some photographs and ask you
6 whether or not you recognize them. Detective Creech, are
7 these photographs a fair and accurate representation of how
8 Victim appeared there at the Lexington Medical Center
9 Emergency Room when you observed her?

10 A They are.

11 MS. MAYES: Your Honor, at this time, it would be
12 State's 17, 18 and 19 for evidence.

13 MR. WILLIAMS: Without objection, Your Honor.

14 THE COURT: State's 17, 18, 19 in evidence.

15 (State's Exhibit Number 17, Number 18, and Number
16 19 was entered into evidence.)

17 BY MS. MAYES:

18 Q Now Detective Creech, you mentioned bruising that
19 you observed to other areas of the head. I'm going to ask
20 you about that specifically.

21 A Okay.

22 Q Starting with State's Exhibit 18.

23 A So the projector isn't doing this justice, I want
24 to kind of explain.

25 Q If you could note ---

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1 A So this is what we did. Initial bruising that you
2 all have seen on the previous picture that was shown. In
3 addition to that, you'll be able to see this -- when you
4 see this picture up close, in person, there is a similar
5 bruise right here; you can kind of see the shadow of it in
6 this picture, but you're losing some of that translation
7 with the projector.

8 Q That was apparent to the naked eye as you observed
9 Victim

10 A That was absolutely apparent.

11 Q State's Exhibit 17?

12 A This gives you another view of that bruising on the
13 top of the head and how sizeable it was and you can also
14 see again, a similar bruise that's roughly at that outline
15 there at kind of the crown of her head, per se.

16 Q State's Exhibit 19?

17 A In here was this kind of rectangular, almost linear
18 bruise right here, basically at the base of her skull.

19 Q And at the top?

20 A And, yes, you can kind of see that top bruising a
21 little bit. Here again, it's really hard to see with this
22 projector view, but it would -- it's a little visible right
23 there at the photo and the other one is going to be right
24 there.

25 Q Now ---

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1 A Again we can see this a little bit better here.

2 You can kind of see, kind of right through in there,
3 roughly tracing that outline in here. It's a little
4 irregular. There's a few voided areas in there, but you
5 can see all that dark, shadowed area; that's all bruising.

6 Q So you had the advantage now of observing these
7 injuries leading into your formal interview with Heather
8 Lawson there at the sheriff's department?

9 A That is correct.

10 Q All right. You indicated that she was transported
11 to the sheriff's department by Detective Barr?

12 A Yes, she rode with Sergeant Barr to the sheriff's
13 department.

14 Q All right. Now back at the hospital, did -- based
15 upon your observations, did it appear that her willingness
16 or can you tell us whether or not she appeared to be
17 willing to come with you and Detective Barr to discuss the
18 case?

19 A Yes; the entire time I spoke with her she was upset
20 a bit, but for the most part, she was very, very
21 cooperative in speaking with me; very clearly understood
22 questions, responded to them appropriately; did seem a
23 little nervous. I know the whole time I sat there, she was
24 taking some tissue papers and shredding them into about a
25 million pieces and they were just kind of piling up like

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1 snow on the floor. But, I mean she seemed interested in
2 talking with us, or at least didn't seem reluctant to. And
3 that translated all the way to our interview with her at
4 the sheriff's department.

5 Q Did she seem clear-minded?

6 A Oh, absolutely.

7 Q Did she appear to be under the influence of any
8 type of alcohol or drugs?

9 A She did not.

10 Q Did she appear to understand the questions that
11 were posed to her?

12 A She seemed, for all intents and purposes, to not
13 have any issue understanding what we were asking.

14 Q All right. And so after she leaves with Detective
15 Barr and you arrive back, or you arrive at the sheriff's
16 department, tell us what happened next.

17 A So when we arrived at the sheriff's department,
18 like I said, I met with her and Sergeant Barr. We then
19 relocated to what we call Interview Room 3. In our
20 interview room hallway, we've got three interview rooms at
21 the sheriff's department that we use for these kind of
22 interviews. At 9:41 p.m., we read her her Miranda Rights
23 directly from what we call a suspect statement form. And
24 next to each of her rights, which are broken down into five
25 lines, there's a line for her to put her initials that she

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1 acknowledges each of those rights.

2 And then at the end it says, I have read this
3 statement of my rights and I understand what my rights are
4 and I make the following statement.

5 Q All right. And this is 9:41 p.m.?

6 A That is correct.

7 Q I'm going to show you a document and ask you
8 whether or not you recognize it.

9 Let me show you this document and ask you whether
10 or not you recognize it.

11 A I do recognize this document.

12 Q And how so?

13 A This would be the original statement that Heather
14 -- the original witness statement that Heather provided to
15 myself and Sergeant Barr at the Lexington County Sheriff's
16 Department.

17 Q All right. And is your signature on this document
18 anywhere?

19 A My signature is not on it because it wouldn't be
20 normal practice for us to sign the statements. But right
21 here where it says person who identified himself as law
22 enforcement, it's got Sergeant Bar and Detective A. Creech.
23 And then as if there wasn't any question some of the
24 questions, when we get into the question and answer section
25 are in my handwriting and I can vouch for that 100 percent.

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1 Q So you've reviewed this and recognize your own
2 handwriting?

3 A Yes.

4 Q And you would have been present from the outset of
5 this, which begins with Miranda Rights all the way through
6 to the written portion of this statement?

7 A That is correct.

8 Q And does Ms. Lawson sign the statement?

9 A Yes, Ms. Lawson signs every page of the statement,
10 and it's -- this initial statement is seven pages long.

11 Q Okay. And the content of the statement is
12 handwritten by whom?

13 A The content is primarily written by Ms. Lawson,
14 with the exception that being any questions that we asked
15 her, we would write out by hand; and it's clearly indicated
16 that that's a question from us and then she responds to
17 those questions in her own handwriting.

18 MS. MAYES: Your Honor, at this time, we would
19 offer what is Court's Exhibit 1 as State's Exhibit 30?

20 MR. WILLIAMS: Without objection.

21 THE COURT: State's 30, you say?

22 THE COURT REPORTER: Yes, sir.

23 THE COURT: State's 30 is in evidence without
24 objection.

25 (State's Exhibit Number 30 was marked and entered

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1 into evidence.)

2 BY MS. MAYES:

3 Q Now, do you have with you a copy of this particular
4 statement?

5 A I do.

6 Q The copy you have is a fair and accurate
7 representation of this?

8 A It is.

9 Q You mentioned she was advised of her rights; you
10 were present for that?

11 A I was.

12 Q Start at the top of this document and ask you to
13 take us through it. And -- I want to start here at the
14 top, Detective Creech, where it says the date is 6/26/2016,
15 the time is 9:41 p.m., I, the undersigned.

16 A It says, I, the undersigned, Heather Lawson, am 22
17 years of age and my date and place of birth being the 8th
18 day of May, 1994 in South Carolina. My present address is
19 Weaver Drive, Lot Lexington, South Carolina.

20 I completed 12 grades in school. I can read and
21 write. And she put her initials to acknowledge that she
22 can read and write. She would put a contact number for
23 herself, which in this case, she listed as 803-553-1599.
24 She listed Richard Tuckus as an alternate contact and
25 provided a phone number for him of 803-237-68, I believe

Adam Creech - Direct Examination by Ms. Mayes

1 that's 20.

2 Q All right.

3 A Before answering any questions or making any
4 statements, Sergeant T. Barr and Detective A. Creech, which
5 is me, person who identified him or herself as a Lexington
6 County Sheriff's Deputy duly warned and advised me that:

7 I have the right to remain silent.

8 Anything I say can and will be used against me in a
9 court of law.

10 Q Let me stop you right there. Now, after each of
11 these rights, such as I have the right to remain silent,
12 there is a handwritten notation next to that; what is that
13 handwritten notation?

14 A That handwritten notation -- so that is Heather's
15 initials. So each of these lines -- so we read them her --
16 read her her rights and because she has that she can read
17 and write, we also have her go back behind us and initial
18 that just an additional acknowledgement that she did hear
19 those rights and she is acknowledging those specific
20 rights.

21 Q For -- for each one?

22 A Yes.

23 Q All right. I believe you had noted the second is,
24 Anything I say can and will be used against me in a court
25 of law.

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1 A Yes.

2 And the third would be I have the right to talk to
3 a lawyer for advice before asked any questions and to have
4 him or her present with me during questioning.

5 And Number 4 would be if I have no money for
6 lawyer's fees, the Court will appoint one to represent me
7 without cost if I wish.

8 If I decide to answer questions now without a
9 lawyer present, I will still have the right to stop
10 answering questions at any time. I also have the right to
11 stop answering questions at any time until I speak with a
12 lawyer.

13 Q All right. And each of those are initialed by her?

14 A That is correct.

15 Q All right. What's next?

16 A The next is, I have read this statement of my
17 rights and understand what my rights are. There are her
18 initials again and she would have initialed all of these
19 before we began the body of the statement.

20 Q All right. Now, for the body of the statement as
21 you previously indicated, whose handwriting is this
22 actually in?

23 A That is all going to be Heather Lawson's
24 handwriting right there.

25 Q Okay. And the signature at the bottom?

Adam Creech - Direct Examination by Ms. Mayes

1 A That is Heather Lawson's signature.

2 Q All right. And do you have a conversation after
3 the waiver of rights?

4 A I do.

5 Q Let me go back to that. After acknowledging each
6 of those rights with her initials, did she appear to
7 understand those rights?

8 A She did.

9 Q Was she promised anything for exchange for a
10 statement?

11 A She was not.

12 Q Was she threatened or coerced by yourself or
13 Sergeant Barr in exchange for a statement?

14 A She was not.

15 Q Based upon your observations, did she appear to
16 freely and voluntarily waive her Miranda Rights?

17 A She did.

18 Q And proceed with the interview?

19 A So these kind of interviews, we would typically
20 conduct, so we'll talk for a little bit first and she'll
21 kind of tell us all this again and then after she's done
22 that, then we'll ask her to write it down. So typically
23 how these statements start is we've already talked for a
24 little bit and now this is the process of putting what
25 we've talked about on paper.

Adam Creech - Direct Examination by Ms. Mayes

1 Q Okay. And here she has written herself the
2 beginning portion of this. And if you could please slowly
3 read into the record what she related here in her
4 handwritten statement?

5 A Yes. Her statement reads that: On Thursday, Victim
6 fell out of her playpen and landed on her back. I grabbed
7 her and calmed her down and I thought she was fine and did
8 not think to call 9-1-1 or take her to the hospital. On
9 Friday, my middle child, June, pushed Victim and she hit her
10 head on a toy.

11 Q All right. So let me stop you right there. She's
12 referring to a Thursday and Friday, what day was June 26th?

13 A June 26th was a Sunday.

14 Q All right. So Victim is -- Victim dies on Sunday?

15 A Yes.

16 Q She's going back to Thursday?

17 A That is correct.

18 Q Please continue.

19 A Victim -- and she hit her head on a toy. She got a
20 knot on her forehead and acted like she was fine. So I did
21 not take her to the doctor. Last night, 6/25/16, Victim fell
22 around 10 o'clock and hit her head on concrete. I called
23 -- calmed her down and thought she was fine.

24 Q All right. Now, up until this point in time, and
25 going back to your original interview with her at the

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1 sheriff's department -- I mean, I'm sorry -- at the
2 hospital in the emergency room, had she ever indicated
3 anything before about a fall?

4 A No, so this would be the first time at the
5 sheriff's department where she starts to introduce this
6 idea that Victim had had this fall at work the night before.

7 Q All right.

8 A She also -- this is the first time she's described
9 all these minor falls over previous days and it --

10 Q So what's the next sentence leading into the next
11 page?

12 A The next sentence starts, there was --

13 Q There was. And here we have page two of seven.

14 A -- there was a chair by her that she could have hit
15 her head on as well. When I found her, she was face down.
16 This morning she had a bruise on her forehead. I did not
17 look for another mark because I was exhausted. She threw
18 up what she had eaten around 10:00 a.m.

19 Q All right. At the hospital, had she ever indicated
20 that Victim had thrown up?

21 A No, in addition to this being the first time she's
22 mentioned this fall from the night before, this is also,
23 she previously said Victim seemed fine, ate breakfast without
24 incident. She never described any illness whatsoever with
25 the child.

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1 Q Please continue.

2 A So she says threw up what she had eaten around 10
3 a.m. I laid her down for a nap around 1:40 or 2 p.m. and I
4 cleaned and bathed my other two kids, cooked and ate
5 supper. I realized Victim hadn't -- hold on.

6 Let me go to my statement here.

7 I realized Victim hadn't cried for a while and I went
8 to check on her. I found a blanket on her and I knew that
9 she wasn't moving or breathing. I panicked and ran for
10 help. I couldn't get the words out of my mouth for a phone
11 call.

12 Q All right. So in this portion, she is stating that
13 she laid Victim down for a nap around 1:40 or 2 p.m.?

14 A That is correct.

15 Q And did you attempt to followup on that timeframe?

16 A I'm sorry, can you clarify?

17 Q Did you attempt to followup with more details about
18 that specific period of time in the afternoon and her
19 interaction with Victim

20 A Yes, we would go over more of that throughout the
21 statement.

22 Q All right. And ultimately, what's your follow up
23 question there?

24 A So the next question we asked was how was Victim
25 acting on Sunday.

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1 Q All right. So where it says, How was Victim acting
2 on Sunday; that's a question from yourself or Sergeant Barr
3 that you've handwritten and now giving her the opportunity
4 to respond to.

5 A That is correct.

6 She responds she was not laughing or playing and
7 she ate around 10, but threw it up. So I put her in the
8 play pen because she wasn't acting right. She stayed in
9 the play pen about all day. The last time I checked on her
10 was around 12 or 1 and it looked like she was sleeping.
11 Her stomach was moving, so I left her alone; she was on her
12 back.

13 Q All right. So at this point, instead of the nap at
14 1:40 or 2, she's stating that the last time she checked on
15 her would have been 12 or 1?

16 A That is correct.

17 Q Please continue.

18 A So the next question we then asked was to say,
19 Describe in detail how Victim got the bruise on her forehead
20 Sunday. I believe it says 6/25 while at your house. So
21 she responds, around 4:30 to 5 p.m. Victim was sitting in the
22 living room playing with a toy when June walked by her and
23 nudged her, she fell and hit her head on the front part of
24 a toy truck.

25 Q All right. Let me just clarify. Are you actually

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1 asking about the day before?

2 A Yeah, I think it's actually a 24 now that I'm
3 looking at it.

4 Q All right. Okay. Please continue.

5 A So this means the incident on Friday before. So
6 she says around 4:30 to 5 p.m. Victim was sitting in the
7 living room playing with a toy, when June walked by her and
8 nudged her. She fell and hit her head on the front part of
9 a toy truck and when she fell over after hitting her head
10 on the toy, there was a small thud noise from her head
11 hitting -- hitting my floor. Before -- I grabbed her by
12 the sides.

13 Q Now we're on page 3?

14 A Page 3. When I took her to Granny Debbie's on
15 Saturday morning, she asked about the knot and I told her
16 June had pushed her the day before. It was an accident.
17 June walked by and nudged her causing her to fall over.

18 The next question we asked her, What toy are you
19 referring to. And she responds, J.P.'s toy truck, which we
20 then followed up with, When you first noticed the bruises
21 on Victim head, why didn't you call 9-1-1 to take her to
22 the ER?

23 Now again, we would be referring to her -- just to
24 back up to the that first question. Now that she's telling
25 us about this fall at the gas station, she's now telling us

Adam Creech - Direct Examination by Ms. Mayes

1 that that morning when Victim woke up, she had all this heavy
2 bruising to her forehead, which at the hospital, she
3 previously said the child had no injuries.

4 When we then asked her if the child did have these
5 injuries that morning when she woke up, why didn't she call
6 9-1-1. Her response is -- oh, I'm sorry -- yeah, When I
7 first saw the bruises, I did not think anything of it
8 because she has had bruises before that went away.

9 The next follow up question we asked was, Describe
10 in detail what happened after you and the kids got home --
11 this photocopy, I can't read what that word is. Describe
12 in detail what happened after you and the kids --

13 Q After midnight.

14 A -- after midnight Saturday, Sunday, okay. So
15 Heather responds to that, When I pulled up by the house, I
16 called Richard because there was a car by his house. I got
17 out the car and unlocked the door. I got my bookbag and
18 stroller and I put the stroller on the porch while I took
19 the bookbag inside.

20 Q Now would this be the night before Victim death?

21 A That is correct. This would be the night before
22 when she originally said she came home with the kids about
23 11:44 after taking them to work with her.

24 Q Okay.

25 A I went to the car and got J.P. out and told him to

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1 go to the porch. I then unbuckled Victim and June and
2 carried Victim inside while I had June walking beside me.
3 Coming inside, I was fighting to keep the dog from getting
4 out, while getting June to step into the house. After I
5 closed the door, I went to walk to the play pen and I
6 tripped on the stroller and when I tried to squeeze Victim so
7 I would not drop her. When I got to the playpen, I went to
8 lay her down and lost my grip. I dropped her into the play
9 pen; the fall was about 2 to 3 feet. I then went outside
10 and seen J.P. heading toward the end of the house. I
11 yelled for him and got him inside. He climbed into his bed
12 and I locked the door. I then went to the living room --

13 Q Proceeding onto page 4.

14 A -- and I turned Family Guy to block the crying. I
15 passed out within 30 minutes of laying down and did not
16 wake up until after 9 when Richard called me.

17 So just to clarify a little bit on that, she had
18 told us that after she dropped Victim that Victim was crying
19 real heavily and that she cried pretty much until Heather
20 fell asleep.

21 Q Now, had she ever told you before anything about
22 tripping over anything or dropping Victim several feet down
23 into the pack 'n play?

24 A Her -- her mentioning it in this interview was the
25 first time we'd heard that.

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1 Q All right. Please continue.

2 A The next question was when you did see the bruises,
3 had you ever seen bruises this severe on Victim before?

4 Again, I'm referring to those significant bruises
5 on the forehead that you all saw the picture of.

6 Heather responds, I have never seen bruises as bad
7 as what she had, but at the time, they were nowhere near as
8 bad as when I found her.

9 The next question was what were your reasons for
10 not taking her to a doctor? Heather's response was, I
11 thought she was going to be fine. Every time she had fell,
12 I was able to calm her down holding her. I thought she was
13 crying because she wanted to be held like always.

14 The next question we asked was, Did you have any
15 other concerns that prevented you from taking her to the
16 doctor? Her response to this was I was worried about
17 having my kids taken by DSS. I was also too concerned that
18 I would fall asleep driving.

19 We then followed up with a question, Did anyone
20 else see Victim between you having her at work and calling
21 9-1-1 when you found her in the crib.

22 Q All right. So you're referring to the night before
23 when she had her at work on Saturday night and then when
24 ultimately --

25 MR. WILLIAMS: Objection to the leading.

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1 MS. MAYES: I'll rephrase that, Your Honor.

2 THE COURT: All right. Please.

3 BY MS. MAYES:

4 Q When you state, Did anyone else see Victim between
5 you having her at work, what are you referring to, having
6 her at work?

7 A I'm referring to her having the children at the
8 convenience store with her the night before.

9 Q All right. Between that event the night before and
10 calling 9-1-1?

11 A Yes, and her calling 9-1-1. Her response to this
12 was Richard Tuckus and Richard Holmes saw her when I left
13 work, referring to the children being at the convenience
14 store the night before. After that, no one else saw her
15 until the call was made to 9-1-1.

16 We then followed that up with the question of what
17 did you and Richard do and talk about when he came by the
18 house earlier in the day? She responds to this, When
19 Richard got to the house, we went to the room to have sex.
20 While we were having sex, he asked me when we was getting
21 married and I told him when he gets his divorce and moves
22 in with me. He told me he loved me and even though it may
23 not seem like it, I was the only one he wants to be with.
24 When we were done, Tamir called him to ask if one of the
25 employees could help at another store tonight. We then

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1 went to the living room, where he told he was selling my
2 old phone and it did work with a guy's plan and after he
3 was going to meet up with Mark to run the dam for an hour.
4 He gave me a kiss and left.

5 Our next question in response to this was did you
6 and Richard fight or argue while he was there? Heather's
7 response, No, we did not fight all day. He asked why I did
8 not call him when he called me at 9 something and I told
9 him I was still asleep.

10 We then asked her, tell us about the recent stress
11 you have been under since Victim was born? To this Heather
12 responded, Me and Richard had broken up shortly before Victim
13 was born. We got back together on December 24th, 2015, but
14 he still lives with another woman that is pregnant by him.
15 The worry that he is cheating on me. The engine in my car
16 went out about two weeks ago. I do not receive child
17 support from the kids oldest father -- my kids oldest
18 father. I recently became a store manager and have had
19 people quit on me and when I got people in and trained
20 around -- I found out they were stealing and had to fire
21 them. I'm behind in rent and also power. I'm either at
22 work or home with my kids.

23 The next question we asked was, Clarify exactly
24 what you saw when Victim was found in the pack 'n -- playpen.

25 Q And when you say playpen, you're referring to?

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1 A Yes, anytime you hear playpen, crib, or pack 'n
2 play, we're all referring to the same Winnie the Pooh pack
3 'n play that you guys will see better pictures of later
4 this week.

5 Q All right. Were there any other -- were there any
6 other cribs or playpens other than that one at the front
7 entrance?

8 A No, this was the only one in the home.

9 Q Okay.

10 A So our next question to Heather was, Clarify
11 exactly what you saw when Victim was dumped in the playpen?

12 MR. WILLIAMS: Your Honor, I would object to them
13 not reading what's in the document itself.

14 THE COURT: I think that's what he's reading from.

15 MR. WILLIAMS: Well he keeps saying dumped in. The
16 first part was dropped I thought and the second part was
17 dumped.

18 THE WITNESS: I'm sorry, I'm reading from a
19 photocopy and it's just hard to see some of the words.

20 BY MS. MAYES:

21 Q All right. And what you can do, Detective
22 Creech --

23 MS. MAYES: Your Honor, if we could ask permission
24 for the witness to step down and be able to view the
25 document a little bit better.

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1 THE COURT: All right. You may step down.

2 (The witness stepped down to the projector to read
3 the original statement.)

4 BY MS. MAYES:

5 Q I need you to keep your voice up so that the court
6 reporter can get everything that is said.

7 A Clarify exactly what you saw when Victim was dropped
8 in the playpen. When Victim was dropped in the playpen, she
9 fell on her back and may have also hit her head. It was
10 dark in the room and I couldn't see very well. I was
11 trying to hold her with my one arm and lay her in there
12 when I lost my grip and she fell.

13 The next question we asked was, Tell us about
14 Victim medical history. To this Heather responds, Victim had
15 colic and had issues keeping milk down and pooping. She
16 got RSV about two to three months old and kept it. She
17 would stay congested all the time and I would have to
18 suction her nose out about every other hour so she could
19 breathe and eat. In March, while she was at the
20 babysitters and left her unattended and she said my
21 three-year old dragged her across the floor causing several
22 carpet burns on both her knees and head. She wasn't given
23 an appointment with a GI until April. They gave me a stool
24 softener to help her go to the bathroom. She has been
25 teething for about two months and it's causing her a lot of

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1 pain.

2 We then followed up with the question, Is there
3 anything else you need to tell us? After she threw up, I
4 put her in the playpen. I neglected to call 9-1-1 when I
5 seen the bruises. I put her in the playpen. I left her
6 there. I checked on her around 12 and her stomach was
7 moving, so I thought she was -- was asleep and left her
8 there. I did not check on her again until a little after 5
9 and that is when I found her under the blanket.

10 We then followed up with, Describe what you saw
11 when you found her under the blanket. Heather responded,
12 when I moved the blanket, I felt her move -- her move and
13 when I seen her, she had a snot bubble under her nose and
14 her eyes barely open and her face and head was completely
15 bruised.

16 The next question we asked was, Please explain
17 further what you mean by blackout.

18 And I'm going to have to give a little context to
19 this question. When we were interviewing her, Sergeant
20 Barr asked her a question what, you know, at this point
21 we're treating her like a suspect. We're asking some
22 pretty uncomfortable questions. She's being confronted
23 with some possibilities. One of the things Sergeant Barr
24 suggested, which is very typical of child death...
25 investigations is she asked her did you suffocate her and

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1 her response to that, just so it's clear, the statement
2 was, If I did I blacked out. So that's why we're asking
3 this question here, what do you mean by blackout. Is we're
4 asking a followup question to something she said verbally.

5 Q All right. Just prior to that question being
6 written out for a response, she requested specifically
7 about whether or not she had suffocated Victim and her
8 response was, If I did I blacked out?

9 A Yes, that is correct.

10 Q Please continue.

11 A So in direct response to the question, Please
12 explain further what you mean by blacked out? She
13 responds, In the past I have fell asleep and moved
14 room-to-room without remembering. I have been told by my
15 mom that I have woke up drinking milk, went back to sleep.
16 When walk -- when waking in the morning, I don't remember
17 any of it.

18 And then here, the final question, and this is
19 pretty standard in a lot of these statements, Has anyone
20 made threats, promises, or coercions to you for this
21 statement. And the answer that she gave was, No.

22 Q Thank you, Detective Creech. You may return.

23 (The witness returned to the stand.)

24 BY MS. MAYES:

25 Q All right. So I want to go back to this particular

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1 portion where you're questioning about dropping her in the
2 playpen.

3 A Okay.

4 Q And had she -- and the response is, When Victim was
5 dropped in the playpen, she fell on her back and may have
6 also hit her head. Prior to this portion of the statement,
7 had she ever indicated that Victim had hit her head in the
8 playpen or suffered a head injury in the playpen?

9 A No. Again, this is the first time she's mentioned
10 this, just like she didn't bring up the fall at the gas
11 station until this point. All of this was completely
12 contrary to what she told me at the hospital previously.
13 And like I said, I kind of got a repeat story three times
14 at the hospital and now suddenly we've changed locations
15 and the story has wildly diverged. I even actually
16 directly confronted her about this at one point and said,
17 you know, look, this is what you told us at the hospital
18 and this is what you're telling us now. Her exact response
19 to that was actually, quote, You had no reason to believe
20 me because I lied, end quote.

21 Q And you note that specifically in your report?

22 A Again, I felt that was a very distinct statement,
23 so I would have written it down and put it in quotes to
24 reflect that as a direct statement by her.

25 Q All right. And when she stated, You have no reason

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1 to believe me, I lied, what was she referring to that she
2 had lied about?

3 A Ms. Lawson was referring that she had lied about
4 all of her initial statements that she made to me at
5 Lexington Medical Center.

6 Q All right. So at this point, she's telling you
7 that everything that she had previously told you back in
8 the emergency room is false?

9 A That is correct.

10 Q Now given this -- this information where she has
11 acknowledged that her initial statements were false and now
12 she is giving a different statement and series of events.
13 What action was taken at the end of this interview?

14 A So obviously her initial statements at the hospital
15 were not a reasonable accounting for the injuries we were
16 looking at, which is why we were looking at her as a
17 suspect. And then when her story does a complete 180 and
18 turns into something wildly different than what she had
19 previously told us, in my -- my experience if somebody is
20 not going to go through -- being truthful is not going to
21 have a certain set of facts and circumstances and then
22 change those in a very short period of time. It didn't
23 even sound like she was describing two similar incidents.

24 The only fact that she remained very consistent
25 about, though, was that she had been the only person, the

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1 only adult with any charge or care of Victim that day.

2 And so based on her statements, based on Victim
3 injuries, which we felt pretty confident you could not
4 account for with a one and three-year old, and Heather
5 having the only -- being the only person we could put in
6 the home that day, we made the decision at that point to
7 make a, what we would call a onsite arrest for homicide by
8 child abuse.

9 Q All right. So she is at the sheriff's department.
10 At the conclusion of this written statement, was she
11 actually held or detained there by members of law
12 enforcement on the charge of homicide by child abuse?

13 A She was. The statement concluded at 1:25 a.m. on
14 June 27th, 2016. That's a pretty normal length of time for
15 one of these interviews. But immediately concluding the
16 interview, we would have advised her that she was under
17 arrest and we would have walked her immediately to the
18 jail.

19 Q All right. Now, Detective Creech, following that
20 involvement with Ms. Lawson, did you also have an
21 opportunity to go to the actual residence there at the
22 Hideaway Mobile Home Park?

23 A I did. So we held the crime scene until the
24 following day because we were wanting to hold the scene
25 until after the autopsy in case any additional questions

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1 came up. So I attended the autopsy Monday morning, June
2 27th. Following my attending the autopsy I went to the
3 crime scene at Weaver Drive, Lot -- Lot and, no, I'm
4 sorry, Lot I'm getting the lots mixed up. We were
5 still maintaining a crime scene, which is very typical for
6 these kind of cases. I met CSI Sprinkle at the scene. He
7 is the crime scene technician who handled the initial
8 processing at the scene and he walked me through the scene.

9 We looked at it together to make sure there was not
10 anything we were missing. He explained to me what had been
11 taken and where it had been located at, and just did what
12 we considered just a -- just an additional walkthrough to
13 make sure we haven't missed anything because obviously
14 nobody's perfect.

15 Q All right. And so just to clarify, you're still
16 present at the sheriff's department into the early morning
17 hours of what would now be June 27th of 2016 at the
18 conclusion of that statement and the hold or arrest of
19 Heather Lawson?

20 A That is correct.

21 Q And then you're present for the autopsy the
22 following day?

23 A It would have been later that same day.

24 Q All right. During business hours?

25 A During business hours, yes.

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1 Q And then you also go back to the crime scene, being
2 Lot and Hideaway Mobile Home Park, where law enforcement
3 still has a crime scene maintained?

4 A Yes, that is correct.

5 Q I'm going to show you some photographs and ask you
6 whether or not you recognize them. This will be State's
7 Exhibit 6, State's Exhibit 11, State's Exhibit 3, 12, 13,
8 14, 15, and 16.

9 A I do recognize these photos.

10 Q All right. Can you tell us whether or not they are
11 a fair and accurate representation of how you recall the
12 scene when you were there?

13 A They are with a minor exception that obviously the
14 pack 'n play distinction shown in one of those photos and
15 the blanket. Those would be things that would have been
16 collected by crime scene the previous night. So I was told
17 where those things were and I had access to seeing pictures
18 of those items, but those items would not have been at the
19 scene when I viewed the scene. The remainder of the scene,
20 so 98 percent of it, would have been exactly as it -- as
21 it's photographed.

22 Q All right. So here we see the crime-scene tape and
23 again, when you say the crime scene is maintained, are any
24 civilians allowed to enter or interfere with evidence
25 during the timeframe that law enforcement is maintaining a

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1 crime scene?

2 A No, they are not. I'd say the only exception is we
3 did have animal control respond that night to retrieve some
4 cats from the home and we had to call him back out the
5 second day when I did the walkthrough because there was a
6 kitten running around that they missed the night before.

7 Q Law enforcement would have been present?

8 A We were present with animal control. So even they
9 wouldn't have gone in the scene unattended.

10 Q All right. And then what are we looking at here in
11 State's Exhibit 11?

12 A So that's going to be the front door to the
13 residence, as everybody noted, you basically take that
14 immediate right and you would see Victim pack 'n play in
15 that corner.

16 Q All right. Now, in that statement that she had
17 made to you back at the hospital that she had spent the day
18 after putting Victim down for that nap between 1:40 and 2,
19 her statement of putting down for a nap between 1:40 and
20 2:30 p.m.; her statement was that she had spent the
21 remainder of her time vacuuming, doing laundry, bathing her
22 other children, June and J.P., and then preparing dinner.
23 Did you see any evidence of the home being freshly cleaned?
24 We're going to look here at State's Exhibit 14, being the
25 living room.

Adam Creech - Direct Examination by Ms. Mayes

1 A I did not see any indications for what I would
2 consider to have been cleaning or cooking dinner or doing
3 laundry or any of those household tasks that were
4 mentioned.

5 Q State's Exhibit 13 being the kitchen, any evidence
6 of fresh dinner being prepared or anything along those
7 lines?

8 A Not that I could tell.

9 Q Now, you've been in this home; have you had the
10 opportunity to actually make measurements while in the
11 home?

12 A I had made some measurements in the home, yes.

13 Q Looking here at the kitchen, specifically from this
14 location being the entryway. The entryway here to the left
15 between the kitchen, State's Exhibit 3, where you informed
16 the pack 'n play had been to that corner of the bedroom,
17 what is that distance?

18 A It's 15 feet as we measured it. It would probably
19 be a little easier to see on the diagram of the trailer.
20 But from the location of the pack 'n play to the corner
21 door frame right there at the kitchen is 15 feet.

22 Q We'll refer to the diagram.

23 MS. MAYES: So, it may help if he'd step down, Your
24 Honor, if he can have permission.

25 THE COURT: Yes, ma'am.

Adam Creech - Direct Examination by Ms. Mayes

1 (The witness stepped down in front of the jury.)

2 BY MS. MAYES:

3 Q Keep your voice up so the court reporter can get
4 everything.

5 A All right. As we were saying in case it wasn't
6 clear, so this distance here is 15 feet. So it's not a
7 large distance at all between the kitchen area and
8 Victim pack 'n play.

9 Q All right. This would be the kitchen here and then
10 this entryway leads into the room that is called the kid's
11 room; that being the front entrance, that being the pack 'n
12 play and that's a 15 foot -- 15 foot distance?

13 A That is correct.

14 Q What is the distance from the center area of the
15 living room to where the pack 'n play was located?

16 A This distance -- it's going to look a little skewed
17 because this drawing is not exactly to scale, but that is
18 31 feet from Victim pack 'n play to the very center of
19 that living room. So if somebody is sitting on the couch
20 watching TV, they're going to be within 31 feet from the
21 pack 'n play.

22 Q All right. Now beyond that you've been inside this
23 single-wide mobile home?

24 A That's correct.

25 Q What, if anything, have you had the opportunity to

Adam Creech - Direct Examination by Ms. Mayes

1 observe regarding how sound travels between these distance?

2 A Sound travels very readily through here. Actually
3 this is a doorway, but there's never any kind of barrier
4 there. There's never been a blanket or sheet tacked up.
5 So it's not like there's a door that's going to muffle any
6 kind of sound. If you're standing here, you can hear
7 what's playing on this TV plain as day. And if they were
8 just in there watching TV, there's not a whole lot of
9 protection from sound or anything going on.

10 Q All right. And have you had the opportunity to
11 revisit this scene following Victim death?

12 A I have.

13 Q And did that include with the TV playing here in
14 this living room?

15 A It does. The current occupant, a gentleman named
16 Julius, was gracious enough to allow us in and kept his TV
17 playing with an average volume and we could hear it plain
18 as day in that front room.

19 Q You may return.

20 (The witness returned to the witness stand.)

21 BY MS. MAYES:

22 Q Now, given the information that was provided to you
23 about Victim in -- in this written statement about Victim
24 suffering a fall the night before and that that took place
25 at the BP Station where she worked. What efforts did you

Adam Creech - Direct Examination by Ms. Mayes

1 make to investigate that claim?

2 A So while we were interviewing Heather, we went
3 ahead and made arrangements for somebody to get in touch
4 with management at the BP Station in question to get that
5 video. We were able to pretty quickly lay hands on a copy
6 of that video as Mr. Patel was able to attest to earlier.
7 So I was very quickly able to review the fall in question,
8 which was a very, very clear video.

9 Q All right. And did you actually observe the fall?

10 A I did.

11 Q Did you show that videotape, which depicts the fall
12 that occurred at the BP Station to Dr. Susan Luberoff as
13 you mentioned previously?

14 A I did have a meeting after the fact with Dr.
15 Luberoff after obtaining the video and I did show her the
16 video in question.

17 Q All right. And can you tell us whether or not it's
18 also -- whether -- whether or not you had the opportunity
19 to make that available to the pathologist, who conducted
20 the autopsy in this case?

21 A Yes, the pathologist in this case is Dr. Ross with
22 Newberry Pathology. She has also reviewed this video.

23 Q All right. Were there ever any indications that
24 based on your observations, that Victim was injured during
25 that fall?

Adam Creech - Direct Examination by Ms. Mayes

1 A No.

2 MR. WILLIAMS: Objection; calling for hearsay.

3 MS. MAYES: I'm asking what he observed.

4 THE COURT: Excuse me. Sustained.

5 BY MS. MAYES:

6 Q Based on what you observed on the video --

7 THE COURT: I just sustained that objection. You
8 may ask your next question, Solicitor.

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

10 BY MS. MAYES:

11 Q You watched the video in its entirety?

12 A I did.

13 Q Now, does that include to the point that they
14 actually leave the store?

15 A It does.

16 Q After the close of her shift?

17 A That is correct.

18 Q At that point in time, do you ever witness any
19 further injury to Victim whether accidental or otherwise.

20 MR. WILLIAMS: Objection; calling for hearsay.

21 THE COURT: That's a different question. Did he
22 ever observe on the video any further injuries; I'll
23 overrule that objection.

24 THE WITNESS: No, outside of the fall, which she
25 was placed in a small cardboard box and she tips it over

Adam Creech - Direct Examination by Ms. Mayes

1 and has a very insignificant fall onto the floor. I never
2 witnessed any other strikes whatsoever and you never -- I
3 mean you never see -- you see for quite a while after the
4 fall on the video. It's very, very clear views of her head
5 and you never see any kind of injuries whatsoever that are
6 consistent with what we saw at the hospital the following
7 evening.

8 MS. MAYES: I beg the Court's indulgence.

9 THE COURT: Yes, ma'am.

10 BY MS. MAYES:

11 Q Now at the point in time that you and Sergeant Barr
12 were at the hospital conducting the followup investigation
13 and then ultimately, you go back to the sheriff's
14 department and do the actual written statement, can you
15 tell us whether or not a search warrant had been obtained
16 in this case?

17 A Yes, there had been a search warrant obtained for
18 the residence at Weaver Drive, Lot which is very
19 standard in these kind of cases. You're always going to do
20 a search warrant for the incident location.

21 Q All right. And then in addition to that search
22 warrant, do you know whether or not a phone belonging to
23 Heather Lawson, the defendant, was taken into evidence in
24 this particular case?

25 A That would be correct, as well. So following her

Adam Creech - Direct Examination by Ms. Mayes

1 arrest and the entering of her property into the jail at
2 Lexington County Detention Center, it's normal procedure if
3 we've got a case where a cell phone may can have material
4 interest that we would seize that phone from that jail
5 property, which we can do warrantless and then we would
6 have later sought a search warrant, which I did, for the
7 actual contents of the phone.

8 Q All right. That allows for what's called a cell
9 phone extraction?

10 A That is correct.

11 Q And was that done in this case?

12 A That was done in this case.

13 Q And whose the officer who conducted that type of
14 extraction?

15 A Crime Scene Investigator Michael Phipps is
16 responsible for doing most of our cell phones and
17 electronics.

18 Q Okay.

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

20 THE COURT: Yes, ma'am.

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

23 THE COURT: Sergeant Creech, I'm going to ask you
24 to step down. We're going to take our evening recess.

25 During this recess, you may not discuss your testimony with

1 anyone. You're subject to continuing direct, cross and
2 redirect, and recross.

3 THE WITNESS: Yes, Your Honor.

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

5 THE WITNESS: Yes, sir.

6 THE COURT: All right. Ladies and gentlemen of the
7 jury panel, perhaps now would be a good time to take our
8 evening recess. I would remind you, of course you can
9 repeat this back to me now, but do not discuss this case
10 with others, including your fellow jurors, family, friends
11 or anyone else. Do not read, watch, or listen to any news
12 accounts about the case, past or present, should there have
13 been or should there be any. Do not do any independent
14 investigation or investigation on the internet. Remember
15 you determine what the facts are based on the evidence and
16 the testimony presented before you in this courtroom and
17 any physical items of evidence and any reasonable inference
18 that you think that may properly be drawn from the
19 evidence.

20 Now with that being said, I will ask you to please
21 be back at 9:30 in the morning; 9:30 in the morning. If
22 you'll leave your notes, they will be secured by the
23 clerk's office for the evening hours.

24 You are now excused until 9:30. I hope you all
25 have a pleasant evening.

1 (The jury left the courtroom at 5:36 p.m.)

2 THE COURT: Mr. Williams, you and the Solicitor
3 step up here for just a moment.

4 (There was a bench conference out of the hearing of
5 the court reporter.)

6 THE COURT: All right. Thank you. Thank you,
7 Solicitor. 9:30 in the morning. Court will be in recess
8 until 9:30 in the morning.

9 (Court was in recess for the evening.)

10 **WEDNESDAY, AUGUST 9, 2017**

11 THE COURT: Good morning. Please be seated. Thank
12 you.

13 All right. Anything before we bring in our jury?

14 MS. MAYES: Nothing for the State, Your Honor.

15 MR. WILLIAMS: Nothing from the defendant, Your
16 Honor.

17 (Adam Creech returned to the witness stand.)

18 THE COURT: Good morning, Detective Creech.

19 THE WITNESS: Good morning, Your Honor.

20 (The jury entered the courtroom at 9:57 a.m.)

21 MS. MAYES: May it please the Court, Your Honor?

22 THE COURT: No, ma'am. I'm waiting for them to get
23 there -- just give me a minute.

24 (The note pads and pencils were redistributed to
25 the jurors.)

Adam Creech - Continued Direct Examination by Ms. Mayes

1 THE COURT: Everybody squared away with their
2 notes? Did you look at your pads? Can you read your
3 writing? So you know you have your notes.

4 All right. Welcome back, ladies and gentlemen. I
5 hope you had a pleasant evening.

6 As you recall, when we broke, the State was still
7 proceeding with the direct testimony of Detective Creech in
8 its case in chief. If you will please give the parties
9 your complete and undivided attention. Thank you. Thank
10 you very much.

11 All right. Solicitor.

12 MS. MAYES: Yes, sir, Your Honor, may it please the
13 Court.

14 THE COURT: Yes, ma'am.

15 **DIRECT EXAMINATION CONTINUED**

16 BY MS. MAYES:

17 Q Now, Detective Creech, there has been testimony in
18 this case about the incident location being Weaver
19 Drive. Can you tell us whether or not that's within the
20 jurisdiction of Lexington County?

21 A It is within the jurisdiction of Lexington County.
22 It's in the Lexington area typically referred to as Red
23 Bank.

24 Q All right. I'm going to show you State's Exhibit
25 21 currently in evidence and ask you whether or not you are

Adam Creech - Continued Direct Examination by Ms. Mayes

1 familiar with this item.

2 A I am familiar with this item.

3 Q And what does that contain?

4 A So this is a video of the surveillance video from
5 the BP Gas Station. It's the three to four hour total
6 video trimmed down to an 11 minutes 10 second clip.

7 Q All right. So I want to follow up on that a little
8 bit more. You said that the original video that was
9 obtained was several hours long?

10 A That is correct.

11 Q And can you tell us whether or not you viewed that
12 video?

13 A Yes, I have viewed the entire video.

14 Q Can you tell us whether or not that contained all
15 of the activity which was captured by video surveillance at
16 the BP Station on the night of Saturday, June 25th of 2016?

17 A It captured everything for the camera angles we
18 were given.

19 Q All right. Now how -- how did you go about
20 selecting a portion to place on the edited version, which
21 is 11 minutes in length; have you viewed that as well?

22 A I have viewed that as well.

23 Q Can you tell us whether or not that depicts Ms.
24 Lawson entering the store with all three children?

25 A The clip, I can't remember if this specific clip

Adam Creech - Continued Direct Examination by Ms. Mayes

1 does, but it does depict her shortly after entering the
2 store with all three children.

3 Q And exiting the store with all three children?

4 A Yes, it does have her exiting the store with all
5 three children.

6 Q Including with Mr. Tuckus as well?

7 A That is correct..

8 Q And does it contain all relevant interaction
9 between Ms. Lawson and her daughter, Victim

10 A It does.

11 Q At any point in time, having viewed the full
12 version of the video, did you observe any type of acts of
13 aggression towards the infant, Victim by the siblings,
14 being J.P. and June?

15 A I did not. You can see a little bit of interaction
16 between the children and it's very innocent child
17 interaction between siblings, but no aggression whatsoever.

18 Q All right. And again, other than the fall that you
19 described from the cardboard box, was there ever, at any
20 point during the course of that hours long --

21 MR. WILLIAMS: Your Honor, I'm going to object to
22 this line of testimony. This is hearsay. What he sees,
23 the best evidence of that would simply be to play it. What
24 he says is on there.

25 THE COURT: Rephrase --

Adam Creech - Cross-Examination by Mr. Williams

1 MS. MAYES: I can rephrase that.

2 THE COURT: Rephrase the question, please,
3 Solicitor.

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

5 BY MS. MAYES:

6 Q Have -- if there -- Detective Creech, if there had
7 been any other evidence of injury to Victim would that
8 have been included in the edited version?

9 A It would have been included in. It would have been
10 notated in my incident report.

11 Q All right. Now, that four-hours-long version that
12 you've mentioned, was that made available to attorneys in
13 this case, including the State and the defense?

14 A It was.

15 MS. MAYES: I beg the Court's indulgence.

16 THE COURT: Yes, ma'am.

17 MS. MAYES: Nothing further, Your Honor, concerning
18 these matters; subject to recall potentially later.

19 THE COURT: Thank you, Solicitor. Mr. Williams?

20 MR. WILLIAMS: May it please the Court?

21 THE COURT: Yes, sir.

22 **CROSS-EXAMINATION**

23 BY MR. WILLIAMS:

24 Q Detective, you were just asked about this tape that
25 you have. It's in evidence, obviously, you're the one that

Adam Creech - Cross-Examination by Mr. Williams

1 compiled the tape in regards to what transpired on that
2 particular night, right?

3 A Yes, when I reviewed the original video, it's
4 actually sort of a multi-layer process. What I did is I
5 indicated all time codes that showed interactions involving
6 Victim and anybody in the store and we compiled it to a
7 several-hour clip; and then we took that clip and we parsed
8 it down further to the 11 minute version.

9 Q And it shows the child basically in a box and she
10 falls over and bumps her head and mama comes and picks her
11 back up and hugs her and that's essentially what happened
12 in regards to this fall, right?

13 A Yes, that's correct.

14 Q And -- and that -- that is the fall, which -- which
15 the -- which Heather had told you had happened at the
16 store?

17 A That is correct. That would be the fall she
18 described to us during her first written statement at the
19 sheriff's department, that she, at that time, tried to say
20 accounted for the injuries to Victim forehead.

21 Q Okay. But I mean it's accurate regards to what she
22 told you in reference to the fall?

23 A Yes, it is.

24 Q All right. So that was certainly not a lie,
25 because you have the physical evidence showing that that's

Adam Creech - Cross-Examination by Mr. Williams

1 what occurred on that particular night?

2 A Yes, that fall did take place.

3 Q Now, let me ask you something. When you
4 originally --

5 MR. WILLIAMS: I'll stand back here, Your Honor, to
6 make sure -- I don't want to bother the jury.

7 BY MR. WILLIAMS:

8 Q When you initially took the stand, you -- you gave
9 the jury a little information about yourself and -- and I
10 noted that you said that you took a, is it a B.S. and a
11 Degree in Anthropology and Biology?

12 A Yes, sir.

13 Q And that was at the University of South Carolina?

14 A That is correct.

15 Q And when did you get that degree?

16 A I graduated in 2005.

17 Q And did you take any further courses at USC or did
18 you enhance that degree, if you will, on Anthropology or
19 anything?

20 A I did. I worked in a molecular biology lab at the
21 University for 2-and-a-half years, but never took any
22 formal coursework in addition to that degree.

23 Q All right. And -- and Molecular Biology, I assume,
24 one of the more important things you have to deal with in
25 the science world has to do with maintaining information,

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1 to have charts and notebooks showing cause and effect and
2 what you're observing and what you're seeing; is that
3 right?

4 A That is correct. Specially we work with plant
5 genetics which is pretty mind-numbing and boring to be
6 honest.

7 Q But you have to note that information down --

8 A Yes, you do.

9 Q -- you have to report it, don't you?

10 And even in Anthropology, did you -- did you do any
11 Anthropology work maybe on sites in South Carolina or
12 things like that?

13 A I did. And I did some independent lab studies, but
14 I never do any field report.

15 Q All right. Obviously, what you would do with
16 Anthropology is you would observe perhaps the surroundings
17 and look for skulls and look for pottery and all sorts of
18 things to indicate a history and determine when things
19 occurred and -- and what occurred; is that correct? .

20 A That is correct.

21 Q And of course, that would be -- recording is one of
22 the major aspects dealing with Anthropology also, isn't it?

23 A That is correct.

24 Q So when we look on TV and see people with little
25 strings out and taking pictures and -- and -- and sifting

Adam Creech - Cross-Examination by Mr. Williams

1 things and that type of thing, all that is part of the art
2 of Anthropology?

3 A That is. Specifically, that would be
4 archaeological procedure.

5 Q So having that background, your being an
6 investigator with Lexington County Sheriff's Department, it
7 kind of fits hand-in-hand in regards to what your -- what
8 you've been taught, doesn't it?

9 A It does. It certainly uses my degree and my
10 education indirectly, yes.

11 Q So obviously, one of the more important things you
12 learn as an investigator is, you learn to observe, you
13 learn to use deductive reasoning and you learn to record
14 that information so that you may see if you can connect the
15 dots, as well as have a reference point for other
16 individuals who are looking at your work?

17 A That is correct.

18 Q Now, in this particular case, you were the -- the
19 detective or the investigator in charge of the file; is
20 that correct?

21 A That is correct. I would be what we call the lead
22 investigator and the case officer.

23 Q So for the jury's edification, what does that mean
24 in terms of who keeps up with all the stuff and who manages
25 all the stuff and who knows everything that's going on in

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1 that file; who would that be?

2 A That would myself.

3 Q Okay. So you would know, for example, you would
4 have a sheet; we saw the roped off area where the people
5 were with the yellow tape showing it's -- would it say
6 evidence on there or after the -- after the police were
7 called in?

8 A Are you discussing the crime-scene log.

9 Q Yes. So you would have a crime-scene log
10 indicating the number of people that actually visited the
11 scene?

12 A Yes, I would have gotten a copy after the fact. As
13 I indicated, I never came to the scene that night. So I
14 would have had no direct involvement with the scene
15 control.

16 Q Right. And you would have had a collection of all
17 the pictures from the various CSI people that were involved
18 in this particular case?

19 A That is correct.

20 Q Now, how many CSI people were involved in this
21 case?

22 A I believe we had a total of three crime scene
23 investigators -- correction four crime scene investigators
24 involved at various stages of the investigation.

25 Q Why they -- why are they known as crime scene

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1 investigators; what gives them that designation?

2 A So the purpose of the crime scene investigators, is
3 to respond to scenes, photograph, and collect evidence, do
4 any evidence processing on scene, which may include
5 collecting DNA evidence and they include looking for latent
6 fingerprints, many other similar forensic procedures needed
7 to be done at the scene. The crime scene investigators, as
8 you will see later today, are also responsible for doing
9 some of our forensic examinations on phones and electronic
10 devices. They attend the autopsy proceedings and take
11 pictures and they'll respond to hospitals and photograph
12 the victims and any other related tasks that we need them
13 to do.

14 Q And in this particular case you had at least the
15 CSI individuals would have obtained whatever blood that
16 they found on the scene; they would have seized items to be
17 tested?

18 A That is correct. They handled all the evidence
19 collection at the scene.

20 Q All right. And to your knowledge, was there ever
21 any blood found at the scene?

22 A There was not. There were some swabs taken from
23 the scene, but they were later presumptively tested and
24 found negative for any kind of blood.

25 Q Was there any evidence of DNA that was tested at

Adam Creech - Cross-Examination by Mr. Williams

1 the scene?

2 A We don't do any presumptive tests for DNA at the
3 scene. We can identify something that may or may not be
4 blood presumptively and we can have that further tested,
5 but we -- we didn't identify anything of that nature.

6 Q Because there was no blood at the scene?

7 A There was no blood at the scene.

8 Q Were any items seized that were tested to determine
9 if they were instruments used in possible causation to
10 injuries that this child suffered?

11 A There were numerous items seized, but they were
12 seized by the crime scene investigator who had not seen
13 himself. So he's conducting -- he's reviewing the
14 scene based on the fact that he knows this child suffered
15 head injuries. So he's collecting anything that he thinks,
16 not knowing anything else could have been used to inflict
17 possible injuries.

18 Q And of course, in those items that were seized at
19 the scene, there was nothing which you tested that
20 indicated there was blood on any of those items or anything
21 to indicate that those items were used in the infliction of
22 any damage to the child?

23 A That is correct. We -- the items that were seized
24 were not consistent with injuries, so we didn't
25 submit them for any kind of additional forensic testing.

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1 Q Now, also being in charge of this, you had search
2 warrants which were issued to recover various items, which
3 you would not be entitled to receive, I guess, without the
4 use of a search warrant; is that right?

5 A That is correct.

6 Q And those included search warrant for various
7 phones and phone logs?

8 A That is correct.

9 Q Whose phones did you seize in this case?

10 A The only phone we seized in this case was Ms.
11 Lawson's phone and I did swear and issue two separate
12 search warrants for that phone.

13 Q You did not seize the phone of Mr. Richard Tuckus;
14 is that correct?

15 A It was not seized at the crime scene, no.

16 Q Did you ever seize Richard Tuckus's phone?

17 A I did not.

18 Q So any information on Richard Tuckus's phone was
19 not subject to disclosure and you would have no -- no
20 copies of texts or -- or e-mails or anything like that?

21 A No, we would not have anything from Richard's phone
22 directly. We would have corresponding records of
23 interactions between Richard and Heather from Heather's
24 phone.

25 Q So you wouldn't have interactions from Richard

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1 Tuckus to a third party other than Heather; is that right?

2 A We did not or would not.

3 Q But you knew early on that the -- the father of the
4 child was Richard Tuckus?

5 A I did.

6 Q And you knew at some point, early in this
7 investigation that Richard Tuckus had been to the house?

8 A We did know that.

9 Q And you did know early on that there had actually
10 been some sort of communication from Heather to Richard
11 Tuckus by the way of texting or e-mailing, didn't you?

12 A We needed to find out -- we knew that they had had
13 interactions by text message and telephone. We learned,
14 actually recently, that they had additional interactions
15 via Facebook Messenger, but that was not something we knew
16 at the time.

17 Q So in that you knew that there was Facebook
18 Messaging, did you do a search warrant for his phone to
19 pick up on his Facebook Messaging?

20 A So with Facebook -- can I bore the jury for a
21 little bit. I also work internet crimes against children
22 so social media issues are something I deal with
23 constantly. Facebook records are only going to be
24 attainable -- we did do a preservation for Facebook Pages
25 that night at the interest that if we did develop

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1 information, that we needed those, we could have gotten
2 them by search warrant. Those preservations would have
3 expired after 180 days.

4 By the time we found out that there had been any
5 Facebook Messenger communications between the parties,
6 which we actually learned from Mr. Tuckus. He informed us
7 that he no longer had those records in his Facebook
8 profile. The Facebook, once your records are deleted;
9 they're no longer recoverable with search warrant or not.

10 So what we were able to do is we were able to issue
11 a second search warrant for Ms. Lawson's phone, which had
12 been placed in airplane mode, which means whatever stored
13 electronic data was on that phone, it was not connecting to
14 the internet to reflect any deletion of Facebook records.
15 And CSI Phipps was then able, as he will testify later,
16 able to go in to retrieve basically take screen shots per
17 say of those messages, which we were able to recover.

18 Q So you learned this after 180 days; is that
19 correct?

20 A That is correct. We learned this within the last
21 couple of weeks.

22 Q Mr. Tuckus is the one that came and told you about
23 this after the 180 days had lapsed on his phone and he no
24 longer had that information?

25 A Yes, he said he had actually deleted those records

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1 way back, which meant there would be no point in issuing
2 legal process to try to recover them.

3 Q Now, who interviewed Mr. Tuckus when he originally
4 gave his witness statement?

5 A The night Mr. Tuckus was interviewed, he was
6 interviewed by Detective Kemper.

7 Q And to your knowledge, there was no other interview
8 in recent proximity to the day that the child was injured?

9 A There was not because at the time, the testimony he
10 had provided was relevant and there was no need, based on
11 what we knew at the time after speaking with Heather, there
12 was no need to elaborate on his testimony.

13 Q Well, in terms of the individuals and how they
14 progressed at the crime scene, we've already heard the
15 officer testify that she was first on the scene and we
16 learned about the marking of the crime scene. We
17 subsequently learned that some CSI officer, I believe it
18 was Sprinkle, comes to the scene?

19 A Yes, sir.

20 Q And it was his job to seize all those items. Now
21 the photographs which have been placed into evidence, those
22 photographs were taken at what -- at what time?

23 A The photographs at the home were taken by CSI
24 Sprinkle before he collected evidence.

25 Q All right. So it would be your understanding, of

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1 course Sprinkle will be here to testify, that these
2 photographs, these particular photographs, were done by him
3 before anything was moved at the scene?

4 A That is correct.

5 Q Okay. What if -- would it be harmful if any of the
6 items were moved prior to him photographing those items?
7 In terms of your investigation; would it create a problem
8 for you?

9 A It potentially could depending on what the items in
10 question would be.

11 Q Now, we've learned that there is a coroner which
12 has been involved in this, but she does her own
13 investigation; doesn't she?

14 A That is correct.

15 Q Now, what is the relationship between the coroner's
16 investigation and law enforcement's investigation?

17 A So the coroner's office, it's their job to come
18 into any death investigation regardless of the
19 circumstances and to determine cause and manner of death.

20 Q In this particular case was there an issue with the
21 coroner? Because when the coroner came to the scene, all
22 the items had been seized by Sprinkle and they were not in
23 the location for her to take photographs and begin her
24 investigation?

25 A I was not at the scene, but I do seem to recall

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1 that there had been a issue about that because they had
2 sent three coroners to the hospital and they sent no
3 coroners to the crime scene. While in an ideal world,
4 we'll wait on the coroner; at the end of the day, we do
5 have a job to do and we've got to get it done. So somebody
6 at the scene made the decision to go ahead and enact the
7 processing of the scene.

8 Q And all of this -- all of this that we're doing in
9 this investigation deals with recordation of information
10 and maintaining that information so that it may be used at
11 a later date?

12 A That is correct.

13 Q Having said that, let me take you to the hospital,
14 when you go to the hospital and you meet Heather Lawson.
15 She had been transported up there in the ambulance?

16 A She had.

17 Q She didn't even have time to get shoes, so she was
18 barefooted and when you get there, you find out that she's
19 in there with the chaplain; is that right?

20 A There was a chaplain present at one point. I can't
21 remember if he was there from the very beginning or if he
22 came in shortly after.

23 Q Well, who was in the room when you got there?

24 A I do recall Ms. Lawson was in the room. When I
25 first spoke with Ms. Lawson, I knew it was myself, Ms.

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1 Lawson, Lieutenant Frier, and the chaplain may have been
2 present at that point or he may not have been. His
3 presence wasn't relevant.

4 Q All right. And that's when you said that you began
5 your investigation in the first conversation with her,
6 right?

7 A Yes, it is.

8 Q And I believe you -- if you don't mind, if you'll
9 indulge me, what was the first thing she told you then?
10 When you first got there?

11 A I asked Heather what happened, as I testified to
12 yesterday, and she said she had put down for a nap
13 that afternoon and she became concerned when she realized
14 was taking a longer nap than usual. She said that
15 when she went to check on her, she found a comforter from
16 June's bed; remember June is the one-year old daughter.

17 She said the comforter was in crib and
18 she said she pulled that comforter out, she could feel
19 roll around in it and fell out face up and
20 she said after that, she went and located Richard, the
21 father, and then called 9-1-1.

22 Q Well, you had indicated at some point in time
23 yesterday, that -- that -- that Heather had indicated that
24 she had lied when she was at the jail versus what she had
25 said at the hospital. Well, that statement that she put

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1 the child down for a nap and that she found the child and
2 that she went to get Richard is consistent, isn't it, with
3 all the other statements that she gave, at least those
4 three items?

5 A Yes, so the contradictory facts that we confronted
6 her with during that later interview were the statements
7 that she made where had no injuries, general
8 timeline of events. She talked about putting for a
9 nap -- down for a nap about 1:30 to 1:40; and then she kind
10 of backed off of that. She goes to no injuries to then
11 describing this bruise to the forehead. She never mentions
12 the fall from work the night before until we get to the
13 sheriff's department. Just -- it's the little details that
14 don't match. The only things that stayed consistent are
15 her finding her going to make contact with Mr.
16 Tuckus and then calling 9-1-1.

17 Q Well, let's go to the second statement that you say
18 that she made at the Lexington County Hospital. After you
19 get through with this oral statement to her -- now, what
20 time -- what time is this when she gives you this first
21 kind of statement; here she is with no shoes, she's just
22 lost her baby, she's crying?

23 A She's crying at points, but she's not crying the
24 entire time I speak to her.

25 Q Well, it's hard to cry for that period of time

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1 consecutive and talk, isn't it?

2 A Oh, absolutely.

3 Q So you had this conversation with her; and then --
4 you had -- you broke it down in your direct testimony that
5 there was like another conversation that you had with her?

6 A Yes, because initially when I got that story I just
7 related, Lieutenant Frier was with me. He stepped out
8 because he was the watch commander that night. He had
9 other matters he needed to deal with as watch commander.
10 So once he stepped out, I asked Heather just to simply tell
11 me again what had happened, which is very normal procedure.

12 Q So -- and the reason you wanted to have her go
13 through it again with you was because you wanted to see if
14 you could come up with some more details from what she had
15 said?

16 A Yes, and just to make sure I had not missed
17 anything relevant that she had told me the first time.

18 Q Well, did you have a tape recorder when you were up
19 there talking to her?

20 A I did not. It's not really something that's ever
21 been in place as standard practice for us to use tape
22 recorders. Obviously in an ideal world, that would be
23 great if we could record everything. With the current move
24 to body cameras, that would be a long time before that ever
25 gets to investigations, but it's certainly going to patrol,

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1 which I think will be a great tool. But with these kind of
2 investigations, everything is so dynamic and we're
3 constantly moving and interacting with different people.
4 It would be cumbersome to have a tape recorder and have to
5 stop and tape record everybody we deal with. But like I
6 said, it's not normal practice that we would use tape
7 recorders during this kind of interview.

8 Q Well, in this particular case, where one of the
9 main items that you're -- because we learn that you go
10 through several conversations with her and -- and you're
11 here testifying how it was -- differences in what she said,
12 what you recall her saying. Wouldn't it be important in
13 this homicide case that there would be some effort to
14 record those conversations?

15 A In an ideal world, it would be great. I didn't
16 have a tape recorder that night, so I mean it was not
17 possible to record the interactions between myself and
18 Heather, but that being said, I take very thorough notes
19 when I have these kind of interviews and I use those notes
20 to -- to create my incident report and I use lots of direct
21 quotes and I make sure those quotes are true and accurate
22 before I do my paperwork.

23 Q And I'm sure you do, but of course, when we record
24 our notes, we record what we think is important, don't we?

25 A Of course.

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1 Q And if we're all good students, we would all make
2 A's and record all the notes, wouldn't we?

3 A Of course.

4 Q Do you have a cell phone?

5 A I do have a cell phone.

6 Q Do you have an app on the cell phone that allows
7 you to record information?

8 A I have gotten one since then, but I did not have
9 one at the time. And even then, it's not something that I
10 put into standard practice for work purposes, but it's
11 something I have to fool around with.

12 Q So -- so your current cell phone does allow you to
13 record information just like -- I don't know if you -- if
14 you call into an insurance company, they put you on notice
15 that the call may be monitored even -- even in every part
16 of life that we deal with, you hear that all the time, it
17 may be monitored for quality purposes and just like you
18 could have recorded this on a cell phone, couldn't you?

19 A I could have, but again going back to the three
20 years that I've been in investigations, it's never -- with
21 the Lexington County Sheriff's Department, it's never been
22 a standard practice to audio record interviews.

23 Q It would be more accurate, wouldn't it?

24 A It would certainly be ideal in an ideal world.

25 Q You'd hear exactly what the person was saying,

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1 you'd see exactly -- you could hear how the person was
2 saying it, couldn't you?

3 A You could.

4 Q Let's talk about the second conversation that we
5 had. You said she was in there having another conversation
6 with you and who else was present in the second
7 conversation that you were going through what she was
8 saying?

9 A The second time, I believe it was primarily myself
10 and her and I think the chaplain was present during that
11 second interview, but he -- he wasn't participating; he was
12 just sitting there in case she needed him.

13 Q What's his name?

14 A I didn't get the chaplain's name because at the
15 time, his presence wasn't important.

16 Q Well, now his presence would have been important in
17 terms of what she had said, wouldn't it?

18 A He wouldn't have been taking any kind of notes on
19 the interaction and he's there to do a very specific job
20 and I wouldn't put a chaplain out of his lane, so to speak,
21 and ask him to have to testify in an investigation like
22 this. It wasn't necessary.

23 Q But he is a potential witness as to what was said
24 by her, wasn't he?

25 A Potentially, if he was paying attention in that

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1 regard and again, he's a chaplain, so he's there for
2 emotional support. It's not his -- his role to be
3 concerned with a child death investigation.

4 Q Now, during this time span, where was her mother
5 and grandmother at the hospital?

6 A I found out after I concluded speaking with Heather
7 that they were present in another room of the ER; her
8 grandmother was. I spoke with her grandmother very
9 briefly. But I -- at the time I was speaking with Heather,
10 I was not concerned with the location of the family
11 members.

12 Q Well, why did you not invite the grandmother to be
13 in there with her because it might have, I don't know, been
14 there for the same purpose as the chaplain. The chaplain
15 to comfort her and then she would have been there also as a
16 potential witness to the questions that were asked and how
17 she responded?

18 A It's not normal procedure. If I'm interviewing a
19 mother or custodial guardian, parent, anybody involved in
20 one of these kind of investigations, first off, I'm not
21 going to want to talk to them with any other family members
22 present. I'm not going to ask the chaplain to leave, but
23 he -- he's just kind of background, but I'm going to want
24 to speak with Heather directly one on one because in her
25 emotional state it did not -- there was clearly no need to

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1 have anybody come in to calm her down.

2 I mean, I'm also a trained crisis negotiator with
3 the sheriff's department, so I've got significant training
4 with dealing with people in emotional crises and elevated
5 emotional states. And I've had investigations where family
6 members were too upset to talk to at the time and there's
7 certainly no harm if that's the case to say okay, we'll
8 come back and talk to this person later when they've kind
9 of calmed down a little bit.

10 Heather was very clear, communicative. She had no
11 issues talking to us. She did cry a little bit here and
12 there, but it wasn't enough it interfered with our ability
13 to try to gather information and determine what had
14 happened to her daughter.

15 Q So what did she say in her second conversation you
16 were talking about?

17 A The second time, she added that she had taken the
18 children to work the night before and that they had come
19 home about 11:44 p.m. on the 25th. And she told us then or
20 told myself then that they all woke up about 9:00 the next
21 morning. And she said she fed breakfast that
22 morning. That's the first time she mentioned feeding the
23 child that morning. She said the day was uneventful. She
24 said -- ended up telling me that Richard came over about 12
25 that day and then she later said she put down for a

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1 nap between 1:40 and 2:30. She told me then that she spent
2 the rest of the afternoon doing housework, which she
3 described as vacuuming, picking up, dishes, bathing the
4 other two children and cooking dinner for the other two
5 children.

6 She then said the children were alone in the room
7 with for about half an hour. She said when she did
8 go in and find she said the children were standing
9 silently in the doorway to the kitchen, which should be --
10 the diagram, the kitchen doorway and the children's door --
11 bedroom is kind of right there together. She said again
12 and I quoted her on this yesterday. She said, quote, They
13 were acting the way would if they knew they were in
14 trouble; end quote. And then she said she went to get
15 Richard and called 9-1-1.

16 Q So the second statement, if you will, was simply
17 more expansive than her first statement?

18 A Yes, it was.

19 Q Not contradictory, just more expansive?

20 A No, it's just more expansive at the hospital.

21 Q So you had that conversation with her and I believe
22 yesterday, you testified that the reason why she was
23 actually taken to the Lexington County Sheriff's Department
24 is because that would allow you a better opportunity to get
25 full details without interruptions?

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1 A So we -- I spoke to her that time and then I spoke
2 to her again in the presence of Coroner Fisher and then
3 after -- what she tells myself and Coroner Fisher, is then
4 later when we then consult with Dr. Luberoff at the
5 hospital and then based on information we got from her,
6 which she'll get into later in her testimony and the fact
7 that Heather's story did not adequately account for the
8 child's injuries, that's when we decided if we were going
9 to have a suspect in this case that we're starting to
10 develop, it is her because by her own testimony, she placed
11 nobody else with the child that afternoon. So that's why
12 we made the decision to then start to treat this like a
13 suspect interview and to relocate to the sheriff's
14 department, which she agreed to do. If she had told us she
15 didn't want to go to the sheriff's department, we wouldn't
16 have.

17 Q So -- so the reason you did that is because, not
18 because people were interrupting you at the hospital, even
19 though those individuals were not allowed to be in there.
20 The reason you actually did that was because you thought
21 maybe you could get her in a more secure environment where
22 -- where you could get more information from her?

23 A Well, all those reasons would be true because the
24 hospital is going to be rife with interruptions because we
25 can't control the ultimate comings and goings at the

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1 hospital.. So yes, we do want it to be a more controlled
2 environment, but we want to limit interactions and
3 interruptions from family members; hospital staff, it's
4 just not -- it's just not an environment -- good
5 environment -- ideal environment for us to work and do what
6 we have to do.

7 Q So the next meeting was when the coroner was
8 present, right?

9 A That is correct.

10 Q And was it the coroner or was it an assistant
11 coroner who was actually present at the Sheriff's -- I mean
12 at the hospital?

13 A It was the coroner. She has an assistant coroners
14 present in the hospital doing other things, but it was
15 actually Coroner Fisher who sat in with the interview.

16 Q Do you know whether or not she had a tape recorder
17 to record the conversation that was being conducted between
18 you and Ms. Lawson?

19 A She did not and it's my understanding, it's also
20 not standard practice for them to tape record interviews.

21 Q All right. And this particular conversation,
22 Heather gave you more information; is that right?

23 A She gave a little bit more information. It was
24 pretty similar to the previous story she had just told me.

25 Q Okay. At any point in time, did you think that now

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1 is the time to go ahead and give Heather Miranda Warnings?

2 A No, because we still -- I had already gotten the
3 information relayed to me from the forensic pathologist,
4 who I didn't know at the time was at the hospital doing her
5 own assessment of She had been contacted by
6 Sergeant Barr. I'm still processing these statements by
7 Heather. She's not in custody. If she had said at any
8 point, you know, I'm not going to talk to you, I'm leaving,
9 we would have said okay. I mean there wouldn't have been
10 anything we would have done to stop her. Even after
11 speaking with Dr. Luberoff and we decided something's --
12 this just doesn't make sense. Heather is still at that
13 point that if she said I don't want to talk to you guys,
14 um, and we would have respected that. We couldn't have
15 forced her to go to the sheriff's department and talk to us
16 at that point. We still would have continued our
17 investigation and I have no doubt we still would have
18 resulted in this same outcome eventually, but she was
19 certainly not a suspect at that time.

20 Q Not a suspect?

21 A Well --

22 Q Not a suspect?

23 A She was not a suspect initially when I spoke to her
24 because I was still trying to figure out what happened.
25 Let me clarify. By the time we asked -- Sergeant Barr

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1 asked her if she'd be willing to go to the sheriff's
2 department and continue to speak with us, we were then
3 starting to view her as a suspect in this case. But before
4 we spoke to her any further at the sheriff's department, as
5 I said yesterday, she was given an advisement of her
6 Miranda Rights, which she did waive.

7 Q And she was placed in a patrol car with Detective
8 Barr and transported to the Lexington County Sheriff's
9 Department?

10 A Yes, and the reason she rode with Sergeant Barr is
11 because she didn't have her own transportation at the
12 hospital.

13 Q Well, she had a mother and a grandmother there,
14 didn't she?

15 A She did.

16 Q Well I mean, did you ask the mother or the
17 grandmother if they could give her ride to the sheriff's
18 department?

19 A I'm not going to testify to things that I can't
20 answer to. I do believe that actually Sergeant Barr who
21 discussed those logistics with her.

22 Q So you believe that Sergeant Barr is going to
23 testify that she talked to the grandmother and the mother
24 and asked them if they wanted to transport her to the
25 sheriff's department; that's what you're stating right now?

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1 A I'm not sure where Mr. Williams is going.

2 Heather --

3 THE COURT: What -- whoa -- whoa -- whoa. The
4 question was -- answer the question. Did you ask the
5 mother or grandmother if they would transport her to the
6 sheriff's department; that's a simple question; it's either
7 yes, no, I don't remember.

8 THE WITNESS: Yes; Your Honor.

9 THE COURT: All right.

10 THE WITNESS: I did not ask them.

11 BY MR. WILLIAMS:

12 Q Now, when you go to the sheriff's department, was
13 Heather Lawson already there with Detective Barr?

14 A She was.

15 Q And where was she located?

16 A She was actually -- they were sitting in Sergeant
17 Barr's office when I got there.

18 Q And did you remain in Sergeant Barr's office?

19 A No, we then relocated to an interview room,
20 specifically Interview Room 3 at the sheriff's department.

21 Q You say specifically Interview Room 3; why would
22 you use the verb or the noun Interview Room 3; is there
23 something particularly important about being Interview Room
24 3?

25 A There is not. We have three interview rooms;

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1 Interview Room 1, which is adjacent to my office has a
2 large table that can seat about 5 or 6 people; Interview
3 Room 2 has a small table; and Interview Room 3 has a small
4 table, and Interview Room 3 is the closest interview room
5 when you're coming out the doorway to our investigation
6 suite and you're walking into the interview room hallway,
7 Interview Room 3 is the first interview room you get to.

8 Q So Interview Room 3 would be a lot smaller than
9 Interview Room 1, so that depending on the number of
10 persons in that room, it would be a lot closer to each
11 other in Interview Room 3 versus 1?

12 A The rooms are the same size. Just there was a
13 larger table in 1 and I don't like to use Interview Room 1
14 when there's only 2 or 3 people in the room because there's
15 more furniture in the room than people at that point. It
16 feels kind of crowded to me.

17 Q Are there recording devices in Interview Room 3?

18 A There were not at the time.

19 Q There are now?

20 A They're in the process of installing and working on
21 a system for recording devices in those interview rooms,
22 but it is policy that has not gone into effect and we
23 haven't been through training on how to use them yet.

24 Q Why would -- why would they be putting these
25 recording devices in Interview Room 3 now; do you know?

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1 A You would have to speak with Sheriff Coon to find
2 the answer to that.

3 Q All right. So it's you and Detective Barr and Ms.
4 Lawson who are in the interview room and at that point in
5 time is when you essentially go through an extended
6 investigation or interrogation with her and she does a
7 written statement?

8 A That is correct. This would be when she provided
9 her first written statement.

10 Q Well, now why wouldn't you have allowed her to give
11 a written statement when she was at the hospital so that
12 what she is saying to you can actually be recorded in her
13 own handwriting?

14 A I mean, that was simply a judgment call on my part.
15 It's normal for my personal procedure, if I'm doing general
16 fact finding or information gathering, especially in an
17 investigation like this where initially I don't have a very
18 good picture of what has occurred, it's very normal for me
19 to conduct my initial interviews with people just taking
20 good notes and letting them talk. People tend to tell you
21 a lot more if you just sit and listen to them than if you
22 immediately put a piece of paper in front of them and say,
23 you know, start writing stuff down. This day and age, who
24 does a whole lot of writing anymore?

25 Q The time in which you began this interview was what

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1 time?

2 A This interview began at -- we started the statement
3 form at 9:41 p.m.

4 Q So she found the child deceased, what was it a
5 little after 5; is that right?

6 A Yes, I believe the testimony that the 9-1-1 call
7 came in just before 5:19 p.m. yesterday.

8 Q So going through her finding the child, she runs
9 out of the house without shoes on, she goes to Tuckus; she
10 come back, all these fire trucks, law enforcement people
11 get there, EMS people get there; she's transported in an
12 ambulance with her deceased baby to the hospital; she's
13 gone through three interviews with you and any number of
14 other individuals there; she's transported in the sheriff's
15 department car to the jail and then you sit down and say
16 we're going to write down exactly what happened at 9:41 on
17 a Sunday night?

18 A Yes.

19 Q Okay. Now, has she had anything to eat like for
20 supper or anything?

21 A I seem to recall that we had offered her water. I
22 believe she didn't want it. I don't recall whether we
23 offered any food or not.

24 Q Well, how long does this interview last?

25 A We concluded the interview at 1:25 a.m. the morning

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1 of the 27th. So --

2 Q Four hours?

3 A Three hours 45 minutes and some change probably.

4 Q About 1:30 in the morning?

5 A Give or take.

6 Q Five minutes?

7 A Yeah.

8 Q And you have, I believe the statement has been
9 placed into evidence hasn't it?

10 A It has.

11 Q And of course, you didn't record this being taken
12 at the time either, did you, meaning you didn't have a
13 recording device or video camera recording this
14 information, right?

15 A Correct, this would have fallen in line with our
16 standard procedures at the time.

17 Q So do you have a copy of this statement?

18 A I do.

19 Q All right. So you first go through -- and I'm not
20 real good at this -- but she starts talking about the child
21 falling out of the playpen on Thursday. She goes through a
22 litany of things in the first beginning part of her
23 statement, doesn't she, about explaining possible causes
24 for bumps and bruises on the child, right?

25 A That is correct.

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1 Q And she moves on to the knot on the forehead and
2 then she moves down, didn't take her to the doctor, then
3 she says last night she fell and hit her head at work?

4 A That is correct.

5 Q You've got a video showing the actual fall?

6 A That is correct.

7 Q Showing the condition of the child when the child
8 fell?

9 A That is correct.

10 Q There's nothing to indicate that this is not
11 consistent with what the video says, correct?

12 A That is correct.

13 Q Then you go on, page 2, and she goes into, she
14 could have hit her head as well, referring to things that
15 could have happened to the child, right?

16 A That is correct.

17 Q Isn't she just going through a statement of things
18 that maybe happened to the child, maybe that happened to
19 the child; isn't that what she said?

20 A Yes, and at this point, she also -- this is where
21 the first key change in her story takes place is where she
22 had previously told me at the hospital repeatedly that
23 was fine on the day of the 26th. Now she's telling
24 me that -- she's telling us about these falls and this is
25 when she now tells us that had that bruising to her

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1 forehead the morning of the 26th, which is the biggest
2 contradiction to her previous testimony.

3 Q What time did that come out in this four-hour long
4 interview; what time did that -- did she ever sit down and
5 write this at one time?

6 A No, it would have been typical for us to talk to
7 her for a little bit and gone over everything verbally
8 first. And then when we kind of felt like she was where
9 she was going to be as far as what she was saying happened;
10 that's then when we would have moved to the written
11 statement.

12 Q What do you mean, where it got to the point where
13 you decided that she was where she was going to be when she
14 gave her statement; explain that statement?

15 A So if I asked any of you to tell me about your day,
16 after a certain point, you would have told me about your
17 day; and if nothing is changing now at that point about
18 what you're telling me, there's no point for me to just
19 keep asking you to describe your day over and over and over
20 and over. So at that point, I'm going to ask you, Okay.
21 Well, if you would please write that down for what we just
22 -- what you just told me about.

23 Q So in essence, you're in control of what gets
24 written down on this form when you determine that they're
25 -- that you've gotten what information at that point in

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1 time that you need to have recorded?

2 A Heather is ultimately who controls what she writes
3 on the statement form. And the reason it's a
4 question/answer format is we ask her to begin the statement
5 and then whenever -- the reason we do the question/answer
6 is we're then asking questions to address things that we
7 had talked about to make sure she writes down what she's
8 told us.

9 Q And again, you asked her specific questions about
10 how she was acting. Would every place where you go into a
11 different question, would that be after an extended period
12 of time that you just said you had reached point where you
13 think that's all you're going to get from her, then you
14 would go to a different question?

15 A No, we -- so we probably talked, if I had to guess,
16 because I mean we're not keeping exact, I don't have
17 somebody scribing every minute of our interaction with her.
18 If I had to guess, we would have probably sat around and
19 talked with her for, you know, 30, 40, 45 minutes. Usually
20 verbal interviews with people don't take very long.
21 Written statements take a while because it just takes a
22 while to get people to write and to be as detailed with
23 writing as they are when they talk to you. So I would say
24 probably three quarters of that interview time was probably
25 her giving this written statement.

Adam Creech - Cross-Examination by Mr. Williams

1 Q And obviously, if it was recorded, we wouldn't have
2 to guess about how long it took and what was going on?

3 A No, potentially not depending on the recording
4 system.

5 Q Now there's a reference in here that you were
6 talking about how she got the bump on the forehead and she
7 goes through with you a litany of a little truck, hit the
8 truck, right?

9 A Yes, she had talked about Victim had got hit in the
10 head with a toy by one of her other children, I believe the
11 previous Thursday or Friday.

12 Q And again, there's really nothing inconsistent
13 about that, is there, just more detail than what she had
14 told you before?

15 A Yes, it is.

16 Q So now we get to the third page and she tells you
17 what kind -- she tells you what kind of toy it was, right?

18 A That is correct.

19 Q And then she goes into describing in detail what
20 happened after you and the kids got home after midnight.
21 Why did you write a question like that? It doesn't flow
22 with all the other questions in terms of what's written
23 down here in this statement?

24 A Actually Sergeant Barr wrote that specific
25 question, but the reason we're asking about that is because

Adam Creech - Cross-Examination by Mr. Williams

1 Heather had told us that when she had gotten home the night
2 before that she had had this incident where -- let me make
3 sure I'm not speaking out of turn here. Give me a second.

4 Where she had tripped and fallen with Victim when she
5 was bringing her in the house and then basically kind of
6 dropped her in the pack 'n play and so we were -- she just
7 told us that, but she had not included it in her statement
8 at this point. So we were asking that question to prompt
9 her to give us that statement that she had already given us
10 verbally.

11 Q So now you have Detective Barr, whose -- she's also
12 interviewing her, asking her questions and dictating what
13 she wants recorded in this witness statement also, correct?

14 A Yes, because when you've got two detectives in an
15 interview, we're kind of -- as you'll see, some of these
16 questions she writes in her handwriting and some of the
17 questions I write. So basically, when she's doing the
18 question and answer, I'm thinking okay, what else do we
19 need to make sure we ask that, you know, because everybody
20 can make mistakes. If there's two of us, we're less likely
21 to miss something as opposed to if it's just one of us.

22 Q Then you move on to page 4, where essentially you
23 ask her about bruises and stuff like that and, and -- and
24 the short answer to this is that whatever bruises she had,
25 she didn't think that she needed to go to the doctor for

Adam Creech - Cross-Examination by Mr. Williams

1 them?

2 A That is correct and my primary concern with asking
3 about these questions is she's now telling me that when
4 woke up that morning that she had those heavy
5 bruises to the forehead, which to me were alarming and we
6 were trying to figure out why she would not have sought out
7 medical treatment for the child, if the child had woken up
8 with those injuries.

9 Q Well -- well now, when you talk about how the child
10 appeared in the morning, you're -- you've seen the child
11 after the child was dead and after the photographs were
12 taken, right?

13 A That's correct.

14 Q You didn't see the child in the morning to see how
15 big those bruises were, whichever bruises she's referring
16 to?

17 A Oh, that's correct.

18 Q So it could have been that the bruising that she
19 was seeing was not the same bruising that we were talking
20 about, could it?

21 A That's possible. Although she did tell me in her
22 statement that she had never seen Victim with bruises as bad
23 as the bruises she saw.

24 Q Which is what? I don't -- what -- what definitive
25 degree is that?

Adam Creech - Cross-Examination by Mr. Williams

1 A That's a very qualitative statement, so --

2 Q You're a scientist, right?

3 A Yes, sir.

4 Q You wouldn't use those types of terms in your
5 research in how you describe things, would you?

6 A No, but the --

7 Q Let move on to page 5. You go into, Did you and
8 Richard fight or argue while he was here; you've already
9 learned that Richard had come over, right?

10 A Yes, we had.

11 Q Why didn't you ask her to put in the fact that they
12 had had sex that day or is this because you were afraid
13 that something that happened at the store when Richard was
14 at the store?

15 A She --- she actually mentioned in her statement they
16 were having sex.

17 Q So I -- I guess, it doesn't -- your statement
18 doesn't flow, does it?

19 A Well, that's not unusual for these kind of written
20 statements. I mean, they're not an ideal translation of
21 one-on-one interaction. It's just again, she would have
22 talked to us for a while and we're wanting to make sure
23 everything that she had told us then got translated to this
24 statement, which is why some stuff may seem a little out of
25 order because Sergeant Barr is thinking to make sure she

Adam Creech - Cross-Examination by Mr. Williams

1 asks her things to make sure Heather mentions what she
2 said. And I'm thinking of other things and there may be a
3 bit of a flow issue with it because of it may seem a little
4 disconnected as far as order, if that makes any sense.

5 Q Sure. Because you're in control of what she puts
6 in the statement?

7 A No, she's in control of what she puts in the
8 statement.

9 Q Now, you go on to talk about a question about what
10 kind of stress she's been under?

11 A That is correct.

12 Q She didn't tell you that she hurt the child because
13 she had been under any kind of stress, did she?

14 A No.

15 Q She never said that she actually hurt the child at
16 any one of these many interviews that you have given with
17 her, did she?

18 A No, she only indicated what she described as an
19 accidental impact the child had while in her care, but she
20 never directly said that she had hurt the child.

21 Q So why do you want to put in this question about
22 stress and loaded up with stress that she's had in her
23 life?

24 A Because we're still, I mean, despite what she's
25 saying, especially when her statements are not really

Adam Creech - Cross-Examination by Mr. Williams

1 matching from the hospital to what she's now telling us at
2 the sheriff's department, she still hasn't reasonably
3 accounted for what happened. So we're still seeing her as
4 a suspect. So obviously, when you're looking at somebody
5 as a suspect you want to kind of get some insight into
6 their state of mind, what they're going through.
7 Obviously, with an incident like this, we want to look at
8 life stressors. She's a single parent, she's got a
9 supervisory job that's giving her a lot of grief of work,
10 she's got two other small kids. I mean she's got life
11 stressors through the roof, so we want to make sure we
12 document those issues because they're very relevant to this
13 investigation.

14 Q Well, they're only relevant if they have something
15 to do with what happens, aren't they; we all have stresses
16 in our life, don't we?

17 A I think they're important to be aware of
18 regardless, rather than to speculate about an actual fact.

19 Q Why did you decide at 1:30 in the morning that that
20 was enough for the day?

21 A Normally I write this as a question; we didn't in
22 this case, but a lot of time, I conclude these interviews
23 by asking who I'm talking to is there anything else you can
24 think of whatsoever that you want to tell us and make sure
25 it ends up in this statement. But if she wants to keep

Adam Creech - Cross-Examination by Mr. Williams

1 talking, we'll keep talking and this page 8 can turn into
2 14 or 20 pages easily. But in this case, we had asked her
3 all the questions we could think of at the time. We talked
4 about everything together.

5 She agreed that if we had additional questions
6 later on, we could re-approach her and talk to her some
7 more. But as of that night, she said she didn't have
8 anything else to add, so we concluded the interview.

9 Q Then you arrested her?

10 A Yes, we did.

11 Q So she didn't go home?

12 A No, she didn't go home, but we never promised her
13 that she was going to go home.

14 MR. WILLIAMS: That's all the questions I have,
15 Your Honor.

16 THE COURT: Redirect, Solicitor?

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

18 REDIRECT EXAMINATION

19 BY MS. MAYES:

20 Q Detective Creech, taking a look here at State's
21 Exhibit 30, being the written statement of Heather Lawson,
22 the portion here on page 2 of 7, where she states, I laid
23 her down for a nap around 1:40 or 2. Can you tell us
24 whether or not that remained consistent even during the
25 course of this written statement?

Adam Creech - Cross-Examination by Mr. Williams

1 A I remember her changing her story to tell us
2 that she had checked on her about 12, as looking in the
3 crib and she could tell she was breathing, but then that
4 was after her vomiting and throwing up that morning and so
5 she originally told us in writing her statement, she put
6 her down for a nap about 1:40 to 2 p.m., but then she later
7 backed off of that and tells us that she looked in and
8 could see that she was breathing and sleeping. And then
9 she said she didn't check on her again until she found her
10 after 5 o'clock. So then she gave us that window of
11 roughly noon to 5 p.m. where she said she didn't check on
12 the child.

13 Q All right. So in effect, that statement was
14 retracted?

15 A Yes, it was.

16 Q And then Mr. Williams was asking you specifically
17 about the questioning regarding the bruises and that occurs
18 on page 3 of the statement. First with the question here,
19 when you first noticed the bruises on Victim why didn't you
20 call 9-1-1 or take her to the ER, did she indicate that it
21 was a single bruise or multiple bruises in the response?

22 A She actually referred to it in her response as
23 bruises, plural.

24 Q Okay. And then again on page 4 of 7, Mr. Williams
25 was asking you how you -- Mr. Williams was asking whether

Adam Creech - Cross-Examination by Mr. Williams

1 or not these were the same bruises that are depicted in
2 photographs. Did you ask specifically again about bruises
3 and their severity?

4 A Yes, and that's when she said --

5 Q The question is when did you see the bruises; have
6 you ever seen bruises that severe on Victim before and what
7 was her response?

8 A Her response was I have never seen bruises as bad
9 as what she had, but at the time, they were nowhere near as
10 bad as when I found her.

11 Q All right. So again, was she -- based upon your
12 information and this conversation, was she referring to the
13 same bruises depicted in the photographs?

14 A She appeared to be, yes.

15 Q And those are the bruises that originally she had
16 stated were not present at all?

17 A Yes, that is correct.

18 Q I'm going to also ask you a little bit more about
19 some of the search warrants that you've conducted in this
20 case. You indicated that you also are an investigator in
21 internet crimes?

22 A That is correct.

23 Q All right. Going into the events of that day, June
24 26th, 2016, can you tell us whether or not you obtained a
25 search warrant to recover text messages between Ms. Lawson

Adam Creech - Cross-Examination by Mr. Williams

1 and any other individual?

2 A So the only reason -- the search warrant would have
3 been for her cell phone and we would have as part of that,
4 recovered all of her text messages present on the cell
5 phone itself.

6 Q All right. And that would include any
7 communications she had with any other third party, correct?

8 A That is correct.

9 Q And that would include Richard Tuckus?

10 A That is correct and absolutely included Richard
11 Tuckus.

12 Q All right. And then in addition, the text
13 messages, can you tell us whether or not that phone
14 extraction routinely includes call logs showing in-going
15 and outgoing phone calls made from her phone to all other
16 third parties?

17 A It does show her call logs as well.

18 Q And would that include any calls to or from Richard
19 Tuckus?

20 A It did.

21 Q Now, in addition to the search warrant for the
22 phone extraction, which actually shows you what activity
23 was on the phone, can you tell us whether or not you also
24 obtained actual hard copies of the phone records from the
25 phone company?

Adam Creech - Cross-Examination by Mr. Williams

1 A I did.

2 Q All right. And what phone company was that?

3 A The phone company was AT&T.

4 Q All right. And once you're actually viewing the
5 hard copies of the phone records showing in-going and
6 outgoing phone activity, can you tell us whether or not
7 that can be used to compare against the results of the
8 phone extraction?

9 A It can.

10 Q To account for any type of discrepancies?

11 A It can.

12 Q And then ultimately, I believe you indicated you
13 also obtained an additional search warrant specific for
14 Facebook activity?

15 A I didn't actually obtain a search warrant for
16 Facebook activity. I initially submitted what we call a
17 preservation request which is through an online law
18 enforcement protocol that Facebook has. It's maintained
19 for Facebook and Instagram records. I submitted that
20 preservation request which is not a formal document, it's
21 just me logging in, copying and pasting a Facebook URL,
22 which is the link to somebody's Facebook page or their
23 account number and I hit submit and Facebook will preserve
24 those records as they are at that date and time for 180
25 days. If I don't submit any legal process or request an

Adam Creech - Cross-Examination by Mr. Williams

1 extension of that, then after 180 days if those records
2 change, they're not going to be available as they were at
3 that date and time.

4 Q All right. So let me -- let me ask you another
5 way. The actual search warrant, I believe you indicated
6 once you go back and review the phone for Facebook
7 activity; is that correct?

8 A Yes, we did an additional search warrant on the
9 phone because, while discussing the case with my CSI
10 Phipps, you will hear from later, we had gotten information
11 from Richard, or Mr. Tuckus, that there had been Facebook
12 Messenger communications and we realized that there may
13 have been Facebook Messenger data that was not retrievable
14 on the initial forensic exam, which is very common. He can
15 explain the technical side of that. But again, we did an
16 additional search warrant for the phone and you manually
17 boot up that phone, go into Facebook Messenger app and
18 still find her historical Facebook messages because nobody
19 can delete them from that device and we were able to then
20 take pictures of it to show the Facebook messages between
21 her and Richard.

22 Q All right. So ultimately having her phone, were
23 you able to recover her text messages for that day?

24 A Yes, we were.

25 Q And in-going and outgoing calls for that day?

Adam Creech - Cross-Examination by Mr. Williams

1 A Yes, we were.

2 Q And Facebook messages and activities for that day?

3 A We were.

4 Q And then finally, Detective Creech, Mr. Williams
5 was asking you about control of the interview. How do you
6 go about making sure that she has control of the interview
7 and ultimately of what she puts in her own statement?

8 A Well for starters, it's part of her Miranda Rights,
9 which she acknowledged. She's aware that at any time she
10 can stop talking to us; and that being said, we're very
11 insistent that the statement is her words, her writing.
12 This is what she wants to tell us and that's why even when
13 the statement's complete, we have her go in and put her
14 initials on the page and have her sign every page and she's
15 acknowledging, Yes, this is my words; this is what I'm
16 saying.

17 If at any point, she had decided I'm done talking
18 to you guys; I don't like where this is going, she could
19 have stopped this at any point. I mean this -- this could
20 have -- we could have shown up at the sheriff's department
21 and she could have said I want to go home and -- or we
22 wouldn't have necessarily let her go home, because it was
23 still an active crime scene, but we would have let her
24 leave. So at no point would she be under any impression
25 that she had to give this statement. So I would say from

1 that point of view, she was absolutely 100 percent in
2 control of what she put in the statement.

3 Q And every response to a question posed by law
4 enforcement was in the handwriting of who?

5 A Every -- every response was in Heather's
6 handwriting.

7 Q Nothing further.

8 MR. WILLIAMS: No questions on recross, Your Honor.

9 THE COURT: Thank you, Mr. Williams.

10 Thank you, Detective, you may step down.

11 All right. Ladies and gentlemen, I'm going to take
12 about a 15 minute recess. Do not discuss the case during
13 this brief recess. You may go with the bailiff.

14 (The jury left the courtroom at 11:02 a.m.)

15 THE COURT: All right. Court will be in recess 15
16 minutes. Thank you.

17 (A brief recess was observed.)

18 THE COURT: Anything before we bring in the jury,
19 Solicitor?

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

21 THE COURT: Mr. Williams?

22 MR. WILLIAMS: Nothing from the defendant, Your
23 Honor.

24 (The jury entered the courtroom at 11:21 a.m.)

25 THE COURT: All right. Welcome back, ladies and

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1 gentlemen. Continue to give the parties your complete and
2 undivided attention.

3 Solicitor, you may call your next witness.

4 MR. MCNAIR: Thank you, Your Honor. The State
5 calls Sergeant Traci Barr.

6 THE COURT: Sergeant Barr, can you come around and
7 be sworn for us please?

8 TRACI BARR,
9 having been duly sworn, testified as follows:

10 THE CLERK: Have a seat ma'am. Once you're seated,
11 state your full name spelling your last please.

12 THE WITNESS: Tracy Michelle Barr, B-A-R-R.

13 **DIRECT EXAMINATION**

14 **BY MR. MCNAIR:**

15 Q Will you give the jury a little bit of background
16 on your law enforcement experience?

17 A Certainly. In January of 2000, I graduated from
18 the South Carolina Criminal Justice Academy. Through the
19 course of my investigation or career, I become a major
20 crime detective in 2003 and obtained a Bachelor's Degree in
21 Psychology. I've taken additional continuing education
22 hours of training on cases involved with child homicide,
23 physical and sexual abuse of children, and vulnerable
24 adults.

25 Q How long have you been an investigator for?

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1 A Since 2003, so roughly, nearly 15 years.

2 Q And are you in a special section of the major
3 crimes unit with the sheriff's department?

4 A Correct. I'm the supervisor of the special
5 victim's unit in the major crimes division.

6 Q And what types of cases do you investigate in the
7 SVU?

8 A We investigate violent crimes against persons,
9 child sexual and physical abuse cases, child pornography,
10 and child homicides.

11 Q Now, when did you first become involved in the
12 death investigation of ?

13 A My initial investigation began when Lieutenant
14 Frier called me around 5:30 p.m. on June 26th, 2016. At
15 that point in time, he had advised me that there was a
16 death of a seven month old infant named at
17 Weaver Drive, Lot

18 Q All right. And what were the first actions you
19 took on this case?

20 A At that point in time, once I was advised of the
21 child death, it's routine for detectives to be called to
22 the scene, gather a search warrant, collect evidence, and
23 further the investigation. I contacted Detective Kempler
24 and Detective Booth along with CSI Keith Sprinkle. I asked
25 them to respond to the Weaver Drive location to gather any

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1 statements and secure the scene while I obtained the search
2 warrant.

3 Q All right. And did you, in fact, obtain a search
4 warrant for that residence?

5 A I did.

6 Q And did you deliver it to that residence?

7 A I did.

8 Q Were you involved in the search?

9 A I was not.

10 Q All right. When did you actually leave that
11 location?

12 A At that point, probably around 7:30 p.m. that
13 night, I arrived at the Lexington Medical Center where I
14 met with the Coroner Margaret Fisher, Lieutenant Scottie
15 Frier, and the medical staff.

16 Q All right. Did you observe at that
17 point?

18 A I did. I saw in ER Room 63. At that point
19 in time, I noticed extensive trauma to her head, which is
20 one of the worse cases I've ever seen. She had bruising to
21 her front, back and left side of her head.

22 Q All right. Did you have -- had you talked to --
23 did you talk to Ms. Lawson at the hospital?

24 A I had not seen Ms. Lawson at that time.

25 Q Were you informed of what Ms. Lawson's version of

Traci Barr - Direct Examination by Mr. McNair

1 events was?

2 A Later that evening, yes.

3 Q All right. And after seeing and
4 knowing what Ms. Lawson had stated, what did you do?

5 A At this point in time, after discussing this with
6 Lieutenant Frier and Detective Creech, I had contacted Dr.
7 Susan Luberoff, who was our forensic pediatrician. We
8 often consult with her on child abuse cases.

9 Q All right. And did Dr. Luberoff come to the
10 hospital that night?

11 A She did.

12 Q Did she examine Victim ?

13 A She did.

14 Q Were you present during her examination?

15 A I was.

16 Q Did she inform you of her opinion?

17 A She did.

18 Q All right. And after speaking to Dr. Luberoff,
19 what did you do?

20 A At this point in time, after learning that the
21 force and impact could not have been caused from --

22 MR. WILLIAMS: Objection, Your Honor.

23 THE COURT: All right. That would be hearsay.

24 What did you do -- after your conversation with Dr.
25 Luberoff, what did you then do?

Traci Barr - Direct Examination by Mr. McNair

1 THE WITNESS: At this point in time, Detective
2 Creech and I discussed having a more appropriate location
3 to interview Heather Lawson.

4 BY MR. MCNAIR:

5 Q All right. What did you do at that point?

6 A I had spoken with Heather Lawson and asked if she
7 would be willing to ride with us to the sheriff's
8 department for further investigation and she agreed to do
9 so.

10 Q She indicated she would be willing to go to the
11 sheriff's department?

12 A Yes. Prior to leaving the ER that night, I spoke
13 with her mother, April Lawson, and Heather -- Heather's
14 grandmother, May Lawson out of respect for them to let them
15 know she agreed to ride with us to the sheriff's
16 department.

17 Q All right. And how did Ms. Lawson get transported
18 to the sheriff's department?

19 A She rode in the front seat with me.

20 Q All right. Was she in custody at that point?

21 A She was not. I even advised her she was not under
22 arrest.

23 Q Okay. So she was not handcuffed?

24 A No.

25 Q Where did she ride in your vehicle?

Traci Barr - Direct Examination by Mr. McNair

1 A In the front seat.

2 Q Now, during the ride in your vehicle, did you
3 advise her of anything?

4 A Yes, I -- at this point in time, I gave her verbal
5 Miranda. I let her know that she did not have to speak
6 with law enforcement. She could stop answering questions
7 at any time. If she did agree to speak with us and could
8 have an attorney present if she wished to.

9 At that point in time, after giving her verbal
10 Miranda, she did not at any time ask for an attorney or ask
11 to be taken back to her mother and grandmother.

12 Q All right. Did she appear to understand those
13 rights when you informed her of those?

14 A She did. She was of clear mind.

15 Q And she indicated she was still willing to go to
16 the sheriff's department and speak with you?

17 A Yes, she did.

18 Q Now, during the ride in your vehicle, did you
19 attempt to ask her any questions about the case?

20 A No, I specifically did not ask her any questions
21 directly related to Victim injuries, Victim or the
22 incident in question.

23 Q So what happened when y'all got to the sheriff's
24 department?

25 A We met with Detective Creech at headquarters and at

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1 that point in time, we went into the Interview Room 3. I'd
2 let Heather know that, you know, at this point in time, we
3 just needed to know exactly what had happened to Victim
4 because we were still unsure. She was not developed as a
5 suspect. We were still trying to gather facts and -- and
6 information to determine exactly who did something to
7 Victim and what happened to Victim

8 Q All right. And in your experience in handling
9 investigations like this is establishing a timeline an
10 important thing to do?

11 A It's critical, yes.

12 Q All right... And did you have a firm timeline at
13 that point?

14 A We did not.

15 Q So you escorted Ms. Lawson into the interview room,
16 correct?

17 A Yes.

18 Q And it was you, Detective Creech, and Ms. Lawson?

19 A Correct.

20 Q All right. Was she handcuffed?

21 A She was not.

22 Q Was she again advised of her Miranda Rights?

23 A She was. We have a suspect statement form, which
24 has the Miranda outlined on that front page and we had one
25 of those with us at the time.

Traci Barr - Direct Examination by Mr. McNair

1 Q All right. I'm going to show you State's Exhibit

2 30. Do you recognize that?

3 A Yes.

4 Q Is that the form you were referring to?

5 A Yes, sir.

6 Q All right. Detective Creech just recently
7 testified about this, but do you -- tell the jury how she
8 was advised of her rights?

9 A Okay. When we initially showed Heather the
10 statement form, I put the date -- I wrote the address of
11 521 Gibson Road; and then I time stamped this as 9:41 p.m.
12 as when we began our investigation -- our interview. At
13 this point in time, I asked Heather -- I read this out: I
14 the undersigned -- Heather put her name in her own
15 handwriting -- am 22 years old.

16 I further stated that, My date and place of birth
17 for Heather, she indicated that she was born on the 8th of
18 May, 1994 in South Carolina. She further wrote her address
19 where she resides at Weaver Drive, Lot in Lexington
20 County.

21 Q All right. Now, these enumerated rights, one
22 through five, who warned her of those rights? Did you read
23 those to her?

24 A I did.

25 Q All right. And whose initials are those beside

Traci Barr - Direct Examination by Mr. McNair

1 each and every right?

2 A Those are Heather Lawson's.

3 Q All right. And she indicated she wished to waive
4 those rights and speak to you and Detective Creech at that
5 time?

6 A Yes.

7 Q Now, Detective Creech has already testified
8 extensively to the content of that first statement.

9 A Yes.

10 Q Specifically do you recall when she was asked about
11 her activities the day of June 26th, 2016?

12 A Yes.

13 Q Do you recall what her response was?

14 A She said at around 1:40 to 2 p.m. she laid Victim
15 down for a nap. She cleaned and bathed the kids, her other
16 two kids, and cooked supper.

17 Q Okay. Now after that interview was concluded, what
18 decision was made?

19 A Based on the fact that she had inconsistent
20 stories, admitted to lying, she was the only one in the
21 home at the time capable of the cause these injuries, we
22 made the decision to place her under arrest.

23 Q All right. And did you take her into custody at
24 that point?

25 A We did. We escorted her from the interview room

Traci Barr - Direct Examination by Mr. McNair

1 back to the detention center.

2 Q All right. And what was the date and time when you
3 took her into custody?

4 A That was June 27th around 1:25 a.m.

5 Q All right. At that point did you escort her to the
6 detention center to be booked in?

7 A Yes, I did.

8 Q Were you present during that process?

9 A Detective Creech and I were there, yes, sir.

10 Q Now, when somebody is booked into the detention
11 center, do they collect any personal property that may be
12 on them?

13 A They do.

14 Q All right. And you were present when her personal
15 property was collected from her?

16 A I was.

17 Q Was one of those items on her person a cell phone?

18 A Yes.

19 Q Did you collect that item?

20 A I did.

21 (State's Exhibit Number 31 was marked for
22 identification.)

23 BY MR. MCNAIR:

24 Q I'm going to show you what's -- I'm going to you
25 what's been pre-marked as State's Exhibit 31. Can you

Traci Barr - Direct Examination by Mr. McNair

1 identify this?

2 A Yes.

3 Q What is that?

4 A That's Heather's cell phone.

5 MR. MCNAIR: Your Honor, we'd offer State's 31 into
6 evidence at this time?

7 MR. WILLIAMS: Without objection, Your Honor.

8 THE COURT: State's 31 is in evidence without
9 objection.

10 (State's Exhibit Number 31 was entered into
11 evidence.)

12 BY MR. MCNAIR:

13 Q Now, after Ms. Lawson was arrested on the 27th, did
14 you have another occasion to speak to her?

15 A Yes.

16 Q When was that?

17 A On June 27th I learned of the autopsy findings that
18 the cause of death was from blunt trauma to the head.

19 MR. WILLIAMS: Objection to that, Your Honor, it's
20 hearsay.

21 THE COURT: Sustained.

22 BY MR. MCNAIR:

23 Q All right. After that first interview, did you
24 have occasion to speak with the pathologist in this case?

25 A I learned from crime scene.

Traci Barr - Direct Examination by Mr. McNair

1 Q Okay. The results of the autopsy?

2 A Yes.

3 Q All right. And after you learned results of the
4 autopsy, you went to go speak with Ms. Lawson again?

5 A Correct.

6 Q All right. And what was the date of that
7 interview?

8 A This was on June 28th at around 10:30 a.m. the next
9 -- the next morning, with Detective Livingston.

10 Q All right. Detective Livingston? It was you and
11 Detective Livingston?

12 A Yes.

13 Q And where did that interview take place?

14 A In the Interview Room 3.

15 Q All right. And clearly at this time, she's in
16 custody and she's under arrest, correct?

17 A Correct.

18 Q Did you advise her once again of her Miranda
19 Rights?

20 A I did.

21 Q How did you do that?

22 A At this point in time, what I did was, because I
23 had my case file with me, I had the original first
24 statement she had given to Detective Creech and I. I
25 reread and went over the Miranda Rights that she had

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1 initialed previously because this was a continuation of the
2 initial interview with her. At that point in time, on the
3 secondary statement form, which was a continuation, I wrote
4 Miranda still applies and was understood.

5 Heather was of clear mind. She was willing to
6 speak with us and answer any questions and she even
7 initialed where she understood that this was a continuation
8 of that interview and that she understood those Miranda
9 Rights.

10 Q All right. So she appeared to understand her
11 rights?

12 A Yes.

13 Q Did she voluntarily waive those rights?

14 A Correct.

15 Q Now, I think Detective Creech testified about this
16 earlier, but can you talk a little bit about the format of
17 how you conduct an interview?

18 A Sure. Typically what we do in any situation of
19 interviewing someone is that we -- we have a conversation
20 first to try to gather facts and take notes during that
21 interview at that time. At that point, we then go into a
22 question and answer, which is what we did in this case
23 also.

24 Q All right. So you talked to them just verbally?

25 A Yes.

Traci Barr - Direct Examination by Mr. McNair

1 Q And at the conclusion of that conversation you ask
2 them put whatever y'all talked a into a written statement?

3 A Correct.

4 Q Are there some things that they may tell you
5 verbally that don't necessarily make their way into the
6 written statement?

7 A Yes, that happens often.

8 Q All right. And during this interview, were you
9 taking notes?

10 A I was. I converted those notes into a word
11 document on my computer to maintain that supplemental
12 report.

13 Q All right. So will you tell the jury just the
14 nature of that conversation and what you -- what you asked
15 her about and what her responses were?

16 A So at this point in time, after I advised Miranda
17 Rights to Heather, I asked her if she and Richard, while
18 Richard was at the house that day, during his visit if he
19 had seen Victim Heather indicated that Richard saw Victim
20 when he walked in -- his way inside and outside, but at no
21 time did she place him alone in the room with him. She
22 even indicated that she had asked him not to bother Victim
23 because she was sleeping at the time and that she also knew
24 this because of the way out of the home.

25 Q All right. So based on that statement, she

Traci Barr - Direct Examination by Mr. McNair

1 indicated she was with Richard when he left the home that
2 day?

3 A Correct.

4 Q And then she had asked him not to bother Victim

5 A Correct.

6 Q Because she was sleeping?

7 A Yes.

8 Q All right. And then?

9 A And then I further advised Heather of the autopsy
10 results that Victim death was from blunt force trauma to
11 her head. I confronted her about her previous inconsistent
12 statements and at this point in time, she began to cry.
13 Heather stated that on Thursday the 23rd, Victim fell forward
14 from her playpen after pulling herself up and possibly
15 striking her head on the floor. Heather continued to say
16 that the playpen, Is in bad shape and probably gave out.

17 Heather also said she didn't feel that Victim
18 injuries were worth a doctor's visit and believed to be
19 okay. Heather further stated that Victim continued to act
20 normal. And this was on Thursday and Friday the 24th.

21 Q All right. So the Friday would have been when?
22 The 24th?

23 A Yes.

24 Q Okay. All right. Continue.

25 A At this point in time, we asked Heather did she

Traci Barr - Direct Examination by Mr. McNair

1 remember any other times where Victim was injured. And she
2 answered, on Saturday, around 8 to 9 p.m. I got Victim out of
3 her stroller and when walking into the office, she hit her
4 head on the right back side of the doorway. After she
5 fell, I grabbed her and I was in a hurry trying to get back
6 up to the front, and in doing so, she may have hit the left
7 side of her head on the doorway while I was closing it
8 trying to get around up front, indicating that she was at
9 the store at the time. Victim and June, her older siblings,
10 were playing on the floor.

11 And another instance Heather mentioned, she stated
12 that June had pushed her over causing Victim to hit her head
13 on the toy which was on the floor.

14 Q Can I stop you right there?

15 A Sure.

16 Q She said June pushed Victim and Victim hit her head on
17 a toy?

18 A Yes.

19 Q Is that consistent with the previous statement she
20 gave concerning that incident?

21 A At this point, she had given numerous -- numerous
22 statements or versions of how these injuries occurred and
23 so it was -- it was difficult to followup on exactly which
24 one she was referring to.

25 Q All right. Do you recall one time she said John

Traci Barr - Direct Examination by Mr. McNair

1 pushed Victim over --

2 MR. WILLIAMS: Objection to leading.

3 THE COURT: Rephrase the question, Solicitor.

4 BY MR. MCNAIR:

5 Q Do you recall if she stated whether or not anybody
6 else had pushed Victim over?

7 A I learned from Lieutenant Creech that that had been
8 mentioned.

9 Q Okay. All right. Please continue with what she
10 told you.

11 A So at this point in time, Heather further advised
12 that Victim cried a little and acted fine shortly before she
13 continued to play on the floor. Heather had mentioned
14 taking Victim to play with other children on Saturday the
15 25th. And again stated, Victim appeared to be fine. Heather
16 also mentioned during that conversation that she had taken
17 a photo of Victim and uploaded that photo to a Facebook
18 account that she had and also sent her mother that image.

19 Q All right. And what did you do at that point?

20 A At that point in time, I used my phone to pull up
21 the Facebook account to verify which photo she was actually
22 describing and she pointed the particular photo in question
23 out.

24 Q Okay. And when did she say that photo was taken?

25 A She said that that photo was taken Saturday on the

Traci Barr - Direct Examination by Mr. McNair

1 25th.

2 (State's Exhibit Number 32 was marked for
3 identification.)

4 BY MR. MCNAIR:

5 Q Okay. I'm going to show you what's been premarked
6 as State's Exhibit 32; can you identify that?

7 A That's the photo that she pointed out.

8 MR. MCNAIR: Your Honor, we'd offer State's 32 into
9 evidence at this point.

10 MR. WILLIAMS: No objection, Your Honor.

11 THE COURT: May I see it please?

12 MR. MCNAIR: Yes, sir.

13 THE COURT: State's 32 is in evidence without
14 objection.

15 (State's Exhibit Number 32 was entered into
16 evidence.)

17 BY MR. MCNAIR:

18 Q All right. And she stated this photo was taken on
19 the 25th?

20 A Yes.

21 Q And that would have been the day before Victim
22 died, correct?

23 A Correct.

24 Q Do you know which baby in this picture is Victim

25 A Victim in pink.

Traci Barr - Direct Examination by Mr. McNair

1 Q Did you observe bruising on the back of her head?

2 A I did not even question her about it.

3 Q All right. And she stated that Victim was fine on
4 the 25th?

5 A Yes.

6 Q All right. Please continue with the remainder of
7 her statement.

8 A Heather went on to say that shortly after that play
9 date, she had to go to work and was running behind. So
10 while rushing to get the kids together for her shift, she
11 quoted it was possible that she struck Victim head on the
12 door frame at the gas station. Heather also said that
13 since she was running late, Victim seemed to be okay so she
14 placed her in an upright cigarette box at the store.

15 While working her shift, she later heard Victim
16 crying. She went into the office where Victim was in that
17 cigarette box and found her lying on the floor. Heather
18 then said that she snatched Victim from the floor and rushed
19 back to the customer counter.

20 Q Now, when you used the word snatched, is that your
21 work or is that her word?

22 A She quoted that word.

23 Q Okay.

24 A At this point in time, Heather said, The office
25 door, in a quote, The office door is very small. She

Traci Barr - Direct Examination by Mr. McNair

1 thinks she hit Victim head against the corner of the door
2 while leaving the office and then Victim eventually stopped
3 crying. She later asked Richard if she could take Victim to
4 the doctor; she thought Victim needed to be taken to the
5 doctor. He indicated she has stopped crying and seemed
6 fine; she shouldn't take Victim to the doctor.

7 Heather further advised that once she -- once she
8 was off work that evening, she loaded the children in the
9 car and may have it, I quote, may have hit Victim head on
10 the car while putting her in the car seat prior to driving
11 home.

12 Q All right. Let me stop you right there. This is
13 the first time any of those incidents have been disclosed
14 by Ms. Lawson, correct?

15 A Yes.

16 Q Okay.

17 A Heather further advised that when she arrived home
18 J.P. began running around the yard; this was approximately
19 11:44 p.m. She said while J.P. was running around the
20 yard, she began to take June and Victim inside the house.
21 Heather said that Victim was crying uncontrollably, which she
22 quoted and after waking up, when walking into the house,
23 she tripped over the stroller and fell into the playpen.

24 Heather further indicated that she changed her
25 story because she was frustrated and tired and then when

Traci Barr - Direct Examination by Mr. McNair

1 A Correct.

2 Q And she felt her wrapped in a blanket?

3 A Correct.

4 Q Okay. Please continue.

5 A Heather said Victim was lying on her back with her,
6 quote, her face looked dead. Heather then called Richard
7 on the phone, but he didn't answer. So she left the house
8 with -- leaving Victim J.P., and June inside and went down
9 to Richard's ex-girlfriend's house, where she, quote, knew
10 he would be.

11 Heather told Richard that Victim was dead and they
12 both ran back to the house and called 9-1-1 at this point.

13 Heather thinks this was around about four minutes
14 after 5 and Victim -- when she called 9-1-1. She further
15 said that the operator asked if she would do CPR, but I,
16 quote, I knew she was dead, so I didn't want to try it; I
17 didn't even move her.

18 Q That's a direct quote from Ms. Lawson?

19 A Correct.

20 Q I knew she was dead so I didn't want to try?

21 A Right.

22 Q I didn't even move her?

23 A Yes.

24 Q And that was in response to the 9-1-1 operator
25 trying to get her to do CPR?

Traci Barr - Direct Examination by Mr. McNair

1 A Yes.

2 Q Okay.

3 A Heather first said that after speaking with the
4 operator for a little while, Richard took Victim out of the
5 playpen and was going to do the CPR; was speaking to the
6 operator and then at that point, EMS arrived while he was
7 doing so.

8 Q What else did you ask her about?

9 A I asked Heather if she would be willing to write us
10 a statement and she agreed. At that point in time, I
11 stepped out of the room, I believe, and went to go get her
12 a bottle of water. Detective Livingston, Haley Livingston,
13 was in the room with her at that time, for a brief moment.
14 When I returned, Detective Livingston instructed Heather to
15 repeat what she had just stated while outside of my
16 presence.

17 At this point in time, Heather states that, quote,
18 I swear that's what happened. She hit her head a bunch of
19 times; I didn't do anything to help her and she died; it's
20 my fault, end quote.

21 Q What did you ask her after that?

22 A At this point of the conversation, I asked Heather
23 if there were any other times where she hit her children
24 accidentally or intentionally. Heather said she never
25 wanted kids and there were several times she told Richard

Traci Barr - Direct Examination by Mr. McNair

1 to, quote, This is why I hate children, end quote. Heather
2 mentioned that she has slapped June and J.P. on the back of
3 their heads when frustrated in the past. I asked her to
4 further explain this and she said in the past, June and
5 J.P. had eaten and drank about three sippy cups; they kept
6 crying and the wanted more to eat. She would, quote, smack
7 or pop them on the back of the head and tell them to shut
8 up and hush, and that was a direct quote from her, to hush
9 and shut up.

10 Q Popped them on the back of the head when they were
11 crying?

12 A Correct.

13 Q What else did you ask her about?

14 A At this point in time, I asked her if she had ever
15 hit Victim that way. Victim was seven months old and we knew
16 that J.P. and June were one and three years old, but
17 Heather denied hitting Victim this way. She said there were,
18 quote, many times she just wanted to, quote, just strangle
19 them, end quote. Heather said, quote -- Heather said, they
20 messed up plans that she had for the future, which appeared
21 to resent her children..

22 Heather continued to say that she, quote, never hit
23 Victim like that, end quote; and that Victim was the only one
24 that really wanted to do, she won't -- let me stop for a
25 second. At this point, her additional quote was, Victim was

Traci Barr - Direct Examination by Mr. McNair

1 the only one I really wanted anything to do with. She was
2 the only one I wanted to hold and have near me as a baby,
3 end quote. Heather stated, quote, I have never been a baby
4 person; I wanted to adopt older children if I ever decided
5 to have any, end quote.

6 At this point, Heather mentioned, she quoted, I
7 wouldn't actually hurt any of my kids. I know I shouldn't
8 have said some of those things, but they were just
9 thoughts, end quote. Heather indicated that she was
10 overwhelmed with everything in her life.

11 Q After you finished talking to her, did you then ask
12 her to give a written statement?

13 A Yes, we did.

14 (State's Exhibit Number 33 was marked for
15 identification.)

16 BY MR. MCNAIR:

17 Q I show you State's 33; do you recognize that?

18 A Yes, sir.

19 Q Is that the written statement you've previously
20 testified to?

21 A Yes, sir.

22 Q That was done in the presence of you and Detective
23 Livingston?

24 A Correct.

25 Q This was after you read her Miranda?

Traci Barr - Direct Examination by Mr. McNair

1 A Correct.

2 Q And She appeared to understand her rights.

3 A Yes.

4 Q To the best of your knowledge, she voluntarily
5 waived all those rights?

6 A She did.

7 MR. MCNAIR: Your Honor, we'd offer State's 33 into
8 evidence at this point.

9 MR. WILLIAMS: Without objection, Your Honor.

10 THE COURT: State's 33 is in evidence without
11 objection.

12 MR. MCNAIR: It's Court's 2, Your Honor.

13 THE COURT: Excuse me?

14 MR. MCNAIR: It's Court's 2 as well.

15 THE COURT: All right.

16 (State's Exhibit Number 33, was entered into
17 evidence.)

18 BY MR. MCNAIR:

19 Q Do you have a legible copy of that up there with
20 you?

21 A Yes, I do.

22 MR. MCNAIR: Permission to publish, Your Honor?

23 THE COURT: Yes, sir, of course.

24 BY MR. MCNAIR:

25 Q All right. Would you just, I guess, when you did

Traci Barr - Direct Examination by Mr. McNair

1 this statement, I see there's writing there in blue and
2 there's writing in black underneath that. So what's the
3 format of that?

4 A Correct. So one of my common practices when I take
5 statements from people, I use a blue pen and then I use
6 them to use a black pen so you can differentiate whose
7 writing what. Detective Livingston was also in the room at
8 the time and so I believe this first sentence, the first
9 question, Do you remember any other times Victim was injured?
10 This is a question written by Detective Livingston in my
11 presence. If you -- above that, where it says Miranda
12 still applies and was understood. Below the word
13 understood, you can see the HL; that's Heather Lawson's
14 initials, my initials are to the top of that next to the
15 word understood and then Detective Henry Livingston's
16 signature.

17 At the beginning of this -- what we do is we go
18 through the entire written statement question and answer,
19 and once that's complete, that's when we then obtain
20 signatures and initials for any -- any scribble marks on
21 the page where there's any errors that she had made.

22 Q All right. Will you just go through and read the
23 questions and answers that Ms. Lawson gave?

24 A Sure. So the first question is, Do you remember
25 any other times Victim was injured? Heather's answer in her

Traci Barr - Direct Examination by Mr. McNair

1 own writing, On Saturday around 8 or 9 p.m. I got Victim out
2 of the stroller. When I'm walking to the office, she hit
3 her head, the right back side on a doorway. After she fell
4 and I grabbed her, I was in a hurry trying to get back to
5 the front and in doing so, she may have hit the left side
6 of her head on the door while I was closing it trying to
7 get around to get up front.

8 The second question, which is in my handwriting
9 was, Which arm were you holding Victim in? And again,
10 Heather answered in her own handwriting, Victim was in my
11 right arm, she was looking towards my left side when I was
12 walking into the office. After grabbing her, she was in my
13 left arm and her head was facing my right side. The first
14 time hitting her head going into the office was before she
15 fell. And the second time, the second leaving the office,
16 was after she fell out of the cardboard box.

17 I then asked the next question. Do you remember
18 any other time recently where you know of Victim hitting her
19 head. And Heather answered, Sometime in the last two weeks
20 she was crawling on the kitchen -- heading into the living
21 room and she fell and hit her -- fell head first off the
22 3-inch step. This was something that had been mentioned
23 earlier at the hospital. I believe grandmother, May
24 Lawson, had mentioned that. But at this point in time,
25 based on what we had determined, that was not something

Traci Barr - Direct Examination by Mr. McNair

1 consistent with the injuries that she had sustained.

2 Q Well you saw a picture from the 25th of Victim
3 too, correct?

4 A Yes. Excuse me. The next question I asked was,
5 Tell me about the last time you fed Victim And Heather
6 answered, Sunday between 9 a.m. and 10 a.m. I fed Victim some
7 pear baby food, about 2 tablespoons. She didn't take it
8 that well. I gave her an 8 ounce bottle of formula and she
9 ate it and threw it up -- then threw it up.

10 My next question to her was that, Did you take the
11 photo of Victim with Baby Bryson on Saturday, the photo I
12 showed you and I was referencing a Facebook photo that she
13 had mentioned to us in that interview. At this point in
14 time, Heather answered, Yes, I took them for my mom between
15 1:30 and 2 p.m. because she hadn't seen them in a while.
16 If you notice the initial next to the word while is in
17 Heather Lawson's handwriting.

18 Going on to this next page, Describe what you
19 remember about Victim lying in her playpen on Sunday.
20 Heather answered, Around 12 p.m. I checked on Victim She
21 was lying on her back with her shirt pulled up above her
22 stomach. I seen her tummy moving and left her alone.

23 Through the course of our interview, she had
24 mentioned some things about slapping June and J.P. so I
25 wanted to document that as well. You mentioned a history

Traci Barr - Direct Examination by Mr. McNair

1 of slapping June and J.P. in the back of the head when
2 frustrated. Please further explain. In the past, after
3 June and J.P. had eaten and drank about 3 sippy cups, they
4 would keep crying for more. So I would finally, after
5 telling them no, you will get sick if you drink and eat
6 anymore, I would pop them on the back of the head and tell
7 them to hush.

8 At this point in time, that's when we addressed
9 that question, Was there any -- Was there ever a time when
10 you hit Victim in the head this way. Heather answered no.

11 My next question to Heather was, On Sunday after
12 finding Victim under the blanket, explain what steps you took
13 next. Heather answered, After I seen Victim, I tried to call
14 Richard; he did not answer; so I ran to him. It was about
15 5:14 when I called him. I couldn't get the words out. I
16 ran to Richard's house and I collapsed on the porch.
17 Rachelle helped tell Richard what I was trying to say. Me
18 and Richard went back to the house and I called 9-1-1 still
19 hardly able to get the words out. It was about 5:18 when I
20 called 9-1-1.

21 I asked Heather, When you found her this way, did
22 you pick her up or try CPR? Heather's answer, I did not
23 move her. The lady on the phone was about to walk Richard
24 through CPR. So he picked her up and laid her on the
25 floor.

Traci Barr - Direct Examination by Mr. McNair

1 I asked Heather, Do you remember any other times
2 that Victim has fallen, been injured or been hit since
3 Thursday? She answered, On Thursday afternoon, I was in
4 the living room and I heard a loud noise and Victim started
5 screaming. I ran in there and she was lying on the floor,
6 back down, crying. She was in the playpen and fallen out.
7 I picked her up and held her; she stopped crying and
8 carried her into the living room with me. She was back
9 crawling around and laughing within 30 minutes. From
10 Thursday to Sunday, she fell out of the playpen on
11 Thursday, she hit her head on a toy on Friday, and on
12 Saturday is when everything happened at work.

13 My next question to Heather was, Have you ever had
14 thoughts or made comments about harming your three kids?
15 Heather answered, I have never thought about hurting any of
16 my kids. I have made comments I didn't mean. I said I
17 hate kids and when they were bad, I have said I felt like
18 strangling them, but I never thought about doing it.
19 Before my son was born, I had never held a baby or changed
20 a diaper. I was never a baby person. I had planned on
21 never having kids of my own. I planned to adopt kids
22 around 4 or 5 years of age.

23 At this point, I asked Heather, When you spoke
24 about Victim being put into the playpen, describe how this
25 happened? Heather answered, When I was putting Victim in the

Traci Barr - Direct Examination by Mr. McNair

1 playpen Saturday night after I tripped over the stroller, I
2 went to the playpen, I felt her slipping but didn't try
3 catching her; I just let her fall into the playpen.

4 I then asked Heather, Was this an accident of you
5 basically dumping her into the playpen, because she didn't
6 initially use the word dump, and previously used the word
7 dropped prior to that. Heather answered, It started out an
8 accident. I was tired and when I realized she was falling,
9 I didn't do anything to stop it. I just let her fall into
10 the playpen without doing anything to prevent it. She was
11 already crying before she fell on the playpen and I didn't
12 check on her. I just went outside to get J.P. Then when I
13 got back in -- got inside, I locked the door and went to
14 the living room, took my clothes off, put Family Guy on and
15 laid down.

16 Was there any other time when you dumped her into
17 the playpen, floor, or someplace else? Heather answered,
18 No, that was the only time.

19 I generally give the question of, Is there anything
20 else you'd like to say prior to ending my interviews so it
21 gives someone an opportunity to fully express anything that
22 we didn't cover that they want placed in their written
23 statement. At this point in time, my question was, Is
24 there anything else you need to tell us and Heather
25 answered no.

Traci Barr - Cross-Examination by Mr. Williams

1 I then asked her the question and referred back to
2 the original statement where she had indicated no threats
3 or promises or coercions were used against her. So I
4 asked, Has anyone else made threats or promises or
5 coercions to you for this statement. And Heather's answer
6 was no and she initialed next to the word no.

7 Under -- Excuse me.

8 Q You can go.

9 A This ended at 11:11 p.m. on the 28th and those are
10 my initials below that date.

11 Q Okay. And in all of your conversations with Ms.
12 Lawson, did she appear clear headed and understand what she
13 was doing?

14 A Yes, she did.

15 Q At any time, did anybody force, promise, or
16 threaten her to give a statement?

17 A No, sir.

18 MR. MCNAIR: I have no further questions, Your
19 Honor.

20 THE COURT: Thank you, Solicitor.

21 Mr. Williams?

22 MR. WILLIAMS: May it please the Court.

23 THE COURT: Yes, sir.

24 **CROSS-EXAMINATION**

25 BY MR. WILLIAMS:

Traci Barr - Cross-Examination by Mr. Williams

1 Q Sergeant Barr, again, when these interviews were
2 being done, there's no recordation that you did in terms of
3 a tape recording or anything like that?

4 A No, sir.

5 Q And the statement, the oral recitation, which you
6 gave was similar, but was not exact to the written
7 statement that she wrote?

8 A Correct.

9 Q In any oral or written statement, did she ever say
10 that she ever struck Victim and harmed Victim by striking Victim

11 A She denied doing so.

12 Q In almost every statement we've heard so far,
13 there's been a litany of she bumped her head so at this
14 place, she bumped her head so at this place, she bumped her
15 head at this place; correct?

16 A Correct. Yes.

17 Q And we know, don't we, that she had the child on
18 June the 25th visiting with a cousin and she took a picture
19 with Victim along with this other child, it's a cousin of
20 Victim so that she could send a copy of the picture to her
21 mother, right?

22 A Correct.

23 Q And that would be State's Exhibit Number 32. So we
24 have at least a physical -- a picture showing the physical
25 condition of Victim head on the date of June the 25th of

Traci Barr - Cross-Examination by Mr. Williams

1 2016, right?

2 A Correct.

3 Q So when she said that she might have bumped her
4 head or did something like that, obviously the bump wasn't
5 that bad?

6 A Which bump are you referring to?

7 Q Well, let's talk about any of the bumps that she
8 had because we have a picture of the child on June the 25th
9 of 2016. We also have somewhere -- we have a video in the
10 convenience store showing Victim showing Heather, showing
11 the child falling in the box. It clearly shows Victim
12 condition that night, doesn't it, because you've looked at
13 it, haven't you?

14 A I have.

15 Q It shows her picking the child up and hugging the
16 child, doesn't it?

17 A I believe so. It's been a while since I've seen
18 that video..

19 Q And this -- this video was taken June the -- let's
20 see, it would be Saturday; it would be Saturday night, so
21 it's -- it's going to be the condition of Victim on Saturday
22 night all the way up until the child is leaving the
23 workplace?

24 A Correct.

25 Q So all these bumps, all these might have done that,

Traci Barr - Cross-Examination by Mr. Williams

1 might have done that; it's not reflective on these
2 pictures, right?

3 A Which is what raised suspicions.

4 Q Okay. So that raised your suspicion that whatever
5 damages happened to Victim happened on Sunday, correct?

6 A Correct.

7 Q Okay. Now -- now I guess I'm simplifying things.
8 So you've got -- you've got Heather saying that anything
9 that she might have done would have been the bumping, the
10 dropping and stuff like that; there's no evidence of that
11 is there? No physical evidence of that?

12 A Correct.

13 Q Then you have a child which obviously has
14 tremendous damages done to her?

15 A Yes.

16 Q Which would indicate that in every written
17 statement, she says she didn't do it; she didn't harm the
18 child, she didn't hit the child. The only thing she --
19 she's admitted that she's done, there's no physical
20 evidence that that's harmed the child, is there?

21 A Her explanations just didn't add up.

22 Q But in terms of what she has said, what she's
23 admitted to doing, there's no evidence that whatever she
24 did, that would be considered incorrect; there's no
25 physical evidence of that with this child. What she has

Traci Barr - Cross-Examination by Mr. Williams

1 said on all these written statements and all these oral
2 statements and every other statement she's given?

3 A She's never admitted to that, correct.

4 Q Now, on the written statements that you have, which
5 you've introduced into evidence, one of the things in terms
6 of the Miranda Warnings -- you said instead of having her
7 fill out the form because you were present the first time
8 when the written Miranda Warnings were given?

9 A Correct.

10 Q You went down each and every one --

11 A Yes.

12 Q -- and pointed it out. But you didn't have her do
13 that on this one, correct?

14 A Correct. And that's a common practice of mine.

15 Q Because you're saving paper?

16 A No, sir.

17 Q Because --

18 A That's just how I was taught over the years.

19 Q That you don't have someone go through the Miranda
20 Warnings before she gives a written statement?

21 A I did instruct her on those Miranda Warnings prior
22 that second statement.

23 Q But you had a page, a written page that had the
24 rights written down where they sign off on on the first
25 statement?

Traci Barr - Cross-Examination by Mr. Williams

1 A Correct. And at that point, that's where I
2 indicated the initialed first page of her suspect statement
3 form and re-addressed those Miranda Rights and read those
4 to her and acknowledged that she had previously understood
5 those.

6 Q I believe you said you had the original statement
7 with you?

8 A I believe I did say that, but I can't be certain
9 unless it was a copy.

10 Q Right.

11 A But I believe I did typically with that interview,
12 I would have that original at the time.

13 Q But you can't say you had that original statement?

14 A I'm 99.9 percent sure.

15 Q You can't say that if you had that original
16 statement that you would have had that little first sheet
17 on the first original statement said this?

18 A No, sir, I would have had the entire copy of the
19 first page and all seven pages.

20 Q But nothing in which she can sign saying that she
21 acknowledges each and every right?

22 A She did sign where she acknowledged that Miranda
23 still applied and was understood. She has understood that.
24 She initialed by that in the first in the beginning of that
25 sentence.

Traci Barr - Cross-Examination by Mr. Williams

1 Q Do you normally run into people who know each and
2 every Miranda Warning that they're entitled to?

3 A What's funny is people actually quote -- they watch
4 Cops all the time or Law and Order and that's where they
5 hear that I guess.

6 Q And it's normally not accurate is it?

7 A I wouldn't -- I mean it would be in reference to
8 what they understand, so that's why we made sure that she
9 was clear and understood each of those Miranda's, that she
10 could stop at any time; didn't have to talk with us. She
11 never once asked for a lawyer or asked to leave.

12 Q When did she ever see anybody other than -- she
13 didn't see -- she didn't see family, she didn't see
14 lawyers, she didn't even see a judge until at least two or
15 three days after she'd been in jail, did she?

16 A I believe her bond hearing was on the 27th.

17 Q 27th?

18 A Yes, sir.

19 Q When you took her to the jail, you said out of
20 courtesy, you talked to her mother and grandmother letting
21 them know where she was going, right?

22 A No, sir. When we escorted her to headquarters to
23 investigations for the interview, that's when I, out of
24 respect, let her mom and her grandmother know.

25 Q Out of respect; I don't want to misquote you. Out

Traci Barr - Cross-Examination by Mr. Williams

1 of respect, you let them know where you were taking her
2 daughter?

3 A I let them know that she had agreed to voluntarily
4 go with us to answer any questions.

5 Q And you used the word out of respect because you
6 wanted them to know where you were taking their daughter?

7 A Well, they needed to know where she was going to be
8 headed.

9 Q Right. So did you ask them if they wanted to take
10 the daughter to the jail?

11 A Heather, at that time, had already agreed to ride
12 with me to the sheriff's department voluntarily.

13 Q So I guess the question is, did you ask them
14 whether or not they would take Heather to the jail?

15 A Since Heather had agreed to voluntarily go with me,
16 I didn't think it was necessary to ask their permission.

17 Q The -- and you gave her some oral Miranda Warnings
18 at that time?

19 A I did.

20 Q In the car?

21 A Sure.

22 Q And you gave them to her before she got in the car
23 or riding in the car?

24 A As we were leaving the parking lot of the hospital,
25 I advised her, you know you don't have to speak with us.

Traci Barr - Cross-Examination by Mr. Williams

1 You have the right to remain silent. You're not under
2 arrest; but you -- you have the right to remain silent and
3 anything you say can and will be used against you in a
4 court of law. You have the right to an attorney and have
5 him or her present with you during questioning. And you
6 also have the right to stop answering questions at any time
7 until you have the chance to speak with an attorney.

8 Heather waived those rights, and again, never asked
9 to have an attorney present, never said she wanted me to
10 take her back to her mother and grandmother and she never
11 asked to stop this interview at any point.

12 Q Did you tell her -- how did you tell her she was
13 getting back from the jail?

14 A I don't think we discussed that.

15 Q Did you tell her she was coming -- she was going to
16 leave the jail?

17 A I told her while we were driving to the jail, I
18 told her she was not under arrest at that time. It wasn't
19 until the 27th during the early morning hours, that
20 Detective Creech and I, after that interview realized at
21 this point in time, based on those inconsistencies, the
22 totality of circumstances, and the fact she admitted to
23 lying to us. We made that call to place her under arrest
24 at that time.

25 Q At any point in time, driving to the jail, did you

Traci Barr - Cross-Examination by Mr. Williams

1 tell her that she was not going to be staying at the jail
2 or that she would be coming home or anything like that?

3 A No, sir, because I had no clue at that time. We
4 had not developed her as the initial primary suspect during
5 that part, as we were leaving the hospital. We still just
6 had to develop a timeline, which is critical in these
7 cases. It is very critical to establish who was last with
8 this child, during that timeline and to understand exactly
9 what happened and who inflicted those injuries..

10 Q Did you do any search warrant for Richard Tuckus's
11 car or his home?

12 A After receiving that initial call from Lieutenant
13 Frier that night, part of my responsibilities as a
14 supervisor over that unit, I secured a search warrant and
15 that was Judge Melton, prior to arriving at the hospital.
16 That search warrant was for the residence at Weaver
17 Drive, Lot in Lexington County and that was signed by
18 Judge Melton.

19 Q So in answering my question, you did not get a
20 search warrant for the residence of Richard Tuckus or for
21 his car?

22 A From my understanding, which I was not part of that
23 process, the crime scene process at the scene because I was
24 at the hospital. It's my understanding that Richard
25 Tuckus's vehicle was at the scene within that premises at

Traci Barr - Redirect Examination by Mr. McNair

1 the time of that search warrant, I did not followup with
2 that search warrant at his residence because there was no
3 indication that he was the last person with Victim at that
4 time and there was no indication she was at his residence.

5 Q So there was no search warrant?

6 A No, sir.

7 Q No search, no search warrant?

8 A No, sir.

9 Q No seizure of anything, right; him or his house?

10 A I don't recall.

11 Q You don't recall?

12 A Again, I was not part of that initial crime scene,
13 so I'm not sure if he voluntarily turned anything over to
14 law enforcement at the time.

15 MR. WILLIAMS: I don't have any other questions,
16 Your Honor.

17 THE COURT: Redirect?

18 MR. MCNAIR: Real quick.

19 **REDIRECT EXAMINATION**

20 **BY MR. MCNAIR:**

21 Q Based on anything Ms. Lawson told you, is there any
22 reason to suspect Richard Tuckus was involved?

23 A There was no indication that he was involved, no.

24 Q All right.

25 MR. MCNAIR: No further questions, Your Honor.

Janice Ross - Direct Examination by Ms. Mayes

1 THE COURT: Recross?

2 MR. WILLIAMS: No questions, Your Honor.

3 THE COURT: Thank you. Thank you Sergeant; you may
4 step down.

5 All right. Solicitor, you may call your next
6 witness.

7 MS. MAYES: The State calls Dr. Janice Ross.

8 THE COURT: All right. If you'd come around and
9 join us please, Dr. Ross.

10 JANICE ROSS,

11 having been duly sworn, testified as follows:

12 THE CLERK: Have a seat, Doctor. Once you're
13 seated, state your full name spelling your last, please
14 ma'am?

15 THE WITNESS: Janice Edwards Ross, R-O-S-S.

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

17 THE COURT: Yes... Yes, ma'am.

18 (There was a bench conference out of the hearing of
19 the jury and the court reporter.)

20 THE COURT: Thank you, Mr. Williams.

21 Thank you, Solicitor.

22 Thank you, Dr. Ross.

23 **DIRECT EXAMINATION**

24 **BY MS. MAYES:**

25 **Q** Good day, Dr. Ross?

Janice Ross - Direct Examination by Ms. Mayes

1 A Good day.

2 Q Can you give us some information about yourself
3 beginning with -- with your educational background and
4 training?

5 A Yes, I'm a forensic pathologist. I've been through
6 four years of college at the University of South Carolina,
7 where I got a Bachelor's of Science Degree in Biology.
8 I've been through four years of medical school and then
9 four plus years of training in the field of pathology. So
10 I'm a doctor whose trained in Pathology. Pathology, as
11 opposed to surgery or pediatrics, in Pathology we learn how
12 to identify diseases by using the microscope and by using
13 the laboratory in the hospital and we also learn how to do
14 autopsies to find out the cause of death.

15 Forensic pathology is further training in
16 identifying patterns of injury that would cause a death and
17 then we -- from there, we can identify the manner of death.
18 Cause of death is just what it says, cause of death.
19 Manner of death is how that cause of death came about,
20 whether it was a natural death, a suicide, homicide,
21 accident, or sometimes we can't determine so we say
22 undetermined.

23 And I'm board certified in three areas of
24 pathology, including forensic pathology.

25 Q Dr. Ross, is it possible for you to estimate how

Janice Ross - Direct Examination by Ms. Mayes

1 many autopsies you have conducted throughout your career?

2 A Over 11,000.

3 Q And can you tell us whether or not you've testified
4 previously as an expert in the field of forensic pathology?

5 A Yes, I have.

6 Q Does that include your findings in homicide cases?

7 A Yes.

8 Q And does that include in the criminal courts of
9 South Carolina?

10 A Yes.

11 MS. MAYES: Your Honor, at this time, the State
12 would offer Dr. Janice Ross as an expert in the field of
13 forensic pathology?

14 MR. WILLIAMS: No objection, Your Honor.

15 THE COURT: All right. Mr. Foreman, ladies and
16 gentlemen of the jury, normally a person cannot give
17 opinion testimony. Normally when a person testifies, they
18 must testify as to either what they saw, heard, sensed by
19 smell, or something of that nature. However, there is an
20 exception when someone is qualified in a particular art,
21 science, profession, or calling. They are permitted to
22 give their opinion in certain areas if the Court qualifies
23 them that way.

24 This witness, Dr. Janice Ross, will be qualified in
25 the area of forensic pathology, to give opinion testimony

Janice Ross - Direct Examination by Ms. Mayes

1 in that area and the basis for those opinions. That does
2 not mean that you, the jury, must accept the opinion or
3 opinions, but it is evidence for you, the jury, to use in
4 any way you deem fit and appropriate.

5 Thank you, Solicitor.

6 BY MS. MAYES:

7 Q Dr. Ross, did you conduct an autopsy on Victim
8 Victim

9 A Yes, I did.

10 Q On what date was the autopsy conducted?

11 A That was June 27th, 2016.

12 Q So that would be the day after her death?

13 A Yes.

14 Q Now, exactly how old was she at the date of her
15 death?

16 A We were given the date or the date of birth as
17 11/7/2015 making her seven months old.

18 Q What was her weight at the time of the autopsy?

19 A My scale showed 15 pounds.

20 Q And generally, when you begin an autopsy, did you
21 conduct a physical assessment or examination of the
22 deceased patient?

23 A Yes. We received the patient in the -- in the
24 morgue in the body bag and we open it and we inventory all
25 the clothing. And we do an external examination of the

Janice Ross - Direct Examination by Ms. Mayes

1 entire body, taking photographs as well. And in babies, we
2 also do full body x-rays.

3 Q And what were your general observations regarding
4 her physical condition at the time you conducted this
5 overall physical exam?

6 A She was a well-developed well-nourished young lady,
7 but with a lot of injuries around her head in different
8 parts of the head, including bruises and abrasions.

9 Q Were you able to make a determination as to the
10 cause of her death?

11 A Yes.

12 Q What did you determine that to be?

13 A That was would be the blunt force injury of the
14 head.

15 Q And specifically, were you able to make the
16 determination as to the manner of death?

17 A Yes.

18 Q What was that?

19 A Homicide.

20 Q What is meant among medical professionals by the
21 term blunt force injuries or blunt force trauma?

22 A It just means that there -- the injuries caused by
23 an object that is flat or in other words, not sharp. So
24 it's either being hit with something, an instrument; or
25 falling and hitting your head on the floor or something

Janice Ross - Direct Examination by Ms. Mayes

1 like that.

2 Q All right. And could blunt force trauma include
3 hitting or striking by fists?

4 A Yes..

5 Q And what is it -- how does it affect the brain that
6 may ultimately lead to death when someone has sustained
7 blunt force injuries?

8 A The injury in this case did not cause a skull
9 fracture, but it did cause swelling of the brain, edema is
10 what we relate it to.

11 Q All right. So it's the swelling of the brain that
12 occurs secondary to the blunt force trauma?

13 A Correct.

14 Q And then the swelling of the brain ultimately leads
15 to death?

16 A Correct.

17 Q Now, were you able to actually chart out or diagram
18 your findings of physical injury to Victim

19 A Yes. We -- it's a rough draft. At the time of
20 autopsy, the -- which is not totally patterned, but gives
21 us an idea of where her injuries are.

22 (State's Exhibit Number 34 and Number 35 was marked
23 for identification:)

24 BY MS. MAYES:

25 Q I'm going to show you these two documents and ask

Janice Ross - Direct Examination by Ms. Mayes

1 you whether or not you recognize them.

2 A Yes, those are -- those are some rough draft
3 depictions of where the injuries were on this baby.

4 Q And who actually prepared these diagrams?

5 A I did.

6 Q All right.

7 MS. MAYES: Your Honor, this would be State's for
8 evidence.

9 MR. WILLIAMS: Without objection, Your Honor.

10 THE COURT: That's 34 and 5; 34 and 35?

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

12 THE COURT: Without objection you said, Mr.
13 Williams?

14 MR. WILLIAMS: Yes, Your Honor.

15 THE COURT: All right. 34 and 35 is in evidence
16 without objection.

17 (State's Exhibit Number 34 and Number 35 is entered
18 into evidence.)

19 MS. MAYES: Your Honor, I would ask permission for
20 Dr. Ross to step down from the stand briefly.

21 THE COURT: Yes, ma'am. If you'll give me a moment
22 to get over there also.

23 (The witness stepped down in front of the jury.)

24 (The judge stepped over to see the witness.)

25 BY MS. MAYES:

Janice Ross - Direct Examination by Ms. Mayes

1 Q Dr. Ross, I'm going to begin with State's Number 34
2 and I'm going to ask you, if you can, to step around to the
3 other side so that the court reporter can catch your
4 testimony.

5 Can you take us through -- this would be the front
6 of the patient, being Victim And if you could please
7 take us through each diagram and what you have charted
8 here.

9 A Yes, obviously there's almost a heart-shaped
10 contusion of the mid forehead, there was a contusion over
11 here on the left side of the forehead and one little tiny
12 one over the right forehead that I left out that was very
13 faint, but I -- when we reflected the scalp you could see
14 it. Above that in the frontal scalp was more contusion and
15 abrasions. And this is -- this would be it here, this is
16 another contusion and abrasion over the left back of the
17 head. This depicts more of this one.

18 Q All right.

19 A I'm sorry. There's one also -- at the base of the
20 skull you can feel at the base of the skull there's a
21 linear abrasion right here.

22 Q And now I'll ask you to take a look at State's
23 Exhibit 35. This will be a diagram from a different
24 perspective?

25 A Yes, this looks at the top of the head and this is

Janice Ross - Direct Examination by Ms. Mayes

1 that one that was in the frontal of the scalp and more on
2 the top of the head. And this is the one that's over the
3 back of the head.

4 Q Thank you, you may return.

5 (The witness returned to the witness stand.)

6 BY MS. MAYES:

7 Q Now in addition to documenting your findings in the
8 form of a diagram, did you also have an opportunity to take
9 photographs of such injuries.

10 A Yes, I did.

11 Q And what means or methods do you use during the
12 course of an autopsy to aid you in actually visualizing
13 certain injuries better with the naked eye than maybe you
14 would if you were in a hospital setting?

15 A Well, in this case, we shaved the head -- the hair
16 off the areas of bruising so they could be better defined.

17 (State's Exhibit Number 36, Number 37, Number 38,
18 Number 39, Number 40, Number 41, Number 42, and Number 43
19 was marked for identification.)

20 BY MS. MAYES:

21 Q I'm going to show you some photographs and ask you
22 whether or not you recognize these?

23 A Yes, these are photographs I took at the x-ray --
24 or at the autopsy.

25 Q And what is it about your autopsy photographs, how

Janice Ross - Direct Examination by Ms. Mayes

1 are they specifically marked so that you can identify those
2 taken during the course of your autopsy?

3 A We have a 1 inch measurement on top of which is the
4 autopsy number FA which means Forensic Autopsy 16, the year
5 2016 and it was our number 511th. And we always take it so
6 that the number -- the top of the head is above the number.

7 Q And can you tell us whether or not you were able to
8 photograph each of the injuries that you had previously
9 noted there in your diagram?

10 A Yes, I did.

11 MS. MAYES: Your Honor, this would be State's
12 Exhibit 36, 37, 38, 39, 40, 41, 42, and 43 for evidence.

13 MR. WILLIAMS: No objection to -- let me just look
14 at them all. No objection to 43; no objection to 42; no
15 objection 41; no objection to 40. I'm taking them
16 backwards, I realize that. No objection to 39; no
17 objection to 38; no objection to 37; and no objection to
18 36.

19 THE COURT: Thank you. Thank you, Mr. Williams.
20 State's 36 through 43 inclusive are in evidence without
21 objections.

22 (State's Exhibit Number 36, Number 37, Number 38,
23 Number 39, Number 40, Number 41, Number 42, and Number 43
24 was entered into evidence.)

25 BY MS. MAYES:

Janice Ross - Direct Examination by Ms. Mayes

1 Q And, Dr. Ross, as I publish these photos, I'll ask
2 you to point out what, if anything, may be significant
3 about your findings as we go. I'm going to start here with
4 State's Exhibit 37.

5 A Yes, you can see the -- the injury to the middle of
6 her forehead which is kind of heart-shaped. There's this
7 more faint bruise on the right forehead and larger one on
8 the left forehead, then you can see the spot on the top of
9 the head.

10 Q State's Exhibit 38? At this point, you had
11 mentioned before that you do have a process where you're
12 able to shave the hair?

13 A Correct.

14 Q How, if at all, does that allow you to visualize
15 such injuries? Better?

16 A Yes. This one is -- is the -- more of the part of
17 the head that we -- this picture is on the top of the head
18 down. This is more towards the front; it's the front of
19 the scalp. This is one on the back of the scalp.

20 Q Now, here we see -- here we see an injury towards
21 the back. Can you tell us what part of the head you would
22 term that to be?

23 A The occipital area.

24 Q What we may commonly refer to as the crown?

25 A Well, it's a little bit further back. This is more

Janice Ross - Direct Examination by Ms. Mayes

1 towards the top.

2 Q All right. And now here in 43, if you can tell us
3 what we're looking at there towards -- towards the back?

4 A This is before the -- the hair was shaved. And it
5 just shows the one on the back of the head and the one
6 towards the front of the -- or top of the head.

7 Q All right. Now, Dr. Ross, when it comes to these
8 injuries, can you tell us whether or not an adult fist
9 could produce such injuries?

10 A It could.

11 Q And have you seen cases before where beating with a
12 fist resulted in death?

13 A Correct, yes.

14 Q And specifically here, if you could tell us what
15 we're looking at in Number 40 and what, if anything, may be
16 significant about this photo in regards to potential use of
17 fists as a weapon?

18 A This is bruising on the top front of the head. And
19 we noted that there is -- there are some kind of linear
20 marks here. When there's pressure on the skin, it pushes
21 blood out of capillaries and out to the side of the weapon.
22 So these -- it's consistent with, for instance, maybe some
23 fingers or of a fist.

24 Q All right. And can you tell us when you're talking
25 about pressure from -- from the weapon and if we're talking

Janice Ross - Direct Examination by Ms. Mayes

1 about the use of a fist, that may involve knuckles that are
2 linear --

3 MR. WILLIAMS: Objection to leading.

4 MS. MAYES: I can rephrase that, Your Honor.

5 THE COURT: Rephrase the question. Dr. Ross is --
6 but rephrase the question please, Solicitor.

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

8 BY MS. MAYES:

9 Q How may use of knuckles against skin produce such
10 an injury as we're seeing here?

11 A Again, the -- the -- where the pressure is pushing
12 down on the scalp and of course, this is on the head, so
13 it's a thin skin against a hard scalp -- hard skull
14 surface. So you are crushing blood vessels underneath
15 there and the blood is disbursed out around the weapon. So
16 it's possible that these could be fingers of a fist.

17 Q Now, what, if any type of injury, maybe produced
18 when you have a weapon, such as a fist, that may leave
19 knuckle marks. What type of imprint may you see underneath
20 the skin with such an injury?

21 A When we look at the -- the brain and the skull we
22 have to reflect the scalp and then we can see the same
23 bruises underneath on the underside of the scalp.

24 Q And would that include if, for example, a fist is
25 used with knuckle marks, can you tell us whether or not

Janice Ross - Direct Examination by Ms. Mayes

1 that may produce individual findings there underneath the
2 scalp?

3 A It could, yes.

4 (State's Exhibit Number 44 was marked for
5 identification.

6 BY MS. MAYES:

7 Q I'm going to show you a photograph and ask you
8 whether or not you recognize it. Can you tell us whether
9 or not this photograph is a fair and accurate
10 representation of the scalp reflection process that you
11 have described?

12 A Yes, it is.

13 Q And was this taken pursuant to the same autopsy
14 that you conducted on Victim ?

15 A Yes.

16 Q And can you tell us whether or not this photograph
17 would aid you in describing that pattern of imprint
18 underneath the scalp further?

19 A It would, yes.

20 MS. MAYES: Your Honor, at this time, the State
21 would offer I believe it's going to be 44?

22 THE COURT: Mr. Williams?

23 MR. WILLIAMS: Same objection as referenced at the
24 Court's bench.

25 THE COURT: All right. I'll allow it into evidence

Janice Ross - Direct Examination by Ms. Mayes

1 based on Rules of Evidence 401, 403, and State v. Collins
2 that I will further supplement that record outside of the
3 presence of the jury. Subject to your objection. 44?

4 MS. MAYES: 44, yes, sir, Your Honor.

5 THE COURT: All right.

6 (State's Exhibit Number 44 was entered into
7 evidence.)

8 BY MS. MAYES:

9 Q I'll give you a moment to look at the photograph,
10 Dr. Ross. You mentioned you have done autopsies in the
11 past that did involve the use of a fist as weapons?

12 A Yes.

13 Q Can you tell us what we are looking at here in
14 State's Exhibit 44?

15 A This is underneath -- the underside of the scalp,
16 under the bruise which is more on the top of the head. And
17 it shows pretty much three different areas of force and
18 again, some phanching (phonetic) in between.

19 Q Can you tell us whether or not this type of imprint
20 or injury may be consistent with an adult fist?

21 A It is, yes.

22 Q Thank you. Now I want to move on and ask you about
23 this injury here to the base of the skull and also any
24 additional injuries that are apparent?

25 A Yes, this -- you can see this is the left ear.

Janice Ross - Direct Examination by Ms. Mayes

1 This is that abrasion at the base of the skull on the left
2 and this is over the left shoulder; it's a small circular
3 bruise there.

4 Q All right. How do you go about determining that
5 that is actually a bruise as opposed to some form lividity
6 or discoloration?

7 A We can cut into it and see the -- the actual
8 bleeding under the skin.

9 Q Were you able to do that in this case?

10 A Yes.

11 Q And then looking there at the linear bruise, can
12 you tell us whether or not that could also be caused human
13 hands?

14 A It could, yes.

15 Q Now, Dr. Ross, having evaluated all of Victim
16 injuries in their entirety, can you tell us whether or not
17 you also had the opportunity to review a video or portion
18 of a video taken from the convenience store where Victim
19 had suffered a fall from a cardboard box onto the floor the
20 night before her death?

21 A Yes, I did.

22 Q Having viewed that video, can you tell us whether
23 or not that fall would be consistent with the totality or
24 constellation of injuries that you have observed in

25 Victim

Janice Ross - Direct Examination by Ms. Mayes

1 A No, it would not. There are bruises on different
2 sides of the head. One fall does not do that.

3 Q So one fall would not produce the injuries to the
4 various locations of the head?

5 A Correct.

6 Q And then having observed these injuries, can you
7 tell us whether or not you have an opinion as to whether
8 such injuries would be caused by a three-year old or a
9 one-year old toddler?

10 A I don't believe so, no.

11 Q And, Dr. Ross, when you talk about body
12 temperature, in relation to someone's time of death, we
13 have a child who presented in the emergency room and was
14 pronounced deceased at 6:08 p.m. with a body temperature of
15 98.9 and some rigor in the jaw or jaw clinched from rigor,
16 some rigor in the extremities, but the core of the body
17 being warm; can you tell us whether or not that may be
18 consistent with death within the last 90 minutes?

19 A Yes, it would be within 90 minutes or a couple of
20 hours. Rigor mortis varies depending on the situation. It
21 has to do with the energy used in muscles. So if you're --
22 before you die, if you're running or -- or very active then
23 you're going to go into rigor mortis faster than if you're
24 just lying in bed and die. So rigor mortis is difficult
25 and rigor mortis will start in small muscles like the jaws

Janice Ross - Direct Examination by Ms. Mayes

1 and the eyes, eyelids.

2 Q So the jaw is one of the first locations within the
3 body to manifest rigor?

4 A Yes, small muscles.

5 Q All right.

6 A Temperature, of course, goes along with the
7 temperature and the environment. And it's my understanding
8 that this baby's room was around 70 degrees or so. So to
9 go from normal temperature to down to 98.5, wouldn't take
10 too long.

11 Q Okay. So in sum, with her being pronounced
12 deceased at 6:08, death may have occurred within the last
13 90 minutes?

14 A Very likely.

15 Q All right. And with that body temperature, would
16 you expect that death would have occurred earlier in the
17 morning or later in the afternoon?

18 A Later in the afternoon; mid to late afternoon.

19 Q And what type of symptomology would an infant
20 manifest having sustained such injuries, the blunt force
21 injuries that you have described?

22 A Well, as the brain swells, of course, you're going
23 to -- going to get -- eventually you're going to go
24 unconscious, but before that, with the pain you can --
25 crying in a child like this, and maybe even some vomiting.

Janice Ross - Direct Examination by Ms. Mayes

1 Q When we look at the extent of the injuries, is it
2 possible or can you tell us to a reasonable degree of
3 medical certainty, is it possible that Victim would have
4 become immediately unconscious?

5 A It's possible.

6 Q Do you have an opinion in looking at all of these
7 injuries, when they were sustained in relation to one
8 another?

9 A They all appear to be within seconds to minutes of
10 each other.

11 Q All right. In other words, these -- can you tell
12 us whether or not these injuries suggest that they were
13 sustained days apart as opposed to simultaneously?

14 A More consistent with being more simultaneous.

15 Q So finally, Dr. Ross, when we're talking about this
16 timeline here of a child being pronounced deceased at 6:08
17 p.m., EMS originally being called and the 9-1-1 at 5:18,
18 can you tell us whether or not that's consistent with death
19 occurring after 3:30 p.m.?

20 A It's consistent, yes.

21 Q Thank you.

22 MS. MAYES: Nothing further, Your Honor.

23 THE COURT: Thank you, Solicitor.

24 Mr. Williams.

25 MR. WILLIAMS: May it please the Court?

Janice Ross - Cross-Examination by Mr. Williams

CROSS-EXAMINATION

BY MR. WILLIAMS:

Q How you doing, Dr. Ross?

A Fine.

Q Good. Your reference of midafternoon, what is your -- when is your midafternoon time period?

A 3'ish.

Q 3'ish?

A Yes, sir.

Q And one of the things you were talking about when you were talking about the temperature inside of the house and the -- you're talking about a temperature of the body as was determined, I guess round 6 p.m. It was 98 point what when it was measured at the hospital?

A I believe it was 98.5 or something like that.

Q Okay. If it was 98.5; normal is what, 98.6?

A Yes.

Q Do you find it unusual that three hours after the -- the time period when the assault -- are you referencing the assault as being possibly at three o'clock and the death being at some later point in time?

A No. No, the -- the death would be within minutes.

Q Minutes?

A Minutes, yes.

Q So you're saying that the assault and the death

Janice Ross - Cross-Examination by Mr. Williams

1 would have been around possibly three o'clock in the
2 afternoon?

3 A Well you have to -- I don't know what happened from
4 the scene at home between, say three o'clock and when the
5 baby was found by the team. Was she moved to a different
6 room, did they warm her up in the ambulance, et cetera.
7 But one of the other things that we look for is, as far as
8 time of death, is food in the stomach and the stomach was
9 totally empty. So it was at least an hour after the last
10 time the baby ate.

11 Q So -- so that's an indication that the child was
12 not fed immediately prior to this occurring, right?

13 A Correct.

14 Q Now, is there a scale that talks about body
15 temperature in terms of how quickly you lose your body
16 temperature based on the time you're dead; is there a
17 general scale like a degree in barely two hours or two
18 degrees for every one hour or something like that?

19 A They used to map that out and -- I don't know what
20 math, degrees per hour or something like that, but there's
21 so many variables that they don't use that any more.

22 Q Because -- because of the temperature of the
23 environment is so influential in regards to what the body
24 temperature is going to be when you measure it, isn't it?

25 A Correct. And what the person has on, if they're

Janice Ross - Cross-Examination by Mr. Williams

1 wrapped in a blanket for instance or otherwise protected
2 from the external temperature.

3 Q So if the child is in a cold room or if anybody is
4 in a cold room, any kind of dead body is in a cold room,
5 then that throws off maybe the time of death based on
6 whatever temperature reading is -- that's how you store
7 bodies sometimes, if you don't have them with an embalmer,
8 right?

9 A Correct.

10 Q You actually put them on ice?

11 A Yes.

12 Q Now, you were referencing the -- the pictures and
13 -- and the words you kept using was it's possible, it could
14 have. You don't know whether or not a fist was used in the
15 death of this child, do you?

16 A There was no other pattern of injury other than
17 that one that we looked at where there was some parallel
18 lines, but otherwise, it's not -- in other words, it is not
19 the pattern of a baseball bat or a linear weapon for
20 instance.

21 Q So -- so your determination as to the possibility
22 of using a fist is based on the linear pattern showing on
23 the top of the head?

24 A Yes, and I've seen multiple beatings --

25 Q Okay.

Janice Ross - Cross-Examination by Mr. Williams

1 A -- and injuries by fists that are witnessed, yes.

2 Q Right. But I guess what I'm trying to say it's how
3 they appear that gives you the idea that it may be a fist
4 which was used?

5 A Correct.

6 Q Now, one on the back of the neck, you indicated,
7 could have been a fist also and it clearly is one straight
8 bruise. It clearly doesn't have any capillaries pushed on
9 it that would indicate that the, you know, white areas
10 inside and it's just one streak.

11 A Correct.

12 Q How would the fist make that mark?

13 A Again it goes along the -- the bottom of the line
14 or the bottom of the skull.

15 Q So how would a fist -- fist make that straight mark
16 on the bottom of the skull?

17 A It would be -- just be a bruise.

18 Q So it doesn't have the white streaks that you
19 talked about earlier on the top of the head that indicated
20 the knuckles and the bruising and stuff like that. It's
21 just a bruise on the bone.

22 A Correct.

23 Q How does that indicate to you that it's a fist?

24 A Is it -- well it could -- I said it could be.
25 There's not other pattern to it.