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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
J.C. NICHOLSON, JR., Circuit Court Judge

Case No. 2016-CP-10-03542
Appellate Case No.: 2017-002532

Bryan Okeith Seabrook, Appellant,
v.

Town of Mount Pleasant and Rae Wooten,
in her Official Capacity as Coroner of
Charleston County, Defendants,

Of which Town of Mount Pleasant is the
Respondent.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Bryan Okeith Seabrook,

Plaintiff,

vs.

Town of Mount Pleasant, AND, Rae
Wooten, in Her Official Capacity as
Coroner of Charleston County,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-03542

**ORDER GRANTING DEFENDANT
TOWN OF MOUNT PLEASANT'S
MOTION FOR SUMMARY JUDGMENT**

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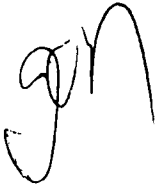
On September 20, 2017, this Court heard oral arguments on Defendant Town of Mount Pleasant's Motion for Summary Judgment. Present in the courtroom were Mark A. Peper, attorney for plaintiff Bryan Seabrook, Roy P. Maybank, attorney for defendant Rae Wooten, and Timothy A. Domin, attorney for defendant Town of Mount Pleasant.

gan
Plaintiff's complaint was filed on July 8, 2016, pursuant to the South Carolina Tort Claims Act (SCTCA), asserting the following causes of action against Defendant Town of Mount Pleasant: (1) false arrest, (2) negligence/gross negligence, and (3) malicious prosecution.

The primary facts in this case for the purposes of this motion are undisputed. On March 19, 2013, plaintiff Seabrook had sole custody of **Minor Victim** (victim), a two year old child, from approximately 4:00 p.m. until approximately 6:23pm. That day, plaintiff arrived at East Cooper Hospital at approximately 6:23 p.m. with the victim who was not breathing and non-responsive. Mount Pleasant Police Department was dispatched to East Cooper Hospital and began an investigation into the death of the victim which included speaking with the victim's family members, hospital personnel, the

Coroner's office, Lowcountry Children's Center, Charleston County DSS, the execution of numerous search warrants, and review of cellular data.

Mount Pleasant Police received a statement from Jane Bell, the Child Protective Services emergency on-call case manager who took emergency custody of the minor siblings, G.W. and N.W., and accompanied them to a licensed foster home on the date of the incident. Ms. Bell's statement indicated that during her custody of the minors, N.W. disclosed that her brother (the victim) went to heaven to be with Jesus, and that the girls were not allowed to talk about what happened to the victim, not even to their mother or grandmother, because the plaintiff told them it was a secret. Ms. Bell also indicated that both girls disclosed that their mother and grand mother were not at home when the victim was brought to the hospital. G.W. disclosed that the plaintiff popped the victim and the victim hit the wall.



During forensic interviews of the siblings, G.W. and N.W., conducted by Dr. Don Elsey, Clinical Director of the Dee Norton Lowcountry Children's Center, the older sibling, N.W., disclosed that the plaintiff had "popped" the victim and that it was a secret. N.W. also demonstrated a "pop" during the interview by forcefully striking a chair with her hand. Based on a meeting with Coroner Wooten, Detective Andrew DeCamp believed the victim's death resulted from blunt force trauma to the torso that likely occurred within approximately four hours prior to the victim's death. Additionally, based on a meeting with Dr. Cynthia Schandl, medical examiner at MUSC, Mount Pleasant Police believed that the victim's death resulted from blunt force trauma to the torso that most likely occurred within approximately four hours prior to the victim's death.

On May 9, 2013, after an approximately two month investigation, Det. DeCamp and other Mount Pleasant Police Officers met the Solicitor of the Ninth Judicial Circuit and other assistant solicitors to review the facts of the investigation. During that meeting, based on the totality of the circumstances, it was determined that an arrest warrant should be drafted for the arrest of plaintiff on the charge of Homicide by Child Abuse. That same day, Det. DeCamp signed the affidavit to seek the arrest warrant, and met and spoke with Mount Pleasant Municipal Judge Larry Duffy. Finding probable cause existed to arrest plaintiff on the charge of Homicide by Child Abuse, Judge Duffy signed the arrest warrant.



Plaintiff was arrested that same day, May 9, 2013, and charged with Homicide by Child Abuse in connection with the death of [Minor Victim]. A preliminary hearing was held on June 5, 2013, and the court determined there was sufficient probable cause for the criminal charge to proceed and plaintiff was bound over to General Sessions. On October 8, 2013, a grand jury returned a true bill indictment against plaintiff for the charge of Homicide by Child Abuse. The Office of the Solicitor for the Ninth Judicial Circuit declined to prosecute plaintiff for the indicted offense on September 11, 2015. From July 12, 2016 through July 13, 2016, Charleston County Coroner Rae H. Wooten conducted a Coroner's Inquest into the cause of death of the victim pursuant to S.C. Code Ann. § 17-7-10, et seq. The inquest resulted in a jury verdict finding the victim's death was due to homicide by the hands of another and that Plaintiff Bryan Seabrook was the principal and Marty Dixon was an accessory. (Case No. 2013M00860).

STANDARD

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), SCRPC. "In determining whether any triable issues of fact exist, the evidence and all inferences which can reasonably be drawn from the evidence must be viewed in the light most favorable to the nonmoving party." Strother v. Lexington Cnty. Recreation Comm'n, 332 S.C. 54, 61, 504 S.E.2d 117, 121 (1998) (citing Hamiter v. Ret. Div. of S.C. Budget & Control Bd., 326 S.C. 93, 96, 484 S.E.2d 586, 587 (1997)).

gm
"Under Rule 56(c), SCRPC, the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact." Trivelas v. S.C. Dep't of Transp., 348 S.C. 125, 130, 558, S.E.2d 271, 273 (Ct. App. 2001) (citing Carolina Alliance for Fair Employment v. S.C. Dep't of Labor, Licensing, & Regulation, 337 S.C. 476, 523 S.E.2d 795 (Ct. App. 1999)). Once the moving party meets this initial burden, the opposing party may not rest on the allegations averred in his pleadings; rather, he must demonstrate that specific, material facts exist which give rise to a genuine issue. See Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991).

DISCUSSION

The Town of Mount Pleasant's position rests on several points:

Statute of Limitations

The South Carolina Tort Claims Act forever bars actions "unless commenced within two years after the date the loss was or should have been discovered;" S.C. Code Ann. § 15-78-110.

Plaintiff alleges his arrest by the defendant Town of Mount Pleasant was unlawful because it was without probable cause and that the warrant was based on incomplete or untrue statements. Plaintiff's action for false arrest was clearly cognizable on the date of his arrest; therefore, the statute of limitations began to run on the date of the plaintiff's arrest. Plaintiff alleges his arrest by the defendant Town of Mount Pleasant was negligent or grossly negligent because it was performed without probable cause. To the extent the plaintiff claims that the arrest warrant was obtained negligently, it would be cognizable on the date of his arrest and presentation of the warrant to him. Therefore, the statute of limitations as to that claim is clearly barred. Similarly, plaintiff alleges that defendant Town of Mount Pleasant instituted judicial proceedings by arresting and prosecuting plaintiff without probable cause and that this constitutes malicious prosecution. Plaintiff's action for malicious prosecution in this case is premised entirely on actions taken by Mount Pleasant Police Department obtaining an arrest warrant and prior to the arrest warrant. Here, there was no affirmative act by the Mount Pleasant Police Department to prosecute the plaintiff after obtaining the warrant. The Solicitor's Office had total control after that point. Importantly, plaintiff's post-arrest detention was as a result of the preliminary hearing held June 5, 2013, and the true bill

indictment returned by the Grand Jury on October 8, 2013. Under these facts, this Court finds the statute of limitations has run as to all of plaintiff's claims.

Probable Cause



Even if the causes of action were not time barred, this action should be barred because the police had probable cause at the time they sought and obtained the arrest warrant. The United States Supreme Court has recognized that the quanta of evidence required to establish probable cause is "less than [the quanta of] evidence which would justify" a conviction and "may rest upon evidence which is not legally competent in a criminal trial." United States v. Ventresca, 380 U.S. 102, 108, 85 S. Ct. 741, 745 (1965) Probable cause by its very name does not require absolute certainty, it is a "flexible, common-sense standard . . . found somewhere between suspicion and sufficient evidence to convict." Valentine v. State, 377 S.C. 244, 250, 659 S.E.2d 227, 230 (Ct. App. 2008) (citing Brown v. State, 372 S.C. 611, 643 S.E.2d 118 (Ct. App. 2007)). As the Supreme Court of South Carolina has explained:

The evidence need not be sufficient to support a conviction, or a verdict of guilty, or to establish guilt beyond a reasonable doubt; nor need the proof be positive, it being enough if it is such as to induce in the mind of the issuing officer an honest belief that the facts set forth exist, or as would lead a man of prudence and caution to believe that the offense has been committed.

State v. Bennett, 256 S.C. 234, 240, 182 S.E.2d 291, 294 (1971) (quoting 79 C.J.S. Searches and Seizures § 74 (1952)).

In determining the lawfulness of the arrest, the fundamental question is whether it was based on a facially valid warrant based on probable cause. The court must determine whether at the time of the arrest, the facts and circumstances within the arresting officer's knowledge "were sufficient to warrant a prudent man in believing that

the [arrestee] had committed . . . an offense." State v. Baccus, 367 S.C. 41, 49, 625 S.E.2d 216, 220 (2006) (quoting Beck v. Ohio, 379 U.S. 89, 91, 85 S. Ct. 223, 225 (1964)). An essential element in maintaining an action for malicious prosecution, is proof of "the institution of judicial proceedings without probable cause" Law v. S.C. Dep't of Corr., 368 S.C. 424, 436, 629 S.E.2d 642, 649 (2006)¹. "South Carolina has long embraced the rule that a true bill of indictment is prima facie evidence of probable cause in an action for malicious prosecution." Id. at 436, 629 S.E.2d at 649 (citing Kinton v. Mobil Home Indus., Inc., 274 S.C. 179, 182, 262 S.E.2d 727, 728 (1980)). Additionally, here, plaintiff's cause of action for negligence / gross negligence is predicated on a lack of probable cause. The party alleging a lack of probable cause bears the burden of proof on that point." Horton v. City of Columbia, 408 S.C. 27, 35, 757 S.E.2d 537, 541 (Ct. App. 2014).

The procedure whereby a defendant may challenge the veracity of facts relied upon in a warrant is outlined in Franks v. Delaware, and is based on the presumption that an affidavit to a warrant is valid. Franks v. Delaware, 438 U.S. 154, 171, 98 S. Ct. 2674, 2684 (1978). To rebut the presumption of validity, the challenger must allege "deliberate falsehood or of reckless disregard for the truth, and those allegations must be accompanied by an offer of proof." Franks at 171, 98 S. Ct. at 2684. Mere "[a]llegations of negligence or innocent mistake are insufficient." Id. Upon a preliminary showing, the alleged false or reckless material will be excised from the facts in the affidavit, and if the remaining facts in the affidavit are sufficient to constitute probable

¹ Law is distinguishable from Gist v. Berkeley County Sheriff's Dep't, because in Gist "the Sheriff's Department conceded at oral argument, the affidavit, standing alone, was insufficient to establish probable cause." Gist v. Berkeley County Sheriff's Dep't, 336 S.C. 611, 616, 521 S.E.2d 163, 166 (Ct. App. 1999). Here, there is no dispute that the warrant is facially valid.

cause, then no hearing is necessary. Id. at 171-72, 98 S. Ct. at 2684. If the remaining facts are insufficient to establish probable cause, then the challenging party is entitled to a hearing on the matter. Id. at 172, 98 S. Ct. at 2684-85.

South Carolina has held that the "*Franks* test also applies to acts of *omission* in which exculpatory material is left out of an affidavit." State v. Lynch, 412 S.C. 156, 179, 771 S.E.2d 346, 358 (Ct. App. 2015) (quoting State v. Missouri, 377 S.C. 548, 554, 524 S.E.2d 394, 397 (1999)). Similarly, the challenging party must show (1) the omission was "designed to mislead, or . . . made in reckless disregard of whether it would mislead" and (2) that inclusion of the omitted material in the affidavit would defeat probable cause. State v. Lynch, 412 S.C. 156, 179-80, 771 S.E.2d 346, 358-59 (Ct. App. 2015) (citations omitted). South Carolina Courts and the Fourth Circuit Court of Appeals have acknowledged, in cases involving omissions from an affidavit, there is a potential of "endless conjecture about investigative leads, fragments of information, or other matter that might, if included, have redounded to defendant's benefit[, and] . . . endless rounds of *Franks* hearings to contest facially sufficient warrants" State v. Lynch, 412 S.C. 156, 179, 771 S.E.2d 346, 358 (Ct. App. 2015) (quoting United States v. Colkley, 889 F.2d 297, 301 (4th Cir. 1990)). Importantly, those same courts have warned that "[i]nferring bad motives from an officer's omission of information collapses into a single inquiry the two elements – "intentionality" and "materiality" – which *Franks* states are independently necessary." Horton v. City of Columbia, 408 S.C. 27, 36, 757 S.E.2d 537, 541 (Ct. App. 2014) (quoting United States v. Colkley, 889 F.2d 297, 301 (4th Cir. 1990)).

Our courts have held "[a]n omission does not per se invalidate the arrest warrant." State v. Porch, 417 S.C. 619, 628, 790 S.E.2d 440, 444 (Ct. App. 2016) (quoting United States v. Colkley, 899 F.2d 297 (4th Cir. 1990)). The Franks Court recognized that the truthfulness required in an affiant's statement does not require every fact be correct, may be based on hearsay and informant tips, "as well as upon information within the affiant's own knowledge that sometimes must be garnered hastily." Franks v. Delaware, 438 U.S. 154, 164, 98 S. Ct. 2674, 2681 (1978). South Carolina's Court of Appeals, embracing the Fourth Circuit, also recognized that an affiant's failure to "list every conceivable conclusion does not taint the validity of the affidavit." State v. Porch, 417 S.C. 619, 627, 790 S.E.2d 440, 444 (Ct. App. 2016) (quoting United States v. Colkley, 899 F.2d 297 (4th Cir. 1990)). The essential requirement of an affiant is "that the information put forth is believed or appropriately accepted by the affiant as true." Franks v. Delaware, 438 U.S. 154, 165, 98 S. Ct. 2674, 2681 (1978).

Horton is illustrative of the very high standard that must be met by a challenging party in a false arrest/malicious prosecution case premised on a warrant. There, a police officer had recovered a partial finger print from an attempted break-in, the automated fingerprint identification report indicated "twenty possible matches, with the fingerprint of Horton identified as the most probable match." Horton v. City of Columbia, 408 S.C. 27, 30, 757 S.E.2d 537, 538 (Ct. App. 2014). After it was determined that Horton's fingerprint was a probable match, an officer spoke with Horton's probation officer. The probation officer expressed reservations about Horton's involvement in the break-in because Horton lacked transportation and had recently given birth to her third

child. The facts recited by the affiant in seeking an arrest warrant did not include any of the potentially exculpatory information that was received from the probation officer. Id. at 31, 757 S.E.2d at 538-39.



After Horton's arrest, Horton filed suit alleging, inter alia, assault and battery, false arrest, and malicious prosecution. The trial court granted summary judgment against Horton as to all claims. Id. at 31-32, 757 S.E.2d at 539. On appeal, the court addressed the issue of probable cause challenges and reiterated that under the Franks test, the intentional and material prongs must be determined independent of each other and an inference of intent should not be drawn based on the alleged materiality of an omission. Id. at 36, 757 S.E.2d at 541. The court affirmed the grant of summary judgment holding that Horton failed "to meet the high burden of proving the intentional or reckless omission . . . [of the probation officer's] statements from Officer Tyler's affidavit." Id. at 37, 757 S.E.2d at 542.

In the case before this Court, plaintiff argues that defendant Town of Mount Pleasant lacked probable cause to seek an arrest warrant and to arrest the plaintiff in support of plaintiff's cause of action for false arrest. Plaintiff asserts the arrest warrant was conclusory, contained material false and misleading information, and omitted relevant exculpatory material information. In plaintiff's memorandum and during oral argument, plaintiff focused exclusively on the "materiality" prong of Franks. Plaintiff failed to put forth any evidence addressing the "intentionality" prong of Franks. As explained above, the intentionality and materiality prongs require distinct examination and should not be collapsed into one, by inferring intentionality from an alleged materiality of omitted information.

Assuming arguendo that the intentionality prong was satisfied, this Court rejects plaintiff's argument that the affidavit is materially false. Plaintiff disputes four of seven sentences contained in the arrest warrant affidavit:

- 
- (1) Plaintiff asserts that sentence three is misleading because it does not indicate that in addition to the plaintiff, two other adults had custody of the victim at some point on the day of the victim's death. Additionally, plaintiff asserts his sole custody of the victim began at 4:30pm, not 4:00pm as indicated in the affidavit.
 - (2) Plaintiff asserts that sentence five is misleading because it uses the term "acute" to describe the cause of death and because it fails to describe the time and location where the injury occurred.
 - (3) Plaintiff asserts that sentence six is misleading because it does not indicate that the witnesses are the victim's three and four year old sisters.
 - (4) Plaintiff asserts that the final sentence is misleading because it relies on the prior sentences to which plaintiff objects, and because it asserts that plaintiff committed the offense of homicide by child abuse.

As explained above, warrant affidavits may be based on hearsay, informant tips, the affiant's own knowledge, and do not require that every fact be correct. The quanta of evidence required to establish probable cause is less than that for a conviction and need not be legally competent evidence, nor does the proof need to be positive. It is that which renders an honest belief that the facts set forth exist.

The plaintiff's position actually requests the Court embrace a rule that all statements must be expressed in way that is entirely complete and contains any possible information which might bear on the points expressed in the warrant. This is

not the law pertaining to warrants or probable cause and would be an unrealistic standard effectively requiring the police to state all evidence—favorable, unfavorable, or neutral---in the arrest warrant.

gm
The affiant police officer, Andrew DeCamp, testified in a deposition, at the coroner's inquest, and provided an affidavit in support of this summary judgment memorandum that the sisters of the deceased child, particularly the four year old child, were consistent in their position that plaintiff had "popped" the victim, and that then the victim had gone to sleep and gone to heaven, and that they were instructed to keep it a secret. This information was provided by a DSS case manager and forensic interviews of the siblings. Additionally, the affiant officer had information from the medical examiner that the victim died from blunt force trauma to the torso, that the injury was acute, and that the force necessary to inflict the injury was most likely beyond that which another child in the household could inflict.

This Court believes the facts are sufficient to establish probable cause, even taking into consideration the alleged omissions or mistakes in the warrant. This Court's determination is also supported by the fact that the preliminary hearing judge found the existence of probable cause and bound plaintiff over to General Sessions, and the fact that a Grand Jury returned a true bill indictment.

Based on the foregoing, the evidence yields only the conclusion that plaintiff has failed to meet the burden of showing the lack of probable cause. Because probable cause existed for plaintiff's arrest, defendant Town of Mount Pleasant's motion for summary judgment is granted against all plaintiff's causes of action, and plaintiff's complaint against defendant Town of Mount Pleasant is dismissed with prejudice.

S.C. Tort Claims Act Immunity

The SCTCA waives some sovereign immunity and permits certain government entities to be liable for torts. S.C. Code Ann. § 15-78-40. That waiver of immunity is subject to certain limitations and exemptions. Id. Specifically, government entities are not liable for losses resulting from

legislative, judicial, or quasi-judicial action or inaction; administrative action or inaction of a legislative, judicial, or quasi-judicial nature; execution, enforcement, or implementation of the orders of any court or execution, enforcement, or lawful implementation of any process; the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee;

S.C. Code Ann. § 15-78-60.

gm
Here, Defendant Town of Mount Pleasant, through its police department, exercised discretionary judgment in making the determination to seek an arrest warrant for the plaintiff. The process of appearing before a judge to assert the facts constituting probable cause is a judicial or quasi-judicial process in which the police in this case participated. In executing the arrest warrant signed by Municipal Judge Larry Duffy, the police were executing an order of a court. Based on the foregoing, the evidence yields only the conclusion that in all the actions the police took from applying for an arrest warrant through the arrest of plaintiff pursuant to that warrant, the police are immune from suit under the SCTCA. Therefore, defendant Town of Mount Pleasant's motion for summary judgment is granted as to all plaintiff's causes of action.

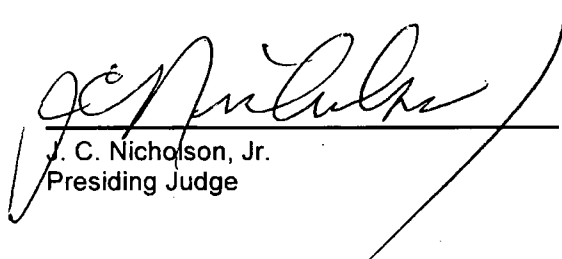
CONCLUSION

After thoroughly considering the pleadings, the memoranda in support and opposition, together with the affidavits and oral arguments of counsel, and all inferences which can reasonably be drawn from the evidence, and viewing such evidence a light most favorable to the plaintiff, this Court grants defendant Town of Mount Pleasant's Motion for Summary Judgment as to all plaintiff's causes of action against this defendant.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

That defendant Town of Mount Pleasant's Motion for Summary Judgment is **GRANTED** as to all plaintiff's causes of action;

IT IS SO ORDERED!


J. C. Nicholson, Jr.
Presiding Judge

12/5, 2017

Charleston, South Carolina

1 CORONER WOOTEN: We have one more
2 witness before we take a break. I know it's long.
3 It's after lunch. But I do want to sort of end
4 this piece with the law enforcement. But rather
5 than break and interfere with that, I'd like to
6 call another witness, Detective Andrew DeCamp to
7 the witness stand, and we will take a break after
8 that.

9 DETECTIVE ANDREW DECAMP,
10 being first duly sworn, was examined and testified
11 as follows:

12 EXAMINATION

13 BY CORONER WOOTEN:

14 Q. Thank you, Detective DeCamp, for being
15 here today to participate in any questions in the
16 death of Minor Victim I saw you walk in with
17 all of this. All the jurors go, oh. I feel
18 certain you will not go through all the information
19 in this book. But he is very beautiful worker.

20 We have heard from a number of
21 individuals at the Mt. Pleasant Police Department,
22 to include Officers Neese and Eckert as well as
23 Lieutenant Hembree. And so they've testified to a
24 lot of the things and have noted that you are the
25 case agent in charge of this. But they pretty much

1 testified to the hospital findings, the activities
2 at the police station and so forth. But they have
3 not gone into the scene investigation and any
4 investigation subsequent to that that you've been
5 in charge of.

6 A. Yes, ma'am.

7 Q. So if you would address the jury a
8 little bit about what the scene investigation --
9 first, how you got involved, who called you, how
10 you got involved, and go from there.

11 A. Yes, ma'am. Good afternoon. I was
12 notified and responded to the Police Department at
13 approximately 8 p.m. on March 19th, 2013. And I
14 was contacted in reference to being on call
15 detective for the Mt. Pleasant Police Department.
16 And when that happens, I was notified along with
17 Corporal Eckert, who previously testified, as well
18 as Sergeant Hembree at the time.

19 I responded to the Police Department in
20 reference to a death investigation. Upon arrival,
21 detectives were informed of case facts collected by
22 the officers who were on scene already at the
23 hospital. One of the things that we were briefed
24 on was the victim, Minor Victim his visible injuries,
25 which relayed to include a distended abdomen,

1 bruising on the upper abdomen, and a protruding
2 rectum. Also it appeared that the decedent had a
3 diarrhea stool in his diaper at the hospital, which
4 appeared to contain small amounts of blood.

5 Based upon the victims injuries
6 reported by medical staff and also observed by the
7 coroner's office and Police Department
8 investigators at the hospital, as well as the
9 timeline of events provided by Mr. Bryan Seabrook,
10 Ms. Marty Dixon, and Ms. Brittany Hartwell at the
11 hospital, concerns of physical and possible sexual
12 abuse were considered as contributing to Minor Victim
13 death at that point.

14 While at the hospital, Sergeant Googe
15 with the Police Department directed the officer to
16 respond to the family's residence where they all
17 resided at 1175 Mathis Ferry Road, Apartment C6,
18 which is located in Mt. Pleasant. That officer,
19 Officer Lemmie, ensured the security in the
20 residence, as it was believed that this was the
21 residence Minor Victim was just at just prior to being
22 brought to the hospital.

23 Detective Corporal Eckert responded to
24 the hospital, and I responded to the Police
25 Department where I received search warrants

1 authorizing the search of the family's residence,
2 Mr. Seabrook's vehicle that he responded to the
3 hospital in, as well as seizure of Mr. Seabrook's
4 clothing, his cell phone in his possession, and for
5 the completion of a suspect forensic evidence kit
6 on Mr. Seabrook's person. I responded to the
7 family's residence along with Crime Scene
8 investigators where we executed a search warrant at
9 the residence at approximately 11:03 p.m. that
10 night.

11 The scene was photographed and several
12 items were seized and secured into evidence, to
13 include several pieces of electronics and DVDs as
14 well as, when entering the residence, the entire
15 residence was photographed. Some of the
16 observations that we made when we were in there was
17 that on the floor of the living room, we located a
18 star-shaped ice pack as well as a bath towel that
19 was on the floor of the living room. Located in
20 the dining room, we looked in the kitchen trash can
21 and observed that the trash can was empty and had a
22 new trash bag in it.

23 We also went to the hall bathroom in
24 the apartment, and in that bathroom, there was
25 clothing found in the sink. There was child-sized

1 clothing, a red shirt, which appeared to have some
2 bits of food or possibly vomit on the shirt as well
3 as a pair of blue pants and white socks. That
4 clothing was collected along with a drain stopper
5 that was removed from the sink at the scene and a
6 drain stopper that was removed from the tub at the
7 scene. And then also located in the master
8 bedroom, there were some electronics that were
9 secured at that time.

10 Once these items were located, they
11 were photographed prior to collection. The towel,
12 the red Nike shirt, and the blue pants, and a pair
13 of socks were all viewed under alternate light
14 source, and no potential evidence was seen using
15 that technology. An alternate light source was
16 also used to search the floor of the living room,
17 near the living room couches. The couches, the
18 living room table, all of the clothing in the
19 laundry room area of the residence and all the beds
20 in the residence, no initial potential evidence was
21 able to be located on those items.

22 Also in the search of the residence,
23 it's an apartment complex, and the Crime Scene
24 investigator actually searched the trash Dumpsters
25 in close proximity to the residence, and a trash

1 bag was located and went to the residence by a
2 receipt in the bag listing the customer address as
3 the family's residence. Several diapers were
4 located in this bag in which the stool appeared to
5 be more solid, differing from the diarrhea stool in
6 the decedent's diaper at the hospital. And those
7 diapers were also taken into evidence.

8 After search of the residence, Crime
9 Scene Investigator Mitchell and Corporal Eckert
10 responded to East Cooper Medical Center where they
11 conducted a search of Mr. Seabrook's vehicle under
12 a search warrant. During the course of the search,
13 a baseball bat was located and placed into
14 evidence. The vehicle was also searched for
15 biological evidence to include using an alternate
16 light source, but no additional evidence was
17 located there.

18 While this is happening in the
19 investigation, Ms. Dixon and Mr. Seabrook were
20 transported back to Mt. Pleasant Police Department
21 for interview. And before leaving the Police
22 Department after those interviews, before leaving,
23 Mr. Seabrook's cell phone that he had in his
24 possession at the time was seized under a search
25 warrant and placed into evidence, as with

1 Ms. Dixon's cell phone, which she forfeited to the
2 Police Department by consent. Both phones were
3 secured into evidence for forensic analysis.

4 And the investigation the next morning,
5 I attended the autopsy of the decedent performed at
6 MUSC at which time I was informed that the decedent
7 displayed older injuries indicating previous
8 physical trauma, as well as acute injuries and
9 hemorrhaging. Further examination of the rectum
10 showed no signs of injury or trauma, discounting
11 the observations that supported previous concerns
12 of sexual abuse.

13 CORONER WOOTEN: Detective DeCamp, I
14 think we're going to hear testimony from the
15 pathologist shortly. So I just wanted you to be
16 aware that someone will be testifying about the
17 autopsy procedure.

18 THE WITNESS: Yes, ma'am. Also in the
19 next -- in that same day, the day after Minor Victim
20 death, Attorney Sonja Duvall advised Sergeant
21 Hembree that Ms. Brittany Hartwell had initially
22 lied about her whereabouts during the timeframe of
23 Minor Victim's death and admitted to, instead, leaving
24 the residence at the same time originally reported,
25 at approximately 12:20 p.m.; but instead of

1 attending class, she met with Mr. Christopher
2 Washington, [Minor Victim]'s father, where they then went
3 together to Harris-Teeter in Mt. Pleasant and then
4 took a Yellow Cab back to his residence where they
5 spent their time at that residence until being
6 notified of [Minor Victim]'s admittance into the hospital
7 that evening.

8 During the course of the investigation,
9 I met with Mr. Christopher Washington, [Minor Victim]
10 father, who provided a written statement indicating
11 that Ms. Hartwell was in fact with him during that
12 time frame, away from the incident location for
13 several hours. And detectives were also able to
14 further corroborate that based on grocery store
15 surveillance footage secured from Harris-Teeter as
16 well as Yellow Taxi records.

17 In the investigation, Detective Willis
18 and I also met with Ms. Dorothy Washington and Ms.
19 Kindrell Hartwell at Ms. Williams' residence. She
20 confirmed that she had custody of [Minor Victim] from the
21 discharge at the hospital on February 14, 2011, to
22 December 16, 2012, and Ms. Williams reported there
23 were incidents of [Minor Victim] and his younger sister,
24 G [Minor], returning to her residence with bruising
25 after staying at Ms. Hartwell's residence, and that

1 was during the time period of authorized visitation
2 over to that residence. She provided me an old
3 cell phone of hers and advised that she believes it
4 may have a photographic documentation of bruising
5 on children. Kindrell Hartwell also indicated --

6 CORONER WOOTEN: Detective DeCamp, I'm
7 going to call them later, so we may let them speak
8 to their own testimony.

9 THE WITNESS: Yes, ma'am. All right.
10 In an effort to solidify a time frame for the day
11 of Minor Victim death, detectives met with customers of
12 Marty Dixon's who provided corroborating statements
13 of her whereabouts at her hair salon from
14 approximately 4:30 p.m. until 6:30 p.m. on the day
15 of Minor Victim death.

16 During the course of this
17 investigation, N Minor and G Minor Washington,
18 Minor Victim siblings, attended a series of forensic
19 interviews with Dr. Elsey at Lowcountry Children's
20 Center.

21 CORONER WOOTEN: And, again, forgive
22 me, but he is going to testify as well.

23 THE WITNESS: Yes, ma'am. Detectives
24 met at MUSC with the pathologist, Dr. Schandl, who
25 provided an autopsy report as well as provided her

1 findings regarding injuries. Based on the
2 information that she was able to provide to us and
3 along with other -- all the other facts of the
4 case, including the results of the Lowcountry
5 Children's Center interviews, detectives met with
6 the Ninth Circuit Solicitor's Office and reviewed
7 the facts of the case at the Solicitor's Office.
8 After that time, based on the totality of the
9 facts, an arrest warrant was drafted and signed for
10 Mr. Seabrook's arrest for the charge of homicide by
11 child abuse.

12 Once the warrant was signed,
13 Mt. Pleasant Police Department's SWAT Warrants Team
14 initiated a traffic stop on Mr. Seabrook's vehicle
15 on the Ravenel bridge inside their jurisdiction,
16 and Mr. Seabrook was arrested on the stop.
17 Mr. Seabrook was then transported to the Mt.
18 Pleasant Police Department where he was interviewed
19 by Detective Sergeant Hembree, and then after that,
20 booked at Charleston County Detection Center.

21 In the course of the investigation, I
22 received and reviewed forensic reports for the cell
23 phones that were analyzed in which photographs of
24 Minor Victim were reviewed. Photographs from
25 Ms. Kindrell Hartwell's phone taken on 11/7 of 2012

1 showed Minor Victim had a bruise on his left cheek below
2 his eye and a bruise on the left side of his
3 forehead. A photo was taken on 11/27/2012 showed
4 Minor Victim bruising had almost completely healed at
5 that point, and there was also a photograph located
6 on that phone dated 12/9 of 2012 where his face
7 appeared to be clear of any bruises.

8 Photographs and videos were secured
9 from Mr. Seabrook's cell phone as well, and the
10 photographs and videos taken on February 24th,
11 2013, showed Minor Victim had a bruise sustained again on
12 the left cheek area below his eye and something
13 like an abrasion in the same area, or what appeared
14 to be an abrasion. Photographs on March 16, 2013,
15 show Minor Victim with a faint healing mark in the same
16 area, or what appears to be.

17 Also reviewed in this investigation
18 were text message logs on the day of Minor Victim death
19 for the cell phones belonging to Bryan Seabrook and
20 Marty Dixon. Text messages corroborated in
21 Ms. Hartwell's account for the first part of the
22 day in regards to Seabrook -- I'm sorry --
23 Mr. Seabrook, picking her up from the Medicaid
24 office with Minor Victim and G Minor, bringing her home
25 where she took care of G Minor and Minor Victim before

1 leaving the residence at approximately 1220 hours.

2 The text messages from Ms. Hartwell
3 coming to Mr. Seabrook notifying him that she
4 needed to leave by that time indicated that
5 possibly prompted Mr. Seabrook to return to the
6 residence before that time to supervise the two
7 children until Ms. Dixon's returned from work.

8 Information that Ms. Dixon provided
9 hospital staff and her customer statements indicate
10 she returned home after Brittany Hartwell's
11 departure, and she returned to work by
12 approximately 4:30 p.m. that day and that she had
13 stated in the nurse's notes that [Minor Victim] was normal
14 when eating Doritos at approximately 4 p.m. that
15 evening in the care of Mr. Seabrook.

16 Records show that Mr. Seabrook sent
17 Ms. Dixon a text message at approximately 5:12 p.m.
18 stating, quote: [Minor Victim] just made himself throw up.
19 I'm over this shit.

20 Ms. Dixon responds at -- responded at
21 5:26 p.m. stating: How?

22 And Mr. Seabrook responded at
23 approximately 5:29 p.m.: I told him let's go to
24 work a movie. He started all that coughing, and he
25 threw up all the Doritos.

1 Hospital footage indicates that
2 Mr. Seabrook arrived at the hospital with [Minor Victim] at
3 approximately 6:23 p.m.

4 CORONER WOOTEN: Thank you. Any
5 questions from the jurors for Detective DeCamp?
6 Yes, ma'am.

7 JUROR NO. 83: Did all these prior
8 instances of [Minor Victim] showing up with bruises, did
9 anybody offer any explanations for how all those
10 injuries occurred?

11 THE WITNESS: Yes, ma'am. The -- at
12 least I referred before to photographs that were
13 located on Ms. Kindrell Hartwell's phone December
14 7, 2012, and Dorothy Williams who is going to speak
15 could probably explain it better than I could, but
16 I believe it was an incident that was reported to
17 her, an incident that happened at Brittany
18 Hartwell's residence during a visitation.

19 JUROR NO. 83: During the time that it
20 appeared that [Minor Victim] was apparently sustaining
21 injuries, was Mr. Seabrook responsible for the care
22 of the child during that same time frame?

23 THE WITNESS: As far as the Police
24 Department goes, it's unknown whether he had any
25 sole caregiving during that time frame of at least

1 that incident. So that's unknown at this time.

2 JUROR NO. 83: And one last question.

3 Are there any -- I mean as far as your knowledge of
4 the scene and Mr. Seabrook's account of what
5 happened, was there any reason to think that they
6 didn't match, I guess? Is there any
7 inconsistencies between what he said occurred and
8 what you found out at the home or at the car?

9 THE WITNESS: The observations that we
10 made at the residence are -- linked up to certain
11 things that he said to certain people based on the
12 documentation that we have. Obviously I didn't
13 speak to him firsthand, so that's how we were
14 gathering information, or at least how I was
15 gathering information from what he reported. There
16 is information that the ice pack and the towel that
17 were located that seemed to be consistent with what
18 he reported to some people of what happened that
19 evening, as well as the clothing which had some
20 sort of food or vomit on the front.

21 JUROR NO. 222: So the cell phone that
22 you retrieved and you looked over, he said -- kind
23 of his -- so it appeared that he was telling her he
24 was frustrated with taking care of him or any of
25 the kids?

1 THE WITNESS: He didn't expound on
2 that. In the text messages, it's simply verbatim
3 what they said. But that is a statement that came
4 from his phone to Ms. Dixon's phone when she was, I
5 believe, at work based on her customer statements.

6 JUROR NO. 195: Was there anything
7 found in the home that could have caused the
8 bruising on Minor Victim stomach, whether he fell off
9 the couch, there was a toy next to it or something
10 by the bed that was kind of suspected of maybe a
11 blunt object he could have hit?

12 THE WITNESS: Crime scene photos were
13 taken of the entire residence. There wasn't
14 anything that stood out to me or the Crime Scene
15 investigator that was with me that would be perhaps
16 abnormal. Based upon the bruising that was seen on
17 this body, I'm not sure how conclusive we would
18 have been to perhaps match something up. But there
19 wasn't -- at the residence, there wasn't anything
20 that stood out to us as being abnormal that you
21 wouldn't find in any other home, you know, as far
22 as a hazard or anything like that.

23 CORONER WOOTEN: There are crime scene
24 photographs that will be entered into evidence, and
25 I would just like Detective DeCamp to review those

1 briefly to say those are in fact the crime scene
2 photographs.

3 THE WITNESS: Yes, ma'am.

4 (EXH. 9, Three-page Document: Color
5 Photos, was marked for identification.)

6 (EXH. 10, 24-page Document: Color
7 Photos, was marked for identification.)

8 CORONER WOOTEN: I would ask you if
9 they are representative of what you saw and
10 described here.

11 THE WITNESS: Yes, ma'am, these are the
12 crime scene photos that were taken at the time.

13 CORONER WOOTEN: And they will be
14 available if the jury wishes to review them later.
15 I don't need to have you all spend a lot of time
16 reviewing those right now. There weren't any
17 things that I thought are dramatic. But you're all
18 welcome to use those as an exhibit.

19 Are there any other questions for
20 Detective DeCamp at this time?

21 JUROR NO. 107: You mentioned on the
22 phone records the texting. Was there anything
23 between the two of them, or did he telephone call
24 or text in reference to when all of this came to be
25 on like the hospital, after he told her that he was

1 tired of this, was there any communication between
2 the two of them or between him and someone else via
3 phone records prior to getting to the hospital and
4 all of this happening?

5 THE WITNESS: There was communication
6 between Ms. Dixon and himself.

7 JUROR NO. 107: There was?

8 THE WITNESS: There was. However, it
9 was fairly minimal in the sense of, I believe,
10 where he called her, and there was a missed call in
11 there as well. But this was also very close to the
12 time where he probably would have been leaving for
13 the hospital.

14 JUROR NO. 107: Right. While he was on
15 the way to the hospital, there was some perhaps
16 evidence of he did call someone to say, hey, this
17 is what happened, I'm on my way, there was a phone
18 record there?

19 THE WITNESS: Yes, ma'am. And she
20 responded to the hospital, and it's my
21 understanding that he was the one that contacted
22 her to explain his whereabouts with the child that
23 he was with.

24 JUROR NO. 107: Thank you.

25 THE WITNESS: Yes, ma'am.

1 CORONER WOOTEN: Any other questions
2 for Detective DeCamp? Yes, ma'am.

3 JUROR NO. 222: It might be for the
4 next one. I'm not sure. On his bottom, did it
5 appear that it was penetrated by an object or by
6 Mr. Seabrook?

7 THE WITNESS: It may be something that
8 that would be best suited for Dr. Schandl.

9 JUROR NO. 222: Okay.

10 THE WITNESS: Yes, ma'am.

11 CORONER WOOTEN: Any other questions
12 before we -- thank you, Detective DeCamp. You may
13 step down.

14 THE WITNESS: Yes, ma'am. Thank you.

15 CORONER WOOTEN: And we will take a
16 15-minute break and return here at 3:30. The
17 jurors may retire to the jury room.

18 (A recess transpired.)

19 CORONER WOOTEN: Thank you. Please be
20 seated. Bailiff, bring in the jury.

21 Thank you. The next witness is
22 Dr. Cynthia Schandl.

23 DR. CYNTHIA SCHANDL,
24 being first duly sworn, was examined and testified
25 as follows:

1 believe it was 300 milliliters. So --

2 Q. When did she change that opinion?

3 A. So -- well, I don't think she ever changed that
4 opinion of that's how he died. I think that's still her opinion
5 that he died from some force being placed on this child to cause
6 bleeding, internal bleeding, and to essentially bleed out. I
7 don't know if that's the term if it's internal, but.

8 Q. Okay, but when she explained her findings to you, she
9 told you that that force occurred within the last four hours?

10 A. Likely -- she believed likely within four hours of his
11 death that that took place. Rephrased as she didn't believe
12 that there was much of a chance that damage like this -- with
13 damage like this to this child, that he would have lasted longer
14 than four hours before dying.

15 Q. All right. Based on your investigation, how many
16 adults had access to baby Minor Victim within four hours of him being
17 taken to the ER?

18 A. Within four hours, it was two adults.

19 Q. And is there any specific reason you left the four
20 hours out of the affidavit establishing the facts for PC?

21 A. Because I felt that what she -- the facts that she
22 gave us was that it was acute. And acute -- her definition --
23 and this is my understanding, is that, medically, "acute" means
24 within 24 hours. If that's not correct, then I walked out of
25 that meeting misunderstanding her. But that was the general

1 definition that she gave me and the other people in the room:

2 "Acute" would mean within four hours -- or 24 hours.

3 The likely within four hours, while I think is good
4 evidence and good information, is I do realize her expert
5 opinion and, likely, I think was giving us an investigative tool
6 to work with to have an understanding because I don't have any
7 medical background. However, I don't think that within four
8 hours was set in stone. So, therefore, I used the word "acute,"
9 which was established as within 24 hours.

10 Q. And you assumed that Judge Duffy or whoever read that
11 would know the medical definition of acute?

12 A. I assumed that that was a term that had a definition
13 that people understood, and I appreciated that she clarified it
14 with me, but I just assumed that was a standard medical term.

15 Q. Did she explain the difference between acute,
16 subacute and chronic?

17 A. I'm not sure if -- if subacute is what I've been
18 referring to as non-acute, then that would just be within --
19 outside of that 24-hour time frame. I do know that we spoke
20 about these older healing injuries, which I'm guessing would be
21 considered subacute or non-acute. But in speaking with her at
22 that time, it was stated that the time frame on these healing
23 injuries, it's very difficult to date.

24 And so, therefore, it really wasn't -- it wasn't
25 approached to the point of really trying to get a good time

1 threshold of force may have been lower to cause this bleeding
2 out.

3 Q. She did not explain it that way to you on May 9th?

4 A. Correct. Because that was something that we
5 established, and I established with her was, okay, is this --
6 the force to create this kind of blow, would that have been
7 created by a sibling rough-housing, and the answer was no.

8 Q. Asked the same way today, you believe her answer would
9 be yes, or it's possible?

10 MR. DOMIN: Object to the form.

11 A. I think it would have been -- it could be -- I think
12 it would be, "I don't know, possibly," but that's just assuming
13 on my part, so.

14 Q. Would it have changed anything you did in your
15 investigation if that would have been her answer on May 9th?

16 A. I think it would have created more consideration, you
17 know, in reviewing the facts of the case, yes.

18 Q. Her giving you the four hours was pretty important,
19 huh?

20 A. I don't necessarily believe that that is paramount to
21 the case, because I believe that the biggest part of this --
22 well, not the biggest part. I think that an important part of
23 this case is the behavioral aspects of the child, whether the
24 indication is that it was likely within four hours, well, it
25 would help -- I mean, that helps. All information helps.

1 And we in law enforcement rely very heavily on medical
2 experts to guide us. But within 24 hours that is our set in
3 stone acute definition, and also set in stone was that in
4 speaking with Dr. Schandl about how a three-year-old -- I'm
5 sorry, a two-year-old would handle this amount of injury and
6 bleeding, she explained that he would have been upset, fussy,
7 you know. I don't know if that was the exact term, but that
8 internal bleeding is very agitating and that it would be that
9 for observations of a child's behavior to be normal in eating
10 chips and everything before that is a very, very big, strong
11 indicator that the trauma had not yet occurred.

12 MR. PEPER: All right. Thank you.

13 MR. DOMIN: Anything, Roy?

14 MR. MAYBANK: No.

15 CROSS-EXAMINATION

16 BY MR. DOMIN:

17 Q. I just want to clarify. When you met with Dr. Schandl,
18 first, there's been some issue about whether or not it was May
19 9th or May 6th. What's your best recollection based on your
20 notes and case file?

21 A. So my belief is that it was actually May 6th that we
22 met Dr. Schandl at MUSC. I have since located a typo in my
23 report that states May 9th. But the notes taken by officers
24 attending, including Lieutenant Hembree, indicate May 6th that
25 we met with Dr. Schandl. And I believe that's the case,

1 because -- or at least a day prior to -- one of the days prior
2 to the date of Mr. Seabrook's arrest, because the sequence of
3 events went such as meeting with the pathologist and receiving
4 her findings, and then bringing all the evidence available to
5 the Solicitor's Office to consult, and then after that drafting
6 the arrest warrant -- or arrest affidavit on May 9th.

7 So I believe the meeting with the Solicitor's Office
8 happened on May 9th, and the meeting with Dr. Schandl happened
9 on May 6th.

10 Q. Dr. Schandl and you and Officer Hembree, did you
11 specifically discuss what, from a medical standpoint, she
12 thought would be most likely as far as a physical appearance and
13 reaction of the child if he was bleeding out?

14 A. Explained that he would be in extreme discomfort, you
15 know, crying, in distress, not -- and that was information
16 provided on that May 6th meeting of that would be his behavior,
17 and it would not be -- it wouldn't be over -- she wouldn't
18 expect that behavior to be overlooked by a caregiver.

19 Q. And the indication that you had was from witness Marty
20 Dixon that she was fine and she -- strike that.

21 The indication you had from eyewitness Marty Dixon was
22 that when she left at 4:00, Minor Victim was acting normally and eating
23 chips?

24 A. Correct. I believe we have a statement from a nurse,
25 Kathy Freeman, who stated she interacted with Marty Dixon who

1 Lieutenant Hembree. And he'll be able to tell you
2 everything they talked about firsthand.

3 CORONER WOOTEN: You will be hearing
4 from Lieutenant Hembree here shortly too. Any
5 other questions about Officer Eckert's testimony?

6 Thank you very much. You may step
7 down.

8 THE WITNESS: Thank you, ma'am. Thank
9 you.

10 CORONER WOOTEN: Our next witness will
11 be Lieutenant Justin Hembree.

12 LIEUTENANT JUSTIN HEMBREE,
13 being first duly sworn, was examined and testified
14 as follows:

15 EXAMINATION

16 BY CORONER WOOTEN:

17 Q. Thank you, Lieutenant Hembree, for
18 being willing to come here today and testify into
19 the death of Minor Victim

20 A. Yes, ma'am.

21 Q. We have heard from a number of
22 witnesses before, to include a couple of the other
23 officers, Officer Neese and also Officer Eckert,
24 and we -- just so you sort of know, we've heard
25 some testimony already.

1 A. Yes, ma'am.

2 Q. But I am interested if you would speak
3 to our jury, and they may have questions for you,
4 about your involvement in this case involving the
5 death of Minor Victim

6 A. Yes, ma'am. At the time, March 19th,
7 2013, I was the detective sergeant over criminal
8 investigations of the Police Department. So
9 basically I'm the manager of the office, and I
10 report to the captain of the Police Department.
11 And any time there is an incident, especially of
12 this magnitude, I would become the case manager, if
13 you will, to make sure that all the moving parts
14 are working together and that the detectives are
15 doing what they're supposed to be doing. That does
16 not prohibit me getting involved in the case as
17 well. But that was my job at the time.

18 Ms. Wooten, do you want me to go into
19 the specific -- just everything about the case
20 or --

21 Q. Rather than recreate everything,
22 particularly the jury has heard from Officers Neese
23 and Eckert sort of where a number of individuals
24 are transported from the hospital to the police
25 station --

1 A. Yes, ma'am.

2 Q. -- and met with you. If you could sort
3 of pick up at that point and tell us about your
4 interaction with them.

5 A. Yes, ma'am. So it was about 7:00 on
6 March the 19th. I was advised that there was a
7 child brought into the East Cooper ER. The child
8 had passed, and the death was considered
9 suspicious, above and beyond the obvious, that a
10 two-year-old doesn't normally pass away without
11 something happening. And I went to the Police
12 Department. By the time I arrived, Bryan Seabrook
13 was in an interview room. Marty Dixon was in an
14 interview room. And I don't really recall where
15 Brittany was at the time.

16 I was briefed on the case. Corporal
17 Eckert was at the hospital. He had given me the
18 information that he had obtained so far. I was
19 told that the child had some bruising, and I was
20 told that the death definitely appeared suspicious
21 and that, you know -- that the two were at the
22 station.

23 So I started into the interview room to
24 speak with Mr. Seabrook. Again, in a case of this
25 magnitude, it's kind of we all work together. We

1 become very cohesive in a team, and everyone will
2 go out and do their own part in this investigation
3 as a team and know that these folks need to be
4 spoken to in detail. So I went in the interview
5 room. I introduced myself to Mr. Seabrook. I --
6 before we interview anyone, we have to secure our
7 duty weapon in a box locked outside that interview
8 room. I did that, introduced myself.

9 I knew that he had not requested an
10 attorney at the time. I began -- I noticed that he
11 was -- and this is not just my -- my observation.
12 He did not appear to be emotional. He didn't
13 appear -- he appeared sleepy. So I found that a
14 little bit odd due to the fact that a lifeless
15 child had just been taken to the hospital. I would
16 be a nervous wreck, you know, in that case.

17 I explained the Advisement of Rights
18 Form to Mr. Seabrook. So when a person comes into
19 our interview room to be interviewed, there is a
20 written Advisement of Rights that they're
21 interviewed from. It's just Miranda on a written
22 document. They initial and sign that they
23 understand for each line. They have a question
24 regarding each individual one has been explained to
25 them. And then at the bottom of the form, there is

111

1 a signature portion for the acknowledgment of their
2 rights. There is also a signature portion for
3 waiving their Miranda rights; in other words, they
4 agree to further speak with us.

5 He initialed the portions that said he
6 acknowledged Miranda. And the portion where I
7 asked if he would waive his rights to further speak
8 with me, he said: I guess this is the part where
9 I'm supposed to ask for my attorney.

10 I asked him if he did wish to speak to
11 an attorney, and he said yes. At that point I
12 ended the interview, respecting that request.

13 So I'm in and out of this interview
14 room. The interview room is within our office.
15 It's a closed office within our Criminal
16 Investigations office. I had spoken to Deputy
17 Coroner Ramsey, Scott Ramsey, on the phone. He
18 advised me there was some fresh bruising on the
19 child from his observations at the hospital and
20 that there was some trauma to the child's anus.
21 And, you know, I'm not a doctor, so I was trying to
22 get my best -- the most information I could. And I
23 asked him if he felt that could possibly related to
24 a sexual assault. He said it's definitely
25 possible.



1 With that information, I directed one
2 of the detectives to get a search warrant for a
3 sexual assault kit for the person that brought him
4 in, which was, from my understanding at the time,
5 the main person and contact with the juvenile prior
6 to this incident. The sexual assault kit was
7 completed by the same nurse from MUSC and was
8 submitted into evidence. And I didn't do any
9 further interviewing of Mr. Seabrook that day.

10 I didn't speak to Ms. Dixon in an
11 interview setting. The only time I spoke with her
12 was we secured Mr. Seabrook's phone to have it
13 analyzed at a lab, and we secured Ms. Dixon's phone
14 to have it analyzed at a lab. And at the time, the
15 attorney they had at the time, I asked her to help
16 me get Ms. Dixon's phone. And Ms. Dixon had walked
17 out the front door of the station because she had
18 been released. So I went out -- followed her out
19 of the station, asked her if I could get her phone
20 from her. She said yes.

21 She started going through her phone. I
22 asked her what she was doing. She said she was
23 just getting some appointments, I think a
24 hairdresser of some sort. She was getting some
25 appointments out of her phone. Nothing overtly

1 suspicious or anything like that. When she was
2 finished, she handed over the phone. I secured the
3 phone data, turned it in to Evidence, and sent it
4 off to the lab.

5 So that was pretty much the extent of
6 my interaction with them that night. Mostly what I
7 did was making sure that all of our bases were
8 covered in this case: That a search warrant was
9 being done on the car they drove the child to the
10 hospital in, search warrant was being done on the
11 house that he was at. They knew what they were
12 looking for and the focus of the search warrant.

13 I believe you guys may or may not have
14 already heard that some -- the child had messed a
15 diaper, that the child had vomited and stuff like
16 that. So we wanted to see what that scene looked
17 like, recover some of those items if we could.

18 We have a big white board in our
19 Investigations office. Any time someone has an
20 idea, we write on that board things that need to be
21 done, and everyone will contribute. So I was kind
22 of managing that. And that's pretty much the
23 extent of what I did that night until these folks
24 were released.

25 If you'd like, I could jump into the

1 day of the arrest.

2 Q. Just one moment.

3 A. Yes, ma'am.

4 Q. Yeah, if you would continue with your
5 testimony, even though, potentially, it may be a
6 little more timeline appropriate later, but I know
7 you have some constraints.

8 A. Yes, ma'am. So I'll just make sure,
9 I'm just going to refer to my report from that
10 initial night and make sure there was nothing I
11 left out that I thought would be pertinent. Not
12 really. The only thing that is worthy of noting --
13 and I apologize for missing it before -- is at the
14 time in our interview room, we had a video camera
15 that didn't have audio. It was more of a security
16 camera, if you will. We had a concern -- not that
17 was placed with sergeant over that group. I became
18 concerned about the fact that we would have
19 detectives in the room interviewing people, and we
20 couldn't see anything. So if there had been an
21 attack or whatever, we wouldn't know, or if the
22 detective walked out of the room and the person had
23 a medical emergency or something, we wouldn't know.
24 So at the time we put a camera in. It had no
25 recording capability. It was just video.

1 At one point, there was an attorney
2 that represented Mr. -- or that said she
3 represented Mr. Seabrook. Her name was Sonya
4 Duvall. She was walking back to our Investigations
5 office, early on in this, right after I got to the
6 station, shortly thereafter, and she demanded to
7 speak to Mr. Seabrook and Ms. Dixon. We did not
8 allow her to speak to Mr. Seabrook because he had
9 not requested an attorney. So that's the
10 appropriate process. He requests an attorney, and
11 we will allow that. So we did not allow her to
12 speak to him at that time.

13 We escorted her back to the lobby. A
14 little while later, we did bring her back so that
15 she could explain the process of the sexual assault
16 kit to him. You know, it's a hard spot to be in
17 because you want to do what's best for this child.
18 And he's got to have the kit, keeping in mind that
19 he may not have any involvement at all; he just
20 took this child to the hospital. So I was using
21 her to help facilitate that sexual assault kit.

22 When she goes in to the interview room,
23 we can't hear what she's saying, but we can see her
24 texting on the phone. We can't see what she's
25 texting, but she's using her phone, and I knew that

1 Ms. Dixon still had her phone. Because we were
2 worried about taking those phones and having them
3 put in the crime lab and things like that, I said,
4 you know what, you can explain the assault kit, but
5 you really don't need to be in there anymore.
6 You're not going to sit in while they do a sexual
7 assault kit on him. That's pretty intrusive. And
8 so we pulled her out. She was allowed to speak to
9 Ms. Dixon because she had specifically requested
10 her, and then she left the station.

11 So that was pretty much that night in a
12 nutshell. I can answer your questions about it if
13 you guys have any.

14 CORONER WOOTEN: Any questions about --
15 since he said it sort of concludes that night, it
16 might be a good time to get those questions, if you
17 have any.

18 JUROR NO. 222: So like you -- earlier,
19 you said you went behind Ms. Dixon to ask her to
20 place the phone, and she did a few things and gave
21 it to you.

22 THE WITNESS: Yes, ma'am.

23 JUROR NO. 222: And then the
24 lawyer went --

25 THE WITNESS: I apologize. I said that

1 kind of in reverse. What happens is I had just
2 gotten in the station, kind of getting my bearings,
3 finding out from the detectives at the hospital
4 what they had learned. I was finding out from the
5 detectives when they were coming in what they were
6 going to do for me, things like that. Fairly
7 immediately, my captain at the time met Ms. Duvall
8 in the lobby and brought her back to the station's
9 office, and she said she was the attorney for
10 Mr. Seabrook and Ms. Dixon and Ms. Brittany. And
11 she wanted to speak to Bryan Seabrook. And because
12 he had not specifically requested an attorney, we
13 weren't going to do that.

14 It's not uncommon, you know, for an
15 attorney to hope they can invoke for that person,
16 but that process has to be followed. He has to
17 invoke and ask for an attorney. And if he asks for
18 an attorney, we bring her to him. But, anyhow,
19 that was the first part.

20 We bring her out to the lobby. We have
21 a secured facility at our station. So you're not
22 allowed to just walk around. We take her out to
23 the front of the lobby. Later on, when we do the
24 sexual assault kit, she came back to explain our
25 process to him, and she goes back up in front. And

1 then later that evening when they were released
2 from custody, they were allowed to leave the
3 station. She -- Ms. Dixon was walking out the
4 front door when I spoke to Ms. Duvall, and she
5 helped me get her phone.

6 Any other questions?

7 CORONER WOOTEN: You have other
8 testimony?

9 THE WITNESS: Yes, ma'am. So May the
10 9th, 2013, an arrest warrant was secured for
11 Mr. Seabrook. And I was notified about 4:00 by my
12 captain at the time that he had been arrested and
13 he was at the station, and I was directed to
14 conduct an interview of him.

15 So I respond to the station. I asked
16 Detective DeCamp, who is the case agent on this
17 case, if he had requested an attorney or made any
18 statements. He said he had not. I go into the
19 station. I again secured my handgun in our lock
20 box. I begin to interview him. And I begin
21 filling out the Advisement of Rights Form, the same
22 one I filled out with him two months prior, a new
23 form, but the same type of form. I told him I
24 wanted to speak to him about the incident, and I
25 advised him that I needed to complete the Rights

1 Form that I did before.

2 I further said -- this is where I
3 wanted to read from the report -- I further advised
4 that sometimes when people are arrested, they may
5 be willing to speak with law enforcement to explain
6 why things happened or out of remorse. I said that
7 to him as I'm getting ready to write this form.
8 When I continued with the form, he spontaneously
9 uttered, he spontaneously stated: I've been
10 remorseful ever since.

11 I stopped him, and I said -- he
12 appeared to be in the middle of a sentence. And I
13 asked him to let me complete the form, because I
14 wanted him to be aware of his rights before he made
15 any statements. When I was finished, he signed the
16 appropriate portion of the form that he understood
17 and acknowledged his understanding of his Miranda
18 rights. He again refused to sign the bottom part
19 waiving the rights so that he could talk to me
20 further, but he acknowledged that he understood it.
21 That's not uncommon with folks. They'll refuse to
22 sign the form, but they verbally acknowledge that
23 they understand it. It's worked for us. We would
24 prefer they sign, but sometimes they don't.

25 I begin the process of interviewing

1 him. I explain the contents of his arrest warrant.

2 I explained that, based on our investigation so
3 far, I believed that I knew what type of injury
4 caused Minor Victim death. I wanted to know why.

5 Society often wants to know why things like this
6 happen. And I prompted him -- I asked him if I
7 could bring Detective DeCamp into the room.

8 At some point I tell him, you know, in
9 talking to him, we're not going to judge you, no
10 one is here to judge you, and I believe I put that
11 thought in his head. But when I asked if I could
12 bring Detective DeCamp into the interview room, and
13 he said -- he basically indicated he wanted to talk
14 to me like men and he did not want to be judged,
15 indicating that he did not want Detective DeCamp in
16 the room. I had spoken to him two months prior, so
17 I felt like we had built somewhat of a rapport. He
18 was never rude or belligerent or anything like that
19 to me.

20 So I asked him what he meant when he
21 said he had been remorseful. He replied: I've
22 been remorseful ever since I saw him laying there
23 on the couch.

24 Several minutes later in the
25 interview -- and we're having -- we're having a

1 talk just about the whole -- the arrest warrant,
2 the case, anything like that. Several minutes
3 later, he says: I knew this would all come back to
4 me.

5 I explained to Mr. Seabrook my
6 understanding of Minor Victim injuries and the timeline
7 of adults that were in direct contact with him.
8 Mr. Seabrook was the one that had the most contact
9 with him for the longest amount of time prior to
10 his death. I told him that I believed he was the
11 sole cause of that death and I wanted to know what
12 transpired to cause it.

13 In an attempt to build a rapport with
14 him, I explained to him that Brittany had moved in
15 with him, that she was allowed pretty much to go
16 and come as she pleased, and he was kind of stuck
17 taking care of the children and babysitting. He
18 nodded in agreement with that. I acknowledged he
19 was put in a tough spot.

20 He seemed like he would be honest, but
21 he would also say he would never hurt that child.
22 He said that when I was speaking to him. I
23 maintained the position that he was directly
24 involved, that we had an arrest warrant for him, I
25 believed he was directly involved, and based on my

1 investigation, and I maintained that position
2 throughout the interview. Always friendly, I pride
3 myself on being friendly, but I don't -- you know,
4 friendly, professional, but I maintain my spot, lay
5 out the fact that I thought he was directly
6 involved.

7 He says: I want to tell you what
8 happened, but I want my lawyer to be present.

9 I explained to Mr. Seabrook that I was
10 going to end the interview based on that, because,
11 in my opinion, he requested an attorney. He
12 reinitiated the conversation with me asking if he
13 could smoke. And that wasn't a conversation
14 related to the topic of this case, but it was a
15 capricious reinitiation to start talking. I take
16 him outside to smoke. We keep a supply of
17 cigarettes and a lighter in the CID office, the
18 investigations office, and we take them out and let
19 them smoke outside. I take him out to smoke. We
20 are standing outside, and he says: Damn, man.

21 And I said: What's wrong?

22 And he holds his hands up, and he
23 says -- make sure I quote it exactly how he said
24 it: This.

25 He held his hands up and showed the

1 handcuffs. I explained that he was initiating
2 discussion on that topic. Now he's initiating
3 conversation about that case, and now I can talk to
4 him. I make it very clear, always have with folks,
5 that if he's going to continue speaking to me about
6 that case, he's reinitiating that discussion.

7 I told him that I was going to -- that
8 we are going to continue to investigate Brittany
9 and Marty to see if they had any involvement in the
10 case. And he says that they do not. I want to
11 make sure I quote him exactly at that point what he
12 said. He just stated that they did not.

13 Further on in the statement, he stated
14 that he would give me the details, but he wanted an
15 attorney present. And I ended the interview.

16 The entire time he was with us, we gave
17 him a drink, we gave him a couple of smoke breaks,
18 took him to the restroom when he asked. But if he
19 was doing an interview and said he wanted an
20 attorney, we would stop right there. We wouldn't
21 discuss anything about the case. That was the
22 contact in the whole thing.

23 CORONER WOOTEN: Do we have any
24 questions from the jurors?

25 JUROR NO. 83: Just so I get the

1 timeline straight, so you said that during your
2 interview, you said that he wanted to tell you what
3 happened but wanted an attorney present. At that
4 time you stopped the interview because that's
5 considered --

6 THE WITNESS: Yes, ma'am.

7 JUROR NO. 83: -- his invoking his
8 right to an attorney?

9 THE WITNESS: Yes, ma'am, right.

10 JUROR NO. 83: And then after that, he
11 went out for a smoke break, and he started to
12 relate more about the --

13 THE WITNESS: So, yes, so he has to say
14 something specific to the topic. I'm not going to
15 sit there, you know, just sit there and stare at
16 him and hope that he talks. Took him out for a
17 smoke break, and he said: Damn, man.

18 And I said: What's wrong?

19 And he held his hands up, and he said:
20 This.

21 And then I explained to him, you're
22 reinitiating conversation about this case. And you
23 know that you've already asked for an attorney, and
24 I gave him the whole breakdown. And then he said
25 he wanted to give us the details, but he wanted an

1 attorney present. I don't know if, to him, the
2 details were his side of the story or -- I don't
3 know.

4 JUROR NO. 83: But at that time he
5 didn't tell you anything else --

6 THE WITNESS: No, ma'am.

7 JUROR NO. 83: -- further about -- and
8 one more thing. You said that you took a look at
9 his phone and Marty Dixon's phone. Did it appear
10 that Mr. Seabrook tried to contact anyone when he
11 found Minor Victim down, like a 911 call or a call to any
12 family or anybody for advice?

13 THE WITNESS: Without having it in
14 front of me, I don't remember. There were some
15 text messages, but I don't remember what it said.

16 CORONER WOOTEN: I think Detective
17 DeCamp will be able to speak to that.

18 THE WITNESS: Yes, ma'am.

19 CORONER WOOTEN: And I'm not cutting
20 you off. Any other questions? I think he makes
21 the answer to that a little more clear. Last
22 chance. Any other questions for Lieutenant
23 Hembree?

24 Thank you so much. You may step down.

25 THE WITNESS: Yes, ma'am.

1 the doctors at all.

2 CORONER WOOTEN: Very good. Thank you.
3 Any further questions before we let Officer Neese
4 go?

5 Okay. Thank you, Officer Neese, you
6 may step down.

7 THE WITNESS: Thank you.

8 CORONER WOOTEN: Our next witness will
9 be Officer Dan Eckert, Mt. Pleasant Police
10 Department.

11 CORPORAL DANIEL ECKERT,
12 being first duly sworn, was examined and testified
13 as follows:

14 EXAMINATION

15 BY CORONER WOOTEN:

16 Q. Would you state for the record your
17 rank and title?

18 A. I'm a first line supervisor at the
19 Mt. Pleasant Police Department in the Criminal
20 Investigations Bureau with the rank of corporal.

21 Q. And on the -- in regard to the
22 investigation into Minor Victim Washington's death, would
23 you talk a bit about how you came to be involved in
24 investigations related to him and his life and his
25 death?

1 A. Yes, ma'am. On the 19th of March,
2 2013, I was in an off-duty capacity. My shift had
3 ended. And I received a phone call from the patrol
4 supervisor. The patrol supervisor advised me that
5 an infant had presented at East Cooper Hospital in
6 the Town of Mt. Pleasant. The infant was two years
7 old and had ultimately died in the hospital upon
8 presenting to the ER. Any kind of death
9 investigation, unless it's obviously a natural
10 death, gets handled by the Criminal Investigations
11 Bureau. The Criminal Investigations Bureau gets
12 contacted, and we get activated.

13 On that night, I was over at a baseball
14 game with my son, dropped what I was doing, and
15 headed over to the hospital. While I'm going to
16 the hospital, I notified my immediate supervisor --
17 he was a sergeant at the time, he's a lieutenant
18 now -- Lieutenant Hembree, to kind of give him an
19 idea that, hey, we have an infant that presented at
20 East Cooper and is now deceased. I'm going over
21 there, and I'll keep you posted.

22 When you have a major incident like
23 that, it becomes an all-hands-on-deck type of
24 thing. Some cases, one detective, one detective
25 will die. But in this case, you have a

1 two-year-old presented into the ER. We want
2 everybody involved.

3 Detective Andy DeCamp was on call that
4 night. And so I called him, told him I needed him
5 to get to the hospital ASAP and that I would meet
6 him over there. When I got to the hospital, I met
7 with Sergeant Googe, who was the reg supervisor
8 that night. He told me that a two-year-old had
9 presented into the ER. He was brought in by
10 family, private vehicle, not by ambulance or
11 anything like that, and he was just pronounced
12 deceased by the medical staff. At that time they
13 took me back to the trauma bay, and they showed me
14 the infant in the hospital bed, a little
15 two-year-old, obviously had some trauma, you know,
16 from my own observations, trauma to his belly area,
17 looked swollen, what I would call distended. I
18 knew the coroner was coming. I knew that I had a
19 whole investigations crew coming. So I left him in
20 there for the coroner to obviously take a look at
21 him at that point.

22 I then went out in the lobby and
23 learned that the juvenile had been brought to the
24 hospital by Bryan Seabrook. When I was making my
25 introduction to Mr. Seabrook, I came into contact

1 with Marty Dixon who was the juvenile's
2 grandmother. And I pointed out who I was and why I
3 was there. At one point, Sally Perry came up and
4 said that she didn't want Marty talking unless she
5 had a lawyer present. Marty never invoked her
6 rights herself. So I really didn't pay too much
7 attention to that.

8 At that point, part of investigating is
9 separating people, getting independent stories. I
10 wanted to get an independent story from
11 Mr. Seabrook as to what happened at the house prior
12 to him coming to the emergency room. And I want to
13 back up for a minute. When I found out the people
14 involved, also being a being supervisor in the
15 Criminal Investigations Bureau, I read reports
16 every day, I'm tasked with knowing what kind of
17 active cases are going. At that point, I realized
18 that this child had been part of the previous
19 investigation through the Department of Social
20 Services that Detective Willis, Detective Adam
21 Willis, also had been following up on at that
22 point. And I called Detective Willis to make sure
23 that he was coming to the scene, because I felt
24 that he would have some insight that, you know,
25 maybe we all wouldn't have.

1 At that point I took Mr. Seabrook
2 outside and asked him what had occurred. And he
3 gave me a brief breakdown that he was feeding the
4 juvenile some dinner. Some Doritos were involved
5 in there. He began to choke on the on Doritos.
6 There was a time that he then put him in the
7 bathtub. He was making some odd kind of noises.
8 Got him out of the bathtub, got him dressed, put
9 him in the bed with siblings to watch a little
10 T.V., still didn't think things were going good.
11 At one point he pulls out an ice pack and put it on
12 his bottom lip to kind of stimulate it.

13 At that point, as we're talking,
14 Officer Darren Monge, who was on patrol that night,
15 had showed up at the hospital to transport
16 Mr. Seabrook back to the Police Department. Here
17 we have a two-year-old that has passed on, and
18 we've got some questions obviously that we need to
19 ask and that you need to answer. And I told
20 Mr. Seabrook, I said, listen, I want to talk to
21 you. Talking to you in front of the hospital isn't
22 the place to do this, and he agreed to run back to
23 the police station with Officer Monge.

24 From there, I made contact with
25 Ms. Dixon, explained to Ms. Dixon that we also

1 wanted her to go to the station, we wanted to speak
2 to her, which she consented to doing. And she was
3 transported to the station by Officer Monge in his
4 patrol vehicle, again keeping everybody separated.

5 From there, we're still kind of in the
6 investigation part at that point. Now that I've
7 got two people going back to the hospital, I felt
8 that it would be important to get back to the
9 station to assist people at the station with
10 interviews and dealing with what going on at the
11 hospital.

12 We went back to the station.
13 Lieutenant Hembree had now arrived. He was talking
14 to Mr. Seabrook in one of the interview rooms. So
15 I didn't go in there to interrupt those
16 conversations that were going on. And Ms. Dixon,
17 Marty Dixon, had also arrived. I was able to get
18 her a cold beverage and kind of told her that we
19 would be with her as soon as we could. We posted
20 an officer outside the interview room that she was
21 in just in case she needed anything else.

22 Moving forward, I knew that things had
23 to be done. As a supervisor, I began directing.
24 You know, we wanted to secure a search warrant for
25 the house, which means that, you know, that's

1 paperwork that has to be done. Then we have to go
2 in front of the judge and present probably cause
3 facts why the judge should grant us permission to
4 search this house. So I ensured that detectives
5 were working on that.

6 I then began reaching out to DSS. We
7 have a two-year-old that's now deceased that was
8 inside this home, and I knew there were two other
9 infants in the home. Infants, I believe they were
10 five or three or somewhere around there. And,
11 also, I knew that there was an active case that
12 Detective Willis was working, so DSS would want to
13 come in and be part of this investigation. So I
14 had reached out to DSS.

15 As things kind of progressed, an
16 attorney for Mr. Seabrook and Ms. Dixon showed up
17 at the Police Department. We spoke briefly with
18 her. We let her in to speak with Marty Dixon
19 briefly. She was requesting to see her client who
20 had retained her. It kind of got out of hand. We
21 do a shift briefing before every shift starts.
22 Every time we'd do a shift briefing, she became
23 disruptive, the attorney did. So that's when we
24 put her back out in the lobby and told her that we
25 would be with her shortly.

1 As things progressed on, I learned from
2 Lieutenant Hembree that Mr. Seabrook was done
3 talking with him, didn't want to discuss anything
4 else without an attorney present. And we kind of
5 moved on from there.

6 One of the things I forgot to mention,
7 while I was at the hospital and talking to the
8 doctors and talking to the staff, one of the
9 doctors thought there appeared to be some trauma to
10 the child's buttocks area, potentially maybe could
11 have been a sexual assault. Based on that, based
12 on the fact that I have a doctor telling me this
13 child could have potentially been sexually
14 assaulted, that kind of puts more things into play.

15 Where we would do an examination to
16 gather evidence from the people that live with the
17 child, it's a sexual assault examination kit, and
18 that's handled through the South Carolina Law
19 Enforcement Division. But based on that, we just
20 can't go up and say, hey, we're go to do a kit on
21 you. Again, we have to go in front of a judge and
22 outline our probable cause as to why we're doing
23 this kit.

24 One of the things I also did to help
25 facilitate that was to have the same examiner come

1 to our station and do the kit right there where
2 these people were at in the interview room.

3 The night continued to progress.

4 Received some phone calls from guys at the scene.
5 DSS was there. DSS was back at the hospital. I
6 know you heard from a lot of people today. I know
7 you heard from Officer Neese. He kind of sat in
8 the room as DSS was working with Ms. Perry. And
9 I'm sure you heard that she was upset about the
10 kids being taken from her. At that point, I went
11 back to the hospital and just made it clear that,
12 hey, for the safety of the children, they're going
13 with DSS tonight. Jane Bell was on the scene,
14 Department of Social Services, and she was
15 assisting us in that aspect of the investigation.

16 I directed that a search warrant be
17 done on Mr. Seabrook's vehicle, on the vehicle that
18 he brought [Minor Victim] to the hospital in. Obviously we
19 were looking for any kind of evidence that would be
20 related to the death of the two-year-old. The
21 vehicle was at the hospital, so we executed that
22 search warrant while we were at the hospital.
23 There was a some sort of bat that was found in the
24 trunk of the car which we secured. But nothing
25 really stood out to us. There was not a lot of

1 evidence, per say, in the car.

2 We -- then Jane Bell arrived, as I
3 previously stated, and made arrangements to get the
4 two children with Ms. Bell, get them to the
5 hospital and get them placed in an alternate
6 establishment for the evening. As Jane Bell was
7 leaving the hospital, she called me --

8 Q. Officer Eckert, we're going to have her
9 testimony.

10 A. Oh, okay. Sorry about that.

11 Q. No, that's fine. It just might save
12 you doing that. We can have her testimony.

13 A. You'll hear from Jane Bell firsthand.
14 From there, I went over to the apartment, [REDACTED]
15 [REDACTED] in the Parish Place
16 Apartments, which is in the Town of Mt. Pleasant,
17 County of Charleston, State of South Carolina, and
18 we executed the search warrant on the house. There
19 was a time that there was talk of him maybe having
20 a loose stool, and we found some diapers in the
21 trash, and we took pictures of those and secured
22 them for evidence. Detective DeCamp and I really
23 walked through the house looking for any evidence
24 that could tell us why this young boy passed away.

25 If I may for a second. From there, now

1 that we've conducted all the search warrants on
2 cars, I went back to the station and reached out to
3 the Dee Norton Lowcountry Children's Center, as
4 they do forensic interviews on children, victims of
5 crime. They do forensic interviews, and then they
6 do physical examinations. And they can document
7 findings during these interviews and examinations.

8 I reached out to Don Elsey, must have
9 been 11:00, 12:00 in the morning at this point.
10 And I sent him an e-mail saying, hey, I need you to
11 call me first thing. This is the type of case
12 we're working, and we need to get two juveniles in
13 for two interviews.

14 Q. Officer, just to advise you, because
15 you're not aware, he will be testifying later also.

16 A. Okay. Just to get them in for
17 interviews. The following day, I attended the
18 autopsy at Medical University of South Carolina.
19 You're going to hear information on what was found
20 during that autopsy. From clearing the autopsy, I
21 met again with Ms. Bell and got a written statement
22 from Ms. Bell, which I'm sure she will talk to you
23 about. I then went and met with officers at the
24 Lowcountry Children's Center and learned about the
25 forensic interview and how that was progressing,

1 and you'll hear all about that from Mr. Elsey.

2 I then went and did a thorough canvas
3 of the C building at the Parish Place Apartments.
4 And basically what that consisted of is knocking on
5 each door, trying to make contact with the
6 occupants of the home -- of the homes, see if
7 anything was out of the ordinary or if they had
8 heard anything during the time frame of this
9 incident. And nobody reported hearing anything
10 suspicious. Nothing stood out to me from that
11 canvas that would be beneficial to assist us in our
12 investigation.

13 I checked with the property management
14 at Parish Place Apartments to see if they had any
15 outside videos, any outside cameras that
16 potentially could have captured anything, and they
17 didn't have anything. I went and ensured that
18 Detective Stephenson, who is a detective with our
19 agency, was going to follow up with the nursing
20 staff at East Cooper Hospital who attended to the
21 juvenile on the night of this incident, and he was
22 going and taking statements from them, gathering
23 information on what they saw and observed as the
24 child presented to the ER.

25 If I may for a second. Then we're

1 getting information that during the time frame of
2 this incident that the child's mother was at
3 school, which was at Paul Mitchell Hair School over
4 in the Tanger Outlet. And we're getting some
5 different stories on that. I was able to track
6 down some people that she said that she was with,
7 that she attended school with and she had gone to
8 Buffalo Wild Wings with. And that ended up not
9 being true. Through investigation, we learned that
10 she was actually with her child's father, and they
11 were celebrating her birthday over in the area of
12 835 Von Kolnitz Road.

13 From there, we reached out to a cab
14 company, Yellow Cab, as well as CARTA here in
15 Charleston, to kind of discuss and to try and
16 gather evidence as to -- you know, to corroborate
17 that the stories that we were getting either from
18 the child's mother, Brittany Hartwell, or her
19 attorney, that that's how they were getting around
20 that day, that they had been in a Yellow Cab to go
21 to the Harris-Teeter or that they had rode the bus
22 and that's how they got to the Harris-Teeter. So I
23 was fielding a lot of phone calls and making a lot
24 of follow-up phone calls on those types of
25 situations.

1 Did some background investigation into
2 the residence of 835 Von Kolnitz Road where
3 Ms. Hartwell and Mr. Washington had been on that
4 night. Interviewed a Mr. Christie, who was a
5 roommate who was able to place them there at the
6 house prior to him leaving to go out and do what he
7 was doing. He had gone -- Christie had gone to a
8 friend's house, had gone to a friend's store where
9 he worked at. However, he was able to tell me when
10 he left, Brittany and Washington, Chris Washington,
11 were together at that residence, 835 Von Kolnitz
12 Road.

13 Detective DeCamp and I interviewed
14 Chris Washington about the incident trying to
15 gather information on to -- as to why his son had
16 passed. He was kind of leaning on us. He was
17 upset. But he had just lost his son, and he wanted
18 answers. However, there wasn't really any answers
19 that he could provide to us. He talked about a
20 prior criminal domestic violence case between him
21 and the child's mother, Brittany Hartwell, as well
22 as them being required to take some parenting
23 classes through DSS and that the children had been
24 placed with the grandmother, Ms. Dixon.

25 From there, we pulled medical records.

1 We pulled medical records through East Cooper
2 Hospital so they could be reviewed by Detective
3 DeCamp who was the case agent. We learned that the
4 child had gone to Nason Medical Center in
5 Mt. Pleasant. We subpoenaed those records. And we
6 also subpoenaed records from Coastal Pediatrics,
7 which is in Mt. Pleasant as well over near the
8 Target.

9 And from there, one last thing. I
10 spoke in depth with the doctor. She had learned
11 about the prior injury to the juvenile's leg on
12 12/31/2012. She evaluated the juvenile and
13 referred him out, and she had seen the juvenile's
14 siblings also is what she had told me. But nothing
15 regular -- nothing like she was seeing him on a
16 regular basis.

17 And that's pretty much the gist of my
18 involvement in this investigation.

19 CORONER WOOTEN: Thank you. The jurors
20 may have questions, and if you would please answer
21 any of their questions.

22 THE WITNESS: Yes, ma'am.

23 JUROR NO. 222: Do you think in your
24 investigation that Mr. Seabrook found out by a
25 friend or somebody seeing his girlfriend with

1 Chris Washington?

2 THE WITNESS: Can you repeat the
3 question for me?

4 JUROR NO. 222: Do you think that
5 Mr. Seabrook found out about Brittany going with
6 the real baby father, Mr. Washington?

7 THE WITNESS: I don't know, because I
8 never really got the chance to sit down and talk to
9 Mr. Seabrook. Mr. Seabrook -- you know, my
10 understanding, Lieutenant Hembree handled the
11 interview with him on the night of the incident,
12 and it's my understanding he invoked his rights
13 pretty quickly. So I don't know what he found out.

14 You know, we were concerned, obviously
15 we felt that there was some dishonesty going on,
16 and we were actually able to verify the dishonesty.
17 And if they were being dishonest about something
18 like that, you know, we wanted to figure out what
19 everything -- the whole scope of the picture as to
20 what they were being dishonest about. I don't know
21 if I answered your question.

22 CORONER WOOTEN: I may be able to
23 clarify. Your question implies to me that I might
24 need to clarify the relationships in the home. And
25 you may not be -- I may be misunderstanding your

1 question. But Mr. Seabrook is involved with the
2 grandmother, Marty Dixon, rather than the mother,
3 Brittany Hartwell.

4 JUROR NO. 222: Okay. Good. I
5 understand.

6 THE WITNESS: I would have butchered
7 that, too, then.

8 CORONER WOOTEN: Well, I recognized --
9 when said that, I recognized that -- that wasn't
10 necessarily the case, but I wanted to make sure
11 that I answered that portion. Other jurors?

12 JUROR NO. 83: So the active DSS case,
13 circumstances with that were to do with the
14 domestic violence between the biological parents of
15 the children being Brittany Hartwell and Chris
16 Washington, that was the active DSS case that you
17 just referred to?

18 THE WITNESS: No, I think the active
19 DSS case that you're talking about or that you're
20 inquiring about is one that Detective Willis
21 handled that started on New Year's Eve 2012,
22 rolling into 2013, when he presented with a leg
23 injury. And it ended up being transferred from
24 Coastal Pediatrics, I want to say on that night --
25 and, again, I don't have that case file in front of

1 me, but it's my belief they took him from Coastal
2 down to Lowcountry Children's Center for the injury
3 and for him to be examined by the staff at
4 Lowcountry Children's Center, and that was the
5 active DSS investigation that Detective Willis was
6 handling at that time.

7 CORONER WOOTEN: To clarify, you will
8 be hearing from Detective Willis later, as well as
9 other individuals at Coastal Pediatrics and LCC.

10 JUROR NO. 222: As well as the
11 coroner -- the autopsy?

12 CORONER WOOTEN: Ma'am?

13 JUROR NO. 222: The autopsy, too, as
14 well? The coroner will be here?

15 CORONER WOOTEN: You are going to hear
16 about the autopsy from the pathologist who
17 performed it, yes, ma'am.

18 JUROR: Thank you.

19 JUROR NO. 83: In a couple of other
20 statements, people mentioned that Bryan stated that
21 he had gone to take out the trash and left Minor Victim
22 alone with his sisters to watch a movie and recover
23 from being ill. Did you or your officers look for
24 the trash he took out --

25 THE WITNESS: Yes, we did go through

1 the trash, and the trash was actually from a can
2 outside. We were able -- and there's apartments,
3 they have a cordoned-off area with curbside
4 Dumpsters like you would see if you're driving
5 through a neighborhood. And we were able to figure
6 out which can belonged to them. And how we figured
7 it out, there was some mail in there or something
8 that had their name on it that tied that bag of
9 trash back to C6. And those were the diapers and
10 stuff that were photographed by our Crime Scene
11 Unit.

12 CORONER WOOTEN: And we will be hearing
13 from Crime Scene a little bit more about the scene
14 investigation shortly.

15 JUROR NO. 195: You said that it was
16 requested to have a sexual assault kit. Did
17 anything ever come of that?

18 THE WITNESS: I don't have the results
19 of that. You'll hear from Detective DeCamp who is
20 the case agent that kind of brings everything
21 together. So when we're handling a large
22 investigation like this, we kind of task each other
23 with jobs. And you'll hear more about that from
24 that detective.

25 JUROR NO. 107: You had mentioned

1 something new, that he said he put an ice pack on
2 the child's bottom lip?

3 THE WITNESS: Um-hum.

4 JUROR NO. 107: And he said why he did
5 that?

6 THE WITNESS: He said the child seemed
7 to be kind of groggy, kind of out of it. And it
8 was to -- you know, he called it stimulate, you
9 know. And when I say ice pack, more of like a
10 teething ring, like an infant when they're teething
11 is what he described to us.

12 JUROR NO. 107: Thank you.

13 JUROR NO. 83: I just have one more.
14 Did Mr. Seabrook -- you said he had invoked his
15 right to an attorney during his interview at the
16 police station. To your knowledge, did he invoke
17 his right to an attorney at any time before that,
18 say, when Ms. Perry was insisting on an attorney
19 for -- I guess Marty?

20 THE WITNESS: No, not at all, he
21 didn't, which had he invoked to me when we were out
22 in front of the hospital, you know, when you
23 invoke, you're done. Instead, he volunteered to go
24 to the station with us. I had him transported to
25 the station, and he talked for a good bit with

1 Lieutenant Hembree. And he'll be able to tell you
2 everything they talked about firsthand.

3 CORONER WOOTEN: You will be hearing
4 from Lieutenant Hembree here shortly too. Any
5 other questions about Officer Eckert's testimony?

6 Thank you very much. You may step
7 down.

8 THE WITNESS: Thank you, ma'am. Thank
9 you.

10 CORONER WOOTEN: Our next witness will
11 be Lieutenant Justin Hembree.

12 LIEUTENANT JUSTIN HEMBREE,
13 being first duly sworn, was examined and testified
14 as follows:

15 EXAMINATION

16 BY CORONER WOOTEN:

17 Q. Thank you, Lieutenant Hembree, for
18 being willing to come here today and testify into
19 the death of Minor Victim

20 A. Yes, ma'am.

21 Q. We have heard from a number of
22 witnesses before, to include a couple of the other
23 officers, Officer Neese and also Officer Eckert,
24 and we -- just so you sort of know, we've heard
25 some testimony already.

1 necessarily a one-time thing?

2 THE WITNESS: Correct.

3 CORONER WOOTEN: Thank you. Any other
4 questions from the jurors?

5 JUROR NO. 222: Yes. You said there's
6 five causes of death, homicide by action of another
7 person, suicide, accident, undetermined, and what
8 was the fifth?

9 THE WITNESS: Natural. Those are the
10 manners, manners of death, correct.

11 CORONER WOOTEN: Any other question
12 before we allow Dr. Schandl to leave the stand?

13 Okay. Thank you, Dr. Schandl. You may
14 step down.

15 THE WITNESS: Thank you.

16 CORONER WOOTEN: Our next witness will
17 be Dr. Robert Cina. If we could have Dr. Cina come
18 to the stand.

19 DR. ROBERT CINA,
20 being first duly sworn, was examined and testified
21 as follows:

22 EXAMINATION

23 BY CORONER WOOTEN:

24 Q. Dr. Cina, thank you for taking the time
25 today to participate in this inquest into the death

1 of [Minor Victim] You stated your name. Would
2 you please share with our jurors your education,
3 experience, and training?

4 A. Sure. So I am a board certified
5 pediatric and general surgeon, so both in adult
6 general surgery and specifically pediatric surgery.
7 And my training has involved four years of college,
8 four years of medical school, eight years of adult
9 general surgery training, and an additional two
10 years of subspecialty in the care of children in
11 that that training kind of focuses on care of
12 the -- not only congenital newborn problems, but
13 also care of traumatic injured patients.

14 Q. Thank you. And would you tell the jury
15 a bit about how you came to be involved in this
16 case?

17 A. So I was asked to evaluate [Minor Victim]
18 file as well as the records that were available at
19 the time the autopsy records and offer my opinion
20 on what the mechanism of death appeared to be.

21 Q. Thank you. And based on that
22 assessment of the record -- and I think that
23 included photographs?

24 A. Photographs and I believe the
25 additional medical records from East Cooper -- East

1 Cooper Hospital is I think where he was.

2 Q. Did you actually see and examine Minor Victim
3 yourself?

4 A. No, I did not. So I was involved after
5 the fact and reviewed his record as well as the
6 photos of the autopsy.

7 Q. And based, again, on your experience
8 and knowledge and training, would you talk to us a
9 little bit about your opinion based on that
10 assessment?

11 A. Sure. So based on the photographs that
12 I saw, it appeared that he had suffered a severe
13 injury that was, based on the images available as
14 well as like the history of the child, it appeared
15 to be nonaccidental in nature.

16 Q. You said nonaccidental injury. Is
17 there -- were there any other observations that you
18 were able to make from photographs and review of
19 the records that might be helpful to the jury?

20 A. Sure. So the thing that was most
21 concerning to me is, in review of the photographs,
22 there was a large section of the intestine that was
23 actually separated completely from its blood
24 supply. And the amount of force that that would
25 require is an extremely significant amount of

1 force.

2 Injuries of that nature, even when we
3 see patients in high-speed motor vehicle
4 collisions, they have to have a very fast kind of
5 acceleration/deceleration force to see that. And
6 the extent of that mesenteric avulsion,
7 essentially, was significant. And I believe that
8 is probably what resulted in massive blood loss in
9 his abdomen and then ultimately why he succumbed to
10 those injuries.

11 Q. In your -- and I know you were not
12 present and you did not perform medical
13 intervention on him. But we've heard testimony,
14 the jurors have heard testimony earlier today, that
15 is represented in the record, that it is reported
16 that at 4:00 in the afternoon, he was sitting at
17 the table eating, I think, Doritos and seemed to be
18 fine, and that he arrived at East Cooper Hospital
19 emergency room by private vehicle at approximately
20 6:20, 6:25, something like that, that afternoon.
21 In your professional opinion, is that eating and
22 behaving normally consistent with somebody who is
23 injured?

24 A. So that degree of injury and the amount
25 of blood he had in his abdomen I think would not --

1 anybody that was injured to that extent would not
2 be eating. They would not appear well. I don't
3 think that they would be acting normally. And so
4 I -- those two portions of his medical record are
5 incongruent. They don't seem to make sense, that
6 at 4:00 he would be eating, acting normally, and at
7 6:00 arrive to the hospital in extremis.

8 Q. Thank you. And it was -- I know you've
9 seen the record, but for clarity, when he arrived
10 at the emergency room, he was essentially what we
11 would call full arrest, no breathing, not really
12 effective heart activity, and then obviously
13 despite efforts to resuscitate him, that was
14 unsuccessful, and he was subsequently pronounced
15 deceased. If we talk about what you saw in the
16 picture and in the record, do you see evidence of
17 other injury, other than potentially an acute
18 injury closer to his death? Is there any evidence
19 you saw that might make you think there were
20 additional or other injuries?

21 A. I'd have to go back and review exactly
22 all the injuries that were listed. I think he
23 certainly had an acute injury as a part of this. I
24 don't recall if there were older injuries as well
25 in his -- on the autopsy report in terms of rib

1 fractures, that kind of thing.

2 Q. Can you provide Dr. Cina the exhibit
3 which is the autopsy report?

4 A. Thank you. Yes, the older injuries
5 appear to be that left distal radius and ulnar
6 fracture which did appear on x-ray that had -- were
7 in phases of healing. But most of what I saw -- I
8 think the cause of death was an acute injury to his
9 abdomen resulting in massive hemorrhaging, blood
10 loss. It's not to say he couldn't have had other
11 injuries in the past. But I think the acute one
12 was that.

13 CORONER WOOTEN: Thank you very much.
14 Are there any questions from the jurors for
15 Dr. Cina? Yes, ma'am.

16 JUROR NO. 222: The force that hit
17 Minor Victim like a man like punching him in the
18 stomach?

19 THE WITNESS: Certainly, yes. It would
20 be forceful trauma that results in kind of either
21 crush to that area -- it would be more than just
22 falling down. Falling down wouldn't cause -- even
23 falling down on a -- there's a --

24 JUROR NO. 222: At least an object?

25 THE WITNESS: Something that is moving

1 at a very, very high -- high rate of speed or --
2 rate/force that is causing it. There is actually a
3 very good paper that looks at small bowel injuries
4 in children. And often the purported mechanism is
5 that they fell down a flight of stairs, and this
6 happened. In that review, in that article, they
7 basically say that's almost impossible to happen
8 based on even a fall down a large -- it's a major
9 significant blunt force trauma can cause that.
10 Does that answer your --

11 JUROR NO. 222: (Juror moves head up
12 and down.)

13 JUROR NO. 107: A couple of things.

14 THE WITNESS: Sure.

15 JUROR: So with the intestine being
16 separated from the blood supply, is that something
17 that happened closer to the end of his life?
18 That's not something that he could have had or that
19 maybe he had been having it a couple of days?
20 That's kind of the defining moment?

21 THE WITNESS: I think the -- so the
22 injury is that kind of rips the intestine away from
23 the blood supply, the blood vessels then obviously
24 are still bleeding.

25 JUROR NO. 107: Right. So you're

1 bleeding out inside?

2 THE WITNESS: You're bleeding out
3 inside. And then ultimately that blood loss is
4 what caused -- based on the story, I believe that
5 blood loss was what accounted for a significant --

6 JUROR NO. 107: Everything starting to
7 shut down and decline.

8 THE WITNESS: -- decline thereafter,
9 yeah.

10 JUROR NO. 107: Okay. And so that's
11 technically blunt trauma. And blunt trauma is
12 force coming at him, not something that he can do,
13 it has to come at him?

14 THE WITNESS: You can have blunt trauma
15 that's less severe, fall down on your bicycle
16 handlebars, that kind of thing. But this would be
17 a significant -- the amount of small intestine that
18 was avulsed off of the mesentery, which the
19 mesentery is a sheet-like structure that attaches
20 to the small intestine and give it its blood
21 supply. The amount of force that would -- in
22 trauma, even in high-speed motor vehicle collisions
23 people are traveling 80 miles an hour and come to a
24 very, very quick stop, we rarely see significant
25 mesenteric injuries like that. So the amount of

1 force required for that to occur is more than can
2 just --

3 JUROR NO. 107: So it has to be
4 something coming at him versus --

5 THE WITNESS: Or if he was launched at
6 a high rate of speed and hit a stationary object
7 can --

8 JUROR NO. 107: Can do the same thing?

9 THE WITNESS: Right.

10 JUROR: One other question. Can that
11 cause vomiting and the diarrhea?

12 THE WITNESS: Yeah, so once you have
13 that much blood loss inside your abdomen, obviously
14 you're going to -- it's going to irritate the
15 intestine. You're going to have diarrhea from
16 that, as well as you're not going to feel well
17 because of the trauma to the area. So both of
18 those symptoms are consistent with the sequelae of
19 that injury.

20 JUROR NO. 107: Thank you.

21 JUROR NO. 83: So with -- I was just
22 trying to figure out like what kind of time frame
23 for the amount of blood loss that he did have. Is
24 it possible that he would have lost blood slowly
25 from the injury that you saw, or is that something

1 that, once --

2 THE WITNESS: That was a pretty big
3 injury. When we look at patients involved in
4 high-speed motor vehicle accidents. The vast
5 majority of them present to the hospital and they
6 require operative intervention which they would do
7 based on abdominal exam. Most of them get operated
8 on within two to four hours from that. And that's
9 in a setting of getting IV fluids, getting
10 stabilized by EMS, being transferred to the trauma
11 center, and being evaluated and going into the
12 operating room. So could it be slow bleeding with
13 that injury, it would be extremely unlikely,
14 extremely unlikely. I think more chance than not,
15 that injury occurred somewhere, you know, from the
16 time it occurred until -- I'd be shocked if it was
17 more than three or four hours after that. But it
18 would be -- in that time frame, I would be -- I
19 would think that most -- the injury he had, the
20 blood loss he had was probably very recent.

21 CORONER WOOTEN: Another juror had a
22 question. Did you have a question?

23 JUROR NO. 83: I did, but it was
24 timing.

25 JUROR NO. 107: One more time. Had

1 Minor Victim been brought in sooner, is this something
2 that could have been repaired and he could have
3 been saved? I'm just curious. This type of
4 injury.

5 THE WITNESS: I think if that injury
6 occurs and you seek urgent -- in urgent types -- so
7 in trauma, so however long it takes from the injury
8 to get into the hospital to get --

9 JUROR NO. 107: Yes.

10 THE WITNESS: And survival is
11 predicated on being treated --

12 JUROR NO. 107: Immediately.

13 THE WITNESS: -- immediately.

14 JUROR NO. 107: Yes, sir.

15 THE WITNESS: And so obviously without
16 treatment, he dies. With treatment, there is a
17 good chance that he would have been able to
18 survive.

19 JUROR: Thank you.

20 THE WITNESS: He'd still probably be
21 very sick in the hospital for a long period of
22 time. But once the injury occurred, if it was
23 addressed aggressively, it likely would have -- he
24 would have a good shot at survival.

25 CORONER WOOTEN: Yes, ma'am.

1 JUROR NO. 195: Just to clarify the
2 timing, to kind of put on it a little bit. They're
3 saying at 4:00, he was eating Doritos. So if that
4 injury happened at 4:15, by 6:30, you wouldn't
5 expect him to be in the grave shape he would have
6 been --

7 THE WITNESS: No --

8 JUROR NO. 195: -- or would that have
9 been enough time?

10 THE WITNESS: It depends on the
11 severity of the injury, and he had a very severe
12 injury. So certainly if he was eating Doritos at
13 4:15 and suffered a severe abdominal trauma, you
14 could see that that soon after the trauma. I just
15 think -- I always think when I think about this
16 case, I think about what would happen if I took a
17 pair of scissors and cut somebody's small intestine
18 to that extent. And there would be massive blood
19 loss in minutes if I had made that controlled cut.
20 Not that I've ever done that. But I can only
21 imagine that is what would occur. So I think that
22 time frame certainly would be -- it could be a very
23 recent injury.

24 CORONER WOOTEN: Dr. Cina, just
25 because -- I'm listening to these questions. What

1 I hear you, I think, saying or addressing, but I
2 want to make sure I'm not confused and the record
3 is not confused, in the event that you had the
4 injury we're just discussing, would the symptoms,
5 meaning the vomiting and the diarrhea, that
6 happened pretty quickly, or is that a delayed
7 expectation?

8 A. It's -- again, it's hard to give you
9 exact timing. But we know that in children who are
10 involved in high-speed motor vehicle collisions
11 with this type of injury, they are in the trauma
12 bay, usually symptomatic. It can be -- their
13 presentation can be delayed based on the amount of
14 blood that they're bleeding. Obviously he had a
15 massive amount of blood loss. So I believe that
16 given the amount of blood loss they found in his
17 abdomen, he would be symptomatic fairly soon. I
18 can't -- I can't tell you five, ten, 15 minutes, 45
19 minutes. But you would imagine he would -- with
20 that amount of trauma, he would not be eating
21 Doritos at the table at 4:00, no matter what -- if
22 he had manifested other symptoms or not, that would
23 not be congruent with that.

24 CORONER WOOTEN: Thank you. And I know
25 they've heard the terms a lot here today before you

1 came to testify, acute versus chronic. Would
2 you -- just from your perspective, to understand
3 those terms from your perspective, how do you
4 define acute versus chronic?

5 A. So acute is between minutes to a couple
6 of hours. When I say acute injury, it usually
7 means you were injured relatively recently, hour or
8 two. Chronic, in my mind, is weeks to months, if
9 that helps.

10 CORONER WOOTEN: Just a bit, as perhaps
11 we've heard other people use those terms. Any
12 other questions from the jurors for Dr. Cina? Yes,
13 ma'am.

14 JUROR NO. 83: So what other symptoms
15 might he have had besides the vomiting and the
16 diarrhea, if those were symptoms of his bleeding?

17 THE WITNESS: Abdominal pain, abdominal
18 distension. Those are probably the -- you know,
19 nausea, vomiting, those are really the main things
20 that we look for when we see somebody in the trauma
21 bay are distention, pain when you push on the
22 abdomen, that it hurts. That generally always
23 raises our concern for some sort of intra-abdominal
24 injury. But those would be the major ones.

25 BY CORONER WOOTEN:

1 Q. Dr. Cina, Dr. Schandl testified earlier
2 that he had a significant blood loss, a large part
3 of his circulating volume. Just, for more than
4 anything else, to help the jury understand, what
5 are the changes that go on in the body as you lose
6 your circulating volume?

7 A. It's on here, I know, but I did not --

8 Q. I know she addressed --

9 A. I think I can -- let me just
10 calculate --

11 Q. She addressed the free blood in the
12 abdomen, but she also addressed there was
13 significant blood loss in the tissues
14 retroperitoneally, but it was hard to quantitate.

15 A. Yeah. So at his weight, his
16 circulating volume would be about 1000, 1100 cc's.
17 So basically, they found 300 milliliters of blood
18 in his abdomen, a third of his circulating blood
19 volume. So that would be a very significant
20 amount. I'm sorry, your question?

21 Q. No, that's wonderful, because she also
22 shared with the jury -- and you weren't here --
23 that he also had a significant amount of blood that
24 she found retroperitoneally in the tissue that she
25 couldn't quantitate. So in addition to the 300, he

1 had a significant --

2 A. A significant amount of blood loss.

3 Q. Another question I was sort of asking,
4 just the physiology associated with the blood loss,
5 what you would see demonstrated as he's losing that
6 blood, what would happen in his body function?

7 A. So your heart rate would get faster.
8 You would have your blood pressure over time drop.
9 Now, kids are a little bit unique to adults in that
10 you take a child that has acute blood loss, they
11 will -- because their body is so adept at
12 constricting blood vessels, they can maintain a
13 blood pressure that is such that they can infuse
14 your organs longer than an adult would, per se.
15 But then once they lose those compensatory
16 mechanisms, it drops out. So they get sick
17 extremely quickly after that.

18 So things that we get concerned about
19 are, signs of shock, would be fast -- quickening
20 heart rate, low blood pressure. He probably would
21 initially start feeling cold, and -- as his body
22 starts to kind of shunt the blood to places that it
23 needs to go. So blood needs to perfuse your
24 organs, your brain. And then ultimately as you
25 progress in shock, you have deep confusion, your

1 brain, your organs and everything starts to shut
2 down. But for the early stages, faster heart rate,
3 lower blood pressure.

4 JUROR NO. 107: Just to clarify in
5 layman's terms, so after Minor Victim had this blunt
6 force separate his intestine from his blood supply,
7 he had -- there has been some talk that he was
8 dizzy?

9 THE WITNESS: Yeah --

10 JUROR NO. 107: He vomited, and then we
11 hear he was flaccid when he got to the hospital.
12 So between -- he could have already been in process
13 of the body breaking down at that point from this
14 injury. By the time he got to the hospital, he
15 would have been maybe, I don't know, they just said
16 he was unresponsive. I mean, was he in shock at
17 that point?

18 THE WITNESS: If he is unresponsive
19 from acute blood loss, he is in shock.

20 JUROR NO. 107: He's probably just
21 going through --

22 THE WITNESS: Through the stages of
23 shock.

24 JUROR NO. 107: -- through the stages,
25 and that's all in line with what you said. And

1 then this injury, that's all kind of in line as to
2 what happened, and then he was unresponsive in that
3 vehicle, and he was too far gone by the time he got
4 there.

5 THE WITNESS: Right.

6 CORONER WOOTEN: Any other questions
7 from the jurors?

8 Dr. Cina, thank you so much.

9 THE WITNESS: Thank you.

10 CORONER WOOTEN: And our last witness
11 for the day, I'm going to call at this time is
12 Merry Boxx. While she is coming in, I do want to
13 provide a little bit of information for the jurors
14 just so you don't feel overwhelmed in trying to
15 keep all these bits and pieces in your head. We
16 will have available for you at the time of
17 deliberation or whenever a timeline that is going
18 to outline a lot of this for you, so you will be
19 able to reference it. So I didn't want you to get
20 all caught up and remember every day, but just sort
21 of understand the sequence of the timeline of
22 events.

23 MERRY BOXX,
24 being first duly sworn, was examined and testified
25 as follows:

1 So this witness is Jane Bell, she is a
2 Charleston County DSS employee, and you're going
3 to hear from her in her own words in an interview
4 with me that's videotaped, so you can watch our
5 interaction back and forth. And unfortunately,
6 you won't be able to ask her questions directly,
7 but I think her testimony is important.

12 (EXH. 18, Affidavit of Jane Bell, was
13 marked for identification.)

17 DONALD EDWARD ELSEY, MD
18 being first duly sworn, testified as follows:

19 THE CLERK: Please have a seat, and
20 for our record, if you could state your first and
21 last name and spell the last name, please.

22 THE WITNESS: Donald Edward Elsey,
23 E-L-S-E-Y.

24 EXAMINATION

25 BY CORONER WOOTEN:

1 Q. Thank you, Dr. Elsey, for joining us
2 today and giving us this time as we conduct this
3 inquest into the death of Minor Victim

4 Before we go further, if you would
5 please share with the jurors and the rest of us
6 some information about your training, education,
7 experience, title, qualifications, and so forth to
8 help us understand your professional role, that
9 would be helpful.

10 A. Okay. I have a doctorate in childhood
11 development. I have been trained in forensic
12 interviewing of children, several different
13 methods. I worked at the Lowcountry Children's
14 Center, the Dee Norton Lowcountry Children's
15 Center, for 18 years as a clinical director.

16 This past year, I began working with
17 the schools, so I've been working with the
18 Charleston County Schools now as a special
19 education therapist.

20 I have been involved in interviewing
21 approximately 6,000 children, and I've trained
22 people all over South Carolina to interview
23 children.

24 I've also been trained in a number of
25 evidence-based treatments and therapies and

1 working with kids that manage to recover from
2 whatever type of trauma they may have experienced.

3 I'm also a licensed professional
4 counselor and a counseling supervisor, so I
5 supervise other people who get their licensure.

6 Q. Thank you, Dr. Elsey. Would you tell
7 us about your involvement in this investigation
8 into Minor Victim death?

9 A. The children were -- when I say the
10 children, I mean N Minor and G Minor -- were brought
11 to the Lowcountry Children's Center for forensic
12 interview to see what, if anything, they may have
13 to help in the investigation.

14 Q. Would you tell us about the interviews
15 in terms of did you interview them once? More
16 than once? Did you interview them both? And then
17 what was learned in that interview process,
18 interview processes?

19 A. Regarding this investigation, I see --
20 saw the girls three times. The first time was on
21 March the 20th, the second time on the 25th, and
22 the third was on April the 3rd of 2013.

23 They were active and verbal, certainly
24 N Minor more than G Minor, G Minor being very young at
25 the time. G Minor was very pleasant. She was very

1 verbal. She was very active. Sometimes I had to
2 kind of bring her back to focus on the questions
3 we were asking, which is absolutely normal for a
4 child her age, not to mention one who just
5 suffered a trauma in her life.

6 I'll speak about N Minor first. Just
7 go on and talk about what she said or --

8 Q. I think probably that's helpful. Just
9 to remind the jurors, because I did not do it
10 before we got started, the ages of the two girls,
11 if you could.

12 A. When I saw N Minor, she was four, and
13 G Minor was two.

14 And when you do a forensic interview,
15 there are certain protocols you have as
16 guidelines. They aren't like you have to do A,
17 you have to do B. So with N Minor, for example, I
18 was asking who was in her family, and when she got
19 to her brother Minor Victim she made a statement that
20 he was asleep with Jesus.

21 So I asked about that at that point.
22 I said tell me what happened with that. And
23 again, because of her age and kind of
24 distractibility, she was able to talk about that
25 Bryan was in the house with them, and Minor Victim had

1 disobeyed and got a pop, to use her word, and then
2 there kind of was -- she was kind of moved away in
3 what was going on, and then she said he was --
4 Minor Victim was asleep with Jesus, which she did say
5 that several times.

6 She talked about being taken to -- she
7 called it the office, and G Minor kind of used that
8 same word. Whether that meant the hospital, I'm
9 not 100-percent sure, but that kind of seemed like
10 what it was. And that was -- that was the
11 consistent theme through a lot of what she said.

12 The other thing that was a consistent
13 theme, even with G Minor, who was much younger, was
14 they were told it was a secret, and they were told
15 not to tell. So that came across from both of
16 their -- both of these young ladies on several
17 times.

18 Now, with G Minor, quite often, she
19 would answer, which, again, isn't developmentally
20 inappropriate for a two-year-old, to kind of say
21 something, and when you ask a follow-up question
22 or a clarifying question, I don't know. If you
23 have kids, young kids, they tend to do that. So
24 with her, she would say I don't know to my
25 follow-up questions.

1 Another thing you want to do with
2 children is something called sourcing. How do you
3 know that? Because kids know things by seeing it,
4 experiencing it, being told. And again, with
5 their age, that makes it a little more difficult
6 to do, but I try to do that as best I could.

7 One thing that you want to minimize
8 when you interview children is asking the same
9 question over and over and over and over. I
10 definitely had to ask them questions in different
11 context, because of their attention span, because
12 of how they sometimes would avoid questions, so I
13 did ask questions different times. The
14 interesting thing was their answers were fairly
15 consistent when I did that.

16 Q. Dr. Elsey, I know that you said you've
17 done this an awful lot. In your professional
18 opinion, would you think that their information
19 they provided in their interviews was accurate
20 based on your experience with them and their
21 response to the questions?

22 A. I think that a lot of what they said
23 they had experienced. Again, we don't -- it's not
24 our job -- we're not the trier of fact. We don't
25 say this child told the truth or didn't tell the

1 truth. That's not our job.

2 When you work with forensic
3 interviewing children, we get that part of the
4 investigation, what they say and how they say it.
5 We don't go to the house and investigate. We
6 don't do the medical exam.

7 And I've certainly had many children
8 tell me something didn't happen, and it's clear it
9 did. So I can't say whether something did or
10 didn't happen, but they certainly provided
11 information that sounded like something they had
12 experienced.

13 CORONER WOOTEN: Do the jurors -- do
14 you, the jurors, have questions for Dr. Elsey?

15 JUROR NO. 283: When you were talking
16 with G Minor and N Minor, did they seem fearful in
17 any way over keeping the secret, or was it more of
18 a like somebody told them you'll be in trouble if
19 you tell this secret, or was it more of a game to
20 them?

21 THE WITNESS: Well, they gave
22 different responses to that question, but at one
23 point, they did say that they would get a pop,
24 too, if they told the secret, so they took it --
25 it seemed to me they took that secret very

1 seriously.

2 BY CORONER WOOTEN:

3 Q. When you were speaking to them, did
4 they -- the pop, you mentioned a pop. Was that
5 described beyond just the word?

6 A. Yes. With N Minor, it was. Later,
7 she was able to demonstrate with an open hand, and
8 she actually demonstrated on a chair in the
9 interview room a hit. She added that there was
10 also a hit on the back, but she only talked about
11 that one time, but the pop was on the bottom. But
12 she did demonstrate it with a chair.

13 Q. And did they ever elaborate about what
14 the secret was?

15 A. Not to tell, not to talk.

16 Q. And it's my belief, but correct me if
17 I'm wrong, that typically, you would record these
18 interviews. Is that correct?

19 A. Correct.

20 Q. And these interviews, the first one
21 was done what date?

22 A. On March the 20th, 2013.

23 Q. So were you aware that was the day
24 following the death?

25 A. Yes.

1 Q. Is there anything else that the jurors
2 might want to consider as they hear all this
3 testimony that stands out to you as maybe being
4 important?

5 A. Well, I think that a lot of times when
6 we interview young children, people want to know
7 tell me when it happened, the time frame. Kids
8 can't do that. Developmentally, a child may say
9 it happened two years ago or it happened ten years
10 from now, which makes no sense. So we don't ask a
11 question that developmentally a child just cannot
12 answer because they tend to guess, and that may
13 totally throw off what they say.

14 But in this particular case, I think
15 it was interesting that I was just asking N Minor
16 who she lived with, and she went right to this
17 thing that happened, so in my opinion, that kind
18 of time stamped what she was talking about without
19 having to say this was yesterday and X number
20 of -- because children that age normally can't do
21 that type of time frame.

22 Q. Do you recall, Dr. Elsey, how you
23 became aware of the death and the need for the
24 interviews?

25 A. I believe it was -- it was either DSS

1 or law enforcement. I'm sorry. I don't remember
2 which.

3 Q. But it came through one of those two?

4 A. One of those investigative agencies.

5 Q. And these interviews were conducted
6 where?

7 A. At the Dee Norton Lowcountry
8 Children's Center on Upper King Street.

9 Q. And when you were talking about who
10 lived there with N Minor, for instance, who all
11 did she name?

12 A. She named -- is it okay if I refer to
13 my note for that? I just don't --

14 Q. Absolutely.

15 A. She named Brittany and Bryan and
16 Minor Victim and that's when she said Minor Victim was with
17 Jesus.

18 Q. So Brittany and Bryan are the only two
19 others that she identified?

20 A. She later named G Minor, saying she was
21 there, but at that particular point, she did not.

22 Q. And you mentioned earlier that G Minor
23 was very young, and so were you able to get any
24 additional information from her that we might find
25 helpful?

1 A. Well, she was young. The telling
2 thing, in my opinion, about what she said is she
3 did talk about it being a secret. Then she talked
4 about Bryan being the one who was there shoveling
5 out the pops. But again, a lot of the follow-up
6 questions to her, she was I don't know.

7 CORONER WOOTEN: Yes, ma'am.

8 JUROR NO. 107: Two questions. When
9 they were referring to their mom, did they call
10 her mom or Brittany in the interviews?

11 THE WITNESS: Brittany. They
12 called -- mom, and then she said the name
13 Brittany. When I asked her who was mom, she said
14 Brittany.

15 JUROR NO. 107: Okay. And then the
16 second thing I wanted to ask was when you were
17 interviewing them, did the secret only come up
18 when it was in reference to the brother, or did
19 other parts of the conversation go on, and they
20 would say, oh, that's a secret as well, or was the
21 secret just what was related to the brother?

22 THE WITNESS: Just related to the
23 brother, as I remember.

24 JUROR NO. 107: Thank you.

25 THE WITNESS: Yes, ma'am.

1 JUROR NO. 222: You discussed Bryan
2 around the two girls?

3 THE WITNESS: Did I discuss?

4 JUROR NO. 222: Yeah.

5 THE WITNESS: They brought him up.
6 They brought him up, not --

7 JUROR NO. 222: How did -- did they
8 say how he -- they interact with him or --

9 THE WITNESS: How they interacted with
10 him?

11 JUROR NO. 222: Yeah, with the two
12 girls and Minor Victim

13 THE WITNESS: They talked about him
14 taking them to the office and talked about him
15 cleaning up Minor Victim the popping of Minor Victim You
16 mean in terms of was he a good guy or not a good
17 guy?

18 JUROR NO. 222: Yeah.

19 THE WITNESS: I didn't really ask that
20 question, whether he was good or not good. Let me
21 think if there's anything else they said about
22 him.

23 I believe it was N Minor who talked
24 about him -- because they talked about Minor Victim was
25 asleep when they were going to the office and

1 about Bryan blowing in his face, which that was
2 their language and their words. It could have
3 certainly been trying to resuscitate him. They
4 called it blowing in the face. So that was some
5 sort of trying to take care of the situation.

6 JUROR NO. 107: And just to clarify,
7 whenever they discussed pop, it was an open hand
8 slap and not a closed fist whenever the children
9 were saying -- when you asked her to show you what
10 a pop was?

11 THE WITNESS: Let me double-check.

12 JUROR NO. 107: Okay. An open-handed
13 slap?

14 THE WITNESS: I don't have in my notes
15 whether it was open or closed, but she actually
16 demonstrated, so I don't remember.

17 JUROR NO. 107: But you said she hit a
18 chair, she demonstrated --

19 THE WITNESS: It was -- I asked her to
20 hit the chair like she saw the pop.

21 JUROR NO. 107: Okay. But you don't
22 recall if it was an open hand or if it was more of
23 a fist?

24 THE WITNESS: I don't.

25 JUROR NO. 107: Thank you.

1 JUROR NO. 195: Did they ever mention
2 anything about Minor Victim hitting anything? Hitting a
3 chair? Hitting a wall? Hitting a --

4 THE WITNESS: I asked them questions
5 around that, because I did have a little concern,
6 and it was hard to figure out, to be honest with
7 you. They would say no or actually talk about
8 that or -- but never really definitive said that,
9 no. They denied it several times.

10 JUROR NO. 195: And in the three times
11 you interviewed them, did their demeanor change or
12 their answers change?

13 THE WITNESS: Not really. I mean, I
14 asked them clarifying-type questions, and they
15 provided information. Their information was
16 fairly consistent over the three interviews. They
17 were -- they were always pleasant, again. With
18 N Minor being the older one, she was very
19 personable, a very energetic young lady. They
20 were very pleasant. So they never -- they all --
21 it was pretty consistent through the three
22 interviews.

23 JUROR NO. 107: Do you feel, in your
24 professional opinion after seeing them three
25 times, that perhaps there was some coaching in

1 what not to discuss in reference to calling things
2 a secret, that if anything was said about this,
3 you call it a secret? Did you get any of that, or
4 they were just coming up with that on their own?

5 THE WITNESS: Well, I asked them who
6 would talk about it being a secret. In a
7 different context, it was Bryan, then it was also
8 an auntie they mentioned, an Auntie Leisa, I
9 believe it was they mentioned that had said don't
10 talk about this, or it's a secret.

11 JUROR NO. 107: Okay. Thank you.

12 THE WITNESS: That whole word secret
13 came out of their mouth.

14 JUROR NO. 107: Right.

15 THE WITNESS: I didn't even know
16 they'd been told anything was a secret.

17 JUROR NO. 107: But it came from
18 somewhere because they associated that secret to
19 certain circumstances?

20 THE WITNESS: Right. And I saw --
21 again, as we mentioned, I saw them the next day,
22 so they hadn't been around a lot of --

23 JUROR NO. 107: Right. Okay. Thank
24 you.

25



1 BY CORONER WOOTEN:

2 Q. Dr. Elsey, do you remember who brought
3 them in for the interview?

4 A. I don't.

5 CORONER WOOTEN: Jurors, any more
6 questions for Dr. Elsey while he's here?

7 Due to protecting the minor children,
8 obviously, they've been through a lot, and I made
9 a decision not to share the interview, the
10 videotaped interviews, just out of concern for
11 their privacy. And I think that Dr. Elsey has
12 done a very good job of explaining what was
13 pertinent in it, from my perspective, but he's
14 spoken to it as the interviewer and from his own
15 notes, and I do know that he did spend time
16 reviewing those interviews.

17 Any other questions before we let
18 Dr. Elsey step down?

19 Thank you so much.

20 THE WITNESS: You're welcome.

21 CORONER WOOTEN: Thank you. Because I
22 notice that everybody is a little bit restless,
23 why don't we take a quick ten-minute break.

24 Jurors, you may take a ten-minute
25 break, and we'll resume in ten minutes sharp and

STATE OF SOUTH CAROLINA COURT OF COMMON PLEAS
COUNTY OF CHARLESTON 2016-CP-10-3542

BRYAN OKEITH SEABROOK,	)	
	)	
Plaintiff,	)	TRANSCRIPT OF RECORD
	)	
-vs-	)	
	)	
TOWN OF MOUNT PLEASANT	)	September 20, 2017
and RAE WOOTEN in her	)	
Official Capacity as	)	
Coroner of Charleston	)	
County,	)	Charleston, South Carolina
	)	
Defendants.	)	

B E F O R E:

The Honorable J.C. Nicholson, Judge.

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

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Attorney for the Plaintiff

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Daniel Ranaldo, Esquire
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Roy Pearce Maybank, Esquire
Attorney for Defendant Rae Wooten
as Coroner of Charleston County

Amanda K. Haffenden, RPR, CRR
Circuit Court Reporter

1 (September 20, 2017.)

2 THE COURT: Who's here representing who, for
3 the record?

4 MR. PEPPER: Mark Peper on behalf of
5 plaintiff, Mr. Seabrook.

6 THE COURT: Okay.

7 MR. DOMIN: Tim Domin here on behalf of Town
8 of Mount Pleasant, along with Dan Ranaldo, from my
9 office.

10 MR. MAYBANK: Roy Maybank, here on behalf of
11 Rae Wooten in her official capacity as coroner of
12 Charleston County.

13 THE COURT: We got, what, three motions?

14 MR. MAYBANK: Two motions, Your Honor, and
15 two motions in opposition to those motions.

16 THE COURT: All right. Which ones y'all want
17 to hear first?

18 MR. MAYBANK: If you want to go in the order
19 of filing, Your Honor, that would be Rae Wooten's order.

20 THE COURT: That's fine, Mr. Maybank.

21 MR. MAYBANK: Thank you, Your Honor.

22 Your Honor, by way of some background, this
23 case involves the death of a young boy, Minor Victim
24 [REDACTED] back in 2013, March 19. He was brought into
25 the East Cooper Medical Center unresponsive. They tried

1 to revive him. Unfortunately, he died some three months
2 later.

3 The grandmother's boyfriend was arrested,
4 Mr. Seabrook, for murder conviction -- I say murder. I
5 don't do criminal law, so, in essence, for the murder of
6 the young boy. Thereafter he was held through, I guess,
7 affidavit -- the Town of Mount Pleasant police department
8 had given up.

9 Rae Wooten got involved later on in the
10 process, and in her official capacity as coroner, she
11 decided that she was going to hold an inquest after -- at
12 some point in the process, but after the solicitor's
13 office decided it was not going to pursue charges against
14 Mr. Seabrook.

15 It is well within the coroner's right,
16 historically speaking, in the state of South Carolina by
17 both the constitution and code that she has the right to
18 hold what is called a coroner's inquest to see if she can
19 make a determination as to the cause of death, and, not
20 only that, the persons responsible for that death.

21 So, in fact, in this courtroom here, not this
22 specific one, but in this courthouse, the coroner had,
23 indeed, an inquest and called witnesses. Had a hearing,
24 called Mr. Seabrook. Of course, he took the Fifth.
25 Others took the Fifth as well, didn't want to testify,

1 and at that time, the jury came back with a finding of
2 guilt on the part of Mr. Seabrook, and I believe --

3 THE COURT: It wasn't homicide or not
4 homicide, right?

5 MR. MAYBANK: Correct.

6 THE COURT: It wasn't an innocent or guilty
7 verdict?

8 MR. MAYBANK: Correct, that part. It was a
9 finding of homicide, and I believe the grandmother was
10 found to be contributing to that.

11 THE COURT: Okay. Is that as to Seabrook?

12 MR. MAYBANK: As to Seabrook, that's right.

13 Your Honor, we're simply here to say as a
14 matter of law the plaintiff, Mr. Seabrook, cannot bring
15 this action against Rae Wooten in her official capacity.
16 It has been deemed, her position, to be both judicial and
17 quasi-judicial, and therefore there's no private right of
18 action that can be brought by --

19 THE COURT: What's his cause of action
20 against the coroner?

21 MR. MAYBANK: Your Honor, they've alleged
22 negligence, gross negligence, abuse of process, and
23 malicious prosecution.

24 THE COURT: By doing what, by having an
25 inquest?

1 MR. MAYBANK: That is correct. I believe,
2 and Mark can speak to this, but I think the issue is
3 that, You knew the solicitor wasn't going to charge my
4 client, yet you went ahead and held this inquest anyway,
5 abusing the process, abusing your position, and,
6 basically, running him across the coals.

7 Well, guess what she gets to do under her
8 authority vested in her by state statute and the
9 constitution? That is to hold an inquest to find out --

10 THE COURT: His complaint, he did it after
11 the solicitor decided she wasn't going to prosecute the
12 case?

13 MR. MAYBANK: Pardon me, Your Honor?

14 THE COURT: She held an inquest after the
15 solicitor already had announced she wasn't going to
16 prosecute it?

17 MR. MAYBANK: That is correct.

18 THE COURT: Okay.

19 MR. MAYBANK: And the purpose of that is, is
20 assume that new people came forward --

21 THE COURT: What purpose did she have in even
22 having an inquest?

23 MR. MAYBANK: Because it is her authority to
24 do it, and she doesn't need a purpose.

25 THE COURT: I understand it's her authority,

1 but what was the purpose in having it?

2 MR. MAYBANK: Her purpose was to find out who
3 caused the death of the child.

4 THE COURT: Okay.

5 MR. MAYBANK: And that is what she can do,
6 and she can bring in new witnesses. The solicitor even
7 said, Hold the inquest, please, because if you get new
8 information, we would like to take that and possibly use
9 that in a case against Mr. Seabrook.

10 So she can develop her own case separate and
11 distinct, and she is, from the solicitor's office, and
12 that's the historical split. The sheriff's department is
13 one side, the coroner is another, and they can run
14 concurrent but separate investigations, and that's what
15 Rae did in this case. And it's our position that she had
16 every right under the statutory -- constitutionally, it's
17 a constitutionally elected position within the state of
18 South Carolina.

19 She did nothing that she was not allowed to
20 do pursuant to the rules and regulations, and, as a
21 matter of fact, the duties of the coroner under 17-7-10
22 are to hold an inquest, if she warrants, summon witnesses
23 and examine those witnesses before a jury at an inquest,
24 issue subpoenas, incarcerate those who disregard the
25 subpoena, cite for contempt at an inquest, issue

1 warrants, depending on the jury, commit individuals to
2 jail, and bind persons over for bond.

3 So she has all that authority. She did not
4 do anything outside of her authority that she was not
5 delegated to by the statutes here in South Carolina.
6 Once a jury for an inquest is sworn, it is charged with
7 determining the manner of death of the decedent, and that
8 is what she did, whether that was by mischance or
9 accident, a felony, whether it was by his own or another,
10 if, by mischance, whether by an act of God or man --

11 THE COURT: So the jury determines homicide?

12 MR. MAYBANK: Yes, Your Honor. Correct,
13 correct.

14 THE COURT: All right. Go ahead.

15 MR. MAYBANK: We also fall back -- not only
16 does she have that authority granted to her under
17 statute, and all the duties as set forth that she
18 complied with, the coroner's inquest is a quasi-judicial
19 proceeding, as well as judicial, and it has been upheld
20 on numerous instances, not only in court, but through
21 Attorney General's opinions.

22 We've cited all those in our briefs, Your
23 Honor, but it is determined that her role is both
24 judicial and quasi-judicial; therefore, in addition to
25 her statutory rights and authority under the state claims

1 act one, two, three, and four, immunity is held under the
2 quasi-judicial standard, and therefore we believe that
3 there is no right of action by Mr. Seabrook against
4 Coroner Wooten.

5 In addition, Your Honor, 15-78-65 is the
6 discretionary authority in decision making of those folks
7 in office, and the exercise of discretionary judgment by
8 the governmental entity or employee, such as this case,
9 Rae determining that she needed to have an inquest, is
10 that whenever a body is found dead or an investigation or
11 inquest is deemed advisable, the coroner shall go to the
12 body, examine the witnesses most likely to be able to
13 explain the cause of death, take their testimony in
14 writing, and decide for themselves whether there ought to
15 be a trial or whether blame probably attaches to any
16 living person for the death. And, if so, he shall
17 proceed to summon the jury and hold a formal inquest as
18 required by law, but if there be, in his judgment, no
19 apparent possible blame against a living person, then he
20 shall have bearing.

21 In other words, it is longstanding law in
22 South Carolina that the coroner have the latitude, the
23 investigative powers to find out what the cause of death
24 was. Finally, Your Honor, any quasi-judicial or judicial
25 immunity bars plaintiff's causes of action for any

1 malicious prosecution or abuse. I think it was Charlie
2 Condon who was sued numerous times for abusing the
3 process as well as for malicious prosecution, and the
4 issue to be decided was whether or not immunity extended
5 to judges also extends to prosecutors, which we would say
6 that Rae was.

7 In determining the issue in Williams, as
8 discussed and detailed in history, it was long been
9 determined there are weighty reasons why judicial
10 officers should be shielded in the proper discharge of
11 their duties from harassing litigation. As to those who
12 think themselves wronged by their decisions and that
13 injustice has been done, a defeated party to a litigation
14 may not only think themselves wronged, but may attribute
15 wrong motives to the judge who he holds responsible for
16 his defeat.

17 He may think that the judge has allowed
18 passion or prejudice to control his decision. To allow a
19 judge to be sued in a civil action on a complaint is
20 charging the judge's acts were a result of partiality or
21 malice or corruption would deprive the judges of the
22 protection which is regarded as an essential judicial
23 independence, and that is what the coroner's office
24 stands for, is independence.

25 They stand alone, have their own

1 investigation, make the determinations, empanel a jury,
2 and find from those seven or eight factors that I spoke
3 about earlier, Your Honor, as to why -- as to their role
4 in helping to better understand the cause of death.

5 THE COURT: Thank you very much, Mr. Maybank.
6 Appreciate it.

7 Mr. Peper?

8 MR. PEPER: Thank you, Judge. May it please
9 the Court: Mark Peper on behalf of Mr. Seabrook.

10 I don't necessarily disagree with the
11 majority of what Mr. Maybank has stated, with a few
12 exceptions.

13 One concern I do have is, as alluded to in
14 our brief, Judge, is that we're attempting to turn this
15 12(b)6 motion into a Rule 59 motion, which is extremely
16 premature. If I could briefly address that, Judge, we've
17 not had the opportunity to perform any discovery. We've
18 not had the opportunity to depose the defendant Coroner
19 Wooten, and therefore we can't determine the theory of
20 law --

21 THE COURT: What is your theory?

22 MR. PEPER: Here's my theory: She has
23 discretion, no doubt about it. She has the duty, the
24 statutory duty, okay?

25 The issue is not whether she had authority to

1 exercise that discretion. It's whether or not there were
2 more than one choice, and therefore she chose to exercise
3 that discretion for legitimate purpose. The legitimate
4 purpose of an inquest, as stated by counsel, is to
5 determine the manner of death.

6 The manner of death had been determined four
7 years earlier by Dr. Schandl in her MUSC final autopsy
8 report where she clearly stated that the injury that gave
9 rise to the death was blunt force trauma to the torso.
10 The cause was homicide, and she described exactly the
11 manner and cause of death, which is exactly what the
12 purpose of an inquest was, and so then the question
13 becomes if the manner of death had already been
14 determined, what was the purpose for the inquest?

15 And our theory is that there was an ulterior
16 purpose, specifically following the guidance of
17 Ms. Debbie Herring-Lash, who essentially -- not
18 essentially, put in writing in a letter to Coroner
19 Wooten, We're at a standstill. We can't move forward.
20 This will not survive a directed verdict motion. The
21 only thing we might be able to do is, since we can't get
22 the three witnesses to cooperate with us, talk to us,
23 testify with us, you may be able to use your subpoena
24 power, contempt of Court power, to force them to come and
25 testify. Maybe they'll self-incriminate themselves.

1 Now, that's our theory, but again, Judge, we
2 haven't been able to perform discovery.

3 THE COURT: Let's assume your theory is
4 correct. What's wrong with that in a criminal
5 investigation? And determine -- number one, determine
6 the cause of death.

7 You said it's already been determined, and
8 the second phase is to determine who did it. So
9 what's -- summing you're right, what's wrong with that?

10 MR. PEPER: It had already been determined.

11 THE COURT: Well, I understand, but what's
12 wrong with that? Given the fact that they were trying to
13 subpoena people and they wouldn't cooperate with the
14 solicitor, tell them what happened, and put them under
15 oath and see what they say, as a further investigation of
16 the cause of death as well as who harmed -- was it a
17 child?

18 MR. MAYBANK: Yes, sir, a two-year-old child.

19 THE COURT: My question to you is, what's
20 wrong with that?

21 MR. PEPER: There was no reason to do it.

22 THE COURT: I just gave you a reason. It was
23 further investigation as to injury or death.

24 MR. PEPER: It didn't generate any additional
25 facts.

1 THE COURT: I don't know if it did or not,
2 but what's wrong with that, if your theory's correct?

3 MR. PEPER: If my theory's correct, you're
4 baiting the defendant to, essentially, give up his
5 constitutional rights. If you're threatening --

6 THE COURT: All you have to do is take the
7 Fifth Amendment, so, I mean, how are you baiting him and
8 causing him problems? He takes the Fifth Amendment and
9 doesn't testify.

10 MR. PEPER: For instance, Judge, in an
11 inquest, there is no right to counsel. There is no right
12 to cross-examine witnesses.

13 THE COURT: That may be, but he's watched
14 television. He knows the Fifth Amendment.

15 MR. PEPER: Well, Judge, he fell for it
16 because he answered almost five minutes of questions
17 before he then asserted his Fifth Amendment right. He
18 also worked with Brittney Hartwell, who was also the
19 original suspect in this matter. She testified for over
20 an hour.

21 And so if our theory is correct, she was able
22 to get the ulterior purpose accomplished. It did not
23 result in any additional evidence, fortunately for us,
24 because of the way we read the statute, she at least
25 could have, if not should have, then issued arrest

1 warrants.

2 And so we need to get to the bottom of it,
3 and the only way to get to the bottom of it is to depose
4 -- she may say, I just wanted to. There weren't enough
5 other competing factors of it that I included. There was
6 no other choice.

7 If she says that, Judge, I may disagree.
8 I'll be the first to admit I got a problem on summary
9 judgment, but we're not there yet. We're here on a
10 12(b)6 motion as to whether or not the facts of the case,
11 as in my complaint, were well pled, and we assert they
12 were. We allege an ulterior purpose.

13 We allege that there was no legitimate
14 purpose for holding the inquest.

15 THE COURT: Thank you very much.

16 Mr. Maybank, very briefly.

17 MR. MAYBANK: Very briefly, Your Honor, my
18 understanding is that Mr. Peper and Mr. Aylor were there
19 for the entire hearing of the inquest, that Mr. Seabrook
20 took the Fifth. He understood his rights for years, and
21 you are right. This further investigation, not only did
22 it confirm that the child was homicide, but the point was
23 to find out who did it, and what can we find out to help
24 a child who could not defend himself anymore?

25 THE COURT: Okay. Thank you very much.

1 What's your next motion?

2 MR. DOMIN: I filed a motion for summary
3 judgment on behalf of the Town of Mount Pleasant.

4 MR. MAYBANK: Your Honor, my 12(b) was cast
5 as a 12(b) in the alternative motion for summary
6 judgment. There was extensive discovery given. The only
7 thing not done -- we've turned over our files. I've not
8 allowed -- I've not presented Mrs. Wooten yet for a
9 deposition, of which I can only assume how that will go.

10 MR. DOMIN: Your Honor, I have a totally
11 separate motion for summary judgment on behalf of the
12 Town of Mount Pleasant, premised on the statute of
13 limitations as well as on probable cause.

14 As far as the statute of limitations is
15 concerned, Mr. Seabrook was arrested on May 9th, 2013
16 pursuant to a warrant, and ultimately this action was
17 brought more than three years later, on July 8th, 2016.
18 Mr. Peper has advanced the argument that somehow the time
19 for filing this action only runs when Mr. Seabrook was
20 released from jail. I don't agree with that.

21 The only case I could find on that issue is
22 the United States Supreme Court called Wallace vs. Kato,
23 549 U.S. 384, in which the Court said, No. It should run
24 from the time of arrest.

25 Talking about a false arrest claim, it should

1 run from the time of arrest. He's alleged malicious
2 prosecution, false arrest, and negligence. Two-year
3 statute of limitations would be applicable.

4 THE COURT: Mr. Peper, tell me about the
5 statute.

6 MR. PEPER: Yes, sir. Judge, we have alleged
7 false arrest, in and of itself, so one of the elements --
8 actually, all three of the elements have to do with
9 unlawful restraint.

10 THE COURT: He's talking about the statute
11 now. He's quoting a case that the U.S. Supreme Court
12 says time of arrest. Time of arrest was May the 9th,
13 2013. The lawsuit was, I guess, filed in July of '16. I
14 mean, that's over three years. The statute is two years.

15 MR. PEPER: Understood, but the cause of
16 action is from date of loss. The date of loss is when
17 you know you have elements that you can prove. The
18 elements of false arrest are unlawful restraint. He was
19 restrained, under that unlawful arrest date that you
20 cited, until October of the following year. We pled that
21 cause of action within the two-year statute as alleged.

22 From a common sense standpoint, Judge, too,
23 if a case is still pending and you have to prove that the
24 restraint in which the case is pending on was unlawful,
25 how do you do so until the Courts have ruled that the

1 restraint was unlawful? Certainly we stand by our
2 original argument, that the restraint element doesn't
3 create a date of loss so you're no longer restrained,
4 but, further, the date of loss is when -- specifically
5 with regards to malicious prosecution, is when the case
6 was resolved in your favor. That's then your date of
7 loss.

8 So we are well within our two-year statutory
9 time period from the date that he was no longer
10 restrained as a result of the unlawful arrest.

11 THE COURT: All right.

12 Mr. Domin, very briefly.

13 MR. DOMIN: Your Honor, there is a second
14 piece of my motion as to probable cause. I interpreted
15 your signalling that you wanted to take this in pieces.

16 THE COURT: All right. Go ahead.

17 MR. DOMIN: Your Honor, as it relates to the
18 statute of limitations, what he's really saying is he
19 doesn't have all of his damages until he's let out of
20 jail.

21 That's like a car accident case. Your
22 damages keep going on and on. It doesn't mean that you
23 have an extended statute of limitations. When there's
24 something that happens that violates your rights, that's
25 when you have to take action.

1 THE COURT: Only thing that resonated with me
2 is what he said was the malicious prosecution, one of the
3 elements is it's been resolved in your favor, so it
4 wasn't resolved in his favor until the solicitor said,
5 I'm not going to prosecute. And at that time, the cause
6 of action of malicious will arise then or later? Well,
7 malicious, not abuse, all right?

8 MR. DOMIN: Okay. Very well. Your Honor,
9 then I would still maintain my position as to false
10 arrest and for the negligence cause of action clearly are
11 barred by the statute. I would still argue the motion
12 for prosecution should be barred by the statute.

13 THE COURT: Why? If that third element
14 hasn't been met, that didn't arise when that element is
15 met or not, is my question to you.

16 MR. DOMIN: Yeah. Your Honor, so the town of
17 Mount Pleasant and its police officers have no action or
18 activity as it relates to the dismissing of the case. I
19 mean, if they're acting in malice, if they're acting in a
20 factor of malicious prosecution, it's all about whether
21 or not they have probable cause at the time of arrest,
22 and that's what I was going to get into. I believe they
23 did have probable cause at the time of arrest.

24 THE COURT: Go ahead with probable cause.

25 MR. DOMIN: And, Your Honor, just to dovetail

1 that in, either their probable cause existed at the time
2 of arrest or didn't exist at the time of arrest, and
3 that's why I would submit the malicious prosecution
4 action should be barred by the statute of limitations.

5 Your Honor, as it relates to probable cause,
6 Bryan Seabrook brought the dead two year-old to the
7 hospital. It resulted in roughly a three-month
8 investigation, so I'm going to compress a lot of these
9 facts and give you just the most important facts because,
10 obviously, probable cause does not have to be entirely
11 consistent.

12 There just has to be a set of facts which
13 would lead a reasonable person to the conclusion that
14 Bryan Seabrook was, in fact, the person who committed the
15 crime. The household where this happened, at the time it
16 happened, had Bryan Seabrook as the only adult who was
17 present at the time that the child was taken from the
18 hospital, and, in fact, the indications were that the
19 child was acting normally approximately an
20 hour-and-a-half before going to the hospital when the
21 other last adult left the premises.

22 The three- and four-year-old siblings of the
23 two-year-old were present. They were taken into
24 DSS custody, and on the way to the hospital, they tell
25 the DSS caseworker that Bryan Seabrook popped the

1 two-year-old, that he went to sleep and went to heaven,
2 and they had a secret they had to keep or they would get
3 popped too.

4 Those children were then interviewed by a
5 forensic examiner, who -- again, these children have
6 essentially told a story that had consistent elements.

7 Now, just to kind of fast forward ahead, Mr.
8 Peper says that that is not reliable about the forensic
9 examiner made various comments that they were -- the
10 comments that they had had certain age issues as to
11 whether or not they were appropriate in terms of age and
12 whether they could get their sequence of events right;
13 however, that's an issue, as you well know, Judge, the
14 forensic examiner doesn't get to get on the stand and say
15 the child is either reliable or unreliable.

16 They only get to say, This is what I did in
17 the interview.

18 The issue of -- you're not allowed to get
19 that examiner on the stand under the South Carolina case,
20 so, again, whether the examiner finds him credible or
21 not, we submit the examiner did find him credible. We've
22 quoted from a portion of the coroner's inquest where the
23 examiner said, I found their story to be consistent, and
24 it sounded like something that had happened to them.

25 And so I do think that the examiner found

1 their testimony to be appropriate and reliable, but it
2 doesn't matter because under South Carolina law you can't
3 rely on what that examiner says. That's not a defining
4 factor.

5 Now, the solicitor was well within her right
6 to say, I don't think I could win this case based on the
7 testimony of a four-year-old, or based upon the testimony
8 of a three-year-old, but if that testimony is something
9 which the police department relies on, which it has a
10 right to rely on, then there is probable cause, even if
11 the solicitor ultimately decides not to pursue the
12 charges here.

13 So I would also point out, Judge, that we've
14 obtained warrants in front of a municipal judge. He then
15 was afforded a preliminary hearing. It was bound over.
16 There was ultimately a grand jury indictment of him, and
17 so the issue of probable cause has been addressed
18 multiple times, and we would submit that should be res
19 judicata and collateral estoppel as well.

20 Ultimately, the police officer is responsible
21 for presenting it to the first judge to get a warrant.
22 Now, the final issue as to the warrant and the validity
23 of the warrant, opposing counsel has argued the Franks
24 case, which I know you're familiar with as well. That's
25 actually a very high standard to undo a warrant. There

1 is absolutely no evidence here of any deliberate
2 concealment.

3 It is not sufficient under Franks to simply
4 say, You left out exculpatory information. You left out
5 this, and you left out that.

6 That's not enough under Franks to invalidate
7 the warrant, so it's a valid warrant still under Franks.
8 We submit Franks is the test that you have to apply here,
9 and because there's probable cause as determined by
10 multiple different levels and multiple different bodies,
11 we believe that this cause of action for malicious
12 prosecution, false arrest, and negligence has to fail as
13 a matter of law against the town of Mount Pleasant.

14 THE COURT: Okay.

15 MR. PEPER: Thank you, Your Honor. May it
16 please the Court: Probable cause, in and of itself, is
17 an issue of fact, should go to a jury. The only issue.

18 THE COURT: Should go where?

19 MR. PEPER: Go to the jury.

20 THE COURT: Probable cause go to the jury?

21 MR. PEPER: It's as a matter of fact, Judge,
22 and --

23 THE COURT: Are you saying the jury in your
24 case, in this case, should determine whether probable
25 cause is appropriate?

1 MR. PEPER: That's exactly right, because
2 what we have here are the four corners of the affidavit
3 that Officer DeCamp placed in front of a magistrate,
4 asserting that they were true, accurate, and complete.
5 We now know that that's just incorrect. That issue, in
6 and of itself, is a fact for the jury to consider, based
7 on testimony and evidence presented.

8 In the instant case, Judge, when we take just
9 what was presented to the magistrate, we now know after
10 deposing DeCamp that he does not recall whether he had
11 any conversations. He does not recall whether he was
12 asked any questions about the magistrate, so all we can
13 do is use the four corners of the law, which is what
14 Franks asserts, Judge, and so does Goodwin v. Metz.

15 The probable cause was based on the following
16 facts: One is that he was the sole caretaker the day of
17 the death. It's just not true.

18 It then says that eyewitnesses state that the
19 decedent was struck by Mr. Seabrook, who they name as the
20 defendant, shortly before he became unresponsive.

21 A: That is completely misleading, and,
22 arguably, flat-out false. As -- a person who doesn't
23 know anything about the case, and when DeCamp said, I
24 don't know -- they asked him some questions, I don't
25 know. You know, I don't remember what we did, you have

1 to assume that he read it and said, Hmmm, eyewitnesses.

2 Now, he's assuming, A, they're credible,
3 okay, that they're competent, right, and that they
4 physically saw the defendant strike, because it uses the
5 word strike, okay, the decedent right before he became
6 unresponsive.

7 THE COURT: Assuming you may be right, but he
8 also had a preliminary hearing and the magistrate then
9 heard testimony, live testimony, and bound him over for
10 grand jury, the grand jury indicted him, and once he was
11 indicted, the arrest was null.

12 MR. PEPER: We know that Officer DeCamp, who
13 gave the affidavit on those facts, the only person who
14 testified at the prelim, is the only person who testified
15 in front of the grand jury.

16 THE COURT: I understand. You just keep
17 talking about the warrant itself. It's more involved
18 than just the warrant itself. I mean, you got a
19 preliminary hearing. You got a grand jury that indicted
20 him. The solicitor said, I can't convince 12 jurors
21 beyond a reasonable doubt that this man is guilty, which
22 is entirely different than probable cause.

23 MR. PEPER: Our position, Judge, the evidence
24 will show the same set of facts were used in all three
25 instances, to obtain the warrant at the prelim and the

1 grand jury, and in Goodwin v. Metz, Judge, which is the
2 Fourth Circuit case that we've adopted, the probable
3 cause -- the grand jury proceeding doesn't shield the
4 Town of Mount Pleasant from liability.

5 They are not shielded by an arrest warrant
6 that has been used for the same facts as the indictment
7 if it's false and misleading and admitted exculpatory
8 evidence.

9 We certainly disagree, we, being
10 Mr. Seabrook, certainly disagrees that he ever popped,
11 much less struck. We also disagree that eyewitnesses are
12 credible and able to sequence events, and we can show
13 that. So just that disagreement is enough of a fact to
14 submit this case to a jury, and we ask you to do so.

15 THE COURT: Okay. What's your next motion?

16 MR. MAYBANK: Nothing.

17 THE COURT: That's it?

18 MR. DOMIN: Yes, sir.

19 All right. Mr. Domin, I'm going to grant
20 your summary judgment motion. Mr. Maybank, I'm going to
21 grant your 12(b) motion, if y'all type me up a proposed
22 order, please.

23 MR. DOMIN: Two different orders on that,
24 Judge?

25 THE COURT: Yes, sir. There are two

1 different issues.

2 MR. DOMIN: Thank you.

3 MR. PEPER: May it please the Court?

4 THE COURT: Yes, sir.

5 MR. PEPER: And I failed to mention this. In
6 the event that you were going to grant, I would certainly
7 ask leave to amend.

8 THE COURT: That's just what I did.

9 MR. PEPER: I meant to tell you, if you were
10 going to do that, I would ask for leave to amend my
11 claim.

12 THE COURT: No, sir.

13 - - -

14 (Whereupon, the proceedings were concluded.)

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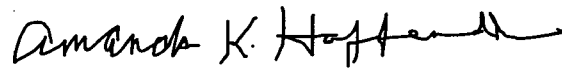
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I, the undersigned, Amanda Kelly Haffenden, RPR, CRR, Circuit Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Charleston County, South Carolina, on the 20th of September 2017.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

December 14, 2017



Circuit Court Reporter

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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Bryan Okeith Seabrook,

Plaintiff,

v.

Town of Mount Pleasant, AND, Rae
Wooten, in Her Official Capacity as
Coroner of Charleston County,

Defendants

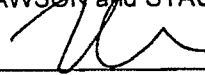
IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-03542

**NOTICE OF FILING
AFFIDAVIT OF ANDREW DECAMP**

PLEASE TAKE NOTICE that the Defendant, Town of Mount Pleasant, has this day filed an Affidavit of Andrew DeCamp with the Court of Common Pleas for the Ninth Judicial Circuit for Charleston County.

CLAWSON and STAUBES, LLC



Timothy A. Domin

Bar No.: 65264

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Charleston, South Carolina 29492-8144

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Email: tdomin@clawsonandstaubes.com

Attorney for Town of Mount Pleasant

Charleston, South Carolina

September 01, 2017

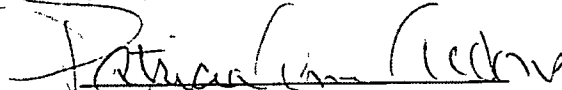
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Defendant's, Town of Mount Pleasant, Notice of Filing Affidavit of Andrew DeCamp was served upon the following parties on the 15th day of September, 2017, via:

☒	United States Postal Service
☐	Facsimile
☐	Electronic Email
☐	Via Hand Delivery

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PO Box 12579
Charleston, SC 29422-2579
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Attorney For: Rae Wooten, in Her Official Capacity as Coroner of Charleston County


Patricia Anne Aldous

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Bryan Okeith Seabrook,

Plaintiff,

vs.

Town of Mount Pleasant, AND, Rae Wooten,
in Her Official Capacity as Coroner of
Charleston County,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-03542

AFFIDAVIT OF ANDREW DECAMP

PERSONALLY appeared before me Andrew DeCamp, who being duly sworn,
deposes and says:

1. That my name is Andrew DeCamp and at all material times I have been an employee of the Town of Mount Pleasant and a sworn officer with the Town of Mount Pleasant Police Department.
2. I was the primary investigator with regards to the death of [Minor Victim], a two year old boy who died March 19, 2013. The following is my recount of the investigation and information that we obtained that led to a warrant being issued for Brian Seabrook for Homicide by Child Abuse on May 9, 2013.
3. On March 19, 2013, [Minor Victim] was brought to East Cooper Hospital by the twenty-five year old Bryan Seabrook, the boyfriend of the child's grandmother. The child was brought into the hospital not breathing and was non-responsive. Hospital employees contacted Consolidated Dispatch and Mount Pleasant Police responded as the call was within Mount Pleasant's jurisdiction.
4. By the time the Mount Pleasant Police Department arrived, [Minor Victim] had been pronounced dead.
5. Bryan Seabrook communicated to hospital staff and police that he was watching [Minor Victim] and his two sisters, N [Minor] and G [Minor] during the afternoon and early evening hours of March 19, 2013. Further, that he was the only adult in the family's apartment after approximately 4 p.m. until [Minor Victim] was taken to the hospital.
6. The grandmother of [Minor Victim] and girlfriend of Seabrook, Marty Dixon, provided information [Minor Victim] was acting normally and eating chips when she left around 4 p.m.

7. Bryan Seabrook told investigators that [Minor Victim] was sitting at the kitchen table eating a snack when [Minor Victim] vomited.

8. Seabrook did not say when exactly [Minor Victim] vomited, but investigators eventually discovered that Seabrook sent a text message to Ms. Dixon at 5:12 p.m. stating, "[Minor Victim] just made himself throw up!!!!!! I am over this shit."

9. Seabrook and Ms. Dixon gave differing accounts of the events following [Minor Victim] vomiting at the kitchen table.

10. Seabrook told the police that he gave [Minor Victim] a bath and dressed him in his pajamas. Seabrook then claimed that he then gave [Minor Victim] some Vitamin Water. Once [Minor Victim] drank some Vitamin Water, Seabrook claims that he put [Minor Victim] in Ms. Dixon's room to watch a T.V. with N [Minor] and G [Minor]. Seabrook said that he left the room for a few minutes, and when he returned he found [Minor Victim] lying on his back. Seabrook claimed that [Minor Victim] jaw appeared to be locked, and he unsuccessfully attempted to perform CPR on [Minor Victim]. Finally, Seabrook claimed that he gathered the other children and took [Minor Victim] to the hospital after he saw blood coming out of [Minor Victim] nose when he was performing CPR.

11. Ms. Dixon told a nurse that Seabrook told her that he placed [Minor Victim] in the bedroom to watch a movie with N [Minor] and G [Minor] before Seabrook took out the trash. According to Ms. Dixon, Seabrook said that [Minor Victim] was whimpering on the floor when Seabrook returned from taking out the trash. Ms. Dixon said that Seabrook then placed [Minor Victim] in the bathtub because that is what the family commonly does when one of the children is sick. After the bath, Ms. Dixon claimed that Seabrook told her that he dressed [Minor Victim] in his pajamas and laid him down to sleep. At this point, Seabrook discovered that [Minor Victim] was not breathing so Seabrook tried to blow air into his mouth. When blood came out [Minor Victim] nose, Seabrook gathered up the other children and went to the hospital.

12. The investigating officers spoke with Seabrook and Marty Dixon at the hospital and requested that they both come to the police station to answer some additional questions. They both agreed and went to the police station. Lieutenant Hembree informed Seabrook of his *Miranda* rights and Seabrook invoked his right to consult with an attorney, which ended the interview.

13. Mount Pleasant Police received a statement from Jane Bell, the Child Protective Services emergency on-call case manager, regarding her conversations with N [Minor] and G [Minor] the 3 and 4 year old sisters of [Minor Victim]. Ms. Bell took emergency custody of N [Minor] and G [Minor] and accompanied them to a licensed foster home. Ms. Bell asked the girls if they had any siblings and N [Minor] said that her brother, [Minor Victim], went to heaven to be with Jesus. When the girls were asked about what happened to [Minor Victim], N [Minor] told Ms. Bell that "she and G [Minor] were not allowed to talk to anyone about what happened

to [Minor Victim] because [Seabrook] said that it was a secret." N[Minor] told Ms. Bell that she couldn't even tell her mother or grandmother about the secret. Additionally, both girls told Ms. Bell that "their grandmother was working and their mom was at school when [Minor Victim] had to come to the hospital." G[Minor] told Ms. Bell that "[Seabrook] popped [Minor Victim] in his butt today" and she claimed multiple times that "[Minor Victim] hit the wall." G[Minor] also told Ms. Bell that "[Minor Victim] had blood on his nose today." Ms. Bell reported that G[Minor] followed up her statement about the blood on [Minor Victim] nose "by saying [Seabrook] told them to get out when he wouldn't wake up earlier in the day." Mount Pleasant Police obtained a written statement from Ms. Bell reflecting these communications.

14. In addition, the children were then interviewed by Dr. Donald Elsey, Clinical Director of the Dee Norton Lowcountry Children's Center on three separate occasions. I personally reviewed the interviews and communicated with Dr. Elsey testified that he interviewed N[Minor] and G[Minor] on three separate occasions to see what, if anything, they were able to share. I attended the second and third interviews personally and watched the first forensic interview. I found the children to be credible. The children discussed Seabrook having hit [Minor Victim] and that [Minor Victim] went to sleep and went to heaven. The older child, N[Minor], demonstrated a "pop" by forcefully striking a chair in the interview room with her hand. N[Minor] was asked whether anyone else pops [Minor Victim]. She said only Brian. The children also consistently said they had a secret that they were told not to tell about the secret.

15. On or about May 6, 2013, Lieutenant Hembree and I met with the medical examiner at MUSC, Dr. Cynthia Schandl, who performed an autopsy on [Minor Victim] body at MUSC. We discussed her findings. She said there were old injuries and new injuries. She indicated that the immediate cause of death was acute blunt force trauma to the torso/abdomen. In fact, that [Minor Victim] has bled a large amount of blood into his abdomen. She indicated that an acute injury by definition is one in the last 24 hours, but that this was an injury that likely happened in the last four hours in this case. She indicated the amount of force necessary to create the injury was such that the 3 and 4 year old siblings would not be responsible for inflicting the injury. Furthermore, she told us that the nature of the injury would have been painful and that the child most likely would not be acting normally.

16. This was important because the evidence we had indicated that [Minor Victim] was acting normally and eating chips at 4 p.m. when Marty Dixon left.

17. On May 9, 2013, I and other officers of the Mount Pleasant Police Department met with representatives of the Ninth Circuit Solicitor's Office. The detectives met and reviewed the facts of the investigation with Solicitor Scarlett Wilson, Assistant Solicitor Debbie Herring-Lash, and Assistant Solicitor Jennifer Shealy. Based upon the totality of the circumstances, it was agreed that a warrant was drafted for Seabrook's arrest. In particular, it appeared that [Minor Victim] died from blunt force trauma while in the care of Seabrook who was the only adult. The minor sisters of [Minor Victim] were

evidence that Seabrook inflicted a blow to [Minor Victim] and further that the children were told to keep a secret.

18. I do not know of any other witness testimony that any one else struck [Minor Victim] Washington.

19. Based on probable cause, I signed affidavit to seek an arrest warrant to for Brian Seabrook. The factual section of the affidavit stated as follows:

On March 19th, 2013 at approximately 1902 hours, Charleston County Consolidated Dispatch was contacted by East Cooper Medical Center staff and reported a suspicious death of a toddler, [Minor Victim] (DOB: [REDACTED]). The unresponsive victim was transported by the defendant from [REDACTED] to East Cooper Medical Center, both sites located in the Town of Mount Pleasant, South Carolina, in Charleston County. Through investigation, it was learned that the victim was in the custodial care of the defendant on March 19, 2013, and that the victim was entrusted to the sole custodial care of the defendant on March 19, 2013 from approximately 1600 hours to the time of the victim's hospital admittance. That at the time of hospital admittance, the victim was in full cardio-pulmonary arrest. That autopsy results indicate that the victim sustained fatal acute abdominal injuries, resulting from blunt force trauma. That eyewitnesses reported that the defendant struck the victim shortly before the victim became unresponsive.

20. The arrest warrant is attached as Exhibit A. The arrest warrant was signed by Municipal Judge Larry Duffy on May 9, 2013.

21. I can say that my practice is that I would normally give the judge background about the case. Judge Duffy is not the type who just signs a warrant. However after discussion with the judge and presenting him with the affidavit, Judge Duffy signed the arrested warranted.

22. Seabrook was arrested and taken into custody that same day on May 9, 2013. After he was arrested, Seabrook was transported to the Mount Pleasant Police Department so that he could be interviewed. Lieutenant Hembree (then Sargent) was notified that Seabrook had been arrested and he traveled to the police station to interview Seabrook. During the course of the interview and breaks, Seabrook made certain statements that were short of a confession, but were potentially incriminating.

23. After his arrest, Seabrook was afforded a preliminary hearing. The court determined there was sufficient probable cause for the criminal charge to proceed forward.

24. Seabrook was indicted by a grand jury for the charge of Homicide by Child Abuse on October 8, 2013.

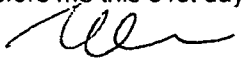
25. The coroner conducted a coroner's inquest at which proceeding I was called as a witness.

FURTHER AFFIANT SAYETH NOT!



Andrew DeCamp

SWORN to and SUBSCRIBED
before me this 31st day of August, 2017



Notary Public for South Carolina

My Commission Expires: 4-9-19

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

OCA # 13-0002073
AFFIDAVIT

Personally appeared before me, a Magistrate of this county, on Detective Andrew DeCamp
(affiant)
who, being duly sworn, deposes and says that Bryan Okeith Seabrook did, within the
(defendant)

Town of Mount Pleasant, County of Charleston, State of South Carolina, on or about March 19,
2013 violate the criminal laws of the State of South Carolina, namely, Homicide by Child
Abuse, at the following location, [REDACTED]
SC in Violation of Section, 16-3-85 the South Carolina Code of Laws of 1976, as amended.

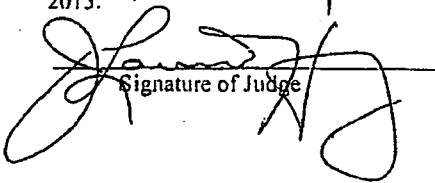
The Affiant states that there is probable cause to believe that the Defendant named above did
commit the crime(s) set forth and that such probable cause is based on the following facts:

On March 19th, 2013 at approximately 1902 hours, Charleston County Consolidated
Dispatch was contacted by East Cooper Medical Center staff and reported a suspicious death of a
toddler, Minor Victim (DOB: [REDACTED]). The unresponsive victim was transported by the
defendant from [REDACTED] to East Cooper Medical Center, both
sites located in the Town of Mount Pleasant, South Carolina, in Charleston County. Through
investigation, it was learned that the victim was in the custodial care of the defendant on March
19, 2013, and that the victim was entrusted to the sole custodial care of the defendant on March
19, 2013 from approximately 1600 hours to the time of the victim's hospital admittance. That at
the time of hospital admittance, the victim was in full cardio-pulmonary arrest. That autopsy
results indicate that the victim sustained fatal acute abdominal injuries, resulting from blunt force
trauma. That eyewitnesses reported that the defendant struck the victim shortly before the victim
became unresponsive.

That the defendant did cause the death of the two year old victim while committing child
abuse, and the death occurred under circumstances manifesting an extreme indifference to
human life.

All of the above is believed to be true based on the investigation of Detective DeCamp of the
Mount Pleasant Police Department. All of the above is against the law, peace, and dignity of the
State of South Carolina.

Sworn to and Subscribed before me
This 9 day of May
2013.


Signature of Judge


AFFIANT

100 Ann Edwards Lane
Mt. Pleasant, SC 29464
884-4176

13 MAY 24 09:11:57



STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Bryan Okeith Seabrook,)
Plaintiff,)

Case No.: 2016-CP-10- 3542

v.)

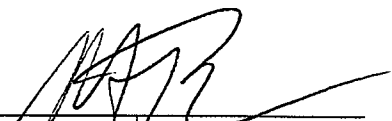
SUMMONS

Town of Mount Pleasant, AND,)
Rae Wooten, in Her Official)
Capacity as Coroner of Charleston)
County)
Defendants.)

TO THE DEFENDANTS ABOVE NAMED:

FILED
2016 JUL -8 PM 4:50
CLERK OF COURT

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint of the Plaintiff in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at his office, 1637 Savannah Hwy., Ste. 202, Charleston, South Carolina, 29407, within thirty (30) days after the service hereof, exclusive of the day of such service; and, if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.


Mark A. Peper, Esquire
1637 Savannah Hwy.
Suite 202
Charleston, South Carolina 29407
Phone: (843) 225-2520
Facsimile: (843) 225-2554
Mark@peperlawfirm.com
ATTORNEY FOR THE PLAINTIFF

This 4 day of July, 2016.
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
 Bryan Okeith Seabrook,	)	 Case No. 2016-CP-10-
	)	
Plaintiff,	)	
	)	
v.	)	
	)	COMPLAINT
Town of Mount Pleasant, AND	)	
Rae Wooten, in Her Official	)	
Capacity as Coroner of Charleston	)	
County	)	
	)	
Defendants.	)	
	)	

FILED
2016 JUL -8 PM 4:50
CLERK OF COURT

The Plaintiff, by and through his undersigned attorney and complaining of the Defendants, hereby allege the following facts:

Preface

The Plaintiff, Bryan Okeith Seabrook, brings claims of negligence, false arrest and malicious prosecution pursuant to the South Carolina Tort Claims Act against the Town of Mt. Pleasant based on the acts and omissions of Andrew DeCamp and Justin Hembree of the Town of Mt. Pleasant Police Department and Rae Wooten, in her official capacity as Coroner of Charleston County, in the arrest and prosecution of the Plaintiff on the charge of Homicide by Child Abuse.

Parties

1. Plaintiff Bryan Okeith Seabrook (hereinafter "Plaintiff"), is citizen and resident of Mt. Pleasant, South Carolina.
2. The Defendant Town of Mt. Pleasant is a political subdivision organized under the laws of the state of South Carolina. It is a statutory defendant for state law claims made pursuant to the South Carolina Tort Claims Act for the acts and omissions of its employees acting in the course and scope of their official duties. It is sued for the acts and omission of

Andrew DeCamp and Justin Hembree of the Town of Mt. Pleasant Police Department. Plaintiff seeks compensatory damages against the Town.

3. The Defendant Rae Wooten is the duly elected Coroner of the County of Charleston, a political subdivision organized under the laws of the state of South Carolina. She is a statutory defendant for state law claims made pursuant to the South Carolina Tort Claims Act for the acts and omissions of her office's employees acting in the course and scope of their official duties. She is sued for the acts and omissions of Cynthia A. Schandl, A.M.D., Ph.D. acting in the scope of her duty as Autopsy Pathologist at the employ of the Charleston County Coroner. Plaintiff seeks compensatory damages against the Coroner.

Jurisdiction

4. The Plaintiff brings his claims pursuant to the South Carolina Tort Claims Act S.C. Code Ann. §1-78-10 et seq. Venue is proper in Charleston County as the events which give rise to this litigation occurred therein.

Statement of Facts

5. Upon information and belief, Mt. Pleasant Police Department was dispatched to East Cooper Hospital on March 18, 2013 at 7:02pm. Upon arrival they learned Plaintiff had arrived at the ER carrying an unresponsive child, [Minor Victim] (hereinafter "Decedent"), who was subsequently pronounced dead at 6:45pm.
6. A Mt. Pleasant Police Department and parallel Coroner's investigation into the death began that evening. The decedent lived in the home with his maternal grandmother, Marty Dixon, her boyfriend "Plaintiff", his mother Brittney Hartwell, and his two sisters', age three and four. The investigation included numerous search warrants, interviews with medical personnel at East Cooper, the Charleston County Department

of Social Services (hereinafter "DSS), the decedent's pediatrician, family members, neighbors, and many others.

7. The investigation revealed that the decedent's mother last saw the decedent at 12:20pm that afternoon and that the decedent's grandmother, Dixon, last saw the victim at approximately 4:00pm and gave him Doritos at which time he seemed normal, before leaving the decedent and his two sisters alone with the Plaintiff.
8. The investigation revealed that DSS opened a case file on the decedent at birth, as mother tested positive for marijuana, syphilis and rubella, along with being the repeated suspect / victim of domestic violence along with the decedent's father, Christopher Washington. The investigation further revealed that the decedent often had unexplained injuries after visits to his mother's home, including bruising on the decedent in November 2012, bruising on the decedent in December 2012, a broken leg in December 2012, and found to have healing fractures of the 7th and 10th ribs at the time of autopsy.
9. On March 20, 2013, an autopsy is of the decedent was performed at the request of Coroner Rae Wooten, who attended alongside Officer Andrew DeCamp, Dr. Cythia A. Schandle, Dr. Meredith H. Frame, Mr. Raymond Edwards, Ms. Eowyn Corcrair, and Charleston County Deputy Coroner Mr. Scott Ramsey. DeCamp was advised that further testing and injury aging would need to be performed to determine and exact cause of death, but the autopsy revealed that the decedent has undergone past physical trauma or traumas in the past weeks, which led to a mesentery laceration in the stomach causing blood to track down the abdomen and pool in the decedent's groin.
10. Later that same day, DeCampo attending a meeting with Coroner Wooten and decedent's mother, Hartwell, who informed them that decedent had a blood test performed at MUSC on March 6, 2013 to test his ability for blood clotting in response

to concerns of constant bruising. Hartwell advised that the week prior to his death, the decedent was complaining of stomach pain and that he threw up milk a couple minutes after consuming it.

11. At a third interview with the Lowcountry Children's Center, of which was extremely suggestive and leading, the decedent's sister who had just turned 3 years of age stated that Plaintiff "popped" decedent and then decedent watched a movie and fell asleep.
12. On May 9, 2013, DeCamp and Hembree attending a meeting with Dr. Cynthia Schandl and were provided the autopsy report. Significant findings included a small bowel mesenteric laceration, retroperitoneal hemorrhage, adhesions from the diaphragm to the anterior right liver capsule. Specifically, the autopsy stated, "In light of the historical information provided and the autopsy findings, it is the opinion of the pathologist that the decedent died as the result of blunt trauma to the torso. Furthermore, the manner of death is best deemed homicide".
13. Contrary to the specific language in the autopsy, DeCamp filed a prosecutive summary in which he states the autopsy report revealed internal bleeding and signs of injury consistent with blunt force trauma, some of which were acute, in which the infliction of these injuries likely occurred in a four hour time frame prior to the victim's death. The actual autopsy report is void of any of the above language.
14. An arrest warrant for Homicide by Child Abuse was issued for the Plaintiff and he was taken into custody that same day, May 8, 2013. As stated in the Affidavit, the probable cause for the arrest was that the decedent was in the sole custodial care of the Plaintiff on March 19, 2013 from 4:00pm to the victim's hospital admittance at 6:00pm, that autopsy results indicate the victim sustained fatal *acute* abdominal injuries resulting from blunt force trauma, and that *eyewitnesses* reported that the defendant *struck* the victim shortly before the victim became unresponsive. (*emphasis*

added). The Plaintiff remained in jail on a No Bond until he was released on a reduced bond of \$75,000 surety on October 25, 2014.

15. The Ninth Circuit Solicitor's Office began to prepare for trial, and in doing so met with numerous witnesses and parties. Their investigation revealed numerous inconsistencies and signs consistent with the Plaintiff's innocence. Specifically, the interview of the decedent's sisters did not result in any information that could be used because they gave difference information during each interview and could not give any time frame due to their own psychological developmental level; the child often had unexplained injuries aft her visits to his mother's home; Dixon was present the entire day of March 19, 2013 up until 2 hours before death; upwards of three additional adults had contact with the decedent in a 6 hour window prior to death; the Plaintiff was not in the home during the morning of the death while decedent was alone with Mother. As a result, the Solicitor's office dismissed the case against Plaintiff on September 11, 2015.

For a First Cause of Action
False Arrest against the Town of Mt. Pleasant
pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

14. The Town of Mt. Pleasant Police Department is vicariously liable for the acts of DeCamp and Hembree and other officers acting within the course and scope of their employment. The acts and omissions of DeCamp in arresting Plaintiff on the charge of Homicide by Child Abuse were without probable cause or lawful authority constituting the tort of false arrest. As a direct and proximate result Plaintiff incurred the loss of liberty and financial and emotional damage.

For a Second Cause of Action
Negligence\Gross Negligence against Town of Mt. Pleasant Police Department
pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

15. The defendant Town of Mt. Pleasant Police Department statutorily liable for the acts and omissions of the deputies acting within the course and scope of their employment. Officer DeCamp had a duty not to arrest individual without probable cause. He was negligent or grossly negligent and breached that duty in applying for a warrant without probable cause to arrest Plaintiff. As a direct and proximate result, Plaintiff suffered injury in the form of public arrest, incarceration, incidental expenses and attorney fees.

FOR A THIRD CAUSE OF ACTION
Malicious Prosecution against the Town of Mt. Pleasant Police Department
under the SCTCA

The allegations set forth above are repeated as if included herein.

16. The Town of Mt. Pleasant Police Department is vicariously liable for the acts of their officers acting within the course and scope of their employment in prosecuting Plaintiff on the criminal charges of Homicide by Child Abuse and constitutes the tort of malicious prosecution. Plaintiff alleges :

- 1) There was the institution and continuation of original judicial proceedings by the arrest and prosecution on the criminal charge of Homicide by Child Abuse;
- 2) by, or at the instance of Defendants;
- 3) the termination of the criminal proceedings in Plaintiff's for reasons consistent with innocence;
- 4) the prosecution was done with malice, actual and/or implied;
- 5) there was not probable cause for the arrest; and
- 6) Plaintiff suffered emotional and financial damage.

For a Fourth Cause of Action
Negligence\Gross Negligence against Rae Wooten in her Official Capacity as Coroner
Of Charleston County pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

15. The defendant Rae Wooten is statutorily liable for the acts and omissions of the employees acting within the course and scope of their employment. Her office had a duty to supervise the autopsy process to ensure the findings were accurate in determining the proper cause of death as supported by the findings, and was negligent or grossly negligent by breaching said duty by relaying to the Town of Mt. Pleasant a false cause of death unsupported by the medical findings. As a direct and proximate result, Plaintiff suffered injury in the form of public arrest, incarceration, incidental expenses and attorney fees.

Wherefore having set forth the grounds for the relief plaintiff asks for compensatory damages in an appropriate amount and such other relief as the court deems just and proper.

Respectfully submitted, this the 8th day of June, 2016, in Charleston, South Carolina.



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ATTORNEY FOR THE PLAINTIFF

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Bryan Okeith Seabrook,
Plaintiff,

VS.

Town of Mt. Pleasant, AND, Rae Wooten,
in her Official Capacity as Coroner of
Charleston County
Defendants.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
)
)

) CASE NO.: 2016-CP-10-3542
)
)
)

AMENDED SUMMONS

FILED
2016 SEP -8 PM 3:47
JULIE ARMSTRONG
CLERK OF COURT

TO: THE DEFENDANTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Amended Complaint of the Plaintiff in the action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Amended Complaint on the subscriber at his office, 1637 Savannah Highway, Suite 202, Charleston, South Carolina, 29407, within thirty (30) days after the service hereof, exclusive the day of such service; and, if you fail to answer the Amended Complaint within the time aforesaid, judgement by default will be rendered against you for the relief demanded in the Amended Complaint.

Respectfully submitted,



Mark A. Peper, Esquire
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ATTORNEY FOR THE PLAINTIFF

This 8 day of September, 2016.
Charleston, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Bryan Okeith Seabrook,)
)
Plaintiff,)
v.)
)
Town of Mount Pleasant, AND)
Rae Wooten, in Her Official)
Capacity as Coroner of Charleston)
County)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No. 2016-CP-10-3542

AMENDED COMPLAINT

FILED
2016 SEP -8 PM 3:47
JULIE J. HARRIS
CLERK OF COURT

The Plaintiff, by and through his undersigned attorney and complaining of the Defendants, hereby allege the following facts:

PREFACE

The Plaintiff, Bryan Okeith Seabrook, brings claims of False Arrest, Malicious Prosecution and Negligence/Gross Negligence pursuant to the South Carolina Tort Claims Act against the Town of Mt. Pleasant based on the acts and omissions of Andrew DeCamp and Justin Hembree of the Town of Mt. Pleasant Police Department, and a claim of Negligence/Gross Negligence pursuant to the South Caroline Tort Claims Act against Rae Wooten, in her official capacity as Coroner of Charleston County, in the arrest and prosecution of the Plaintiff on the charge of Homicide by Child Abuse.

Further, Plaintiff brings claims of Malicious Prosecution, Abuse of Process, and Negligence/Gross Negligence pursuant to the South Carolina Tort Claims Act against Rae Wooten, in her official capacity as Coroner of Charleston County, for the subsequent prosecution of the Plaintiff at a Coroner's Inquest.

PARTIES

1. Plaintiff Bryan Okeith Seabrook (hereinafter "Plaintiff"), is citizen and resident of Mt. Pleasant, South Carolina.
2. The Defendant Town of Mt. Pleasant (hereinafter "Town") is a political subdivision organized under the laws of the state of South Carolina. It is a statutory defendant for state law claims made pursuant to the South Carolina Tort Claims Act for the acts and omissions of its employees acting in the course and scope of their official duties. It is sued for the acts and omission of Andrew DeCamp (hereinafter "DeCamp") and Justin Hembree (hereinafter "Hembree") of the Town of Mt. Pleasant Police Department. Plaintiff seeks compensatory damages against the Town.
3. The Defendant Rae Wooten (hereinafter "Wooten" or "Coroner") is the duly elected Coroner of the County of Charleston, a political subdivision organized under the laws of the state of South Carolina. She is a statutory defendant for state law claims made pursuant to the South Carolina Tort Claims Act for the acts and omissions of her office's employees acting in the course and scope of their official duties. She is sued for the acts and omissions of her staff and agents, including Cynthia A. Schandl, A.M.D., Ph.D. (hereinafter "Schandl") acting in the scope of her duty as Autopsy Pathologist at the employ of the Charleston County Coroner. Wooten is also sued for the continued prosecution of Plaintiff through a Coroner's Inquest ten (10) months after the charge was dismissed. Plaintiff seeks compensatory damages against the Coroner.

JURISDICTION

4. The Plaintiff brings his claims pursuant to the South Carolina Tort Claims Act S.C. Code Ann. §1-78-10 et seq. Venue is proper in Charleston County as the events which give rise to this litigation occurred therein.

STATEMENT OF FACTS

Upon information and belief,

5. **Minor Victim**, age two (2) (hereinafter "decedent"), was born to Brittney Hartwell (hereinafter "mother") on February 11, 2011. The Charleston County Department of Social Services (hereinafter, "DSS") immediately opened an abuse and neglect investigation upon learning that mother tested positive for marijuana, syphilis and rubella at decedent's birth, and had been a repeated suspect / victim of domestic violence along with the decedent's father, Christopher Washington (hereinafter "father"), whose paternal rights were later terminated.
6. On February, 13, 2011, DSS removed decedent from mother and physical custody was given to his paternal grandmother, Dorothy Williams (hereinafter "Williams"). Williams resided in North Charleston, SC with the decedent and his twelve (12) year old cousin, Shawn. While in her care, Williams had her own cousin, Kendrell Hartwell, babysit decedent and his cousin when Williams had to go to the doctor or court. Williams had previously reported to authorities her suspicion that Kendrell Hartwell had physically abused decedent's cousin after seeing him with bruises, but declined to press charges.
7. Prior to decedent's birth, mother's other two children, both females ages two (2) and four (4), had previously been removed from mother by DSS based on findings of physical abuse and neglect. Physical custody was given to their maternal grandmother, Marty Dixon (hereinafter "grandmother"). Grandmother's boyfriend, plaintiff, moved in with grandmother in March 2012.
8. During the open DSS investigation involving decedent, mother received supervised overnight visits with decedent at her home where she lived alone. Decedent would often be returned to Williams with unexplained injuries and bruising after visiting mother,

however, Williams never presented decedent to any medical provider for diagnosis or treatment of the injuries, nor did Williams take decedent to his routine scheduled pediatric visits. The first time decedent was seen by a medical professional after being released from the hospital at birth was November, 2012.

9. On December 13, 2012, DSS returned physical custody of the decedent to mother, who subsequently moved into grandmother's home. Mother and grandmother picked up decedent from Williams on December 16, 2012 and noticed a bruise under his right eye, left cheek, and chest, and documented said injuries on their phone. The following day, decedent vomited, ran a low fever, and became lethargic. Mother gave decedent ibuprofen.
10. On December 20, 2012, plaintiff and grandmother went to work and left the three (3) minor children in the sole custody and care of mother. Later that day, mother took decedent to Nason Medical Center where he presented with a fever, odorous urine, a healing bruise under his right eye and a broken left leg, which according to Dr. Jeffrey Misko, appeared to be intentional.
11. On December 31, 2012, while in the custody and care of mother, she took him to Coastal Pediatrics for a follow-up visit where he presented with a high grade fever, continuous vomiting, extreme dehydration, unexplained blood clotting, and bruising to his chest area and right eye.
12. Out of concern of continued physical abuse, including bruising to the forehead and face, a CT scan was performed at MUSC which met with negative results, however, X-rays revealed a healing fracture of the left wrist.
13. After a status conference on January 2, 2013, DSS decided to close the case involving the decedent wherein mother retained sole physical custody of the decedent.

14. Given the continued injuries and poor health of the decedent, DSS opened an abuse and neglect investigation on January 22, 2013 regarding two (2) older siblings. A safety plan was put in place wherein mother was required to move out of the grandmother's home and grandmother became protector of the minor children.
15. Upon learning that plaintiff was residing with grandmother, DSS conducted a home study and reported the home to be clean and free from safety risk or concerns. All three (3) minor children were free of any visible marks or bruising on their faces or bodies. A records check returned no criminal history for plaintiff, and he voluntarily completed a 5 panel hair drug screen on February 5, 2013, which returned negative results, thus plaintiff was allowed to remain in the home with grandmother and the three (3) minor children.
16. On January 23, 2013, decedent's leg fracture and wrist fracture were ruled common toddler fractures by Dr. Abel. Given the fragile bone density of the decedent along with his constant bruising, it was recommended that the decedent be tested for a blood clotting disorder. Said tests revealed a high platelet count and inability of the blood to properly clot.
17. On February 14, 2013, DSS substantiated the open investigation involving the physical neglect of the two (2) older children due to lack of supervision against mother.
18. On March 11, 2013, however, DSS reversed the initial case decision, unfounded the case, and allowed mother to immediately return to the grandmother's home where all three (3) children resided.
19. On March 18, 2013, decedent was under the supervision and care of numerous individuals, including his mother, grandmother, plaintiff, and others. At approximately 6:45am, plaintiff took the oldest child to school, ran errands, and returned home at approximately 9:40am where he took care of the decedent and the middle child along

with mother and grandmother. Plaintiff attempted to feed decedent a sandwich at approximately 11:30am, but decedent was disinterested in eating his sandwich and other snack items. Decedent went down for a nap at approximately 12:15pm, at which time plaintiff left to run errands and pick up the oldest child from school. Decedent's mother left to catch the bus to work and school at 12:20pm, leaving decedent and middle child in the sole care of grandmother. In actuality, mother neither went to work or school, and instead went to drink alcohol with a friend before going to the children's father's house to celebrate her birthday, where she continued to drink and abuse drugs. The decedent and middle child were under the sole custody and care of grandmother until plaintiff returned home with the oldest child at approximately 4:05pm. Prior to leaving for work, grandmother advised plaintiff that she had just fed decedent Doritos, and that all three (3) children were excited to see him.

20. At approximately 6:05 pm, plaintiff sent grandmother a text message out of concern for the decedents well-being, as decedent had vomited and was whimpering. At her direction, he ran a bath for decedent. While bathing decedent, he noticed decedent slumping over in the tub and being extremely lethargic. He removed decedent from the bathtub, gave him vitamin water, put pajamas on the decedent, changed his soiled diaper, replaced his pajamas, and sat him on the bed with his sisters to watch a movie while he took out the trash. Upon return, he found the decedent in the bedroom doorway lying on his back, unresponsive, with his jaw locked and a bloody nose, and immediately began performing CPR. Unable to revive the decedent, he gathered all three (3) children and drove to East Cooper Hospital where he arrived at approximately 6:28pm.
21. The decedent was quickly taken by a nurse into the ER triage unit where he received approximately twenty (20) minutes of CPR. He was pronounced dead at 6:45pm. The

ER assessment noted numerous bruises all over his body and bleeding into his rectum as a result of abdominal blood from prior trauma to his abdomen.

22. The Mt. Pleasant Police Department was dispatched to East Cooper Hospital at 7:02pm and a parallel Coroner's investigation into the child's death began that evening. The investigation included the execution of numerous search warrants, review of cellular data, interviews with medical personnel at East Cooper, the Coroner's office and agents, counselors at the Lowcountry Children's Center, Charleston County DSS employees, the decedent's medical providers, family members, neighbors, and many others.
23. Upon learning of the child's death, the court appointed Guardian-ad-Litem for the decedent in the ongoing DSS proceeding quit, without notice, due to her frustration with DSS continually placing decedent back in the custody and care of his mother over her objection. In short, the investigation revealed that he was both abused and neglected from birth to death while in the custody of Williams and his mother..
24. Defendant Wooten reported that she had observed decedent to have bruising to his face, back and chest, as well as severe anal tearing. Further, she reported the injuries to decedent were suspicious and believed to be from inflicted trauma and possible sexual assault.
25. The two (2) older children were placed in emergency protective custody and transported to a licensed foster home. While in transport, the older child stated that plaintiff popped the decedent on his butt and then he laid down and went to sleep. The younger child stated that decedent had gone to heaven today to be with Jesus.
26. On March 20, 2013, the two (2) children were interviewed at the Lowcountry Children's Center (hereinafter "LCC") where the older child stated that decedent told plaintiff "no" and plaintiff "popped" the decedent. The child described it as an open handed pop to

decedent's bottom, and demonstrated it on the bottom of a chair. Both children stated that Aunt Alissa told them to keep everything a secret.

27. On March 20, 2013, an autopsy of the decedent was performed at the request of Defendant Wooten, who attended alongside Officer Andrew DeCamp and Officer Dan Eckhart of the Town of Mt. Pleasant Police Department, Schandl, Dr. Meredith H. Frame, Mr. Raymond Edwards, Ms. Eowyn Corcrain, and Charleston County Deputy Coroner Mr. Scott Ramsey. DeCamp was advised that further testing and injury aging would need to be performed to determine an exact cause of death, but the autopsy revealed that the decedent had undergone physical trauma in the past weeks, which led to a mesentery laceration in the stomach causing blood to track down the abdomen and pool in the decedent's groin, consistent with the inability of the decedent's blood to properly clot. The stomach tear was determined to be an old injury, as evidenced by the scarring that had already accrued on the tear in the small bowel. Decedent had at least five (5) contusions of the abdomen and five (5) contusions of the chest. Due to infection from prior injuries, the liver was stuck to the belly cavity. Further, decedent was found to have "healing fractures" of the 6th, 7th and 10th ribs at the time of autopsy. The cause of death was deemed blunt trauma to torso with the manner of death deemed homicide by Schandl and relayed to Wooten.
28. Later that same day, DeCamp attending a meeting with Wooten and mother, who informed them that the week prior to his death, decedent was complaining of stomach pain and that he threw up milk a couple minutes after consuming it.
29. On May 9, 2013, DeCamp and Hembree attended a meeting with Schandl who explained her findings illustrated in the autopsy report. Contrary to the actual findings in the autopsy, and in direct contradiction to her sworn testimony at the Coroner's Inquest, Decamp filed a prosecutive summary indicating Schandl opined that some injuries

found were acute and likely occurred in a four-hour time frame prior to the decedent's death.

30. Soon thereafter, Officer DeCamp and Officer Hembree issued an arrest warrant for Homicide by Child Abuse and plaintiff was immediately taken into custody. As stated in the Affidavit, the probable cause for the arrest was that the decedent was in the sole custodial care of the Plaintiff on March 19, 2013 from 4:00pm to the victim's hospital admittance at 6:00pm, that autopsy results indicate the victim sustained fatal *acute* abdominal injuries resulting from blunt force trauma, and that *eyewitnesses* reported that the defendant *struck* the victim shortly before the victim became unresponsive. (*emphasis added*). The Plaintiff remained in the Al Cannon Detention Center on a No Bond from May 9, 2013 until October 25, 2014 when he was released on a Seventy-Five Thousand Dollar (\$75,000) surety bond.

31. The Ninth Circuit Solicitor's Office began reviewing the case for prosecution, and in doing so, met with numerous witnesses and parties that participated in the pre-arrest investigation. Their investigation revealed numerous inconsistencies and exculpatory evidence left out of the Affidavit to the Arrest Warrant alleging probable cause, and clear signs consistent with the Plaintiff's innocence. Specifically, Schandl could not give a time frame for the last injury, and relayed to the Solicitor that the old injuries would have caused decedent to be in such a weakened state that a minor blow could have caused a re-bleed and resulted in his death. The Solicitor interviewed Dr. Cina, who felt there was an acute blow that caused the hemorrhage, and defined "acute" as within six (6) hours of death. Dr. Cina based his opinion after reviewing one (1) autopsy photo, and his six (6) hour window placed all three (3) adults alone with decedent. The interview of the two (2) year old and four (4) year old sisters, (referred to in the Affidavit as "the eyewitnesses") did not produce any information that could be used to establish

probable cause for the arrest or subsequent prosecution of plaintiff, mainly because they gave different information during each interview, and could not give any time frame due to their own psychological developmental level. Further, a historical review of the DSS investigation of over two (2) years clearly established that the decedent often had unexplained injuries after visits to his mother's home. A quick review of a timeline revealed that decedent was not in the presence of plaintiff until mother moved in to grandmother's home with decedent on December 16, 2012. On the date of death, both mother and grandmother were present with the decedent all morning, and grandmother was present alone with the decedent up until two (2) hours before his death, whereas plaintiff was only in the presence of minor child sporadically throughout the day. Further, all three (3) adults had contact with the decedent in a six (6) hour window prior to death. As a result of the lack of incriminating evidence as to the identity of who caused the death, coupled with the overwhelming exculpatory evidence related to plaintiff, the Solicitor's office dismissed the case against plaintiff on September 11, 2015 for reasons consistent with innocence.

32. Armed with no additional information, no new witnesses, no new statements, and no additional evidence, Defendant Wooten held a Coroner's Inquest (hereinafter "Inquest") on July 11-13, 2016 without seeking the guidance or assistance from the Ninth Circuit Solicitor's Office. Defendant Wooten picked her own jury, refused to sequester witnesses, interrupted said witnesses that she actually allowed to testify, testified on behalf of the witnesses, invited but often refused to let jurors ask questions that might reveal an undesirable answer, decided what witnesses to call and what they could testify to and solely determined what, if any, exhibits they could introduce, and constantly referred to plaintiff as defendant or suspect. Every single witness and every question

she allowed the witnesses to answer was designed to place responsibility for decedent's death on plaintiff.

33. Prior to the Inquest, the Solicitor for the Ninth Judicial Circuit (hereinafter "Solicitor") notified Defendant Wooten in writing that she would not issue an arrest warrant against the plaintiff, regardless of the findings in her Inquest.
34. Upon swearing her hand-picked jury, Defendant Wooten instructed them to determine what and who caused the decedent's death. She then refused to sequester the witnesses and issued strict instructions that no officer of the court or audience member would be allowed to cross-examine the witnesses, and further, that she alone dictated what questions could be asked and answered by whom. On numerous occasions, Defendant Wooten instructed the witness not to answer a juror's question. On one occasion, after a witness provided a sworn affidavit stating that Defendant Wooten reported to her that decedent was sexually assaulted and had severe anal tearing, Defendant Wooten paused the video testimony and vehemently and defensively denied ever reporting that to the witness, and instructed the jury to disregard that portion of the witness' testimony.
35. Defendant Wooten refused to advise the jury that plaintiff had been arrested for Homicide by Child Abuse, and more importantly, refused to advise the jury that the charge was dismissed for reasons consistent with innocence, and interrupted or prevented any law enforcement officer from testifying to the same.
36. On the second day of the Inquest, the Solicitor issued a statement to the public through the media that she would instruct the Charleston County Sheriff's office not to arrest plaintiff and immediately rescind any arrest warrant issued for plaintiff by Defendant Wooten resulting from said Inquest.
37. Schandl testified under oath at the Inquest that it was difficult to determine the cause of death because of the many injuries to the decedent incurred over time, thus she deemed

it blunt force trauma in an attempt to lump in all torso injuries, mainly because she saw no acute injuries of note. Further, she testified that there was a combination of old injuries and new injuries as fresh as six (6) hours, but could have been incurred upwards of twenty-four (24) hours prior to death, or even weeks or months prior to. In response to a request from Coroner Wooten to confirm it was a homicide, Schandl testified that it was best deemed homicide only because the injuries could not have been the decedent's own doing or at the hand of another minor child. When asked by a juror to determine the most recent and severe injury, she could not say because a majority of the injuries that contributed to the blunt force trauma were so dull and old. When asked by Defendant Wooten to opine that it was more likely that not that plaintiff caused the fatal blow as evidenced by the "eyewitness" that said plaintiff "struck" decedent, Schandl refused to answer and instead testified that the most likely cause of death was the internal bleeding that seeped into the stomach through the mesentery tear in the abdomen given the decedents inability to properly clot. Conveniently, she was not asked by Defendant Wooten whether she told Officer DeCamp or Officer Hembree that the decedents injuries were acute and inflicted upon him within four (4) hours of his death.

38. Defendant Wooten called her star witness immediately after Schandl testified. Using taxpayer money, Defendant Wooten hired a witness to contradict the testimony of her own pathologist whom she previously relied on to perform the autopsy, and presented a witness who had only reviewed pictures of the autopsy, reviewed no prior medical history, nor spoken with any material witnesses or law enforcement. Defendant Wooten proceeded to ask said witness to definitively determine not only the cause, but the actual specific time of death. On cue, the witness testified that the cause of injury was an acute forceful blow to the stomach similar to a car wreck that caused an immediate tear to the stomach which resulted in one-third of his blood volume rushing to his stomach likely

to have occurred within minutes to no more than two (2) hours before presenting to the hospital. The witness was not asked by Defendant Wooten to recant his statement made to the Solicitor's office directly contradicting his Inquest testimony, nor did she reveal to the jury that the witness had given statements to the contrary on a prior occasion.

39. Following three days of testimony, the jury was sent to deliberate (including the alternates) without any charges or instructions from Defendant Wooten, other than thanking them for carefully listening to the witnesses and asking such important questions. In less than one (1) hour, the jury returned a verdict wherein they deemed the cause of death to be homicide at the hands of the plaintiff.

FOR A FIRST CAUSE OF ACTION
False Arrest against the Town of Mt. Pleasant
pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

40. The Town of Mt. Pleasant Police Department is vicariously liable for the acts of DeCamp and Hembree and other officers acting within the course and scope of their employment. The acts and omissions of DeCamp and Hembree in arresting Plaintiff on the charge of Homicide by Child Abuse was without probable cause or lawful authority constituting the tort of false arrest. As a direct and proximate result Plaintiff incurred the loss of liberty and financial and emotional damage.

FOR A SECOND CAUSE OF ACTION
Malicious Prosecution against the Town of Mt. Pleasant
under the SCTCA

The allegations set forth above are repeated as if included herein.

41. The Town of Mt. Pleasant Police Department is vicariously liable for the acts of their officers acting within the course and scope of their employment in prosecuting Plaintiff on the criminal charges of Homicide by Child Abuse and constitutes the tort of malicious prosecution. Plaintiff alleges :

1. There was an institution and continuation of original judicial proceedings by the arrest and prosecution on the criminal charge of Homicide by Child Abuse;
2. by, or at the instance of Defendants;
3. the termination of the criminal proceedings against Plaintiff for reasons consistent with innocence;
4. the prosecution was done with malice, actual and/or implied;
5. there was no probable cause for the arrest; and
6. Plaintiff suffered emotional and financial damage.

FOR A THIRD CAUSE OF ACTION
Negligence/Gross Negligence against Town of Mt. Pleasant
pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

42. The defendant Town of Mt. Pleasant is statutorily liable for the acts and omissions of the deputies acting within the course and scope of their employment. Officer DeCamp and Officer Hembree had a duty not to arrest individual without probable cause. They was negligent or grossly negligent and breached that duty in applying for a warrant without probable cause to arrest Plaintiff. As a direct and proximate result, Plaintiff suffered injury in the form of public arrest, incarceration, incidental expenses and attorney fees.

FOR A FOURTH CAUSE OF ACTION
Negligence/Gross Negligence against Rae Wooten in her Official Capacity as Coroner
Of Charleston County pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

43. The defendant Rae Wooten is statutorily liable for the acts and omissions of the employees and agents acting within the course and scope of their employment. Her office had a duty to supervise the autopsy process to ensure the findings were accurate in determining the proper cause of death as supported by the findings, and was negligent

or grossly negligent by breaching said duty by relaying to the Town of Mt. Pleasant a false cause and time of death unsupported by the medical findings. As a direct and proximate result, Plaintiff suffered injury in the form of public arrest, incarceration, incidental expenses and attorney fees.

FOR A FIFTH CAUSE OF ACTION

Malicious Prosecution against Rae Wooten in her Official Capacity as Coroner
Of Charleston County pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

44. The defendant Rae Wooten is vicariously liable for the acts and omissions of the employees and agents acting within the course and scope of their employment in convening and prosecuting Plaintiff at a Coroner's Inquest on a criminal charge of Homicide by Child Abuse and constitutes the tort of malicious prosecution. Plaintiff alleges:

1. There was the institution and continuation of a quasi-judicial proceeding by the prosecution of Plaintiff at a Coroner's Inquest on a criminal charge of Homicide by Child Abuse;
2. by, or at the instance of Defendant;
3. the termination of the proceeding against Plaintiff for reasons consistent with innocence;
4. the prosecution through the Inquest was done with malice, actual and/or implied;
5. there was no probable cause to institute the proceeding; and
6. Plaintiff suffered emotional and financial damage.

FOR A SIXTH CAUSE OF ACTION

Abuse of Process against Rae Wooten in her Official Capacity as Coroner
Of Charleston County under the SCTCA

The allegations set forth above are repeated as if included herein.

45. The Town of Mt. Pleasant Police Department is vicariously liable for the acts of their officers acting within the course and scope of their employment in instituting a quasi-judicial process for a purpose other than which it was intended by law to effect and constitutes the tort of abuse of process. Plaintiff alleges:

1. Defendant convened and instituted a Coroner's Inquest with an ulterior purpose and objective of convincing a jury to find the cause of death of the minor child to be homicide at the hands of the Plaintiff;
2. by a willful act in the use of the process not proper in the regular conduct of the proceeding.

FOR A SEVENTH CAUSE OF ACTION

Negligence\Gross Negligence against Rae Wooten in her Official Capacity as Coroner
Of Charleston County pursuant to the SCTCA

The allegations set forth above are repeated as if included herein.

46. The defendant Rae Wooten is statutorily liable for the acts and omissions of the employees and agents acting within the course and scope of their employment. Her office had a duty to supervise the Inquest process to ensure the findings were accurate in determining the proper cause of death as supported by the findings, and was negligent or grossly negligent by breaching said duty by refusing to call witnesses that could offer exculpatory evidence, refusing to let the witnesses fully answer the questions, only asking questions Defendant Coroner wanted answered, instructing the jury to disregard any testimony Defendant Coroner did not want the jury to hear or consider, allowing testimony from witnesses not competent to offer an opinion, constantly testifying

throughout the proceeding while not under oath, refusing to properly inform the jury of their duties and obligations, refusing to sequester witnesses, allowing alternate jurors to deliberate, and among other breaches, and asking leading questions with the direct intent to persuade the jury's findings as to manner and cause of death. As a direct and proximate result, Plaintiff suffered injury in the form of being publicly accused of committing Homicide by Child Abuse, being publicly humiliated and embarrassed, and incurring actual and incidental expenses and attorney fees.

Wherefore, having set the grounds for relief, plaintiff asks for compensatory damages in an appropriate amount and such other relief as the court deems just and proper.

Respectfully submitted, this the 8th day of September, 2016, in Charleston, South Carolina.



Mark A. Peper, Esquire
1637 Savannah Hwy. Ste. 202
Charleston, SC 29407
Telephone: 843-225-2520
Facsimile: 843-225-2554
Email: mark@peperlawfirm.com
ATTORNEY FOR PLAINTIFF

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Bryan Okeith Seabrook,

Plaintiff,

vs.

Town of Mount Pleasant, AND, Rae
Wooten, in Her Official Capacity as
Coroner of Charleston County,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-03542

DEFENDANT TOWN OF MOUNT
PLEASANT'S ANSWER TO
PLAINTIFF'S AMENDED COMPLAINT
(Jury Trial Demanded)

Defendant, Town of Mount Pleasant, answering the Amended Complaint of the Plaintiff, would state as follows:

1. The Defendant admits the allegations contained in paragraph 1 of the Amended Complaint.
2. In response to paragraph 2 of the Amended Complaint, Defendant admits that the Town of Mount Pleasant is a political subdivision under the Tort Claims Act.
3. In response to paragraph 3 of the Amended Complaint, this allegation does not pertain to this Defendant.
4. The Defendant admits the allegations contained in paragraph 4 of the Amended Complaint.
5. Upon information and belief, the Defendant admits the allegations contained in paragraph 5 of the Amended Complaint.
6. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 6 of the Amended Complaint.
7. The Defendant lacks sufficient information to form a belief as to the allegations of

(paragraph 7 of the Amended Complaint.

8. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 8 of the Amended Complaint.

9. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 9 of the Amended Complaint.

10. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 10 of the Amended Complaint.

11. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 11 of the Amended Complaint.

12. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 12 of the Amended Complaint.

(13. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 13 of the Amended Complaint.

14. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 14 of the Amended Complaint.

15. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 15 of the Amended Complaint.

16. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 16 of the Amended Complaint.

17. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 17 of the Amended Complaint.

(18. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 18 of the Amended Complaint.

19. That the allegations of paragraph 19 of the Amended Complaint are generally

consistent with the time-line obtained by Police investigators principally from Plaintiff Seabrook. Any remaining allegations of paragraph 19 are denied.

20. That the allegations of paragraph 20 of the Amended Complaint are generally consistent with the time-line obtained by Police investigators principally from Plaintiff Seabrook. Any remaining allegations of paragraph 20 are denied.

21. The Defendant admits the allegations contained in paragraph 21 of the Amended Complaint.

22. In response to paragraph 22 of the Amended Complaint, the Defendant admits a police investigation began shortly after they were notified of the child's death.

23. That the Defendant lacks sufficient information and belief as to the allegations of paragraph 23 of the Amended Complaint.

24. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 24 of the Amended Complaint.

25. In response to paragraph 25, the Defendant admits the children were placed in emergency protective custody and the older children did discuss how Seabrook "popped" Minor Victim.

26. In response to paragraph 26, the Defendant admits the children were placed in emergency protective custody and the older children did discuss how Seabrook "popped" Minor Victim.

27. That the Defendant admits so much of paragraph 27 as states that they were informed that there were multiple injuries of different ages suggesting past abuse, but that the cause of death was the loss of blood from a new injury.

28. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 28 of the Amended Complaint.

29. The Defendant denies the allegations contained in paragraph 29 of the Amended Complaint.

30. That this Defendant admits charges were made based on probable cause before a neutral judge and were, thereafter bound over by the Magistrate Judge based on probable cause.

31. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 31 of the Amended Complaint.

32. That this Defendant admits that Coroner Wooten conducted an Inquest on July 11-13 based on statutory authority giving her the right to do so.

33. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 33 of the Amended Complaint.

34. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 34 of the Amended Complaint.

35. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 35 of the Amended Complaint.

36. The Defendant lacks sufficient information to form a belief as to the allegations of paragraph 36 of the Amended Complaint.

37. In response to paragraph 37 of the Amended Complaint, this Defendant lack sufficient information to admit each part of this allegation and denies the same.

38. In response to paragraph 38 of the Amended Complaint, this Defendant admits Dr. Robert Cina, a board certified pediatrician surgeon, testified at the Inquest that the time from injury to death would have been quite brief. Any remaining allegations of paragraph 38 are denied as argumentative.

39. In response to paragraph 39 of the Amended Complaint, the jury returned with a

verdict implicating the Plaintiff in **Minor Victim** death. Any remaining allegation left is without sufficient information and belief.

40. The Defendant denies the allegations contained in paragraph 40 of the Amended Complaint.

41. The Defendant denies the allegations contained in paragraph 41 of the Amended Complaint.

42. The Defendant denies the allegations contained in paragraph 42 of the Amended Complaint.

43. That the allegations of paragraphs 43-46 of the Amended Complaint do not apply to this Defendant.

44. That this Defendant denies each and every allegation not specifically admitted.

FOR A FIRST AFFIRMATIVE DEFENSE
(Probable Cause)

45. That this action is barred because probable cause existed.

FOR A SECOND AFFIRMATIVE DEFENSE
(Judicial Immunity)

46. That the actions of the court and judges are protected by the doctrine of judicial immunity.

FOR A THIRD AFFIRMATIVE DEFENSE
(Collateral Estoppel/Res Judicata)

47. That not only did the Judge sign a warrant, but the Defendant was afforded a preliminary hearing and the charges were bound over against him. That the finding of probable cause at the preliminary hearing should be a bar to this action.

FOR A FOURTH AFFIRMATIVE DEFENSE
(Statute of Limitations)

48. That all or some of this action is barred by the two year statute of limitations set

forth in the Tort Claims Act.

FOR A FIFTH AFFIRMATIVE DEFENSE
(12(b)(6))

49. That the Amended Complaint fails to state a claim upon which relief may be granted.

FOR A SIXTH AFFIRMATIVE DEFENSE
(Retained Immunities)

50. That this action is barred or limited by the South Carolina Tort Claims Act including the retained sovereign immunities of S. C. Code § 38-77-60: 1, 2, 3, 4, 5, 6, 23, 17, 20, 21.

FOR A SEVENTH AFFIRMATIVE DEFENSE
(Tort Claims Act)

51. That this action is barred or limited by the S. C. Tort Claims Act's cap of \$300,000 per person and prohibition on punitive damages.

FOR AN EIGHT AFFIRMATIVE DEFENSE
(Comparative Negligence/Conduct)

52. That this action should be barred by the Plaintiff's own negligence and conduct.

CLAWSON AND STAUBES, LLC



Timothy A. Domin
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126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492-8144
Phone: (843) 577-2026
Fax: (843) 722-2867
Email: tdomin@clawsonandstaubes.com
Attorney for Defendant

Charleston, South Carolina

October 17, 2016

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Defendant Town of Mount Pleasant's Answer to Amended Complaint was served upon the following parties on the 17th day of October, 2016, via:

☒	United States Postal Service
☐	Facsimile
☐	Electronic Email
☐	Via Hand Delivery

Mark Peper
The Peper Law Firm, PA
1637 Savannah Hwy, Ste 202
Charleston, SC 29407-6282
Email Address: mark@peperlawfirm.com
Attorney For: Bryan Okeith Seabrook

Roy P. Maybank, Esq.
Maybank Law Firm, LLC
PO Box 12579
Charleston, SC 29422-2579
Email Address: roy@maybanklaw.com
Attorney For: Rae Wooten, in Her Official Capacity as Coroner of Charleston County


Patricia Anne Aldous

CLAWSON STAUBES LLC

Timothy A. Domin
Licensed in SC
tdomin@clawsonandstaubes.com

October 17, 2016

File No.: 20162259.000

VIA US MAIL

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad St Ste 106
Charleston, SC 29401-2210

Re. Bryan Okeith Seabrook vs Town of Mount Pleasant, AND, Rae Wooten, in Her
Official Capacity as Coroner of Charleston County
Case No.: 2016-CP-10-03542

Dear Ms Armstrong:

Enclosed please find an original and one copy of the Defendant Town of Mount Pleasant's Answer to Amended Complaint in the above-referenced case. Please file the original along with the other documents in this case and return the file stamped copy to our office in the enclosed self-addressed stamped envelope. Should you have any questions, please do not hesitate to contact me.

Thank you very much for your attention to this matter.

Very truly yours,

CLAWSON and STAUBES, LLC



Timothy A. Domin

TAD/paa
Enclosures

cc: Mark A. Peper, Esq.
Roy P. Maybank, Esq.
(Via US Mail & w/enclosure)

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Bryan Okeith Seabrook,

Plaintiff,

vs.

Town of Mount Pleasant, AND, Rae
Wooten, in Her Official Capacity as
Coroner of Charleston County,
Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-03542

NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT

FILED
2017 MAY -1 PM 3:06
JULIE J. ANDERSON
CLERK OF COURT
BY P

PLEASE TAKE NOTICE that the Defendant, Town of Mount Pleasant, by and through its undersigned attorney, shall, and hereby does, move this Honorable Court for an Order granting summary judgment in favor of the Defendant in the above-captioned matter based on the sworn testimony of the Coroner's inquest and the grounds that 1) probable cause existed to make the arrest which is a complete defense, and 2) that the statute of limitations of two (2) years expired from the date of the Town of Mount Pleasant's actions and the arrest, and that the Defendant is entitled to judgment as a matter of law in favor.

CLAWSON and STAUBES, LLC



Timothy A. Domin

Bar No.: 65264

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Charleston, South Carolina 29492-8144

Phone: (843) 577-2026

Fax: (843) 722-2867

Email: tdomin@clawsonandstaubes.com

Attorney for Defendant, Town of Mount
Pleasant

Charleston, South Carolina
April 28, 2017

2016 CP-10-3542

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Defendant's, Town of Mount Pleasant, Notice of Motion and Motion for Summary Judgment was served upon the following parties on the 28th day of April, 2017, via:

☒	United States Postal Service
☐	Facsimile
☐	Electronic Email
☐	Via Hand Delivery

2017 MAY -1 PM 3:06
JULIE J. ANDRISTHONG
CLERK OF COURT
BY _____

Mark Peper, Esq.
The Peper Law Firm, PA
1637 Savannah Hwy, Ste 202
Charleston, SC 29407-6282
Email Address: mark@peperlawfirm.com
Attorney For: Bryan Okeith Seabrook

Roy P. Maybank, Esq.
Maybank Law Firm, LLC
PO Box 12579
Charleston, SC 29422-2579
Email Address: roy@maybanklaw.com
Attorney For: Rae Wooten, in Her Official Capacity as Coroner of Charleston County


Patricia Anne Aldous

STATE OF SOUTH CAROLINA)) COUNTY OF CHARLESTON)) Bryan Okeith Seabrook)) vs.) Plaintiff,) Town of Mount Pleasant, et al.)) Defendant	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT)) CASE NO.: 2016-CP-10-03542)) MOTION AND ORDER INFORMATION FORM AND COVERSHEET

Plaintiff's Attorney: Mark Peper, Bar No. _____ Address: The Peper Law Firm, PA 1637 Savannah Hwy, Ste 202 Charleston, SC 29407-6282 Phone: (843) 225-2520 Fax: (843) 225-2554 E-mail: mark@peperlawfirm.com Other: _____	Defendant's Attorney: Timothy A. Domin Bar No. 65264 Address: CLAWSON and STAUBES, LLC 126 Seven Farms Drive, Suite 200 Charleston, South Carolina 29492- 8144 Phone: (843) 577-2026 Fax: (843) 722-2867 E-mail: tdomin@clawsonandstaubes.com
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: Motion for Summary Judgment Estimated Time Needed: 15 Minutes Court Reporter Needed: ☒ YES / ☐ NO	
SECTION II: Motion/Order Type ☐ Written motion attached ☒ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
Signature of Attorney for ☐ Plaintiff / ☒ Defendant April 28, 2017 Date submitted	
SECTION III: Motion Fee	
☒ PAID - AMOUNT: \$25.00 ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____	

SCCA 233 (11/2003)

**CLAWSON
AND STAUBES
LLC**

Timothy A. Domin
Licensed in SC
tdomin@clawsonandstaubes.com

April 28, 2017

File No.: 20162259.000

VIA US MAIL

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad St Ste 106
Charleston, SC 29401-2210

Re: Bryan Okeith Seabrook vs. Town of Mount Pleasant, AND, Rae Wooten, in Her
Official Capacity as Coroner of Charleston County
Case No.: 2016-CP-10-03542

Dear Ms. Armstrong:

Enclosed please find the original and one (1) copy of Motion for Summary Judgment, along with the Motion Slip, to be filed in the above-referenced case. Please file the originals and return a stamped, filed copy of the documents in the self-addressed, stamped envelope provided for your convenience. Also enclosed is our check in the amount of Twenty-five (\$25.00) Dollars representing the administrative fee for this request as well as the docketing form required by your office.

Thank you for your assistance in this matter.

Very truly yours,

CLAWSON and STAUBES, LLC



Timothy A. Domin

TAD/paa
Enclosures

cc: Roy P. Maybank, Esq.
Mark A. Peper, Esq.
(Via US Mail & w/enclosures)

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Bryan Okeith Seabrook,

Plaintiff,

vs.

Town of Mount Pleasant, AND, Rae
Wooten, in Her Official Capacity as
Coroner of Charleston County,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-03542

**MEMORANDUM IN SUPPORT OF
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

BACKGROUND

The above captioned matter comes before this Court on Defendant Town of Mount Pleasant's Motion for Summary Judgment filed on May 1, 2017. Defendant Town of Mount Pleasant's Motion for Summary Judgment is based upon the Affidavit of Andrew DeCamp, sworn testimony received during a Coroner's Inquest, and the grounds that (1) the statute of limitations of two years expired prior to plaintiff's commencement of this action, and (2) probable cause existed to arrest the plaintiff which is a complete defense. Therefore defendant, Town of Mount Pleasant, is entitled to summary judgment as a matter of law.

On May 9, 2013, Plaintiff Bryan Seabrook (Seabrook) was arrested and charged with violation of the offense of Homicide by Child Abuse in connection with the death of **Minor Victim** (victim), and subsequently indicted for the same on October 8, 2013. Seabrook bonded out of jail on October 25, 2014. The Office of the Solicitor for the Ninth Judicial Circuit declined to prosecute Seabrook for the indicted offense on September 11, 2015. From July 12, 2016 through July 13, 2016, Charleston County

Coroner Rae H. Wooten conducted a Coroner's Inquest into the cause of death of the victim that resulted in a jury verdict finding the victim's death was due to homicide by the hands of another and that Bryan Seabrook was the principal and Marty Dixon was an accessory. (Case No. 2013M00860).

Seabrook filed this civil suit on July 8, 2016, pursuant to the South Carolina Tort Claims Act (SCTCA), asserting the following causes of action against Defendant Town of Mount Pleasant: (1) false arrest, (2) negligence/gross negligence, and (3) malicious prosecution. (Pl. Compl. at 5-6). Seabrook filed an amended complaint on September 8, 2016 asserting additional causes of action against defendant Rae Wooten. (Pl. Am. Compl.).

FACTS

Seabrook's allegations against Defendant Town of Mount Pleasant involve an investigation by the Town of Mount Pleasant Police Department (MPPD) into the death of **Minor Victim**, a two year-old child. On March 19, 2013, Seabrook arrived at East Cooper Hospital at approximately 6:23 pm with the victim who was not breathing and non-responsive. (Def. Supp. Ex.1 at ¶ 3; Ex. 2 at 138:1-138:3). "Hospital employees contacted Consolidated Dispatch and Mount Pleasant Police responded." (Def. Supp. Ex. 1 at ¶ 3). That same day, MPPD Corporal Daniel Eckert (Eckert), off duty at the time, was notified by the MPPD patrol supervisor that a two year old infant was brought into East Cooper Hospital and ultimately died. (Def. Supp. Ex. 4 at 88:1-88:8) Eckert notified MPPD Detective Andrew DeCamp (DeCamp), and MPPD Sergeant Justin Hembree (Hembree) of the death. (Def. Supp. Ex. 4 at 88:16-88:18, 89:3-89:6).

Eckert proceeded to East Cooper Hospital where he became aware that the victim was brought to the hospital in a private vehicle, not an emergency vehicle. (Def. Supp. Ex. 4 at 89:8-89:12). While at the hospital, Eckert personally observed the trauma to the deceased victim's body. (Def. Supp. Ex. 4 at 89:12-89:17). Eckert also met with Seabrook and Marty Dixon (Dixon), the victim's grandmother, both of whom agreed to go to the Mount Pleasant Police Department to discuss the events surrounding the victim's death. (Def. Supp. Ex. 4 at 89:24-90:3, 91:19-92:2). Knowing Seabrook, Dixon, and the victim had been involved in a prior investigation by the Department of Social Services (DSS), Eckert notified DSS Detective Adam Willis. (Def. Supp. Ex. 4 at 90:12-90:25).

That same day, Hembree had arrived at the police department at approximately 7:00 pm, and had already been briefed by Eckert regarding the bruising on the victim's body, the suspiciousness of the victim's death, and that Seabrook and Dixon had been transported to the police department. (Def. Supp. Ex. 3 at 109:5-109:22). Hembree began his interview with Seabrook by advising Seabrook of his Miranda rights and providing Seabrook with a written Advisement of Rights form. (Def. Supp. Ex. 3 at 110:17-111:2). Seabrook initialed the Advisement form acknowledging his understanding, but did not waive his rights, and therefore Hembree ended the interview. (Def. Supp. Ex. 3 at 111:2-111:12). Around the same time as the interview, Hembree spoke with Deputy Coroner Scott Ramsey (Ramsey) on the phone. (Def. Supp. Ex. 3 at 111:13-111:17). Ramsey informed Hembree there was fresh bruising on the victim. (Def. Supp. Ex. 3 at 111:16-111:19). Hembree did not interview Dixon, but after Dixon left the police department, Hembree requested Dixon's cell phone and Dixon consented.

(Def. Supp. Ex. 3 at 112:16-112:20). Hembree also ensured that search warrants were being prepared to search the vehicle used to transport the victim to the hospital and to search the house where the victim had been located immediately prior to being transported to the hospital. (Def. Supp. Ex. 3 at 113:6-113:12).

DeCamp was the on-call detective that same day, and upon being notified of the victim's death, DeCamp responded to the police department. (Def. Supp. Ex. 2 at 128:11-128:20). DeCamp was briefed and "based upon the victim's injuries reported by medical staff and also observed by the coroner's office and Police Department investigators at the hospital, as well as the timeline of events provided by Mr. Bryan Seabrook, Ms. Marty Dixon, and Ms. Brittany Hartwell at the hospital" there were concerns of physical abuse contributing to the victim's death. (Def. Supp. Ex. 2 at 128:5-128:13). Additionally, DeCamp was provided with search warrants for the vehicle and residence, along with warrants to seize Seabrook's clothing, his cell phone in his possession, and for the completion of a suspect forensic evidence kit on Mr. Seabrook's person." (Def. Supp. Ex. 2 at 129:3-129:6).

DeCamp was informed that the victim's sisters (N.W. and G.W.), ages three and four, were taken into emergency custody by the Child Protective Services (CPS) emergency on-call case manager who transported the girls from the hospital to a licensed foster home. (Def. Supp. Ex. 1 at ¶ 13). DeCamp was also informed that during the drive from the hospital, the girls told the CPS employee that they had a "secret" and ultimately revealed that Bryan Seabrook had "popped" the victim, that the victim went to sleep, and went to heaven. (Def. Supp. Ex. 1 at ¶ 13). The girls further

stated that Seabrook had said they must keep the secret about the event. (Def. Supp. Ex. 1 at ¶ 13).

The day after the victim's death, March 20, 2013, DeCamp attended an autopsy of the victim that was performed at MUSC and learned that the victim "displayed older injuries indicating previous physical trauma, as well as acute injuries and hemorrhaging." (Def. Supp. Ex. 2 at 132:7-132:9). DeCamp was informed that Brittany Hartwell (Hartwell), the victim's mother, initially lied about where she was on the date of the incident, however, the time of 12:30 pm was confirmed to be the last time she was present with the victim. (Def. Supp. Ex. 2 at 132:18-132:25). DeCamp also learned that Dixon's whereabouts on the date of the incident were corroborated and that she was not with the victim during the hours of 4:30 pm through 6:30 pm on the date of the incident. (Def. Supp. Ex. 2 at 134:9-134:10). Additionally, DeCamp was informed that Dixon provided information confirming that the victim was acting normally when Dixon last saw him around 4 p.m. (Def. Supp. Ex. 1 at ¶ 6).

Investigation of the text message logs of Seabrook and Dixon corroborated Hartwell's whereabouts during March 19, 2013 and that she was last present with the victim at the victim's residence at approximately 12:20 pm that day. (Def. Supp. Ex. 2 at 136:17-137:1). Additionally, it was determined that Dixon was present with the victim after Hartwell left the residence until approximately 4:30 pm when Dixon left for work, and at that time the victim was acting normal, eating Doritos, and left in the care of Seabrook. (Def. Supp. Ex. 2 at 137:8-15). The logs also indicated that Seabrook sent Dixon a text message at approximately 5:12 pm stating that "[the victim] just made

himself throw up. I'm over this shit." (Def. Supp. Ex. 2 at 137:16-19). Hospital footage shows Seabrook arriving at the hospital with the victim at approximately 6:23 pm.

Dr. Donald Elsey, a child forensic interviewer at Dee Norton Lowcountry Children's Center, interviewed the victim's two minor siblings, N.W. and G.W. on three separate occasions: March 20, 2013; March 25, 2013; and April 3, 2013. (Def. Supp. Ex. 6 at 377:25-379:22). N.W. disclosed that "Bryan [Seabrook] was in the house with them, and [the victim] had disobeyed and got a pop, to use her word, and then there kind of was – she was kind of moved away in what was going on, and then she said he was – [the victim] was asleep with Jesus, which she did say that several times." (Def. Supp. Ex. 6 at 380:25-381:5). N.W. also demonstrated a "pop" during the interview by "forcefully striking a chair in the interview room with her hand." (Def. Supp. Ex. 1 at ¶ 14). G.W. disclosed that Seabrook was "the one who was there shoveling out the pops." (Def. Supp. Ex. 6 at 387:4-5). Additionally, both N.W. and G.W. discussed Seabrook hitting the victim, the victim going to sleep and going to heaven. (Def. Supp. Ex. 1 at ¶ 14). "The other thing that was a consistent theme, even with [G.W.], who was much younger, was they were told it was a secret, and they were told not to tell. So that came across from both of their – both of these young ladies on several times." (Def. Supp. Ex. 6 at 381:12-381:17). Dr. Elsey further testified that [N.W. and G.W.] said "they would get a pop, too, if they told the secret, so they took it – it seemed to me they took that secret very seriously." (Def. Supp. Ex. 6 at 383:23-384:1).

Dr. Elsey explained that although it is not his job to determine if a child is telling the truth, based in part on what children say and how they say it, it is his opinion that " . . . [N.W. and G.W.] certainly provided information that sounded like something they had

experienced." (Def. Supp. Ex. 6 at 382:16-383:12). Additionally, Dr. Elsey testified that in response to the question of who N.W. lived with, N.W. "went right to this thing that happened, so in my opinion, that kind of time stamped what she was talking about without having to say this was yesterday and X number of -- because children that age normally can't do that type of time frame." (Def. Supp. Ex. 6 at 385:16-21). DeCamp reviewed the videotape of the first interviews and personally attended the second and third interviews. (Def. Supp. Ex. 1 at ¶ 14).

On or about May 6, 2013, DeCamp and Hembree met with the medical examiner at MUSC, Dr. Cynthia Schandl, who performed the autopsy of the victim. (Def. Supp. Ex. 1 at ¶ 15). DeCamp was informed at that meeting that the victim had old injuries and new injuries, and "that the immediate cause of death was acute blunt force trauma to the torso/abdomen." (Def. Supp. Ex. 1 at ¶ 15). DeCamp also was informed that "an acute injury by definition is one in the last 24 hours, but that this was an injury that likely happened in the last four hours in this case." (Def. Supp. Ex. 1 at ¶ 15). Additionally, DeCamp was informed that "the amount of force necessary to create the injury was such that the 3 and 4 year old siblings would not be responsible for inflicting the injury." (Def. Supp. Ex. 1 at ¶ 15). Finally, DeCamp learned that the type of injury sustained by the victim would have been painful, most likely preventing the victim from acting normal. (Def. Supp. Ex. 1 at ¶ 15).

Based on the investigation including, but not limited to, the aforementioned facts, on May 9, 2013, DeCamp and other Mount Pleasant Police Department officers met with the Ninth Circuit Solicitor and other assistant solicitors to review the facts of the investigation. (Def. Supp. Ex. 1 at ¶ 16). During that meeting it was decided that based

on the totality of the circumstances, an arrest warrant should be drafted for the arrest of Seabrook. (Def. Supp. Ex. 1 at ¶ 16). DeCamp signed the affidavit to seek the arrest warrant, met and spoke with Mount Pleasant Municipal Judge Larry Duffy who signed the arrest warrant on May 9, 2013. (Def. Supp. Ex. 1 at ¶ 19-20 and Ex. A). Seabrook was arrested that same day. (Def. Supp. Ex. 1 at ¶ 22; Arrest Warrant No. 2013A1020900106). A preliminary hearing was held on June 5, 2013, and the court determined there was sufficient probable cause for the criminal charge to proceed. (Def. Supp. Ex. 1 at ¶ 23). Finding sufficient probable cause that Seabrook committed the offense of Homicide by Child Abuse, a grand jury returned a true bill indictment on October 8, 2013. (Def. Supp. Ex. 7).

ARGUMENT

I. DEFENDANT, TOWN OF MOUNT PLEASANT, IS ENTITLED TO SUMMARY JUDGMENT AGAINST ALL PLAINTIFF'S CAUSES OF ACTION BECAUSE PLAINTIFF'S COMPLAINT WAS NOT FILED WITHIN THE STATUTE OF LIMITATIONS.

Plaintiff Seabrook's causes of action against Defendant Town of Mount Pleasant for false arrest, malicious prosecution, and negligence/gross negligence are asserted pursuant to the South Carolina Tort Claims Act (SCTCA). (Pl. Am. Compl. at 1). The SCTCA forever bars actions "unless commenced within two years after the date the loss was or should have been discovered;" S.C. Code Ann. § 15-78-110.

Here, Plaintiff was arrested on May 9, 2013. Plaintiff filed this lawsuit on July 18, 2016, over three years after the date of arrest. Plaintiff failed to commence the instant action within the statute of limitations and therefore Defendant Town of Mount Pleasant's motion for summary judgment should be granted as to all causes of action

against defendant Town of Mount Pleasant, and plaintiff's complaint dismissed with prejudice as to defendant Town of Mount Pleasant.

II. DEFENDANT, TOWN OF MOUNT PLEASANT, IS ENTITLED TO SUMMARY JUDGMENT AGAINST ALL PLAINTIFF'S CAUSES OF ACTION BECAUSE THE EVIDENCE YIELDS ONLY THE CONCLUSION THAT PROBABLE CAUSE EXISTED TO ARREST AND PROSECUTE SEABROOK.

"The fundamental question in determining the lawfulness of an arrest is whether probable cause existed to make the arrest." State v. Baccus, 367 S.C. 41, 49, 625 S.E.2d 216, 220 (2006). "The party alleging a lack of probable cause bears the burden of proof on that point." Horton v. City of Columbia, 408 S.C. 27, 35, 757 S.E.2d 537, 541 (Ct. App. 2014). Similarly, to maintain an action for malicious prosecution, an essential element the plaintiff must prove is lack of probable cause. Law v. S.C. Dep't of Corr., 368 S.C. 424, 435, 629 S.E.2d 642, 648 (2006). "South Carolina has long embraced the rule that a true bill of indictment is prima facie evidence of probable cause in an action for malicious prosecution." Id. at 436, 629 S.E.2d at 649 (citing Kinton v. Mobil Home Indus., Inc., 274 S.C. 179, 182, 262 S.E.2d 727, 728 (1980)).¹

The United States Supreme Court discussed the very high burden of proof upon a party seeking to challenge the veracity of facts relied upon in a warrant and disprove the existence of probable cause in Franks v. Delaware, 438 U.S. 154, 98 S. Ct. 2674, 2676 (1978). The Court recognized that "[t]here is, of course, a presumption of validity with respect to the affidavit supporting the search warrant." Franks v. Delaware, 438 U.S. 154, 171, 98 S. Ct. 2674, 2684 (1978). To rebut the presumption of validity, the challenging party must allege "deliberate falsehood or of reckless disregard for the truth,

¹ Law is distinguishable from Gist v. Berkeley County Sheriff's Dep't, because in Gist "the Sheriff's Department conceded at oral argument, the affidavit, standing alone, was insufficient to establish probable cause." Gist v. Berkeley County Sheriff's Dep't, 336 S.C. 611, 616, 521 S.E.2d 163, 166 (Ct. App. 1999). Here, there is no dispute that the warrant is facially valid.

and those allegations must be accompanied by an offer of proof.” Id. Mere “[a]llegations of negligence or innocent mistake are insufficient.” Id.

The Horton case is illustrative of the very high standard that must be met by a challenging party in a false arrest/malicious prosecution case premised on a warrant. In Horton, a police officer had recovered a partial finger print from an attempted break-in, the AFIS² report indicated “twenty possible matches, with the fingerprint of Horton identified as the most probable match.” Horton v. City of Columbia, 408 S.C. 27, 30, 757 S.E.2d 537, 538 (Ct. App. 2014). After it was determined that Horton’s AFIS fingerprint matched the fingerprint recovered at the crime scene, an officer spoke with Horton’s probation officer. The probation officer had reservations about Horton’s involvement in the break-in because Horton lacked transportation and had recently given birth to her third child. The facts recited by the affiant in seeking an arrest warrant did not include any of the potentially exculpatory information that was received from the probation officer. Id. at 31, 757 S.E.2d at 538-39.

Horton subsequently filed suit alleging, inter alia, false arrest and malicious prosecution. The trial court granted summary judgment against Horton’s false arrest and malicious prosecution causes of action. Id. at 31-32, 757 S.E.2d at 539. The court of appeals affirmed the trial court’s grant of summary judgment citing Franks and finding that “Horton offered no evidence Officer Tyler omitted [the probation officer’s] statements with the intent to mislead the ministerial recorder. Id. at 36-37, 757 S.E.2d at 541-42. Furthermore, the court noted the very high hurdle established to invalidate a warrant under Franks. Id.

² Automatic Fingerprint Identification System.

The Franks Court also addressed the issue of the truthfulness of an affiant's statement of facts and noted that truthfulness does not require every fact be correct, may include hearsay and informant tips, "as well as upon information within the affiant's own knowledge that sometimes must be garnered hastily." Franks v. Delaware, 438 U.S. 154, 164, 98 S. Ct. 2674, 2681 (1978). South Carolina's Court of Appeals, embracing the Fourth Circuit, similarly recognized that an affiant's failure to "list every conceivable conclusion does not taint the validity of the affidavit." State v. Porch, 417 S.C. 619, 627, 790 S.E.2d 440, 444 (Ct. App. 2016) (quoting United States v. Colkley, 899 F.2d 297 (4th Cir. 1990)). The court further stated that "[a]n omission does not per se invalidate the arrest warrant." Id. at 628, 790 S.E.2d at 444 (citing State v. Gore, 408 S.C. 237, 758 S.E.2d 717 (Ct. App. 2014)). The essential requirement of an affiant is "that the information put forth is believed or appropriately accepted by the affiant as true." Franks v. Delaware, 438 U.S. 154, 165, 98 S. Ct. 2674, 2681 (1978).

In the case before this Court, officers of the Town of Mount Pleasant Police Department interviewed the adults who had contact with the victim on the date of the victim's death, corroborated their whereabouts through other witnesses, and determined Seabrook had sole custody of the victim in the immediate hours preceding Seabrook bringing the victim to the hospital. Additionally, Officers were informed that the victim was acting normally when last seen prior to Seabrook having sole custody of the victim. Officers witnessed the interviews of the victim's siblings conducted by Dr. Elsey, during which the siblings indicated that Seabrook had struck the victim and that was a secret. The siblings further indicated that Seabrook had "popped" the victim, that the hit was a forceful strike as demonstrated, and that the victim then went to sleep and went to

heaven. The officers also confirmed with the medical examiner that the cause of death was blunt force trauma and such force would most likely not have been inflicted by the victim's siblings, and it likely happened within the last four (4) hours of the victim's life. After a two month investigation, the officers met with prosecutors from the Ninth Circuit Solicitor's Office to review the findings of their investigation. Based on the totality of the circumstances, it was determined that an arrest warrant should be drafted. The arrest warrant was presented to Municipal Judge Larry Duffy, who determined that probable cause existed and signed the warrant. After Seabrook was arrested, he received a preliminary hearing during which a magistrate judge determined there was probable cause for the criminal charge to proceed and Seabrook was bound over to General Sessions. Additionally, a grand jury, finding probable cause that Seabrook had committed the offense of Homicide by Child Abuse, returned a true bill indictment.

Based on the foregoing, the evidence yields only the conclusion that Defendant Town of Mount Pleasant had probable cause to arrest and prosecute Seabrook, and therefore Defendant Town of Mount Pleasant's motion for summary judgment should be granted as to all causes of action against defendant Town of Mount Pleasant, and plaintiff's complaint dismissed with prejudice as to defendant Town of Mount Pleasant.

III. DEFENDANT, TOWN OF MOUNT PLEASANT, IS ENTITLED TO SUMMARY JUDGMENT AGAINST ALL PLAINTIFF'S CAUSES OF ACTION BECAUSE THE LEGAL DOCTRINES OF COLLATERAL ESTOPPEL AND RES JUDICATA BAR PLAINTIFF FROM RAISING THE ISSUE OF PROBABLE CAUSE.

Under collateral estoppel, an issue that was litigated and determined in a prior proceeding is conclusive in a subsequent proceeding and cannot be re-litigated if its determination in the prior proceeding was essential to the judgment. Catawba Indian

Nation v. State, 407 S.C. 526, 536, 756 S.E.2d 900, 906 (2014). Res judicata “bars plaintiffs from pursuing a later suit where the claim (1) was litigated or (2) could have been litigated.” Id. (citing Crestwood Golf Club, Inc. v. Potter, 328 S.C. 201, 216, 493 S.E.2d 826, 835 (1997)).

Here, the issue of probable cause was litigated and directly determined in the prior criminal proceeding. After Seabrook’s arrest, he received a preliminary hearing. At that preliminary hearing, the magistrate judge received testimony regarding the underlying facts that supported Seabrook’s arrest, including a lawfully issued arrest warrant. Based on those underlying facts, the magistrate determined there was probable cause for Seabrook’s arrest, and ordered Seabrook bound over to General Sessions. The magistrate’s finding of probable cause was necessary to support the judgment that Seabrook be bound over to General Sessions. Absent the magistrate’s finding of probable cause, Seabrook would have been discharged. Therefore, applying the doctrine of collateral estoppel, Seabrook should be barred from re-litigating the issue of probable cause in the instant case because the issue of probable cause was actually litigated, probable cause was determined to exist, and that determination was essential to the judgment that Seabrook be bound over to General Sessions.

In the alternative, should this Court find the issue of probable cause was not litigated in the prior criminal proceeding, Seabrook should be prevented from litigating the issue of probable cause under the doctrine of res judicata, because Seabrook had the opportunity to litigate that issue in the prior criminal proceeding by requesting a hearing to challenge the veracity of the information contained in the affidavit pursuant to Franks v. Delaware, 438 U.S. 154, 98 S. Ct. 2674 (1978) as discussed in supra Part II.

All Seabrook's causes of action against defendant Town of Mount Pleasant require Seabrook to prove a lack of probable cause. As probable cause has been, or could have been, litigated in the prior criminal proceeding, Seabrook should be barred, under the doctrines of collateral estoppel and res judicata, from raising the issue of probable cause in the instant case. Therefore Defendant Town of Mount Pleasant's motion for summary judgment should be granted as to all causes of action against defendant Town of Mount Pleasant, and plaintiff's complaint dismissed with prejudice as to defendant Town of Mount Pleasant.

IV. DEFENDANT, TOWN OF MOUNT PLEASANT, IS ENTITLED TO SUMMARY JUDGMENT AGAINST ALL PLAINTIFF'S CAUSES OF ACTION BECAUSE THE SOUTH CAROLINA TORT CLAIMS ACT PROVIDES IMMUNITY.

The SCTCA waives some sovereign immunity and permits certain government entities to be liable for torts. S.C. Code Ann. § 15-78-40. That waiver of immunity is subject to certain limitations and exemptions. Id. Specifically, government entities are not liable for losses resulting from "legislative, judicial, or quasi-judicial action or inaction; administrative action or inaction of a legislative, judicial, or quasi-judicial nature; execution, enforcement, or implementation of the orders of any court or execution, enforcement, or lawful implementation of any process; the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee;" S.C. Code Ann. § 15-78-60(3).

Mount Pleasant Police were exercising discretionary judgment in making the determination to seek an arrest warrant for Seabrook. The process of appearing before a judge to assert the facts constituting probable cause is a judicial or quasi-judicial

process in which the police in this case participated. In executing the arrest warrant signed by Municipal Judge Larry Duffy, the police were executing an order of a judge. Therefore, in all the actions the police took from applying for a warrant through the arrest of Seabrook pursuant to that warrant, the police are immune from suit under the SCTCA.

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Charleston, South Carolina
September 18, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Bryan Okeith Seabrook)
)
)
Plaintiff,)
)
vs.)
)
Town of Mount Pleasant, AND, Rae)
Wooten, in Her Official Capacity as)
Coroner of Charleston County,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Civil Action No.: 2016-CP-10-03542

**PLAINTIFF'S
RESPONSE IN OPPOSITION TO
DEFENDANT TOWN OF MOUNT
PLEASANT'S MOTION FOR
SUMMARY JUDGMENT**

FILED
2017 SEP 18 PM 12:17
JULIE J. ARYSTRO'S
CLERK OF COURT
RY

COMES NOW, the above-named Plaintiff, and submits this Response in Opposition to Defendant Town of Mount Pleasant's Motion for Summary Judgment.

Plaintiff alleges claims of False Arrest, Malicious Prosecution and Negligence/Gross Negligence pursuant to the South Carolina Tort Claims Act against the Town of Mount Pleasant based on the acts and omissions of Andrew DeCamp and Justin Hembree of the Town of Mount Pleasant Police Department for the unlawful arrest and prosecution of the Plaintiff on the charge of Homicide by Child Abuse in his Amended Complaint filed on September 8, 2016.

Defendant, Town of Mount Pleasant, has moved for an Order granting summary judgment in favor of the Defendant based on the belief that probable cause existed to arrest the Plaintiff and that the statute of limitations of two (2) years expired.

Taking the facts in a light most favorable to the Plaintiff, Mr. Seabrook has come forth with sufficient evidence to create a jury question on each cause of action. The Defendant Town of Mount Pleasant's Motion for Summary Judgment should be denied.

FACTS RELEVANT TO MOTION

Minor Victim (hereinafter "decedent"), was born to Brittney Hartwell (hereinafter "mother") and Christopher Washington (hereinafter "father") on [REDACTED]. Upon the birth of decedent, it was noted that mother had not presented for any pre-natal care of decedent during the pregnancy period. (See Exhibit 1 – MUSC Labor and Delivery Record). Two days later, the decedent was removed from mother and custody was given to his paternal grandmother, Dorothy Williams (hereinafter "Williams"), and soon thereafter, father's parental rights were terminated. (See Exhibit 2 – MUSC 2/13/11 Social Work Notes).

Prior to decedent's birth, mother's other two children, a daughter born [REDACTED], [REDACTED] (hereinafter "oldest child") and a daughter born [REDACTED] (hereinafter "middle child"), had previously been removed from mother and physical custody given to their maternal grandmother, Marty Dixon (hereinafter "grandmother"). Grandmother's boyfriend, Bryan Seabrook (hereinafter "plaintiff"), moved in with grandmother in March 2012. (See Exhibit 3 – Affidavit of Bryan Okeith Seabrook).

On December 13, 2012, DSS gave physical custody of decedent back to mother, who moved into grandmother's home along with plaintiff, oldest child, and middle child. Plaintiff noticed decedent had bruising on his face and chest, was vomiting often, was running a fever, and always lethargic. (See Exhibit 3 – Affidavit of Bryan Okeith Seabrook).

A week later, while plaintiff and grandmother were at work and the three (3) minor children were in the sole care of mother, she took decedent to Nason Medical Center where he presented with a broken left leg, which according to Dr. Jeffrey Misko, appeared to be

intentional. (See Exhibit 16 – Coroner’s Inquest – Jeffrey Misko, MD Transcript, at 270: 2 - 23).

A safety plan was put in place by DSS wherein mother was required to move out of grandmother’s home and grandmother became custodian of the minor children. (See Exhibit 4 – DSS Safety Plan). Three months later, on March 11, 2013, DSS allowed mother to return to grandmother’s home.

On March 18, 2013, decedent was under the supervision and care of numerous individuals, including his mother, grandmother, plaintiff, and others. The only time the decedent was in the sole custody and care of plaintiff was for the 90 minutes before decedent became unresponsive. (See Exhibit 3 – Affidavit of Bryan Okeith Seabrook).

At approximately 6:20pm, plaintiff rushed into the East Cooper Hospital with decedent, who was unresponsive, and he was quickly taken into the Emergency Room by a nurse where he received approximately twenty (29) minutes of CPR before being pronounced dead at 6:49pm. The ER assessment noted numerous bruises to his body and bleeding into his rectum, blood pooling, left leg injury, and prior trauma to his abdomen. (See Exhibit 5 – Nurse’s Notes from East Cooper ER)

The Town of Mount Pleasant Police Department was dispatched to East Cooper Hospital and immediately identified plaintiff as contributing to the decedent’s death by committing physical and sexual abuse against the decedent. The investigation included the execution of numerous search warrants, review of cellular data, interviews with medical personnel at East Cooper, the Coroner’s office and agents, Lowcountry Children’s Center, Charleston County DSS, the decedent’s pediatrician, family members, neighbors, and many others. (See Exhibit 6 – Det. A. DeCamp Supplemental Report).

Upon the child's death, the court appointed Guardian-ad-Litem for the decedent in the ongoing DSS proceeding quit without notice mainly due to her frustration with DSS and their handling of this matter, having recalled that the last time she saw the decedent was at mother's house, and while he was fine emotionally, "he was like a totally different child and I knew he shouldn't have been there." In short, the investigation revealed that he was both abused and neglected from birth to death while in the custody of his mother and Williams. (See Exhibit 7 – Coroner's Inquest – Doris Washington Transcript, at 252: 9 - 16).

On March 20, 2013, March 25, 2013, and April 3, 2013, oldest child and middle child were interviewed at the Lowcountry Children's Center (hereinafter "LCC") by Don Elsey, Ed. D. The older child, age four (4), stated that "[redacted] got popped by Bryan on his booty" and "was able to demonstrate with an open hand" and said "the pop was on the bottom." The age of older child limited her ability to respond to Dr. Elsey's questions. Per the interview summary, it was unknown as to whether the child could respond to trauma specific questions, unknown as to whether the child was able to follow directions since she required redirection at times, and most importantly, unknown as to whether the child was able to order events sequentially. The middle child, having just turned three (3) years old, was deemed by Dr. Elsey to have given a "problematic non-disclosure", and while she was able to follow directives, was unable to order events sequentially, unable to demonstrate any abuse, unable to present as an accurate reporter, and was unaware of the death of her younger brother. Both children stated that they had been told by Aunt Leisa that what happened to [redacted] was a secret, and in a different context, Bryan. In short, the girls gave different information during each interview and could not give any time frame due to their

own psychological developmental level. Specifically, as stated by Dr. Elsey at the Coroner's Inquest on July 13 2016, "I think that a lot of times when we interview young children, people want to know tell me when it happened, the time frame. Kids can't do that. Developmentally, a child may say it happened two years ago or it happened ten years from now, which makes no sense." (See Exhibit 8 – Dr. Don Elsey Interview Summaries). (See Exhibit 9 – Coroner's Inquest – Dr. Don Elsey Transcript, at 385: 5-13).

On March 20, 2013, an autopsy of the decedent was performed at the request of Coroner Rae Wooten, who attended alongside Officer Andrew DeCamp, Officer Dan Eckhart, Dr. Cythia A. Schandl (hereinafter "Schandl"), Dr. Meredith H. Frame, Mr. Raymond Edwards, Ms. Eowyn Corcrair, and Charleston County Deputy Coroner Mr. Scott Ramsey. DeCamp was advised that further testing and injury aging would need to be performed to determine an exact cause of death, but the autopsy revealed that the decedent has undergone past physical trauma or traumas in the past weeks, which may have led to a mesentery laceration in the stomach, causing blood to hemorrhage down the abdomen and pool in the decedent's groin. The decedent's liver had adhered to his diaphragm, which indicated past trauma. (See Exhibit 6 – Det. A. DeCamp Supplemental Report).

Later that same day, mother informed Officer DeCamp and Coroner Wooten at a joint meeting that the week prior to his death, decedent was complaining of stomach pain and that he threw up milk a couple minutes after consuming it. Mother further advised that MUSC performed a blood test on decedent to test his ability for blood clotting out of concern for his constant bruising on March 6, 2013. (See Exhibit 6 – Det. A. DeCamp Supplemental Report).

(On May 6, 2013, DeCamp and Hembree attended a meeting with Coroner Wooten and Dr. Schandl, who explained her findings illustrated in the autopsy report. Per DeCamp, "Dr. Schandl described the cause of death as being acute blunt force trauma to the torso, and she defined medically acute as being within twenty-four (24) hours, but in this case, she believed the trauma likely occurred within four (4) hours." DeCamp believed the "likely within four (4) hours" was given to them by Dr. Schandl to be used as an investigative tool to work with, but readily admits, "however, I don't think that within four (4) hours was set in stone. So therefore, I used the word acute, which was established as within twenty-four (24) hours." (See Exhibit 10 – PFC A. DeCamp Deposition, at 40:21 - 41:9).

O The autopsy report itself simply defines the cause of death as, "blunt trauma to the torso" and does not reveal a time or place where the injury occurred. (See Exhibit 11 – Autopsy Final Report). In explaining her findings in the decedent's belly at the Coroner Inquest on July 12, 2016, Dr. Schandl testified that, "there were areas that made it look like it was quite acute, which to us means that there were no cells coming to start to clean up. We put that at around six (6) hours from when that starts to happen. And then there were also findings in other areas that suggested 24 to 26 hours, maybe even longer of course, up to those more chronic changes that were scarring that could be weeks or even months old. So that was the findings in the belly." (See Exhibit 12 – Coroner's Inquest – Dr. Cynthia Schandl Transcript, at 155: 7 – 16). Dr. Schandl was asked to clarify why she chose to list "blunt trauma to the torso" as the cause of death, and specifically, does she consider "blunt trauma" to be a one-time thing or multiple things, to which she replied, "That's a very good question, and that's why I worded it like that, because one could say *acute* blunt trauma.

(That would mean, well, it looks like something happened, and something happened like if you were in a car crash. In this case, since there are many different injuries and they seem to be happening over time, I lumped it. It's a lump." (*Id.* at 174: 12 – 24).

On May 9, 2013, Arrest Warrant 2013A1020900106 was drafted for the arrest of plaintiff for the crime of Homicide by Child Abuse by Officer DeCamp, who presented to the home of Magistrate J. Lawrence Duffy who read and signed the warrant. (See Exhibit 13 – Arrest Warrant Affidavit). DeCamp is unable to recall whether Judge Duffy asked him any specific questions regarding the facts as stated in the arrest warrant, nor is DeCamp able to recall making any exact statements to Judge Duffy regarding the facts as stated in the arrest warrant. More specifically, DeCamp does not recall informing Judge Duffy that the eyewitnesses referred to in the arrest warrant were ages four (4) and three (3), nor does he recall informing Judge Duffy that the medical term "acute" meant within twenty-four (24) hours. (See Exhibit 10 – PFC A. DeCamp Deposition, at 17:23 – 18:1 and 18:23 - 24).

○ That same afternoon, a traffic stop was made on a dark green Honda Civic driven by plaintiff and he was placed under arrest without incident. DeCamp was aware that mother, who was the passenger in plaintiff's vehicle, was on her way to meet with Coroner Wooten and offered to drive here there, which she accepted. (See Exhibit 6 – Det. A. DeCamp Supplemental Report).

Plaintiff was taken to the Town of Mount Pleasant Police Department wherein he invoked his right to counsel on two separate occasions. (See Exhibit 3 – Affidavit of Bryan Okeith Seabrook). Plaintiff was transported to the Al Cannon Detention Center where he remained on a No Bond from May 9, 2013 until he was released on a reduced bond of

\$75,000 surety on October 25, 2014, a total of 535 days of detention. (See Exhibit 14 - Al Cannon Detention Center Inmate Search).

Upon review of the facts by the Ninth Circuit Solicitor's Office, it became clear that the Court would direct a verdict for the plaintiff as a matter of law, thus the charge against plaintiff was dismissed on September 11, 2015. (See Exhibit 15 - Letter from Herring-Lash to Chief Richie and Coroner Wooten).

Plaintiff filed his Complaint on July 8, 2016 and Amended Complaint on September 8, 2016, with service being effectuated July 11, 2016 and September 15, 2016, respectively.

STANDARD OF REVIEW

Summary judgment is appropriate only when there is no genuine issue of material fact, and judgment is warranted as a matter of law. *Baird v. Charleston County*, 333 S.C. 519, 511 S.E. 2d 69 (1999); *Young v. South Carolina Dep't of Corrections*, 333 S.C. 714, 511 S.E.2d 413 (Ct.App. 1999); Rule 56(c), S.C.R.C.P. Further, the evidence and all reasonable inferences therefrom are viewed in the light most favorable to the non-moving party. *Helms Realty, Inc. v. Gibson-Wall Co.*, 363 S.C. 334, 611 S.E.2d 485 (2005); *Med. Univ. of S.C. v. Arnaud*, 360 S.C. 615, 602 S.E.2d 747 (2004).

The non-moving party need only submit a mere scintilla of evidence to withstand a summary judgment motion where the standard of proof is by a preponderance of the evidence. *Hancock v. Mid-South Management Co., Inc.*, 381 S.C. 326, 673, S.E.2d 801 (2009). A party seeking summary judgment has the burden of clearly establishing, with the use of the record properly before the court, the absence of a triable issue of fact. *Stanford Fire Ins. Co. v. Marine Contracting and Towing*, 301 S.C. 418, 392 S.E.2d 460 (1990).

Summary judgment is a drastic remedy and should be cautiously invoked to ensure a litigant is not improperly deprived of a trial on disputed factual issues. *Helena Chem. Co. v. Allianz Underwriters Ins. Co.*, 357 S.C. 631, 644, 594 S.E.2d 455, 462 (2004); *B & B Liquors, Inc. v. O'Neil*, 361 S.C. 267, 270, 603 S.E.2d 629, 631 (Ct. App. 2004). Summary judgment is inappropriate where further inquiry into the facts of the case is necessary to clarify the application of law. *Gadson v. Hembree*, 364 S.C. 316, 320, 613 S.E.2d 533, 535 (2005); *Wogan v. Kunze*, 366 S.C. 583, 591, 623, S.E.2d 107, 112 (Ct. App. 2005); *Montgomery v. CSX Transp., Inc.*, 362 S.C. 529, 542, 608, S.E.2d 440, 447 (Ct. App. 2004). Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. *Bennett v. investors Title Ins. Co.*, 370 S.C. 578, 588, 635 S.E.2d 649, 654 (Ct. App. 2006), quoting *Nelson v. Charleston County Parks & Recreation Comm'n*, 362 S.C. 1, 5, 605 S.E.2d 744, 746 (Ct. App. 2004).

Plaintiff has alleged claims of false arrest and malicious prosecution, which share the element of probable cause. In South Carolina, the issue of probable cause is a question of fact and ordinarily one for the jury. *Jones v. City of Columbia*, 301 S.C. 62, 389 S.E.2d 662 (1990).

ARGUMENT

The Plaintiff will address the factual basis and legal authority for each cause of action alleged in the complaint.

With regards to False Arrest, the warrant for Plaintiff's arrest was not valid because it was not based on probable cause to arrest him for homicide by child abuse. Obviously, a dispute of fact is created by plaintiff's denial of any abuse or neglect of the decedent,

much less any that caused his death. In addition, he has come forward with additional evidence showing the warrant issued for his arrest was legally insufficient. The warrant was conclusory, contained material false and misleading information, and omitted relevant exculpatory material information. The false and misleading information included, but is not limited to, that "the victim was entrusted to the sole custodial care of the defendant on March 19, 2013 from approximately 1600 hours to the time of the victim's hospital admittance, that autopsy results indicate that the victim sustained fatal acute abdominal injuries, resulting from blunt force trauma," and "that eyewitnesses reported that the defendant struck the victim shortly before the victim became unresponsive." South Carolina law allows a claim for false arrest to be maintained with a person who is arrested on a warrant not based on probable cause. The issue of lawful authority refers to the existence of probable cause, not the existence of a warrant.

The defendant appears to raise three arguments to defeat the false arrest claim. First, they claim there was probable cause for the arrest, second, that a claim of false arrest cannot be maintained when a citizen is arrested pursuant to a warrant, and third, that the statute of limitations expired two (2) years after plaintiff's arrest. Each will be addressed in turn.

As to the first argument of defendant, the existence of probable cause, the false arrest claim has only one disputed element; whether the restraint was lawful. The lawfulness of the arrest is determined by the existence of probable cause. In *Wortman v. Spartanburg*, 310 S.C. 1, 425 S.E. 2d 18 (1992) the court held;

The fundamental question in determining whether an arrest is lawful is whether there was "probable cause" to make the arrest. *Jones v. City of Columbia*, 301 S.C. 62, 389 S.E.2d 662 (1990). Probable cause is defined as a good-faith belief that a person is guilty of a crime when this belief rests on such grounds as would induce an ordinarily prudent and cautious

person, under the circumstances, to believe likewise. *Gathers v. Harris Teeter Supermarket*, 282 S.C. 220, 317 S.E.2d 748 (Ct.App. 1984). In South Carolina, the issue of probable cause is a question of fact and ordinarily one for the jury. *Jones*, 301 S.C. at 65, 389 S.E.2d at 663.

Plaintiff's challenge can also be based on the securing of a warrant without probable cause. Plaintiff alleges the warrant lacked probable cause based on its conclusory allegations, the presentation of materially false and misleading information and the withholding of materially relevant information. Materially false information or omissions of information in the officer's possession can negate probable cause. *Franks v. Delaware*, 428 US 154 (1978); *Miller v. Prince Georges County*, 475 F.3d 621 (4th Cir. 2007); *Smith v. Reddy*, 101 F.3d 351 (4th Cir 1996). South Carolina has adopted this line of reasoning in *State v. Davis*. *State v. Davis*, 354 S.C. 348, 359-60, 580 S.E.2d 778, 784 (Ct.App.2003). To determine the materiality of the false allegations, a court must "excise the offending inaccuracies and insert the facts recklessly omitted, and then determine whether or not the 'corrected' warrant affidavit would establish probable cause." If the "corrected" warrant affidavit establishes probable cause, no civil liability lies against the officer." *Miller* at 628 (citations omitted).

Applying the law to the facts of this case, probable cause must be discerned from the four corners of the warrant affidavit itself, which reads:

ON MARCH 19TH, 2013 AT APPROXIMATELY 1902 HOURS, CHARLESTON COUNTY CONSOLIDATED DISPATCH WAS CONTACTED BY EAST COOPER MEDICAL CENTER STAFF AND REPORTED A SUSPICIOUS DEATH OF A TODDLER, **Minor Victim** **Minor Victim** (DOB: **Minor Victim**). THE UNRESPONSIVE VICTIM WAS TRANSPORTED BY THE DEFENDANT FROM **Minor Victim** TO EAST COOPER MEDICAL CENTER, BOTH SITES LOCATED IN THE TOWN OF MOUNT PLEASANT, SOUTH CAROLINA, IN CHARLESTON COUNTY. THROUGH INVESTIGATION, IT WAS LEARNED THAT THE VICTIM WAS IN THE CUSODIAL CARE OF THE DEFENDANT ON MARCH 19, 2013, AND THAT THE VICTIM WAS ENTRUSTED TO THE SOLE

CUSTODIAL CARE OF THE DEFENDANT ON MARCH 19, 2013 FROM APPROXIMATELY 1600 HOURS TO THE TIME OF THE VICTIM'S HOSPITAL ADMITTANCE. THAT AT THE TIME OF THE HOSPITAL ADMITTANCE, THE VICTIM WAS IN FULL CARDIO-PULMONARY ARREST. THAT AUTOPSY RESULTS INDICATE THAT THE VICTIM SUSTAINED FATAL ACUTE ABDOMINAL INJURIES, RESULTING FROM BLUNT FORCE TRAUMA. THAT EYEWITNESSES REPORTED THAT THE DEFENDANT STRUCK THE VICTIM SHORTLY BEFORE THE VICTIM BECAME UNRESPONSIVE. THAT THE DEFENDANT DID CAUSE THE DEATH OF THE TWO YEAR OLD VICTIM WHILE COMMITTING CHILD ABUSE, AND THE DEATH OCCURRED UNDER CIRCUMSTANCES MANIFESTING AN EXTREME INDIFFERENCE TO HUMAN LIFE.

Of the seven (7) sentences included in the Affidavit, the first, second and fourth are not in dispute (with the exception that plaintiff is referred to as "defendant" in sentence two (2), which implicates plaintiff). However, taking the remaining facts included in the affidavit line by line demonstrates the lack of probable cause.

1. In the third sentence, DeCamp conclusively asserts "that the victim was in the custodial care of the defendant on March 19, 2013, and that the victim was entrusted to the sole custodial care of the defendant on March 19, 2013 from approximately 1600 hours to the time of the victim's hospital admittance." As written, it implicates plaintiff by naming him as "defendant" and misleads the reader to believe plaintiff was the *only* caretaker for the victim the entire day of March 19, 2013, and specifically, for the final two and half hours before he became unresponsive. An accurate statement would be, "that the victim was in the custodial care of at least three (3) adult caretakers on March 19, 2013, including the victim's mother, grandmother, and grandmother's boyfriend, and that the victim was entrusted to the sole custodial care of the grandmother's boyfriend from approximately 1630 hours to the time of the victim's hospital admittance." An accurate statement, as written above, properly informs the reader that there were other adults that could have

contributed to the victim becoming unresponsive and is an accurate timeline of events leading up to his death.

2. In the fifth sentence, DeCamp misstates the cause of death, by asserting "that autopsy results indicate that the victim sustained fatal acute abdominal injuries, resulting from blunt force trauma." As written, it misleads the reader to believe that a fatal blow was delivered by someone shortly before the victim died. An accurate statement would be, "that the Autopsy Final Report written by Dr. Shandl listed the cause of death as blunt force trauma to the torso, with the date of injury being March 19, 2013 at an unknown place and time." An accurate statement, as written above, properly informs the reader as to the cause of death rendered by the pathologist along with her inability to determine where and at what time the injury occurred on the day of March 19, 2013, thus provides the reader with accurate and exculpatory information related to plaintiff.

3. In the sixth sentence, DeCamp conclusively asserts "that eyewitnesses reported that the defendant struck the victim shortly before the victim became unresponsive." As written, it provides the reader with materially false and misleading information and omits materially relevant information, misleading the reader to believe that there was more than one witness, all of whom were credible, competent, and saw the plaintiff strike the decedent causing him to become unresponsive. Further, coupled with the inaccurate and misleading statement regarding the autopsy results in the fifth sentence, solely implicates plaintiff by asserting that it is impossible for anyone other than plaintiff to have caused the death of the child. An accurate statement would be "that the victim's four (4) year old sister was interviewed by Don Elsey of the Lowcountry Children's Center and stated that the victim got popped by Mr. Seabrook on his bottom, but due to her age was unable to order events

sequentially, and that the victim's three (3) year old sister was also interviewed but was unable to demonstrate any abuse and did not present as an accurate reporter due to her age and inability to order events sequentially." An accurate statement, as written above, informs the reader of the age of the "eyewitnesses", accurately states what they witnessed and when, and does not implicate plaintiff.

4. In the seventh and final statement, DeCamp asserts that the above facts are accurate and true and concludes as a matter of law that all elements of homicide by child abuse have been met to arrest plaintiff. Because this final statement is based on the preceding false and misleading information that omits materially relevant and exculpatory information, this final statement should not have been included on the warrant.

The corrected affidavit should read:

ON MARCH 19TH, 2013 AT APPROXIMATELY 1902 HOURS, CHARLESTON COUNTY CONSOLIDATED DISPATCH WAS CONTACTED BY EAST COOPER MEDICAL CENTER STAFF AND REPORTED A SUSPICIOUS DEATH OF A TODDLER, ^{Minor Victim} **Minor Victim** (DOB: **Minor Victim**). THE UNRESPONSIVE VICTIM WAS TRANSPORTED BY MR. SEABROOK FROM **Minor Victim** TO EAST COOPER MEDICAL CENTER, BOTH SITES LOCATED IN THE TOWN OF MOUNT PLEASANT, SOUTH CAROLINA, IN CHARLESTON COUNTY. THROUGH INVESTIGATION, IT WAS LEARNED *THAT THE VICTIM WAS IN THE CUSTODIAL CARE OF AT LEAST THREE (3) ADULT CARETAKERS ON MARCH 19, 2013, INCLUDING THE VICTIM'S MOTHER, GRANDMOTHER, AND GRANDMOTHER'S BOYFRIEND, AND THAT THE VICTIM WAS ENTRUSTED TO THE SOLE CUSTODIAL CARE OF THE GRANDMOTHER'S BOYFRIEND FROM APPROXIMATELY 1630 HOURS TO THE TIME OF THE VICTIM'S HOSPITAL ADMITTANCE. THAT AT THE TIME OF THE HOSPITAL ADMITTANCE, THE VICTIM WAS IN FULL CARDIO-PULMONARY ARREST. THAT THE AUTOPSY FINAL REPORT WRITTEN BY DR. SCHANDL LISTED THE CAUSE OF DEATH AS BLUNT FORCE TRAUMA TO THE TORSO, WITH THE DATE OF INJURY BEING MARCH 19, 2013 AT AN UNKNOWN PLACE AND TIME. THAT THE VICTIM'S FOUR (4) YEAR OLD SISTER WAS INTERVIEWED BY DON ELSEY OF THE*

LOWCOUNTRY CHILDREN'S CENTER AND STATED THAT THE VICTIM GOT POPPED BY MR. SEABROOK ON HIS BOTTOM, BUT DUE TO HER AGE WAS UNABLE TO ORDER EVENTS SEQUENTIALLY, AND THAT THE VICTIM'S THREE (3) YEAR OLD SISTER WAS ALSO INTERVIEWED BUT WAS UNABLE TO DEMONSTRATE ANY ABUSE AND DID NOT PRESENT AS AN ACCURATE REPORTER DUE TO HER AGE AND INABILITY TO ORDER EVENTS SEQUENTIALLY.

The facts revealed in the investigation of Detective DeCamp of the Mouth Pleasant Police Department as written above, which include true and accurate and materially relevant information, by no means establishes probable cause to arrest plaintiff for homicide by child abuse, and at a minimum, creates a jury question.

The defendant's second attack on this cause of action is purportedly based on the belief that South Carolina does not recognize a claim for false arrest if a citizen is arrested pursuant to a warrant.

The only case to directly address the issue on the propriety of a false arrest claim when arrested pursuant to a warrant is *Stephenson v. Baldwin Cotton Mills*, 114 S.C. 367 (1920). The defendants argued that the warrant was regular on its face and any recovery could only be brought under a malicious prosecution theory. The court rejected this argument, finding the proof at trial showed the constable knew the warrant was defective, and "There is no doubt, from the evidence, that the plaintiff was falsely arrested, and restrained of his liberty without lawful authority, and wrong and indignity put upon him, and he has ample testimony to sustain the remedy he pursued." *Id* at 370.

In *Gist v. Berkeley County Sheriff's Dept.*, 336 S.C. 611, 521 S.E.2d 163 (S.C. App. 1999), the plaintiff was arrested pursuant to a warrant and sued under a theory of false arrest. The trial Court granted summary judgment to the Sheriff's Department because the magistrate issued a warrant for plaintiff's arrest. In reversing the lower court, the court of

appeals found the plaintiff, who challenged probable cause for his arrest pursuant to a warrant, could do so under a theory of false arrest pursuant to the South Carolina Torts Claim Act (SCTCA).

In *Gist*, “[T]he trial court also held the Sheriff’s Department could not be held liable for damages for false arrest because a magistrate issued a warrant for Gist’s arrest. This holding is erroneous.” The court held, “[T]he sheriff’s department liability did not arise from the execution enforcement or implementation of the magistrate’s order. It arises from allegedly securing the warrant without probable cause. Therefore, the Sheriff’s department is not shielded from liability by the arrest warrant” *Id.* at 166-167. The gravamen of the tort arose from “securing the warrant without probable cause” and the use of a warrant did not insulate the defendant from a claim of false arrest. The only issue is whether there was probable cause to arrest. If there was probable cause for the arrest, then a person was arrested pursuant to lawful authority and an action for false imprisonment cannot be maintained. *Accord Jones v. Columbia* 301 S.C. 62, 389 S.E. 2d 662 (1990) and *Wortman v. Spartanburg* 310 S.C. 1, 425 S.E. 2d 18 (1992).

Likewise, in *Law v. South Carolina Department of Corrections* 368 S.C. 424, 629 S.E.2d 642 (2006) the South Carolina Supreme court analyzed the claim of false arrest made pursuant to a warrant.

The essence of the tort of false imprisonment consists of depriving a person of his liberty without lawful justification. *Jones v. City of Columbia*, 301 S.C. 62, 389 S.E.2d 662 (1990); *Thomas v. Colonial Stores, Inc.*, 236 S.C. 95, 113 S.E.2d 337 (1960). To prevail on a claim for false imprisonment, the plaintiff must establish: (1) the defendant restrained the plaintiff, (2) the restraint was intentional, and (3) the restraint was unlawful. *Gist v. Berkeley County Sheriff’s Dep’t*, 336 S.C. 611, 521 S.E.2d 163 (Ct.App. 1999); *Jones by Robinson v. Winn-Dixie Greenville, Inc.*, 318 S.C. 171, 456 S.E.2d 429 (Ct.App. 1995); *Caldwell v. K-Mart Corp.*, 306 S.C. 27, 410 S.E.2d 21 (Ct.App.1991); *see also*

Jones, 301 S.C. at 64, 389 S.E.2d at 663 (an action for false imprisonment cannot be maintained where one is arrested by lawful authority).

The Court found there was sufficient probable cause in the warrant and therefore, Plaintiff was arrested pursuant to lawful authority. The Court did not find, however, that it was improper to bring a claim of false arrest when arrested pursuant to a warrant.

While the law in South Carolina may not be the picture of clarity, it has recognized since 1920 in *Stephenson* up through 2008 in *Law* that false arrest claims may be maintained despite the issuance of a warrant. The fundamental issue in determining the lawfulness of an arrest is whether there was probable cause to make the arrest. *Gist*, 336 S.C. at 615, 521 S.E.2d at 165. *Law* at p. 441. If not, then the plaintiff was not arrested pursuant to lawful authority.

Finally, the defendant asserts that the cause of action for false arrest was filed outside the statute of limitations, presumably, on the basis that the cause of action for false arrest arose when plaintiff was arrested on May 9, 2013 and plaintiff's complaint was not filed until July 8, 2016. S.C. Code §15-78-110 reads, in part, that any action brought pursuant to the SC Tort Claims Act is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered, thus the issue before the Court is to determine the date of loss.

While South Carolina courts do not appear to have addressed the issue directly, a common-sense analysis of the facts of each case, coupled with the elements that must be proven to constitute a cause of action for false arrest, make it clear that a cause of action for false arrest doesn't arise until the plaintiff is no longer restrained. Restraint is paramount to each of the three (3) elements of false arrest, thus the date of loss is when the

claimant is no longer restrained. In the instant case, plaintiff was restrained from the day of his arrest on May 9, 2013 through October 25, 2014, which arguably, would be his earliest possible date of loss. Plaintiff filed his complaint on July 8, 2016 and amended his complaint on September 8, 2016, well within the two (2) year statute of limitations. Further, and much more plausible, is the assertion that his cause of action for false arrest didn't arise until the criminal charge for which he was restrained was dismissed on September 11, 2015, as he was still being restrained through conditions of his bond during the pendency of his criminal charge.

Based on the above, defendant's motion for summary judgment on the claim of false arrest should be denied.

With regards to plaintiff's cause of action for malicious prosecution against the Town of Mount Pleasant, defendant purportedly raises the same two (2) arguments in requesting summary judgment on this cause of action, that being, the existence of probable cause and statute of limitations.

Plaintiff has already addressed the lack of probable cause based on the false and misleading information that omits materially relevant and exculpatory facts contained in the arrest warrant, thus plaintiff craves reference to the analysis above. In anticipation of defendant's claim that the actual malice exception in the SCTCA precludes an action for malicious prosecution against the agency, plaintiff notes that this specific issue has already been adversely decided in *McBride v. Greenville School District*, 389 S.C. 546, 698 S.E.2d 845(2010) which held "one need not show actual malice in order to successfully maintain an action for malicious prosecution."

In *Melton v. Williams*, 281 SC 182, 314 S.E.2d 612 (1984), the Court of Appeals

held that:

As malice may be inferred from a want of probable cause, *Parrott v. Plowden Motor Co.*, 246 S.C. 318, 143 S.E.2d 607 (1965), the first question for determination is whether there was evidence from which the jury could have found a want of probable cause. The determination of probable cause is ordinarily a jury matter, *Parrott v. Plowden Motor Co.*, *supra*, unless there is a complete absence of any evidence of ill-will toward the respondent, 52 Am.Jur.2d *Malicious Prosecution* Section 156; then it becomes a question of law for the court. *Green v. Bolen*, 237 S.C. 1, 115 S.E.2d 667 (1960).

Further, *Melton* concluded that, even though an arrest warrant was issued, “[u]nder the circumstances it was for the jury to say whether or not there was probable cause for the swearing out of the warrant by Williams.” *Id.* at 187, 314 S.E.2d at 615; *see also Parrott v. Plowden Motor Co.*, 246 S.C. 318, 323, 143 S.E.2d 607, 609 (1965); *Millhouse v. Food Lion, Inc.*, 289 S.C. 203, 203, 345 S.E.2d 739, 739 (Ct.App.1986); *cf. Gist v. Berkley County Sheriff's Dep't*, 336 S.C. 611, 616, 521 S.E.2d 163, 165 (Ct.App.1999) (finding error in a trial court's grant of summary judgment in an action for false imprisonment because the arrest warrant was insufficient and did not establish probable cause)

As discussed in the preceding section, here the plaintiff has come forward with sufficient evidence to show that the facts alleged by Officer DeCamp were false, misleading, and omits materially relevant and exculpatory information.

Secondly, with regards to defendant's statute of limitations argument, it cannot be disputed that the action arises until the third element of malicious prosecution is met, that being the termination of such proceedings in plaintiff's favor. As previously stated, the proceedings were terminated against plaintiff when the criminal charge of homicide by child abuse against plaintiff was dismissed on September 11, 2015. Plaintiff filed his

complaint on July 8, 2016 and amended his complaint on September 8, 2016, well within the two (2) year statute of limitations.

Applying the facts of the instant case to the law cited above forecloses the defendants' argument, and the motion for summary judgment on the cause of action for malicious prosecution should be denied.

Finally, with regards to plaintiff's cause of action for gross negligence against the Town of Mount Pleasant, defendant purportedly raises the same two (2) arguments in requesting summary judgment on this cause of action, that being, the existence of probable cause and statute of limitations.

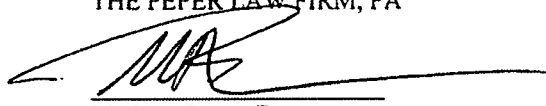
Plaintiff asserts that defendant had a duty not to arrest plaintiff without probable cause. Having thoroughly analyzed the lack of probable cause argument above, plaintiff craves reference to the above and asserts that applying for a warrant by including false and misleading information that omits materially relevant and exculpatory information was reckless, willful, and grossly negligent. As further stated above, plaintiff timely filed a cause of action against the Town of Mount Pleasant under the SCTCA for gross negligence.

CONCLUSION

Based on the above, including the supporting exhibits attached herein and forthcoming arguments at the hearing, plaintiff asks the court to deny the defendant Town of Mount Pleasant's motion for summary judgment in its entirety.

Respectfully submitted on the 18 day of September, 2017 in Charleston, South
Carolina.

THE PEPPER LAW FIRM, PA

A handwritten signature in black ink, appearing to be 'MA', is written over a horizontal line.

Mark A. Peper, Esq.
548 Savannah Highway
Charleston, SC 29407
843-225-2520
mark@peperlawfirm.com

ATTORNEY FOR THE PLAINTIFF

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Bryan Okeith Seabrook)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Civil Action No.: 2016-CP-10-03542

Plaintiff,

vs.

Town of Mount Pleasant, AND, Rae
Wooten, in Her Official Capacity as
Coroner of Charleston County,

Defendants.

CERTIFICATE OF SERVICE

2017 SEP 18 PM 12:18
FILED
JULIE J. ARMSTRONG
CLERK OF COURT
RY

I, the undersigned employee of The Peper Law Firm, PA, attorney for the plaintiff, certify that I have served the foregoing documents on all parties in the above-captioned matter, by mailing a copy of the same via United States Mail, postage prepaid and return address clearly affixed, to the following addresses:

TIMOTHY A. DOMIN, ESQ.
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126 SEVEN FARMS DRIVE, STE. 200
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ROY P. MAYBANK, ESQ.
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CHARLESTON, SC 29407
roy@maybanklaw.com

DOCUMENTS:

**Plaintiff's Response In Opposition
to Defendant Town of Mount
Pleasant's Motion For Summary
Judgment.**

Supporting Exhibits.


Brenna Dickson
548 Savannah Highway
Charleston, SC 29407
843-225-2520
brenna@peperlawfirm.com

DATED: SEPTEMBER 18, 2017

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Bryan Okeith Seabrook	)	Civil Action No.: 2016-CP-10-03542
	)	
Plaintiff,	)	
vs.	)	MATERIALS IN SUPPORT OF PLAINTIFF'S
	)	RESPONSE TO DEFENDANT TOWN OF
Town of Mount Pleasant, AND, Rae	)	MOUNT PLEASANT'S MOTION FOR
Wooten, in Her Official Capacity as	)	SUMMARY JUDGMENT
Coroner of Charleston County,	)	
	)	
Defendants.	)	

1. Exhibit 1 – MUSC Labor and Delivery Record
2. Exhibit 2 – MUSC 2/13/11 Social Work Notes
3. Exhibit 3 – Affidavit of Bryan Okeith Seabrook
4. Exhibit 4 – DSS Safety Plan
5. Exhibit 5 – Nurse's Notes from East Cooper ER
6. Exhibit 6 – Det. A. DeCamp Supplemental Report
7. Exhibit 7 – Coroner's Inquest – Doris Washington Transcript, at 252: 9-16
8. Exhibit 8 – Dr. Don Elsey Interview Summaries
9. Exhibit 9 – Coroner's Inquest – Dr. Don Elsey Transcript, at 385: 5-13
10. Exhibit 10 – PFC A. DeCamp Deposition, at 40: 21- 41: 9
11. Exhibit 11 – Autopsy Final Report
12. Exhibit 12 – Coroner's Inquest – Dr. Cynthia Shandl Transcript, at 155: 7-16
13. Exhibit 13 – Arrest Warrant Affidavit
14. Exhibit 14 – Al Cannon Detention Center Inmate Search
15. Exhibit 15 – Letter from Herring-Lash to Chief Richie and Coroner Wooten
16. Exhibit 16 – Coroner's Inquest – Jeffrey Misko, MD Transcript, at 270: 2-23



LABOR & DELIVERY RECORD

PRGRCRD

Patient Name HARTWELL
MRN BRITTANY
Adm: 02/11/11

DOB: [REDACTED] W

Form Original on Date: 1/00
Version: 3

Version Date: 2/10

PA: IDENTIFICATION LABEL

AGE 28 G 4 P 2 A 1 LIVING 2
ALLERGIES NKA EDC GESTATIONAL AGE
Physician / Service OBS
Blood Type Rh ☐ Pos ☐ Neg Titers Rhogam / Date
GBS ☐ Pos ☐ Neg ☒ Unknown ☐ Pending Urine Drug Screen ☐ Pos ☒ Pending
HepBSag HIV negative RPR
Rubella GC Chlamydia
Betamethasone (Celestone) #1 42

ANTIBIOTICS

DATE	TIME	MEDICATION	DOSE	ROUTE	INITS

LABOR

Membranes ☐ SRON ☒ AROM

Ruptured 2/11/11 @ 2042

Meconium ☐ No ☐ Yes Type

Onset of labor 2/11/11 @ 1100

Complete dilation 2/11/11 @ 2000

INDUCTION / AUGMENTATION

☐ Yes ☒ No

Fetal Monitoring ☒ External ☐ Scalp ☐ IUPC

COMPLICATIONS

☐ None ☒ No PNC ☐ Late PNC ☐ Scant PNC

☐ ETOH / Drug / Tobacco Abuse

☒ Preterm

☐ Postdates

☐ PROM

☐ Oligo / Polyhydramnios

☐ Abruptio

☐ Previa

☐ Pre-eclampsia

☐ Eclampsia

☐ Diabetes: ☐ Type 1 ☐ Type 2 ☐ Gestational

☐ Chorioamnionitis

☐ Neonatology Notified

☐ Elevated maternal temp

☐ Multiple gestation X

☐ Chronic HTN

☐ Sickle Cell

☐ DIC ☐ HELLP

☐ VBAC

☐ IUGR

☐ Obesity / BMI

☐ PP Hemorrhage

☐ Uterine Rupture ☐ Inversion

☐ Other

DELIVERY ANESTHESIA

☒ None ☐ Epidural

☐ Local ☐ Spinal

☐ Pudendal / Paracervical

☐ General

☐ Combined spinal epidural

Anesthesiologist

Attending

DELIVERY

Date 2/11/11

Time 2059

☒ Cephalic

☐ Breech: type

☒ Spontaneous

☐ Forceps: type

☐ Vacuum

Dystocia ☐ Yes ☐ No

Delivered by Dr. Buigrass

Attending Dr. Janjanna

Cesarean Section: ☐

☐ Primary ☐ Repeat

☐ Fetal distress

☐ Arrest of dilatation / descent

☐ Proapsed cord

☐ Previous CS; No ATOL

☐ Breech

☐ Previa / Abruptio

☐ Other

INFANT

☒ Male ☐ Female

☒ Livebirth ☐ Stillbirth

ID #

Security Tag #

Ecisicomy ☐ Yes ☒ No

Laceration ☐ Yes ☒ No

Footprints ☒ Yes ☐ No

PLACENTA

Date 2/11/11

Time 2106

☐ Spontaneous

☐ Manual

☐ Uterine exploration

☒ Normal

☐ Abnormal

☐ Accreta

Vessels ☐ 2 ☒ 3

☐ Nuchal cord x

☐ True knot

☐ Other

Estimated blood loss:

OR

☐ See Operating Room Record

Wt. 6 lb 10 oz

Grams 3000

Apgars 1 9 5 9

Feeding Preferences

☐ Breast ☒ Bottle

Time feeding initiated

COMMENTS (Other medications)

PRESENT AT DELIVERY Dr. Buigrass, Dr. Janjanna

Dr. Joshi, B. Smith, RN, B. Taveras, M.D.

SIGNATURE	TITLE	INITIALS	DATE / TIME
[Signature]	RN	ET	2/11
[Signature]	RN	mm	2/11/11

ch_peri_intra_delivery_andrecord

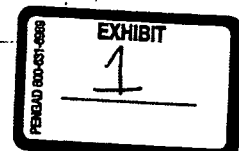
OTE 730520 2/10

Patient: Minor Victim

MRN: [REDACTED]

Encounter: 104261516

Page 1 of 3



MUSC97 OF 123



'PRGRECRO'

INTERDISCIPLINARY PROGRESS NOTES

Form Origination Date: 1/00
Version: 4

Version Date: 2/10



P: [REDACTED] DOB: [REDACTED] W O
HARTWELL
BABY-BRITT
Adm: / M: [REDACTED]

PATIENT IDENTIFICATION LABEL

Prohibited abbreviations:

These abbreviations are prohibited in ANY FORM (i.e., upper or lower case, with or without periods):

Drug names will not be abbreviated (e.g., AZT, HCTZ NEO)

Do not write a whole number with a trailing zero:

USE: 5 mg NOT: 5.0 mg

Write a decimal point with a leading zero:

USE: 0.5 mg NOT: .5 mg

all all docu_prgrecrd1

QTE 700222 Rev. 2/10

Patient: Minor Victim

MRN: [REDACTED]

Encounter:104261516

Page 2 of 3



"PRGRECRD"

Level 1 Nursery Progress Note

Form Origination Date 4/08
Version: 2

Version Date: 4/08



P: [REDACTED] DOB [REDACTED] W O

HARTWELL

BABY-BRITT

Adm: /

M: [REDACTED]

PATIENT IDENTIFICATION LABEL

Subjective: BJS: 3000
Objective: Temp 99.4 P 120-152 RR 32-50 Wt 2964 grams
Formula Entamil 10-50 cc Q1-2 H Breastfeeds _____
Voids 7 Stools 8
Maternal Blood Type B- Baby Blood Type B- Coombs -

Physical Exam (normal findings)	Abnormal Findings	Attending Comments
GEN ☒ No acute distress		
HEENT ☐ Normocephalic ☒ No scleral icterus	caput	
CV ☒ RRR; no murmur ☒ 2+ pulses		
RESP ☒ Clear bilaterally		
ABD ☒ BS present; no masses		
GU ☒ Normal male / female genitalia	circumcised, bright hydrocele	
NEURO ☒ Good suck; intact Moro reflex		
EXTREMITIES ☒ No edema		
SKIN ☐ No rash ☒ No jaundice	E. tox on trunk & back	

Assessment: _____ hour baby ☐ girl ☒ boy born on _____ at 20:59 to a 23 year old G 4 P 3 female
via ☒ SVD ☐ C-section at 39 weeks gestational age by Ballard

Plan: Feeding continue Entamil
Hepatitis B Vaccine ☒ Yes ☐ has not been administered 12 hr CBC 195/397/4500 24 hr 153/205/4000
Hearing Screen ☐ passed: ☐ R ☐ L ☐ referred: ☐ R ☐ L
transcutaneous serum bilirubin at 36 hours of life is _____ or to be checked at 213.9:00 AM 5.5
Followup ☒ at Sandhopper ☐ TBD
Circumcision ☒ completed ☐ undesired / non-applicable
Other _____

Resident addendum:

PHC @ UPS in room for MJ Shi involved
Rubella @ EPR @
UNK GPT

Resident Signature Holly Belcher Pager ID 15535 Date 2/13/11 Time 6:45 AM/PM

Attending Comments: I have reviewed the above note by Dr. Belcher and agree with the findings.

In addition:

Term infant, exam as above, doing well. 24 hr CBC still fine
Feb 1: 5.5. D/C home, F/U @ Sandhopper peds.

Attending Signature Jim Whitton Pager ID 14466 Date 2/13/11 Time 10:00 AM/PM
ca_peri_nurs_cocu_level1gpcnle OTE 7:0038 4/08

Patient: Minor Victim

MRN: [REDACTED]

Encounter: [REDACTED]

Page 3 of 3

MUSC99 OF 123



"SOCIALWORK"

Social Work/Case Management Progress Notes
Page 1 of 1

Form Origination Date: 4/08
Version: 1

Version Date: 4/08



HARTWELL
BABY-BRITT

Patient Name: Adm: 02/11/11 M
MRN

PATIENT IDENTIFICATION LABEL

Date	Time	Notes
2/13/11	9:00 A	Social Work Note: SW made CPS report to Chasn Co DSS due to pt testing + for marijuana. Mary Boxx accepted report and is on her way to see Pt. Pt not be d/ced until DSS has made initial contact. Pt's address and ph # are incorrect in system. Pt lists her address as [REDACTED] and her ph# as 843-469-0361. 1:00P - SW met briefly with Ms Boxx after she met with Pt. Safety plan brign developed. Pt does not want her Mom to know what's going on. Pt indicated pt's grandmother can be care provider for infant. Pt's mother has custody of her two other children. Ms. Boxx will need to go to home of Gradnother and get safety plan signed. She will contact SWer once she has a plan for baby. SW will await to here form Ms. Boxx who is aware that both Pt and baby are ready for d/c. 2:30 P SW met with Pt at bedside to follow up. Baby in room with Pt. Pt reports Ms Boxx is going to meet with Pt's grandmom to discuss her begin caretaker for baby durign investigation. Pt is tearful and reports she has to get a D/A assessment and complete those parenting classes previously ordered. SW provided support and encouragement to Pt. Pt does not want her mom to know that DSS is involved again and that she can't take baby home with her. She stated her mother stated before that she is not going to care for any more babies. SW again encouraged mom to follow through on plan so she can at least get baby home with her and back in her custody. Pt appeared to be receptive to SW. SW will await to hear from DSS. 3:15P Ms. Boxx called and reported baby to be d/ced with Maternal Great grandmother, Dorothy Williams. Ms Williams will bring ID when she comes to pick up baby. Pt may leave with Ms Williams also but Ms Williams understands that she will be primary caretaker for baby. DSS investigation ongoing. Staff notified of plan. SW available as needed. DSS to make necessary referrals for baby and Pt.

sl_of_doc_socialworkprogress

OTE 300413 408

*Handwritten signature: [Signature]
Social Worker
Page 12 199*

Patient: Minor Victim

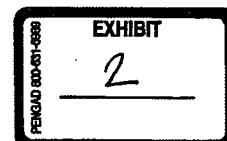
MRN: [REDACTED]

Encounter: [REDACTED]

Page 1 of 1

Peper Law 1470

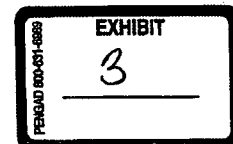
MUSC100 OF 123



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Bryan Okeith Seabrook	)	Civil Action No.: 2016-CP-10-03542
	)	
Plaintiff,	)	
	)	
vs.	)	AFFIDAVIT OF
	)	BRYAN OKEITH SEABROOK
Town of Mount Pleasant, AND, Rae	)	
Wooten, in Her Official Capacity as	)	
Coroner of Charleston County,	)	
	)	
Defendants.	)	
	)	

PERSONALLY appeared before me Bryan OKeith Seabrook, who being duly sworn, deposes and says:

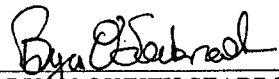
1. That my name is Bryan Okeith Seabrook and I am over the age of eighteen (18) years old and am qualified and competent to issue this Affidavit.
2. Around March 2012, I moved in with my girlfriend, Marty Dixon, who had custody of her granddaughters, N. Minor and G. Minor.
3. Marty's daughter, Brittany Hartwell, also had a third child, [Minor Victim], but his other grandmother got custody of him at birth. When Brittany got custody of [Minor Victim] back from DSS on December 13, 2012, they moved in with us and I noticed he had bruises on his face and chest, was always throwing up his food and drink, and was always lethargic.
4. A week later, while Marty and I were at work and the kids were home with Brittany, she took [Minor Victim] to Nason Medical Center because he couldn't put weight on his leg. The doctor said his leg was broken and it appeared to be intentional, so DSS made Brittany move out and left the kids with us. I was allowed to stay in the house with Marty and the kids after I passed a urine and drug screen and DSS completed a home study which revealed that the home was free from safety or health hazards for the children and they were found to be clean and free from any marks or bruising on their bodies. A month or so later, DSS then let Brittany move back in on March 11, 2013 for some reason.
5. On the morning of March 18, 2013, I picked up Brittany Hartwell and her children from the Medicaid office downtown. I dropped them off at the house, then went to run errands and see my mother in Huger, SC. Brittany was home alone with the kids while Marti Dixon was at work and I was running errands.



6. I returned home about three hours later so that Brittany could catch the bus for school. A few minutes later, Marty came home from work, at which point I took a nap in the kids' room since they were watching a movie in me and Marty's room. Marty woke me up when she was leaving for work, which was around 4:30pm. She informed me that the children were eating their snacks at the dining room table.
7. When I heard the girls go back into me and Marty's room, I got out of bed and went into the dining room to check on [Minor Victim]. I told him he could go watch a movie with his sisters and he started coughing and threw up all the Doritos that Marty had given him, so I changed his clothes and put him in bed with the girls to watch a movie.
8. I went to clean up the dining room table and sent Marty a text telling her that he had made himself throw up again, which he had been doing a lot lately.
9. When I went back to check on them, [Minor Victim] was holding his stomach and rolling around on the bed saying his tummy hurt. That is when I noticed he had a bowel movement so I undressed him and put him in the bathtub hoping that would calm him down and make his stomach feel better. I noticed he was whining and acting very tired while in the bathtub which was not like him, so I got him out, dried him off in the front room, put clothes on him and laid him down on the couch. I gave him a bottle of vitamin water and then took out the trash.
10. When I came back in, he had thrown up on himself again so I cleaned him up and laid him back down on the couch so I could be near him while I was making dinner in case he got sick again.
11. After a while I noticed that he was being quiet, so I went over to the couch to check on him and that's when I noticed that his arms were curled up and his jaw was starting to tighten up. I grabbed a small ice pack from the freezer and tried putting it in his mouth but he wouldn't let me. I was holding him and asking him if he was okay and that's when [Minor Victim] looked up and tried to say, "I love you," which is when I started freaking out. The girls came into the room but I told them to get out and go back into the bedroom because I didn't want them to see him like that.
12. Blood started running out of his nose and he stopped breathing. I attempted mouth-to-mouth resuscitation but no air was going into him. I didn't know what to do, so I grabbed the children and drove to East Cooper Hospital and texted Marty to tell her to meet us at the hospital. When the girls asked where we were going, I told them we were going to the hospital but I did not tell them what was going on and just that [Minor Victim] was sleeping. I arrived at the hospital and took [Minor Victim] inside and he was quickly taken by a nurse. I then got the girls out of the car and sat with them until more family arrived.
13. I talked to a Mt. Pleasant police officer at the hospital and answered all his questions and agreed to go back to the police station to talk with him some more.

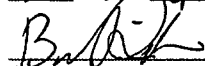
14. When the detective started talking to me, I started to feel like he was accusing me of doing something wrong to [Minor Victim] so when he asked me to sign some forms I asked to speak to my attorney first and that's when he left the room.
15. An attorney came into the room and told me I should let them do a sexual assault test on me, which I did, and then a few hours later they let me go.
16. On May 9, 2013, Brittany asked me to go with her to meet with the Coroner to go over the findings of the autopsy since Marty was at work. As we got off the Ravenel bridge into downtown, I was pulled over and SWAT ordered me out of the car and arrested me for Homicide by Child Abuse. They left my car there but gave Brittany a ride to meet with the Coroner.
17. They took me back to the police station and the same detective from the first time came into the room to talk to me. I told him I had been remorseful ever since I saw [Minor Victim] laying there on the couch because I wished I would have done more to help him. He then told me that he believed I was the sole cause of [Minor Victim] death and I told him over and over again that I would never hurt [Minor Victim] but he kept telling me that I was the only one that could have caused his death because of the timeline of adults that were in direct contact with [Minor Victim] prior to his death. I told him I would tell him everything that happened that day and every adult that was alone with [Minor Victim] that day, but I wanted my lawyer to be present.
18. He then took me outside to smoke a cigarette and kept trying to get me to tell him what all happened that day. I told him that I knew this was going to somehow come back on me which is why I wanted to tell him what all happened that day and everything that had been going on before that day, but I just wanted my attorney present when I did. As soon as I said that, they just took me to jail.
19. I have never physically hit any of the kids, but I did pop the girls on the hand sometime back in 2012, but I've never done that with [Minor Victim]. The girls Marty who told me I wasn't allowed to pop them on the hand and that I was only allowed to discipline them by putting them in time-out in the corner. I never had to put [Minor Victim] in time-out and only a couple of times with the girls.
20. The girls play a game called the "secret game" with me and their Auntie Lisa where we whisper nonsense in each other's ears and they laugh about it.

FURTHER AFFAINT SAITH NOT!


BRYAN KEITH SEABROOK

SWORN to before me this

18 day of September, 2017



Notary Public for South Carolina

My Commission Expires: 10/9/2024

South Carolina Department of Social Services
SAFETY PLAN

Name of Parent/Caretaker(s): Brittany Hartwell
Name of Child/ren: Minor Victim

Address: [REDACTED]
Telephone Numbers: Home: [REDACTED] Cell: [REDACTED] Work: [REDACTED]

A report of child abuse and/or neglect has been received by the Department. At this point in the investigation safety concerns have been identified by the agency and steps must be taken to make the children safe pending the completion of the investigation.

Danger or Description of the reported harm/safety threat to the child(ren). Describe specific behaviors that cause the children to be unsafe:

Minor child has a spiral fracture to left tibia, client is unaware of how fracture happened. And a bruise under his left eye.

Describe the effects the reported harm has had on the child(ren):

Minor child has follow up appointment w/ MUSC

DSS and the parents named above have agreed to this Safety Plan because the actions described in this plan are necessary to protect the child. Without these protective measures, the child would be at risk of being removed from the home and placed in foster care for the child's protection during the investigation. This agreement cannot be changed without the written consent of DSS or until the investigation is completed and the agency finds that the child was not abused or neglected.

Actions that will protect the child during the investigation:

- Action: NO contact w/ child Protector: Marty Dickson
- Brittany will move out of the home on [REDACTED] until
 - Further notice from DSS
 - Marty Dickson will ensure that Brittany Hartwell has no contact with the minor children.

Address: [REDACTED]
Cell Number: [REDACTED]
Work or additional contact numbers: [REDACTED]

Specify the Start Date: [REDACTED] No later than 90 days.

Have all names of protectors and other adults in the household been screened thru the CPS system and SLED, Sex Offender to determine if they have had previous involvement with the CPS division in any capacity? ☐ Yes ☒ No

If yes, list names and dates of all checks: [REDACTED]

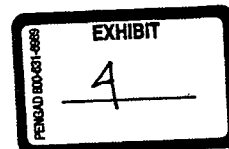
What, if any special skills or knowledge will the protector need to care for the child(ren)?

Ms. Dickson will ensure that all medical needs for the minor child are met; to include follow up appointments.

DSS Form 3087 (SEP 12) Edition of DEC 08 is obsolete.

RULE 5 HER 1351

Peper Law 1322



Nurse's Notes

Name: [REDACTED] Minor Victim
Age: 2 years
Sex: Male
DOB: [REDACTED]
Arrival Date: 03/19/2013
Time: 18:32
Account#: [REDACTED]
Bed: 8S
Private MD:
Diagnosis: Cardiac Arrest

Presentation:

03/19

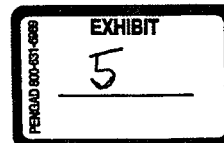
18:20 Care prior to arrival: None. Compressions began at 18:20. cm
18:20 Presenting complaint: Pt was carried into ER unresponsive, flaccid. cm
No resp effort no brachial pulse. Began CPR and placed on monitor,
Code Blue Jr started, called nursing supervisor and resp therapy
stat. I am the recorder. The other nurses in attendance are Debbie
Egan, Sue Lission.
18:32 Method of Arrival: Carried, cm
18:32 Acuity: ESI 1. cm
18:32 Method of arrival: Carried by a friend. Acuity: ESI 1. cm

Historical:

- Allergies: Unable to obtain;
- PMHx: Unable to obtain; Unable to obtain;
- PSHx: Unable to obtain;
- Social history: The patient lives with family, Tobacco info:
pediatric pt.
Social history: while in the bath per Boyfriend pt was leaning
over the side of the tub moaning. Boyfriend took him out of the
bath and put his PJ's on him. Per Boyfriend he was lying down and
didn't appear to be breathing right. Boyfriend states he blew air
into the pt's mouth and blood came out of his nose. Boyfriend
states he then called or texted Grandmother that something was
wrong and brought him to there ER.
- Family history: Per Grandmother pt was at home with her boyfriend
and 2 other children. Grandmother states that pt was recently
placed in DSS care and was at his other Grandmothers. Mom
(Brittany) within last few weeks received custody back of pt. Per
Boyfriend and Grandmother pt was last normal at 1600 when he ate
Doritos. Grandmother then went to work and Boyfriend sent her a
text stating that the pt vomited up the Doritos. Boyfriend stated
that after he vomited he went in and was playing with the girls in
there room where they were watching a movie and the Boyfriend took
the trash out while he was playing with the girls. He came back in
from taking the trash out the pt was laying in the floor making
funny noises. He took him and put him in a bath (continued).
- History obtained from: grandmother, caregiver.

Screening:

Name: [REDACTED] Minor Victim
MRN: [REDACTED]
Account#: [REDACTED]
Page 1 of 5



Printed: 03/25/2013 by: DBarbati COPY...COPY...COPY RULE 6 HER 125

Peper Law 125

Nurse's Notes

Name: [REDACTED] Minor Victim
Age: 2 years
Sex: Male
DOB: [REDACTED]
Admission Date: 03/19/2013
Time: 18:32
Account#: [REDACTED]
Bed: 8S
Private MD:
Diagnosis: Cardiac Arrest

18:50 Abuse screen: Pt has bruising to the upper abdomen. Abdomen is distended. Rectum protruding, blood pooling in right testicle ecchymosis, scant dry blood around rectum. Old wound to left ankle and heel. Per Grandmother pt was seen for injury to left leg and splint was placed. Pt recently seen at Nason Medical for the splint. Nutritional screening: Trauma Patient unable to obtain. Per Grandmother pt has had a stomach virus. Tuberculosis screening: No symptoms or risk factors identified. klf

18:50 Abuse screen: . Pedi Fall Risk: Total Score: Low risk for falls, standard fall prevention interventions initiated. klf

Assessment:

18:20 CPR assessment: unresponsive, no respiratory effort, Ambu ventilation. GI: Abdomen is distended, bruised on left upper quadrant other and into his groin. cm

18:20 Cardiac rhythm is CPR initiated. sl

18:20 Pedi assessment: . General: Appears well developed, Behavior is quiet, unable to arouse. Pain: Denies pain. Neuro: Level of Consciousness is unresponsive. cm

18:20 Cardiovascular: no pulse present. Respiratory: Respiratory effort is none. cm

18:20 EENT: Eyes open with no pupil response, . Cardiovascular: Capillary refill very prolonged 6 sec. JVD is absent Heart tones absent. Derm: Skin has lesions on the bottom of the left foot Skin is dry, Skin is dusky, Skin temperature is cold. cm

18:32
19:30 Pedi Tissue Integrity Screening: . cm
klf

Vital Signs:

18:20 Pulse 0; Resp 0; cm
18:30 Resp 12; Pulse Ox 54% on ETT ambu; cm
18:48 Temp 91.7 (R); cm
18:20 Used the barslow tape and patient falls in yellow area cm

Vitals:

18:20 Glasgow Coma Scale: Best Eye Opening Response: No response (1 pt) cm
Best Verbal Response: Endotracheal tube (1 pt) Best Motor Response:
No response (1 pt) Total Glasgow Coma Scale Score: 3.
18:30 Child GCS: . cm

Glasgow Coma Score:

Name: [REDACTED] Minor Victim
MRN: [REDACTED]
Account#: [REDACTED]
Page 2 of 5

Printed: 03/25/2013 by: DBarbati COPY...COPY...COPY. RULE 5 HER 126

Peper Law 126

Nurse's Notes

Name: Minor Victim
 Age: 2 years
 Sex: Male
 JOB:
 Arrival Date: 03/19/2013
 Time: 18:32
 Account#:
 Bed 8S
 Private MD:
 Diagnosis: Cardiac Arrest

18:51 Eye Response: none(1). Verbal Response: none(1). Motor Response: none(1). Total: 3. tc2

ED Course:

18:20 Braseelow color yellow. cm
 18:20 O2 via ambubag at 100%. cm
 18:21 Cardiac monitor on. Pulse ox on. NIBP on. cm
 18:22 Inserted peripheral IV: 22 gauge in right antecubital area. klf
 18:31 Assist provider with intubation with 4.5 mm ETT. via oral route. cm
 Placement verified by CO2 detector w/ + color change, auscultating bilateral breath sounds.
 18:32 Patient moved to 8S. cm
 18:32 Family grandmother updated about the poor condition of the child and allowed to view the resuscitation in progress. cm
 18:36 Ultra Sound completed. at bedside, no cardiac activity seen. Cpr resumed. cm
 18:39 Ultra Sound completed. at bedside, no cardiac activity noted. CPR resumed. sl
 18:40 Arrival of Police and Chaplain. apm
 18:40 Patient has correct armband on for positive identification. cm
 18:42 Ultra Sound completed. at bedside, no cardiac activity seen. CPR resumed. sl
 18:49 Caffery, Terrell is Attending Physician. tc2
 18:49 Patient visited by Caffery, Terrell. tc2
 18:49 Patient visited by Caffery, Terrell. tc2
 19:00 Police notified at 19:01. sl
 19:02 Caffery, Terrell is Pronouncing Physician. tc2
 19:25 FREEMAN, KATHY, RN is Primary Nurse. klf
 19:25 Corner called by House Supervisor. apm
 19:29 Critical Lab Value: Not Applicable - No critical results reported on this patient. klf
 19:41 LifePoint Contacted. Spoke with Colleen Govan. Sts not potential candidate for donation at this time. apm
 20:16 Crime Scene Investigator and Detective here. Photographs taken by investigator. apm
 20:50 Coroner arrived to bedside. klf
 21:24 PD and Coroner interviewing mother in EMS room. Detectives placing pt in body bag. Clothing on counter placed in evidence bag by detectives. Chaplin requesting to pray over pt body per mother request. Per PD, unable to do comply with request. Informed Chaplin that at this time, family will be privately interviewed and ok to

Name: Minor Victim
 MRN:
 Account#:
 Page 3 of 5

Printed: 03/25/2013 by: DBarbati COPY...COPY...COPY RULE 5 HER 127

Peper Law 127

Nurse's Notes

Name: Minor Victim
Age: 2 years
Sex: Male
DOB: [REDACTED]
Admission Date: 03/19/2013
Time: 18:32
Account#: [REDACTED]
Bed: 8S
Private MD:
Diagnosis: Cardiac Arrest

leave at this point.
21:36 Forensic investigation complete. Officer remains at bedside with body. waiting for transport to arrive. apm

Administered Medications:

18:23 Drug: NS 0.9% 240 ml; Route: IV; Rate: bolus; Delivery: Alaris pump sl
tubing;
18:36 Follow up: IV Status: Completed infusion cm
18:33 Drug: EPINEPHrine 1:10,000 0.13 mg; (Note: administered by Debbie sl
Egan RN.) Route: IVP;
18:35 Follow up: Response: No change in condition sl
18:35 Drug: EPINEPHrine 1:10,000 0.13 mg; (Note: administered by Debbie sl
Egan RN.) Route: IVP;
18:57 Follow up: Response: No change in condition sl
18:40 Drug: EPINEPHrine 1:10,000 0.13 mg; Route: IVP; sl
18:42 Follow up: Response: No change in condition sl

Outcome:

18:45 Patient expired: Time of death 18:45 Pronounced by Terrell Caffery klf
18:45 Outcome Patient expired klf
18:50 Total hours of infusion: 16 - 30 minutes klf
21:54 Patient left the ED. kg
21:54 Condition: body taken by Coroner Scott Ramsey/ coroner transporter kg

Signatures:

Lisson, Sue, RN	RN	sl
Murray, Constance, RN	RN	cm
Gromm, Kristin, RN	RN	kg
Caffery, Terrell		tc2
Mahaffee, Andrea, RN	RN	apm
FREEMAN, KATHY, RN	RN	klf

Corrections: (The following items were deleted from the chart)

18:45 18:32 Presenting complaint: Pt was carried into ER unresponsive, flaccid cm
cm
18:46 18:36 Ultra Sound completed. at bedside cm
18:47 18:43 Ultra Sound completed. at bedside, no cardiac activity noted. cm
cm
18:47 18:44 Ultra Sound completed. at bedside, no cardiac activity seen cm cm
18:59 18:43 Compressions began at 18:20. cm sl

Name: Minor Victim
MRN: [REDACTED]
Account#: [REDACTED]
Page 4 of 5

Printed: 03/25/2013 by: DBarbati COPY...COPY...COPY RULE 5 PER 128

Peper Law 128

Nurse's Notes

Name: Minor Victim
 Age: 2 years
 Sex: Male
 DOB: [REDACTED]
 Arrival Date: 03/19/2013
 Time: 18:32
 Account#: [REDACTED]
 Bed: 8S
 Private MD:
 Diagnosis: Cardiac Arrest

19:00 18:20 GI: Abdomen is distended, bruised on left upper quadrant cm sl
 19:01 18:20 Cardiac rhythm is PEA cm sl
 19:02 18:32 Patient arrived in ED. cm sl
 19:07 18:43 Ultra Sound completed. at bedside, no cardiac activity noted. sl
 CPR resumed cm
 19:07 18:44 Ultra Sound completed. at bedside, no cardiac activity seen. sl
 CPR resumed cm
 19:08 18:20 Presenting complaint: Pt was carried into ER unresponsive, cm
 flaccid cm
 19:14 18:20 O2 via ambubag cm cm
 19:15 18:21 Cardiac monitor on. Pulse ox on. cm cm
 19:45 18:45 Patient expired: Time of death 18:45 Pronounced by Terrell klf
 Caffery cm
 19:47 19:40 Social history while in the bath per Boyfriend pt was leaning klf
 over the side of the tub moaning. Boyfriend took him out of the bath
 and put his PJ's on him. Per Boyfriend he was lying down and didn't
 appear to be breathing right. Boyfriend states he blew air into the
 pt's mouth and blood came out of his nose. Boyfriend states he then
 called or texted Grandmother that something was wrong and brought
 him to there ER. . klf
 19:49 19:25 Abuse screen: Pt has bruising to the upper abdomen. Old wound klf
 to left heel and ankle. Abdomen is distended. Rectum protruding. klf
 19:49 19:25 Nutritional screening: Trauma Patient unable to obtain. klf klf
 19:49 19:46 Tuberculosis screening: No symptoms or risk factors klf
 identified. klf
 20:15 18:40 Arrival of Police, Coroner and Chaplain. klf apm
 20:20 18:22 Inserted saline lock: 22 gauge in right forearm cm klf
 20:26 18:50 Abuse screen: Pt has bruising to the upper abdomen. Old wound klf
 to left heel and ankle. Abdomen is distended. Rectum protruding. klf
 21:06 20:27 Corner called by House Supervisor apm apm

Name: Minor Victim
 MRN: [REDACTED]
 Account#: [REDACTED]
 Page 5 of 5

Printed: 03/25/2013 by: DBarbati COPY...COPY...COPY. RULE 5 HER 129

Peper Law 129

ADDITIONAL NARRATIVE

Agency Name Mount Pleasant Police Department	ORI #: SC0100300	Report Date/Time: 03/19/2013 17:00	OCA # 2013-0002073

DEATH INVESTIGATION

Supplemental report written by Det. A. DeCamp

In reference to this incident, I responded to MPFD at approximately 2000 hours to further investigate [Minor Victim] death. At MPFD, I was briefed of the incident, and that the decedent's mother, Brittany Hartwell, was at East Cooper Medical Center, while Marty Dixon and Bryan Seabrook were being escorted to MPFD.

I observed PFC Monge enter CIB with Seabrook, who was led into the CIB interview room. Seabrook was then escorted for a restroom and smoke break.

Based on the information provided by officers at East Cooper Medical Center, search warrants were drafted to aid in the investigation. Medical staff and Deputy Coroner S. Ramsey indicated that the decedent was unresponsive upon admittance to the hospital, and that the injuries to note were that the decedent appeared to have bruising on upper abdomen, an old wound to left heel and ankle, abrasion on upper lip, distended abdomen and protruding rectum. Also, it appeared that the decedent had a diarrheal stool in his diaper, which contained small amounts of blood.

Based upon these injuries and the timeline of events provided by Seabrook and Hartwell, suspicions of physical and sexual abuse were considered as contributing to the decedent's death. Search warrants were drafted for search of the crime scene residence ([REDACTED]).

[REDACTED] Seabrook's vehicle (Honda Accord), Seabrook's cell phone that he had in his possession at the time of this investigation, Seabrook's clothing he was wearing at the time the warrant was drafted, and the execution of a suspect evidence kit on Seabrook's person. These search warrants were presented to Town of Mt. Pleasant Municipal Judge Lawrence Duffy, who signed these warrants at approximately 2240 hours.

After returning to MPFD with these search warrants, CSI Haupt and CSI Mitchell responded to [REDACTED] where a search warrant was executed. Upon arrival I met with PFC Lebby, who informed me that the apartment was secure since his arrival. Utilizing the residence key located on Seabrook's keyring, I unlocked the front door and CSI Haupt and I made entry. CSI Haupt and I performed a protective sweep of the apartment, in which no occupants were located. Haupt and I then began processing the scene. Haupt photographed the residence prior to commencing the search for evidence. The items secured were as follows.

Located in the living room:

- On computer desk:
- *Desktop CPU
- *T mobile cell phone
- *DVD labeled: Cumshot Deluxe #2
- On floor
- *Star shaped ice pack
- *Towel
- On end table at end of couch
- *Laptop computer
- In TV stand
- *DVD labeled: wet

Located in the dining room:

- In trash can
- *Empty trash bag

Located in Full Bathroom:

- In sink:
- *red shirt, with apparent vomit on the front
- *Blue pants
- *white sock
- *drain stopper removed from sink at scene;
- In bath tub
- *drain strainer removed from sink at scene;

Located in Master bedroom (room of Dixon and Seabrook):

- On dresser
- *digital camera
- *Black Cruz digital pad

All items were placed in Evidence.

After collecting the above mentioned items, Haupt then further processed the scene (see supplemental).

CSI Mitchell (see supplemental) advised me that the trash dumpsters in close proximity of this residence were searched, and a trash bag was located and linked to the residence. Mitchell advised that a receipt was located in this bag, and that the receipt had a customer address of [REDACTED]. Mitchell also informed me that several diapers were located in this bag, and that the stool in

RULE 5 HER 44

Peper Law 044



ADDITIONAL NARRATIVE

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these diapers appeared to be solid, differing greatly from the diarrheal stool located at the hospital in the decedent's diaper.

After search of the residence, Mitchell and Cpl. Eckert then responded to East Cooper Medical Center, where they conducted a lawful search of the vehicle operated by Seabrook in his response to the hospital. I was advised by Mitchell and Eckert that a baseball bat was located in the vehicle and placed in evidence (see supplementals).

03/20/2013

At 0900 hours, I attended the autopsy of the decedent performed at MUSC. After the autopsy, I met with the pathologist, Dr. Cynthia Schondall, who informed me that further testing and injury aging would need to be performed to determine an exact cause of death. Dr. Schondall informed me of the following:
It appears that the decedent has undergone past physical trauma or traumas in the past weeks, which may have led to a mesenteric laceration. This injury would have caused pain in the belly of the decedent. The decedent appears to have three rib fractures on the right side of the body. The decedent's liver has adhered to his diaphragm, which indicates past trauma. Hemorrhaging blood tracked down from the abdomen and pooled in the decedent's groin. The lower tips of both lungs displayed signs of hemorrhaging. Bruising was observed on the lower back, upper abdomen, and soft tissue of the belly. There was an inconclusive abrasion on the decedent's upper lip. Free air was found in the bowels, indicating a possible perforation of the bowel. Bumps were observed on the decedent's head, no injury was detected. Examination of the rectum showed no signs of injury or trauma. No petechial hemorrhaging was found.

At 1600 hours, I attended a meeting at the coroner's office between Coroner Wooten and Brittany Hartwell and Hartwell's attorney, Sonya Duvall. At this meeting, Hartwell informed Wooten that the decedent had a blood test performed at MUSC on 03/06/2013 to test his ability for blood clotting. Hartwell explained that this was in response to concern of bruising. Hartwell advised that the week prior to his death, the decedent was complaining of stomach pain, and that he threw up milk a couple minutes after consuming it. She stated that this passed in the matter of a couple days and that he regained his appetite. Hartwell confirmed that she was required to vacate the residence according to DSS on 12/31/2012, and that she returned to the residence a couple days after the decedent's blood test, around 03/06/2013. Hartwell recounted an incident previously investigated where the decedent suffered a leg fracture, and she indicated that there is pressure wound from a full leg cast on the decedent's heel.

03/22/2013

From 1300 to 1620 hours, Christopher Washington came to MFPD, where he participated in a voluntary interview with Cpl. Eckert and myself. Washington provided the following background information:
He and Hartwell have three children in common, and that DSS first became involved in their parental roles following an incident of criminal domestic violence at the Masters Inn in Mount Pleasant (300 Yingo Way). He stated that he has classes required by DSS that he is trying to complete, to regain visitation rights with his children. He stated that when he was half finished in completing these required classes, DSS was allowing him to have supervised visitation with N Minor and G Minor at Dixon's residence. Washington stated that his last visitation was approximately one year ago. He stated that he has no visitation privileges with the decedent through DSS.

Washington provided a written statement (case file) corroborating Hartwell's whereabouts during the time frame of the decedent's death. Washington reported to officers that he believes Seabrook and Dixon have been involved since Seabrook was 18 years old, and have been cohabitating for several years. Washington advised that the decedent was seen regularly by Dr. Christie at Coastal Pediatrics. During the interview, I asked about text messages on Washington's phone around the timeframe of the decedent's death, and Washington provided me his phone. I asked him "do you mind if I take a photograph of your texts?", to which he replied that he wanted to know the truth, and said to do whatever we had to do.
While Eckert continued to interview Washington, I photographed text messages and call log on Washington's phone during the timeframe surrounding the decedent's death, and these photographs were logged into evidence.

03/25/2013

At 0910 hours, I observed the second forensic interviews with N Minor and G Minor performed by Dr. Elsey at DNLCC.

Notes of Hatalia's interview:
When the topic Bryan "popping" the decedent was broached, N Minor indicated that after Bryan "popped" the decedent, the decedent then began crying, and then "he set him in the room" and then "he fell asleep". When asked what happened when he fell asleep, she responded "He went to God". N Minor then demonstrated what a "pop" was by showing an open handed hitting gesture. Dr. Elsey then asked N Minor to describe the above-mentioned "pop," to which she responded "He set him in the room, he told me to get out". N Minor indicated that Seabrook was the only adult at the residence during this time. N Minor stated that the decedent gets "copped" a lot by family members, which she named as "Mom," "Mommy," and "Bryan". N Minor reported that after having a "snack," "he" threw up. Dr. Elsey asked N Minor if she has seen anyone punch "him", to which she responded at first, "no" and then immediately said "yes". N Minor then indicated that Bryan punched "him" in the back, and that this left a bruise. When Elsey asked her where this happened, she stated "on the floor". When Elsey

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Peper Law 045

ADDITIONAL NARRATIVE

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asked if a house this took place, she stated "our house." When Elsey asked which room this took place in, she stated "my room and G Minor's room." When clarifying what the "back" on the human body was to H Minor, H Minor pointed at the lower back and buttocks portion of a male anatomical diagram. When Elsey requested that Natalie demonstrate what she means by "punch," she turned towards a stuffed chair, and then struck the chair with a closed fist.

Notes of G Minor's interview:

When Elsey asked G Minor what happened to [REDACTED], she responded that she can't tell, and that it was a secret. G Minor then went on to state that "Bryan popped him" and that Bryan told her "don't tell anybody." Elsey asked if she saw [REDACTED] throw up, to which she responded that she did. Elsey asked her who cleaned [REDACTED] up, to which she responded "Bryan." When questioned about whether she has seen Natalie or [REDACTED] at the wall, she stated that Natalie hit the wall.

At 1530 hours, Det. Willis and I met with Ms. Dorothy Williams at her residence, [REDACTED]. Ms. Williams confirmed that she has custody of [REDACTED] from 02/14/2011 to 12/16/2012. The following information was provided by Ms. Williams: Prior to the beginning of [REDACTED] visitation to Brittany's residence, nothing was going on with him. In her care, [REDACTED] was seen by Dr. Slaughter with Franklin C. Fieber Center on Comstock Ave. She has not seen [REDACTED] since Brittany was awarded custody of him. She has met Bryan Seabrook because he would make custody transfers of [REDACTED] and the girls, H Minor and G Minor. Seabrook once dropped off G Minor. When she was younger, and she had a bruise on her face. When Williams called Marty Dixon, and asked what happened to G Minor's face, she and Brittany stated that they did not know.

Prior to going over Brittany's residence and after returning from this residence, [REDACTED] would often vomit. When he returned home, [REDACTED] would argue with Williams, act agitated, and throw objects in the house. Williams would ask [REDACTED] what Bryan did when [REDACTED] was at the residence. [REDACTED] would rub his forearms and fists together in a motion appearing to be indicating wrestling to her. In an incident that happened around November 2012, [REDACTED] returned with bruising on his cheek and forehead. He was also acting like he was in a daze. When Williams asked what happened, Seabrook, Dixon and Hartwell stated that [REDACTED] fell off a rocking horse. Williams reported that she called DSS, and that a worker came out and examined the injuries. Williams also stated she may have photographs of these injuries on her old cell phone. She stated Seabrook has been cohabitating with Dixon for approximately five years, and that she told Ms. Finckley with DSS from day 1 that Seabrook was cohabitating with Hartwell and Dixon. Ms. Kinrell Hartwell, Williams' Granddaughter, was also present in this interview, and she reiterated that DSS was contacted in reference to the above issues.

Williams's phone was secured via a consent form to have it analyzed for photographic evidence. Williams provided a signed, written statement recounting the incident when Gabbie arrived at her residence with bruising on her face. Kinrell Hartwell advised she would be willing to turn over her old phone as well, which she believes may have photographs of injuries to the children as well.

03-27-2013

At 1630 hours, I met with Ms. Cita Guerry at her residence, where she provided me a signed, written statement indicating that she was with Marty Dixon on 03/19/2013 from approximately 1725 hours to 1825 hours at her salon located at the intersection of US-17 and Six Mile Rd. Ms. Guerry reported that Dixon's demeanor appeared normal, and that she did not appear distressed or agitated.

04-01-2013

I met with Judge L. Duffy at MPPD, where returns were turned over and signed for search warrants that authorized search of Seabrook's residence, vehicle, clothing, phone, sex assault kit, and to secure Dixon's finger nail scrapings. I was unable to meet with Judge Duffy on 03/29/2013 due to a family emergency, in which Judge Duffy was tending to a hospitalized family member.

04-03-2013

At 1215 hours, I attended the third forensic interview for H Minor and G Minor, Washington at DNLC.

In H Minor's interview, she reiterated that she was watching a movie when [REDACTED] was hurt, and that Bryan was the adult at home with them. She stated that [REDACTED] was awake, and then he was asleep. She also stated that Bryan told me to get out of the room, and he was asleep. When Dr. Elsey asked which room she was in, she replied "Mommy's." Dr. Elsey asked her if anyone else "pops" [REDACTED], she replied "No, just Bryan." When Dr. Elsey began asking her about what Bryan told her, she stated that he told her "don't talk about anything, which she conveyed in an urgent tone. When Dr. Elsey questioned her about anyone hitting the wall, she indicated that she hit the wall and knocked out a tooth while playing.

At 1240 hours, G Minor was then interviewed, in which she stated that [REDACTED] was asleep during watching a movie. She also confirmed that Natalie hurt her tooth on the wall. When Dr. Elsey asked her who told her to keep a secret, she replied "Bryan."

04-08-2013

At 1230 hours, I received a CD copy of FPD Monge's in-car video and audio footage from Sgt. Herring. Upon review, I heard Seabrook make statements to FPD Monge that [REDACTED] passed away, and that he had a loose bowel movement, which continued to run. This footage

RULE 5 HER 46

ADDITIONAL NARRATIVE

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was logged into Evidence

04/08/2013

At 1100, I met with Ms. Kincaid Hartwell at her residence, where her old phone was secured for analysis for photographic evidence via consent form. I then placed this into Evidence.

05/09/2013

At 1430, Sgt. Hembree and I attended a meeting with the autopsy pathologist, Dr. Cynthia Schandl, at MUSC, where the autopsy report was provided to us. Dr. Schandl explained her findings illustrated in the autopsy report. This report indicated that internal bleeding and signs of injury are consistent with blunt force trauma, possibly to the right side of the abdomen. Dr. Schandl stated that injuries found were both acute, with a likely time frame of four hours until death, and non-acute, bringing her to the conclusion that trauma similar to that of the acute fatal incident has occurred at least one other time in the past. Dr. Schandl stated that it was not feasible for injury of this magnitude to have been inflicted by [REDACTED] siblings. Dr. Schandl also stated that based upon the injuries, homicide by blunt force trauma was the most appropriate classified cause of death. Dr. Schandl explained that it was concerning to find similar healing injuries, because bleeding inside the body is very agitating, and that when [REDACTED] was previously injured, his behavior would be abnormal due to extreme discomfort and pain.

05/09/13

At 1000 hours, Capt. McCarthy, Cpl. Edert and I met with Solicitor Wilson, Asst. Solicitor Herring-Lash, and Asst. Solicitor Shealy at the Solicitor's office, where the facts of this case were reviewed.

Based upon the totality of the case facts, Arrest Warrant 2013A1020900106 was drafted for the arrest of Bryan Oketh Seabrook for the crime of Homicide by Child Abuse. I met with Judge L. Duffy at his residence at 1420 hours, where this warrant was signed.

After completing a threat assessment, I was advised that a SAAT Warrant Service Team would assist in serving this warrant. As the team (Sgt. Salata, Cpl. Postell, Cpl. May, PFC Monge and myself) assembled at approximately 1545 hours, Det. Decker informed officers that Seabrook was leaving his residence with Brittany Hartwell in his vehicle, a dark green Honda Civic. Based on this information, Det. Feyer maintained view of this vehicle as it travelled towards the Ravenel Bridge. Cpl. Postell and Cpl. May intercepted the suspect vehicle while travelling Southbound on the Ravenel Bridge in a marked vehicle, and I travelled behind them in an unmarked vehicle. A traffic stop was initiated on the downslope of the bridge, and the vehicle came to rest at the intersection of East Bay St. and Cool Blow St. Upon visually confirming the occupants, Cpl. Postell asked Seabrook to get out of the vehicle and he complied. Cpl. Postell and I then secured Seabrook in two pairs of handcuffs behind his back due to limited arm mobility. He was advised that he was under arrest. Cpl. Postell then took custody of Seabrook. I then met with Brittany Hartwell and advised her that I was aware that she had a 1800 meeting at the coroner's office, and that I was willing to drive her there. Hartwell accepted the offer, and I transported her directly to the Coroner's office, leaving the completion of the traffic stop to the Warrant Service team. I did not speak with Hartwell in reference to this case.

After escorting Hartwell to the coroner's office without incident, I returned to MPFD, where Seabrook was at that time in the CIB interview room with Sgt. Hembree. Sgt. Hembree then introduced me into the interview room, where Seabrook confirmed that the Advice of Rights form had been explained to him, and that he had completed the form. At the end of the interview, Sgt. Hembree advised me that Seabrook stated that he was remorseful about what happened to [REDACTED] and that Seabrook made additional statements that he would document in his supplemental report.

After the interview, Seabrook was transported to CCDC by FTO Evenson and Cpl. Sides without incident.

Nothing further.

RULE 5 HER 47

Peper Law 047



1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON IN THE CORONER'S COURT

3
4 IN RE:

5 **Minor Victim**
6 DOD: March 19, 2013
7 CASE #: 2013M00860
8 Deceased.
9

10 CORONER'S INQUEST
11 CORONER RAE H. WOOTEN PRESIDING
12

13 DATE: July 12, 2016
14 TIME: 10:01 a.m.
15 LOCATION: Charleston County Courthouse
16 100 Broad Street, Courtroom 3B
Charleston, SC
17 REPORTED BY: Janice N. Shepherd,
18 Registered Professional
Reporter
19
20

21 A. WILLIAM ROBERTS, JR., & ASSOCIATES
22 Fast, Accurate & Friendly
23 Charleston, SC Hilton Head, SC Myrtle Beach, SC
(843) 722-8414 (843) 785-3236 (843) 839-3376
24 Columbia, SC Greenville, SC Charlotte, NC
25 (803) 731-5224 (864) 234-7030 (704) 573-3919



A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
scheduledepo.com

1 THE CLERK: And for the record, if you
2 could state your first and last name and spell out
3 your last name, please.

4 THE WITNESS: Doris Washington,
5 W-A-S-H-I-N-G-T-O-N.

6 EXAMINATION

7 BY CORONER WOOTEN:

8 Q. Good morning, Ms. Washington.

9 A. Good morning.

10 Q. Thank you for being here today with us
11 to participate in this inquest into the death of
12 Minor Victim.

13 Would you tell us just a little bit
14 about your role and how you became involved in
15 Minor Victim life and ultimately his tragic death, but
16 his life? Could you tell us a little bit about
17 yourself and your role and maybe a little bit
18 about what guardian ad litem do?

19 A. Okay. Well, I -- as you said, I'm a
20 guardian -- I was a guardian ad litem, and what we
21 do, we represent the children. We speak for the
22 children. I'm disabled, so I was unemployed and
23 was able to put time into that endeavor as being a
24 guardian ad litem. I liked it, I liked what I
25 did, but I eventually stopped.

1 Q. How do you get into the position as a
2 guardian ad litem?

3 A. It's a voluntary. You volunteer for
4 that. You're taking the classes. And at this
5 point, I think, as far as I'm concerned, the
6 classes could be more in-depth in how we deal with
7 the children, or the children -- or the cases I
8 should say.

9 Q. Thank you. Are you assigned to
10 specific cases or --

11 A. Yes, we are assigned.

12 Q. And what's the structure there? Who
13 assigns those cases to you?

14 A. It's done by -- oh, gosh, I've
15 forgotten names. I'm sorry. I'm bad with names.
16 It's a particular -- we work under a particular
17 person, and that person assigns the cases to you.
18 You can take on one, two. You know, you're asked;
19 you're not told. You are asked, you know, about
20 if you feel that you can do X amount of cases.

21 Q. Thank you. Did you have cases other
22 than Elijah?

23 A. I did.

24 Q. I don't need names, but about how many
25 did you typically --

1 A. I had two other than Minor Victim at the
2 time.

3 Q. Thank you. So you've said it's a
4 volunteer position?

5 A. It is.

6 Q. You are asked how many you can take
7 on, and you had two in addition to Minor Victim?

8 A. Yes.

9 Q. Did you -- do you recall about how old
10 Minor Victim was when you got involved as his guardian
11 ad litem?

12 A. He was two. I wasn't with Minor Victim very
13 long, but long enough to get attached to him,
14 yeah.

15 Q. How would you describe Minor Victim, just in
16 terms of his emotional and physical state?

17 A. When I first started to visit with
18 him, the visit, of course, was with Ms. Williams
19 in her home. At first, Minor Victim was kind -- you
20 know, stranger, so he was kind of set back, but as
21 time went on, the visits, Minor Victim would just -- he
22 would just gravitate to you. You know, he was
23 just such a sweet boy. And he was about two, and
24 he was a two-year-old, very rambunctious in
25 Ms. Williams's home.

1 Q. And the jurors, just to remind you, to
2 your right here, will be asking questions too, so
3 you're welcome to address your comments to them,
4 or they'll have questions.

5 A. Okay.

6 Q. So you first met -- you first started
7 seeing Minor Victim when he was living where?

8 A. Ms. Williams, his great-grandmother.

9 Q. And would you make visits there?

10 A. Oh, yeah.

11 Q. Were those announced or unannounced?

12 A. I called, I always called, because
13 sometimes Ms. Williams and the boys would be out,
14 so I called.

15 Q. And who else lived in the home that
16 you're aware of, at Ms. Williams's home?

17 A. Ms. Williams's other grandson, I
18 called him her grand, could be her great-grand,
19 but another little boy.

20 Q. Without naming him or anything, what
21 was his normal behavior like when you were there?

22 A. The older boy?

23 Q. Uh-huh.

24 A. Oh, he was quiet. He was very patient
25 with Minor Victim. I noticed that. They had more of a

1 brotherly relationship. Of course, they've been
2 in the home together for a while. Very caring to
3 Minor Victim.

4 Q. Did you ever see anything in your
5 visits to Ms. Williams's home that caused you
6 concern?

7 A. No. One thing about Ms. Williams, she
8 always -- she didn't have a problem with me, you
9 know, looking through the home, you know, and they
10 got -- you have to see if the food is in the
11 house, all that good -- there was never a problem
12 with Ms. Williams on, you know, your coming into
13 that home. It was always an open, open thing.

14 Q. Can you tell us a little bit about her
15 home, what it was like, I mean?

16 A. Very clean, cheerful, you know. His
17 room was well kept.

18 Q. When you went there -- so just sort of
19 summarize. When you would go on these visits,
20 what would you do?

21 A. Basically, just sit and talk, you
22 know, get to know Minor Victim to see how he, you know,
23 responds to things, you know.

24 Q. Do you have any idea about how many
25 times you visited there?

1 A. No. Through the years, the memory is
2 kind of, you know -- but no, I'd been there
3 numerous times, though, numerous, numerous times,
4 yes, ma'am.

5 Q. So you weren't there just one?

6 A. No, oh, no.

7 Q. Did anyone ever visit with you when
8 you would go -- would anybody accompany you on
9 those visits?

10 A. No, no one accompanied me.

11 Q. And was it required of you as a
12 volunteer that you file any kind of paperwork or
13 share any information?

14 A. Yes, yes.

15 Q. How was that? How did you communicate
16 with others about your findings?

17 A. We'd basically type up what our visit
18 was like.

19 Q. Do you ever recall, while you visited
20 Minor Victim at Ms. Washington's house, there being any
21 problems that you documented? Do you ever recall
22 that?

23 A. No.

24 Q. When you were visiting there, did you
25 ever encounter any other people, such as maybe

1 Minor Victim mother, Brittany, there at the house?

2 A. No. I don't remember -- I don't
3 remember Brittany. I remember -- okay. Once I do
4 remember them coming by to pick him up, and that's
5 a vague, you know --

6 Q. When you say them, there was more than
7 one person?

8 A. Yeah. I believe -- if I recall it
9 right, Brittany came in, but somebody was outside.

10 Q. Do you recall the last time you saw
11 Elijah?

12 A. It was just before Christmas. I
13 remember that because the tree was still up. The
14 tree was up. It was just before Christmas.

15 Q. So the last time you saw him, where
16 was that tree up?

17 A. In Mount Pleasant, at his mother's
18 house.

19 Q. So at that point, was he living with
20 Ms. Williams, or is he living with someone else?

21 A. That was the point of transition.
22 They were transitioning -- doing transition from
23 Ms. Williams's home.

24 Q. Back up just a little bit. Could you
25 sort of describe -- you've sort of talked about

1 Minor Victim. How did you describe him at

2 Ms. Williams's?

3 A. A very rambunctious little boy.

4 Q. Emotionally, how would you describe
5 him?

6 A. Emotionally, he was fine.

7 Q. Did you notice any changes in him
8 during the time you were involved in him?

9 A. The only change -- the only time I
10 ever saw Minor Victim withdrawn, he didn't respond to
11 me, is when he was in Mount Pleasant. It was like
12 he was a totally different child. I couldn't get
13 a smile out of him. He didn't say anything. He
14 was very timid. You know how a child get when
15 he's afraid. And I knew he shouldn't have been in
16 there. He shouldn't have been there.

17 Q. He shouldn't have been where?

18 A. He shouldn't have been in Mount
19 Pleasant in that home. He was not a happy child
20 there. You can tell the difference. You can tell
21 the difference.

22 Q. So you did visit him in Mount
23 Pleasant?

24 A. Yes, I did.

25 Q. Who all was there at the time of that

1 visit?

2 A. Only the grandmother, Marty.

3 Q. So you didn't see --

4 A. I didn't see anyone else.

5 Q. Were you able to look through the
6 house?

7 A. I don't remember -- I don't remember
8 seeing anyone else. No. I was not allowed to go
9 through the house like that.

10 Q. Were you able to check for food and
11 bed and all that?

12 A. No. When you go into these homes,
13 too, you can ask, but you have a sense of feeling
14 of, you know, being in these people's home. You
15 don't know that most of them like that, okay, so,
16 therefore, you're not going to put yourself in a
17 situation, you know, of getting into a
18 confrontation with these people. So you can only
19 ask, but you can't make them.

20 Q. Are you still a guardian ad litem?

21 A. No. I stopped, because I felt as if
22 what I said was not taken into account when it
23 came to the child. If a guardian ad litem feel
24 that something is wrong, the child shouldn't be
25 there, I think we're supposed to -- what we say

1 should take -- because I do believe I sat and had
2 more contact with them than most. That's my
3 feeling, okay. If -- why do it and what you say
4 is not taken into account.

5 Q. Thank you very much.

6 CORONER WOOTEN: I'd like to --
7 members of the jury, do y'all have any questions?

8 JUROR NO. 222: So you saw the
9 transitioning from one home to another?

10 THE WITNESS: Yes.

11 JUROR NO. 222: And there was a
12 complete shock that they didn't listen to you and
13 that -- and after you give the report of the
14 difference of Minor Victim and how he was acting with
15 his grandmother in Mount Pleasant?

16 THE WITNESS: Uh-huh, right, yes.

17 JUROR NO. 107: Who did you feel did
18 not listen to you? Who did you report these
19 reports to and your findings that did not hear
20 what you said? Is that a caseworker? Who was
21 that that you have to report to?

22 THE WITNESS: Well, I look at it like
23 this: It's just not the case workers. It's just
24 not the people in the guardian ad litem. I feel
25 that it's the system, period, because when we come

1 to court, and we sit there, and they ask you blah,
2 blah, blah, and you say you don't feel that -- you
3 know, even your report says that you feel that
4 something's wrong, what we say should be taken
5 preference over everything else because we're
6 speaking for the child, you know.

7 JUROR NO. 107: Yes, ma'am.

8 THE WITNESS: You know, why am I
9 there?

10 JUROR NO. 107: Yes, ma'am. So you
11 would -- you would file a report, and you would
12 also -- I'm not familiar with the system, how it
13 works. You would file a report, and then you
14 would also be called in whenever there were
15 proceedings --

16 THE WITNESS: Yes.

17 JUROR NO. 107: -- to determine where
18 the child should go or whatever?

19 THE WITNESS: Yes.

20 JUROR NO. 107: And so they would ask
21 you. Did you get a chance in court to say how you
22 felt?

23 THE WITNESS: Very little.

24 JUROR NO. 107: Very little?

25 THE WITNESS: Very little. I think

1 more should be said by a guardian ad litem at that
2 time, but once again --

3 JUROR NO. 107: So does a guardian ad
4 litem kind of work in team -- or in a perfect
5 world work in a team with like the caseworker or
6 whoever's in charge of that child's safety? Is
7 that -- is that how it works?

8 THE WITNESS: It was a young lady over
9 me and someone over her, okay. You make your
10 visits, then you do your reports.

11 JUROR NO. 107: And do they do visits
12 as well?

13 THE WITNESS: No, not unless for some
14 reason you're not able to.

15 JUROR NO. 107: So it's all on you?

16 THE WITNESS: They -- someone -- yes,
17 yes, ma'am.

18 JUROR NO. 107: It's all on you to go
19 into the surroundings and say this is what I
20 feel --

21 THE WITNESS: Yes, ma'am.

22 JUROR NO. 107: -- this is what I see?

23 THE WITNESS: Yes, ma'am.

24 JUROR NO. 107: So that's what your
25 position is?

1 THE WITNESS: Yes.

2 JUROR NO. 107: And then that's
3 supposed to contribute to the overall care of the
4 child?

5 THE WITNESS: Yes.

6 JUROR NO. 107: Thank you.

7 CORONER WOOTEN: Any other questions
8 from the jury?

9 JUROR NO. 83: So when it came time to
10 transition Minor Victim, what prompted that transition,
11 or why was he -- why was it felt that it was --
12 that he needed to be moved from Ms. Williams's
13 home to Ms. Dixon's?

14 THE WITNESS: Well, my understanding,
15 they -- the mother was, you know, trying to do her
16 thing to get her child back, and in doing so,
17 Minor Victim was allowed to visit here and there, you
18 know, because they just -- you know, they just
19 don't pull the child completely out of the home,
20 and he was there since a baby coming into this
21 world, so that was hard for him as well, you know,
22 being with his grand, you know.

23 JUROR NO. 83: You feel like it was
24 his mother wanted him home with --

25 THE WITNESS: Well, I'm going to be

1 truthful. At the time, at the time, I don't know
2 what changes have come about with her, but at the
3 time, when a mommy wants her child back or really
4 care, blah, blah, blah, and right now, I'm
5 saying -- but at the time, I didn't see where his
6 mother desired to spend time with him, because if
7 someone has your child, and that's your
8 grandmother, you had the opportunity to be at that
9 house often, you could make phone calls often, but
10 that wasn't happening.

11 So my thing was also if the interest
12 wasn't there for the child on that level as I'm
13 saying, you know, I'm going to call my kid, you
14 know, and check on him, and I'm going to ask
15 granny if I can come in and see this kid, so I had
16 a concern with that too, because if you don't
17 desire to see that child on a regular as a mother,
18 something is wrong. Daddies might do that, but
19 mommies don't do that, okay. So that was one of
20 my concerns, the biological mother not wanting or
21 visiting that child on a regular.

22 CORONER WOOTEN: Other questions from
23 jurors?

24 JUROR NO. 107: So do you feel -- did
25 something happen that the mother completed

1 requirements so that she was able to get her child
2 back, and then because she lived with Ms. Dixon,
3 that's why he was allowed to move there?

4 THE WITNESS: (Moves head up and
5 down.)

6 JUROR NO. 107: Had she chosen to move
7 in with granny who had him currently, and it could
8 have gone that way as well? Is that kind of how
9 the court looked at it --

10 THE WITNESS: I'm not sure --

11 JUROR NO. 107: -- is wherever mom is
12 going --

13 THE WITNESS: I'm not sure --

14 JUROR NO. 107: -- is where the child
15 gets to go?

16 THE WITNESS: I'm not sure about
17 whether she could have lived with Ms. Williams,
18 you know.

19 JUROR NO. 107: The way the system
20 looks at it is that if the mama wants him, the
21 mama gets him, and just wherever the mom is going
22 is where he gets to go? Is that kind of -- is
23 that kind of how it's looked at?

24 THE WITNESS: Basically, that, yeah.

25 JUROR NO. 107: Thank you.

1 CORONER WOOTEN: Any other questions
2 from the jurors?

3 BY CORONER WOOTEN:

4 Q. Ms. Washington, are there any other
5 things that -- information you'd like to share
6 with the jury?

7 A. I think basically I said, you know,
8 how I feel about the whole situation, and I don't
9 feel that Minor Victim should have gone back to that
10 home.

11 Q. When did you learn of his death,
12 Ms. Washington?

13 A. I was called by the young lady that
14 was over me the day of, the morning of. I was in
15 Columbia, South Carolina, at school when I found
16 out.

17 Q. So you received a phone call?

18 A. Yes.

19 Q. And what were you told about the
20 death?

21 A. I was told that Minor Victim was dead. I
22 wasn't given the details.

23 Q. At that time, were you still his
24 guardian?

25 A. Yes, because about to --

1 Q. And did the individual that advised
2 you of his death share with you any information
3 about what potentially may have caused his death?

4 A. No. She didn't go into any details.

5 Q. So you can think back to the last
6 visit you had with [Minor Victim] in Mount Pleasant, you
7 said. Was he walking?

8 A. He was.

9 Q. Any problems?

10 A. No, not with walking. He just -- he
11 just was withdrawn. He would not basically move.
12 You know, when I say move, he's just in one spot,
13 didn't move. He wasn't the [Minor Victim] I knew from
14 visiting at Ms. Williams's home.

15 Q. Do you recall whether you saw him get
16 up and walk around any?

17 A. Yes, I did.

18 Q. Did you watch any interaction between
19 he and Ms. Dixon?

20 A. There really was none. She was there,
21 he was there, I mean.

22 Q. I'm sorry. I didn't hear you.

23 A. She was there, and he was there. It
24 wasn't -- you know how -- now, he would cling to
25 Ms. Williams. Oh, my God, he would cling to

1 Ms. Williams. He just -- he was attached to
2 that -- he was totally attached to Ms. Williams.

3 Q. So the interaction on that date in
4 Mount Pleasant the last time you saw him, was he
5 really interactive or just --

6 A. None at all, none at all.

7 Q. Thank you very much.

8 CORONER WOOTEN: Any last questions
9 for Ms. Washington?

10 JUROR NO. 222: In Mount Pleasant, you
11 said you been at Ms. Marty's house?

12 THE WITNESS: Uh-huh.

13 JUROR NO. 222: So you saw the other
14 grandmother there with Minor Victim. What did Elijah
15 did in the home? Did the grandmother show love?
16 Hug him? Kiss him?

17 THE WITNESS: No, no. You mean at
18 Marty's house? No. I didn't see any interaction
19 at all during my visit.

20 JUROR NO. 222: He just --

21 THE WITNESS: He was just there, like
22 he -- when they brought him out to the living room
23 area where we were, he would just sit there.

24 JUROR NO. 222: His sisters weren't
25 around?

1 THE WITNESS: They were in their room,
2 they were. They came out a couple times, but
3 basically, they were in their room.

4 JUROR NO. 222: They wasn't
5 interacting with each other?

6 THE WITNESS: No, huh-uh.

7 CORONER WOOTEN: Yes, ma'am.

8 JUROR NO. 83: When -- so you were --
9 you remained Minor Victim guardian -- from the last
10 time you saw him in December, you were still
11 assigned to him up until the time of his death
12 or --

13 THE WITNESS: By that time, because
14 mentally, I think I was going through my changes.
15 I was -- I was actually -- I didn't tell them why
16 I got kind of withdrawn with the program myself,
17 because in my mind, it didn't make sense. It
18 didn't make sense when -- I was all on board to
19 get to where it got, you know, his death, but what
20 I said didn't make a difference, you know, so my
21 thing was why do it. So I was kind of making a
22 transition, and it didn't set too well with the
23 office, because they had so many cases, and I
24 withdrew.

25 JUROR NO. 83: Did you attempt to make

1 any other -- any further visits between Christmas
2 and March, when Minor Victim passed?

3 THE WITNESS: Ms. Williams and I did
4 speak before Minor Victim death, but --

5 JUROR NO. 83: No contact between you
6 and Ms. Dixon or Brittany to try and --

7 THE WITNESS: Oh, no, no. I only had
8 contact with Ms. Williams.

9 JUROR NO. 83: Do you know if anyone
10 else from the department was able to inspect or
11 make a visit to the home during that time?

12 THE WITNESS: None, not that I know
13 of, I don't.

14 BY CORONER WOOTEN:

15 Q. Ms. Washington, one other question.
16 When you -- to your knowledge, who all lived in
17 the home in Mount Pleasant, as you describe it?

18 A. As far as I know, it was Marty,
19 Brittany, and the two girls, and Minor Victim when he
20 was there, as far as I know.

21 Q. Thank you.

22 CORONER WOOTEN: Any last questions
23 for Ms. Washington?

24 Ms. Washington, thank you so much for
25 coming today, and you may step down.

1 THE WITNESS: Thank you.

2 CORONER WOOTEN: Our next witness is
3 Dr. Misko, Dr. Jeffry Misko, if you could have him
4 enter the room.

5 JEFFRY MISKO, MD
6 being first duly sworn, testified as follows:

7 THE CLERK: Please have a seat. And
8 for our record, if you could state your first and
9 last name and spell out your last name, please.

10 THE WITNESS: Jeffry Misko, M-I-S-K-O.

11 EXAMINATION

12 BY CORONER WOOTEN:

13 Q. Dr. Misko, thank you for taking time
14 to be here in this inquest into the death of
15 Minor Victim. I really appreciate your time
16 and consideration in meeting with us here today.

17 The jurors to your right are free, in
18 an inquest situation, to ask questions, and please
19 feel free to answer those freely.

20 Would you tell us your relationship to
21 Minor Victim in the sense of why you're here
22 today?

23 A. I took care of Minor Victim at Nason Medical
24 Center. He came in for two complaints at that
25 time. He was brought in for some vomiting

IRIS - CAFTA Interview Summary

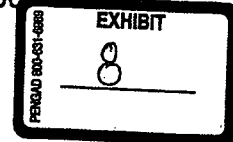
The Dec 14/13 at 4:00 PM

Name	N. [REDACTED]
Client ID	# [REDACTED]
Address	[REDACTED]
Intake Date	03/20/2013
Date of Birth	[REDACTED]
Gender	Female
Current Living Situation	Foster/Adoptive
Does DSS have legal guardianship over this person?	No
School	N/A
School District	Charleston County Schools
Home Phone	(843) 469-4343
Referral Source (Contact)	Det. Cpl. Eckart
Interview Date	03/20/2013
Interviewer	Don Elsey Ed.D.
CAFTA Observer	N/A
Interview Location	DNICC
Interview Date	03/25/2013
Interviewer	Don Elsey Ed.D.
CAFTA Observer	N/A
Interview Location	DNICC
Was there an informant?	Yes
Is the below indicated the legal guardian?	No
Who?	Det. Stephenson
Family Relationship / Genogram	N. [REDACTED] was living with her sister G. [REDACTED], her mother and mother's boyfriend Bryan, and her younger sibling [REDACTED].
History of the Concern	[REDACTED] was brought to the ER by Bryan and was pronounced dead. Concern of what N. [REDACTED] may have seen. Also there was a previous case of [REDACTED] being hurt that was not ever fully resolved. N. [REDACTED] has spoken about Bryan hurting [REDACTED].
Is the FI informant knowledgeable about the child?	No
Have there been any significant issues or concerns with this child since placement?	N. [REDACTED] has seemed sad and has spoken about [REDACTED] being with Jesus.
Does the informant identify alleged offender(s) for the child?	Yes
Alleged Offenders	Bryan Seabrook (Caregiver's Paramour)
Are there any known court, custody or	Yes

RULE 5 HER 1050

HARTWELL 93

Peper Law 1044



restraining orders related to the present allegation?	
Describe	child has been EPC'd and
School placement	N/A
School status	N/A
Alleged Offender	Bryan Seabrook (Alleged Offender)
Maltreatment Typology	Physical Abuse TOH
Was this maltreatment a referral allegation?	Yes
Professional Opinion Regarding Information Elicited from FI regarding maltreatment	Disclosure of abuse
Disclosure detail	N. [redacted] was seen for a second forensic interview. She reiterated that Bryan had popped [redacted] and he had went to sleep and is with Jesus. N. [redacted] added in this session that Bryan had hit [redacted] on his back with his hand and when demonstrating made a fist. She denied any other adult being home when the pop occurred. She also reiterated that [redacted] had thrown up though she could not give details around this. There were times in the interview that N. [redacted] would say her tummy hurt when asked follow up questions about her brother. She also seemed evasive around some questions.
Alleged Offender	Bryan Seabrook (Alleged Offender)
Maltreatment Typology	Physical Abuse TOH
Was this maltreatment a referral allegation?	Yes
Professional Opinion Regarding Information Elicited from FI regarding maltreatment	Disclosure of abuse
Disclosure detail	N. [redacted] was verbal in the assessment. She was personable though at times would appear sad when talking about her younger brother. N. [redacted] spoke of there being secrets and her not allowed to tell what happened. She would write on the board then interpret what this said - many of her writings were scribbling. N. [redacted] said that Bryan had hurt [redacted] and later added that [redacted] threw up. N. [redacted] said that [redacted] did not listen to Bryan and said "no", and got "popped" by Bryan's hand on his body. N. [redacted] then said [redacted] said "no", he got popped by Bryan and fell asleep. N. [redacted] said now [redacted] is "with Jesus". She said Bryan told her to "get out of the room" because something was wrong. N. [redacted] said she saw blood on top of and around [redacted] nose. N. [redacted] then spoke of Bryan taking them with [redacted] to "the office" and [redacted] looked like he was sleeping. N. [redacted] said only Bryan hurt [redacted]. Upon further questioning Natalie said the "pop" to [redacted] occurred in "mom's room" and that Bryan tried to wake up [redacted] by "blowing" in his face.
Alleged Offender	Bryan Seabrook (Alleged Offender)
Maltreatment Typology	Physical Abuse TOH
Was this maltreatment a referral allegation?	Yes
Professional Opinion Regarding Information Elicited from FI regarding maltreatment	Problematic disclosure
Problematic disclosure detail	N. [redacted] was seen for a follow up interview. N. [redacted] was more restless today and very active. She said that [redacted] was asleep during the movie the children were watching when they were home. N. [redacted] also said that she had hit the wall in her home knocking out her teeth but denied anyone caused this to occur.

1061 King Street Charleston, SC 29403

RULE 5 HER 1051

HARTWELL 94

Peper Law 1045

Were there internal limitations to the child's ability to respond? Please check all that apply	Yes
Please describe:	Age
Did the child present as being impacted by external factors? Please check all that apply	Yes
Please describe:	Family Response Injunctions not to tell
Did you complete the interview?	Yes
Did the child present as an accurate reporter regarding verifiable information? Please describe:	Yes N/A
Did the child present as being able to understand rules of interview? Please describe:	Yes N/A
Was the child able to respond to trauma specific questions? Please describe:	Unknown some she could, others she could not
Did the child present as being able to follow directives? Please describe:	Unknown she required redirection at times
Did the child present as being able to order events sequentially? Please describe:	Unknown N/A
Did the child make a disclosure? Was the disclosure consistent with developmental level? (Language, time or space) Please describe:	Yes Yes She was able to provide some information.
Did the child demonstrate the alleged abuse? Please describe:	Unknown N/A
Strengths, needs and problems of the caregivers	none seen
Strengths, needs and problems of the child	N/A was verbal and able to provide details despite injunctions not to tell. She was in the home when her brother died. History of other concerns in the family.
Barriers and Recommendations regarding child safety / protection.	Per law enforcement the family has not been cooperating, no contact with the alleged offender or any concerning adults at this time
Date Summary Completed	03/20/2013
Recommended by	Don Essey Ed.D.
Outcome Goal	Additional information will be gathered to help determine treatment needs and safety issues for the child
Intervention	MDT Staffing
Don Essey Ed.D.	9/27/13 Date

RULE 5 HER 1052
HARTWFI195

Prepared on: 04/03/13 at 4:13 PM

Name		G [REDACTED] Minor
Client ID		# [REDACTED]
Address		[REDACTED]
Intake Date		03/20/2013
Date of Birth		[REDACTED]
Gender		Female
Current Living Situation		Foster/Adoptive
Does DSS have legal guardianship over this person?		Yes
School		N/A
School District		Charleston County Schools
Home Phone		(843) 463-4343
Referral Source (Contact)		Det. Col. Eckert
Interview Date		03/20/2013
Interviewer		Don Elsey Ed.D.
CA FTA Observer		N/A
Interview Location		DNLCC
Was there an informant?		Yes
Is the below indicated the legal guardian?		No
Who?		N/A
Family Relationship / Genogram		In the home prior to this concern as best we know today: mom, dad or Bryan, Glenna-3, N [REDACTED]-4, [REDACTED] just deceased
History of the Concern		[REDACTED] was brought to the ER at East Cooper early in the morning and was pronounced dead at some point. There were suspicious injuries. Siblings were there and they have said that Brian had "popped" [REDACTED]
Is the FI Informant knowledgeable about the child?		No
Have there been any significant issues or concerns with this child since placement?		G [REDACTED] Minor has seemed sad
Does the informant identify alleged offender(s) for the child?		Yes
Alleged Offenders		Bryan Seabrook (Caregiver's Paramour)
Are there any known court, custody or restraining orders related to the present allegation?		Yes
Describe		currently she is in DSS custody
School placement		N/A
School status		N/A

HARTWELL 96

Alleged Offender	Bryan Seabrook (Caregiver's Paramour)
Maltreatment Typology	Physical Neglect TOH
Was this maltreatment a referral allegation?	Yes
Professional Opinion Regarding Information Elicited from FI regarding maltreatment	Problematic disclosure
Problematic disclosure detail	G Minor was seen for a second interview. She was verbal but looked scared and continued to say that she could not talk about things and that it was a secret. G Minor did reiterate that Bryan had popped [redacted] but she could not provide any additional details. Her affect was fearful while giving this reply.
Alleged Offender	Bryan Seabrook (Caregiver's Paramour)
Maltreatment Typology	Physical Abuse TOH
Was this maltreatment a referral allegation?	Yes
Professional Opinion Regarding Information Elicited from FI regarding maltreatment	Disclosure of abuse
Disclosure detail	G Minor was verbal though several times in the interview spoke about secrets. She said that Bryan had told her it was a secret and not to tell that he had "popped" [redacted] and gave [redacted] "owies". G Minor also said that Bryan had popped Natalie on her bottom. G Minor said that her mommy told her that Brian hitting [redacted] was a secret. G Minor also talked about Brian touching her vagina but could not give details around this.
Alleged Offender	Bryan Seabrook (Caregiver's Paramour)
Maltreatment Typology	Physical Abuse TOH
Was this maltreatment a referral allegation?	Yes
Professional Opinion Regarding Information Elicited from FI regarding maltreatment	Problematic non-disclosure
Problematic non-disclosure detail	G Minor was seen for a follow up interview. She said that [redacted] was "asleep" at the movie she and her sister were watching at their house. She spoke about [redacted] hurting her teeth by hitting a wall. G Minor also said that Bryan told her to keep a secret but again she would not give details on what this was.
Were there internal limitations to the child's ability to respond?	Yes
Please check all that apply	Age
Please describe:	child has just turned three years old
Did the child present as being impacted by external factors?	Yes
Please check all that apply	Family Response
Please describe:	Injunctions not to tell
Did you complete the interview?	Yes
Did the child present as an accurate reporter regarding verifiable information?	Unknown
Please describe:	There were limits due to her age.
Did the child present as being able to understand rules of interview?	Yes
Please describe:	age appropriate
Was the child able to respond to trauma specific questions?	Yes

RULE 5 HER 1054

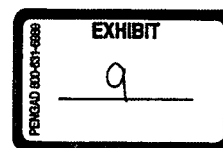
HARTWELL 197

Peper Law 1048

Please describe:	with limits of her age and instructions not to tell
Did the child present as being able to follow directives?	Yes
Please describe:	N/A
Did the child present as being able to order events sequentially?	No
Please describe:	due to her age
Did the child make a disclosure?	Yes
Was the disclosure consistent with developmental level? (Language, time or space)	Yes
Please describe:	She was able to provide some information.
Did the child demonstrate the alleged abuse?	No
Please describe:	N/A
Strengths, needs and problems of the caregivers	no caregivers seen
Strengths, needs and problems of the child	G. Minor was able to answer some questions. Her age is a barrier along with her being told about secrets. She is not aware of the death of her younger brother.
Barriers and Recommendations regarding child safety / protection.	Child's age is a barrier. G. Minor spoke of secrets not to tell. Child is not with her family at this time due to the concerns regarding the death of sibling. Also there had been a previous case where the same sibling had been injured.
Date Summary Completed	03/20/2013
Recommended by	Don Elsey Ed.D.
Outcome Goal	Information will be gathered and shared to help determine safety and treatment for the child.
Intervention	MDT Staffing
Don Elsey Ed.D.	4-3-13 Date

RULE 5 HER 1055
HARTWELL 98

Peper Law 1049



1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON IN THE CORONER'S COURT

3
4 IN RE:

5 Minor Victim

6 DOD: March 19, 2013

7 CASE #: 2013M00860

8 Deceased.

9
10 CORONER'S INQUEST

11 CORONER RAE H. WOOTEN PRESIDING

12
13 DATE: July 12, 2016

14 TIME: 10:01 a.m.

15 LOCATION: Charleston County Courthouse
16 100 Broad Street, Courtroom 3B
Charleston, SC

17 REPORTED BY: Janice N. Shepherd,
18 Registered Professional
Reporter

19
20
21 A. WILLIAM ROBERTS, JR., & ASSOCIATES

22 Fast, Accurate & Friendly

23 Charleston, SC	Hilton Head, SC	Myrtle Beach, SC
(843) 722-8414	(843) 785-3236	(843) 839-3376
24 Columbia, SC	Greenville, SC	Charlotte, NC
25 (803) 731-5224	(864) 234-7030	(704) 573-3919



A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
scheduledepo.com

1 So this witness is Jane Bell, she is a
2 Charleston County DSS employee, and you're going
3 to hear from her in her own words in an interview
4 with me that's videotaped, so you can watch our
5 interaction back and forth. And unfortunately,
6 you won't be able to ask her questions directly,
7 but I think her testimony is important.

8 (Videotaped interview of Jane Bell was
9 played.)

10 (EXH. 17, Statement of Jane Bell, was
11 marked for identification.)

12 (EXH. 18, Affidavit of Jane Bell, was
13 marked for identification.)

14 CORONER WOOTEN: Thank you. Our next
15 witness will be Dr. Don Elsey, who can be brought
16 in the courtroom.

17 DONALD EDWARD ELSEY, MD
18 being first duly sworn, testified as follows:

19 THE CLERK: Please have a seat, and
20 for our record, if you could state your first and
21 last name and spell the last name, please.

22 THE WITNESS: Donald Edward Elsey,
23 E-L-S-E-Y.

24 EXAMINATION

25 BY CORONER WOOTEN:

1 Q. Thank you, Dr. Elsey, for joining us
2 today and giving us this time as we conduct this
3 inquest into the death of Minor Victim.

4 Before we go further, if you would
5 please share with the jurors and the rest of us
6 some information about your training, education,
7 experience, title, qualifications, and so forth to
8 help us understand your professional role, that
9 would be helpful.

10 A. Okay. I have a doctorate in childhood
11 development. I have been trained in forensic
12 interviewing of children, several different
13 methods. I worked at the Lowcountry Children's
14 Center, the Dee Norton Lowcountry Children's
15 Center, for 18 years as a clinical director.

16 This past year, I began working with
17 the schools, so I've been working with the
18 Charleston County Schools now as a special
19 education therapist.

20 I have been involved in interviewing
21 approximately 6,000 children, and I've trained
22 people all over South Carolina to interview
23 children.

24 I've also been trained in a number of
25 evidence-based treatments and therapies and

1 working with kids that manage to recover from
2 whatever type of trauma they may have experienced.

3 I'm also a licensed professional
4 counselor and a counseling supervisor, so I
5 supervise other people who get their licensure.

6 Q. Thank you, Dr. Elsey. Would you tell
7 us about your involvement in this investigation
8 into Minor Victim death?

9 A. The children were -- when I say the
10 children, I mean N Minor and G Minor -- were brought
11 to the Lowcountry Children's Center for forensic
12 interview to see what, if anything, they may have
13 to help in the investigation.

14 Q. Would you tell us about the interviews
15 in terms of did you interview them once? More
16 than once? Did you interview them both? And then
17 what was learned in that interview process,
18 interview processes?

19 A. Regarding this investigation, I see --
20 saw the girls three times. The first time was on
21 March the 20th, the second time on the 25th, and
22 the third was on April the 3rd of 2013.

23 They were active and verbal, certainly
24 N Minor more than G Minor, G Minor being very young at
25 the time. G Minor was very pleasant. She was very

1 verbal. She was very active. Sometimes I had to
2 kind of bring her back to focus on the questions
3 we were asking, which is absolutely normal for a
4 child her age, not to mention one who just
5 suffered a trauma in her life.

6 I'll speak about N Minor first. Just
7 go on and talk about what she said or --

8 Q. I think probably that's helpful. Just
9 to remind the jurors, because I did not do it
10 before we got started, the ages of the two girls,
11 if you could.

12 A. When I saw N Minor, she was four, and
13 G Minor was two.

14 And when you do a forensic interview,
15 there are certain protocols you have as
16 guidelines. They aren't like you have to do A,
17 you have to do B. So with N Minor, for example, I
18 was asking who was in her family, and when she got
19 to her brother Minor Victim, she made a statement that
20 he was asleep with Jesus.

21 So I asked about that at that point.
22 I said tell me what happened with that. And
23 again, because of her age and kind of
24 distractibility, she was able to talk about that
25 Bryan was in the house with them, and Minor Victim had

1 disobeyed and got a pop, to use her word, and then
2 there kind of was -- she was kind of moved away in
3 what was going on, and then she said he was --
4 Minor Victim was asleep with Jesus, which she did say
5 that several times.

6 She talked about being taken to -- she
7 called it the office, and G Minor kind of used that
8 same word. Whether that meant the hospital, I'm
9 not 100-percent sure, but that kind of seemed like
10 what it was. And that was -- that was the
11 consistent theme through a lot of what she said.

12 The other thing that was a consistent
13 theme, even with G Minor, who was much younger, was
14 they were told it was a secret, and they were told
15 not to tell. So that came across from both of
16 their -- both of these young ladies on several
17 times.

18 Now, with G Minor, quite often, she
19 would answer, which, again, isn't developmentally
20 inappropriate for a two-year-old, to kind of say
21 something, and when you ask a follow-up question
22 or a clarifying question, I don't know. If you
23 have kids, young kids, they tend to do that. So
24 with her, she would say I don't know to my
25 follow-up questions.

1 Another thing you want to do with
2 children is something called sourcing. How do you
3 know that? Because kids know things by seeing it,
4 experiencing it, being told. And again, with
5 their age, that makes it a little more difficult
6 to do, but I try to do that as best I could.

7 One thing that you want to minimize
8 when you interview children is asking the same
9 question over and over and over and over. I
10 definitely had to ask them questions in different
11 context, because of their attention span, because
12 of how they sometimes would avoid questions, so I
13 did ask questions different times. The
14 interesting thing was their answers were fairly
15 consistent when I did that.

16 Q. Dr. Elsey, I know that you said you've
17 done this an awful lot. In your professional
18 opinion, would you think that their information
19 they provided in their interviews was accurate
20 based on your experience with them and their
21 response to the questions?

22 A. I think that a lot of what they said
23 they had experienced. Again, we don't -- it's not
24 our job -- we're not the trier of fact. We don't
25 say this child told the truth or didn't tell the

1 truth. That's not our job.

2 When you work with forensic
3 interviewing children, we get that part of the
4 investigation, what they say and how they say it.
5 We don't go to the house and investigate. We
6 don't do the medical exam.

7 And I've certainly had many children
8 tell me something didn't happen, and it's clear it
9 did. So I can't say whether something did or
10 didn't happen, but they certainly provided
11 information that sounded like something they had
12 experienced.

13 CORONER WOOTEN: Do the jurors -- do
14 you, the jurors, have questions for Dr. Elsey?

15 JUROR NO. 283: When you were talking
16 with G Minor and N Minor, did they seem fearful in
17 any way over keeping the secret, or was it more of
18 a like somebody told them you'll be in trouble if
19 you tell this secret, or was it more of a game to
20 them?

21 THE WITNESS: Well, they gave
22 different responses to that question, but at one
23 point, they did say that they would get a pop,
24 too, if they told the secret, so they took it --
25 it seemed to me they took that secret very

1 seriously.

2 BY CORONER WOOTEN:

3 Q. When you were speaking to them, did
4 they -- the pop, you mentioned a pop. Was that
5 described beyond just the word?

6 A. Yes. With N Minor, it was. Later,
7 she was able to demonstrate with an open hand, and
8 she actually demonstrated on a chair in the
9 interview room a hit. She added that there was
10 also a hit on the back, but she only talked about
11 that one time, but the pop was on the bottom. But
12 she did demonstrate it with a chair.

13 Q. And did they ever elaborate about what
14 the secret was?

15 A. Not to tell, not to talk.

16 Q. And it's my belief, but correct me if
17 I'm wrong, that typically, you would record these
18 interviews. Is that correct?

19 A. Correct.

20 Q. And these interviews, the first one
21 was done what date?

22 A. On March the 20th, 2013.

23 Q. So were you aware that was the day
24 following the death?

25 A. Yes.

1 Q. Is there anything else that the jurors
2 might want to consider as they hear all this
3 testimony that stands out to you as maybe being
4 important?

5 A. Well, I think that a lot of times when
6 we interview young children, people want to know
7 tell me when it happened, the time frame. Kids
8 can't do that. Developmentally, a child may say
9 it happened two years ago or it happened ten years
10 from now, which makes no sense. So we don't ask a
11 question that developmentally a child just cannot
12 answer because they tend to guess, and that may
13 totally throw off what they say.

14 But in this particular case, I think
15 it was interesting that I was just asking N. Minor
16 who she lived with, and she went right to this
17 thing that happened, so in my opinion, that kind
18 of time stamped what she was talking about without
19 having to say this was yesterday and X number
20 of -- because children that age normally can't do
21 that type of time frame.

22 Q. Do you recall, Dr. Elsey, how you
23 became aware of the death and the need for the
24 interviews?

25 A. I believe it was -- it was either DSS

1 or law enforcement. I'm sorry. I don't remember
2 which.

3 Q. But it came through one of those two?

4 A. One of those investigative agencies.

5 Q. And these interviews were conducted
6 where?

7 A. At the Dee Norton Lowcountry
8 Children's Center on Upper King Street.

9 Q. And when you were talking about who
10 lived there with N Minor, for instance, who all
11 did she name?

12 A. She named -- is it okay if I refer to
13 my note for that? I just don't --

14 Q. Absolutely.

15 A. She named Brittany and Bryan and
16 Minor Victim, and that's when she said Minor Victim was with
17 Jesus.

18 Q. So Brittany and Bryan are the only two
19 others that she identified?

20 A. She later named G Minor, saying she was
21 there, but at that particular point, she did not.

22 Q. And you mentioned earlier that G Minor
23 was very young, and so were you able to get any
24 additional information from her that we might find
25 helpful?

1 A. Well, she was young. The telling
2 thing, in my opinion, about what she said is she
3 did talk about it being a secret. Then she talked
4 about Bryan being the one who was there shoveling
5 out the pops. But again, a lot of the follow-up
6 questions to her, she was I don't know.

7 CORONER WOOTEN: Yes, ma'am.

8 JUROR NO. 107: Two questions. When
9 they were referring to their mom, did they call
10 her mom or Brittany in the interviews?

11 THE WITNESS: Brittany. They
12 called -- mom, and then she said the name
13 Brittany. When I asked her who was mom, she said
14 Brittany.

15 JUROR NO. 107: Okay. And then the
16 second thing I wanted to ask was when you were
17 interviewing them, did the secret only come up
18 when it was in reference to the brother, or did
19 other parts of the conversation go on, and they
20 would say, oh, that's a secret as well, or was the
21 secret just what was related to the brother?

22 THE WITNESS: Just related to the
23 brother, as I remember.

24 JUROR NO. 107: Thank you.

25 THE WITNESS: Yes, ma'am.

1 JUROR NO. 222: You discussed Bryan
2 around the two girls?

3 THE WITNESS: Did I discuss?

4 JUROR NO. 222: Yeah.

5 THE WITNESS: They brought him up.
6 They brought him up, not --

7 JUROR NO. 222: How did -- did they
8 say how he -- they interact with him or --

9 THE WITNESS: How they interacted with
10 him?

11 JUROR NO. 222: Yeah, with the two
12 girls and Minor Victim.

13 THE WITNESS: They talked about him
14 taking them to the office and talked about him
15 cleaning up Minor Victim, the popping of Minor Victim. You
16 mean in terms of was he a good guy or not a good
17 guy?

18 JUROR NO. 222: Yeah.

19 THE WITNESS: I didn't really ask that
20 question, whether he was good or not good. Let me
21 think if there's anything else they said about
22 him.

23 I believe it was N Minor who talked
24 about him -- because they talked about Minor Victim was
25 asleep when they were going to the office and

1 about Bryan blowing in his face, which that was
2 their language and their words. It could have
3 certainly been trying to resuscitate him. They
4 called it blowing in the face. So that was some
5 sort of trying to take care of the situation.

6 JUROR NO. 107: And just to clarify,
7 whenever they discussed pop, it was an open hand
8 slap and not a closed fist whenever the children
9 were saying -- when you asked her to show you what
10 a pop was?

11 THE WITNESS: Let me double-check.

12 JUROR NO. 107: Okay. An open-handed
13 slap?

14 THE WITNESS: I don't have in my notes
15 whether it was open or closed, but she actually
16 demonstrated, so I don't remember.

17 JUROR NO. 107: But you said she hit a
18 chair, she demonstrated --

19 THE WITNESS: It was -- I asked her to
20 hit the chair like she saw the pop.

21 JUROR NO. 107: Okay. But you don't
22 recall if it was an open hand or if it was more of
23 a fist?

24 THE WITNESS: I don't.

25 JUROR NO. 107: Thank you.

1 JUROR NO. 195: Did they ever mention
2 anything about Minor Victim hitting anything? Hitting a
3 chair? Hitting a wall? Hitting a --

4 THE WITNESS: I asked them questions
5 around that, because I did have a little concern,
6 and it was hard to figure out, to be honest with
7 you. They would say no or actually talk about
8 that or -- but never really definitive said that,
9 no. They denied it several times.

10 JUROR NO. 195: And in the three times
11 you interviewed them, did their demeanor change or
12 their answers change?

13 THE WITNESS: Not really. I mean, I
14 asked them clarifying-type questions, and they
15 provided information. Their information was
16 fairly consistent over the three interviews. They
17 were -- they were always pleasant, again. With
18 N Minor being the older one, she was very
19 personable, a very energetic young lady. They
20 were very pleasant. So they never -- they all --
21 it was pretty consistent through the three
22 interviews.

23 JUROR NO. 107: Do you feel, in your
24 professional opinion after seeing them three
25 times, that perhaps there was some coaching in

1 what not to discuss in reference to calling things
2 a secret, that if anything was said about this,
3 you call it a secret? Did you get any of that, or
4 they were just coming up with that on their own?

5 THE WITNESS: Well, I asked them who
6 would talk about it being a secret. In a
7 different context, it was Bryan, then it was also
8 an auntie they mentioned, an Auntie Leisa, I
9 believe it was they mentioned that had said don't
10 talk about this, or it's a secret.

11 JUROR NO. 107: Okay. Thank you.

12 THE WITNESS: That whole word secret
13 came out of their mouth.

14 JUROR NO. 107: Right.

15 THE WITNESS: I didn't even know
16 they'd been told anything was a secret.

17 JUROR NO. 107: But it came from
18 somewhere because they associated that secret to
19 certain circumstances?

20 THE WITNESS: Right. And I saw --
21 again, as we mentioned, I saw them the next day,
22 so they hadn't been around a lot of --

23 JUROR NO. 107: Right. Okay. Thank
24 you.

25

1 BY CORONER WOOTEN:

2 Q. Dr. Elsey, do you remember who brought
3 them in for the interview?

4 A. I don't.

5 CORONER WOOTEN: Jurors, any more
6 questions for Dr. Elsey while he's here?

7 Due to protecting the minor children,
8 obviously, they've been through a lot, and I made
9 a decision not to share the interview, the
10 videotaped interviews, just out of concern for
11 their privacy. And I think that Dr. Elsey has
12 done a very good job of explaining what was
13 pertinent in it, from my perspective, but he's
14 spoken to it as the interviewer and from his own
15 notes, and I do know that he did spend time
16 reviewing those interviews.

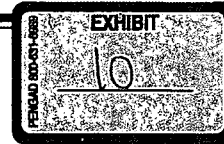
17 Any other questions before we let
18 Dr. Elsey step down?

19 Thank you so much.

20 THE WITNESS: You're welcome.

21 CORONER WOOTEN: Thank you. Because I
22 notice that everybody is a little bit restless,
23 why don't we take a quick ten-minute break.

24 Jurors, you may take a ten-minute
25 break, and we'll resume in ten minutes sharp and



In the Matter Of:

Bryan Oketih Seabrook vs Town of Mt. Pleasant, et al

OFFICER ANDREW DECAMP

August 31, 2017



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STATE OF SOUTH CAROLINA IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON NINTH JUDICIAL CIRCUIT

BRYAN OKEITH SEABROOK,
Plaintiff,

-vs-

Case No.:
2016-CP-10-03542

TOWN OF MOUNT PLEASANT, AND RAE WOOTEN, IN HER OFFICIAL CAPACITY
AS CORONER OF CHARLESTON COUNTY,

Defendants.

THE DEPOSITION OF OFFICER ANDREW DECAMP, taken on
behalf of the Plaintiff, on ~~August~~ 31, 2017, commencing at 12:38
p.m., at the Law Offices of Clawson and Staubes, 126 Seven Farms
Drive, Suite 200, Charleston, South Carolina, 29492.

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I N D E X

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EXHIBITS

(No exhibits marked)

1 OFFICER ANDREW DECAMP, having been first duly
2 sworn, testified as hereinafter set forth.

3 DIRECT EXAMINATION

4 BY MR. PEPPER:

5 Q. If it's okay with you, I'll just call you Officer
6 DeCamp?

7 A. That's fine.

8 Q. We'll try to get you in and out of here real quick.
9 Have you been deposed before?

10 A. I haven't, no.

11 Q. Okay. All right. Other than sitting here for
12 Hembree's deposition, have you sat in on a deposition before?

13 A. Not -- I mean, not in this format, no.

14 Q. Okay. All right. Just to -- did you hear my
15 explanations earlier?

16 A. I did.

17 Q. Okay. And so I will ask you a series of questions.
18 They are not meant to trick you in any way. Most of the time, as
19 you probably now can tell, I honestly just don't know the
20 answers. Okay?

21 A. Sure.

22 Q. So I just need a verbal response from you.

23 A. Okay.

24 Q. If I ask you a long-winded question as I'm prone to
25 do, or a confusing question as I'm getting better at not doing,

1 stop me and ask me for clarification. I'll be more than happy
2 to.

3 A. Okay.

4 Q. Just if you are able to understand the question and
5 can give a response, just make sure it's verbal for the court
6 reporter.

7 A. I understand.

8 Q. Given that I've already heard from Detective Hembree,
9 I don't anticipate this will be very long, but if at any point
10 in time you need to take a break, stop us and we'll take a break
11 for however long you need. Just make sure you don't speak to
12 anyone about your testimony --

13 A. All right.

14 Q. -- until you've been excused, okay? Real quickly, I
15 see you brought some documents ~~with~~ with you today?

16 A. Right.

17 Q. What documents do you have with you?

18 A. This is a copy of the Incident Report publicly
19 available, and that was printed off today. And then on the
20 computer, if I needed it to refer to it, I have a digital
21 version of the case file that was provided during the criminal
22 proceedings. So it's just the packet that was provided to the
23 solicitor's office, which was then provided to the defense, I'm
24 assuming, during the -- when the charges were brought for this
25 case.

1 Q. Okay. And so you have that accessible to you now?

2 A. Right.

3 Q. Have you reviewed the information that you have
4 accessible to you now?

5 A. I have, yes.

6 Q. All right. And just so I'm clear, what you have
7 printed out is just the Incident Report?

8 A. Correct.

9 Q. Okay. But what you have access to on your computer
10 would be the entire case file --

11 A. Right.

12 Q. -- which you would agree with me, instead of asking
13 you, you would agree with me would consist of every single thing
14 that was done from the date of the incident until the case was
15 dismissed?

16 A. I probably wouldn't agree with that. I would say it's
17 documentation of what was done on the case up until the charge
18 was made and it was bound over to the Solicitor's Office.

19 Q. I see. Okay. And that's what I'm trying to get at.

20 A. The Solicitor's Office aspects of the case or their
21 developments or their research, or however they strengthened the
22 case from there, I don't have documentation for that.

23 Q. All right. Well, for instance, is one of the
24 documentations a letter from the Solicitor's Office dated
25 September 8, 2015, of which you were cc'd on, notifying you that

1 they were dismissing the case?

2 A. I received a letter. If that's the same letter
3 that's -- I did receive one of those during the course of it.

4 Q. Right.

5 A. It was probably put with the case file. There is a
6 copy with the case -- the physical case file. This is a digital
7 version of what was submitted to the Solicitor's Office, so that
8 wouldn't be -- that wouldn't be part of it because that was
9 post-arrest and post --

10 Q. All right. Are there -- thank you for clarifying
11 that.

12 Other than the digital case file that was given to the
13 Solicitor's Office, of which probably includes what's printed
14 here in the Incident Report, right?

15 A. Yes, sir.

16 Q. Have you reviewed any other documents in preparation
17 for this deposition?

18 A. No.

19 Q. Have you -- and I don't want to know what you said,
20 but have you spoken with your attorney in preparation of this
21 deposition?

22 A. I have.

23 Q. On how many occasions?

24 A. One. One occasion prior to today.

25 Q. And when was that?

1 **A. That was on the --**

2 MR. DOMIN: I don't think you get to find out
3 when we were meeting.

4 MR. PEPER: What's that?

5 MR. DOMIN: I don't think you get to find out
6 what days we meet on. I'm going to object and say that's
7 attorney-client communication.

8 MR. PEPER: Okay.

9 BY MR. PEPER:

10 Q. Besides your attorney, again, I don't want to know what
11 you all discussed, but have you discussed this matter with
12 anyone else in preparation for the deposition today?

13 **A. No.**

14 Q. All right. Which would include Lt. Hembree?

15 **A. Okay.**

16 Q. So have you discussed this matter with Lt. Hembree in
17 anticipation of your deposition?

18 **A. I did not discuss this incident with him directly.**

19 Q. All right. I got you. Have you been in a room with
20 Lt. Hembree and discussed this matter?

21 **A. Yes.**

22 Q. Okay. All right. Is it fair to say that that was with
23 your attorney?

24 **A. Yes.**

25 Q. Okay. All right. Give me a brief background. Again,

1 I'm not going to ask you any sensitive personal information, but
2 just kind of bring me up to speed on your law enforcement
3 career.

4 A. I started with the Mount Pleasant Police Department in
5 March of 2009, at which point I attended a pre-academy program,
6 and then an academy program in Columbia. I successfully
7 completed the law enforcement academy. Then I went through a
8 field training program at the police department and successfully
9 completed that.

10 I became a patrol officer at that point, where I worked
11 in the patrol division until March of 2012; at which point I
12 became a detective in the Criminal Investigations Bureau with
13 the Mount Pleasant Police Department, where I worked general
14 investigations for a term of five years.

15 From that point, ~~this~~ past April, I received a
16 promotion to field training officer, and I've since transferred
17 back to the patrol division.

18 Q. Great. So from April of 2012 to April of 2017 you
19 were with the detectives division?

20 A. I believe it was March 2012.

21 Q. All right.

22 A. I believe.

23 Q. All right. March 2012, okay. Any specific division
24 within the detectives division, or is it just a general --

25 A. It's a general -- everybody is general investigations.

1 At the time that this occurred there were seven detectives and
2 two supervisors in the office, and we worked 8:00 to 4:30, Monday
3 through Friday. And there was on-call and as-needed. So, at
4 that time detectives took a one-week, on-call shift. So one week
5 out of every seven you would be the on-call detective.

6 Everybody has always had their -- perhaps their
7 strengths or their weaknesses in the office as far as what
8 you -- either what type of crime they prefer to work, or what
9 type of crime they're good at working, or perhaps have more
10 training on it. But everybody's expected to be able to work
11 every type of crime that comes with that on-call rotation.

12 Q. Okay. This incident, which happened March 18, 2013,
13 that would be approximately a year after you were with the
14 detectives?

15 A. I'm sorry, it was ~~March~~-19th.

16 Q. Okay. All right. March 19, 2013?

17 A. Yes, sir.

18 Q. Would be about a year into your --

19 A. Correct. Approximately a year into my position with
20 the investigations.

21 Q. All right. To the extent you can, I know it's been a
22 long time ago, but up until that point, what kind of training
23 did you have specific to criminal investigations?

24 A. At that point I know that I received a lot of
25 on-the-job training, being taken under wing, so to speak, by

1 other more senior detectives at the time. And, I apologize, I
2 don't have my training file with me, and I'm not sure -- I know
3 one of the more significant training classes that I took at one
4 point earlier on in investigations was a forensic interviewing
5 class in Columbia, but I fail to recall whether that was before
6 or after this incident took place.

7 I know it was in the beginning of my investigation
8 stint; however, I don't remember if that was before or after.

9 Q. Before or after the March 19, 2013 --

10 A. March 19, yes, sir.

11 Q. Okay. Any specific training regarding probable cause?

12 A. Well, officers -- other than at the police academy
13 where we're versed in standard of probable cause, and then also
14 on-the-job training from there on out, clearly probable cause is
15 emphasized throughout an officer's career, and it's reviewed
16 during field training -- during the field training program with
17 Mount Pleasant Police Department.

18 Q. And what is your understanding as you sit here today
19 as to what probable cause means?

20 A. Probable cause would mean that a set of facts would
21 lead a reasonable person to believe that a specific person
22 committed a certain crime.

23 Q. Okay. All right. And what kind of factors go into
24 that?

25 A. Well, one has to collect evidence, and that can be, you

1 know, physical evidence, eyewitness accounts, statements, a
2 variety of factors. You know, speaking with people and
3 processing scenes, trying to develop a working understanding and
4 a solid, factual basis of what took place at a certain time.

5 Q. Okay. Specifically in this case, what factors allowed
6 you to move forward with the assertion that there was probable
7 cause?

8 A. In this case we were working with a couple different
9 types of evidence. We were working with eyewitness testimony,
10 information in evidence that was secured through forensic
11 interviewing of the decedent's two siblings. Also, moving
12 forward was forensic evidence of the autopsy of the decedent's
13 body. Also, was the medical expert's information provided to the
14 investigating officers, to include the pathologist's report.

15 Also, you know, developing a time line of who had
16 access to the child prior and at the time of his death.

17 Q. And those factors is what you would include in the
18 facts that give rise to probable cause when drafting an arrest
19 warrant, an affidavit to the arrest warrant?

20 A. Yes.

21 Q. Okay. Is it important, based on your training and
22 experience, to include -- or does it matter how many facts are
23 included in the affidavit?

24 A. I believe that it's a good practice to have a
25 comprehensive affidavit. Putting together a factual basis that

1 makes it clear that probable cause has been established, with the
2 understanding that charges are brought at different times during
3 an investigation and can always be strengthened with other
4 information or, you know, there's a variety of additional
5 evidence that could come forward throughout an investigation.

6 However, the primary -- I would say one of the primary
7 factors of an affidavit is establishing some solid probable
8 cause at that time to present in front of the judge.

9 Q. Okay. If I understand you correctly, you believe it's
10 more important to place the facts which you know to be true in
11 the affidavit versus the facts that give rise to probable cause
12 that you're not sure are 100 percent true. Is that fair to say?

13 MR. DOMIN: Object to the form. Go ahead.

14 A. Well, I believe that a good overall understanding of
15 the picture -- ~~comprehensive-picture~~ of the evidence that you
16 have to support the charge that you're bringing needs to be
17 presented in that affidavit. If there were issues such as
18 exculpatory evidence or something like that, that's something
19 that would need to be addressed before even an affidavit would
20 be considered.

21 However, with a solid case or a case where probable
22 cause has been established with solid information, I think that
23 putting that in, within reason, I would say that it's not
24 standard practice to have a six page arrest affidavit. However,
25 establishing in a very -- in a summarized manner, establishing

1 the facts that you have to support your case is important.

2 Q. Is it fair to say that when you apply for an arrest
3 warrant, the goal is to get the judge to agree with you that
4 these facts give rise to probable cause, and, therefore, sign the
5 arrest warrant?

6 A. I would never present an affidavit to a judge that I
7 wouldn't expect them to agree as a reasonable, educated person
8 that probable cause been met, because I believe that as
9 an investigating officer, that should be established with you
10 prior to presenting it to a judge.

11 However, I think my primary goal and purpose would be
12 to lay out the facts of the case that I believe to be probable
13 cause and present it to the judge for their consideration. I
14 wouldn't want to phrase it that my main goal is to attempt
15 them -- or to attempt to persuade--or in any other manner, guide
16 them to sign an arrest warrant.

17 Q. And that was a bad word I used. I didn't mean that
18 you were trying to trick the judge. But what I was trying to
19 get at is exactly what I understand your testimony to be, is
20 that you don't present it to a judge unless you believe the
21 facts therein listed are accurate and true and give rise to
22 probable cause, correct?

23 A. Correct.

24 Q. Okay. All right. And if I understood you correctly,
25 if there was exculpatory facts, you would also include those in

1 the affidavit for the court to consider?

2 A. Exculpatory evidence or facts I think would be
3 considered prior to the issuance of an arrest warrant, or prior
4 to even drafting an arrest affidavit. They would be considered
5 -- if it were good, credible exculpatory evidence, it wouldn't
6 even make it -- we wouldn't -- an investigation wouldn't even
7 make it to the point of signing that affidavit or drafting that
8 affidavit.

9 However, given that everyone who has been charged with
10 a charge usually either has some sort of defense, I don't
11 necessarily think that a defense short of something definitively
12 exonerating them of the charge would be included in the
13 affidavit. I don't think that a defendant's defense is
14 illustrated in an arrest affidavit.

15 Q. Okay. And so in ~~your~~ experience, you're only
16 including facts that give rise to probable cause indicating that
17 this individual did commit the crime?

18 A. Correct.

19 Q. Okay. All right. Because that's the case, would you
20 agree with me that's it imperative that those facts be extremely
21 transparent?

22 A. Yes.

23 Q. Okay. All right. It would be better practice to
24 simply state the facts as opposed to summarizing the facts,
25 correct?

1 A. I would say, within reason, you would want to be clear
2 about what your -- what the facts that you're stating in your
3 affidavit, and to be detailed enough for the judge reading the
4 affidavit to have an understanding of the evidence held for the
5 case.

6 Q. Okay.

7 A. In other words, you know, going back to -- you know,
8 this case has a large case file and I can't simply place every
9 sentence into the arrest affidavit, however. So, some
10 summarizing must be done to get it into a digestible form.
11 However, I think there's a responsibility to go into enough
12 detail that there aren't any misunderstandings about the
13 evidence.

14 Q. And do you believe that this affidavit went into
15 enough detail to where there ~~was~~ no misunderstanding by Judge
16 Duffy upon his review?

17 A. I do.

18 Q. And you presented this affidavit to Judge Duffy at his
19 home, is that correct?

20 A. If I may refer to my report?

21 Q. Sure, sure.

22 A. I did meet with Judge Duffy at his residence at about
23 2:20 in the afternoon.

24 Q. All right. And did you go inside or was that on the
25 porch?

1 A. When I meet with Judge Duffy, it's always inside his
2 residence.

3 Q. All right. Do you recall how long you stayed?

4 A. I don't recall how long I was there.

5 Q. All right. Do you recall offering any additional
6 information to him about this case other than what was listed in
7 the affidavit?

8 A. When I -- as a standard practice, I've never walked
9 into Judge Duffy's residence and provided him an affidavit
10 without summarizing the case or -- in a manner, or answering any
11 questions that he may have. So I guarantee you that there was
12 some sort of explanation or background rather than giving him
13 this affidavit to digest just by itself. However, I'm not sure
14 exactly what we discussed or what his questions were at the time.

15 Q. All right. He signed the warrant, obviously, right?

16 A. Yes, sir.

17 Q. Can you tell me whether or not your discussions with
18 him influenced his decision as to whether or not to sign your
19 warrant?

20 A. I don't know that for sure.

21 Q. Did he -- upon reading it -- did he read it?

22 A. He did read it, yes.

23 Q. That's good. Upon reading it, did he ask you any
24 questions?

25 A. I don't recall if he asked me any specific questions

1 about the case.

2 Q. All right. As he was reading it, were you offering
3 any information while he was reading it?

4 A. Typically, I will -- typically, when I meet with Judge
5 Duffy, I will summarize the case, give him some background on
6 the case, just so he understands what incident we're speaking
7 about specifically, you know, when it happened. And then when
8 provided the affidavit, I don't interrupt the judge.

9 If he has any questions, I will address them as they
10 come up. But other than that, no, I wouldn't narrate or add
11 supplemental information line for line as he goes -- as he
12 considers the affidavit.

13 Q. Okay. All right. And in your -- and you -- sorry.

14 Is your testimony that you don't recall in this case
15 whether you gave him a summary?

16 A. My statement here is that I have never not given him a
17 summary.

18 Q. Okay.

19 A. That always happens when I go in front of any judge,
20 to include Judge Duffy. This case, I guarantee you was no
21 different.

22 Q. Sure.

23 A. I don't specifically recall my exact statements to
24 him.

25 Q. All right. Well, you may not be able to answer these

1 questions then, but in your summary that you are certain you
2 probably gave him -- right?

3 A. Right.

4 Q. Did the summary include the ages of the eyewitnesses?

5 A. I would have discussed the age and who the
6 eyewitnesses were. For instance, I would explain that these
7 were the -- you know, the four-year-old and three-year-old
8 siblings of the decedent, and the information was obtained
9 through forensic interviews at the Lowcountry Children's Center.

10 Q. Okay. And I appreciate the fact that you would have
11 done that. What I'm asking you is, did you do that?

12 A. I don't recall that.

13 Q. Okay. You drafted this affidavit, correct?

14 A. I did.

15 Q. All right. Is there ~~any~~ specific reason why you used
16 the word "eyewitnesses," and eyewitnesses only?

17 A. No. Other than a manner of summarizing -- somewhat
18 summarizing the facts of the case.

19 Q. All right. And I'm showing you what's been marked as
20 Plaintiff's Exhibit 3. And you do see what I'm referring to?

21 A. I do see that.

22 Q. The last -- and can you go ahead and read that last
23 sentence?

24 A. "That eyewitnesses reported that the defendant struck
25 the victim shortly before the victim became unresponsive."

1 Q. All right. And to the first-time reader there's no
2 way to know who the eyewitnesses were, correct?

3 A. Correct.

4 Q. There's no way to know the age of the eyewitnesses,
5 correct?

6 A. Correct.

7 Q. There's no way to know under what setting the
8 eyewitnesses reported it, correct?

9 A. I'm sorry. Do you mean under what -- under what
10 form the --

11 Q. Yes.

12 A. -- the information was received or provided?

13 Q. To who? Right.

14 A. No. Correct.

15 Q. In other words, ~~it does~~ it doesn't say the eyewitnesses
16 reported to Don Elsey?

17 A. Uh-huh. Correct.

18 Q. It doesn't say the eyewitness age four and two, does
19 it?

20 A. I believe it was four and three, but correct.

21 Q. Just turned three?

22 A. Yeah.

23 Q. Okay. All right. And you cannot recall whether or
24 not you advised Judge Duffy that the eyewitnesses who reported
25 that the defendant struck the victim shortly before the victim

1 became unresponsive were ages four and three?

2 A. I can't tell you specifically --

3 Q. Okay.

4 A. -- that I -- I don't recall specifically saying that
5 information.

6 Q. Do you recall if he asked you their ages?

7 A. I don't recall.

8 Q. All right. Do you recall if he asked you for a
9 better -- well, do you recall if he asked you for an explanation
10 as to what "struck" meant?

11 A. I don't recall that.

12 Q. Do you recall if you informed him as to what the word
13 struck meant?

14 A. I don't recall that.

15 Q. Okay. When you ~~drafted~~ that sentence, why did you
16 choose the word "struck"? Was there any specific reason?

17 A. No. Just trying to state the facts of the case.

18 Q. Would you agree with me that the facts of the case are
19 that the defendant popped the victim?

20 MR. DOMIN: Object to the form. Go ahead.

21 A. I think that based on the information we had and the
22 information that was demonstrated by the children being
23 interviewed, is that more accurately -- a more accurate term
24 would be "struck" as opposed to popped, and I think popped would
25 be classified as perhaps child vernacular for what actually took

1 place. And I only say that because they used the word "popped"
2 in the interviews, but then a demonstration has since clarified
3 it, which Don Elsey went into with them in the interviews.

4 Q. Okay. But did the eyewitness ever say that Daddy
5 struck **Minor Victim**?

6 A. No.

7 Q. Did the witnesses say that Daddy popped **Minor Victim**?

8 A. Yes -- well, not Daddy, but --

9 Q. Bryan, the defendant?

10 A. Bryan.

11 Q. Right. And so you would agree with me that it would
12 be more factual to replace the word "struck" with popped?

13 MR. DOMIN: Object to the form. Go ahead.

14 A. I think left alone, it would probably be misleading to
15 say "popped," as that is a term that needs clarification.

16 Q. I would agree.

17 A. Okay.

18 Q. But we are talking about a caretaker and a four- and
19 three-year-old, correct?

20 MR. DOMIN: Object to the form.

21 A. Right.

22 Q. And so would an explanation of "popped" be just that?

23 MR. DOMIN: Object to the form.

24 Q. Was there any conversation at all with Judge Duffy and
25 yourself regarding this exact conversation, struck versus

1 popped?

2 A. I don't recall that.

3 Q. The basis for the wording of the fact that the strike
4 was shortly before the victim became unresponsive is what?

5 A. I'm sorry. Could you repeat the question?

6 Q. What is your basis -- yeah, I'm sorry.

7 What is your basis for "shortly before the victim
8 became unresponsive"?

9 A. Okay. May I refer to my report?

10 Q. Yes, sir. And just for the record, you're referring
11 to your report -- your narrative -- your supplemental report?

12 A. Correct.

13 Q. And that would be found on RULE 5 Page 46, is that
14 right?

15 A. I believe I have ~~three~~ separate entries in this
16 report.

17 Q. Okay.

18 A. The first one is clarifying simply the victim's -- I'm
19 sorry, the decedents' siblings' information. Then the next one
20 goes through the date of the incident to the date of arrest.
21 And that's the section that I'm pulling from right now.

22 Q. All right. And so what's your date entry of the
23 section you're referring to?

24 A. Let's see here. The date entry was March 25, 2013, and
25 it is my report entry about the second forensic interviews with

1 N Minor and G Minor

2 Q. Okay.

3 A. And so when observing Don Elsey's interview of -- with
4 N Minor, he broached the topic of Bryan, quote, "popping Minor Victim,"
5 and N Minor indicated that after Bryan popped Minor Victim, Minor Victim
6 then began crying, and that Bryan then set him in the room,
7 quote, "and then he fell asleep." She was then asked what
8 happened when he fell asleep, and she responded, "he went to
9 God."

10 Q. All right. Now that sounds to me like a sequence of
11 events. Is that how it sounds to you?

12 A. Yes.

13 Q. And this was N Minor?

14 A. Correct.

15 Q. Who was four years ~~old~~ correct?

16 A. Correct.

17 Q. And were you -- was there any concern from you that a
18 four-year-old could not give a factual sequence of events?

19 A. In my -- to my knowledge, based on my training, I was
20 concerned perhaps prior to this series of forensic interviews
21 because I hadn't seen them yet. But in seeing them, to me, I was
22 not concerned with her comprehension of the incident at hand.

23 So after having observed this forensic interview, it
24 seemed very clear to me, which is one of the factors that went
25 into the idea of having three -- a series of three forensic

1 interviews with both children.

2 Q. All right. And you would agree with me that both
3 children gave different stories all three times?

4 A. I don't necessarily think that's true. Perhaps it may
5 have been worded slightly differently and -- however, I believe
6 that based on the content that was in these interviews, that
7 there was some consistent information in there that was good
8 evidence.

9 Don Elsey would have to -- or an expert of children
10 testimony or child testimony would have to further explain
11 whether any of that was invalid or not.

12 Q. All right. So did you actually view the child's
13 interview as it was happening?

14 A. The -- let's see here. The second and the third
15 forensic interviews I observed ~~as~~ they were happening.

16 Q. Okay.

17 A. The first one was attended by Detective Stephenson.

18 Q. Right. Now are you familiar -- did you have an
19 opportunity to review Stephenson's summary of the first
20 interview?

21 A. I did. I was also able to see the video of the first
22 round of interviews.

23 Q. And so you are aware that in the first interview
24 N Minor disclosed that Minor Victim would get popped with clothes on
25 with an open hand?

1 A. And that was -- I'm sorry. And that was in the first
2 round of interviews?

3 Q. Stephenson.

4 A. Okay.

5 Q. You were the case agent, correct?

6 A. Right.

7 Q. So you would have had access to Stephenson's reports?

8 A. Right.

9 Q. And you would have had access to communicate with him
10 about his findings?

11 A. Right.

12 Q. And so if he placed in his report that statement, you
13 would have known that?

14 A. Correct.

15 Q. All right. And so ~~in the~~ first interview N Minor
16 discloses that Minor Victim would get popped with clothes on
17 and an open hand, correct?

18 A. Yes.

19 Q. All right. Now, if we go back to Exhibit Number 3, was
20 that the basis for this last fact establishing probable cause,
21 the first interview?

22 A. That Minor Victim would get popped with clothes on with an
23 open hand?

24 Q. Yes.

25 A. As like a -- no.

1 Q. Okay.

2 A. That was -- I believe that was more of a statement
3 given the context of establishing that -- just that; that
4 whatever they considered to be popped is an open-handed gesture
5 and that it does happen with his clothes on. I don't think that
6 necessarily that statement in and of itself would be -- was the
7 information to create that sentence on the affidavit.

8 Q. All right. Do you recall testifying at the
9 preliminary hearing --

10 A. Yes.

11 Q. -- on this matter? And in response to this line of
12 questioning, do you recall testifying that the basis for this
13 factual allegation was your observation of the second round of
14 interviews?

15 A. I don't specifically ~~remember~~ saying that in the
16 preliminary hearing; however, I think it would be my observation
17 of the second round of interviews, and also the third round of
18 interviews, which I also attended.

19 Q. Okay. And the second round of interviews is what we
20 just went over earlier, correct?

21 A. Correct.

22 Q. All right. And then the third round of interviews
23 would have been on April 3, 2013, correct?

24 A. That is correct.

25 Q. And you attended those interviews?

1 A. I did.

2 Q. Do you want to go ahead and just read us your entry on
3 4/3/13?

4 A. "At 1215 hours, I attended the third forensic
5 interview for N[Minor] and G[Minor] at DNLCC. In
6 N[Minor] interview, she reiterated that she was watching a
7 movie when [Minor Victim] was hurt, and that Bryan was the adult at home
8 with them. She stated that '[Minor Victim] was awake, and then he was
9 asleep.' She also stated that 'Bryan told me to get out of the
10 room, and he was asleep.' When Dr. Elsey asked which room she
11 was in, she replied 'Mommy's.' Dr. Elsey asked her if anyone
12 else 'pops' [Minor Victim], she replied, 'No, just Bryan.' When Dr.
13 Elsey began asking her about what Bryan told her, she stated
14 that he told her 'don't talk about anything,' which she conveyed
15 in an urgent tone. When Dr. Elsey questioned her about anyone
16 hitting the wall, she indicated that she hit the wall and
17 knocked out a tooth while playing."

18 Q. Now that is your -- those are your observations
19 reduced to writing?

20 A. Correct.

21 Q. Okay. And is it fair to say that you never observed
22 her say that the defendant struck baby [Minor Victim]?

23 A. She never used the word struck.

24 Q. Okay. But -- I just want to -- you're referring to
25 the "pop" that we've been discussing?

1 A. Right.

2 Q. Okay. All right. And you never observed her state
3 when this happened, correct?

4 A. I believe that the -- you would have to clarify with
5 Don Elsey as to the tactics that are used, but I believe that as
6 far as anchoring a -- an incident of being, quote, "popped" to
7 this actual incident was the sequence of events of that he fell
8 asleep and he went to heaven or went to God, indicating the
9 significance of the incident, not simply the siblings stating
10 he gets popped or he once got popped.

11 There's more information in the forensic interviews to
12 corroborate that this was a significant event that changed
13 Elijah from responsive to unresponsive or asleep; and, also, the
14 more permanent change that he went to God. There's also
15 statements in the forensic interviews of him bleeding and Bryan,
16 you know, telling them to get out of the room.

17 Now, to me, having witnessed these forensic interviews
18 it appears very sequential and connected to me, and Don Elsey
19 would have to further explain that.

20 Q. Okay. I'm going to show you what's been marked as
21 Exhibit 2 --

22 A. Okay.

23 Q. Do you agree with me that this is Don Elsey's
24 explanations?

25 MR. DOMIN: Object to the form. Go ahead.

1 Q. Do you agree with me that that's his summary?

2 A. Yes.

3 Q. All right. And on the very last page, what is the date
4 of that summary?

5 A. It is 4/3 of '13.

6 Q. And if you go back up about halfway up, do you see the
7 question that says, "Does the child present as being able to
8 order events sequentially?" Do you see that?

9 A. I do.

10 Q. And what is his answer?

11 A. No.

12 Q. That is Dr. Elsey's answer, correct?

13 A. Correct.

14 Q. Which is contrary to your opinion?

15 MR. DOMIN: ~~Object~~ Object to the form.

16 Q. You believe that she had the credibility to
17 sequentially tell you the order in which things happened; is
18 that a fair statement?

19 MR. DOMIN: Object to the form. Go ahead.

20 A. I think that to me it appeared that she was competent
21 to sequentially order actions.

22 Q. Okay.

23 A. However, I also think it would be worth noting that I
24 do also believe that she may have the ability to at least, for
25 lack of a better term, "cluster events together" to where if it

1 didn't -- if something didn't happen in this exact sequence, I
2 do believe that she was able to stay on topic on one incident.
3 Whether she states that this happened first, that happened
4 second, this happened third, I do believe that their
5 conversation about this incident was a focused conversation, and
6 the information she provided was relevant to that incident
7 itself. And I don't necessarily think that this question or
8 this objective on his report really indicates whether she was
9 able to do that or not.

10 Q. All right. And this incident that you're referring to
11 spanned over what period of time?

12 A. The incident -- there's not a -- I don't believe that
13 there was a specific time frame established with her, and that
14 may be due to her age. I don't think that she would have been
15 able to answer what happened ~~on~~ March 19th; however, once again,
16 I believe this incident was established based on the content of
17 her comments and linking it to a significant event in which
18 Elijah became unresponsive.

19 Q. All right. When you submitted the affidavit on the
20 arrest warrant did you tell the judge that Dr. Elsey disagreed
21 with that last factual statement?

22 A. No, I did not.

23 Q. When you met with Dr. Schandl, what was her
24 explanation of her autopsy report?

25 A. In meeting with Dr. Schandl she provided me a copy of

1 the autopsy report that she compiled. She also explained her
2 findings, and she indicated that internal bleeding took place
3 and the signs of injury that she observed were consistent with
4 blunt force trauma, possibly to the right side of the abdomen.

5 Dr. Schandl stated that the injuries found were -- she
6 found both acute, and that -- and she further clarified that the
7 term "acute" that she was using, she said that "acute" meant
8 within 24 hours, but she said likely within four hours. So that
9 was the established time frame that she provided.

10 Q. All right. I noticed in answering that question you
11 were referring to your notes --

12 A. Right.

13 Q. -- but then some of the answer is not included in your
14 notes.

15 A. Okay.

16 Q. So let's just do this: I know what your notes say.

17 A. Right.

18 Q. What is your interpretation of what she explained to
19 you?

20 A. Okay. So she stated, without looking at my notes and
21 not knowing medical terms, she believed that blunt force trauma
22 was the cause of death and that the child bled a lot internally.
23 There was hemorrhaging from multiple organs inside the body.
24 She believed that the blunt force trauma was probably on the
25 right side of the body, of the abdomen -- abdominal area; that

1 there were acute and non-acute injuries that were similar, to
2 include a rib fracture that was acute, and I believe two rib
3 fractures that were non-acute and healing. There was also a tear
4 in the mesentery, which was acute, and also damage to organs to
5 include the liver was adhesed to the diaphragm, which indicated
6 previous similar trauma to the child.

7 I'm not sure if I stated this before, but she believed
8 that it had to be a significant enough amount of force that it
9 could not have been delivered by one of the child's siblings.
10 It would have had to be likely an adult, and that she did not
11 believe this could happen with a routine fall or playing
12 accident. And she believed that the most appropriate
13 classification of the death was homicide based on that.

14 Q. Homicide by what?

15 A. I'm not sure that ~~she~~ went into that, but homicide by
16 blunt force trauma.

17 Q. Okay. I'll show you what's been marked as Plaintiff's
18 Exhibit 4 and ask if you've reviewed that document?

19 A. I have, yes.

20 Q. And when you placed in your notes that you and Hembree
21 attended a meeting with her where the autopsy report was
22 provided to us, is this the document you're referring to?

23 A. It is.

24 Q. Okay. And at the bottom of that document, what does
25 she list as the cause of death?

1 A. Blunt trauma to the torso.

2 Q. All right. And so did she explain the cause of death
3 to you differently, or did she explain to you that it was blunt
4 trauma to the torso?

5 A. So the information that she provided to us when
6 she was going over some of this hemorrhaging with the organs and
7 things like that, and she was referring to some of these organs
8 that are in the abdomen. And so if what you're trying to
9 address here is the difference between torso and abdomen, I do
10 know that we were speaking about abdominal organs being injured.
11 Whether taking blunt trauma to the torso and placing it in the
12 affidavit versus the abdomen, that may have been simply my lack
13 of understanding of different medical terms for the -- you know,
14 for the trunk of the body.

15 Q. Okay.

16 A. There wasn't a conscious effort on my part to
17 differentiate from the cause of death listed on the autopsy
18 report. That abdominal area and the injury to the abdominal
19 area was a very -- was a common theme about what we were
20 speaking about with Dr. Schandl, so I didn't think it
21 inappropriate to put that.

22 Q. And I appreciate that candor and testimony. And as
23 you sit here today, is it still your position that the autopsy
24 results indicate that the victim sustained fatal, acute
25 abdominal injuries?

1 A. Yes.

2 Q. All right.

3 A. Well, yes. To the abdomen, trunk area of the body.

4 Pretty much from the -- in my layman's terms, pretty much below
5 the shoulders and above the waist.

6 Q. Now, in reviewing the autopsy report, nowhere does she
7 indicate that to be correct, does she?

8 MR. DOMIN: Object to the form. Go ahead.

9 Q. In her report that you've reviewed, both prior to
10 making the affidavit for PC and prior to your testimony
11 today, is there anywhere in the report that states the victim
12 sustained fatal, acute abdominal injuries?

13 A. If you'll give me just a moment, please.

14 Q. Sure.

15 A. Well, if you'd like, ~~I can~~ read it word for word. Or,
16 I mean, I don't know of a specific incident that I can refer to
17 immediately in the autopsy report where it says that.

18 Q. If you took out those words in your affidavit, it
19 would simply read the victim sustained blunt force trauma,
20 correct?

21 A. Okay.

22 Q. Okay. You agree with me that that would be more
23 factually accurate? And, in fact, that would specifically list
24 the specific cause of death listed on her report?

25 MR. DOMIN: Object to the form. Go ahead.

1 A. It wouldn't be inaccurate. I would say that the way
2 it's written now provides more information. Whether the abdomen
3 and the torso are not synonymous, then that's information that
4 would have to be revised if it's not listed in the autopsy
5 report.

6 However, if it were simply laid out that, you know,
7 that the defendant -- I'm sorry, that the victim sustained fatal
8 blunt force trauma, it would be accurate, it would perhaps not
9 give as much information as it is written now.

10 Q. Well, would you agree with me that had it said that,
11 it would at least generate some question and answer regarding
12 when this blunt force trauma occurred?

13 MR. DOMIN: Object to the form. Go ahead.

14 A. I don't know that it would create a question of when
15 any more than what this states--here --

16 Q. Well, what -- okay.

17 A. -- but perhaps where.

18 Q. All right. Did Dr. Schandl define for you in layman
19 terms blunt force trauma?

20 A. I don't recall her specifically laying out word
21 for word a rewording of blunt force trauma. So no, I don't know
22 that -- I can't give you an exact clarification to that term.

23 Q. At the time that this autopsy was explained to you,
24 what was your understanding of the difference between acute and
25 blunt?

1 MR. DOMIN: Object to the form. Go ahead.

2 A. I saw them, and see them as two unrelated terms.
3 "Acute" meaning a possible time frame from the time of death that
4 the injury was inflicted, and "blunt" simply being the manner of
5 having a -- being struck by some sort of blunt force or some
6 blunt object versus a sharp or penetrating object.

7 Q. And you don't recall whether or not Dr. Schandl
8 expounded upon the difference between acute and blunt?

9 A. I'm sorry. I may not be understanding, but I don't
10 see the relation here between acute and blunt. Acute being the
11 time frame and blunt being the manner.

12 Q. Okay.

13 A. Is that right? I mean, acute versus non-acute, she
14 went into that, which was acute being within 24 hours. In this
15 incident she believed likely ~~within~~ four hours of his death.

16 Q. All right. That's exactly what I'm getting at. So
17 when you left there, your understanding was just that, that
18 acute meant within 24 hours, and non-acute meant outside --

19 A. Correct, as a general term.

20 Q. As a general term. And that "blunt force trauma" just
21 meant general -- well, let me ask you, what did you believe
22 blunt force trauma to mean?

23 MR. DOMIN: Object to the form. Go ahead.

24 A. So blunt force trauma didn't -- in my opinion, didn't
25 need to be explained at the time --

1 Q. Okay.

2 A. -- because we've dealt with that before.

3 Q. Got you.

4 A. You know, from a policeman's perspective, if you get
5 hit with a bat, that's blunt force. It didn't penetrate the
6 body. Hypothetically, if someone were stabbed, that's a
7 penetrating wound. It's not a blunt object. So it's -- so that
8 was not necessarily explained if there may have been some -- if
9 she provided an explanation of, for example, if "this" possibly
10 happened, or "that," that may have happened. I don't remember
11 specifically if she gave an example, and if she did, what it
12 was.

13 Q. Do you remember specifically her explaining the 24
14 hours versus non-acute?

15 A. Yes.

16 Q. Okay. And do you remember her explaining that -- I
17 can't remember how you testified, but that the injury that
18 caused the death -- did she give you a specific injury that
19 caused his death?

20 A. It was somewhat simplified to me. But my
21 understanding walking out of this meeting and after reading the
22 autopsy report was he -- this child died from blunt force
23 trauma, which caused hemorrhaging and damage to multiple organs,
24 which caused a large volume of blood to be bled internally, which
25 was the cause of his death.

1 Q. Okay. I would agree with you, which is why I'm -- in
2 leaving with that understanding, is it fair to say that you
3 believed that all of that blunt force trauma had occurred while
4 only in the custody of Mr. Seabrook?

5 A. That is my understanding from this case, yes.

6 Q. Okay.

7 A. The acute injuries that were found.

8 Q. So that was your understanding, but she never -- did
9 she ever explain to you what the actual -- I'm trying to think of
10 right word -- what pushed him over the edge?

11 MR. DOMIN: Object to the form.

12 A. She did not expound into any realm of motive or
13 suspect.

14 Q. Okay. That was a bad question. Did she explain to you
15 why Minor Victim died when he died?-----

16 A. Okay. I don't know that I'll be able to answer it in
17 more detail than the idea that he bled internally from multiple
18 organs that were hemorrhaging. The ones that I remember off the
19 top of my head was I think the mesentery, the tips of the lungs,
20 the liver, all -- and perhaps the kidney, I'm not sure. But
21 there were multiple organs that were hemorrhaging blood into his
22 body. And bleeding out that way, I believe led her to
23 believe that this happened within -- likely within four hours,
24 simply based on the amount of damage to the organs and the
25 amount of blood located at the time of death in the abdomen. I

1 believe it was 300 milliliters. So --

2 Q. When did she change that opinion?

3 A. So -- well, I don't think she ever changed that
4 opinion of that's how he died. I think that's still her opinion
5 that he died from some force being placed on this child to cause
6 bleeding, internal bleeding, and to essentially bleed out. I
7 don't know if that's the term if it's internal, but.

8 Q. Okay, but when she explained her findings to you, she
9 told you that that force occurred within the last four hours?

10 A. Likely -- she believed likely within four hours of his
11 death that that took place. Rephrased as she didn't believe
12 that there was much of a chance that damage like this -- with
13 damage like this to this child, that he would have lasted longer
14 than four hours before dying.

15 Q. All right. Based ~~on your~~ investigation, how many
16 adults had access to baby Minor Victim within four hours of him being
17 taken to the ER?

18 A. Within four hours, it was two adults.

19 Q. And is there any specific reason you left the four
20 hours out of the affidavit establishing the facts for PC?

21 A. Because I felt that what she -- the facts that she
22 gave us was that it was acute. And acute -- her definition --
23 and this is my understanding, is that, medically, "acute" means
24 within 24 hours. If that's not correct, then I walked out of
25 that meeting misunderstanding her. But that was the general

1 definition that she gave me and the other people in the room:

2 "Acute" would mean within four hours -- or 24 hours.

3 The likely within four hours, while I think is good
4 evidence and good information, is I do realize her expert
5 opinion and, likely, I think was giving us an investigative tool
6 to work with to have an understanding because I don't have any
7 medical background. However, I don't think that within four
8 hours was set in stone. So, therefore, I used the word "acute,"
9 which was established as within 24 hours.

10 Q. And you assumed that Judge Duffy or whoever read that
11 would know the medical definition of acute?

12 A. I assumed that that was a term that had a definition
13 that people understood, and I appreciated that she clarified it
14 with me, but I just assumed that was a standard medical term.

15 Q. Did she explain the ~~difference~~ difference between acute,
16 subacute and chronic?

17 A. I'm not sure if -- if subacute is what I've been
18 referring to as non-acute, then that would just be within --
19 outside of that 24-hour time frame. I do know that we spoke
20 about these older healing injuries, which I'm guessing would be
21 considered subacute or non-acute. But in speaking with her at
22 that time, it was stated that the time frame on these healing
23 injuries, it's very difficult to date.

24 And so, therefore, it really wasn't -- it wasn't
25 approached to the point of really trying to get a good time

1 frame on those older injuries, because her explanation and our
2 then understanding was that to get a very tight time frame on
3 those healing injuries was very difficult to do. So that was --
4 for the focus of the investigation, we pretty much narrowed it
5 down to healing or non-acute and acute injuries.

6 Q. You were present for Detective Hembree's deposition
7 who testified that Schandl has since recanted or changed her
8 opinion. Is that my understanding of his testimony?

9 MR. DOMIN: Object to the form. Go ahead.

10 A. I'd rather not --

11 Q. Okay.

12 A. I'd rather not interpret his testimony. However, I
13 think that I have understood that Dr. Schandl's testimony -- or
14 not necessarily testimony. Her understanding or her findings
15 have since changed in some ways--while remaining the same in
16 others. Like I said earlier, blunt force trauma, you know, the
17 large amount of blood being the cause of death. Everything -- I
18 don't think she has changed on that aspect of her findings.

19 Q. What do you think she has changed?

20 A. I believe that when I went with the solicitor's
21 office, I believe Debbie Herring-Lash and possibly Jennifer
22 Shealy, when they were working to prepare this case, and they met
23 with Dr. Schandl, and Dr. Schandl stated that she had concern --
24 I believe she had concern that prior -- these older injuries may
25 possibly have made this child more vulnerable, to where the

1 threshold of force may have been lower to cause this bleeding
2 out.

3 Q. She did not explain it that way to you on May 9th?

4 A. Correct. Because that was something that we
5 established, and I established with her was, okay, is this --
6 the force to create this kind of blow, would that have been
7 created by a sibling rough-housing, and the answer was no.

8 Q. Asked the same way today, you believe her answer would
9 be yes, or it's possible?

10 MR. DOMIN: Object to the form.

11 A. I think it would have been -- it could be -- I think
12 it would be, "I don't know, possibly," but that's just assuming
13 on my part, so.

14 Q. Would it have changed anything you did in your
15 investigation if that would ~~have been~~ her answer on May 9th?

16 A. I think it would have created more consideration, you
17 know, in reviewing the facts of the case, yes.

18 Q. Her giving you the four hours was pretty important,
19 huh?

20 A. I don't necessarily believe that that is paramount to
21 the case, because I believe that the biggest part of this --
22 well, not the biggest part. I think that an important part of
23 this case is the behavioral aspects of the child, whether the
24 indication is that it was likely within four hours, well, it
25 would help -- I mean, that helps. All information helps.

1 And we in law enforcement rely very heavily on medical
2 experts to guide us. But within 24 hours that is our set in
3 stone acute definition, and also set in stone was that in
4 speaking with Dr. Schandl about how a three-year-old -- I'm
5 sorry, a two-year-old would handle this amount of injury and
6 bleeding, she explained that he would have been upset, fussy,
7 you know. I don't know if that was the exact term, but that
8 internal bleeding is very agitating and that it would be that
9 for observations of a child's behavior to be normal in eating
10 chips and everything before that is a very, very big, strong
11 indicator that the trauma had not yet occurred.

12 MR. PEPER: All right. Thank you.

13 MR. DOMIN: Anything, Roy?

14 MR. MAYBANK: No.

15 ~~CROSS-EXAMINATION~~

16 BY MR. DOMIN:

17 Q. I just want to clarify. When you met with Dr. Schandl,
18 first, there's been some issue about whether or not it was May
19 9th or May 6th. What's your best recollection based on your
20 notes and case file?

21 A. So my belief is that it was actually May 6th that we
22 met Dr. Schandl at MUSC. I have since located a typo in my
23 report that states May 9th. But the notes taken by officers
24 attending, including Lieutenant Hembree, indicate May 6th that
25 we met with Dr. Schandl. And I believe that's the case,

1 because -- or at least a day prior to -- one of the days prior
2 to the date of Mr. Seabrook's arrest, because the sequence of
3 events went such as meeting with the pathologist and receiving
4 her findings, and then bringing all the evidence available to
5 the Solicitor's Office to consult, and then after that drafting
6 the arrest warrant -- or arrest affidavit on May 9th.

7 So I believe the meeting with the Solicitor's Office
8 happened on May 9th, and the meeting with Dr. Schandl happened
9 on May 6th.

10 Q. Dr. Schandl and you and Officer Hembree, did you
11 specifically discuss what, from a medical standpoint, she
12 thought would be most likely as far as a physical appearance and
13 reaction of the child if he was bleeding out?

14 A. Explained that he would be in extreme discomfort, you
15 know, crying, in distress, not---and that was information
16 provided on that May 6th meeting of that would be his behavior,
17 and it would not be -- it wouldn't be over -- she wouldn't
18 expect that behavior to be overlooked by a caregiver.

19 Q. And the indication that you had was from witness Marty
20 Dixon that she was fine and she -- strike that.

21 The indication you had from eyewitness Marty Dixon was
22 that when she left at 4:00, Minor Victim was acting normally and eating
23 chips?

24 A. Correct. I believe we have a statement from a nurse,
25 Kathy Freeman, who stated she interacted with Marty Dixon who

1 indicated that she left the house at approximately 4:00 p.m., at
2 which point he was acting normal and eating.

3 And I believe it's also Mr. Seabrook's account that he
4 provided FTO Neese at the hospital that he was also eating a
5 snack at the table when all of a sudden he vomited and this
6 abnormal behavior began.

7 Q. So even if Schandl said that the time frame was 24
8 hours, not four hours, do you think you still would have had
9 probable cause based on that description and your understanding
10 of **Minor Victim** actions as of 4:00?

11 A. Yes. I think the statements indicating **Minor Victim**
12 behavior and then his sudden change in behavior are very
13 significant as far as establishing a time frame of when the
14 injuries actually occurred.

15 MR. DOMIN: ~~That's~~ That's all the questions I have.

16 REDIRECT EXAMINATION

17 BY MR. PEPER:

18 Q. You mentioned you were able to figure out your typo of
19 May 9th by looking at Hembree's notes, which indicates May 6th?

20 A. Correct.

21 Q. All right. So he has notes regarding the meeting?

22 A. He does.

23 Q. Okay. And have you seen those?

24 A. I have.

25 Q. They are in written form?

1 A. Yes. They are part of the case file; submitted with
2 the case file when the charges were brought.

3 MR. PEPER: All right.

4 (The deposition was concluded at 2:05
5 p.m.)

6 (Signature waived)

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1 CERTIFICATE OF REPORTER

2

3 STATE OF SOUTH CAROLINA)

4 COUNTY OF CHARLESTON)

5 I, Douglas K. Liperote, the officer before whom the
6 foregoing deposition was taken, do hereby certify that the
7 witness whose testimony appears in the foregoing deposition was
8 duly sworn by me; that the testimony of said witness was taken by
9 me to the best of my ability and thereafter reduced to
10 typewriting under my direction; that I am neither counsel for,
11 related to, nor employed by any of the parties to the action in
12 which this deposition was taken, and further that I am not a
13 relative or employee of any attorney or counsel employed by the
14 parties thereto, nor financially or otherwise interested in the
15 outcome of the action. _____

16

17

18 _____ Date _____

19 Doug Liperote, Court Reporter

20 Notary Public in and for the

21 County of Charleston

22 State of South Carolina

23

24

25 My commission expires November 5, 2025.

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Officer Andrew Decamp

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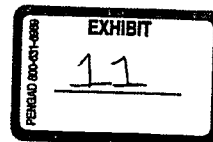
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Page: 1 of 5



Department of Pathology and Lab Medicine
185 Ashley Avenue, Suite 309
MSC 606
Charleston, SC 29425-5020

Req: xAutopsy, For Coroner
Add: xAutopsy, For Coroner
Loc: ACHA
Client: ACHA-Charleston County Coroner

Patient: Minor Victim
Med Rec: V
DOB: (Age 2)
Sex: M Race: Black

Autopsy Final Report

Accession Number

Date and Time of Autopsy: 3/20/2013 09:00

Hospital/County: ACHA-Charleston County Coroner
Service: Laboratory
Submitting Physician: xAutopsy, For Coroner
Attending Pathologist: Schandi, Cynthia A.M.D. Ph.D. (1-4382)
Prosecutor(s): Meredith H Frame, M.D. (1-5624)
Date/Time of Death: 3/19/2013 18:45
Autopsy Reason: Requested by Coroner
Authorized By: Scott Ramsey Deputy Coroner
Autopsy Restrictions: None

Pathologist Assistant: Eowyn Corcain, MSc

Reason for autopsy: Unexpected child death

(If Injury) How occurred: Blunt trauma
Date of Injury: 3/19/13 Time: ?
Place of Injury: ? At Work: n/a

Diagnosis

- 300 mL hemoperitoneum
- Small bowel mesenteric laceration
- Mesenteric fibrosis
- Pneumoperitoneum (free air in the abdomen)
- Hemorrhage surrounding the ligament of Treitz and proximal duodenum
- Retroperitoneal hemorrhage surrounding the pancreatic head, right kidney, right adrenal
- Posterior peritoneal, pelvic and scrotal soft tissue hemorrhage
- Adhesions from the diaphragm to the anterior right liver capsule
- Skin contusions (scalp, trunk and extremities) and abrasions
- Rib fractures (right lateral sixth, seventh, and tenth)

Cause of Death

Blunt trauma to the torso

Manner of Death

Homicide

Case History

Unexpected death in a 2-year-old child

Department of Pathology and Laboratory Medicine
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Clinical Pathology Phone: 843-792-0707 Fax: 843-792-4896
Patient: Location: ACHA

200

FORENSIC PATHOLOGY

RULE 5 HER 222

Peper Law 222

Minor Victim

Clinical Summary

According to the coroner, the decedent was a 2-year-old boy brought to the emergency room (ER) by his caretaker unresponsive pulseless and apneic on the evening of March 19, 2013. His grandmother reported that he was "normal" at approximately 4 p.m. when she fed him Doritos. She then left for work, leaving the child and his two siblings at home with her boyfriend. The boyfriend states that the child vomited, and he gave him a bath. Shortly thereafter, he noticed that he was unresponsive and he took him to the ER.

Per the ER records available, the child was pulseless and apneic upon presentation at 6:20 p.m. Cardiopulmonary resuscitation was initiated. Abdominal contusions were noted, and his abdomen appeared distended. Despite resuscitation efforts, he showed no life signs and was pronounced dead at 8:45 p.m. that evening.

The child's medical history is significant for unexplained bruising and a fracture of the left tibia in December 2012. A skeletal survey performed on 1/2/13 showed an oblique fracture of the left tibia as well as healing transverse fractures of the distal left radius and ulna.

Gross DescriptionEXTERNAL DESCRIPTION

The body, received in a body bag (tag # [REDACTED]), is that of a well-developed, well-nourished black male child of stated age of two years (date of birth of [REDACTED]), who weighs 30 pounds (which is at the 50-75th percentile for age) and has a length of 35.5 inches (at the 50-75th percentile). The body is unclothed; a soiled diaper, long sleeved shirt, pants and two socks are received with the body.

The body is cold to touch. Rigor is slightly fixed (+1-2/4) in all extremities and jaw. Fixed purple lividity involves the posterior dependent portions of the body, except in areas exposed to pressure. The head is normally formed. Scalp hair is brown, curly, and measures to 1" in length. The hair growth pattern is normal. The fontanelles are closed. The eyes are normally formed. The irides are brown. The corneas are slightly clouded; the conjunctivae are white. The ears are normally formed and placed, with the appropriate amount of cartilage. The nose and lips are unremarkable. The palate is intact and is neither high nor arched. The mouth has a normal complement of teeth, in keeping with the age of the child.

The neck is symmetrical without abnormality. The chest is symmetrical. The abdomen is protuberant and tense. The extremities are bilaterally symmetrical with all digits present. Palmar creases are unremarkable. The external genitalia are those of a normal male toddler, with testes bilaterally in the scrotum which is appropriately rugated.

The back and anus are unremarkable except as described under "Evidence of Injury". A 3 x 3" Mongolian spot is over the sacrum and buttocks. Identifying marks and scars include a 1.0" scar of the anterior lateral left forearm and a 1.8 x 1.5" scar of the anterior left ankle associated with a 0.5 x 0.1" healing abrasion. Several linear and punctate scars of the lower back are up to 0.5" each.

Evidence of emergency resuscitation and/or medical therapy includes an endotracheal tube entering the oral cavity affixed with tape, ECG pads adherent to the anterior body surface, pulse oximeter monitors adherent to the left thumb and right index finger, intravascular access catheter at the right antecubital fossa attached to an empty 200 mL bag of 5% dextrose solution, punctures of the left antecubital fossa, and bandage over the left heel that covers a healing ulceration (see "Evidence of Injury").

EVIDENCE OF INJURY

HEAD AND NECK: Focal scalp contusions are of the left parietal (up to 1.5 cm) and occipital regions of the head (4 x 2 cm). No skull fracture and no intracranial hemorrhage are present. A 0.1" punctate abrasion is of the mid forehead and a 0.2" punctate abrasion is of the chin. A 1 x 1 cm abrasion is of the upper right labial mucosa (inner lip). The lower frenulum is intact; focal hemorrhage is of the upper frenulum.

THORAX, ABDOMEN, AND PELVIS: 0.5" and 0.2" abraded contusions are of the right lateral chest. A 1.25" yellow-red abrasion and a 0.75" red abrasion are on the upper mid abdomen and left lower chest respectively. At least ten red purple contusions ranging from 0.2 x 0.2" up to 0.8 x 0.8" are of the trunk - at least five of the abdomen and at least five of the chest. Multiple punctate and 0.2" linear red abrasions are of the abdomen. A 0.2" red contusion is of the mid supra-pubic region.

Reflection of the skin reveals regions of pink-red contusion of abdominal soft tissue measuring 1.4" on the right lateral abdomen and 1.5" on the left. Fracture is of the right lateral sixth, seventh and tenth ribs. They demonstrate callus formation by palpation. Approximately 15 mL of bloody fluid are in the right pleural cavity, and approximately 10 mL of bloody fluid are within the left pleural cavity. The inferior tips of the left and right lower pulmonary lobes demonstrate contusion.

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Patient: [REDACTED]	Med Rec: [REDACTED]	Location: ACHA	

0000

FORENSIC PATROLOG

RULE 5 HER 223

05/02/2013 09:49 FAX 843 792 1517

Minor Victim

Upon entering the peritoneal cavity, free air escapes. Three hundred mL of blood are within the peritoneal cavity. No solid organ lacerations are apparent. Adhesions are from the anterior right surface of the liver to the diaphragm, upon manipulation of the liver at its removal, the surface exhibits diffuse hemorrhage not associated with a specific focus of injury. Right retroperitoneal hemorrhage is apparent around the right kidney, right adrenal gland and head of pancreas. Hemorrhage is associated with the ligament of Treitz and the proximal duodenal serosal surface. A gaping laceration is of the small bowel mesentery, fibrotic palpation, at the jejunum and ileum (6 x 9 cm defect). The surrounding lymph nodes and tissues are enlarged and firm. No discrete bowel perforation is identified upon bowel dissection.

Red purple contusion occupies a 1.5 x 0.5" area of the right inguinal crease. Scrotal red-purple discoloration is noted on the right. Exploration demonstrates underlying soft tissue hemorrhage that surrounds, but does not involve, the right testis. The scrotal hemorrhage is continuous with hemorrhage of the right posterior soft tissue of the peritoneum and with hemorrhage of the right retroperitoneum. Examination of the rectum and anus shows mild excoriations and slight rectal prolapse.

Examination of the skin surface and underlying soft tissue (by posterior-Y incision) of the back reveals at least four red purple contusions ranging from 0.3 x 0.3" up to 0.8 x 0.2"; two of these extend into the subcutaneous tissue.

UPPER EXTREMITIES: A 0.3 x 0.3" red purple contusion is of the anterior right upper arm. A 0.6 x 0.8" red purple contusion is of the posterior lateral upper arm. A 0.7 x 0.5" red purple contusion and a 0.4 x 0.2" dried red abrasion are of the posterior medial left forearm.

LOWER EXTREMITIES: A 0.8 x 0.5" healing ulceration is of the left heel. A 0.5 x 0.1" healing abrasion (scab) is of the anterior left ankle associated with scar.

RADIOGRAPHS: A skeletal survey is obtained and reviewed by pediatric radiologist, Dr. Paula Kasler. A healing fracture of the left distal radius and ulna (present on anteroposterior radiographs obtained on 01/02/13) is noted, as is large pneumoperitoneum. No other fractures are noted, the prior left tibial fracture is not appreciated on postmortem images.

EVIDENCE TRANSFER: The following items are collected, sealed within the appropriately labeled containers, and submitted to Detective Andrew DeCamp (present for portion of the autopsy) on March 20, 2013 at 2:55 p.m.: right and left fingernail clippings, pulled scalp hair, rectal, oral, and penile swabs, buccal swabs, long sleeved shirt, pants, two socks, blood spot, slides (3) prepared from oral, penile, and rectal swabs, and CD with images from autopsy.

The diaper and a CD with images from the autopsy are transferred to Charleston County Coroner Rae Woolen on March 20, 2013 at 2:55 p.m. A blood spot is transferred to Charleston County Deputy Coroner Oettle Lindsey on April 3, 2013 at 9:30 a.m.

INTERNAL EXAMINATION

BODY CAVITIES: Except as described in "Evidence of Injury", no other adhesions or abnormal collections of fluid are present in any of the body cavities. All body organs are present in normal and anatomical position. The subcutaneous fat layer of the abdominal wall is 0.1" in thickness. The following organ weights are compared to expected values based on the child's length (crown-heel).

HEAD (CENTRAL NERVOUS SYSTEM): The brain weighs 1180 grams (expected = 1120 grams). The dura mater and falx cerebri are intact. The leptomeninges are thin, delicate, and transparent. There is focal increased meningeal pigment of the left inferior frontal lobe and the brainstem. The cerebrospinal fluid is clear. The external surface and configuration of the brain are not unusual; the cortex is of the usual soft consistency, in keeping with the age of the child. The structures at the base of the brain, including cranial nerves and blood vessels, are intact. Coronal sections through the cerebral hemispheres reveal no lesions. Transverse sections through the brain stem and cerebellum are unremarkable. The sampled portion of cervical spinal cord is unremarkable.

NECK: Examination of the soft tissues of the neck, including strap muscles, thyroid gland, and large vessels, reveals no abnormalities. The hyoid bone and larynx are intact. The lingual mucosa is intact; the underlying firm, red-brown musculature is devoid of hemorrhage.

CARDIOVASCULAR: The heart weighs 57 grams (expected = 74 grams). The pericardial and epicardial surfaces are smooth, glistening, and unremarkable; the pericardial sac is free of significant fluid or adhesions. The shape and size for the heart are not unusual. The coronary arteries arise normally, follow the usual distribution, and are widely patent.

The chambers and valves exhibit the usual size-position relationship and are unremarkable. The tricuspid valve = 4 cm in circumference at the annulus, the pulmonic valve = 3.8 cm, the mitral valve = 5.5 cm, and the aortic valve = 4.4 cm. The left

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Patient: _____ Med Rec: _____ Location: AGHA

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FORENSIC PATHOLOGY

RULE 5 HER 224

05/09/2013 09:10 FAX 843 792 4896

Washington, Elijah

ventricle = 0.8 cm in thickness, the right ventricle = 0.15 cm, and the interventricular septum = 0.5 cm. The myocardium is dark red-brown, firm, and unremarkable; the atrial and ventricular septa are intact. The foramen ovale is appropriately membranous protected.

The pulmonary artery, the aorta, and their major branches arise normally, follow the usual course and are widely patent; the ductus arteriosus is anatomically closed. The vena cava, its major tributaries, and the pulmonary veins return to the heart in the usual distribution and are free of thrombi.

RESPIRATORY SYSTEM: The right and left lungs weigh 77.8 and 123 grams, respectively (expected = 242 grams, combined). See "Evidence of Injury." The upper airway is clear of debris and foreign material; the mucosal surfaces are smooth, yellow-tan and unremarkable. The pleural surfaces are smooth, glistening and otherwise unremarkable. The pulmonary parenchyma is dark red-purple, exuding slight to moderate amounts of blood and frothy fluid; no focal lesions are noted other than contusion (described under "Evidence of Injury"). The intraparenchymal pulmonary arteries are normally developed, patent, and without thrombus or emboli.

LIVER AND BILIARY SYSTEM: The liver weighs 373 grams (expected = 550 grams). See "Evidence of Injury." The hepatic capsule demonstrates extensive adhesion, covering dark red-brown, moderately congested parenchyma with no focal parenchymal lesions noted. The gallbladder contains 3 ml of green-brown, slightly mucoid bile; the mucosa is velvety and unremarkable. The extrahepatic biliary tree is patent. The portal vein and its tributaries are unremarkable.

ALIMENTARY TRACT: The esophagus is lined by gray-white, smooth mucosa. The gastric mucosa is arranged in the usual rugal folds, and the lumen contains approximately 10ml of brown partially digested food. The root and radius of the mesentery bear the usual size-position relationship; extensive injury is present (see "Evidence of Injury"). With the exception of apparent food excretion of the anus, the small and large bowels are otherwise unremarkable. Except as described in "Evidence of Injury", the pancreas has a normal, tan, lobulated appearance, and the ducts are clear.

GENITOURINARY TRACT: The right and left kidneys weigh 31.8 and 31.1 grams, respectively (expected = 112 grams, combined). See "Evidence of Injury." The cortical surfaces are smooth, red-brown, and lobulated. The cortex is of normal thickness, slightly congested, and sharply delineated from the medullary pyramids which are red-purple to tan and unremarkable. The usual complement of calyces is present without abnormality. The pelves and ureters are unremarkable. The urinary bladder is empty; the mucosa is gray-tan and smooth. Other than surrounding hemorrhage (see "Evidence of Injury"), the sampled testis, prostate, and seminal vesicles are infantile and unremarkable.

RETICULOENDOTHELIAL SYSTEM: The spleen weighs 38.7 grams (expected = 62 grams) and has a smooth, intact capsule covering red-purple, moderately firm, parenchyma; the lymphoid follicles are unremarkable. The regional lymph nodes are unremarkable. The bone marrow is red-purple and homogeneous, without evidence of focal abnormality. The thymus is unremarkable with a weight of 11.7 grams (expected = 18.7 grams).

ENDOCRINE SYSTEM: The pituitary, thyroid, and adrenal glands are unremarkable. The adrenal glands weigh 7.8 grams collectively (expected = 7.0 grams, combined).

MUSCULOSKELETAL SYSTEM: See "Evidence of Injury" and "Radiographs." The musculature is well-developed. The diaphragm is intact and in its proper position.

CASSETTE SUMMARY:

1. Right and left cardiac ventricles, peritoneal hemorrhage
2. Right lung and mesenteric hemorrhage
3. Left lung and pelvic hemorrhage
4. Duodenum including hemorrhage
5. Anus and rectum
6. Liver, right adrenal, right kidney, head of pancreas
7. Left kidney, thymus, mesenteric hemorrhage, diaphragmatic hemorrhage
8. Left inferior frontal cerebrum
9. 6th rib fracture (decalcified)
10. 7th rib fracture (decalcified)
11. 10th rib fracture (decalcified)

Additional sections of lung, kidney, and brain are held for possible Oil Red O staining

MHF:CAS:mtt

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Location: ACKA

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FORENSIC PATHOLOGY

RULE 5 HER 225

05/02/2013 09:48 FAX 843 792 3637

03/20/13
04/16/13
04/29/13
04/30/13
05/01/13

Microscopic Description
Sections of the heart show unremarkable myocardium with no evidence of myocyte necrosis or increased fibrosis. The kidneys and adrenal glands are unremarkable. The lungs show pulmonary edema and foci of "punched out" holes in the lumina of the pulmonary vessels consistent with fat emboli. The section of anus and rectum shows focal epithelial denudation of the anal squamous epithelium with underlying chronic inflammation. No acute inflammation, viral changes, or hemorrhage is seen. Sections of the cerebrum show no pathologic abnormality.

The liver capsule demonstrates thickening, granulation tissue formation, and adhesions. Acute hemorrhage is of the head of the pancreas. The pancreas otherwise shows autolysis. Sections of the mesentery and duodenum show hemorrhage with focal hemosiderin-laden macrophages and nodular fibrosis as well as areas of isolated hemorrhage. Additional sections of spleen demonstrate hemorrhage in various stages of resolution from acute to resolving. Spleen also shows some cellular hyperplasia.

This study was conducted there because of having had a history of the pancreas and possibly the spleen.

Case Summary [REDACTED] at the Medical University of South Carolina Autopsy Suite on March 20, 2013. The postmortem examination begins at 9:00 a.m. The prosecutors are Drs. Cynthia A. Schandl and Meredith H. Frame. The autopsy technician is Mr. Raymond Edwards; the pathologist assistant is Ms. Eowyn Corraire. The autopsy is authorized by the Charleston County Deputy Coroner, Mr. Scott Ramsay. Coroner Rae Woolen attends the case.

Significant findings at autopsy include a 300 mL hemoperitoneum, small bowel mesenteric laceration, free air in the abdomen. hemorrhage surrounding the ligament of Treitz and proximal duodenum, retroperitoneal hemorrhage, scalp, abdomen and mid lower back skin and subcutaneous hemorrhage, adhesions from the diaphragm to the anterior right liver capsule, few extremely skin contusions. and other things that I cannot remember

Toxicologic analysis of cardiac blood sent to NMS Laboratories (case control # [redacted] reveals caffeine only. Results are reviewed by William E. Brewer, PhD, DFTCB, Forensic Toxicologist.

... of puslike blood sent to microbiology grew alpha hemolytic *Streptococcus* (no *S. pneumoniae* or *Enterococcus*)

Analysis of vitreous fluid reveals the following: sodium = 142 mmol/L, potassium = 10.1 mmol/L, chloride = 124 mmol/L, urea nitrogen = 12 mg/dl, creatinine = 0.1 mg/dl, and glucose = 114 mg/dl.

In light of the historical information provided and the autopsy findings, it is the opinion of the pathologist that the decedent died as the result of blunt trauma to the torso. Furthermore, the manner of death is best deemed homicide.

Certification Statement
I certify that I personally conducted the diagnostic evaluation of the above specimen(s) and have rendered the above diagnosis(es).

Schmidt, Cynthia A M.D. Ph.D. (1-4382)
(Electronically signed by)
Verified: 05/01/2013 11:16
EC/3/20/2013

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Location: ACHA

Palatine, Missa Victim

Mad Rec

90012

FORENSIC PATHOLOGY

RULE 5 HER 226

05/02/2013 08:50 FAX 843 782 3537

Minor Victim

03/20/13
04/16/13
04/29/13
04/30/13
05/01/13

Microscopic Description

Sections of the heart show unremarkable myocardium with no evidence of myocyte necrosis or increased fibrosis. The kidneys and adrenal glands are unremarkable. The lungs show pulmonary edema and foci of "punched out" holes in the lumina of the pulmonary vessels consistent with fat emboli. The section of anus and rectum shows focal epithelial denudation of the anal squamous epithelium with underlying chronic inflammation. No acute inflammation, viral changes, or hemorrhage is seen. Sections of the cerebrum show no pathologic abnormality.

The liver capsule demonstrates thickening, granulation tissue formation, and adhesions. Acute hemorrhage is of the head of the pancreas. The pancreas otherwise shows autolysis. Sections of the mesentery and duodenum show hemorrhage with focal hemosiderin-laden macrophages and nodular fibrosis as well as areas of isolated hemorrhage. Additional sections of soft tissue demonstrate hemorrhage in various stages of dissolution from acute to resolving. The rectum and sigmoid colon show hemorrhage. The small intestine shows evidence of healing with preservation of the pancreatic and formation of the pancreas.

Case Summary

A complete autopsy is performed on the body of **Minor Victim** at the Medical University of South Carolina Autopsy Suite on March 20, 2013. The postmortem examination begins at 9:00 a.m. The prosecutors are Drs. Cynthia A. Schandl and Meredith H. Frame. The autopsy technician is Mr. Raymond Edwards; the pathologist assistant is Ms. Eowyn Corcoran. The autopsy is authorized by the Charleston County Deputy Coroner, Mr. Scott Ramsey. Coroner Rae Wooten attends the case.

Significant findings at autopsy include a 300 mL hemoperitoneum, small bowel mesenteric laceration, free air in the abdomen, hemorrhage surrounding the ligament of Treitz and proximal duodenum, retroperitoneal hemorrhage, scalp, abdomen and mid lower back skin and subcutaneous hemorrhage, adhesions from the diaphragm to the anterior right liver capsule, few extremity skin contusions, and no fractures of the skull, ribs, or pelvis.

Toxicologic analysis of cardiac blood sent to NMS Laboratories (case control #11535120) reveals caffeine only. Results are reviewed by William E. Brewer, PhD, DFTCB, Forensic Toxicologist.

Cultures of cardiac blood sent to microbiology grew alpha-hemolytic *Streptococcus* (no *S. pneumoniae* or *Enterococcus*).

Analysis of vitreous fluid reveals the following: sodium = 142 mmol/L, potassium = 10.1 mmol/L, chloride = 124 mmol/L, urea nitrogen = 12 mg/dl, creatinine = 0.1 mg/dl, and glucose = 114 mg/dl.

In light of the historical information provided and the autopsy findings, it is the opinion of the pathologist that the decedent died as the result of blunt trauma to the torso. Furthermore, the manner of death is best deemed homicide.

Certification Statement

I certify that I personally conducted the diagnostic evaluation of the above specimen(s) and have rendered the above diagnosis(es).

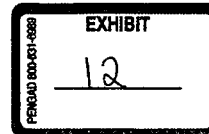
Schandl, Cynthia A.M.D., Ph.D. (1-4382)
(Electronically signed by)
Verified: 05/01/2013 11:16
EC/3/20/2013

Department of Pathology and Laboratory Medicine			
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FORENSIC PATHOLOGY

RULE 5 HER 226
05/02/2013 08:50 FAX 843 792 3537



1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON IN THE CORONER'S COURT

3
4 IN RE:

5 Minor Victim
6 DOD: March 19, 2013
7 CASE #: 2013M00860

8 Deceased.

9
10 CORONER'S INQUEST
11 CORONER RAE H. WOOTEN PRESIDING

12
13 DATE: July 12, 2016
14 TIME: 10:01 a.m.
15 LOCATION: Charleston County Courthouse
16 100 Broad Street, Courtroom 3B
Charleston, SC
17 REPORTED BY: Janice N. Shepherd,
18 Registered Professional
Reporter

19
20
21 A. WILLIAM ROBERTS, JR., & ASSOCIATES
22 Fast, Accurate & Friendly

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A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
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1 CORONER WOOTEN: Any other questions
2 for Detective DeCamp? Yes, ma'am.

3 JUROR NO. 222: It might be for the
4 next one. I'm not sure. On his bottom, did it
5 appear that it was penetrated by an object or by
6 Mr. Seabrook?

7 THE WITNESS: It may be something that
8 that would be best suited for Dr. Schandl.

9 JUROR NO. 222: Okay.

10 THE WITNESS: Yes, ma'am.

11 CORONER WOOTEN: Any other questions
12 before we -- thank you, Detective DeCamp. You may
13 step down.

14 THE WITNESS: Yes, ma'am. Thank you.

15 CORONER WOOTEN: And we will take a
16 15-minute break and return here at 3:30. The
17 jurors may retire to the jury room.

18 (A recess transpired.)

19 CORONER WOOTEN: Thank you. Please be
20 seated. Bailiff, bring in the jury.

21 Thank you. The next witness is
22 Dr. Cynthia Schandl.

23 DR. CYNTHIA SCHANDL,
24 being first duly sworn, was examined and testified
25 as follows:



EXAMINATION

BY CORONER WOOTEN:

Q. Thank you, Dr. Schandl, for being here today and testifying in the inquest into the death of Minor Victim. For the record, would you please, in addition to your name, state your professional position and relation to this investigation, to include your education, training, experience?

A. Yes, ma'am. I am a physician, a doctor at the Medical University of South Carolina. I am in the specialized field of forensic pathology. To become a forensic pathologist, I've been to college and then to medical school. So I have my medical degree and medical licensure in the State of South Carolina. And then after medical school, I chose to train in the field of pathology, which is the study of disease. Also, before I graduated from medical school, I also went through a graduate school program, also in pathology. So I have my Ph.D. in pathology as well.

So the training program after medical school is four years. It's called a residency, and it was in the field of clinical pathology and anatomic pathology. And then to subspecialize in

1 forensic pathology, there is an additional year
2 called a fellowship, and I did all of that
3 training, all the medical school training, graduate
4 school training, residency and fellowship at the
5 Medical University of South Carolina. And then I
6 was asked to join the faculty -- I had a job -- in
7 2004. So I've been there since 2004 as a faculty
8 member.

9 And so the reason I believe that I'm
10 here today is that I was called to perform the
11 autopsy on a child by the name of Minor Victim
12 in March of 2013. And so I as the attending
13 pathologist and one of my trainees, the forensic
14 pathologist who was training at that time, we
15 performed the autopsy together with our team.

16 Q. Thank you. And I know frequently
17 individuals will speak to board certification.

18 A. Yes, of course. So in the field of
19 pathology, I have board certification in anatomic
20 pathology, clinic pathology, and forensic
21 pathology, the three fields that I trained in.

22 Q. Thank you very much for helping us
23 understand your path. The jury and members of the
24 audience have heard a great deal about Minor Victim
25 Minor Victim, the little two-year-old whose autopsy

1 you performed who died in March of 2013. In your
2 capacity as a forensic pathologist doing that
3 autopsy, I would ask that you tell us a bit just
4 about how that procedure works, how it comes to be
5 that you would become involved.

6 A. So in this state, we have a coroner
7 system, as you know. And the coroner, this is the
8 person who decides whether an individual who has
9 died needs an autopsy. Frequently, though, the
10 people who have met accidental death, have died at
11 somebody else's hand, who died but we don't know
12 why, they could be quite elderly, but if they have
13 no medical history, they may want to know what
14 caused the death, and they might send the person
15 for autopsy. So our cases are referred from the
16 different county coroners. Many of the country
17 coroners will refer to the Medical University of
18 South Carolina.

19 The first call comes to the office and
20 may be recorded by the pathologist or someone who
21 is on call, and they take down what information is
22 available at that time, and they try to arrange
23 when the procedure might happen. My first
24 involvement is often in the autopsy room itself
25 when the individual is brought up from the morgue

1 and placed on the autopsy table for my examination,
2 my postmortem examination.

3 So that's sort of the system in our
4 state of how cases come to my attention as the
5 pathologist.

6 Q. Thank you very much. So we, I think,
7 established how Minor Victim came in to the care or under
8 the expert opinion rendered by Dr. Schandl. So I'm
9 going to allow her to talk to you all about how she
10 proceeds with that, as well as to share some
11 photographs with you all about her findings.
12 Because in the State of South Carolina we do have
13 some laws that govern access to autopsy
14 photographs, we have to restrict that from full
15 display in the courtroom. So I am going to -- and
16 this is under South Carolina Code Law Statute
17 17-5-535, and it outlines very specifically the
18 restrictions and who can and can't and under what
19 conditions.

20 So because this tragedy is so very
21 sensitive and sad, it's important that you all
22 have -- get to hear from Dr. Schandl and ask her
23 questions, but that she be able to share with you
24 her expertise. And I think it's helpful if she can
25 show you all some photographs. And so I am at this

1 time going to provide those to her as an exhibit,
2 and she certainly is free to discuss these.

3 (EXH. 11, Autopsy Photos, was marked
4 for identification.)

5 BY CORONER WOOTEN:

6 Q. I would also -- Dr. Schandl may or may
7 not have brought her copy, but she did provide a
8 written report, which is typical in such cases. Do
9 you have your copy to report?

10 A. Yes, ma'am.

11 Q. And we will enter ours into the record
12 as an exhibit, which is usual. So I will allow you
13 to determine, if you would, whether or not you'd
14 rather start by reading from your report and then
15 address the photographs or however you think is
16 going to be most helpful to the jury to understand
17 the findings.

18 A. Absolutely. Perhaps I can start with a
19 description of the procedure and then my findings.

20 Q. That would be great.

21 A. All right. So after Minor Victim came up to
22 the autopsy room, we look at the cases -- in some
23 ways we look at them all the same. So we go
24 through the very same steps to make sure that we're
25 seeing everything that we need to see in every

1 case.

2 In this case, with a child who died
3 unexpectedly, we will look at the child, both look
4 at his body externally, but we also want to look at
5 it using x-ray. So we want to look essentially at
6 every bone in the body to see if there are
7 fractures that are healing or fractures that are
8 acute or if there are any other things going on
9 there. We want to see the -- of course we want to
10 do what we often do with the autopsy, which is look
11 at the internal structures of the body, see what's
12 going on there, look for any injuries. And then
13 we're also looking for things that would identify
14 of the individual, what do they weigh, how long are
15 they, do they have any scars, what color is their
16 hair. So all of these things go into the autopsy.

17 And then there are additional things
18 after we get started that we also do. We collect
19 fluids so that we can do toxicological analysis.
20 We do that on everybody. And I on everybody will
21 take some tissue from each of the organs to look at
22 under the microscope to verify that there is
23 disease or injury there and to try to get a better
24 feel for what's going on. So we did all of those
25 things in this case.

1 So when the child arrived to us, it
2 looked like his belly was sort of pouched out a
3 little bit distended, what they call it. So with
4 that finding, you don't know what that is until you
5 start the case. So that was one of the first
6 things that we noticed. And then I drew and my
7 fellow participated in helping me draw different
8 injuries on the skin of the body, so there were a
9 number of bruises on the body and some scrapes and
10 those sorts of things. So we documented all of
11 those, both with pictures and with a diagram.

12 And then once the external examination
13 is complete, then we turn our attention to the
14 internal examination. So the Y incision is
15 performed. And when we entered the belly cavity,
16 there was a whoosh of air. So the belly was
17 distended by air. And that was something that was
18 also seen in the x-ray pictures. If you have the
19 opportunity to look at picture A on page 1, you can
20 see an x-ray of the child that's taken from side to
21 side. And what you're seeing there is that his
22 belly is filled with sort of a light gray stuff.
23 And that's all air in his belly. And on that same
24 page, in picture B, you can just see how it looks,
25 sort of distended or pouched out when he came to

1 us.

2 So as we were opening the belly, after
3 the air came out, it was apparent that there was
4 also blood within the belly cavity. And as a
5 practice, we do try to measure how much blood,
6 which can be very important when you're trying to
7 decide if it's a significant injury or not. In his
8 case, we measured 300 milliliters of blood. So if
9 you think of -- let me think how I can figure this
10 out. So if you have a one-quart thing, that's
11 about a liter. So 300 milliliters is about
12 one-third of that. Now, if you put it into terms
13 of this child, if you use his weight and his length
14 and try to figure out how much blood should this
15 child have, he should have about one liter. So
16 just in his belly alone, he had lost about one
17 third of his blood volume at some point.

18 So we removed that blood, and then I
19 started to look at the organs in the body cavity.
20 And the appearances was not usual for a healthy
21 child. There was generalized discoloration. And
22 then very striking was that the organs,
23 particularly the liver, was adherent, stuck to, the
24 surfaces of the inside of the belly cavity. That
25 happens if you've had some sort of injury in the

1 past, if there were perhaps an infection in the
2 cavity. Normally these things are sliding over
3 each other. So the liver and the spleen on the
4 other side, all these things should be sliding
5 quite nicely. But in this case, the liver was
6 stuck to the surface of the belly, the inside
7 surface of the belly, quite socked in there.

8 Another thing that was quite striking
9 was the way that the guts of the small bowel, they
10 are connected by fat. So there is the bowel that
11 goes around and around and around. Right? But
12 then in the middle that kind of holds it together
13 is the thing called the mesentery. It's basically
14 fat with blood vessels running through it. And his
15 mesentery had a big hole in it. So one thought
16 was, well, good heavens, he just had an injury.
17 But then when looking further, it turned out this
18 injury, the hole in his mesentery -- again, there
19 are a bunch of blood vessels run through there --
20 that injury was much older. It wasn't a new
21 injury. It was already scarred down. So that was
22 very striking as well.

23 So, so far, we have the belly that's
24 distended with air. We have the blood inside the
25 belly, and we have the organs kind of stuck

1 together, and we have this big mesenteric tear
2 where there is also a bunch of arteries and veins
3 that are crossing that fat layer.

4 The other thing that was also quite
5 notable was that there was more bleeding into the
6 soft tissues, not in the belly cavity itself, but
7 in the soft tissues of the backside of the inside
8 of the belly cavity. So they call that the
9 retroperitoneum, behind where the liver is and in
10 the area where your kidneys are and your adrenals
11 are, there was bleeding all around in there and
12 around the pancreas, which are all kind of sort of
13 together, and then also around the small bowel
14 where it just dives down to the very beginning of
15 the small bowel into the duodenum area, there was
16 blood around there as well. And this blood seemed
17 to continuously track from up behind where the
18 kidneys are down, all the way down his right side,
19 through the inguinal canal, which is where the
20 testes will travel to get from the belly when
21 you're a fetus, when you're an infant when the
22 testes go into the scrotum, through that inguinal
23 canal and into the scrotum.

24 And I think that those findings, that
25 bleeding, was also a very significant amount. It's

1 extremely difficult to quantify because it's within
2 the soft tissues. But I imagine it was quite a bit
3 as well, probably at least as much as what we found
4 free floating in the belly itself. So we have
5 those main findings.

6 Now, you ask, well, what does that mean
7 about the belly being distended with air? That
8 sounds kind of strange. And it is strange. And
9 what it suggests is that there had been a rupture
10 of the bowel somewhere. So somehow you got air
11 from the outside world into your belly cavity.
12 Now, I ran the bowel, by which I mean I looked all
13 the way from the top of the intestine to the very
14 bottom of the intestine, and I couldn't find
15 anything that I could see with my eye. So I
16 believe that was a microtear, something I couldn't
17 see with my eye, but that that was a tear to the
18 bowel, and that led to the belly distending with
19 air. So from the open environment, you can swallow
20 all of that to get into that belly cavity, as shown
21 in the x-ray and with his distended that you can
22 see in the picture.

23 So that leads us to a very difficult
24 scenario of many things going on over time. So we
25 have injuries that both by looking at them and

1 feeling them are older, so fibrous scarring. We
2 have fresh blood in the abdomen that is likely to
3 be quite a bit newer. Then we have this bleeding
4 all the way into the soft tissues; and then when I
5 looked at that under the microscope and you try to
6 date that, all you can do is see what cells are
7 there when it's time to clean up that mess. There
8 were areas that made it look like it was quite
9 acute, which to us means that there were no cells
10 coming to start to clean up. We put that at around
11 six hours from when that starts to happen. And
12 then there were also findings in other areas hours
13 that suggested 24 to 26 hours, maybe even longer of
14 course, up to those more chronic changes that were
15 scarring that could be weeks or even months old.
16 So that was the findings in the belly.

17 Other findings were in the chest. So
18 there was a fracture of his rib, his right sixth
19 rib, that was fresh, acute, had just recently
20 happened. That area can be vulnerable from CPR
21 injury. That is one possibility for that injury.

22 There was also some blood in that chest
23 cavity on the right that could be associated with
24 that fracture which may or may not be associated
25 with attempts at resuscitation.

1 Also, however, there were fractures to
2 other ribs, ribs 10 and 11, that were not fresh.
3 These were starting to heal. Again, we have some
4 chronicity also in the chest cavity with some
5 healing fractures to the ribs on the right-hand
6 side.

7 Associated also was a very small area
8 of bleeding into the apex of the right lung as well
9 as the left lung. Clearly traumatic; but, again, I
10 cannot tell you whether it was traumatic from
11 inflicted trauma or from attempts at resuscitation.
12 So those injuries are not clear as to their origin.

13 So we have a number of different
14 injuries happening over quite some time. Some look
15 more fresh, some look quite a bit older that all in
16 total have led to this child's death.

17 BY CORONER WOOTEN:

18 Q. Thank you. Did your skeletal review
19 reveal anything additional to the ribs?

20 A. Yes. So when I mentioned that we take
21 x-rays and we look at every bone, what we really do
22 is send the x-rays to the pediatric radiologist,
23 and she looks at every bone. And she did see that
24 there was -- one moment, let me find it in my
25 report. I don't want to get it wrong -- a healing

1 fracture of the left distal radius and ulna. So
2 distal radius and ulna on the left, that's these
3 two bones in your arm, distal meaning closer to the
4 hands than the shoulder. And the large
5 pneumoperitoneum, that's the air in the belly
6 cavity. The peritoneum is the belly cavity where
7 all your organs live. And it's filled with air.
8 That's called pneumoperitoneum. And I believe that
9 was what she appreciated on her x-ray at the time
10 of autopsy.

11 Q. Thank you. Just to make sure we cover
12 this, toxicology was performed; is that correct?
13 And what were the findings of that?

14 A. Toxicology, like I mentioned, is
15 performed in every forensic autopsy case if there
16 is a sample to send. And in this case, there was.
17 And the only thing found was caffeine. And it's a
18 comprehensive. It covers about 300 different
19 substances.

20 Q. Thank you. Was there any notice made
21 of any kind of injuries or scarring or tissue
22 damage to any of the other extremities?

23 A. There was. So there were a couple of
24 small scars, linear sort of scrapey scars that
25 could be nonspecific. But one thing that I noted

1 was that on his left heel, the heel of his left
2 foot, there was a fairly large ulcer there that
3 reminded me very much of a stasis ulcer. So
4 usually you think of stasis ulcers in elderly who
5 can't get around and they're sort of stuck in bed,
6 and usually they're on the lower back frequently.
7 And this is that kind of ulcer, but it's on this
8 little boy's left heel.

9 CORONER WOOTEN: Thank you for that. I
10 think you really outlined tremendously the
11 findings, the major findings you have. I'd like to
12 give the jurors an opportunity to ask questions.
13 And if you find that it is helpful to use
14 photographs in answering that, you certainly
15 have -- grant you permission if you need to move
16 closer to them for anything.

17 THE WITNESS: Thank you.

18 CORONER WOOTEN: Certainly. Any
19 questions? Yes, ma'am.

20 JUROR NO. 222. I see you turned Minor Victim
21 on his side. I see there is some scat on him. And
22 I want to know, is it sexual assault, was he
23 penetrated by Mr. -- I forgot his name -- Seabrook
24 or he used something to penetrate young Minor Victim?

25 THE WITNESS: Thank you for the

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1 question. Yes, we did look carefully at all of his
2 private parts, including his anus, and there was
3 some sort of vague excoriation, redness sort of
4 abrasion, but no evidence that would point
5 specifically to any kind of sodomy, any kind of
6 penetration of his anus, no, nothing that I could
7 say yes. No, I don't have that.

8 JUROR NO. 83: You said that the
9 adhesions on the liver could be due to an infection
10 or injury. Is there anything to suggest that
11 Minor Victim had been sickly or had infections in the
12 past or that he had had, you know, illnesses other
13 than the injuries that he apparently sustained?

14 THE WITNESS: Thank you for the
15 question. No, all of his organs appeared healthy.
16 There was no evidence of any long-term illness or
17 chronic illness in the child, and no evidence of
18 any kind of current infection or ongoing infections
19 or anything of that sort. Whatever it was happened
20 some time ago, and now I can't really tell you what
21 it was. But any kind of injury, whether it's
22 inflammatory or traumatic, can lead to those kinds
23 of adhesions.

24 JUROR NO. 83: I have another question.
25 It may be in here, and I'm just not seeing. I

1 assume that blood work was done. Is there anything
2 revealing, like that he may have had any kind of
3 coagulopathy or anything that might cause him to
4 bruise easily or become injured easily?

5 THE WITNESS: Thank you for the
6 question. Postmortem samples, we have quite a bit
7 of limitation of what can be accurate to test. So
8 I cannot tell you from my evaluation whether he has
9 any sort of ongoing coagulopathy. Although, it is
10 my understanding that he did have some laboratory
11 results from a different visit to a physician that
12 addressed that, but that's not -- those aren't my
13 findings.

14 The issue -- one thing about
15 coagulopathy, one thing about it, so this child, we
16 have very clear evidence that there was trauma. In
17 particular, that big hole in his mesentery is quite
18 specific for a trauma. When you start to lose
19 blood and you start to use up your coagulation
20 factors and your platelets, you can sort of use
21 those things up in an acute event and become
22 coagulopathic. You wouldn't have to necessarily
23 come in with that. So it's sort of a fluid number
24 as well. So whether he was having difficulty
25 clotting on the day of his death may not have

1 anything to do with whether he had laboratories
2 that showed that he doesn't have a difficulty
3 clotting four or five days previous.

4 So I don't have any evidence to suggest
5 that he has that issue. But, again, it's something
6 that's quite fluid and not something that I can
7 test after the fact.

8 JUROR NO. 222: Mr. Seabrook said he
9 performed CPR and said Minor Victim jaw was locked
10 shut, and he had to pry it open and perform CPR.
11 Do you think him performing -- he didn't do it
12 properly, like turning impact, and caused his ribs
13 to broken or bruised inside his inner lip?

14 THE WITNESS: Thank you for the
15 question. That is certainly one possibility for
16 those specific injuries. CPR can be done
17 incorrectly. And when it is, it's more likely to
18 cause injuries, including rib fractures. As far as
19 the bleeding into the mouth, there was bleeding
20 right on that sort of funny thing that holds your
21 top lip down, there was some bleeding up there and
22 some scrape here. Again, when it's somebody that's
23 had resuscitation, that can be very nonspecific.
24 They're going in the mouth. They're putting in an
25 endotracheal tube. So I can't tell you if that was

1 inflicted or if it was due to attempts to
2 resuscitate.

3 JUROR NO. 107: I have a question. On
4 the photo, page 8B, is that the ulcer that you're
5 referring to?

6 THE WITNESS: Yes, that is the ulcer.

7 JUROR NO. 107: And what would be in A?
8 What would be causing that on the top?

9 THE WITNESS: So on the top, I describe
10 that sort of as a healing abrasion. If I may, I
11 believe it has something to do with when he had the
12 tibia fracture, and that might be why he has --
13 this was a vulnerable area. It doesn't explain why
14 it came to be an ulcer, but that explains why it
15 might be a vulnerable area, the heel of that foot.

16 JUROR: Okay. Thank you.

17 JUROR NO. 83: The arm fracture that
18 you mentioned, it says transverse. But, I'm sorry,
19 I know the fractures, but like is that --

20 THE WITNESS: Yeah, it just means cross
21 ways.

22 JUROR: So just straight, not like a --

23 THE WITNESS: Yes, yes.

24 JUROR NO. 83: Instead of blunt force
25 trauma, could it be possible, because I know you

1 said that his internal injuries were possibly over
2 a point in time as well, could that be caused by
3 maybe being held down, you know, like compressed?
4 Because I know sometimes when kids get out of
5 order, sometimes people just hold them down.

6 THE WITNESS: There is definitely a
7 component of blunt force because of that big defect
8 in the fat. Now, whether or not other things
9 happened as well, I don't know. And there are
10 certainly articles that cite regulum bleeding as a
11 result of being held down, even smothered. But
12 there is no way to make those kinds of conclusions,
13 because in most cases when someone is held down or
14 smothered, you don't have any findings. So in this
15 case, we have quite a few findings. But, again, to
16 support that, I can't help with.

17 BY CORONER WOOTEN:

18 Q. Dr. Schandl, can you speak to any
19 bruises you noted as to their distribution or
20 whether there is any descriptions of aging? I know
21 that's difficult, but just to share with the jury
22 your thoughts about that.

23 A. Sure. So as far as bruises, there were
24 bruises in many different places, and you can -- if
25 you look at the pictures, it tells it better than

1 me saying there is one here, one there, one here,
2 one there. To his left arm, his back, his chest,
3 his belly, to his head, there were some more
4 bruises to his head. There was no evidence that --
5 no evidence -- there was no way to tell you whether
6 any of these actually were clinically important,
7 meaning caused him internal damage. There were
8 four, two on the belly and two on the back, where
9 if you take the skin back, you can see that the
10 bleeding is in the tissue beneath the skin, so that
11 suggests they are a little bit deeper. But there
12 were no internal injuries directly underneath
13 those. The injuries were more generalized. There
14 wasn't a liver laceration where I can say, oh,
15 look, that's what happened. It would have been
16 easier for me to say that's what happened, that's
17 why he's bleeding. As far as with bruising on the
18 head, there was no bleeding into the head. There
19 was no skull fractures or nothing like that. But
20 there were bruises over much -- many different
21 parts of the body. Some of them specific. Some
22 were sort of oval in appearance. Others were just
23 small little things. No pattern, nothing that
24 would tell me, oh, he was hit with a wrench, you
25 know, where you can see something, see a pattern,

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1 nothing you can take much information from except
2 that he was bumped up.

3 Q. The distribution of the bruises, are
4 they typical in that distribution?

5 A. So when you think about typical in
6 distribution for abuse, bruises, and we think about
7 a child, we think about how are they getting around
8 and what is likely to get bumped up. And many of
9 us have had children. And when they're two,
10 they're just kind of little crazy things running
11 around like -- I don't know what -- bugs or
12 something. At least mine was. I don't know. So
13 you can think of cases where you would get smacked.
14 You might get smacked here. You might do that.
15 The knees, the elbows, you can even fall flat on
16 the face. All the things that kind of stick out
17 are more likely to get bruised just by the child
18 being a kid. But bruises to the abdomen and the
19 back, those are much less common just to happen on
20 their own from a kid running about doing kid
21 things.

22 Q. Was there any evidence at autopsy that
23 would support the idea of a seizure?

24 A. A seizure is sort of another thing that
25 there can be no findings from. So it's not like

1 we're going to find something in the brain that
2 says, oh, we'll they've obviously had a seizure.
3 Your brain will look frequently totally normal. Of
4 course there are also seizures where you have brain
5 damage. This kid did not have brain damage. His
6 brain was totally normal. I have no way to know
7 whether he had a seizure or not. One thing that we
8 can look for is bruising to the tongue. There
9 wasn't any of that. But that would be a soft sign
10 in any case. Any time that you were under physical
11 difficulty, you may bite your tongue without having
12 a seizure. So that's sort of a soft sign. We
13 can't really count on it.

14 So I can't speak to whether he had a
15 seizure or he didn't have a seizure. I can tell
16 you that many people, when they are at death's
17 door, appear to have a seizure. And so sometimes
18 seizure activity isn't the same thing as an actual
19 seizure that's initiated from a brain wave problem.
20 So that's something that I can tell you is quite
21 frequent near death, but I don't have any evidence
22 for you.

23 Q. It was reported in the hospital records
24 that the toddler had evidence of diarrhea. Is that
25 associated with any of your autopsy findings?

1 A. Not necessarily. So a child -- again,
2 children's GI systems are prone to ups and downs.
3 And whether the child had diarrhea or constipation
4 or what he had, it probably doesn't have a whole
5 lot to do with what I'm looking at. I didn't find
6 evidence that he hadn't been fed or anything like
7 that. He looked like he had been fed well enough.
8 He was at a good weight for his height and so
9 forth. I didn't find any evidence there was
10 anything wrong with his bowel as far as when I
11 opened it up, that it wouldn't work properly, that
12 he would have something -- some sort of chronic
13 issue with diarrhea or other gastrointestinal
14 problems. So not so much.

15 Q. And so if I think about my question, we
16 talked about the bruises and distribution and so
17 forth, were they -- did they all appear to be about
18 the same age, or were they varying ages, appear to
19 be, in terms of resolution?

20 A. That's a difficult question to answer.
21 Looking at them, they looked somewhat different,
22 one from the next. And that's just about as good
23 as any other way to tell. So if you get a bruise,
24 you kind of know what it looks like when you first
25 get it, and you kind of know when it turns

1 eventually yellow and green or green and purple and¹⁶⁸
2 blue. And so he had some different colors of
3 bruises which suggested this sort of happened over
4 different time periods. But it's very difficult to
5 be much more specific than that.

6 CORONER WOOTEN: Any more questions
7 from the jurors?

8 JUROR NO. 195: Yeah. We have been
9 mentioned several times that there was swelling of
10 the rectum and then like pooling of blood around
11 the scrotum. What type of injury would cause that?

12 THE WITNESS: Yes, thank you for the
13 question. So this looked like it was the bleeding
14 that was tracking from the belly down through the
15 inguinal canal into the scrotum. And the reason I
16 say that, the evidence that I have that it wasn't a
17 blow to the scrotum is that when I looked at the
18 testes, there was no blood in them, just blood
19 around them. So my belief is that it's the
20 bleeding that was around the kidneys and around --
21 well, around the right kidney and the adrenal and
22 the pancreas, and it tracked down into the soft
23 tissue, into the backside of the peritoneum, it
24 kept going and going, through the inguinal canal
25 and into the scrotum. So it's the same trauma to

1 the belly thorax area from what I can put together
2 with the autopsy.

3 CORONER WOOTEN: Any other questions at
4 this point? Yes, ma'am.

5 JUROR NO. 107: Again, carrying on a
6 little further with her question, so the blood that
7 was pooling in the scrotum, is that something that
8 would have happened over time so it would have been
9 there and noticeable in the bath the previous
10 night, the previous night, or is that something
11 that happened with everything that brought him into
12 the ER?

13 THE WITNESS: That's a good question,
14 and I can't answer it to my satisfaction. Bleeding
15 is one of those things that can happen quickly. It
16 can happen slowly. It can seep. It can bleed
17 quickly. It depends what's injured. And I don't
18 have a focus. I don't know where the injury
19 exactly was. Now, there are areas that -- you
20 can't sample the entire body as well. There are
21 areas that look like it's quite acute. So, again,
22 that's like the six-hour thing. And that's very
23 big. Don't take six as a number. And, again, some
24 areas in that same stream of blood that looked
25 quite a bit older, 24, 36, and so on.

1 JUROR NO. 107: But it is kind of
2 likely that it should have been noticeable perhaps
3 even the evening before or for something that --
4 that that would have been an issue that to most of
5 us, we'd be like, oh, I need to have that checked,
6 that's not right. Is that the case, that it could
7 have been going on that long?

8 THE WITNESS: Again, I can't get intuit
9 that to my satisfaction. I don't know the answer
10 to that. I agree with you, that it seems likely
11 that it was a slow accumulation of a lot of blood.
12 But if it started lower or started higher, I don't
13 know when it would have appeared or become visible
14 or obvious to the caretaker. I can only make
15 guesses about that.

16 JUROR NO. 83: Last question. Of all
17 the injuries that he had, which one was the most
18 recent and severe?

19 THE WITNESS: Thank you for your
20 question. This is what makes this, in my mind, a
21 case of sort of ongoing, chronic, recurrent abuse.
22 There is no specific thing I can point to. His
23 body was at a point where it was quite vulnerable
24 to new injury, spontaneous rebleeding. Any of
25 these things could have happened to him. And there

1 is nothing I can say, well, look, there is a liver
2 that got lacerated; or, look, the spleen is open;
3 or, look, there is a big hole in the bowel.
4 Nothing like that. Going from top to bottom on
5 this child is just very vague, diffuse injury. So
6 the only way that I can get my head around it that
7 is he was made more vulnerable over time, and then
8 something happened that pushed him over the edge.
9 But I honestly don't know what that was.

10 BY CORONER WOOTEN:

11 Q. To clarify for the record, are you
12 suggesting that there was more than one incident
13 then of trauma?

14 A. To my mind, there was certainly more
15 than one incident, because you can point to
16 different ages of wounds. We only get three
17 choices in ages of wounds: Chronic, subacute, and
18 acute. We've got all three. If there are six
19 different classes, we'd have all six. But we only
20 get three, and we have it all. That suggests to me
21 that it's more than one time.

22 CORONER WOOTEN: Any other questions
23 from the jurors?

24 JUROR NO. 107: I'm not going to get
25 this right. I can just try. With all of the --

1 like you mentioned the mesentery had the hole in
2 it, the tear, old and new scarring, he had bleeding
3 into the tissue behind the liver and the kidney.
4 Would all of this blood kind of stay within the
5 body finding ways to go, or would it get into the
6 bowel and come out whenever he's going to the
7 bathroom, either way? What happens with all of
8 this, this blood and everything that's just all in
9 there?

10 THE WITNESS: Well, the only thing your
11 body can do to clean stuff up is send cells after
12 it. So that's what was starting to happen. Cells
13 come and they try to clean up stuff. So as the red
14 blood cells break down, the macrophages, which are
15 eating type of cells, start to eat the stuff from
16 those cells. Other inflammatory cells will come in
17 and cause a disaster and a mess while they're
18 trying to clean things up.

19 So essentially it goes back into the
20 blood eventually, if those chewing cells can get
21 back to the circulation as they're wandering around
22 trying to clean things up. Many of them just stay
23 where they are, wherever they are as they're
24 cleaning. They don't know where to go next, and
25 they just stay there. But the blood itself, it's

1 hard to get rid of. You can't just send it off.
2 You have to pick it up with a cell at a time. So
3 it's quite a long process. Many months it can be.

4 JUROR NO. 107: Okay. Because at one
5 point you did say that it looked like maybe there
6 were some that were new, newly attacking that
7 breakdown at one point, I think you said at one
8 point. So we don't really know how long that was
9 going on inside; is that correct?

10 THE WITNESS: That's right. That makes
11 it very difficult to pinpoint.

12 JUROR NO. 107: Okay. All right.
13 Thank you.

14 CORONER WOOTEN: Any other questions
15 from the jurors?

16 BY CORONER WOOTEN:

17 Q. Dr. Schandl, I know in your report, at
18 the end of such reports, there is always, in
19 addition to a lot of detail and diagnoses, you
20 render your opinion as to the cause of death and
21 the manner of death. Would you speak to that for
22 us, what you wrote in this case or your opinion in
23 this case?

24 A. Yes, I will. So in this case, the
25 cause of death -- and I'll read it from the report

1 so you have the wording: The cause of death is
2 blunt trauma to the torso, and the manner of death
3 is homicide.

4 In this state, we have five choices for
5 manner of death, so we're expected to choose one:
6 Homicide, suicide, natural, accident, and
7 undetermined. So we have those five to choose
8 from. And, to me, homicide means that a person
9 died because of the actions or lack of actions in
10 some case of another person.

11 CORONER WOOTEN: Any other questions?

12 JUROR NO. 107: Would you clarify for
13 me, blunt trauma to the torso, would that be a
14 one-time thing, or could that be things that have
15 been trauma over a course of time? One trauma
16 once, or could it be multiple?

17 THE WITNESS: That's a very good
18 question, and that's why I worded it like that,
19 because one could say acute blunt trauma. That
20 would mean, well, it looks like something happened,
21 and something happened like if you were in a car
22 crash. In this case, since there are many
23 different injuries and they seem to be happening
24 over time, I lumped it. It's a lump.

25 JUROR NO. 107: Okay. But not

1 necessarily a one-time thing?

2 THE WITNESS: Correct.

3 CORONER WOOTEN: Thank you. Any other
4 questions from the jurors?

5 JUROR NO. 222: Yes. You said there's
6 five causes of death, homicide by action of another
7 person, suicide, accident, undetermined, and what
8 was the fifth?

9 THE WITNESS: Natural. Those are the
10 manners, manners of death, correct.

11 CORONER WOOTEN: Any other question
12 before we allow Dr. Schandl to leave the stand?

13 Okay. Thank you, Dr. Schandl. You may
14 step down.

15 THE WITNESS: Thank you.

16 CORONER WOOTEN: Our next witness will
17 be Dr. Robert Cina. If we could have Dr. Cina come
18 to the stand.

19 DR. ROBERT CINA,
20 being first duly sworn, was examined and testified
21 as follows:

22 EXAMINATION

23 BY CORONER WOOTEN:

24 Q. Dr. Cina, thank you for taking the time
25 today to participate in this inquest into the death

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

OCA # 13-0002073
AFFIDAVIT

Personally appeared before me, a Magistrate of this county, one Detective Andrew DeCamp
(affiant)
who, first being duly sworn, deposes and says that Bryan Okelth Senbrook did, within the
(defendant)

Town of Mount Pleasant, County of Charleston, State of South Carolina, on or about March 19, 2013, violate the criminal laws of the State of South Carolina, namely, Homicide by Child Abuse, at the following location, [REDACTED]
SC in Violation of Section, 16-3-85 the South Carolina Code of Laws of 1976, as amended.

The Affiant states that there is probable cause to believe that the Defendant named above did commit the crime(s) set forth and that such probable cause is based on the following facts:

On March 19th, 2013 at approximately 1902 hours, Charleston County Consolidated Dispatch was contacted by East Cooper Medical Center staff and reported a suspicious death of a toddler, Minor Victim (DOB: [REDACTED]). The unresponsive victim was transported by the defendant from [REDACTED] to East Cooper Medical Center, both sites located in the Town of Mount Pleasant, South Carolina, in Charleston County. Through investigation, it was learned that the victim was in the custodial care of the defendant on March 19, 2013, and that the victim was entrusted to the sole custodial care of the defendant on March 19, 2013 from approximately 1600 hours to the time of the victim's hospital admittance. That at the time of hospital admittance, the victim was in full cardio-pulmonary arrest. That autopsy results indicate that the victim sustained fatal acute abdominal injuries, resulting from blunt force trauma. That eyewitnesses reported that the defendant struck the victim shortly before the victim became unresponsive.

That the defendant did cause the death of the two year old victim while committing child abuse, and the death occurred under circumstances manifesting an extreme indifference to human life.

All of the above is believed to be true based on the investigation of Detective DeCamp of the Mount Pleasant Police Department. All of the above is against the law, peace, and dignity of the State of South Carolina.

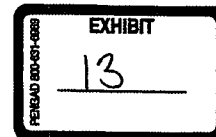
Sworn to and Subscribed before me
This 9 day of May
2013.

[Signature]
Signature of Judge

[Signature]
AFFIANT

100 Ann Edwards Lane
Mt. Pleasant, SC 29464
884-4176

13 MAY 24 PM 11:57



RULE 5 HER 2

(Click here to show / hide) [Modify Search for Bookings Criteria used for below results.](#)

Inmate search results Generated at: 9/15/2017 10:41:21 AM

Inmate #	Name	DOB	Booking Date	Booking Time	Booking Status	Gender	Race	Release Date	Release Time	Early Release Date	Final Due Date	Cell	Print
0001465108	SEABROOK, BRYAN OKEITH		05/09/2013	18:36	RELEASED	M	B	10/25/2014	10:52				

Additional Information

Age: 25 Height: 5 8 Weight: 220 Confinment Reason: WARR

Charge Details

Arresting Agency	Charge #	Warrant #	Bond Amount	Charge Status	Charge Description	Court	Court Date
MTPLS	16-3-85A2	2013A1020900106	\$75,000.00	BONDED	HOMICIDE CHILD NEGLECT	GSC	



1

Number of records per page: 10



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State of South Carolina

Charleston County
101 Meeting Street, Suite 330
Charleston, SC 29401
Phone (843) 958-5150
Fax (843) 958-5160



Berkeley County
300 B California Avenue
Moncks Corner, SC 29461
Phone (843) 723-3800 ext. 4529
Fax (843) 719-4588

SCARLETT A. WILSON
Solicitor, Family Judicial Circuit

September 8, 2015

Chief Carl Ritchie
Mount Pleasant Police Department
100 Ann Edwards Lane
Mount Pleasant, South Carolina 29464

The Honorable Rae H. Wooten
Charleston County Coroner
4050 Bridge View Drive
North Charleston, South Carolina 29405

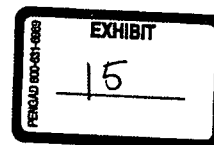
Dear Chief Ritchie and Coroner Wooten:

I am writing regarding the dismissal of charges against Bryan Seabrook in relation to the death of [Minor Victim] a two year old grandchild of Seabrook's girlfriend. This is a tragic case which we and your department have intensely investigated. A summary of the case and our lack of progress is outlined below:

Mt. Pleasant police were dispatched to East Cooper Hospital on March 18, 2013 at 7:02PM. Upon arrival they learned Bryan Seabrook had arrived at the ER carrying an unresponsive child, [Minor Victim] [Redacted] was pronounced dead a short time later.

A Mt. Pleasant Police Department and parallel Coroner's investigation into the death began that evening. [Redacted] lived in the home with his maternal grandmother, Marty Dixon her boyfriend Bryan Seabrook, his mother Brittney Hartwell and his two sisters' N [Minor] W [Minor] age four and G [Minor] age three. Officers attempted to talk with all the adults that lived in the home but a family attorney did not allow them to cooperate with law enforcement.

Officers spoke with medical personnel at East Cooper, MUSC along with the child's pediatrician. The cause of death was blunt trauma to the torso. The autopsy revealed mesenteric fibrosis and hemorrhage. Officers interviewed DSS and had sisters N [Minor] and G [Minor] interviewed at the Children's Center. The girls had been in the home the afternoon of March 19. During the investigation the home was searched and neighbors were interviewed as well as many other individuals officers felt could add information.



Bryan Seabrook was arrested in May of 2013 and charged with Homicide by Child Abuse. At the time of arrest, from the information available, it appeared Bryan Seabrook had been the caretaker for most of the day. Officers believed from the information available there had been a very significant blow to the child's abdomen that day (March 19). It was also believed he was the only adult that had spent time alone with [REDACTED] that day. There was also a history that [REDACTED] was calling when Marty Dixon left to return to her job after 4 that afternoon. Marty's clients from that afternoon verified her time frame and noticed nothing unusual about her behavior. (Marty is working with DSS to regain custody of the girls.)

The Solicitor's Office began to prepare for trial. Among other potential witnesses and experts, our prosecutors and investigators met with:

- The Coroner and members of her staff.
- All the East Cooper Hospital caregivers from the evening of the child's death.
 - The caregivers that had contact with Bryan Seabrook on the evening of the child's death all relayed that Bryan seemed appropriately upset and seemed to care greatly for [REDACTED] when they saw them both at the hospital. They also observed how close and loving he was with the girls.
- All the DSS workers involved (past and present).
 - The history developed from DSS, the doctors involved and [REDACTED] grandmother, Dorothy Williams, was of a child that often had unexplained injuries after visits in his mother's home. He suffered a broken leg while under his mother's care and she was removed from the home. He stayed in the home with Bryan Seabrook and Marty Dixon. His mother was allowed back in the home in early March of 2013 because Doctors were unable to say the injury was inflicted.
- The clients that Marty Dixon saw on the afternoon of 3-19-2013.
- Paternal Grandmother, Dorothy Williams and an aunt that had been caretakers for [REDACTED] for a significant part of his life.
- Don Elsey at the Children's Center where N [REDACTED] and G [REDACTED] were interviewed.
 - The interviews of the girls did not result in any information that could be used. They gave different information during each interview and could not give any time frame due to their own psychological developmental level.
- Dr. Able and Nurse Natalie Dixon that had been involved in treating prior injuries and broken bone that [REDACTED] suffered in December of 2012.

- Dr. Cynthia Schandl that performed the autopsy on [REDACTED] Pediatric Abdominal Surgeon Dr. Cina (on several occasions).
 - Dr. Schandl could not give a time frame for the last injury. She found old injuries of mesenteric hemorrhage. She felt the old injuries would have caused [REDACTED] to be in such a weakened state a minor blow could have caused a re-bleed and resulted in his death.
 - Dr. Cina felt there was an acute blow that caused the hemorrhage. The term acute would mean within 6 hours in this case. He did not have a history nor did he see the body. He based his opinion on one picture. The 6 hours placed all three adults alone with [REDACTED]
- Sally Perry great-grandmother that has custody of the N [REDACTED] Minor and G [REDACTED] Minor.
 - Perry was nonresponsive to most questions. She did say Brittney has stopped all contact with the girls and has not shown up for the Family Court hearings. She also made it clear she did not believe Bryan Seabrook would have injured [REDACTED]
- Marty Dixon and Brittney Hartwell refused to talk with our office.
- All jail telephone calls Bryan Seabrook made from the jail were reviewed.
 - None of the telephone calls, including those between Marty and Bryan contained incriminating information.
- The phone records of Bryan and Marty's cell phones were searched and cell tower information as well as text messages was obtained.
 - The cell tower information revealed that Bryan Seabrook was not in the home during the morning while Brittney was with [REDACTED]. The phone information also showed Marty was home in the early afternoon around 1. She came home again for a late lunch. Bryan left the home and was gone until just before Marty left to return to work after 4. This information made it clear that Bryan was not home all day and was not only adult alone with [REDACTED]
- Bryan Seabrook submitted to an interview.
 - Bryan's interview corroborated his movements of that day even before he knew of any information from the cell towers. Bryan also explained [REDACTED] throw up the snack before he left the table. This was important due to doctor's belief [REDACTED] would not have been able to keep food down after the injury. The original assumption had been [REDACTED] ate his snack was fine and then later became unresponsive.

As a result of the new information, we know three adults were together and alone with the child during the time frame of the injury. We have no statements that anyone witnessed an

Page 4
September 8, 2015

injury. We have a history of prior unexplained injuries. Dr. Schandl found evidence of prior injuries that could have weakened [Name Victim] to the point that minor blow could have caused this mesenteric hemorrhage.

In examining at the facts available to the prosecution at this point, it is clear the case would not survive a directed verdict motion. Our courts have recently over turned several cases with facts that placed more than one adult present and no testimony to prove which adult caused the injury. These case decisions indicate a case cannot proceed on the argument that all adults present bear responsibility for the death.

At this point, law enforcement and we are at a standstill. We have no power to force a deposition or to require cooperation from the adults who have information in this case. The only *potential* step to move the investigation and prosecution forward may be a Coroner's Inquest. At least with a Coroner's Inquest, the Coroner may use her subpoena power to summons key witnesses to testify. The drawback is that we know [Name Victim] death was a homicide and a Coroner's jury finding of such will not advance the case. If a Coroner's Inquest is deemed appropriate, we would like to be involved.

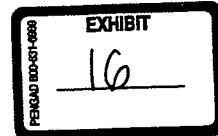
We appreciate the dedication of your departments in trying to solve this heartbreaking homicide. We are open to further discussions with you and your detectives. Because of the lack of evidence as to the identity of the killer, we must dismiss the charges against Bryan Seabrook.

Sincerely,



Deborah Herring-Lash
Special Victims Prosecutor
Ninth Circuit Solicitor's Office

c: Detective Andrew Decamp, Mt. Pleasant Police Department



1 STATE OF SOUTH CAROLINA
2 COUNTY OF CHARLESTON IN THE CORONER'S COURT

3
4 IN RE:

5 **Minor Victim**
6 DOD: March 19, 2013
7 CASE #: 2013M00860
8 Deceased.

9
10 CORONER'S INQUEST
11 VOLUME 2
12 CORONER RAE H. WOOTEN PRESIDING

13
14 DATE: July 13, 2016
15 TIME: 9:17 AM
16 LOCATION: Charleston County Courthouse
17 100 Broad Street, Courtroom 3B
18 Charleston, SC
19 REPORTED BY: MARIE H. BRUEGGER, Registered
20 Professional Reporter, CRR

21 A. WILLIAM ROBERTS, JR., & ASSOCIATES

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A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO
scheduledepo.com

1 THE WITNESS: Thank you.

2 CORONER WOOTEN: Our next witness is
3 Dr. Misko, Dr. Jeffry Misko, if you could have him
4 enter the room.

5 JEFFRY MISKO, MD
6 being first duly sworn, testified as follows:

7 THE CLERK: Please have a seat. And
8 for our record, if you could state your first and
9 last name and spell out your last name, please.

10 THE WITNESS: Jeffry Misko, M-I-S-K-O.

11 EXAMINATION

12 BY CORONER WOOTEN:

13 Q. Dr. Misko, thank you for taking time
14 to be here in this inquest into the death of
15 Minor Victim. I really appreciate your time
16 and consideration in meeting with us here today.

17 The jurors to your right are free, in
18 an inquest situation, to ask questions, and please
19 feel free to answer those freely.

20 Would you tell us your relationship to
21 Minor Victim in the sense of why you're here
22 today?

23 A. I took care of Elijah at Nason Medical
24 Center. He came in for two complaints at that
25 time. He was brought in for some vomiting

1 symptoms and then also some leg pain.

2 Q. I have here a copy of the records from
3 Nason, so I'm going to pass this to you and let
4 you reference it as we go.

5 (EXH. 13, 12/20/12 Medical Record from
6 Nason Medical Center, was marked for
7 identification.)

8 BY CORONER WOOTEN:

9 Q. And I'm going to give you just a
10 minute to look over that, because I understand
11 you're not employed at Nason now, so you didn't
12 have access to that record.

13 A. Correct.

14 Q. I'll give you just a minute.

15 A. Okay.

16 Q. Before we go on further, would you
17 just -- you've stated your name, and I obviously
18 need you, just for our jury, to understand what --
19 at the time you were employed at Nason and what
20 your professional background is.

21 A. I'm a board-certified emergency
22 medicine physician. I worked at Nason for almost
23 three years, left there probably a little over
24 three years ago.

25 Q. Thank you very much. As you look at

1 the record before you, if you would just remind
2 our jury the date of service, the day you saw him,
3 and perhaps read those first couple of paragraphs,
4 just to sort of share with them the context under
5 which you saw him.

6 A. Okay. The date was 12/20/2012. Like
7 I said, he had two complaints, some vomiting, some
8 fever, and then in addition, the other complaint
9 was left leg pain.

10 Do you want the entire paragraph read?

11 Q. If you would, just read through those
12 first two.

13 A. Patient has had fever, odorous urine,
14 vomiting for the past two days. Mother states
15 symptoms have worsened progressively since onset.
16 Mother denies nausea/vomiting, fussiness, poor
17 appetite. Mild to moderate severity. Pertinent
18 positives include fever and vomiting. Negatives
19 include cough, congestion, pulling ears, seizures,
20 fussy, poor appetite, decreased urine output, and
21 decreased fluid intake.

22 And then the second is pain in the
23 left leg. Patient has had pain in left leg for
24 the past day. Mother states patient was wrestling
25 with cousin when the injury occurred. Mother has

1 not given the patient any meds for symptom relief.
2 Mother denies other joint pain/injury. Onset was
3 one day ago. Severity mild to moderate. Patient
4 was injured on the left leg. Context: Direct
5 blow. Injured at home. Negatives include loss of
6 feeling, headache, neck pain, hearing loss,
7 trouble breathing, or double vision.

8 Q. Thank you. So as you look at that
9 record, to make sure that I heard correctly, the
10 mother reported that he had suffered this pain for
11 how long?

12 A. One day.

13 Q. And she reported that this was related
14 to what?

15 A. Wrestling with a cousin.

16 Q. Before we address that a little bit
17 more, in your examination of Minor Victim, you had
18 mentioned, I think, something to do with maybe
19 abdominal pain or vomiting? I heard --

20 A. There was reported vomiting.

21 Q. Reported. Did you see any evidence of
22 that?

23 A. It's not in the chart, and I honestly
24 don't recall.

25 Q. In your assessment as a physician, did

1 you see anything that caused you great concern
2 that vomiting may be a big problem?

3 A. Not at that day, no, not that I could
4 see.

5 CORONER WOOTEN: And I do recognize,
6 and I will say to the jury, Dr. Misko only had one
7 contact with Minor Victim, and this was his first and
8 only contact, so he didn't have an ongoing
9 relationship that would allow him to evaluate over
10 a time frame.

11 BY CORONER WOOTEN:

12 Q. So as you had mentioned the vomiting
13 and fever, I believe, what was his temperature
14 when he was there?

15 A. He was afebrile there. It was 98.5.

16 Q. So he did not have --

17 A. Correct.

18 CORONER WOOTEN: For the jury,
19 afebrile would mean he did not have a fever.

20 BY CORONER WOOTEN:

21 Q. So as you continued your care of him,
22 tell me what else you learned in the course of
23 providing care to him.

24 A. Essentially, looking at him, we could
25 see that he did have some tenderness to his left

1 leg, and an x-ray was ordered.

2 Q. And what did that x-ray show?

3 A. X-ray showed a spiral fracture through
4 the distal diaphysis of the left tibia, and there
5 was no distraction or angulation of the fracture.

6 Q. For the jury, would you tell where the
7 tibia is?

8 A. It's your lower leg.

9 Q. Can you make any observations about
10 his behavior upon your examining him or anything
11 of that nature?

12 A. From the chart, not really, no.

13 Q. Do you have any -- I know it's a long
14 time ago. It's over three years. Do you have any
15 recollection of him personally?

16 A. I remember more of a discussion with
17 the mom than actually the physical exam of the
18 child.

19 Q. Could you tell us about that
20 discussion?

21 A. The nature of the fracture, it's not a
22 fall-down-kind-of-break-your-leg fracture, it's
23 intentional. So that's obviously a great concern
24 when you're dealing with somebody who's two years
25 of age or any age, so that was really the large

1 part of the discussion as far as, you know, how
2 this actually occurred.

3 Q. Do you recall whether there was more
4 than one person with that -- at that visit?

5 A. I really don't recall if there was
6 more than one.

7 Q. Can you -- and you may not recall this
8 either -- describe the woman who was with him?

9 A. African-American female, medium build,
10 not --

11 Q. Do you -- did you get to see or do you
12 recall whether he was able to walk? Did you get
13 to see him walk?

14 A. I don't recall, and I don't imagine we
15 made him walk on a broken leg.

16 Q. In a care -- you know, in a clinic
17 situation where you're providing care, my thoughts
18 would be that by the time you saw the patient, he
19 was already in a room?

20 A. Correct.

21 Q. So you would not have -- I'm assuming,
22 but correct me if I'm wrong. You would not have
23 necessarily seen him walk into the facility?

24 A. Correct. I would not have necessarily
25 seen him. It doesn't mean that I couldn't have,

1 but I did not necessarily see him.

2 Q. So you x-rayed, the fracture was
3 identified, you talked with the mother, and what
4 kind of -- what followed that discussion and that
5 diagnosis?

6 A. I had a relatively extensive
7 discussion with her as far as, once again, the
8 nature of the injury, it not being accidental.
9 The mom seemed very upset with this and I think
10 stated that the care was -- the child was -- at
11 that time was being watched by the grandmother,
12 who was also watching the cousin who was the one
13 who reportedly injured the child.

14 And I made it, you know, very clear to
15 her that, you know, this wasn't an accident, and
16 that the child can't really be in the care of the
17 grandmother or in the presence of the cousin with
18 that kind of activity, and mom agreed. She said
19 that she would not let that happen.

20 Q. And again, the date of service was
21 what date?

22 A. 12/20/2012.

23 Q. In your medical opinion, is it likely
24 that people would seek service for an injury of
25 this type pretty immediately, or would they --

1 A. Yes.

2 Q. If you were -- if I were to say to you
3 sort of what would you -- how would you define
4 immediately? I used that word, and you didn't.

5 A. I would say anywhere from immediately
6 following the incident to, you know, within one to
7 two days. You know, there's always --

8 Q. Thank you very much. So in terms
9 of -- obviously, you now have done all those
10 things, and you obviously initiated maybe some
11 first level of treatment, so tell me what was done
12 after the diagnosis or discussion. What did you
13 do before he left your clinic that day?

14 A. He was placed in a splint where it
15 would immobilize the fracture to start healing,
16 and then he would be referred to orthopedic care
17 for definitive management, where in this case a
18 cast would definitely need to be applied.

19 Q. Thank you. Would that -- would a
20 fracture of this nature in a two-year-old be
21 something that you would typically treat long term
22 at an urgent care center?

23 A. No. This would definitely be referred
24 to an orthopedic specialist to have it managed.

25 Q. Thank you. And did you share that

1 information or instruction with the mother?

2 A. Certainly.

3 Q. And I know that you probably cannot
4 remember that discussion, per se, but what would
5 be a typical set of discharge instructions
6 relative to an injury like that?

7 A. I would say typically within two to
8 three days. With a fracture, there's some
9 swelling, and the splint immobilizes it to allow
10 the swelling to go down, and then the cast can be
11 applied where it will fit better. So it doesn't
12 necessarily need to be casted the same day, but in
13 the very near future. Certainly not more than
14 five to seven days would be the absolute maximum,
15 but I would say two to three days is probably
16 pretty standard.

17 Q. And did y'all actually make a
18 referral, or you encouraged her to?

19 A. We encouraged her. It was pretty
20 commonplace for us to give a specific doctor and a
21 phone number to follow up with. We didn't make
22 specific phone calls and say: Your appointment
23 is, you know, at 3:00 on Tuesday. On occasion,
24 that was the case, but for the most part, it was
25 just here's this doctor, and we had physicians who

1 were relatively easy to access.

2 Q. And while you certainly -- I didn't
3 give you anything to support that here, that would
4 be a typical --

5 A. Correct.

6 Q. -- expectation, that you would have
7 provided them with --

8 A. Correct.

9 Q. -- instructions to follow up and
10 perhaps provided them some information to assist
11 them in that?

12 A. Correct.

13 CORONER WOOTEN: Any questions from
14 the jurors?

15 JUROR NO. 222: So the wrestling of
16 the cousin, you said spiral fracture, that mean
17 twisting of his leg?

18 THE WITNESS: Correct, yes. It's
19 twisting.

20 JUROR NO. 83: So with the twisting,
21 somebody was intentionally -- to inflict that kind
22 of an injury, what -- I guess what have you seen
23 that has caused that, what specific actions, like
24 picking someone up by a leg or --

25 THE WITNESS: No. It's exactly

1 twisting, like where you would see, you know, a
2 mixed martial artist, you know, try to submit an
3 opponent, twisting, causing pain in the joint.

4 JUROR NO. 83: What broken leg
5 symptoms that would be visible to pretty much
6 anyone would be probably some bruising with that
7 type of fracture?

8 THE WITNESS: Yeah, bruising and
9 swelling, swelling certainly more at that point.
10 Bruising may not have come to the surface yet.

11 JUROR NO. 250: How much force would
12 it take to cause a spiral fracture?

13 THE WITNESS: I don't know the exact
14 answer. I mean, you basically just need to twist
15 the joint past -- you know, everyone's bones are
16 slightly different, and pliabilities are
17 different. I don't know what to say in pounds.
18 In a two-year-old, it's probably not terribly
19 difficult.

20 JUROR NO. 107: Back to the mother at
21 the time this happened, and she comes in saying he
22 has fever and vomiting and leg pain. Did she --
23 in your conversation with her, did the wrestling
24 come up after you told her it was a direct blow
25 and intentional and you were concerned with that,

1 or is that something she volunteered when she came
2 in?

3 THE WITNESS: I don't recall.

4 JUROR NO. 195: Was the vomiting and
5 fever ever treated, or was that --

6 THE WITNESS: In reference in my note,
7 it appears that the child was not actively
8 vomiting.

9 CORONER WOOTEN: Any other questions
10 from jurors?

11 JUROR NO. 83: So when you find that
12 type of injury in a child, is it -- what would
13 prompt you to get some like Department of Social
14 Services or a caseworker or something like that
15 involved? Is there any suspicion of abuse at that
16 time?

17 THE WITNESS: I would say there's a
18 suspicion of abuse at that time because of the
19 nature of the injury. Like I said, this isn't a
20 fall-down-go-boom kind of injury. Part of it is
21 believing the story that you hear. You know, if
22 the mom seems very upset that her child's injured,
23 and she gives a reasonable explanation at that
24 time, and you don't see a significant amount of
25 other bruises or other visits where you've had

1 previous encounters with the child to know that
2 there's been -- you know, this child fell and
3 broke the other leg the same way, you know, six
4 months ago or, you know, had a head injury, you
5 know, three months ago, it makes it a little bit
6 more challenging as far as bringing social
7 services in. But it is an injury that in the
8 correct, you know, time and place may have
9 required that.

10 CORONER WOOTEN: Any other questions
11 from the jurors?

12 BY CORONER WOOTEN:

13 Q. Dr. Misko, I'm going to provide you
14 some information just to have you -- to give you a
15 context in which to respond, because you likely
16 would not have this information.

17 Minor Victim was -- his custody was changed
18 from one residence to another four days before
19 this incident. In your opinion, is it likely that
20 this child would have sustained this fracture
21 prior to that change?

22 A. I'm not really sure. I mean, I
23 can't -- off of the exam, I can't say the amount
24 of bruising present or the amount of swelling to
25 be able to say it's one day old, four days old at

1 this point.

2 Q. And that's certainly reasonable. I
3 just wanted to see if you had any thoughts about
4 that.

5 Did you ever -- so I think you
6 established you saw him once. When did you learn
7 of his death?

8 A. Honestly, I didn't get it until the
9 coroner's office notified me.

10 Q. Thank you. That's fair. And so after
11 you applied the splint, discharged him with
12 referral orders, you had no more contact with any
13 members of the family or anything?

14 A. Correct.

15 Q. Thank you.

16 CORONER WOOTEN: Any last-minute
17 questions for Dr. Misko?

18 Thank you. You may step down.

19 Our next witness is Mary Jo Gunselman.
20 She can come into the courtroom.

21 MARY JO GUNSELMAN, NP
22 being first duly sworn, testified as follows:

23 THE CLERK: Please have a seat, and
24 for our record, if you could state your first and
25 last name and spell out your last name, please.

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on October 7, 2013 the Grand Jurors of Charleston County present upon their oath:

Homicide By Child Abuse

That BRYAN OKEITH SEABROOK did in Charleston County, South Carolina on or about March 19, 2013 cause the death of Minor Victim date of birth , while committing child abuse or neglect under circumstances manifesting an extreme indifference to the life of Minor Victim; in violation of Section 16-3-85, South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEBORAH HERRING-LASH
ASSISTANT SOLICITOR

RULE 5 HER 1399

Peper Law 1369

HER20130503554

WITNESSES

Mt. Pleasant Police Department

AGENCY CASE NUMBER

2013P0002073

ARREST WARRANT NUMBER

2013A1020900106

DATE OF ARREST

May 9, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury Date: OCT 08 2013

VERDICT

Foreperson of Petit Jury

Date

INDICT

DOCKET NO. 2013GS1006527

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

October Term 2013

THE STATE

VS.

BRYAN OKEITH SEABROOK

DOB: [REDACTED]

B/M

Indictment for

Homicide by Child Abuse

FILED

10/17/2013 4:51:27 PM

JULIE J. ARMSTRONG

CLERK OF COURT

RULE 5 HER 1398

Peper Law 1368

MARK A. PEPER, ESQ.
MARK@PEPERLAWFIRM.COM



THE PEPER LAW FIRM, PA
548 Savannah Highway
Charleston, SC 29407
843.225.2520 (O)
843.225.2554 (F)

WWW.PEPERLAWFIRM.COM

December 11, 2017

VIA US MAIL

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Bryan Okeith Seabrook vs. Town of Mount Pleasant,
Case No. 2016-CP-10-03542

Dear Ms. Kitchings:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following:

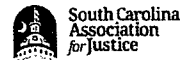
- (1) Proof of service of the notice of appeal on the respondent.
- (2) A copy of the order which is to be challenged on appeal.
- (3) A filing fee of \$100.

With best regards, I am

Sincerely,

Mark A. Peper, Esq.

Other Counsel of Record:
Tim Domin, Esq.
126 Seven Farms Drive
Suite 200
Charleston, SC 29492
Attorney for Respondent



NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. NICHOLSON, JR., Circuit Court Judge

Case No. 2016-CP-10-03542

Bryan Okeith Seabrook

Appellant,

v.

Town of Mount Pleasant,

Respondent.

NOTICE OF APPEAL

Bryan Okeith Seabrook appeals the Order Granting Defendant Town of Mount Pleasant's Motion for Summary Judgment of the Honorable J.C. Nicholson, Jr. dated December 5, 2017. Appellant received written notice of entry of this order on December 5, 2017.

December 11, 2017


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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Bryan Okeith Seabrook,

Plaintiff,

vs.

Town of Mount Pleasant, AND, Rae
Wooten, in Her Official Capacity as
Coroner of Charleston County,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-03542

**ORDER GRANTING DEFENDANT
TOWN OF MOUNT PLEASANT'S
MOTION FOR SUMMARY JUDGMENT**

FILED
DEC-5 PM 2:51
CLERK OF COURT

On September 20, 2017, this Court heard oral arguments on Defendant Town of Mount Pleasant's Motion for Summary Judgment. Present in the courtroom were Mark A. Peper, attorney for plaintiff Bryan Seabrook, Roy P. Maybank, attorney for defendant Rae Wooten, and Timothy A. Domin, attorney for defendant Town of Mount Pleasant.

Plaintiff's complaint was filed on July 8, 2016, pursuant to the South Carolina Tort Claims Act (SCTCA), asserting the following causes of action against Defendant Town of Mount Pleasant: (1) false arrest, (2) negligence/gross negligence, and (3) malicious prosecution.

The primary facts in this case for the purposes of this motion are undisputed. On March 19, 2013, plaintiff Seabrook had sole custody of **Minor Victim** (victim), a two year old child, from approximately 4:00 p.m. until approximately 6:23pm. That day, plaintiff arrived at East Cooper Hospital at approximately 6:23 p.m. with the victim who was not breathing and non-responsive. Mount Pleasant Police Department was dispatched to East Cooper Hospital and began an investigation into the death of the victim which included speaking with the victim's family members, hospital personnel, the

Coroner's office, Lowcountry Children's Center, Charleston County DSS, the execution of numerous search warrants, and review of cellular data.

Mount Pleasant Police received a statement from Jane Bell, the Child Protective Services emergency on-call case manager who took emergency custody of the minor siblings, G.W. and N.W., and accompanied them to a licensed foster home on the date of the incident. Ms. Bell's statement indicated that during her custody of the minors, N.W. disclosed that her brother (the victim) went to heaven to be with Jesus, and that the girls were not allowed to talk about what happened to the victim, not even to their mother or grandmother, because the plaintiff told them it was a secret. Ms. Bell also indicated that both girls disclosed that their mother and grand mother were not at home when the victim was brought to the hospital. G.W. disclosed that the plaintiff popped the victim and the victim hit the wall.

During forensic interviews of the siblings, G.W. and N.W., conducted by Dr. Don Elsey, Clinical Director of the Dee Norton Lowcountry Children's Center, the older sibling, N.W., disclosed that the plaintiff had "popped" the victim and that it was a secret. N.W. also demonstrated a "pop" during the interview by forcefully striking a chair with her hand. Based on a meeting with Coroner Wooten, Detective Andrew DeCamp believed the victim's death resulted from blunt force trauma to the torso that likely occurred within approximately four hours prior to the victim's death. Additionally, based on a meeting with Dr. Cynthia Schandl, medical examiner at MUSC, Mount Pleasant Police believed that the victim's death resulted from blunt force trauma to the torso that most likely occurred within approximately four hours prior to the victim's death.

On May 9, 2013, after an approximately two month investigation, Det. DeCamp and other Mount Pleasant Police Officers met the Solicitor of the Ninth Judicial Circuit and other assistant solicitors to review the facts of the investigation. During that meeting, based on the totality of the circumstances, it was determined that an arrest warrant should be drafted for the arrest of plaintiff on the charge of Homicide by Child Abuse. That same day, Det. DeCamp signed the affidavit to seek the arrest warrant, and met and spoke with Mount Pleasant Municipal Judge Larry Duffy. Finding probable cause existed to arrest plaintiff on the charge of Homicide by Child Abuse, Judge Duffy signed the arrest warrant.

Plaintiff was arrested that same day, May 9, 2013, and charged with Homicide by Child Abuse in connection with the death of **Minor Victim**. A preliminary hearing was held on June 5, 2013, and the court determined there was sufficient probable cause for the criminal charge to proceed and plaintiff was bound over to General Sessions. On October 8, 2013, a grand jury returned a true bill indictment against plaintiff for the charge of Homicide by Child Abuse. The Office of the Solicitor for the Ninth Judicial Circuit declined to prosecute plaintiff for the indicted offense on September 11, 2015. From July 12, 2016 through July 13, 2016, Charleston County Coroner Rae H. Wooten conducted a Coroner's Inquest into the cause of death of the victim pursuant to S.C. Code Ann. § 17-7-10, et seq. The inquest resulted in a jury verdict finding the victim's death was due to homicide by the hands of another and that Plaintiff Bryan Seabrook was the principal and Marty Dixon was an accessory. (Case No. 2013M00860).

STANDARD

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), SCRCP. "In determining whether any triable issues of fact exist, the evidence and all inferences which can reasonably be drawn from the evidence must be viewed in the light most favorable to the nonmoving party." Strother v. Lexington Cnty. Recreation Comm'n, 332 S.C. 54, 61, 504 S.E.2d 117, 121 (1998) (citing Hamiter v. Ret. Div. of S.C. Budget & Control Bd., 326 S.C. 93, 96, 484 S.E.2d 586, 587 (1997)).

gm
"Under Rule 56(c), SCRCP, the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact." Trivelas v. S.C. Dep't of Transp., 348 S.C. 125, 130, 558, S.E.2d 271, 273 (Ct. App. 2001) (citing Carolina Alliance for Fair Employment v. S.C. Dep't of Labor, Licensing, & Regulation, 337 S.C. 476, 523 S.E.2d 795 (Ct. App. 1999)). Once the moving party meets this initial burden, the opposing party may not rest on the allegations averred in his pleadings; rather, he must demonstrate that specific, material facts exist which give rise to a genuine issue. See Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991)

DISCUSSION

The Town of Mount Pleasant's position rests on several points:

Statute of Limitations

The South Carolina Tort Claims Act forever bars actions "unless commenced within two years after the date the loss was or should have been discovered;" S.C. Code Ann. § 15-78-110.

Plaintiff alleges his arrest by the defendant Town of Mount Pleasant was unlawful because it was without probable cause and that the warrant was based on incomplete or untrue statements. Plaintiff's action for false arrest was clearly cognizable on the date of his arrest; therefore, the statute of limitations began to run on the date of the plaintiff's arrest. Plaintiff alleges his arrest by the defendant Town of Mount Pleasant was negligent or grossly negligent because it was performed without probable cause. To the extent the plaintiff claims that the arrest warrant was obtained negligently, it would be cognizable on the date of his arrest and presentation of the warrant to him. Therefore, the statute of limitations as to that claim is clearly barred. Similarly, plaintiff alleges that defendant Town of Mount Pleasant instituted judicial proceedings by arresting and prosecuting plaintiff without probable cause and that this constitutes malicious prosecution. Plaintiff's action for malicious prosecution in this case is premised entirely on actions taken by Mount Pleasant Police Department obtaining an arrest warrant and prior to the arrest warrant. Here, there was no affirmative act by the Mount Pleasant Police Department to prosecute the plaintiff after obtaining the warrant. The Solicitor's Office had total control after that point. Importantly, plaintiff's post-arrest detention was as a result of the preliminary hearing held June 5, 2013, and the true bill

indictment returned by the Grand Jury on October 8, 2013. Under these facts, this Court finds the statute of limitations has run as to all of plaintiff's claims.

Probable Cause



Even if the causes of action were not time barred, this action should be barred because the police had probable cause at the time they sought and obtained the arrest warrant. The United States Supreme Court has recognized that the quanta of evidence required to establish probable cause is "less than [the quanta of] evidence which would justify" a conviction and "may rest upon evidence which is not legally competent in a criminal trial." United States v. Ventresca, 380 U.S. 102, 108, 85 S. Ct. 741, 745 (1965) Probable cause by its very name does not require absolute certainty, it is a "flexible, common-sense standard . . . found somewhere between suspicion and sufficient evidence to convict." Valentine v. State, 377 S.C. 244, 250, 659 S.E.2d 227, 230 (Ct. App. 2008) (citing Brown v. State, 372 S.C. 611, 643 S.E.2d 118 (Ct. App. 2007)). As the Supreme Court of South Carolina has explained:

The evidence need not be sufficient to support a conviction, or a verdict of guilty, or to establish guilt beyond a reasonable doubt; nor need the proof be positive, it being enough if it is such as to induce in the mind of the issuing officer an honest belief that the facts set forth exist, or as would lead a man of prudence and caution to believe that the offense has been committed.

State v. Bennett, 256 S.C. 234, 240, 182 S.E.2d 291, 294 (1971) (quoting 79 C.J.S. Searches and Seizures § 74 (1952)).

In determining the lawfulness of the arrest, the fundamental question is whether it was based on a facially valid warrant based on probable cause. The court must determine whether at the time of the arrest, the facts and circumstances within the arresting officer's knowledge "were sufficient to warrant a prudent man in believing that

the [arrestee] had committed . . . an offense." State v. Baccus, 367 S.C. 41, 49, 625 S.E.2d 216, 220 (2006) (quoting Beck v. Ohio, 379 U.S. 89, 91, 85 S. Ct. 223, 225 (1964)). An essential element in maintaining an action for malicious prosecution, is proof of "the institution of judicial proceedings without probable cause" Law v. S.C. Dep't of Corr., 368 S.C. 424, 436, 629 S.E.2d 642, 649 (2006)¹. "South Carolina has long embraced the rule that a true bill of indictment is prima facie evidence of probable cause in an action for malicious prosecution." Id. at 436, 629 S.E.2d at 649 (citing Kinton v. Mobil Home Indus., Inc., 274 S.C. 179, 182, 262 S.E.2d 727, 728 (1980)). Additionally, here, plaintiff's cause of action for negligence / gross negligence is predicated on a lack of probable cause. The party alleging a lack of probable cause bears the burden of proof on that point." Horton v. City of Columbia, 408 S.C. 27, 35, 757 S.E.2d 537, 541 (Ct. App. 2014).

The procedure whereby a defendant may challenge the veracity of facts relied upon in a warrant is outlined in Franks v. Delaware, and is based on the presumption that an affidavit to a warrant is valid. Franks v. Delaware, 438 U.S. 154, 171, 98 S. Ct. 2674, 2684 (1978). To rebut the presumption of validity, the challenger must allege "deliberate falsehood or of reckless disregard for the truth, and those allegations must be accompanied by an offer of proof." Franks at 171, 98 S. Ct. at 2684. Mere "[a]llegations of negligence or innocent mistake are insufficient." Id. Upon a preliminary showing, the alleged false or reckless material will be excised from the facts in the affidavit, and if the remaining facts in the affidavit are sufficient to constitute probable

¹ Law is distinguishable from Gist v. Berkeley County Sheriff's Dep't, because in Gist "the Sheriff's Department conceded at oral argument, the affidavit, standing alone, was insufficient to establish probable cause." Gist v. Berkeley County Sheriff's Dep't, 336 S.C. 611, 616, 521 S.E.2d 163, 166 (Ct. App. 1999). Here, there is no dispute that the warrant is facially valid.

cause, then no hearing is necessary. Id. at 171-72, 98 S. Ct. at 2684. If the remaining facts are insufficient to establish probable cause, then the challenging party is entitled to a hearing on the matter. Id. at 172, 98 S. Ct. at 2684-85.

South Carolina has held that the "*Franks* test also applies to acts of omission in which exculpatory material is left out of an affidavit." State v. Lynch, 412 S.C. 156, 179, 771 S.E.2d 346, 358 (Ct. App. 2015) (quoting State v. Missouri, 377 S.C. 548, 554, 524 S.E.2d 394, 397 (1999)). Similarly, the challenging party must show (1) the omission was "designed to mislead, or . . . made in reckless disregard of whether it would mislead" and (2) that inclusion of the omitted material in the affidavit would defeat probable cause. State v. Lynch, 412 S.C. 156, 179-80, 771 S.E.2d 346, 358-59 (Ct. App. 2015) (citations omitted). South Carolina Courts and the Fourth Circuit Court of Appeals have acknowledged, in cases involving omissions from an affidavit, there is a potential of "endless conjecture about investigative leads, fragments of information, or other matter that might, if included, have redounded to defendant's benefit[, and] . . . endless rounds of *Franks* hearings to contest facially sufficient warrants" State v. Lynch, 412 S.C. 156, 179, 771 S.E.2d 346, 358 (Ct. App. 2015) (quoting United States v. Colkley, 889 F.2d 297, 301 (4th Cir. 1990)). Importantly, those same courts have warned that "[i]nferring bad motives from an officer's omission of information collapses into a single inquiry the two elements – "intentionality" and "materiality" – which *Franks* states are independently necessary." Horton v. City of Columbia, 408 S.C. 27, 36, 757 S.E.2d 537, 541 (Ct. App. 2014) (quoting United States v. Colkley, 899 F.2d 297, 301 (4th Cir. 1990)).

gm

Our courts have held "[a]n omission does not per se invalidate the arrest warrant." State v. Porch, 417 S.C. 619, 628, 790 S.E.2d 440, 444 (Ct. App. 2016) (quoting United States v. Colkley, 899 F.2d 297 (4th Cir. 1990)). The Franks Court recognized that the truthfulness required in an affiant's statement does not require every fact be correct, may be based on hearsay and informant tips, "as well as upon information within the affiant's own knowledge that sometimes must be garnered hastily." Franks v. Delaware, 438 U.S. 154, 164, 98 S. Ct. 2674, 2681 (1978). South Carolina's Court of Appeals, embracing the Fourth Circuit, also recognized that an affiant's failure to "list every conceivable conclusion does not taint the validity of the affidavit." State v. Porch, 417 S.C. 619, 627, 790 S.E.2d 440, 444 (Ct. App. 2016) (quoting United States v. Colkley, 899 F.2d 297 (4th Cir. 1990)). The essential requirement of an affiant is "that the information put forth is believed or appropriately accepted by the affiant as true." Franks v. Delaware, 438 U.S. 154, 165, 98 S. Ct. 2674, 2681 (1978).

Horton is illustrative of the very high standard that must be met by a challenging party in a false arrest/malicious prosecution case premised on a warrant. There, a police officer had recovered a partial finger print from an attempted break-in, the automated fingerprint identification report indicated "twenty possible matches, with the fingerprint of Horton identified as the most probable match." Horton v. City of Columbia, 408 S.C. 27, 30, 757 S.E.2d 537, 538 (Ct. App. 2014). After it was determined that Horton's fingerprint was a probable match, an officer spoke with Horton's probation officer. The probation officer expressed reservations about Horton's involvement in the break-in because Horton lacked transportation and had recently given birth to her third

child. The facts recited by the affiant in seeking an arrest warrant did not include any of the potentially exculpatory information that was received from the probation officer. Id. at 31, 757 S.E.2d at 538-39.

After Horton's arrest, Horton filed suit alleging, inter alia, assault and battery, false arrest, and malicious prosecution. The trial court granted summary judgment against Horton as to all claims. Id. at 31-32, 757 S.E.2d at 539. On appeal, the court addressed the issue of probable cause challenges and reiterated that under the Franks test, the intentional and material prongs must be determined independent of each other and an inference of intent should not be drawn based on the alleged materiality of an omission. Id. at 36, 757 S.E.2d at 541. The court affirmed the grant of summary judgment holding that Horton failed "to meet the high burden of proving the intentional or reckless omission . . . [of the probation officer's] statements from Officer Tyler's affidavit." Id. at 37, 757 S.E.2d at 542.

an

In the case before this Court, plaintiff argues that defendant Town of Mount Pleasant lacked probable cause to seek an arrest warrant and to arrest the plaintiff in support of plaintiff's cause of action for false arrest. Plaintiff asserts the arrest warrant was conclusory, contained material false and misleading information, and omitted relevant exculpatory material information. In plaintiff's memorandum and during oral argument, plaintiff focused exclusively on the "materiality" prong of Franks. Plaintiff failed to put forth any evidence addressing the "intentionality" prong of Franks. As explained above, the intentionality and materiality prongs require distinct examination and should not be collapsed into one, by inferring intentionality from an alleged materiality of omitted information.

Assuming arguendo that the intentionality prong was satisfied, this Court rejects plaintiff's argument that the affidavit is materially false. Plaintiff disputes four of seven sentences contained in the arrest warrant affidavit:

- 
- (1) Plaintiff asserts that sentence three is misleading because it does not indicate that in addition to the plaintiff, two other adults had custody of the victim at some point on the day of the victim's death. Additionally, plaintiff asserts his sole custody of the victim began at 4:30pm, not 4:00pm as indicated in the affidavit.
 - (2) Plaintiff asserts that sentence five is misleading because it uses the term "acute" to describe the cause of death and because it fails to describe the time and location where the injury occurred.
 - (3) Plaintiff asserts that sentence six is misleading because it does not indicate that the witnesses are the victim's three and four year old sisters.
 - (4) Plaintiff asserts that the final sentence is misleading because it relies on the prior sentences to which plaintiff objects, and because it asserts that plaintiff committed the offense of homicide by child abuse.

As explained above, warrant affidavits may be based on hearsay, informant tips, the affiant's own knowledge, and do not require that every fact be correct. The quanta of evidence required to establish probable cause is less than that for a conviction and need not be legally competent evidence, nor does the proof need to be positive. It is that which renders an honest belief that the facts set forth exist.

The plaintiff's position actually requests the Court embrace a rule that all statements must be expressed in way that is entirely complete and contains any possible information which might bear on the points expressed in the warrant. This is

not the law pertaining to warrants or probable cause and would be an unrealistic standard effectively requiring the police to state all evidence—favorable, unfavorable, or neutral---in the arrest warrant.

gm
The affiant police officer, Andrew DeCamp, testified in a deposition, at the coroner's inquest, and provided an affidavit in support of this summary judgment memorandum that the sisters of the deceased child, particularly the four year old child, were consistent in their position that plaintiff had "popped" the victim, and that then the victim had gone to sleep and gone to heaven, and that they were instructed to keep it a secret. This information was provided by a DSS case manager and forensic interviews of the siblings. Additionally, the affiant officer had information from the medical examiner that the victim died from blunt force trauma to the torso, that the injury was acute, and that the force necessary to inflict the injury was most likely beyond that which another child in the household could inflict.

This Court believes the facts are sufficient to establish probable cause, even taking into consideration the alleged omissions or mistakes in the warrant. This Court's determination is also supported by the fact that the preliminary hearing judge found the existence of probable cause and bound plaintiff over to General Sessions, and the fact that a Grand Jury returned a true bill indictment.

Based on the foregoing, the evidence yields only the conclusion that plaintiff has failed to meet the burden of showing the lack of probable cause. Because probable cause existed for plaintiff's arrest, defendant Town of Mount Pleasant's motion for summary judgment is granted against all plaintiff's causes of action, and plaintiff's complaint against defendant Town of Mount Pleasant is dismissed with prejudice.

S.C. Tort Claims Act Immunity

The SCTCA waives some sovereign immunity and permits certain government entities to be liable for torts. S.C. Code Ann. § 15-78-40. That waiver of immunity is subject to certain limitations and exemptions. Id. Specifically, government entities are not liable for losses resulting from

legislative, judicial, or quasi-judicial action or inaction; administrative action or inaction of a legislative, judicial, or quasi-judicial nature, execution, enforcement, or implementation of the orders of any court or execution, enforcement, or lawful implementation of any process; the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee;

S.C. Code Ann. § 15-78-60.

 Here, Defendant Town of Mount Pleasant, through its police department, exercised discretionary judgment in making the determination to seek an arrest warrant for the plaintiff. The process of appearing before a judge to assert the facts constituting probable cause is a judicial or quasi-judicial process in which the police in this case participated. In executing the arrest warrant signed by Municipal Judge Larry Duffy, the police were executing an order of a court. Based on the foregoing, the evidence yields only the conclusion that in all the actions the police took from applying for an arrest warrant through the arrest of plaintiff pursuant to that warrant, the police are immune from suit under the SCTCA. Therefore, defendant Town of Mount Pleasant's motion for summary judgment is granted as to all plaintiff's causes of action.

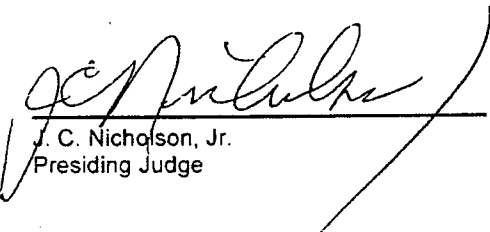
CONCLUSION

After thoroughly considering the pleadings, the memoranda in support and opposition, together with the affidavits and oral arguments of counsel, and all inferences which can reasonably be drawn from the evidence, and viewing such evidence a light most favorable to the plaintiff, this Court grants defendant Town of Mount Pleasant's Motion for Summary Judgment as to all plaintiff's causes of action against this defendant.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

That defendant Town of Mount Pleasant's Motion for Summary Judgment is **GRANTED** as to all plaintiff's causes of action;

IT IS SO ORDERED!



J. C. Nicholson, Jr.
Presiding Judge

12/5, 2017

Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. NICHOLSON, JR., Circuit Court Judge

Case No. 2016-CP-10-03542

Bryan Okeith Seabrook

Appellant,

v.

Town of Mount Pleasant,

Respondent.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Town of Mount Pleasant by depositing a copy of it in the United States Mail, postage prepaid, on December 11, 2017, addressed to its attorney of record, Tim Domin, Esq. 126 Seven Farms Drive, Suite 200, Charleston, South Carolina 29492.

December 11, 2017



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Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
J.C. NICHOLSON, JR., Circuit Court Judge

Case No. 2016-CP-10-03542
Appellate Case No.: 2017-002532

Bryan Okeith Seabrook, Appellant,

v.

Town of Mount Pleasant and Rae Wooten, in her Official Capacity as Coroner of Charleston
County, Defendants,
Of which Town of Mount Pleasant is the Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.

July 19, 2018.


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